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Creative discretion and the structure of context-responsive improvising

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ABSTRACT

Tony Evans and Peter Hupe's studies of discretion enable a practical analysis of the imaginative improvising required of diverse urban managers. Discretion "as granted" bounds the freedom but does not account for the complexity of context-responsive discretionary "uses." Such responsive improvisation, no longer romanticized as spontaneous jazz, integrates careful judgments of listening, analysis, and negotiation. A narrative case analysis assesses three urban cases (of school administration, neighborhood controversy, and inter-ethnic conflict) to examine how morally sensitive, contextually responsive, practically crafted improvising takes place through distinct interpretive practices of listening for salience, analysis of relationships, and negotiated problem-solving. These findings suggest further research about accountability and possibilities revealed by this structural analysis of urban improvising.

Public officials do it. Administrators do it. Managers and frontline service workers do it. As they work within structures of rules and regulations, they must treat different cases differently. They must interpret ambiguities, for what their goals and mandates "call for" will vary as cases vary. With limited knowledge, they inevitably face uncertainty. So, they use practical judgment, not rigid templates, to assess options and future consequences. They weigh risks of being either too rule-bound and unresponsive to detail, or too autonomous and so unaccountable to their distinct mandates.

Despite their differing institutional settings, public officials and administrators, managers and frontline service workers face daily challenges of "exercising" or "using" discretion. In so doing, they must not only interpret the boundaries of what they might do, but they have to craft what actually to do practically and responsively, fairly and appropriately. Where there is discretion, we find fallible practices of improvisation and questions of accountability: in any given case these practices can go wrong. This analysis will examine three cases drawn from dozens of interviews to show how discretionary actions enact the context-responsive judgments (Vickers, 1995) that Martha Nussbaum has provocatively called "moral improvisation" (Nussbaum, 1990; cf. Forester, 1999; cf. Maynard-Moody & Musheno, 2003, p. 356). Such context-responsive improvising, we will show, has a three-part structure of recognizing salience, assessing inter-relationships, and negotiating responses.

Part 1 argues that Peter Hupe's and Tony Evans's work enables a practical analysis of imaginative, context-responsive improvising (Evans & Hupe, 2020). Part 2 argues that improvisation, no longer romanticized as spontaneous jazz, integrates careful judgments of listening, analysis, and negotiation. Part 3 presents our narrative method of case analysis. Part 4 assesses three urban cases—of school administration, neighborhood controversy, and inter-ethnic conflict—to examine how morally sensitive, contextually responsive, practically crafted improvising takes place through

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these distinct interpretive practices of listening for salience, analysis of relationships, and negotiated problem-solving. Part 5 elaborates findings to prompt further research about accountability and possibilities revealed by fresh attention to the structure of urban improvising.

Part 1: Control and creativity as two faces of discretion

A literature spanning law, public administration, social work, education and public policy has addressed these problems, as Evans and Hupe's magisterial collection (2020) shows. Evans and Hupe argue, however, that scholarship on "discretion" has typically examined problems of control and accountability far more than the creative and fallibly practical character of discretionary action.

We share Evans and Hupe's (2020, p. 121) premise that "Discretion is a generic and ubiquitous phenomenon." We adopt, too, Peter Mascini's socio-legal view: "discretion is not to be defined as decision-making that is not guided by rules, but by the manner in which general rules are applied to concrete cases in practice (Hawkins, 1992). In [this] socio-legal approach, discretion is viewed as unavoidable rather than uncontrollable by legal instruments, variable rather than fixed by the reach of legal rules, and patterned by other factors than the law rather than unpredictable" (Mascini, 2020; cf. Torrance & Schumann, 2019).

Hupe's earlier writing and Evans' recent arguments set the stage. As Suzanne Rutz and Antoinette de Bont note, Hupe usefully distinguishes "discretion-as-granted and discretion-as-used. *Discretion-as-granted* is associated with the freedom given to workers which permits them to make a decision .... *Discretion-as-used* is associated with the behavior of workers who use the freedom to make a decision. The worker takes the initiative to interpret, balance, or deviate from rules and regulations" (Rutz & De Bont, 2020, p. 283).

Evans asks how diverse urban actors actually do that work of interpreting, balancing or deviating from rules and regulations. Evans sees that as "cases" vary—as human needs and claims require attention to their defining particulars, as what is appropriate to do requires careful judgment about what the rules and regulations call for—urban actors devise sensitive, responsive, indeed creative actions as a result (Evans, 2020; Forester, 1999; Schwartz & Sharpe, 2011).

Evans argues boldly that the careful responsiveness of discretionary practices requires imagination and creativity. Recognizing the relationships at stake in governance to be hardly standardized but all too humanly variable, Evans (2020, p. 387) writes, "A significant aspect of service provision, particularly in human services, comes down to adaptation, improvisation, imagination and judgment within the purposes of policy frameworks."

He continues: "In practice, providing a service often entails working out what the problem is, and what is the best thing to do in the circumstances. Professional expertise about problems, solutions and the ethical thing to do entails making judgments within a wide-ranging system of routines, ideas, assumptions and conventions ... in coming up with practical responses ..." (Evans, 2020, p. 387).

But Evans anticipates counterargument: "[O]ne might expect creativity to be less prevalent ... in ... identifying the ethically right course of action." But not at all, he argues: "[E]thics is not a hard and fast set of rules. Ethical decision-making entails creativity in relation to "the range of ethical ideas, principles and feelings that frontline practitioners draw on; how they combine and deploy them in particular situations; how they learn from situations—or not—in terms of extending ... their ethical perspectives, and how they [manage] recognizing particular rights, the consequences of action and retaining their own sense of their professional character and project" (Evans, 2020, p. 387). In this vein, Evans offers "a fruitful way to ... recognize discretion as a site where creativity is used to make services work" (Evans, 2020, p. 378).

By distinguishing discretion as granted and bounded from discretion as actually used, Evans and Hupe refuse to reduce discretion to matters of control. Instead, they explore the attentive "practices" (Wagenaar, 2020) of "using" discretion. Evans understands "creativity" explicitly to involve innovation, imagination, and problem-solving (Evans, 2020, p. 378). He articulates an applied professional's

sense of what more philosophically-trained authors recognize as "practical wisdom" (Schwartz & Sharpe, 2011) and "moral imagination" (Nussbaum, 1990).

Evans remains concerned with practical action, "innovation" and "problem-solving," and so with practitioners' fallible judgments of what rules and regulations require (Forester, 2020). What Evans frames as discretionary action's creativity—imaginative, discerning and engaged, not rote—lends itself to analysis as context-responsive improvising. Figure 1 portrays the vase of context-responsive improvising, Evans's creative discretion-in-use, framed by the boundaries of Hupe's discretion-as-granted. We will ask if such improvising might enact three analytically distinct moves, each fallible, each that might "go wrong," moves that then deserve to be accountable.

Part 2: Demystifying improvisation—We improvise all the time

As Gilbert Ryle saw in ordinary conversation, we improvise all the time (Ryle, 1976). We respond to unique particulars of tone, emotion, words, acts, silences and far more, in ambiguous and complex settings every day. So demystified, improvisation is more ordinary and quotidian but no less creative than its jazzy reputation might suggest; it is essentially neither magic nor intuition nor pure spontaneity (Torrance & Schumann, 2019).

Consider what schoolteachers do everyday. Given mandates about subject matter to be covered and general norms about treating students fairly and respectfully, teachers must improvise how best to work with the particular students they have, with the ones always eager to talk and those more reluctant too; they must gauge when to ask questions and when to offer explanations, and so on. Bounded by constraints of what subjects they must cover, teachers then "have discretion" to use, to act. Just how they work with the available resources or affordances—books or chalk, charts or texts—in actually conducting any given class, that is their improvising, given their reading of the normative constraints, the granted space of discretion, at hand (Evans & Hupe, 2020: esp. Part IV; Calder, 2020, p. 402).

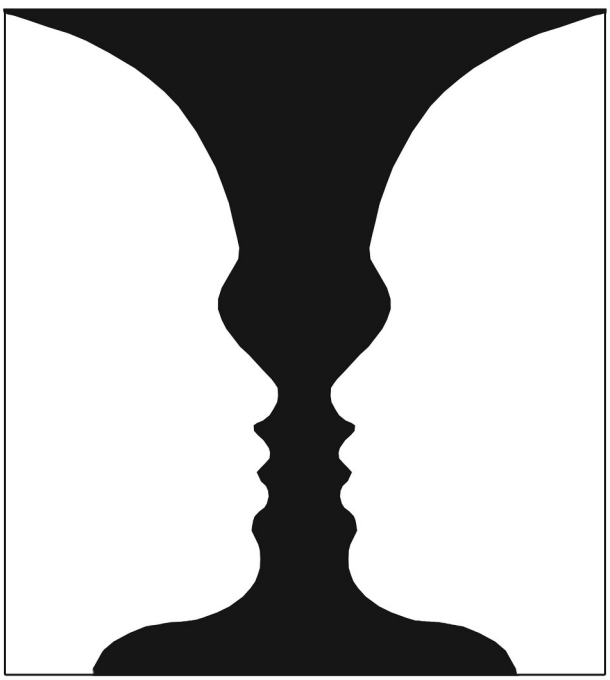

Figure 1. Discretion and the vase of improvisation.

More generally, as urban neighborhoods become increasingly diverse, socio-culturally and economically, too, such context-responsive improvising becomes especially challenging, requiring skillful perspective-taking if not empathy and multi-cultural experience. Urban administrators and mid-level managers must act with care. Their exercise of discretion, their necessarily context-responsive practices, expands their field of action beyond the narrower scope of street level bureaucrats (Evans, 2010; Evans & Hupe, 2020; Lipsky, 2010; Maynard-Moody & Musheno, 2003; Needham, 2020; Sandfort, 2000; Schwartz & Sharpe, 2011). As if anticipating Karl Weick's work on retrospective rationalization and improvisation (1998), Steven Maynard-Moody and Michael Musheno recognized both the pragmatism and the interpretive responsiveness of street-level workers—and by extension urban managers.

These workers, they wrote, "temper their efforts to do the right thing with a clear understanding of what is possible for individual citizen-clients in the context of their everyday lives. Their decisions are based on practical knowledge and judgments about people and are improvisational in the face of unpredictability" (2003, p. 23; cf. Schwartz & Sharpe, 2011). Here Maynard-Moody and Musheno brought researchers to a substantial new frontier. They pointed to the structured but contingent, fallible and accountable, ways that urban actors had to *improvise* under conditions of unpredictability and uncertainty, context-dependency and normative ambiguity (Forester 2019b; March, 1978; Rittel & Webber, 1973).

But here such discretionary improvising, we suggest, involves far less jazz-like soloing than the careful, collaborative and interpretive work that Alfred Schutz had called "making music together" (Schutz, 1976). We misinterpret engaged actions of improvisation by reducing them to "intuition" or "spontaneity," labels that obscure the skillful work and careful judgments that context-responsive practice requires (Barrett, 2012; Berliner, 2009; Vickers, 1995; Weick, 1998).

As the contributors to Evans and Hupe's collection show, mid-level managers and administrators must apply multiple, ambiguous and conflicting norms. Moreover, as yesterday's more dependent clients become today's more active citizens with voice, as relationships of interdependence supplant one-way service delivery, managers' unilateral authority decreases and their negotiations matter more. As they share responsibility, an improvised leadership and not just regularized authority emerges as learning, negotiation and cooperation become capacities now required for governance (Barrett, 2012; Laws & Forester, 2015; Wheeler, 2014, cf. Forester, 2020; Kamoche et al., 2002).

But what does such context-responsive improvising analytically and practically involve? Earlier research on improvisation does not always help: it is heavily descriptive, minimally prescriptive, with references to intuition and spontaneity that discourage systematic analysis (Crossan & Sorrentino, 1997, p. 156; Crossan & Hurst, 2006, p. 285). Nevertheless, striking exceptions include Weick (1998) and Barrett (2012).

Weick's rich characterization of improvisation has, we shall see, a robust resonance with our cases: "Improvisation involves [a] reworking precomposed materials and designs in relation to [b] unanticipated ideas [c] conceived, shaped, and transformed, [d] under the special conditions of performance, thereby adding unique features to every creation" (Weick, 1998, in Kamoche, 2002, p. 53; author's emphases). That (a) "reworking of precomposed materials and designs" takes training, even knowledge of history, engaging sensitively with what one has at hand. Those (b) "unanticipated ideas"—from others' claims or our own emergent hunches—bring us beyond apparently settled routines, calling for fresh, particular response (Feldman & Pentland, 2003). Not least, (c) "conceived, shaped and transformed" suggests that organizationally-situated improvising develops, interactively with others, over time, not just anywhere but (d) "under the special conditions of [each particular] performance," audience or circumstance.

Developing Weick's seminal work to frame "leadership lessons from jazz," Frank Barrett identifies "turn-taking," "approaching leadership tasks as experiments," "learning from failure," "cultivating provocative competence," "encouraging serious play" (and more) as diverse, useable and even prescriptive improvisational practices (Barrett, 2012, Ch. 3, 6). Like Weick, Barrett understands improvising to be interactively produced, probing and learning, integrating technique with

exploration and play. Both Weick and Barrett—sociologists as well as musicians—assess improvising not as mysterious but as something we all do and might do better. Following their lead (Forester, 2019a; Laws & Forester, 2015) we suggest an account of urban actors' improvising that reaches well "beyond the street level" (Evans, 2010) with both descriptive clarity and prescriptive implications.

Extending research in U.S. and European cities (Laws & Forester, 2015; Verloo, 2015), we hypothesized that urban-organizational improvisers integrated three threads of practical moves: (1) listening carefully to recognize what's salient or significant, what matters, at hand; (2) analyzing relationships found in context; and (3) crafting and negotiating new options, next steps to take with others. This would take serious work, not "intuition" or "Aha!" epiphanies. Lacking the first, listening well, urban actors would solve the wrong problems. Lacking the second, analytic moves, they would act ineptly. Lacking the third, negotiating moves, they might not act at all.

Our cases—deliberately posing diverse contexts of school administration, neighborhood governance, and inter-ethnic conflict—offer support for these hypotheses. We find in Part 4 systematically similar moves across these differing settings and complex cases. We show how urban managers improvise by integrating these three fallible moves of listening, analysis, and negotiation. This has implications, we suggest, for three domains of accountability, ie. our capacities to assess potential "abuses" of discretion. In each setting, these moves suggest the discretion and the creativity involved as urban actors work to assess what matters, what's known, and what they actually might do.

Our cases also suggest that as urban contexts become more diverse, context-responsive improvising becomes more necessary than relying on stereotyped routines (Koopmans & Schaeffer, 2016; Maly, 2000; Thompson, 2002; Uitermark et al., 2005). Recently, scholars have characterized cities as hyper-diverse: diverse in socioeconomic, social and ethnic terms, but also regarding lifestyles, attitudes and activities (Raco & Tasan-Kok, 2019; Tasan-Kok et al., 2014, p. 5). As urban citizens share limited services and spaces, their differing socioeconomic, cultural, ethnic, and always evolving attitudes and activities become more potentially contested.

Efforts to democratize local governments, for example, have required addressing tensions or conflicts as vital elements of urban governance (Davis & Hatuka, 2011; Feiock, 2004; Langegger, 2015; Raco & Lin, 2012; Verloo, 2018a, 2018b). Especially in the Netherlands, the context of our case studies, devolution and decentralization have mandated problem solving by local urban professionals. Hardly restricted to street-level bureaucrats, these urban managers—who must use their discretion to deal with citizens and officials alike—will include professionals from local government, welfare organizations, housing corporations, schools, police, and more.

The freedom that urban managers might have to improvise within the encompassing structures of the state will vary by institutional field (Evans & Hupe, 2020). Differing as they might, these managers will nevertheless face duties of dealing with substantial diversity. At times their improvising might change or challenge conventional boundaries of discretion. Institutional structures might be more or (importantly) less determinative, more narrowly prescriptive or instead porous, underdetermined, ambiguous—so providing new opportunities and ranges of freedom for recognizing difference, building local knowledge, and working to develop practical collaborations (Marston & Davidson, 2020; Needham, 2020, p. 296). Each of our cases reveals moves in these directions. So let us turn directly to explore our hypotheses: that the improvising of Evans's discretionary creativity actually enacts thoughtful, pragmatic moves of listening in context, analysis of salient relationships, and problem-solving negotiations.

Part 3: Exploring context responsive improvising via first person narrative practice accounts

To examine the uses of discretion, we treat managerial and administrative practices as interpretive, situated practical judgments (Wagenaar & Cook, 2003). We take "contexts" not as simply "given" but to be assessed carefully. We examine diverse urban managers' narrative accounts of handling challenges at work (Bruner, 2004; Czarniawska, 2010; Forester, 1999; Mishler, 1999; Patterson & Monroe,

1998; Wagenaar, 2011). Assessing these grounded "practice stories" can illuminate what neighborhood leaders, city officials, school administrators and other urban actors do as they shape evolving patterns of governance (Forester, 2019a; Maynard-Moody & Musheno, 2003; Zacka, 2017, pp. 250–259).

Storytelling and sense-making inform each other when practitioners' stories characterize how they navigated the complex "moral entanglements" of their workplaces (Nussbaum, 1990; Van Hulst, 2008; Schrank in Durose, 2009, p. 41). Practitioners' narratives portray other actors as vibrant characters, and they frame their own actions in storylines with plots (Patterson & Monroe, 1998, p. 316). These practice stories reveal generative ambiguities of conduct, "openings for creativity and invention in reshaping the social world" (Erick & Sibley, 2003, p. 159; Forester, 1999; Schön, 1983).

Snowball sampling allowed us to conduct three dozen co-generated, practice-focused oral history interviews with practitioners of urban democracy (Laws & Forester, 2015; Warren, 2009). We selected the excerpts that follow from three of these practice stories for quite particular reasons. First, we sought cases involving challenges that neighborhood diversity posed to urban practitioners. Second, we selected cases that did not portray business as usual, standard operating procedures, or strictly routine responses of urban managers. If improvising came into play when routines no longer sufficed, how might that improvising have worked?

Third, we chose cases from distinctly different institutional contexts (education, neighborhood governance, multi-ethnic conflict) to explore, to initially "test", how our account of practical improvising might work across differing contexts. Fourth, we chose cases of substantial ambiguity and interpretive complexity to show how improvising could yield practical results.

Fifth, we chose cases in which the exercise or use of discretion did not directly challenge the state. We did not choose cases of Alinsky organizers or social movement activists—not because we doubt that they must also improvise—but because our analysis would be more typical in cases where urban managers' discretion (in schools, nonprofit community organizations, or local government) would be widely recognized as plausible in those ordinary contexts. That typicality suggests that our analysis could be more transferable, generalizable, than if we had chosen extra-ordinary, less typical "activist" cases.

Sixth, we chose cases in which no success was assured, where possibilities of failure were evident, so our analysis could show the contingent opportunities of skillful improvising, without any assured success. Seventh, we chose cases not of heroes, geniuses or magicians but of experienced practitioners, so readers might identify and believe, "Yes, I could ask a question, make a move, like that . . . "

In case #1, Henri, a school administrator, faces conflict as Muslim parents invoke religious beliefs in refusing to cooperate with school authorities. Several years before his untimely death, Henri recounted his experience in Osdorp, a neighborhood in Amsterdam where he had confronted issues related to ethnic diversity.

In case #2, Tonie, an organizational consultant—engaging residents feeling wronged by abrupt decisions of local officials—recounts how he improvised beyond routine "meeting" practices to create spaces for dialogue, mourning, and community transformation. Tonie's practice began after new urban development near The Hague prompted a dispute challenging him to negotiate socioeconomic and cultural differences.

In case #3, Martien, a locally elected official, recounts her actions—despite her advisors' cautions—to enable citizens and public officials to interrupt escalating neighborhood violence and resolve conflicts involving ignorance, animosity, and distrust. Her intervention in Amsterdam West mediated interests involving ethnic, cultural and socioeconomic differences as well.

In each case, interview questions explored practical responses—not general explanations, opinions, or theories—to evoke first-person "practice stories" (Forester, 1999, 2013, 2021; Weiss, 2008, p. 65). These co-generated accounts revealed unanticipated "critical moments" that disrupted standard operating procedures and demanded repair in schools, communities, and other conflict settings (Cobb, 2006; Dewey, 1934/1980; Laws, 2020; Leary, 2004). Positioned between contested histories and uncertain futures, these diverse urban practitioners had to improvise in the evolving

moment (Leary, 2004, p. 313) with few, if any, clear choices to make about what to do—or how to do it (Sandfort, 2000).

Part 4: In diverse settings, does discretionary improvising require three distinct moves?

Our cases unfolded as long-standing Dutch commitments to multiculturalism weakened even though new commitments to neighborhoods deepened. The 1990s "big city policy" approach sought to integrate education, social cohesion, public safety, and economic vitality in neighborhoods (Musterd & Ostendorf, 2008).

In 2007, a Christian Democrat-Labor coalition hoped to transform urban neighborhoods. Social welfare organizations running community centers would tackle quality of life and behavioral issues by paying special attention to nuisance and crime. Public investment renewed physical environments and restructured housing markets. Housing and social policies included "social-mixing" strategies to "upgrade" residents of lower social and economic means (Uitermark, 2003). The Social Support Act of 2007 tried to foster "active citizens"—to assume responsibilities from a delegating state, and to promote solidarity across religious, ethnic, and cultural differences. Every street corner and public square, and many families, became enmeshed in webs of policies newly regulating neighborhoods physically and socially. Urban practitioners faced high expectations; their actions in the neighborhood this afternoon—breaking up a fight, for example—could be tomorrow's headline news on television, in newspapers, or in parliamentary debates.

Our three cases present complex challenges of urban diversity. We wished to learn if any or all of three kinds of moves—involving listening, analysis, and negotiation—could provide specific means to enable quite different urban managers to "use" their discretion creatively, to improvise responsively in complex, uncertain and ambiguous settings (Barrett, 2012; Evans, 2020; Klemp et al., 2008). Our first case reveals work of listening and analysis in particular; the second two cases do that and reveal practices of negotiated action too.

Case 1: School administration in a shadow of terrorism

In school settings administrative leadership can reveal how "discretion as used" (Hupe, 2013) can take the form of carefully improvised actions. In the neighborhood of Osdorp, Amsterdam, the late Henri Kardaun had managed a Muslim school in a poor community with high ethnic diversity: 63% of families had a so-called "non-Western" migration background, mostly from Turkey, Morocco, Surinam, or the Antilles, 64% of the housing stock was social housing, and 27% of households lived below the poverty line (Municipality of Amsterdam, 2015). In this context, Henri sought to be sensitive to religious differences while acknowledging the harsh reality of poverty. We were fortunate to speak with him and publish his profile before his untimely passing (Laws & Forester, 2015). Listen as Henri recounted challenges he faced as a school principal:

> For example, let's say . . . there is a conflict between the parents and the school . . . the parents don't give the school money for holiday trips. They say, "My child is Muslim, and I don't want my child to go on the school holiday—because boys and girls have to sleep separately, and they [should] swim separately, and so be separate, separate, separate, because of the Muslim ideology—and in your school, boys and girls go together, and we don't want to do this."

Henri suspected that when parents restricted their children from going on holiday trips, in particular, their religious beliefs might not have been the real explanation. He had, he thought, the space and authority—the discretion—to learn more. But how could he actually do that? His staff had argued that the parents' refusal directly challenged their authority. Could "religious commitments" exempt students from ordinary activities—or was something else altogether the problem at hand? He continued:

> So, what you saw was a huge conflict between parents and school, and the school [staff had] said, "Well, these parents—they are terrorists." They said, "They don't want to talk with us, they don't want to come to the school, they don't talk about the school with their children, they're not interested, they're not this, they're not that, they're . . . "

In this "huge conflict" parents' desires, identities, and religious obligations seemed to challenge school requirements and obligations—putting Henri between the rival claims of parents and school personnel. Even as his staff's reasoning suggested further escalation, Henri acknowledged their explanation—their working theory—before beginning to change the game. He explained,

> But the school said, "Oh, okay, you're a Muslim, so that's the reason why you're not sending your child with us on holiday." But this had nothing to do with the reality—it's only a way of tackling the problem. So, then, this looks like a conflict—but it's not.

New possibilities arose as Henri probed for a better understanding:

> Afterwards, I found out it wasn't a conflict about this ideology, about the religion—it was a conflict about money. The parents have very big debts—very, very big debts—and they don't have the money to pay, so they say, "I don't pay because of my religion . . . " So, they looked for an argument so that they wouldn't need to pay for the school holiday—but in fact, there was a very big problem with the family—there was no money!

Questions of identity and obligation "had nothing to do with the reality." Henri saw his staff's earlier approach as mistaken (Klemp et al., 2008): too literal, responding to misplaced fears ("terrorists!") and serving ends ("separate, separate separate . . . ") strategically.

Henri continued:

> But . . . the parents were ashamed that they had no money. [But] they didn't want to say that to the school, so instead they said, "Oh no, this is not good for my child, it's better to raise my daughter separate from boys." But that was not the fact, and *when I talked to the parents and I saw what was happening, then we could handle this on another level, and we could tackle this problem* (emphasis added, authors).

Henri recognized both the parents' debt, their financial hardship, and their shame of being unable to support their children's education—that led to the parents' rationalization and excuse. Exploring the emotions in play, he transformed the apparent "parent versus staff" conflict. He knew that difficult conversations across bureaucratic and cultural boundaries could leave his staff solving the wrong problem. He knew that the staff's fears—their emotional "mis-take"—might lead to his own "new take," his fresh response to move forward (Campbell et al., 2018; Klemp et al., 2008; Schön, 1983).

Henri reached beyond standard operating procedure and his staff's presumptions to another analysis about what mattered. By learning from the parents' emotions of shame and humiliation, and their concerns of saving face and honor as parents, he could now explore other strategies:

> But this was an example of the limited vision and limited attention of the professionals, that the school saw only a problem of the parents not sending their children on the holiday, but the real problem was this other problem that nobody saw . . . [A]nd when I talked to the parents and I saw what was happening, then we could handle this on another level, and we could tackle this problem.

The apparent "huge conflict" involved neither terrorism nor religion, but face-saving attempts. Henri inquired beyond apparent organizational boundaries and constraints. He learned that the parents' claims hid more of what mattered to them than his staff knew. He worked, not without rules, to listen astutely for what was significant to others, without taking their words literally. Conversing with parents, he saw "the conflict" anew, open to a different analysis and so to practical resolution. His discretion-as-granted, as a school administrator, created the possibility for his discretion-as-used, for his situated and context-responsively improvised moves.

Henri's improvising—enacting and "using," but hardly specified by, his discretion—involved three moves. First, his conversation with parents reframed his understanding of what mattered to them. Emotional sensitivity enabled learning (Forester, 1999, Ch2; Nussbaum, 2013). Second, he questioned and refined his staff's analysis: he found evidence neither of disregard for the children nor of fundamentalist religious claims. Debunking the framing of "terrorist" sentiments, he explored another

line of analysis—of face-saving and economic hardship. Third, Henri problem-solved (then we could . . . "tackle this problem"). His improvising moved beyond—not just within—the discretionary space delimited by yesterday's precedents and explicit mandates.

Notice that without learning about what mattered at hand, Henri would have solved the wrong problem. His analysis probed the parent's poverty and emotions as much as their religious commitments. Without understanding how the parents' shame and face-saving interests drove their behavior, he could not have "tackled the problem" with them.

Henri's improvising changed the governance regime, if partially and temporarily. He extended voice and ownership to parents. He gave up unilateral control "within" his administration. Reframing here seems simple, yet the outcomes were (i) political, through listening, recognizing pressing concerns of poverty and debt, also illuminating possible responses; (ii) analytic and epistemological, rejecting misleading arguments; and (iii) negotiated and practical, via actual problem-solving—the latter that Henri indicated, albeit without detail.

These governance outcomes were possibilities authorized, not prescribed, by Henri's administrative discretion. But his skillful, three-pronged improvising had sensitively produced, actually crafted, those outcomes—through his responsive moves of (a) listening to try to learn what mattered, (b) analysis, to learn what he might do, and (c) negotiated problem-solving, to reconcile the conflicting claims he faced.

Case 2: Community development and neighborhood conflict

Consider next a less bureaucratic setting. Tonie Boxman faced not ethnic, but socioeconomic diversity in Ypenburg, The Hague: 66% of the housing stock was privately owned, 29% was social housing and 4.5% were private rentals (Municipality of The Hague, 2016, p. 6). Ethnic diversity was low: only 15.8% of inhabitants had "non-Western" migration backgrounds.

City administrators in The Hague asked organizational consultant Tonie to help as angry residents, social-service workers, and local policy makers struggled together. Residents of newly developed Ypenburg had started a neighborhood center, "the Cockpit," to host bingo, karaoke, and sporting events. As Ypenburg's construction ended, officials moved to "professionalize" the neighborhood center. Replacing the beloved Cockpit led to ten years of conflict punctuated by escalating violence, emotional outbursts, and behavior verging on criminal nuisance. In this contested context politicians and welfare professionals alike characterized "Cockpitters"—a marginalized minority of the neighborhood's social renters—as "asocial," the neighborhood as a "war zone."

A critical moment occurred when a manager of the new community center ordered two "Cockpitters" to stop smoking. Her tone triggered resistance and a personal threat. Soon that conflict escalated to rioting and vandalism around New Year's Eve 2007. All this triggered local officials to ask Tonie, a respected local organizational consultant, for assistance (Verloo, 2015).

Facing apparently irreconcilable demands of "Cockpitters" and officials, Tonie's intervention reveals improvised action in urban management and governance. He treated the community center manager's incendiary remarks as a practical "mis-take," an occasion to do better. Suspecting that community center staff needed new ways to listen to residents, Tonie restructured meetings with both. He invited more parties, welcomed more concerns, and changed the way residents and professionals told their own and listened to one another's stories.

Conventional practice might have had Tonie convene a clear-the-air session between citizens and local officials. But he sensed that conflicting modes of story-telling—emotional and expressive versus rational and contained—had already led to shouting and escalation, not better understanding. If the parties were ever to share their stories, he needed first to meet with them separately.

So Tonie began with residents who formed a minority group in the neighborhood. He found a "safe space" for weekly meetings where residents could tell their stories. Here he carefully replayed what he heard: "For the first five or six meetings, I think, I was only repeating what they told me—as far as possible in their own words, and I wrote it down on paper."

Repeating their arguments tonally and precisely helped Tonie to see issues as the residents did, and that built trust as residents saw that he really had heard their words and grasped their experiences and feelings, both involving humiliation as well as anger. Nevertheless, to maintain impartiality, Tonie recounts, he explained to residents:

> "[But] when I repeat your words, don't misunderstand me, don't think that I agree with you." I told them that, I think, thirty times, "Don't make that mistake; when I repeat your words exactly, I'm only trying to understand the situation."

Honoring their words helped Tonie to grasp the complexity of residents' stories, but that raised new challenges:

> In the first three, four, five meetings, it was very emotional. They were so angry about the way they had been treated by the welfare organization, by the center's management, and they were angry about the way their children had been treated by the police.

These emotions demanded a responsiveness from Tonie that went beyond simply repeating words. Sensing anger, humiliation, and violation here ("How can the police treat *children* this way?"), Tonie worked to honor these deeply felt emotions:

> You can't do it only with repeating literally what they are saying; you also have to *receive* their emotions. When you repeat what they're saying, you have not only to give back their exact words, but you also *give back their emotions*, the [weight,] the tension of what they're saying. If you can do that, then they have the feeling that you really understand them.

Tonie's emotional responsiveness meant acknowledging, not agreeing with, both the substance and intensity of the residents' experiences. The discretion granted by his consultative role authorized such meetings, but just how he enacted his discretion-as-used (Hupe, 2013) went far beyond routinized or conventionally scripted meeting rules. How did he improvise specifically to exercise that discretion?

By listening so carefully to residents' stories—not allowing them to seem laundered, truncated, or dismissed—Tonie reintegrated residents in governance processes. Acknowledging previously marginalized stories, he created opportunities for increasing inclusion, dignifying residents, enabling contestation. In freshly improvised interactions with Tonie, residents became renewed citizens (cf. Epp et al., 2014). Process and outcome merged. Tonie refashioned the political connotations of "neighborhood meeting" from condescension and dismissiveness to recognition and respect.

Tonie also engaged the local professionals whose "mis-take" he reworked. He refashioned their "meetings" to re-explore and renegotiate their own stories. These meetings moved from sharing grievances to enabling professionals to reimagine their jobs:

> They think they know each other well enough, but, for example, the youth worker really does not have a good idea of . . . the policeman, who has to be very friendly to not frustrate . . . younger people . . . , but when things go wrong in the neighborhood, that policeman has to make tough decisions to solve the problems—in the end, sometimes, with force. It's a very important difference between the position of the youth worker and the policeman—and to talk about that is important—to really realize that the difference is there. They didn't really understand that before.

Tonie improvised this structure—to help professionals newly appreciate one another's duties, given the uncertainties of neighborhood work. These parallel "meetings" eventually merged as citizens and professionals wove together residents' demands with professionals' responsibilities to re-imagine community services together.

Tonie's improvising led to a "neighborhood management board" including diverse citizens, welfare professionals, police officers, and public officials from the municipality. For years after Tonie's intervention, this board collaborated to organize community activities—such as New Year's Eve bonfires and summer festivals—that had been contentious earlier (Verloo, 2015).

Tonie's creative practice, as Evans (2020) might appreciate it, reflected his professional training as he integrated three moves. First, he listened to acknowledge community members' concerns, what

mattered to them, and acknowledging that, he built trust as well. Second, his organizational analysis led him to explore how participants might recognize one another's hyper-diverse experiences. That listening and analysis, then, enabled him thirdly to mediate effective problem-solving negotiations integrating residents and professionals.

Tonie enabled interdependent parties to collaborate and solve problems in ways that standard operating procedures and routines had not prescribed earlier. His creative use of discretion, his improvising, led to institutional innovation, arguably fostering inclusion and citizenship, reciprocity and trust along the way (Verloo, 2015; Warren, 2009).

Case 3: Community violence, inter-ethnic tension and local political leadership

In our third case, Martien Kuitenbrouwer responded to intergroup contentiousness in Amsterdam West, a neighborhood where she served as "borough mayor." Challenges of diversity appeared in ethnic and socioeconomic forms: 24% of inhabitants had "non-Western" migration backgrounds, and 31% of families lived near or below the poverty line; 20% of the housing stock was privately owned; 40% was social housing, and the rest were private rentals (Municipality of Amsterdam, 2015).

A local football tournament organized to strengthen cross-cultural relationships had actually polarized them. Tournament plans had promised better relationships, but a fight disrupted all this. Violence broke out as residents watched the Dutch team compete in the European Cup. Cheering at the national team's misfortunes triggered fighting and ignited broader tensions. Martien observed, "First, it was a fight, and then it [turned into] a big racial issue."

This escalating situation led Martien to act even as her staff pressed her to let tensions cool over the summer. She took that advice as a mis-take—well-meaning, reasoned, but nevertheless the wrong way to go—and so she pushed ahead despite stormy conditions (Klemp et al., 2008).

She began by testing the waters. The young Moroccan men involved agreed to talk. The "Dutch" men involved—one of whose noses had been broken—initially insisted on legal measures and punishment . . . "[T]hey said, 'He has to be punished! We want to make sure he's punished, and if he's not punished, we don't want to talk to him.'"

Soon, though, they also agreed to talk. Martien had no ready plan, but she stressed what a meeting might involve:

> Ok, we'll come together for just half an hour . . . It would be the first step . . . I just said to them: "I don't want to leave this situation here as it is . . . I don't have a solution yet . . . but are you willing to come together . . . and . . . talk about the conflict?"

Each step Martien took made her more responsible for what developed. She recounts,

> This was one of the situations in which I felt very alone. You have to do it all by intuition, you're walking on eggshells. You don't know anything. You only know you have to do something, but you don't know what. You just have to be there and see how it's going to develop at that time. It could have ended up in a huge fight again.

She managed to convene a viable group. The father of a friend of the young Moroccan involved in the fight agreed to attend and support him. The "Dutch" man whose nose had been broken invited a "self-made youth worker" he knew from the Moroccan community. A staff member from borough government and a local police officer who knew the parties would also attend. A mediator was "on call" for follow up. But uncertainty and doubt weighed heavily on Martien:

> . . . I was nervous, because I thought: "Am I going to do the right thing? Is there not going to be so much aggression and tension and shouting that it will make things worse?" . . . I went there knowing that those people broke each other's noses . . . Maybe they were going to end up fighting, screaming, and maybe it would get worse.

The group met in a community house near the site of the fight:

> There was a round table. We didn't even have the time to do anything else. The main perpetrator and his friend and his father were sitting on one side and there were these Dutch guys on the other side, and we were in the

> middle . . . [W]e felt like we had to keep them apart, because we were not sure if they were going to hit each other. My God, I've never been in a room with so much tension—that you could feel you could cut the air with a knife. It was terrible.

As they began, Martien was still unsure what was needed:

> I asked them if they could agree to listen briefly to each other in order to let everyone tell their part of the story . . . I had to intervene quite harshly a couple of times, because of course they started to react. . . .
>
> [T]he perpetrator said: "I didn't do anything!"
>
> Then the Dutch man said: "What do you mean you didn't do anything? Have you seen my nose?"

As they talked, unexpected information emerged; presumptions yielded to new understandings:

> Then we found out, . . . that the friend of the perpetrator . . . had grabbed one of the other guys . . . during the fight [who had] . . . had a broken bottle in his hand. He was being very dangerous. The reason was that there was somebody else coming, and so he was actually protecting him . . . The Dutch man said: "I thought you were going to kill me," and the Moroccan said: "I was only trying to protect you!"
>
> . . . [F]or the first time you could see that the three Dutch men got . . . a hunch about the other side of the story, just a hunch. They could see that these guys felt threatened. They were very aggressive, they were hurt . . . The Dutch men could understand that they felt threatened. The day before they couldn't understand that.

This prompted a turning point and a surprising new move: the Dutch man demanding an apology now apologized himself.

> There wasn't an immediate response. . . . [T]hey were sitting in a completely tense pose, not making eye contact—and then you could feel the tension disappear . . . The Moroccan guys didn't really respond [verbally], but you could see it really helped.

The Moroccan group left soon afterward, as did the "self-made youth worker." When he had returned, Martien recounted,

> He explained to the Dutch men how these guys feel. He said: "You have to understand that these guys feel complete outsiders. They look at you and see that you have nice footballs, you have organized these games, you are nice and so on. They feel like they are not part of your party. Of course they shouldn't hit, they shouldn't do that, but that's their fundamental feeling; that they do not feel part of your party."

This prompted another unexpected move:

> . . . Then you could see the Dutch men beginning to understand a little bit. When [they] . . . asked, "Why doesn't he apologize?" . . . [The "youth worker"] said, "In the Dutch culture apologies are a very normal way of dealing with each other, but in the Moroccan culture, you never apologize. The closest thing to apologizing is ignoring the conflict. . . . I can understand that you want it, but you shouldn't expect it . . . " — That was very helpful because they could lower their expectations . . .
>
> [The youth worker] also told the Moroccan guys, . . . [that] this Dutch man apologized was very meaningful. He tried to explain . . . that the Dutch man really meant that . . . that he apologized was an enormous step.

The group met again after the summer without Martien, who took a "step back." Each side retold their story. There were apologies; the group committed to "organize a new sort of party, or a get together." The party took place on a Moroccan holiday, where the fight had occurred. Though turnout was less than the organizers hoped, the event occurred without incident.

The "self-made youth worker" saw broader implications: "The fact that you are doing this together . . . is very strong . . . I've never seen this before; a big conflict like this that needs to be addressed and by the people themselves. This is very powerful. If you can reach this level of conflict solving; that's enormous. That's really powerful."

Martien continued, "That helped both sides, because they actually started to feel a little bit proud after this, and they said: 'Ok, we fight, but we can also solve the conflict.'"

Martien glimpsed new promise in political leadership:

> [T]here's a difference between: "I'm going to solve this" and "I feel responsible for the fact that there are tools . . . or skills in the community that can help them solve this themselves."

Martien's success, however partial, went beyond addressing local violence. Listening to their stories and listening through their emotions, she reshaped residents' relationships with each other and with their government. Discovering they could address conflicts themselves, residents saw themselves anew as urban neighbors and citizens. These discoveries grew not just from Martien's discretion-as-granted, but from her responsive and practical improvising, her discretion-as-responsively-used—first, engaging with and listening to their stories, enacting respect and building trust; second, learning analytically about issues from and through their emotions; third, mediating negotiations and assisting their coming to terms together.

Treating her staff's advice to delay as an instructive mis-take, she expanded her discretion-as-granted, and she helped residents move ahead together. They listened to and surprised one another. They revised expectations of self and other—of citizen and state—learning and crafting new steps forward. Improvising her leadership by engaging multiple, intersecting forms of ethnic, cultural and socioeconomic diversity, Martien's improvised discretion-in-use encouraged gestures of recognition and reconciliation, opening unanticipated opportunities for community building too.

Part 5: Creative discretionary action reveals requisites of context-responsive improvising

In differing settings, our school principal Henri, consultant Tonie, and borough mayor Martien each worked with degrees of freedom bounded and shaped by their discretion-as-conventionally-granted (Evans & Hupe, 2020). But we can now see that their context-responsive improvising shared a deep structure of practical moves—across those very different contexts—as they used their discretion creatively, imaginatively, and practically.

Henri, Tonie and Martien assessed and influenced relationships at hand, gauged what information or assistance they might provide, crafted how probing or reluctant to be with their varied protagonists. Formulating discretionary options, responsibilities, and moves, they "interpreted" each case as just one aspect of actually improvising responsively in each unique situation (Wagenaar, 2011). So, Henri worked not only to understand but to repair relationships with parents, as Tonie did with aggrieved residents, and as Martien did with neighborhood combatants.

Their context-responsive improvising, then, built upon and accomplished more than interpreting discretionary boundaries and scoping out room to move (Needham, 2020; Rutz & De Bont, 2020). For these actors also invented and tested, offered and jointly negotiated specific actions, as Maynard-Moody and Musheno (2003) and Evans (2020) have argued. Institutionally granted discretion provided space for their situated improvising: the practical performances of their creatively bringing new relationships into the world (Arendt, 1998; Barrett, 2012; Evans, 2020; Laws & Forester, 2015; Weick, 1998). So, at times that improvising could even reshape the institutional contexts at hand—for example, as precedent setting might (Evans & Hupe, 2020; Forester, 2019a; Wagenaar, 2004, 2011).

In our cases, discretion-as-granted provided the stages on which our central actors—Henri, Tonie and Martien—performed. We had hypothesized—and sought to explore both if and how—their context-responsive improvising enacted their (i) probing "the facts that mattered"; (ii) learning in detail what those emergent, salient relationships involved; and (iii) actually negotiating together to problem-solve. Did their improvising reveal a common analytic structure?

Henri improvised when others seemed stuck: his staff likened recalcitrant Muslim parents to "terrorists," and the parents, in turn, invoked Islamic precedent to justify non-cooperation with school officials. The "problem," Henri discovered, was hardly terrorism, fundamentalism, or even non-cooperation. Within the discretion granted to him, Henri improvised through carefully listening to parents, through analysis, trying to understand what he heard, and through negotiated problem-

solving. He enabled parents to listen to and interact with him, so together they could solve pressing, unacknowledged problems—involving shame, parental honor, and responsibility along with the questions of cash flow or resources to fund "school trips for the children." Henri had learned from—and respected, reassured, and welcomed—the school's Islamic parents. In so doing he improvised new moral and practical relationships that let him act with, not "on," the parents to solve shared problems of school governance.

Tonie refashioned local governance after years of contentiousness had undermined municipal-community relations. He too had discretion, to rework his "meetings" with residents—but he improvised to create new relationships of acknowledgment and recognition, of regard and trust, of voice and responsiveness—so that more responsively democratic urban governance could follow. Tonie's improvised responsiveness—both enacted and imagined, hardly rote—conveyed as much to residents as they conveyed to him. As he listened and acknowledged concerns, built trust and learned with residents, he enabled their acting together.

In Amsterdam West, Martien's political leadership improvised in response to neighborhood violence, ethnic and cultural differences, in the context of differing roles of administrators, police, and neighbors. Martien had discretion, certainly, to act in many ways, but what was she actually to do? Her political advisors counseled delay: let the heat cool down—or, better yet, let the police handle it!

Martien unexpectedly asked disputants and their families, friends, and neighbors to take on new roles and responsibilities. She asked the police and other officials to back off. She asked the combatants to meet face to face to try to do better. She asked them not for agreements, not for compromises, but for a modicum of political and moral respect—and for their stories—with the result that the most aggrieved participant who had demanded an apology came to learn enough about what had actually happened to apologize himself.

Martien's improvising enabled not instant solution, but joint listening and discovery, learning and providing a basis for future resolution—an occasion enacting respect and equality, a moment for all parties to learn new information, to free themselves from mistaken presumptions ("Attacking you? I was *protecting* you!"). Improvising together as they moved ahead, learning, building trust, inventing next steps, Martien, the disputants, and the neighbors recreated an inclusive, participatory, responsive form of local democratic governance.

So, in the face of the intersecting challenges of hyper diverse cities (Raco & Tasan-Kok, 2019), our cases have illustrated context-responsive improvising: recognizing difference, building local knowledge, and encouraging reciprocal collaboration. These practitioners were able to listen, analyze and negotiate in part because they brought their own emotions to bear—Henri's emotional sensitivity allowed him to recognize shame, Tonie's exclusion, and Martien's the different meanings of apology and agency of the community. All three professionals listened beyond cultural, ethnic and socio-economic boundaries to learn and to enable them to create and co-produce their improvised responses.

This context-responsive improvising—in each case probing apparently irreconcilable demands—consisted of three essential moves: listening, analysis, and negotiation. If these actors ignored facts that mattered by not listening astutely, they risked solving the wrong problems. If they did not consider analytically what they knew and what they needed to learn, they risked acting ineptly or blindly. As importantly, if they did not negotiate next steps with the parties at hand, they risked getting nothing done (Forester, 2019a, 2019b).

Each of these moves—listening for salience, analysis of relationships, negotiating to problem-solve—calls for further examination. Each one represents not just cognitive or mental but interactive work: building knowledge but also trust, developing understanding but also new relationships. Notice that over time, efforts to assist these practical moves can take quite distinct forms. Efforts to improve listening in complex encounters can involve facilitation of dialogue; efforts to sharpen analysis might involve shaping more robust debate; efforts to enhance negotiations may involve work of mediation (Forester, 2019a). These possibilities demand further investigation. But to integrate these moves in real cases, we have shown, calls for

neither magic nor rocket science. Indeed, being clearer about these practical moves might help us to explain and render less mysterious the skilled improvising across radically differing contexts that urban actors now do—and might even do better.

Future research: Implications for accountability

If improvisation has a practical structure of fallible moves that can go wrong, that structure suggests how accountability measures, even rubrics, might monitor and assess exercises of discretion. Our cases already suggest such measures.

Henri's staff offered one reading of the problem at hand: "they're terrorists" suggesting dismay that the Muslim parents did not respect the school authorities. Henri treated that problem-framing as facile, stereotypical, and fearful—he assessed his staff's exercise of their discretion, naming the problem, as faulty. How do you know, he seems to have wondered; could you have obtained better evidence of "what the real issue is"?

Martien's staff also recommended an exercise of discretion—that she do nothing until autumn to let tensions "cool down," but she rejected that discretionary action as inappropriate. The mistake she envisioned, were she to do nothing soon, involved not listening poorly or misdiagnosis (as in Henri's case) but one of a failure of negotiation, doing nothing when important gains might now be achieved (and losses might be avoided).

Tonie anticipated different accountability standards for his discretionary exercise—perhaps evidence gathered, and mutual consent of all parties—and so he acted with community residents and professionals alike. Tonie's persistence reflected a concern that his exercise of discretion could otherwise have been too facile, presumptuous, inattentive, even dismissive. Tonie acted, in part, with an eye to any outside evaluator's question, "Did you try to learn how the relationships between residents and staff, police and youth workers had fueled the violence? Have you fostered mutual consent to a way forward?"

These cases begin to suggest standards of accountability. Henri, Tonie and Martien were self-reflectively holding themselves accountable for their possible exercises of discretion; they were implicitly invoking standards to judge the quality of their context-responsive improvising, their discretion-as-it-might-be-used. In future research, we might further explore—neither ignore nor settle for—the naturalistic accountability measures invoked in anticipatory ways by skillful practitioners themselves: they cannot have the last word about accountability, but surely they might have the first.

Furthermore, the three fallible constituents of improvisation proposed here—listening, analysis, and negotiation—each imply domains of accountability standards. Listening poorly can be too hasty or preemptory. Analysis can be too thin, biased, inattentive to or dismissive of evidence. Negotiations can be exclusive, coercive, satisfying few interests in the name of opportunistic compromise. Or not! The context-responsive improvising of discretion-as-used can fail, or succeed—and in public policy settings it deserves to be held accountable: can it be assessed with respect to these standards? The accountability implications of the structure of context-responsive improvising explored here deserve further research.

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