

At the Lectern: Moral Education in Law Schools and Law Firms

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Editors' Note: With publication of “Moral Education in Law Schools and Law Firms” by Maksymilian Del Mar, the *Journal of Legal Education* inaugurates a new occasional feature, “At the Lectern,” focused on innovative teaching methods. The Editors welcome short submissions (under ten pages) describing a new or unusual technique you believe made a difference for your students.

Introduction

Legal education and legal practice are both steeped in specific texts and institutions. Those texts define our profession; they orient us; their categories and pathways give us a structure within which we not only participate but also evaluate each other. Yet, the complexity of moral life is not always reflected by any one set of texts or institutions. In that respect, one of our most important responsibilities—both as individuals and teachers—is to cultivate within ourselves and students openness, imagination, and the will to change. The activities described below are designed to help unravel, loosen, and shake up our learned adherence to the categories and pathways of the legal life. Sometimes, I believe, the heart of learning—especially in the domain of moral education—is unlearning.

The first set of activities is part of a project called “Beyond Text in Legal Education.”¹ The project is based at the School of Law, University of Edinburgh, and funded by the United Kingdom Arts and Humanities Research Council. The project hosted a workshop in Edinburgh in December 2008, which brought together a group of approximately fifteen people from the United States and the United Kingdom involved in legal education in

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1. For more information about the project *see*, *Beyond Text in Legal Education*, University of Edinburgh School of Law, www.law.ed.ac.uk/beyondtext (last visited Jul. 16, 2009).

both law schools and law firms.² The participants included law professors, legal professionals and a couple of doctoral students. The activities were designed by three artists: visual artist Alicja Rogalska, dancer Keren Ben Dor, and Zoë Fothergill, an artist and educator at Edinburgh's Talbot Rice Gallery. Professor Zenon Bankowski, the principal investigator of the project, and I worked with the artists. In doing so, we discussed the limitations of text-based teaching in legal education and the need for a more deliberate moral pedagogy in law schools (one that goes beyond reproducing the professional environment, as in clinical legal education).

The second set of activities is my own, part of a collection I call "Unnatural Exercises." Their aim, similar to those in the first set, is to encourage and facilitate unlearning.

I. Beyond Text in Legal Education

The activities described below are divided into two categories: the education of attention and the education of encounter.

In the case of the education of attention, the goal is to decouple the usual corporeal and cognitive paths we all use to interact with our environment. Repeat experience tends to cause persons to notice certain things and respond in certain ways. Being immersed in legal environments, suffused with legal texts and legal skills, law students and practitioners develop a sense of what is important. This immersion, however, can make us potentially less capable of appreciating the moral complexity of situations. In other words, repeat interaction with a certain environment (e.g., a workplace, a school), and repeating the same tasks in the same role, can limit our moral imagination.

These activities, then, are aimed at unravelling, disentangling, and extricating individuals from the familiar, thus re-locating what they pay attention to. Participants were led through a series of activities that involved both appreciating art works as well as creating imaginative works. Put differently, the goal was to push participants face to face with their limitations, including but not restricted to the powers of observation and expression. Among the activities we employed are these:

- As participants, we were asked to choose a word that is part of both the legal vocabulary and everyday usage, such as "causation," "attempt," or "discovery." Using a variety of materials (for example, a large black sheet of paper, soil, nails, bits of plastic, scissors, gloves, and the like), we were asked to produce a sculpture or any other kind of artwork that expressed the word we chose. (We could not use the materials to create the letters of the word.) The exercise made us look differently at words that, as lawyers, we often simply look through, given their familiarity to us.
2. A film of this workshop (by Robbie McKillop) is available online: mms://law-srvo.law.ed.ac.uk/external/beyondtext.wmv (last visited Jul. 16, 2009). Currently, this film is only available online, but a Beyond Text in Legal Education multimedia resource package is planned.

- In the Talbot Rice Gallery, which is located across the courtyard from the law school, our group was asked to look at video installations and use string and blu-tack (a versatile pressure-sensitive adhesive) to respond, in diagrammatic fashion, to those installations. One of the most difficult things here (or so I found) was to resist the temptation to represent or faithfully depict some feature of the installation. My group picked an electronic game version of Osama Bin Laden's hide-out (with matchstick to navigate around). We were unable to resist the temptation and used the string to simply map the layout of the buildings depicted in the game.³
 - Three boxes of all kinds of materials (toys, odds and ends) were made available to two groups; each was instructed to make an installation in a confined space. The trick was that we could only communicate non-verbally. Interestingly, people who normally dominated the conversation receded to the background. Also interesting was the difference in how quickly the two groups agreed on a theme: one group did so very quickly, thereafter choosing materials that represented the theme; the other group explored alternative themes to the end of the allotted time period.
 - Participants were paired up. One person was a drawer; the other a describer. The describer was asked to choose an artwork (which the drawer had not previously seen). They sat back-to-back. The describer then described the artwork to the drawer, expecting that he or she would represent that description on paper. But, there was a twist: both participants received secret instructions designed to rupture expectations, particularly that the drawing would be evaluated on the basis of its verisimilitude with the described artwork. For example, the drawer was told to draw the opposite of the description, or to visually represent the describer's voice, not the art piece. An example of an instruction to the describer was to describe an imaginary artwork, or to describe with one's eyes closed. In all cases, the instructions were very effective (in my opinion) in seeding doubt about one's ability to control outcomes.
 - Participants were given three envelopes with instructions or materials and asked to open each one in front of three artworks of their choice in the gallery. The instructions included standing very close to the artwork (almost touching it); using a magnifying glass to look at it; or facing away from the artwork. In each case, this activity was designed to make one realize the limited or standardized manner in which we usually experience works of art.
 - In perhaps the most popular exercise, participants were given a digital camera and three envelopes with three different kinds of prompts.
3. Ben Langlands and Nikki Bell, *The House of Osama Bin Laden* (electronic game 2002). This installation, as well as some others referred to in these activities, was part of an exhibition hosted at the time of workshop by the Talbot Rice Gallery.

We had forty-five minutes to make one photograph in response to each prompt (fifteen minutes per prompt) and told to take those photographs outside in the streets of Edinburgh. The prompts included colored pieces of paper, as well as objects like tablets, string, and SIM cards. Participants reported they found it liberating and pleasurable to observe their surroundings more carefully than usual and many produced photos that were only orthogonally (and thus, one might say, imaginatively) related to the prompts.

I turn now to what I call the education of encounter. The focus here is on experiencing relationships with others unmediated by the distancing strategies of text and other social and professional rituals. In devising the activities below, we wanted to disturb the expectation legal professionals can easily acquire, that as possessors of expert knowledge they automatically control the relationship with a dependent client. In other words, the activities were designed to facilitate equality and interaction rather than domination and manipulation. For example, an important component of some of these activities was for participants to look into another's eyes without the pressure to respond immediately.

Given that these activities also encouraged us to pay attention to others in ways we may not be used to, they are closely related to those described above under the banner of the education of attention. Nevertheless, their emphasis is slightly different. Whereas the first set of exercises focuses on the participant's relationship with the environment, the focus of this second set is on the participant's relationship with others.

Here, then, are some examples (again, only a selection) of the activities designed to further the education of encounter:

- Participants were matched in pairs. They stood facing one another and simultaneously drew the body of their partner. I struggled to keep up with my partner's body—for he too was moving while he drew me—and I noticed that he had the same difficulty. The outline that my felt pen produced was erratic; the lines were wobbly, some of the facial features (such as the nose, eyes and mouth) were overlapping, and the proportions were out of whack. My technical failures aside, the most powerful experience for me was the realization that this was the first time—certainly in the context of a gathering of legal scholars—that I had encountered another person, someone whom I had only met moments before—without drowning our encounter in words. In other words, this was the first time that I was encouraged to look (and be seen looking) at someone's face without anticipating a response, allowing myself to be disoriented, dislocated, even uncomfortable at first.
- Participants were matched in pairs and asked to stand next to each other with a large piece of white paper before them. One of us held a piece of charcoal, and we were asked to allow the other person to

draw on the paper by controlling the charcoal-holder's hand. As with the previous activities, encountering another person's body in this fashion required trust and interaction and a willingness not to control outcomes.

- Participants were asked to form groups of three. Two group members stood opposite each other, one of whom was asked to lead, while the other mirrored those moments. At any moment, the person mirroring could take over the lead, and the other person had to follow. The third person observed, but could also tap one of the others on the shoulder, allowing that observer to swap in for one of those moving. It was fascinating to see how differently people moved, something I only noticed when I had to pay close attention. Some made grand movements with their whole body while others made very subtle movements with their fingers. Indeed, some of us had great difficulty in mirroring the movements made by others. Once again, this activity enabled us all to experience each other as individuals with distinct bodies.
- The group as a whole was asked to move in a large space, first as we wished, then in response to instructions. For example, we were asked to become gradually more aware of where other group members were in the room; or, more confrontationally, one half of the group was told to do everything they could do to make contact (e.g., shake hands) with others, while the other half, in turn, was directed to avoid contact. This activity helped to loosen the hold of the usual scripts we rely on in everyday and professional interaction.
- Participants were divided into three groups of five to six persons. Each group was asked to compose a dance and each received different instructions. One group had no rules at all, the second received very complex rules and the third was given a picture. Interestingly, the group with no instructions composed a dance that gradually involved all the members of the other groups (they began in a circle, and repeated a simple pattern, and every so often gestured towards an outside observer to join in).

An important component of this workshop was the opportunity to reflect on the activities. Large pieces of paper were stuck on to the wall, and pens and crayons were available for participants to write comments (anonymously if they wished). Audio recorders were distributed for participants to record their reflections. There were also group discussions and other forms of non-text based communal reflection, including communal drawings and dances. A project blog (available only to workshop participants) supplemented these forms of reflection. The reflective process culminated in a conference held in Edinburgh in June 2009; we expect the conference papers will be published in an edited collection.

One important criticism of such experiences is that participants—especially seasoned professionals—will enthusiastically engage in a workshop but not see

the relevance of what they have learned to their work life. It suggests that institutional changes are also necessary to successfully implement the education of attention and encounter. One such change involves cultivating mutual trust and support, particularly among teachers and colleagues. Trust is also important within the workshop itself; activities such as those described above only work where participants are permitted to feel vulnerable and encouraged to take risks. Participants in the Edinburgh workshop were fortunate because the three excellent artists put everyone immediately at ease.

These beyond-the-text activities impose budgetary repercussions for law schools and law firms, though they should be minimal. The workshops require a properly equipped open space—for some, this will involve the cost of transforming, say, an existing classroom and gathering relevant resources. This should not be an obstacle for law schools, particularly those with nearby university athletic facilities. A local gallery enthusiastically provided the space for the Edinburgh workshop. And, although it would be ideal for these workshops to be supported by resident artists, it is possible to save costs by employing freelance artists to train teachers, or using a published curriculum.

II. Unnatural Exercises

Seeing and caring about what we did not notice before is a key aspect of moral education. How do we begin to notice suffering and vulnerability? How do we learn to care about that which is outside the circle of our own interests and plans? How can we properly respect the wisdom of the ages without canonizing the past or eliminating the possibility for innovation? How can we resist the tendency to reduce everything to the empire of the same—to that which is already familiar and comfortable? How do we learn to react to someone or something that we perceive to be different not with violence and exclusion, but with openness and a willingness to change ourselves (and not others)? The seven activities below are designed to address these questions by acknowledging that the revival of our moral imagination may sometimes require us to become, if only momentarily, strangers to ourselves and our environments.

The activities offered below come from a collection I developed entitled “Unnatural Exercises.” Currently, the collection contains about one hundred activities. Here are seven of them:

- Imagine the first time a question was asked. For example, consider the possibility that one day, when a person spoke, their voice did not end abruptly, but rose up instead in intonation, calling for a response or for something to be added. Imagine, now, that time before the first question was asked. Consider how human beings lived before they asked each other questions.

A variation: Consider the possibility that there was a time when a human being first came face to face with another human being; a first time when one eye looked into another’s eye; a first

time when one human being gestured or uttered something to another.

- If you are reading this in the early 21st century, think back twenty or thirty years and watch music videos from the 1970s and 1980s. Look carefully at gestures and facial expressions. Do they not seem familiar, and yet alien to you? What does this tell you about your own gestures and facial expressions?
- Find a busy square in your city and with a coffee and notepad at hand, pick a category of the properties of objects, e.g., temperature, density, surface, texture. Using that category, describe what you perceive with just one of your senses. Avoid, if possible, the names of objects. Follow only the sensory quality of the particular category you have chosen.
- During the course of one day, whenever you feel like expressing disapproval, do so in a self-reflexive, self-deprecating, manner. For example, instead of saying, “This food is awful,” say, “Something is wrong with my taste buds.”
- Describe a memory you have never before recalled.
- Look at the nearest skyline, whether of houses or skyscrapers. Imagine that behind that skyline is one of the world’s great oceans. If you are lucky enough to be in a place where that is the case, imagine instead that behind the nearest skyline is an ancient forest.
- Describe an event without offering any reasons for what happened.

A variation: describe an event backwards.

Conclusion

Although the activities described above have not yet been incorporated wholesale by any law school or law firm, some of the participants in the Beyond Text project have introduced them in their teaching. Details of these efforts will be described in the project’s upcoming edited collection. There is also interest from law firms, both in the U.K. and the U.S., and we are planning to prepare a resource pack for professional education managers in law firms. Clearly, much more remains to be done, but as this paper has outlined, the conceptual and practical foundation for this curriculum now exists.

The approach to moral education favored here is best understood as a collaborative process. Accordingly, the focus of this brief paper has not been on imparting the wisdom of so-called moral experts, often made by reference to authoritative texts, but rather on creating an atmosphere where teachers and students can explore moral spaces together. As we do that, we fulfil our most important duty as teachers, to help prepare ourselves and our fellow human beings for the complexity of moral life.