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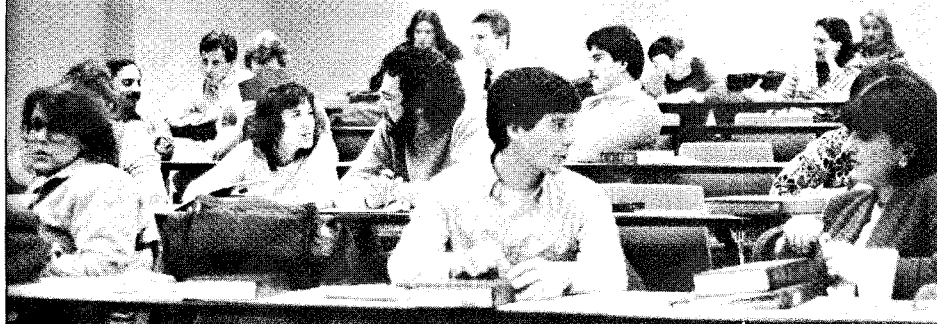
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Invisible Teachers:

A Comment on Perceptions in the Classroom



By Robert F. Nagel

An odd fact about behavior in law-school classrooms is that polite, decent students will occasionally (and apparently unthinkingly) be rude. A student who is normally attentive in personal conversation may, in the classroom, slump sullenly in his chair or feign sleep or read a newspaper. This sort of behavior is not explainable simply as a reaction to the legendary unpleasantness of the Socratic method or to the boredom of a particular class. Everyone has memories going back to grade school of students engaging in open misbehavior—passing notes, chewing gum, staring out windows, brazenly cheating. From the beginning of formal education to its end, what seems to characterize and partially to explain such classroom activity is a sense of invisibility. In some peculiar way students are simply unaware of the fact that the teacher who is standing only a few yards away can clearly see them. Thus it does not occur to the normally polite law student that his boorish behavior is an affront to the teacher before him. Having been a law student in the turbulent period around 1970, I remember occasional angry, even obscene, outbursts in the classroom; and I believe that even those students, at the moment they were so loudly demanding notice, did not understand that they could be seen quite plainly.

The obvious—and incomplete—explanation for students' illusion of invisibility is their low self-esteem. Especially with respect to legal education, it is common to suppose that the role of the student is subordinate, that

students feel powerless, inadequate, and exploited in the classroom. From this assumption it is a small leap to the conclusion that law students, feeling unimportant, also feel as if they are not fully present, that they are, in a sense, invisible. But anyone who has been a teacher must recognize that something more complex is going on. As an illustration, consider this incident: At a bar-association cocktail party, I am enjoying a pleasant conversation with a local practitioner. He asks how things are at the law school, and there is other small talk. Then, without any change of mood or tone, the practitioner says, "I could teach those students more in three weeks about practicing law than they learn in three years at the law school." Now, I am not especially surprised at this idea—I have heard many criticisms of "impractical" legal education before. Everyone, including teachers, expects criticism from time to time. The comment is surprising in that the practitioner does not seem at all embarrassed by his insult. He does not provide the softener so customary in such circumstances—he does not add, for example, "except for a few of the good teachers." He does not seem to expect me to argue or to be angry. He is perfectly matter of fact. In short, to this individual I am not enough of a person to be insulted. I am not fully there.

I have heard similar anecdotes from many teachers: the senior professor referred to in public with friendly amusement and obvious condescension; the hard-working younger teacher asked when he intends to get a real job. I have heard enough to suggest that

such experiences form part of the normal fabric of the law teacher's life. It is not that teachers are especially subject to insult; it is that they are not expected to notice or respond. Such episodes suggest a perverse explanation for the feeling of invisibility that so many students apparently have. Perhaps students do not recognize that there is anyone in front of the room to look back and see them. It is the teacher who is invisible. Of course, students see their teachers at the podium. They listen to them and watch them. But in some way they do not really believe that it is a person up there.

Students' attempts to depersonalize and limit their teachers are evident in an array of commonly observed reactions to law school. Students come to believe, at least from time to time, if not permanently, that law teachers do not notice them or care about them. They find evidence for this in the fact that a teacher might not remember a name during a conversation in the hall or in fact that he passed too quickly over a point in class or in his apparent obliviousness to how the classroom experience affects students. Teachers are perceived as ignoring their students' discomfort and making light of ideas that are offered seriously. This is an adult version of "my teacher cannot see me."

As faculty, we know that many colleagues remember students by name, years and even decades after they have graduated. I have heard accounts of specific answers given to questions posed many years earlier. Teachers frequently talk fondly (and sometimes not so fondly) of students, including students from long ago. Moreover, most teachers are well aware of discomfort in class—or at least assume that some students are somewhat uncomfortable. But, of course, teachers have in mind objectives other than responding openly to discomfort during the class period. After all, the teacher is there to teach and expects to devote his time and effort to that objective. Most teachers are acutely sensitive to whether students are interested, whether they seem to be learning, whether the class is going well. Teaching is our occupation and it is the thing to which our self-esteem is attached. That students so often cannot

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recognize these facts is indicative of the caricature to which they are so powerfully impelled.

Another example of the same perceptual quirk is the belief that law teachers try to hurt students' feelings in class. Many students see their teachers as a self-selected group of the meanest of the legal profession, a group that seems to get a personal thrill out of brow beating students. Every reasonable answer begets just another question, and it is frustrating and embarrassing to be put on the spot. But to conclude, because of such feelings, that the teacher is trying to hurt is for the student to confuse his personal reactions with the motives of the professor. It is to ignore the teacher as a person in his own right, with his own objectives. The teacher's aim is to enable the student to respond under pressure, even in situations where at first the student thinks he has no response. The objective is to encourage the student to think and communicate even more precisely and effectively than he thought he could. Law students are in training to be professional advocates and counselors. For a professional, arguments cannot be merely adequate or normal or bright. Lawyers are paid to be always clear and sometimes moving and brilliant in their communications; they must meet this professional obligation even when they feel embarrassed, even when they are distracted, even when at first they think they have no response.

A third example is the belief that the teacher knows everything. I hesitate to mention this particular misperception as it does not normally last past the third week of classes. At first impression this perception seems inconsistent with my model because it appears to acknowledge and enlarge the capacities of the teacher. But the real reason students want to believe their teachers know everything is to justify their conclusion that it is unreasonable to expect them to live up to the standard the teacher appears to set. If a teacher commands a kind of superhuman excellence or perfection, students are excused from paying attention to the standards he is trying to communicate. In short, he can be ignored. In fact, of course, teachers do not normally ask questions if they are sure of the answers. They are ultimately seeking to interest students in questions that they

find interesting, important, and difficult to answer. The teacher thinks that the questions he puts are hard questions, that they are worthy of students' attention and thought because they are hard. He surely does not often assume that there are clear answers to the questions, let alone that he holds the answers.

A fourth variation on this theme is the belief that teachers are single-mindedly interested in legal thinking, in legal problems, in law. They have no self doubts, and they arrogantly insist

that students master the profession's conventions and skills even when they do not want to. The teacher does not seem to know about other needs, does not recognize that all this seriousness will corrupt pleasant, fun-loving personalities. He does not sense that there is something a bit narrow and even threatening about how lawyers think. In short, the teacher is a reduced person with reduced vision who sees little of the broader world.

The truth is that many teachers are loaded with self-doubts. They have

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already mastered the skills that they are trying to impart and are familiar with the conventions of the profession. They know that putting legal skills into action can do a lot of harm. They have seen legal arguments intensify and even initiate disagreements rather than resolve them; they have seen students who—having just learned to say “inter alia” or divide their arguments into three numbered sections (and even perhaps remember the third part of the argument)—feel that because of these skills they have somehow become superior to other citizens; they have seen first-year law students disdain the “fuzzy” thinking of other citizens and even of their spouses and friends, so that they exhibit an aggressive overconfidence that is sometimes never outgrown; they are well aware of judges who think that some special skill entitles them to a superior place in the resolution of social problems. Teachers may love their craft and the skills of their profession, but they are at least as aware of the limitations as anyone else. They spend a great deal of their academic effort questioning basic assumptions about how law is used, at attempting to locate the limitations of law. They want students to master the techniques and then to transcend them.

Sooner or later (and this misperception tends to last indefinitely) many students come to believe that their teachers know nothing, are not there at all. The most common version of this belief is that teachers are not interested in practical things. Put bluntly, students adopt this attitude because their teachers insist that they continue thinking about problems when they are tired of them. Students and alumni criticize teachers as “too abstract,” “too impractical,” “too academic,” but these are merely euphemisms for exasperation. Most law teachers have practiced law, many still do, and some will go back to the practice full time. Of course, the faculty’s academic interests may differ from the students’ interests from time to time, but there is no real doubt that the skills being taught are generally the skills needed in practice. Law students are taught to be precise, to develop the capacity to foresee potential weaknesses in their own arguments, to be orderly, to be complete, to be imaginative in the construction of legal arguments. These are the intellectual skills that the practice of law requires.

Another version of the belief that the teacher knows nothing is the distress-

singly common view that law teachers are trying to convince their students that there are always two sides to every argument. Many law students believe they have seen deeply into the purposes of legal education when they conclude that any one argument is as good as any other, that the important thing is just to be able to come up with an argument. Students might come to this conclusion because teachers tend to raise additional questions in response to most answers. The perceived message is that the student is to learn to make an argument, any argument; one must be as good as another since there are problems with all arguments. This perception is almost completely wrong. Teachers, of course, question answers so that students will learn to discover possible weaknesses in even their strongest arguments. Moreover, most teachers want students to be able to judge quality for themselves. They do not make a habit of telling students when their answers are “right” because a lawyer must learn to judge independently, by his own standards, when an argument is good enough. The point of all those questions is, in fact, to show students how to judge quality in argument, not to urge the view that quality is irrelevant.

I do not mean these observations to be self-serving. There is some truth in all the misperceptions that I have described. Every faculty member has many weaknesses, as does legal education in general. But the misperceptions distort—even oppose—what I think most law teachers know to be true. In this way they illustrate how powerful is the urge that students feel to diminish their teachers. Legal education is still fairly rigorous, and it involves many real frustrations and disappointments. Only some of these are caused by faculty members. To caricature and ultimately to try to eliminate the teacher that stands in front of them is a way for students to make the teacher responsible for all the difficulties associated with becoming educated in law. Law students in this regard only share (and perhaps enlarge) the near universal desire of students to avoid taking responsibility for their own education. Sadly, like any group subject to fairly constant misperception, teachers are under pressure to internalize the distorted image of themselves reflected in their students’ eyes. Much of the malaise in legal education today may be as much a consequence of

the resulting personal unhappiness as it is of any real ineffectiveness inherent in prevalent teaching techniques.



Collective Bargaining

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NOTES

- ¹ 294 Md. 144, 448 A.2d 345 (1982).
- ² MD. ANN. CODE art. 76A, §§ 7-15 (1980).
- ³ MD. ANN. CODE art. 76A, § 11(a)(8) (1980).
- ⁴ MD. EDUC. CODE ANN. §§ 6-401, 6-411 (1978 & Supp. 1983).
- ⁵ MD. EDUC. CODE ANN. § 6-408 (1978 & Supp. 1983).
- ⁶ MD. ANN. CODE art. 76A, § 15 (1980).
- ⁷ Edwards, *The Developing Labor Relations Law in the Public Sector*, 10 DUQ. L. REV. 357, 376-378 (1972); MD. EDUC. CODE ANN. § 6-410 (1978).
- ⁸ Summers, *Public Employee Bargaining: A Political Perspective*, 83 YALE L.J. 1156 (1974); Wellington & Winter, *Structuring Collective Bargaining in Public Employment*, 79 YALE L.J. 805 (1970).
- ⁹ MD. EDUC. CODE ANN. § 6-408(7) (1978).
- ¹⁰ MD. EDUC. CODE ANN. §§ 6-408(7) and 6-511 (1978).
- ¹¹ See, e.g., *Montgomery County Council of Supporting Services Employees, Inc. v. Board of Education*, 277 Md. 343, 354 A.2d 781 (1975); *Offutt v. Montgomery County Board of Education*, 285 Md. 557, 404 A.2d 281 (1979).
- ¹² *NLRB v. Wooster Division of Borg-Warner Corp.*, 356 U.S. 342, 349 (1958).
- ¹³ *Fibreboard Paper Products Corp. v. NLRB*, 379 U.S. 203, 211 (1964) citing *Labor Board v. Jones & Laughlin Steel Corp.*, 301 U.S. 1, 42-43 (1937).
- ¹⁴ Comment, *Collective Bargaining and the California School Teacher*, 21 STAN. L. REV. 340, 358-359 (1969); Board of Selectmen of Marion v. Labor Relations Commission, 7 Mass. App. Ct. 360, 362, 388 N.E.2d 302, 303 (1979); *Talbot v. Concord Union School District*, 114 N.H. 532, 535, 323 A.2d 912, 913-914 (1974); *NLRB v. Barlett-Collins Co.*, 639 F.2d 652, 656 (10th Cir. 1981).
- ¹⁵ *Carroll County Education Association v. Board of Education of Carroll County*, 294 Md. 144, 151, 448 A.2d 345, 352 (1982) (Davidson, J., dissenting).
- ¹⁶ *Id.*
- ¹⁷ Levine, *The Status of State "Sunshine Bargaining" Laws*, 31 LAB. L.J. 709, 713 (1980).
- ¹⁸ MD. ANN. CODE art. 76A, § 7 (1980).
- ¹⁹ Levine, *supra* note 17, citing 832 Gov't EMPL. REL. REP. (BNA) 16 (October 15, 1979).
- ²⁰ *Id.*
- ²¹ *Id.*
- ²² Levine, *supra* note 17, at 709-710.