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Bringing Mindfulness into the Law School Classroom: A Personal Journey

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Bringing Mindfulness into the Classroom

By Richard C. Reuben[1]

I have to confess that I was not a very good classroom teacher when I started teaching, at least not in my mind. Oh, I wanted to be, very much so, in some respects to repay the many teachers who so profoundly influenced my life. But while I was good enough to pass muster for tenure purposes, and as hard as I tried, I simply wasn't as good as I wanted to be.

Then, about halfway through my first decade of teaching, I had the good fortune of meeting Paula Franzese, a professor of property at Seton Hall Law School, at an Association of American Law Schools conference in San Francisco. I was immediately struck by her warmth, kindness, and genuine sense of interest in me. Even though we came from different scholarly traditions – she writes about property and I write about conflict and conflict resolution -- we bonded over experiential learning and decided to eat together at the AALS luncheon the next day to talk about it.

I later mentioned how impressed I was with Paula to a colleague of mine who teaches property, Wilson Freyermuth, and he told me just who she is: a respected property casebook author, a leader in the AALS's Section on Teaching Methods, a star on the Bar Bri circuit, and, at the time, a seven-time winner of Seton Hall's teaching award; as of this writing, she is up to nine.[2] All I could think was "wow."

So at lunch I asked her what makes her such a decorated teacher? "I try to make it meaningful to them," she said, in words that continue to resonate with me to this day. While the advice wasn't particularly novel or profound, there was something about the way she said it – the tone, the caring, the commitment, the experience, the wisdom – that was so deeply moving.

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[2] http://law.shu.edu/Faculty/fulltime_faculty/Paula-Franzese.cfm (last accessed July 19, 2011).

Looking back, I can see that Paula's gifts also include great present moment awareness, as well as an open and caring heart, and a sense of receptivity that allows her to learn something from others, including her students. These are the qualities that I sought in my teaching, along with expertise, because they facilitate a unique connection between the teacher and the student(s) that allows for deep transmission of knowledge, experience, values, and, for lack of a better term, humanity.[3]

To be sure, you don't need this kind of connection with students in order to be an effective, well-respected teacher (think Kingsfield from *The Paper Chase*). But I was looking for something different in my teaching, something more robust and for me more fulfilling.

These qualities are innate in some, perhaps in Paula, but certainly not me. Yet as I thought about it after meeting her, I came to realize that they were very consistent with some of the virtues of my daily mindfulness meditation practice. In the following essay, I will describe how bringing mindfulness into the classroom cultivated these qualities of openness and receptivity, clarity, courage, and compassion, and wholly transformed my teaching.

a. Openness and receptivity

There are many approaches to mindfulness,[4] but most would agree it is essentially a form of non-judgmental awareness of what is happening in the present moment that in turn fosters insight into how we relate to it, and, ultimately the ability to live our lives in it. This is challenging for many of us, as it seems much easier to think about the past or the future than to be with what is happening in the present.[5]

Mindfulness is often cultivated through mindfulness meditation. Like many others, my practice uses the breath as the object of meditation, providing a baseline from which to observe the external and internal distractions that leads my mind to wander away from the breath. When I recognize it has wandered, I simply let go of whatever distraction has taken the mind and bring the attention back to my breath, without judgment, blame, or criticism.

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[3] For a discussion of this connection, see Deborah Schoeberlein, Mindful Teaching and Teaching Mindfulness 71-80 (2009).

[4] Compare, e.g., Jon Kabat-Zinn, Wherever You Go There You Are: Mindfulness in Everyday Life 3-7 (1994) with Venerable Henepola Gunaratana, Mindfulness in Plain English 149-58 (1992). See generally Ellen J. Langer, The Power of Mindful Learning 111 (1997) (describing characteristics of mindfulness that Professor Riskin has described as reflecting a "thinking" approach rather than the observational approach that both Kabat-Zinn and Gunaratana suggest.) See Leonard L. Riskin, Further Beyond Reason: Emotions, the Core Concerns, and Mindfulness in Negotiation, 10 Nev. L. J. 289, 308 fn 90 (2010).

[5] For a neurological explanation of the power of the past to control the mind, see Daniel J. Siegel, Mindsight 147-55 (2010).

This of course is easier said than done, but when practiced again and again, opens the door to a lifetime of learning, especially about our inner landscapes. Among other things, mindfulness teaches you how to work with distractions, and in my experience, the internal distractions – thoughts, feelings, and emotions – are the most significant, and can be very difficult to let go. But this is the practice, and as we engage it, our minds develop the capacity to be more open and receptive to what is going on in the present instead of being captured by the past or future. As this capacity deepens, so does our ability to work effectively with what is going on in the moment.

In the classroom, I have found that mindfulness can give us the ability to let go of ourselves and the chatter in our heads so that we can be with and communicate with students where they are, rather than from where we are.[6] Ironically perhaps, it allows us to direct our energy outward rather than inward, in turn permitting us to open up to the students, and connect with them deeply and sincerely in the present moment.

In this way, mindfulness creates a transcendent presence in the classroom that facilitates more than mere pedagogy. Words are important, but by themselves are simply inadequate to establish the kind of deep connection with the class that will allow for deep teaching and learning. Indeed, it is the deep connection to the class that allows the teacher to choose the words in the moment that will be most effective in communicating substantive content – words that will resonate with the students because they are meaningful to them.

Let me give you an example. In Administrative Law, I teach the separation of powers issues as a foundation for the statutory issues. One of the challenges students have with Administrative Law is that it blends these different sources of authority, and the relationship between them can be flummoxing for students.

I faced this problem in a recent class, and carefully explained to the class that the separation of powers and other constitutional issues were crucial to any understanding of administrative law, but that the real world of practice tended to focus on the statutory issues. I could feel them wondering why we had just spent three weeks on the constitutional issues, and explained the statutory issues can give rise to the constitutional issues. The mood of the classroom chilled further still with confusion, and perhaps terror. They weren't getting it. In the past, I might have shut down in the face of their confusion and just told them that they would see what I meant sooner or later and bulled ahead. But this time, I paused in the moment and, remembering Paula's advice, tried to conjure up some other way to explain it in words and concepts they would understand.

[6] For a general discussion of the benefits for teachers, see Deborah Schoeberlein, Mindful Teaching and Teaching Mindfulness: A Guide for Anyone Who Teaches Anything 9 (2009).

Then it came to me: Family Guy! Surely they watch Family Guy, a popular animated TV show featuring a family that includes an 11- or 12-year-old boy, Chris, who believes there is an Evil Monkey in his closet. As any regular watcher of the show knows, whenever the Evil Monkey is mentioned in an episode, it will immediately emerge from Chris's closet with a toothy, fearsome expression, pointing a menacing finger at its object of wrath. The analogy was perfectly attuned to the students, who erupted in laughter as I teased it out. Just as most of Family Guy takes place without any thought of the Evil Monkey, we all know it's there and can come out to bite you whenever its name is called. So too with separation of powers and related constitutional issues in Administrative Law: Most of the practice takes place without much consideration of the constitutional issues, although we all need to know they are there and can come out and bite you if you don't take due care. We all laughed heartily. Many of them pointed fingers and did the Evil Monkey grimace. Every one of them got it, probably for good.

This quick and creative thinking was only possible because I was working with what was happening in the present moment rather than fighting it. In that moment, I could feel their confusion, their concern, their fear. Because I had let go of myself and directed my energy outward to them rather than inward to myself, I did not take their confusion with defensiveness, frustration, or exasperation; rather, I took it as a teaching challenge. It was about them, not about me.

Moreover, the mindfulness practice had trained me to be comfortable with silence and intense emotions, so I was able to take a moment to think creatively and with focus about what might get the point across. With that presence and clarity of mind, I was able to scan my memories and identify an analogy that would work. Finally, I cast aside any pretense of scholarly polish and conveyed the idea in a way that was meaningful to them.

This was a great learning moment for them, and for me.[7] Not only did they understand a difficult and important concept, but they connected with me, and with each other, in a way that facilitated better teaching and learning throughout the rest of the semester. They even began to work harder in the course, in part because they knew they could get the hard concepts, and that I really was committed to helping them do that. By my actions in the moment, they could feel my caring for their learning, and that made them care more about their learning, too. Mindfulness in the classroom is very contagious.

b. Clarity

[7] You might say, any good and nimble teacher could have done that. And that is precisely my point: For those of us who may not be "natural teachers," mindfulness can be extraordinarily helpful in opening the door to effectiveness.

While mindfulness can create magic in the classroom, it can also be very helpful beforehand, during the preparation stage.

First, mindfulness gives one the focus to set the intention to be clear in presentation. This may not seem like much at first, but the power of intention is as strong as it is subtle. By affirmatively setting the intention to be clear, we commit to the task of really thinking about how to present the materials, to the honesty necessary to assess whether it's working or not, and to the flexibility necessary to make changes in the middle of the course, as I did with the Family Guy analogy.

Beyond this basic intention, however, mindfulness brings a different dimension to preparation because it compels us to look at the material through our students' eyes and ask what does it call for from the teacher? What questions, analogies, social context references, personal stories, and other teaching techniques will make the material meaningful to them? How much detail about the cases is really necessary to get them to understand what we most want them to know? How necessary is it, really, to slay the beast of coverage in order to give them a deep, meaningful, and lasting understanding of the material? Clear intention forces us to ask ourselves such questions, and reminds us that the purpose of teaching is to help them learn, not to demonstrate our brilliance in triumphant mastery of the material and all of its many nuances.

I was recently teaching Conflict and Conflict Management to a relatively large class of 30 students. The class was also chatty, but in a focused rather than distracted way. They seemed to delight in exploring the intricacies that other classes would just blow through. For example, one critical distinction is between conflict and disputes. As I teach it, conflict is the underlying clash of interests and aspirations, real or perceived, between parties, and disputes are the immediate manifestations of those conflicts.[8] Sometimes the distinction is clear, other times less so. A dispute between two spouses over where to go dinner may indeed reflect transient preferences for steak or fish, but it might also be the immediate manifestation of conflict over power and role in the relationship.[9]

The distinction intrigued the class, as student after student spoke to examine it in light of their own experiences. The questions they raised were stimulating for all of us and we ended up running well past a scheduled break to finish working with the issue. This happened frequently,

[8] See Dean G. Pruitt and Sung Hee Kim, Social Conflict: Escalation, Stalement, and Settlement 7-9 (3rd ed. 2004).

[9] For further exploration of this distinction, see Leonard L. Riskin, Chris Guthrie, Jennifer K. Robbennolt, Richard C. Reuben, and Nancy A. Welsh, Dispute Resolution and Lawyers 9-13 (4th Ed. 2009); Richard C. Reuben, Richard C. Reuben, The Impact of News Coverage on Conflict: Toward Greater Understanding, 93 Marq. L. Rev. 45, 49-50 (2009).

as the class kept exploring these kinds of issues as they came up. We soon ended up well behind, and I found myself looking the beast of coverage right in the eye. The choice was simple: Do I cut off discussion and cover everything I had planned, or do I continue at a slower pace and allow the class to absorb the material more deeply? I opted for depth, on the theory that the students had a better chance of actually internalizing less material if they understood it more deeply. Sometimes less is more.

I admit I had the luxury of making this choice because it was not a "bar course." But bar courses, such as Administrative Law is in Missouri, also present similar questions and opportunities. Some areas can be plumbed to seemingly infinite depth, but is that really necessary for the students to understand what they need to know about it? Indeed, are there times that depth can actually hinder rather than foster student understanding? Mindfulness may not answer such questions for us, but the clarity it brings does bring us in closer touch with where these students are at a particular moment in time, and illuminate what is most appropriate in that moment.

c. Courage

Family Guy moments and the wrestling of coverage require more than clarity, though. They also require courage – the courage to be in the moment to begin with, plus the courage (and honesty) to acknowledge what's not working, as well as the courage to reach far outside of even our mindful preparation to achieve real teaching.[10]

Like many law professors, I relied heavily on notes my first several years in teaching. I felt this was necessary, yet felt frustrated about it because I knew the classroom teachers I most admired did it free-style. Their understanding of the material just seemed to emanate from their very being.

I finally resolved to peel back my grip on the security of my notes and to go free-style, using mindfulness as the vehicle for this passage.[11] Rather than frantically reviewing notes before class, I began to simply look over the assigned materials lightly, and to think about where the students were and what points I really wanted them to get out of the new materials. This was really hard at first, and I would mindfully watch my panic arising as I refused to even print out

[10] For a classic discussion of the role of courage and self-awareness in teaching, see Parker J. Palmer, The Courage to Teach: Exploring the Inner Landscape of a Teacher's Life (1998).

[11] Professor Riskin demonstrates how mindfulness can be used similarly to let go of emotions and other obstacles to working with Fisher & Shapiro's "core concerns" in negotiation: appreciation, affiliation, autonomy, status, and role. See Riskin, supra note XX at 308-25. See also Roger Fisher and Daniel Shapiro, Beyond Reason: Using Emotions as You Negotiate 15-18 (2005).

my notes and saw the clock moving inexorably toward class time. But I also watched the fear pass away as I brought my attention back to my breath, and then to key points and how they might be conveyed. Walking to class, too, I started observing my feet as they touched the floor one step at a time, allowing me to let go even of this form of preparation and grounding me further in the present moment.[12] By the time I would enter the room, I would be pretty open to whatever was there – student banter to join, technology to manhandle, materials to distribute, and so on.

What before had seemed distant and frightful, now seemed close, tangible, and, well, fun. Having let go of fear, and opening to the moment, I was connecting with students in the deep and meaningful way that I had been seeking.[13]

The whole feel of the classroom was different. Rather than bringing all of my material and plans and expectations into the room, I was working with what was already there, shaping the discussion and supplementing it with what they needed to know from the course materials and my own experience, working with their questions to clarify and extend points, and helping them to identify and grapple honestly and rigorously with the truly difficult issues.

This strong connection started extending my teaching beyond the classroom in unexpected ways. Students felt more comfortable stopping by to ask for help, with difficult points in the materials as well as life issues, and I felt more comfortable giving advice, as well as more courage to be critical when necessary. In my Election Law class, for example, I had a very bright female student who had a terrific knack for the materials, but had a bad habit of lowering her volume as she spoke so that I often had to ask her to repeat what she was saying. After much consideration, I decided to talk to her about it.

Standing in the hall one day after class, I told her that I thought she was doing great in the class but that she really needed to be more forceful and confident in her speech or she was going to undermine her own credibility when she got into practice. I also told her that she was going to be too good of a lawyer to let that happen. When she admitted feeling a little uncomfortable talking in class, I told her that probably reflected some kind of story she was telling herself and that she really needed to let go of that story, whatever it was. I also suggested that she use her time in this class to practice, and to notice that feeling of fear or awkwardness as it arose while she was talking, and to simply let it go and keep on talking. She worked on it for the rest of the course, and by the time she was in my Administrative Law class the next semester, she was speaking fully, clearly, confidently, and effectively.

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[12] This is a form of walking meditation. For more on this practice, see Jean Smith, Breath Sweeps Mind: A First Guide to Meditation Practice 166-76 (1998).

[13] For a detailed and eloquent treatment of the experience of letting go of fear, see Jan Frazier, When Fear Falls Away (2007)

In earlier years, I would never have had the courage to have this kind of a conversation with a student. I would probably have dismissed the idea as being beyond my role as a teacher. Through mindfulness, however, I have come to realize that engaging in such a conversation sometimes is the essence of my role as a teacher – with the right student, in the right circumstance, with the right intention, in the right way, in the right moment. If she wasn't going to hear this from a law school professor, who was she going to hear it from? If she wasn't going to work on it during law school, where the stakes are relatively low, when was she going to work on it? If she didn't address the issue, which in fact she wanted to address once it was pointed out to her, what would be the consequence for her career, her life, and all of those it touched? It was the right thing to do, but doing so took courage, care, and compassion.

d. Compassion

Feelings like compassion are rarely discussed in the cold confines of law schools. Yet the important words I spoke to my Election Law student would be hard to hear coming from anyone, much less a law professor, and needed to be delivered with understanding and an open heart.

Mindfulness fosters a sense of compassion that can help us strike the balance between toughness and tenderness that the life of the law requires, in real time on a daily basis.[14] In formal mindfulness practice, we learn to let go of judgments, attributions, criticisms, and other forms of aversion, and instead to open the heart and mind to compassion for ourselves and for others. As we bring mindfulness to our teaching, we begin to see students as people beyond names and faces on a seating chart, people who are in the middle of what may be the most wrenching, demanding, and maybe exciting times of their lives. We see their effort and struggles, their successes and failures, their hopes and reality.

Observing this mindfully opens the heart and gives us the capacity to see, accept, and be with our students where they are, as they are. Like snowflakes, they are all different, and most will have only a transient presence in our lives. For some professors, this is reason alone not to get "too involved" with students. Mindfulness leads us the other way, though, and allows us to relate to the student as a human being, and to take the incredibly precious opportunity we have to work with students, one on one, as they are as individuals, and in so doing, help shape the next generation of lawyers, one lawyer at a time.

Conclusion

Some people are "born teachers." Then there are the rest of us. Being blessed with good teachers and mentors along my path, I entered the academy with a strong desire to be a teacher

[14] For a more detailed understanding of compassion from a Western perspective, see Richard Lazarus and Bernice Lazarus, Passion and Reason GET PIN CITE (1994). For an Eastern Perspective, see Sharon Salzburg, Lovingkindness: The Revolutionary Art of Happiness 102-18 (1997).

who not only communicated but also engaged, challenged, and inspired. I learned all too quickly how far I had to go, and despite the deployment of a wide variety of teaching strategies, methods, and tricks, it wasn't until I brought my mindfulness practice into the classroom that I began to feel the connection with my students that would allow me to grow into the teacher I always wanted to become. I do not feel I am there yet, but I am much closer. More importantly, my students seem to be learning more, and I seem to be more fulfilled as a teacher. This is the gift that mindfulness can bring to the classroom.