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SMALL SCHOOL.
BIG VALUE.

WANDS AWAY
(OR PREACHING TO INFIDELS
WHO WEAR EARPLUGS^o)

By LAURA SPITZ*

“There now”, said Professor Umbridge sweetly, “. . . Wands away and quills out, please”.

Many of the class exchanged gloomy looks; the order “wands away” had never yet been followed by a lesson they had found interesting.¹

STUDENTS IN Professor Umbridge’s Defense Against the Dark Arts class at Hogwarts School of Witchcraft and Wizardry want to do magic, not read about doing magic. As Harry Potter readers, we are meant to understand *doing* and *reading* as two distinct and maybe even unconnected activities. More importantly, we are meant to be sympathetic with the students’ disappointment. Doing magic sounds both more fun and more useful than reading about magic, particularly as the class is made up of almost-adult fifth-years and threats of the Dark Lord loom large.

The juxtaposition between *doing*—what we might call “practice”—and *reading* or *thinking about doing*—what we might call the study of “theory” or “doctrine” or both²—evokes familiar debates for us as legal educators. We are often called to answer the question (crudely cast) whether law school is a university or a trade school. It is not my intent to reinvent or set out those debates in any length here. They are well established.³ Rather, I

^o I take this wonderful phrase from a speech given by Duncan Kennedy at the Second National Conference on Critical Legal Studies, Madison, Wisconsin, November 10, 1978; published as “First Year Law Teaching as Political Action” (1979) 1 *Law & Social Problems* 47, at 48.

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1 J. K. Rowling, *Harry Potter and the Order of the Phoenix*, (New York, Arthur A. Levine Books, 2003), at 239.

2 There are, of course, important and contested distinctions to be made between theory and doctrine, but identifying and resolving those differences is not necessary for the purposes of this essay. I am most interested in the distinction between the allegedly practical (the category most associated with fun, relevance, necessity, et cetera and so on) and the allegedly impractical (the category in which students often file both doctrine and theory).

3 See, as just a few examples from an incredibly rich area of scholarship: Roscoe Pound, “What is a Good Legal Education?” (1933) 19 *A.B.J.* 627; Carl Auerbach, “Legal Education and Some

assume some familiarity with them and use them only to this extent: in this essay I reflect on the purported practice/theory distinction as one method for exploring what we might learn about pedagogy from the professors at Hogwarts. My aim is to demonstrate that the very best professors—whether magical or legal—share certain methods and traits. In particular, they demonstrate the necessity of practice to theory and theory to practice, and see law (and magic) at the intersection. In addition, they acknowledge that theirs is not a morally neutral enterprise;⁴ they exhibit a deep concern for students' well-being;⁵ they are conscious of the meaning of their roles as educators and understand the myriad constituencies to which they owe some obligation,⁶ but they resist a consumer model of education;⁷ they are explicit about their goals in the classroom;⁸ and they understand and accept the responsibility that comes with the inherent power they occupy in the teacher-student relationship.⁹

From the outset, let me be clear about where I stand in the law-school-

of Its Discontents" (1984) 34 *J. Legal Educ.* 43; Richard Wasserstrom, "Legal Education and the Good Lawyer" (1984) 34 *J. Legal Educ.* 155; Jeremy Paul, "A Story" (1988) 74 *Va. L. Rev.* 915; David Simon Sokolow, "From Kurosawa to (Duncan) Kennedy: The Lessons of Rashomon for Current Legal Education" (1991) *Wis. L. Rev.* 969; Duncan Kennedy, "Politicizing the Classroom" (1995) 4 *Rev. of L. & Women's Stud.* 81; Kellye Testy, "Intention in Tension" (1997) 20 *Seattle U. L. Rev.* 319; Christopher Tomlins, "Framing the Field of Law's Disciplinary Encounters: A Historical Narrative" (2000) 34 *Law & Soc'y Rev.* 911; Duncan Kennedy, "The Political Stakes in 'Merely Technical' Issues of Contract Law" (2001) 1 *Eur. Rev. of Private L.* 7; Bethany Rubin Henderson, "Asking the Lost Question: What is the Purpose of Law School?" (2003) 53 *J. Legal Educ.* 48; Annelise Riles, "A New Agenda for the Cultural Study of Law: Taking on the Technicalities" (2005) 54 *Buff. L. Rev.* 973; Denise Réaume, "Rethinking The Laissez-Faire Law Curriculum: Fostering Pluralism and Interdisciplinarity", Unpublished Manuscript (on file with author); and William Sullivan et al., *Educating Lawyers: Preparation for the Profession of Law*, (San Francisco, Jossey-Bass, 2007).

This familiar debate emerges in more specific contexts as well. Some examples from my own teaching field, contracts, include: Carol Chomsky & Maury Landsman, "Using Contracts to Teach Practical Skills: Introducing Negotiation and Drafting into the Contracts Classroom" (2000) 44 *St. Louis L.J.* 1545; Hazel Glenn Beh, "Teaching Contracts Transactionally" (2003) 34 *U. Tol. L. Rev.* 687; Kellye Testy, "Whose Deal Is It?: Teaching About Structural Inequality by Teaching Contracts Transactionally" (2003) 34 *U. Tol. L. Rev.* 699; Christina L. Kunz, "Teaching First-Year Contracts Students How to Read and Edit Contract Clauses" (2003) 34 *U. Tol. L. Rev.* 705; Edith Warkentine, "Why Teach Contracts Transactionally?" (2003) 34 *U. Tol. L. Rev.* 723.

- 4 See Kim Brooks, "Feminists, Angels, Poets, and Revolutionaries: What I've Learned From Ruthann Robson and Nicole Brossard On What It Means To Be A Law Teacher" (2005) 8 *N.Y. City L. Rev.* 633, at 651-3.
- 5 This trait is perhaps best exemplified by Dumbledore, although other teachers clearly care as well. Even Professor Binns—who we are given to understand is inattentive at best—sends Harry to the Hospital Wing when Harry claims to not be feeling well in History of Magic Class. *The Order of the Phoenix*, *supra* n. 1, at 357.
- 6 Of course, some might say that the problem with legal education is that its response has been to try to be all things to all constituencies. See Réaume, *supra* n. 3.
- 7 Much has been written lately about the drawbacks of seeing our students as consumers of education, and the factors that have contributed to the rise of this model. See Réaume, *id.*; Catherine Valcke, "Comparative Legal Education in Canada" (2005) 39 *R.J.T.* 483.
- 8 For a wonderful discussion about what she hopes to achieve in the classroom, see Testy, *supra* n. 3.
- 9 We see Dumbledore's acknowledgement of this when he admits to Harry that he made a mistake in not giving Harry fuller information about Voldemort earlier in Harry's education. *The Order of The Phoenix*, *supra* n. 1, at 834. Implicit in this admission is an acceptance of the special obligations inherent to the power occupied by teachers, as well as a recognition that these special obligations were compromised by his personal feelings for Harry.

as-research-institution vs. trade-school inquiry. It is a false, distracting and destructive dichotomy; they are not mutually exclusive nor additive, but mutually constitutive categories.¹⁰ As I tell my students, practice encompasses people, places and ideas.¹¹ Law—like magic—is a creative endeavor. Principles, theory, doctrine, legal writing, critical thinking, jurisprudence, research, policy, standards, rules, diverse and imaginative approaches to legal reasoning, et cetera and so on, each matter to the others—and all matter to the practice of law. The view that practice is something act-centered that can be neatly severed from ideas (including theoretical inquiry and legal analysis) is impoverished, inaccurate and misleading. Good practice cannot afford to ignore theory. Just as importantly, good theory must be grounded in practical experience or, as Catharine MacKinnon put it, in real lives socially lived.¹² Happily, this is—in an admittedly overly simple and generalized way—largely the Hogwarts model, and therefore permits for useful comparison.

Having said that, I want to acknowledge that there are real drawbacks to using Hogwarts as a point of comparison and subject of inquiry.¹³ Most significantly, the teachers—like most of the students—are white, able-bodied and apparently heterosexual.¹⁴ In addition, with very few exceptions, the characters are highly and problematically gendered.¹⁵ Finally, Hogwarts students are divided into Houses for purposes, and in ways, that highlight and exacerbate differences and hierarchies among students, teachers and their communities. In the end, it is a system that seems intent on making inter-House alliances difficult in some cases, impossible in others.

10 For an argument that challenges the theory/practice division and emphasizes the contested nature of the terms themselves, see Mark Spiegel, "Theory and Practice in Legal Education: An Essay On Clinical Development" (1987) 34 *U.C.L.A. L. Rev.* 577.

11 "When you believe that power in law resides in fields of practice, it is important to speak of places and people as well as ideas". John Brigham, *The Constitution of Interests*, cited in Christopher Tomlins, "Framing the Field of Law's Disciplinary Encounters: A Historical Narrative" (2000) 34 *Law & Soc'y Rev.* 911.

12 Catharine MacKinnon, "From Practice to Theory, or What is a White Woman Anyway?" (1991) 4 *Yale J.L. & Feminism* 13, at 14. Professor MacKinnon starts her piece with this wonderful introduction:

"It is common to say that something is good in theory but not in practice. I always want to say, then it is not such a good theory, is it? To be good in theory but not in practice posits a relation between theory and practice that places theory prior to practice, both methodologically and normatively, as if theory is a terrain unto itself."

13 At least one commentator would go so far as to describe Hogwarts as in need of "drastic internal reform". William P. MacNeil, "'Kidlit' As 'Law-And-Lit': Harry Potter and the Scales of Justice" (2002) 14 *Law & Lit.* 545.

14 Rowling has now revealed that Dumbledore is gay. While this explains his boyhood infatuation with Gellert Grindewald, it explains little else (<http://www.cnn.com/2007/SHOWBIZ/books/10/20/harry.potter.ap/index.html>). Dumbledore's sexual orientation is not apparent in the series, and therefore does nothing to challenge heteronormative assumptions in readers. On the issue of race, see Hollie Anderson, "Reading *Harry Potter* with Navajo Eyes," in Heilman, ed., *Harry Potter's World*, (New York, Routledge, 2003), at 97.

15 See Tammy Turner-Vorbeck, "Pottermania: Good, Clean Fun or Cultural Hegemony?", in *Harry Potter's World*, *id.*, at 13; Elizabeth E. Heilman & Anne E. Gregory, "Blue Wizards and Pink Witches: Representations of Gender Identity and Power", in *Harry Potter's World*, *id.*, at 221; and Eliza T. Dresang, "Hermione Granger and the Heritage of Gender", in Lana A. White, ed., *The Ivory Tower and Harry Potter*, (Columbia, University of Missouri Press, 2002), at 211.

Still, my hope is to draw useful analogies that are attentive to these deficiencies without replicating them. This essay will thus proceed in two parts. In Part 1, I make some general observations about Hogwarts as an institution. I am particularly interested in what qualities comprise a successful institution of higher learning. To that end, my observations are both descriptive and normative. In the second part, I explore what we might learn from specific Hogwarts teachers: Professors McGonagall, Lupin, Snape and Umbridge. Each of these four provides us with a different lens through which to examine the practical “*vs*” impractical debate which continues to both frame and cast a long shadow over any discussion about pedagogy in legal education. I conclude with some observations about students’ attitudes and expectations with respect to their legal education and the pedagogical choices their teachers make.

Part 1

The Institution: Hogwarts School of Witchcraft and Wizardry

Wizards school provides the single experience that virtually all wizards and witches share.¹⁶ The same has been said about law school for lawyers, at least in the United States. Judging the success of any institution—muggle or magical—requires some understanding of its purpose. While it’s not possible to settle easily on a single definition of the purpose of law school, the Carnegie Foundation for the Advancement of Teaching has described law school this way: “[i]t is the place and time where expert knowledge and judgment are communicated from the advanced practitioner to beginner. It is where the profession puts its defining values and exemplars on display, and future practitioners can begin both to assume and critically examine their future identities”.¹⁷ One can just as easily imagine these statements describing Hogwarts School of Witchcraft and Wizardry: it is where the magical worlds puts its defining values and exemplars on display, and future witches and wizards can begin both to assume and critically examine their future identities. Its primary purpose is to educate witches and wizards in the *life* of a magic person—to understand what it is to both *be* and *do* magic.¹⁸ In this regard, and like law school, it recognizes the overlapping theoretical, practical, social and ethical components to educating and training witches and wizards (and lawyers¹⁹).

16 We learn in *The Goblet of Fire*, for example, about the existence of other schools for witches and wizards in Europe: Beauxbatons and Durmstrang. J. K. Rowling, *Harry Potter and the Goblet of Fire*, (London, Bloomsbury Publishing Plc, 2000), at 165. Indeed, we are told that together with Hogwarts, they make up the three *largest* European schools of wizardry and witchcraft, suggesting that there are others. I think we can safely assume that there are more such schools everywhere in the world that there are witches and wizards.

17 See *Educating Lawyers*, *supra* n. 3, at 4.

18 For a discussion of the rules and ethics for learning to do magic at Hogwarts, see Emily Calhoun, “Academic Freedom: Disciplinary Lessons From Hogwarts” (2006) 77 *U. Colo. L. Rev.* 843.

19 See *Educating Lawyers*, *supra* n. 3, at 12–14 (there are three components to legal education:

With few exceptions, Dumbledore's Hogwarts is apparently successful. I say "Dumbledore's Hogwarts" because it is clear throughout the books that Hogwarts' philosophy and approach to education can be attributed for the most part to the Headmaster's stewardship. My claim is that law schools do well when they exhibit these same qualities, some of which I describe here.

First, Hogwarts is not a morally neutral enterprise and does not pretend otherwise. Students cannot, for example, simply take courses in the Dark Arts.²⁰ Instead, they are schooled in Defense Against the Dark Arts, a course with explicitly ethical and political purposes. Readers understand that Harry and other students are in the process of developing their ethical Selves,²¹ and that Hogwarts teachers play an essential role in that development. One never gets the sense that skills, spells, charms and potions are necessarily neutral, equally amenable to use in the service of good or bad.²² While that is true of some—the charm to levitate objects, for example—it is clearly not true of others.²³ In other words, there are certain skills, spells, potions and charms that have no purpose other than to cause pain or destruction. Hogwarts takes a stand against their use, under-age students have very limited access to books about the Dark Arts, and the institution takes seriously its role in being a place where students come to acquire the knowledge and experience critical to their success and survival as ethical participants in a larger society committed to fairness and justice.

Second, the Headmaster and most teachers show genuine concern for students' welfare²⁴ and development as human beings,²⁵ understanding that students' success as wizards and witches depends on their mental,

teaching theory or legal analysis, facilitating practical application and instilling professional identity, including ethics).

20 Indeed, in the last book—when students are able to take instruction in the Dark Arts—Neville tells us that Hogwarts is "not longer really like Hogwarts anymore". J. K. Rowling, *Harry Potter and the Deathly Hallows*, (New York, Arthur A. Levine Books, 2007), at 573.

21 *But see*, Deborah Cantrell, "Teaching Practical Wisdom" (2003) 55 *S.C. L. Rev.* 391 (struggling with the question of whether we have to make sure that students actually experience some ethical conflict in law school in order to develop morally). Harry, for one, is thrust into situations that make him confront and resolve ethical questions; is that why he develops as he does? Is it enough to simply teach ethics, or should we be trying to make sure that all students confront and resolve ethical questions during their time in school? Hogwarts does not do that for all its students. And in the case of law students—who are much older than Hogwarts' students—do they come to us fairly entrenched in a particular moral universe? Put another way, how much ethical development is left in them?

22 References to "good" and "bad" are meant to mimic the books' approach to "right" and "wrong", and obviously reflect an oversimplified approach to ethics. In this short essay, I don't intend to give content to the terms "good" and "bad". I mean only to say that whatever the content of those categories may be, Hogwarts aims to teach students to improve their lives and the lives of others by doing "good" things and avoiding "bad" things, and challenging those who aspire to do "bad" things.

23 These include the Unforgivable Curses, such as *Crucio* and *Avada Kedavra*, described by Professor Moody's imposter, Barty Crouch, in *The Goblet of Fire*, *supra* n. 16, at 187–92, and referred to throughout the series.

24 See e.g. J. K. Rowling, *Harry Potter and The Chamber of Secrets*, (New York, Arthur A. Levine Books, 1999), at 257.

25 See e.g. *The Order of the Phoenix*, *supra* n. 1, at 838.

emotional and physical well-being, as well as the health and welfare of their classmates. This interest and commitment on the part of the Headmaster and (most) Hogwarts teachers includes an appreciation for exposure to a broad and diverse curriculum,²⁶ and the importance of transformative relationships²⁷ and extra-curricular activities.²⁸

At the same time, the Headmaster and most teachers exhibit an explicitly self-conscious understanding of the power Hogwarts possesses vis-à-vis students, and Dumbledore clearly see Hogwarts as having a responsibility equal to this power. At a minimum, this responsibility includes an affirmative duty to fulfill (and inspire in students) a public service mission²⁹ and to be honest about the inevitability of perspective.³⁰ In addition, it includes a duty to ensure that all students benefit from their education according to their interests, desires and abilities. And this is true—at least aspirationally—regardless of students' class, race or sex.³¹

Fourth, Hogwarts embraces an idealized, if not romanticized, notion of learning in a British boarding school setting—namely the time-honoured tradition of (mostly self-³²) discovery, within the (mostly safe³³) confines of the institution itself, together with the slow, steady, cumulative acquisition of knowledge.³⁴ Critical to this model is the sense in which Dumbledore is in a sort of benevolent control, actively ensuring that the necessary component parts are in place to facilitate practical learning through study, understanding and experience. True, law school is not boarding school (although I am given to understand that several of my students appear to be living in the library), but the idea that teachers are at once instructors,

26 Classes at Hogwarts vary in length (some, for example, are “double” classes), in subject and content, and in approach. In addition, teachers' skills and methods vary, although we are told that most of them are among the very best in their field of expertise.

27 Evidence of this can be seen in Dumbledore's description of the opportunities presented by the Tri-Wizard Tournament. *The Goblet of Fire*, *supra* n. 16, at 187.

28 The most obvious of these is Quidditch, but we are told of other clubs as well, including Gobstones and Charm Club. *The Order of the Phoenix*, *supra* n. 1, at 276 and 352.

29 In the law school context, see Brooks, *supra* n. 4, at 651–3; *Educating Lawyers*, *supra* n. 3.

30 See, for example:

“You are blinded”, said Dumbledore, his voice rising now, the aura of power around him palpable, his eyes blazing once more, “by the love of the office you hold, Cornelius! You place too much importance, and you always have, on the so-called purity of blood! You fail to recognize that it matters not what someone is born, but what they grow up to be”.

The Goblet of Fire, *supra* n. 16, at 708.

31 Tom Riddle (Lord Voldemort), for example, was offered a spot at Hogwarts even though he had no money. J. K. Rowling, *Harry Potter and The Half-Blood Prince*, (New York, Arthur A. Levine Books, 2005), at 274: “There is a fund at Hogwarts for those who require assistance to buy books and robes”. Similarly, in *The Goblet of Fire*, Hagrid makes a point of telling Harry, Ron and Hermione that Professor Dumbledore does not discriminate against students based on their backgrounds; if a student is magical, he or she can attend Hogwarts. *The Goblet of Fire*, *supra* n. 16, at 395–6.

32 See, e.g. Dumbledore's lessons with Harry throughout *The Half-Blood Prince*, *id.*, at 194, 258, 356, 427 and 494.

33 We are told in each of the first six books that Hogwarts may be the *safest* place to be. It is well protected and Dumbledore was apparently the only wizard Voldemort was ever afraid of. Hogwarts is no longer so safe in *The Deathly Hallows*, of course.

34 Lisa Hopkins, “Harry Potter and the Acquisition of Knowledge”, in G.L. Anatol, ed., *Reading Harry Potter*, (Westport, Praeger Publishers, 2003).

enablers and facilitators transcends the boarding school model. At Hogwarts, as at law school, each year builds on the one before it,³⁵ courses are both connected and contingent, and principles and theories are ultimately understood—at least for Harry, Ron, Neville, Ginny and Hermione—through their practical application.

Finally, Hogwarts is clearly a collective enterprise. I say this in the same way that I would describe the legal profession—and law schools as institutional partners—as a collective enterprise.³⁶ In that sense, individual students are part of a larger whole, to which they owe ethical obligations that are profession-defining.³⁷ Not to say that Hogwarts students and teachers aren't competitive (and sometimes mean!); they are. Students compete individually for grades in class and positions on Quidditch teams. In their fourth year, they compete for the right to participate in the Tri-Wizard Tournament, and then compete against other schools for the Tri-Wizard Cup. In addition, Hogwarts students and teachers compete in groups for both the Quidditch and House Cups. And not to say that teachers' styles are homogeneous; they are not. Teachers deploy various pedagogical devices aimed at advancing students' learning. But it is clear, at least from Dumbledore's perspective, that the institution—like life—is a collective endeavor aimed at improving not only students' lives and abilities, but the larger wizarding world as well.³⁸ Intra-institutional competition and a diversity of approaches is meant to serve this larger purpose.³⁹

Together, these qualities clearly make Hogwarts an impressive institution of higher learning—not perfect, but paradigmatic. Good law schools exhibit some or all of these same traits: explicit acknowledgement of the political, moral and collective nature of the enterprise; genuine commitment to students as human beings; and careful attention to the concomitant responsibilities that come with sanctioned institutional power.⁴⁰

35 See Professor McGonagall's introduction to Transfiguration in J. K. Rowling, *Harry Potter and The Philosopher's Stone*, (Vancouver, Raincoast Books, 2000), at 133–4.

36 *Educating Lawyers*, *supra* n. 3, provides recommendations for legal education. Recommendation 6 is "recognize a common purpose" and Recommendation 7 is "work together, within and across institutions". The latter evokes references to the Department of International Magical Co-operation, first introduced in detail in *The Goblet of Fire*. See *e.g. The Goblet of Fire*, *supra* n. 16, at 166.

37 An interesting debate, beyond the scope of this essay, arises from the question: how do we define the "whole" to which students and lawyers owe obligations? The school? The profession (*e.g.* role morality)? Something larger (*e.g.* social morality)? See David Luban, *Lawyers and Justice: An Ethical Study*, (New Jersey, Princeton University Press, 1989).

38 That Dumbledore is committed to the ethical potential and development of students is clear: "It is our choices Harry, that show what we truly are, far more than our abilities". *The Chamber of Secrets*, *supra* n. 24, at 333.

39 Of course, whether that is possible as opposed to aspirational is left unresolved by the series. Readers are left to wonder whether it is the House-system *per se*, or simply human nature, or some combination, that explains the vicious competition and differences between Gryffindors and Slytherins.

40 See Ann Scales and Karl Johnson, "An Absolutely, Positively True Story: Seven Reasons Why We Sing" (1986) 16 *N.M. L. Rev.* 433, at 444: "For teachers, the responsibility to participate in interpreting the world is weighty. For law teachers, the obligation is particularly grave, since

Of course, Hogwarts could do better: it could show a real commitment to the value of racial and other diversity among teachers and students,⁴¹ it could modify (eliminate?) the House-system so as to lesson the divisions among students and avoid essentializing students along apparently inherently drawn lines; and J. K. Rowling could do better with the gendered and gendering nature of staff positions⁴² and students' personal characteristics. Nevertheless, Hogwarts is worthy of high regard for the reasons outlined above.

Like all institutions of higher learning, Hogwarts is not brick and mortar, but people (and other creatures, as well). I have already said that the *sine qua non* of Hogwarts is Dumbledore, so much so that I would describe it as Dumbledore's Hogwarts, but there are other wonderful teachers, each bringing something unique and critical to the school, including Professor Flitwick, Professor Sprout, Madam Hooch, Madam Pomfrey, Firenze, Rubeus Hagrid, and Professor Grubbly-Plank. In Part 2 of this essay, I look briefly at four teachers (Professors McGonagall, Lupin, Snape and Umbridge), to see if there might be something to be learned about good pedagogy from their contributions to the Harry Potter series.⁴³

Notwithstanding a deep fondness for Hagrid, I do not use him in this essay. I made this choice primarily because the reasons we adore him—a genuine and unfailing deep love for his students, his subject-matter, and his school—make him a wonderful comrade and friend, but in the end prevent him from being a good teacher. He is simply unable to move from the role

we are empowering people to engage in a version of reality-making backed by the force of the state".

41 From the perspective of a critical thinker concerned about discrimination, one of the most problematic aspects of the Harry Potter books is Rowling's decision to portray students as destined for Hogwarts (and perhaps even their House) from the time they are born. In other words, they are born magic and their spot at school is decided on that day, regardless of where or to whom they are born. In some ways, this is quintessentially liberal; it has a sort of blindness to it that permits for the argument that students are admitted based on "merit" (they are either witches or wizards or they are not) and without regard to race, sex, et cetera. But the flip side of that view is that Hogwarts has no need to justify or explain the make-up of entering classes. Perhaps Rowling did this intentionally so as to avoid those types of debates altogether—what place could affirmative action have in an institution where students either qualify or they do not, and everyone who "qualifies" is admitted? But there is something elitist and troubling about the whole set-up, not least of which because it plays to the point of view that meritocracies work even when there are underlying and systemic inequalities.

42 It is not insignificant, for example, that the librarian and the nurse are women, and their titles are "Madam", not "Professor". This hierarchy is apparent in most law schools, as well, particularly between instructors and professors. Similarly, the flying instructor—Madam Hooch—seems to be more like a clinician than a classroom teacher, again replicating some of the hierarchies with which we are familiar in law schools. True, Hagrid is not often called "Professor"—maybe because he did not complete school and did not start teaching until *The Prisoner of Azkaban*—but his role as grounds keeper is consistent with gender stereotypes. And when Harry challenged Hagrid in *The Half-Blood Prince*, Hagrid responded: "I'm a teacher! . . . A teacher, Potter! How dare yeh threaten to break down by door!" *The Half-Blood Prince*, *supra* n. 31, at 228.

43 But see Renée Dickinson, "Harry Potter pedagogy: what we might learn about teaching and learning from J. K. Rowling", *The Clearing House*, (2006) (arguing that Hogwarts might have very little to tell us about good pedagogy and that most of the learning is self-taught, largely outside the classroom, outside the rules, and sometimes outside the law).

of magical creature care-taker to that of teacher.⁴⁴ And I do not revisit Dumbledore only because all that I have already said about Hogwarts can be said about Dumbledore. I mention only one further characteristic, however, that may be as essential as any other to Dumbledore's success as Headmaster: his sense of humour!⁴⁵

Part 2

The Teachers

a. Professor Minerva McGonagall

Professor McGonagall is strict,⁴⁶ honest, wise,⁴⁷ knowledgeable,⁴⁸ serious and exacting,⁴⁹ but not unkind.⁵⁰ She demonstrates unwavering—though not uncritical—loyalty to Dumbledore, Hogwarts and the Order of the Phoenix,⁵¹ at the same time that she shows genuine respect, interest and compassion for her students.⁵² I admire and aspire to many of these same qualities. But what really makes Professor McGonagall so uniquely wonderful as a teacher, a role model and a literary tool is that she is both the Transfiguration teacher and an Animagus (a witch who can transform

44 I am grateful to my colleague, Deborah Cantrell, for sharing her thoughts about Hagrid with me. She wonders if Hagrid is like the lawyer/teacher/clinician who is so tapped into a cause or a client that he or she loses perspective and is prevented thereby from getting out of the advocate's role and into the teacher's role. Put another way, is he blinded by his love and apparently indiscriminate support for magical creatures?

45 Just a few examples:

"It's lucky it's dark. I haven't blushed so much since Madame Pomfrey told me she liked my new earmuffs". *The Philosopher's Stone*, *supra* n. 35, at 14.

"Welcome", [Dumbledore] said. "Welcome to a new year at Hogwarts! Before we begin our banquet, I would like to say a few words. And here they are: Nitwit! Blubber! Oddment! Tweak!" *The Philosopher's Stone*, *supra* n. 35, at 91–2.

"I see myself holding a pair of thick, woolen socks". Harry stared [at Dumbledore]. "One can never have enough socks", said Dumbledore. "Another Christmas has come and gone and I didn't get a pair. People will insist on giving me books". *The Philosopher's Stone*, *supra* n. 35, at 157.

"What happened down in the dungeons between you and Professor Quirrel is a complete secret, so, naturally, the whole school knows". *The Philosopher's Stone*, *supra* n. 35, at 214.

"There is a time for speech making, but this is not it. Tuck in!" *The Order of the Phoenix*, *supra* n. 1, at 208.

46 J. K. Rowling, *Harry Potter and The Prisoner of Azkaban*, (Vancouver, Raincoast Books, 1999), at 62. See also *The Philosopher's Stone*, *supra* n. 35, at 133.

47 Minerva was the Roman name for Athena, the goddess of wisdom and war.

48 The breadth of her intellect and skill is best demonstrated by the fact that she is an Animagus. Very few witches or wizards accomplish this ability—perhaps as few as seven in the last century. *The Prisoner of Azkaban*, *supra* n. 46, at 351.

49 See, for example:

"The Yule Ball is of course a chance for us all to—er—let our hair down", she said, in a disapproving voice. . . . "But that does NOT mean", Professor McGonagall went on, "that we will be relaxing our standards of behaviour we expect from Hogwarts students. I will be most seriously displeased if a Gryffindor student embarrasses the school in any way"

The Goblet of Fire, *supra* n. 16, at 386. Importantly, she holds herself to just as high a standard as she holds students. See, for example, *The Prisoner of Azkaban*, *supra* n. 46, at 154.

50 *The Half-Blood Prince*, *supra* n. 31, at 253.

51 We first learn that Professor McGonagall is member of the Order of the Phoenix in the fifth book, *The Order of the Phoenix*, *supra* n. 1.

52 "This will be a bit of a shock", said Professor McGonagall in a surprisingly gentle voice as they approached the infirmary, "There has been another attack. . . another *double* attack". *The Chamber of Secrets*, *supra* n. 24, at 257.

herself into an animal). In other words, she transcends the theorizing about and doing of magic to become both metaphorically and physically what she teaches. Perhaps nowhere at Hogwarts is it more plain than in Professor McGonagall's Transfiguration class that the intersection of practice and theory is *being*.

We are able to take this one step further. Thinking back to my earlier assertion that Hogwarts—like law school—is not a morally neutral enterprise, the metaphor that is Professor McGonagall becomes richer with the knowledge that it is not enough in the magical world to simply locate *being* at the intersection of theory and practice. Instead, we learn that ethics is also there. Indeed, ethics is fully engaged, at once a description and a normative claim. Why? Because it is a special power—the ability to transform oneself into an animal—and therefore comes with concomitant responsibility, and even regulation.⁵³ Vis-à-vis our students, we too enjoy a special kind of power, one that requires us to *be*, *theorize* and *practice* ethically. Professor McGonagall is the quintessential embodiment of this claim.

b. Professors Remus Lupin and Dolores Umbridge

Professor Lupin is the Defense Against the Dark Arts teacher for only one year.⁵⁴ Nevertheless, it would seem that students of all ages and abilities believe Professor Lupin to have been the best teacher at Hogwarts.⁵⁵ When pressed about the “why” of this, answers include: “he shows an interest in all of the students”, “he has respect for all of the students”, his lessons are “practical”, he is “prepared for teaching”,⁵⁶ and “he gives his students confidence and demonstrates that he has confidence in them”.⁵⁷ I not only agree with these observations, I would add to them my own: his approach to teaching enhances the learning experience for all students in the classroom and his lessons best exemplify the practical application of learned knowledge. And while Rowling (perhaps over-) emphasizes the practical nature of Lupin's lessons in an effort to show us why students

53 An Animagus must be registered with the Ministry of Magic. *The Goblet of Fire*, *supra* n. 16, at 422.

54 This happens in Harry, Ron and Hermione's third year, *The Prisoner of Azkaban*.

55 This is true of at least my son, my research assistant and many Gryffindors, including Dean Thomas. See, e.g., *The Order of The Phoenix*, *supra* n. 1, at 243. See also Dickinson, *supra* n. 43, at 5.

[T]he most successful example of teaching from professors occurs outside of the classroom when Professor Lupin guides Harry through the Patronus charm to dispel the Dementor wraiths in *Azkaban*. . . First, Professor Lupin explains how the spell works. . . Next Professor Lupin gives Harry the incantation and has Harry practice it himself. After each practice, Professor Lupin and Harry analyze and evaluate what Harry did and why.

56 He has chocolate at the ready, for example, when he teaches Harry to fight off the Dementors. *The Prisoner of Azkaban*, *supra* n. 46.

57 I am here quoting both my research assistant and my son. Evidence of this last claim can be found in Lupin's choice of asking Neville to help with teaching the *Patronus* charm at precisely the moment Neville is feeling least confident about his skills after a particularly harrowing Potions class with Professor Snape. *The Prisoner of Azkaban*, *id*, at 132–40.

like him,⁵⁸ in fact Lupin does a great job of explaining how and why spells work as they do, and when and why they might be used. In other words, he is successful because he demonstrates the relevance of theory to practice and practice to theory at the same time he challenges the distinction. While Professor McGonagall actually embodies this understanding of practice and theory, Professor Lupin provides an accessible example of its application.

Contrast this with Professor Dolores Umbridge who, like Professor Lupin, is the Defense Against the Dark Arts teacher for only one year.⁵⁹ Professor Umbridge is a caricature of all that is wrong with theory in the abstract. I understand Rowling's choice to equate "Umbridge" with "theory" as a literary tool, in an attempt to tell us something about both she and Professor Lupin's characters. In the contemporary consumerist approach to education, the word "theory"—particularly in the "abstract"—is evocative of all things "bad", "irrelevant" and "impractical" with contemporary education.

But even accepting the proposition that the definition of theory is contested, and notwithstanding Professor Umbridge's unyielding claims to be teaching "theory",⁶⁰ only the most impoverished view of theory could account for her methods. Students in Umbridge's classes are discouraged from reading anything but "Ministry approved" texts; from questioning⁶¹ or discussing⁶² the material; and from thinking beyond her view.⁶³ Indeed, Professor Lupin's classes are more theoretical than Professor Umbridge's, if only because he engages the students with the materials and encourages them to be both reflective and analytical. In the end, I prefer the use of Professor McGonagall as a metaphor for the intersection of practice and theory to the use⁶⁴ of Professor Lupin as a proxy for "practical" in a narrative that claims Professor Umbridge as "theoretical".

Unsurprisingly, I do not think Professor Umbridge has anything to teach us about good teaching (except as a counterpoint to same). This is not an especially intuitive conclusion. At no time does Rowling present Professor Umbridge as a sympathetic character⁶⁵ and, unlike with Professor Snape, she does not give us different sides of Umbridge that might push on any

58 *The Order of the Phoenix*, *supra* n. 1, at 243.

59 This happens in Harry, Ron and Hermione's fifth year, *The Order of the Phoenix*.

60 As just a few examples from Professor Umbridge in *The Order of the Phoenix*, *supra* n. 1: "A carefully structured, theory-centred, Ministry approved course of defensive magic. . ." (at 239); "Theoretical knowledge will be more than sufficient to get you through your examination, which, after all, is what school is about. . ." (at 243); "As long as you have studied the theory hard enough. . ." (at 244).

61 Professor Umbridge characterizes students' questions and attempts to contribute to the classroom discussion as "pointless interruptions". *The Order of the Phoenix*, *supra* n. 1, at 317.

62 "[T]here will be no need to talk". *The Order of the Phoenix*, *supra* n. 1, at 240.

63 Professor Umbridge is clear that the only relevant opinion is hers. *The Order of the Phoenix*, *supra* n. 1, at 317.

64 I say "use" because I do not believe that is what Rowling has done. That is, one cannot describe Professor Lupin's methods as solely practical nor Professor Umbridge's as authentically theoretical.

65 Even when she's carried into the forbidden forest by an angry group of centaurs, we don't feel sorry for her! *The Order of the Phoenix*, *supra* n. 1, at 755-6.

ambiguities or allow for the possibility of redeeming features. Before leaving this section, however, I want to touch on a different aspect of what might be learned from Professor Umbridge's presence at Hogwarts.

I have made the assertion that Dumbledore's Hogwarts offers us many examples of good institutional and pedagogical choices. In doing so, I have been careful to credit Dumbledore's leadership. For a period of time, however, Professor Umbridge becomes the High Inquisitor of Hogwarts. During that time, I think it is safe to say that we are meant, as readers, to understand that Hogwarts is not operating at its full potential, nor for the benefit of students.

While this is true for many reasons, I believe one of the most revealing is Professor Umbridge's Educational Decree Number Twenty-Six: "Teachers are hereby banned from giving students any information that is not strictly related to the subjects they are paid to teach".⁶⁶ In Professor Umbridge's view of education, students (and teachers) can and should be controlled by compartmentalizing education, prohibiting certain kinds of speech, limiting academic freedom and creating an atmosphere of distrust.⁶⁷ Courses (and students and teachers) can be neatly separated from one another and from the institutional "whole". This has the effect, of course, of undermining Dumbledore's attempts to construct and govern Hogwarts as a collective enterprise.

At least two observations emerge from this. First, because Professor Umbridge is presented as unfailingly incompetent and ruthless, Rowling is able to make clear that Umbridge's ideas—including her ideas about student-teacher communication—are similarly so. One thing I think most law teachers agree on is that the law school curriculum is somewhat artificially and inartfully divided up into connected, contingent and overlapping subjects, and we do our students a disservice when we fail to make those connections obvious. Courses are not so easily packaged nor contained. Legal problems are often messy and live somewhere in the intersections of various subject-matters. The best way to educate lawyers, then, is to highlight inter-curricular connections in law school. This is apparently true for witches and wizards as well.

Secondly, by presenting Umbridge as lacking judgment and ability in dividing and silencing students and teachers, Rowling is able to use Umbridge to reinforce her view that Hogwarts is at its best when students and teachers work together. While the twin objectives of group cohesion and free expression are sometimes in tension, neither can be abandoned if both are to be made possible. While it is unfortunate that Rowling uses common misunderstandings about "theory" to convey to us that Umbridge

⁶⁶ *The Order of the Phoenix*, *supra* n. 1, at 551.

⁶⁷ She accomplishes this last point by encouraging students to tell on one another (*The Order of the Phoenix*, *supra* n. 1, at 245) and empowering certain students to punish others (*The Order of the Phoenix*, *supra* n. 1, at 742).

is a dreadful teacher, she is still able to successfully use the fact that Umbridge is an ineffective educator to communicate to readers her belief that successful institutions function best when operating as relatively united and interconnected “wholes”.

c. *Professor Severus Snape*

There are several elementary observations that can be made about Professor Snape: he gives certain students preferential treatment;⁶⁸ he is not only unfair, but mean, to others;⁶⁹ he allows his personal feelings to compromise his commitment to students’ learning experiences;⁷⁰ he takes the Socratic method to levels not even Langdell could have imagined;⁷¹ he is unpredictable and impatient in class;⁷² and he appears to enjoy using fear and humiliation⁷³ as ways to teach and control students.⁷⁴ None of these qualities makes for good pedagogy,⁷⁵ regardless of whether the school is magic or muggle, law or something else—and regardless of whether Professor Snape is genuinely mean and bitter, is putting on an act in order to fool Lord Voldemort, or some combination.⁷⁶ It is not my intention to explore these observations in any depth. Instead, I want to think about (i) what we can glean about the meaning and success of “practical teaching” from Snape’s Potions class and (ii) how his Occlumency lessons with Harry⁷⁷ might be positively different than his classroom method.

Potions class appears to be one of the most “practical” at Hogwarts.

68 When Snape is speaking to Draco Malfoy, for example, his tone changes (*The Order of the Phoenix*, *supra* n. 1, at 638), and when Malfoy lies about being injured, Snape makes Ron and Harry do some of Malfoy’s work for him (*The Prisoner of Azkaban*, *supra* n. 46, at 124).

69 In *The Philosopher’s Stone*, for example, Snape calls Neville an “idiot” (*The Philosopher’s Stone*, *supra* n. 35, at 139).

70 In *The Order of the Phoenix*, for example, Snape stopped teaching Harry Occlumency lessons at a time when Harry needed those lessons most. *The Order of the Phoenix*, *supra* n. 1, at 650. Even Dumbledore admitted that he was mistaken about Professor Snape’s ability to let go of past grudges in order to teach Harry. *The Order of the Phoenix*, *supra* n. 1, at 833.

71 *The Philosopher’s Stone*, *supra* n. 35, at 102–3.

72 *Id.*

73 In *The Prisoner of Azkaban*, for example, Professor Snape humiliates Neville in front of the class, then threatens to test a potion on Neville’s toad, Trevor. *The Prisoner of Azkaban*, *supra* n. 46, at 125–6. And in *The Goblet of Fire*, Snape ridicules Harry and Hermione about their relationship in front of the class. *The Goblet of Fire*, *supra* n. 16, at 446–7.

74 My one caveat here: it is unclear how much of the way Professor Snape behaves can be attributed to his own failings, and how much can be attributed to his needing to maintain his “cover” as a member of the Death eaters, apparently committed to Lord Voldemort. But regardless of why he acts as he does, his actions don’t make him a very good classroom instructor.

75 Note that when students take their O.W.L.’s from Ministry examiners, they perform much better than they do in class. *The Order of the Phoenix*, *supra* n. 1, at 716.

76 In the end, of course, we learn that Professor Snape is—like most of us—a complicated human being. That is, he represents some combination of characteristics we associate with “good” and “bad”, and he has and expresses a range of feelings, including love, anger, sadness, loyalty, pleasure, et cetera. It is out of a deep love for Lily Evans that, in the end, he serves Dumbledore and protects Harry. *The Deathly Hallows*, *supra* n. 20, at 659–90.

77 Professor Snape is an accomplished Legilimens. He possesses a superior ability to invade other people’s minds, to not only see their thoughts and feelings, but manipulate them. In *The Order of the Phoenix*, *supra* n. 1, at 518–9, we learn that Dumbledore asks Professor Snape to teach Harry how to resist such invasions by Lord Voldemort.

Every class has the students making potions in their cauldrons according to instructions—recipes, really—put up on the board by Professor Snape at the beginning of class.⁷⁸ The primary method of evaluation involves students handing in samples of their potions at the end of each session, sometimes supplemented by essays assigned as homework. There is no instruction beyond Snape's hand-written recipes and little room—at least with respect to the Gryffindors—for productive exchanges between teacher and student. To my mind, this method does little to assist students in learning about the practice of potions making, and it is a great example of what happens when the practical is emphasized to the detriment (exclusion?) of theory or doctrine.

The one exception appears to be Harry's Occlumency lessons. While it is still true that Professor Snape exhibits many of the same qualities described above (mean, unfair, unpredictable and so on), it is during Occlumency lessons that Professor Snape comes closest to emulating some of the characteristics of Professor Lupin. He explains Occlumency to Harry, and although he is sarcastic and derisive, he tries to teach Harry the subtle differences between simply reading peoples' minds and Legilimency. In addition, although his motivations are unclear, he appears committed to Harry's accomplishment of Occlumency; he pushes Harry to push himself; and he uses repetition as a method for achieving some success.⁷⁹ In the end, his personal feelings for James Potter get in the way of his completing Harry's lessons,⁸⁰ but, for some period of time at least, Professor Snape's Occlumency lessons suggest that he might have been a different kind of Hogwarts teacher in different or better circumstances.⁸¹

d. A Final Note

I find myself unable to leave the subject of pedagogy without adding one final note. Law teachers throughout Canada and the United States are dealing with a relatively recent shift in the attitudes of many students.⁸² This shift is best described as a movement towards a more consumer-driven model of legal education. In that model, students are paying

78 Professor Slughorn takes over from Professor Snape as Potions Master in *The Half-Blood Prince*, but lessons continue much as before in the sense that students work from formulas in order to make potions that will be judged at the end of each class.

79 See *The Order of the Phoenix*, *supra* n. 1, at 590; but see especially *The Deathly Hallows*, *supra* n. 20, by the end of which Harry is increasingly able to control how and when he occupies Voldemort's mind.

80 See *The Order of the Phoenix*, *supra* n. 1, at 833: "I trust Severus Snape", said Dumbledore simply. "But I forgot . . . that some wounds run too deep for the healing. I thought Professor Snape could overcome his feelings about your father—I was wrong".

81 Ultimately, we learn in *The Deathly Hallows* what we suspected all along—Severus Snape is a product of his upbringing, experiences and losses, and we are left to wonder whether a different experience at home as a child, or a different relationship with Lily and other Hogwarts students as a student, might have made for a much different Snape. *The Deathly Hallows*, *supra* n. 20.

82 I say this without judgment with respect to students. They are a product of a particular economy and shared cultural norms.

customers of law schools and therefore entitled to the courses and teachers they believe best meet their needs. Their needs, in turn, are market driven and self-determined. That students are best situated and *entitled* to decide their needs, and that market forces are inevitable, efficient and somehow external—and therefore point-of-viewless—are largely untested assumptions underpinning the model. While there are many things to be said about this shift, and the challenges posed by same, I want here to deal with only one. In an institution of higher learning—particularly one with both academic and professional missions—who is best suited or placed to decide how and what to teach? There is no easy answer, and a range of interests must be accounted for and met. That is, a wide variety of overlapping constituencies have something to say about the content and form of legal education, and while an institution cannot be all things to all people, it can certainly be many things to many people.⁸³

Nevertheless, the class of persons with the least experience and expertise—students—are probably not *best* suited to determine the form and content of their education. This is particularly true when students see themselves as consumers, with rights flowing therefrom. This is not to say students should have no voice, and we do well to listen to them on many issues, but “buying” a legal education is not like buying a sofa. Knowledge is not a commercial good. There must be a certain level of trust in, and respect for, the institutional and pedagogical choices made on students’ behalf. That is the very nature of education, and it is the Hogwarts model.

To be fair to students, legal education is expensive and the job market is just that—a market. It is unsurprising that this combination—together with larger social, political and economic forces more generally—creates an almost irresistible drive towards a more consumerist model. But the fundamental organizing principle in education (and education reform) cannot be consumerism if education is to remain relevant, intellectually rich, and useful. And difficult though it may be for some students to imagine, it might be that teachers and administrators are well-situated to make decisions about pedagogy, including both content and methods of instruction. In much the same way as Duncan Kennedy’s wonderful phrase “preaching to infidels who wear earplugs”⁸⁴ captures the point with delightful wit, so too does a former Hogwarts headmaster:

“You know”, said Phineas Nigellus, even more loudly than Harry, “this is precisely why I *loathed* being a teacher! Young people are so infernally convinced that they are absolutely right about everything. Has it not occurred to you, my poor puffed-up popinjay, that there

83 Competing constituencies are ably described in both Réaume, *supra* n. 3; and *Educating Lawyers*, *supra* n. 3.

84 Duncan Kennedy, (1979), “First Year Law Teaching as Political Action”, 1 *Law & Social Problems* 47, at 48.

might be an excellent reason why the headmaster of Hogwarts is not confiding every detail of his plans to you? Have you never paused, while feeling hard-done-by, to note that following Dumbledore's orders has never yet led you into harm? No. No, like all young people, you are quite sure that you alone feel and think, you alone recognize danger, you alone are the only one clever enough to realize what the Dark Lord may be planning"⁸⁵

Conclusion

In *The Order of the Phoenix*, Dumbledore sacrifices his right to stay at Hogwarts to keep Harry and other members of the D.A.⁸⁶ in school.⁸⁷ When asked why a wizard as successful and powerful as he would choose to teach, Dumbledore responds in *The Half-Blood Prince*: "To a wizard such as myself, there can be nothing more important than passing on ancient skills, helping hone young minds".⁸⁸ In those two moments, Rowling succinctly conveys her feeling about education (essential) and educators (noble). In that view, it is no wonder we (teachers) might be drawn to the Harry Potter books. But there is something more there than simple reassurance that we have made the right decision in becoming teachers. Rowlings' Hogwarts offers us metaphors, paradigms and methods that serve as useful (and fun) platforms for discussing institutional and individual teaching decisions, and examining the ways in which theory, skills, doctrine and ethics intersect at the practice of "being a lawyer" and "doing law". Legal education—like magical education—requires constant re-evaluation and self-reflection. Happily, Hogwarts School of Witchcraft and Wizardry provides one such opportunity for lawyers and wizards alike.

⁸⁵ *The Order of the Phoenix*, *supra* n. 1, at 495–6.

⁸⁶ The D.A. was a group of fifth-year students intent on learning Defense Against the Dark Arts in *The Order of the Phoenix*. They called themselves "Dumbledore's Army", or the D.A. for short. Although reference is made to the group in *The Half-Blood Prince*, *supra* n. 31, the D.A. reemerges in full force in their seventh year, *The Deathly Hallows*, *supra* n. 20.

⁸⁷ Dumbledore lies to the Minister of Magic in order to protect Harry and other members of the D.A. from almost certain expulsion. *The Order of the Phoenix*, *supra* n. 1, at 618.

⁸⁸ *The Half-Blood Prince*, *supra* n. 31, at 442.