

A Newbie's Impression: One Student's Mindfulness Lessons

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In yoga, you call yourself a true yogi once you live a yogi's lifestyle—including attending classes regularly, eating healthily and working to channel your inner energy. After a semester's training in mindfulness and a few months of practice on my own, I am not even close to being the equivalent of a yogi. What I can say is that the skills I have learned in this short time already have improved my legal education, helped me lead a calmer (if not less hectic) lifestyle and focused my attention on how my mind works.¹

By mindfulness, I refer to a sustained effort to pay attention, in each moment of my life, with curiosity and equanimity.² When meditating mindfully, I endeavor to pay attention to my breath and the thoughts that arise without judgment and with sustained curiosity about where my mind is going. When living mindfully I try to stay attuned to how I am experiencing life: how someone else's comment makes my stomach turn, how the sun feels on my face, how writing this article is both a gratifying acknowledgement of how mindfulness has advanced my legal education and a frustrating attempt at trying to put an experience into words.

Through this article, I am endeavoring to provide educators with some insight about my experience with mindfulness as well as suggestions for offering mindfulness instruction in law schools. I start by examining one application of mindfulness within a law school curriculum: my own.

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1. In writing this article, I do not purport to speak for my entire class. That being said, and based on conversations I have had with other students, I believe that my experiences, particularly of increased calm and focus, have been widely shared.
2. For a more elaborate, if clinical, definition see Adele Hayes & Greg Feldman, Clarifying the Construct of Mindfulness in the Context of Emotion Regulation and the Process of Change in Therapy, 11 *Clinical Psychol. Sci. & Prac.* 255, 256 (2004). Riskin defines mindfulness as "a way of paying attention moment to moment without judgment to whatever is going on in the mind and body—including thoughts, physical sensations and emotions." Linda Lazarus, A Conversation with Professor Leonard Riskin about Mindfulness, Dispute Resolution, and Mindfulness Resources for Mediators, *Mediate.com* (2005), available at <http://mediate.com/articles/lazarusl4.cfm>.

Leonard Riskin's Mindfulness Course

During the Fall of 2010, Leonard Riskin was a visiting professor at Northwestern Law. His course on conflict management proceeds on two "tracks"—tools for managing conflict (which focuses on negotiation and mediation) and tools of awareness (which focuses on mindfulness and other contemplative practices). At many points, the tracks are woven together so that students learn to use awareness practices when addressing conflict. Course reading included a variety of materials on dispute resolution, though the only required book was *Difficult Conversations*.³ We read about specific meditation practices or mindfulness more generally as well as about how such practices fit into lawyering and dispute resolution. However, most of our awareness learning was experiential.⁴

To incorporate mindfulness in our daily lives, Riskin taught us several different types of meditation and required us to meditate outside of class as homework. Through variety, he encouraged students to find the meditative techniques that worked best and encouraged us to use most if not all of them. We started with meditation on the breath, then moved into extended breath meditations, body scans, walking meditations and loving kindness.⁵ Riskin also taught "lifting the sky," an energy art or internal martial art from Chi Kung (also known as Qi Gong), a movement technique he used to start each class during the second half of the semester.⁶ I think Chi Kung helped make students more alert (our class was at 4 p.m.) and focused us on the task at hand. Riskin made all of the meditations available online in audio form.⁷ As we developed our own practices, many students stopped using the audio although I still have them bookmarked for my information and future use.

3. See generally Roger Fisher & Daniel Shapiro, *Beyond Reason: Using Emotions As You Negotiate* (Viking Penguin 2005) [hereinafter *Beyond Reason*]; Douglas Stone, Bruce Patton & Sheila Heen, *Difficult Conversations: How To Discuss What Matters Most* (Penguin Books 1999).
4. E.g., Leonard L. Riskin, *The Contemplative Lawyer: On the Potential Contributions of Mindfulness Meditation to Law Students, Lawyers, and Their Clients*, 7 *Harv. Negot. L. Rev.* 1 (2002); Leonard L. Riskin, *Annual Saltman Lecture: Further Beyond Reason: Emotions, the Core Concerns, and Mindfulness in Negotiation*, 10 *Nev. L. Rev.* 289 (2010) [hereinafter *Annual Saltman Lecture*].
5. See Leonard Riskin, *Awareness in Lawyering: A Primer on Paying Attention*, in *The Affective Assistance of Counsel: Practicing Law as a Healing Profession* 447, 454-63 (Marjorie A. Silver ed., Carolina Acad. Press 2007) (describing meditation on the breath, body scan, loving-kindness, and extended breath meditations); John Cianciosi, *The Meditative Path: A Gentle Way to Awareness, Concentration, and Serenity* 114-17 (Quest Books 2001) (explaining walking meditation).
6. E.g., Tom Rogers, "Qigong—Energy Medicine for the New Millennium" (2004), available at <http://qigonginstitute.org/html/papers/QigongEMedicine.pdf> (describing the benefits of Qigong from a medicinal standpoint); Shaolin Wahnem Switzerland, *Shaolin Eighteen Lohan Hands*, available at http://www.shaolin-wahnem.ch/qigong/18_lohans_e.htm (This website provides a pictorial demonstration of Lifting the Sky).
7. See Mindfulness Practice Center, *Guided Mindfulness Practices*, available at <http://www.umssystem.edu/ums/curators/wellness/mindfulness/guided.htm>.

By working through meditations, week by week, we slowly built our personal meditative practices. Outside of class, we completed worksheets detailing the meditative techniques we tried, what we noticed about how we were feeling and any general comments. We began each class with meditation and a check-in period in which Riskin answered questions about the meditations we practiced and responded to students' concerns or frustrations. This part of the course was particularly helpful. Students often have similar questions and frustrations and Riskin addressed them openly, creating a safe space for a group of students accustomed to presenting nothing less than perfection.

Riskin teaches two exercises to help students be mindful during the course: STOP and Taking STOCK. In a STOP exercise, developed by the Stress Reduction Clinic at the University of Massachusetts Medical School, you Stop, Take a breath, Observe your thoughts and feelings, and then Proceed. Taking STOCK exercises, co-developed by Riskin, require that you form an intention before going into an activity, such as a negotiation. Then, during the negotiation you Stop, Take a breath, Observe thoughts and feelings, Consider your intention and whether you want to continue with it or change it, then Keep going. To train students to use these exercises, Riskin used negotiation and mediation role plays. He would literally stop the class (by ringing a bell) and walk students through the exercises or, as we got further into the class, ask students to walk themselves through either a STOP or Taking STOCK exercise. The role plays were an excellent method to help students learn to be mindful.

I continue to use STOP exercises to prevent a wandering mind when reading case law. I find that I no longer read multiple pages before realizing that I have not absorbed any of it. STOP exercises help me refocus. Taking STOCK exercises have also been useful in many situations. I use them when going into a tough conversation or sometimes before attending a class where I have struggled to pay attention. I will formulate the intention to stick with it through the entire class and then take STOCK throughout to make sure I am following my intention.

Riskin employed a number of worksheets to help those of us who are visual learners apply what we have read and learned. My favorite worksheet is one developed by Douglas Stone, Bruce Patton, and Sheila Heen for use with their book, *Difficult Conversations*. That book proposes a framework for thinking about our most difficult conversations. It suggests that in any difficult conversation, there are really three conversations: the What Happened conversation, the Feelings conversation and the Identity conversation.⁸ The worksheet helped us work through the three conversations based on a conflict in our own lives. As we filled in the worksheet, Riskin encouraged us to be mindful and note what we were feeling and how the work was affecting our thoughts about the conflict. It was incredible how the book came to life and how the worksheet helped me decide that the conflict I analyzed, which had been troubling me extensively up until class that day, was not one I needed to discuss. Rather,

8. See generally Beyond Reason, *supra* note 3; Stone et al., *supra* note 3.

completing the worksheet mindfully helped me realize that my feelings about the issue were not connected to the actual incident but to other past issues. As a result, I left class able to let go of the conflict and move on.

Conflict Management in Legal Practice and the Northwestern Curriculum

Riskin's course fits particularly well at Northwestern Law because of the law school's program on negotiation and mediation. Negotiation is one of the most popular courses in the curriculum and focuses on the practical application of negotiations theory through role plays and foundational texts.⁹ Lynn Cohn also teaches an advanced negotiations workshop which layers the "core concerns" framework from *Beyond Reason* over the negotiations theory taught in the foundational class.¹⁰ In the mediation course and practicum, students learn a range of mediation concepts from Riskin's old, new, and new-new grids (and the critiques of them) to tips and tricks for being a successful advocate in mediation.¹¹ Students also have the opportunity to become certified mediators with the Center for Conflict Resolution, a Chicago non-profit that offers volunteer mediation support to the courts.¹² The program offers a variety of other alternative dispute resolution (ADR) courses, many taught by adjuncts who are brought in for their experiential knowledge.

9. See, e.g., Roger Fisher, Bruce Patton, & William Ury, *Getting to Yes* (Penguin Books, 2d ed. 1991) [hereinafter *Getting to Yes*]; Leigh L. Thompson, *The Mind and Heart of the Negotiator* (Prentice Hall, 4th ed. 2008); Northwestern University School of Law Program on Negotiations and Mediation, available at <http://www.law.northwestern.edu/legalclinic/negotiations/>.
10. See generally *Beyond Reason*, *supra* note 3. Fisher and Shapiro argue that most emotions in negotiation boil down to five "core concerns," namely appreciation, affiliation, autonomy, status and role. The skillful negotiator will be able to recognize which of these concerns is animating the opposing party during a negotiation and, by addressing the concern, create positive emotions in the negotiation.
11. See, e.g., Leonard Riskin, *Understanding Mediators' Orientations, Strategies, and Techniques: A Grid for the Perplexed*, 1 *Harv. Negot. L. Rev.* 7 (1997); Leonard Riskin, *Retiring and Replacing the Grid of Mediator Orientations*, 21 *Alternatives: To The High Costs of Litigation* 69 (2003); Leonard Riskin, *Replacing the Mediator Orientation Grids, Again: The New New Grid System*, 23 *Alternatives: To The High Costs of Litigation* 127 (2005); Kimberlee K. Kovach & Lela P. Love, *Mapping Mediation: The Risks of Riskin's Grid*, 3 *Harv. Negot. L. Rev.* 71 (1998).
12. Center for Conflict Resolution, *Our Mission*, available at http://www.ccrchicago.org/index.php?option=com_content&view=article&id=43&Itemid=31. The Center for Conflict Resolution (CCR) offers a 40-hour training program at Northwestern Law. The certification as a mediator is based on one's ability to complete a certification simulation during which you must demonstrate a "master skill level" with the CCR Mediation model. See Center for Conflict Resolution, *Mediator Mentorship Program*, available at http://www.ccrchicago.org/index.php?option=com_content&view=article&id=55&Itemid=6. Students at Northwestern Law complete the mediation certification during the fall semester. Thus, I certified as a mediator during the time I was taking Riskin's course. Because certification depends on one's ability to demonstrate mastery of specific skills, it was imperative that I be able to focus on demonstrating the necessary skills while listening for the needs and interests of the parties. My mindfulness practice helped me immensely during this time.

I give you this background to help you understand where I came from when I walked into Riskin's mindfulness course. I wanted to take one of his classes because I could not pass up the opportunity to take a class from the "father of ADR." I took the mindfulness course because Cohn recommended it to help me better understand and control my own feelings in negotiation. For me, mindfulness is a practical tool that helps me apply (more carefully and with greater accuracy) the other tools of negotiation and mediation strategy.¹³ Many negotiation theories are remarkable for their simplicity but hard to apply because you have to train yourself to fight against your initial response. For example, I am a person who can be easily frustrated when I feel someone is not listening to me or is simply being obstinate. That characteristic can have a damaging effect on my negotiations when the emotion keeps me from focusing on why the person is not listening to me (or why I think so). If I can simply notice the frustration and let it go, I can better focus on the negotiation without the distraction of my feelings.¹⁴ Mindfulness helps me focus on theories I want to apply, then make sure I apply them.

As a negotiator, mindfulness helps me be a more active listener and aware of personal biases that may affect my negotiation strategy. My practice helps me remind myself to be aware of, consider and apply the theories I learned in my previous classes. As a mediator, mindfulness helps me recognize when my mind has wandered and helps me return to the negotiation.

But What Are the Challenges?

Mindfulness can be challenging for law students, especially near the beginning of their law school careers. I think it is important for those teaching mindfulness to law students to keep the following challenges in mind. First and foremost, remember that most of your students have not had any experience with mindfulness. They do not know what to expect and many of them will be uncertain about how to react to your class.¹⁵

13. Mindfulness is not only helpful in the ADR context. I see it applicable in many other courses. For example, imagine if professors used mindfulness techniques in the first-year curriculum. There would be incredible potential to decrease student stress levels and increase retention. At Northwestern, we have a significant clinical practice which includes several courses in trial advocacy. Mindfulness techniques could be used, for example, to help students in the Wrongful Convictions clinic cope with their own feelings about clients believed to have been wrongfully convicted. Similarly, mindfulness techniques could be incorporated into our trial advocacy courses to assist students in truly listening to their witnesses rather than focusing on the next question or the next five questions (a comment that I received many times during my work in the trial advocacy courses). *See, e.g.*, Northwestern Law Center on Wrongful Convictions, available at <http://www.law.northwestern.edu/cwc/>; Northwestern Law Fred Bartlit Center for Trial Advocacy, available at <http://www.law.northwestern.edu/bartlitcenter/>.
14. *See, e.g.*, Annual Saltman Lecture, *supra* note 4.
15. The first day of our class, several students wore bemused, if uncertain, looks on their faces. Riskin noticed and addressed it directly, asking the student, "What are you thinking?" The response was: "This is just so unlike any other law school class."

Mindfulness is challenging for law students because living with mindful awareness is almost the direct opposite of the way many students live their lives. They eat what they can when they can, they push themselves until they no longer can go and their response to the idea of taking some time for themselves is “My mother texts just to make sure I am still alive. What time exactly would you like me to use?” Thus, the idea of carving even a few minutes out of their lives can be overwhelming, especially because the benefits may not be noticeable immediately or may seem to wear off quickly. I think that these factors are particularly relevant when students are starting out.

In addition, law students (like lawyers) are trained skeptics. Mindfulness courses at most law schools will be upper division electives. That means these students have been trained to question every assumption, every detail and every holding to find the one point that distinguishes their case from those they have read previously. Mindfulness is no different. Expect your students to be skeptical of the benefits mindfulness will bring them and hesitant to devote their time to developing significant practices that will show real benefits.¹⁶

Do not forget that, even though it is a “professional school,” law school is a little like going back to middle school for students because of the associated peer pressure. Your students will probably face questions from other students like “Is it true that you meditate in *every* class?” Or “What were you doing the other day in that class? You guys were all moving around. It was so weird!” Until students who are new to mindfulness practices begin to realize the benefits of mindfulness in their lives, these questions may bother them. You will need to be aware of those issues and help your students be patient. Perhaps, as mindfulness becomes more integrated into the law school curriculum, these observations will be less stark.

Even students who are open to the idea of mindfulness may also have fears or concerns related to it. I personally have always been open to the benefits of meditation but had never had the opportunity to practice it in the structured way offered in Riskin’s class. That being said, when I reviewed the syllabus for his class, my first reaction was that “this scares me.” To me, mindfulness meant being forced to look inside myself. I was afraid of what I might find. (Clearly, I still had not grasped the concept of equanimity¹⁷ at that time. But, who am I kidding? I struggle most with equanimity!!!)

16. Helpful in combating this skepticism may be the abundance of scientific research demonstrating the benefits of mindfulness. *See, e.g.*, Kirk Brown & Richard Ryan, The Benefits of Being Present: Mindfulness and its Role in Psychological Well-Being, 84 *J. of Personality and Social Psych.* 822 (2003); Paul Grossman et al., Mindfulness-Based Stress Reduction and Health Benefits: A Meta-Analysis, 57 *J. Psychosomatic Res.* 35 (2004); Richard J. Davidson et al., Alterations in Brain and Immune Function Produced by Mindfulness Meditation, 65 *J. Biobehavioral Med.: Psychosom. Med.* 564 (2003).
17. Equanimity is one of the foundational concepts of mindfulness meditation. The key is to observe what you are thinking and feeling without judging it. *See* Jon Kabat-Zinn, *Wherever You Go, There You Are: Mindfulness Meditation in Everyday Life* 111 (Hyperion 1995).

The other major challenge for students is that mindfulness is hard to develop. Finding your way around the seemingly impossible case in torts is nothing compared to the type of discipline and patience it takes to develop mindfulness. Moreover, law students (almost without exception) expect to be good at things from the beginning, are generally type A personalities and are known for our attention to detail. These observations are important, I think, when you consider how to structure a mindfulness course. Why is it so hard? Mindfulness requires patience (and a lot of it) with oneself. Students in my class became frustrated because we were unable to stay focused or felt we were not doing it “right.” Riskin handled it very well, constantly reminding us that there was no “right” (except when there was). He would often encourage us to try to notice our frustration with equanimity or remind us: “It’s OK if the mind wanders. Just notice it and try to bring it back.” I think we struggled with these concepts because we generally were teaching ourselves to do something the “right” way rather than actively observing what happened.

A second key challenge is exhaustion. If you refer back to my first point about the life of a law student (and reminding Mom that I am alive), you can understand why students may be tired. As a result, many of us in my class (myself in particular) struggled to “fall awake.” In my practice, the body scan technique which requires you to lie still on the floor and “scan” your body to relax muscles and note tension proved particularly problematic. Students used an audio file from a website that walked us through the scan. I would remember getting about halfway up my leg and wake up somewhere around my head. I was comforted, to some extent, by Riskin’s stories of being at retreats and hearing people snoring because they had fallen asleep. At least, I thought to myself, this happens to people who are “good” at this, too!

Lastly, I think many of us struggled, especially in the beginning, with reminding ourselves to be mindful. When you are developing it, mindfulness requires remembering to take the time to be mindful. In a busy law student’s life, it can be easy to forget. Initially, this struggle created an even greater sense of failure. The idea that we were simply unable to be mindful and, therefore, were not “good” at it, resulted in many frustrated students early in the course.¹⁸ Eventually, however, we were practicing on a regular basis. It was amazing to see how each of us developed our own mindfulness practices. Riskin allowed us to explore this together through our check-ins at the beginning of each class. As we got further along, students shared stories about how they used mindfulness outside of their awareness homework. For example, I found mindfulness helpful in combatting anxiety-related stomach problems and headaches. One student used mindfulness to help fight a “shopping habit” by stopping to be mindful before making a purchase. In short, there was a point when we knew that we had all begun to integrate mindfulness into our lives.

18. This may be one of the greatest values of mindfulness practice overall. Eventually it begins to free students from their ideas about being perfect at everything and enables us to focus on just being.

The fact that mindfulness had become a daily part of our lives was most clear when I wrote a paper for our capstone assignment. We were asked to analyze a conflict (Riskin recommended that it be personal) through the dispute resolution lenses we had learned throughout the semester, in particular from *Difficult Conversations*.¹⁹ Riskin asked us to be mindful as we wrote the paper and to consider making notes of what was happening as we wrote.²⁰ I chose to write on a particularly difficult family conflict. I do not believe I would have been able to write the paper without my mindfulness practice. I would have been on an emotional roller coaster if I had attempted to write it before mindfulness training.²¹

For much of the semester, I avoided working on the paper. The first day I sat down to write it, I exhausted myself within a few hours. Had I not been exposed to mindfulness practices, however, I probably would have been angry at myself for feeling the way I did and characterized myself as “lazy” or “inept” and other self-defeating ideas. I likely would have spent as much emotional energy beating myself up for being unable to focus as I did on actually writing. Mindfulness helped me stay attuned to how hard these issues were for me and helped me stop, without judgment, to give my body and mind the rest and relaxation it needed. When I returned to the paper the next day, my head was clear and I was able to approach the paper with an open, non-judgmental mind.

Given the Challenges, Why Learn Mindfulness?

In some ways, this section is a dialogue between the version of me who had never experienced mindfulness, was afraid of what she might find and had no idea what to expect with the me months later who is starting to see real benefits as I continue to develop my meditation practice. Above, I discussed the benefits of mindfulness in my negotiation and mediation practices but there have been many other benefits.

First, I am a more attentive student. Even those professors who are not known for their engaging classroom demeanor hold my attention longer. I use the STOP exercise to help me stay focused on my readings. I have found it particularly helpful with more dense subjects like federal jurisdiction where I need better focus to understand the material. In addition, mindfulness has helped me recognize when my exhaustion level tells me that it is time to surrender to sleep. I think that is nearly as important.

19. Beyond Reason, *supra* note 4; Stone et al., *supra* note 4.

20. I chose to include footnotes throughout the paper that explained what I was finding through my mindfulness practice.

21. There is support for mindfulness as a tool in combatting what psychologists call “emotional interference.” See generally Catherine N.M. Ortner, Sachne J. Kilner & David Zelazo, Mindfulness Meditation and Reduced Emotional Interference on a Cognitive Task, 31 *Motivation & Emotion* 271 (2007).

I also have a tool to deal with the anxiety and stress I feel during the day. I have found that meditating on the breath often will take care of the stomach aches I sometimes get from stress and that Chi Kung gives me new energy between classes. When I notice the physical manifestations of stress, I take a moment to look internally and try to calm myself before moving forward.

The benefits to my personal life have been even greater. Mindfulness has helped me slow down. On a recent trip home, my mother commented on how much “calmer” I seem, despite an even more hectic schedule than before. In addition to the general aura of calm, however, I have found that mindfulness has helped me focus on—or be present with—what is important at a given moment. It helps me shed concerns about school or my looming deadlines and instead focus on dinner or time with friends and family. My partner has mentioned that he believes I am more engaged in at least some of our conversations. I attribute his observation to enhanced active listening skills.²² Moreover, when coupled with the *Difficult Conversations* and core concerns frameworks, mindfulness has helped me recognize when my emotions are related to a current conversation or conflict and when something else in my life may be contributing to my reaction.²³

Finally, mindfulness has helped me become more aware of the little things that make me happier. One week, Riskin had us focus on moments when we noticed pleasant feelings and moments when we noticed unpleasant feelings. During that week, I realized that the weather has a profound effect on my day. Driving down Lakeshore Drive to Northwestern's downtown campus when it is sunny in Chicago is incredible because the lake shines and the city looks beautiful. When it is stormy, the scenery is much harder to enjoy. Mindfulness helped me realize how the weather affected me and to really enjoy the sun and the lake when it is nice. I now savor happiness in a way that I did not before developing my mindfulness practice and less pleasant moments seem to roll off me more easily. Thus, while there is no doubt in my mind that mindfulness practices will make me a better negotiator and litigator, I think mindfulness has been most useful in helping me to do a better job of balancing law school with the rest of my life.

22. Active listening is a method of listening by which the listener reflects back to the speaker what they understood the speaker had said. For example, if you told me “I’m frustrated with Professor X because his reading assignments are impossible!” I would reflect back, “I hear that you’re frustrated with your professor because his reading assignments are impossible to complete.” See Carl Rogers & Richard Farson, “Active Listening” excerpt, in Gordon Training International, at 4-5 (2007), available at http://www.gordontraining.com/artman2/uploads/1/ActiveListening_RogersFarson.pdf. Note that active listening is only as successful as your ability to maintain focus on the speaker. Mindfulness is a helpful tool in training your mind to let go of all of the other thoughts that may be distracting you from the speaker and focusing on the conversation. See Annual Saltman Lecture, *supra* note 4, at 323.

23. See Annual Saltman Lecture, *supra* note 4, at 315-30.