

I. INTRODUCTION

J. Max Bond, Jr., a contemporary architect of extraordinary skill and sensitivity, practices and teaches architecture that is centered, not upon objects, but upon process and relationship. Bond's vision extends beyond structures. Where others see constructed objects as manifestations of individual creative will, Bond sees objects that develop and evolve in "a complicated creative process . . . that begins before an architect designs and continues beyond the construction of a building to include revisions by its inhabitants." n1 He writes that "the creation of a building engages many people, in addition to the architect, in a process that evolves through a series of choices, responses, and insights." n2 He sees the many people involved in the architectural process, not as obstacles, but as respected collaborators. He aspires to participate in the design of structures that will "not simply house people, but . . . reflect their aspirations, respond to their 'will to form' and serve their . . . needs." n3 He sees in the architectural process manifestations of the culture and the heritage of the participants. Building (as one must) in societies dominated by particular values and power centers, he has aspired "to give form to the strivings of average people." n4 Bond's focus on process has enhanced his sensitivity to the ways in which the strivings of average people can be silenced in professionalized, complex, and expensive processes. At the same time, it has taught him strategies for contributing "to progress and popular empowerment." n5

[*186] One can study, teach, or work with a rule of law as if it were an edifice; a creative product of the judicial or lawyerly mind; a thing unto itself. Increasingly, however, we have come to study, to teach, and to practice law as Bond has studied, taught, and practiced architecture: As something created, and regularly recreated, in a complex world. As an interactive process involving the choices, responses, and insights of a variety of actors. As a reflection of values and of power. As a product and representation of culture. As an enterprise that reflects the needs and the will to form of a few or the needs and the will to form of many, depending upon the manner in which it is practiced.

I have used the term contextual criticism to refer to the study of law in the manner of Bond--as interactive, culturally embedded process. n6 Contextual criticism is exemplified by the work of Gerald Lopez who, in writing about civil-rights law, does not limit himself to the letter of a statute or to its reading by an appellate justice, but begins his analysis as a client's trouble brews. Lopez imagines the ways in which the trouble and the remedy are conceptualized by the client. He exposes the lawyer's struggle to cast the trouble in terms that fit opportunistically with the letter of a law or with its prior judicial readings. He challenges lawyers to give less deference to learned readings and more expression to the client's conceptualizations and will to form. n7 Similarly, when Lucie White writes about public-benefits law, she focuses upon the lawyer-client interaction to expose the stories that emerge and the stories that are suppressed as flesh is given to skeletal legal terms like "necessity" and "reliance." n8 And when Gerald Torres and Kathryn Milun analyze the law by which Native American land claims are determined, they focus upon the irony that tribe members, whose lives and histories gave meaning to the term tribe, are unable, in their interactions with lawyers and judges, to affect the

construction of a legal definition of "tribe" that negates both their history and their claim.
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As the Lopez, the White, and the Torres and Milun examples show, contextual legal critics have been drawn to the lawyer-client interaction for insights concerning the evolution and uses of legal rules. Seeing lawyers as keepers of a repertoire of normative stories, and clients as bearers of troubles and aspirations, these scholars have taken a fresh look [*187] at the familiar process by which the lawyer decides and argues the fit between legal stories and real-world plights. They have urged lawyers to be self-conscious about interactive process, for they have found that the characteristics of interactive lawyering can determine whether the needs and values of consumers in the legal system are reflected, reshaped, or ignored.

n1 J. Max Bond, Jr., *The Black Architect's Experience*, ARCHITECTURAL REC., June 1992, at 60, 61 (book review).

n2 J. Max Bond, Jr., *Autobiographical Essay*, in AFRICAN AMERICAN ARCHITECTS IN CURRENT PRACTICE 22 (Jack Travis ed., 1991).

n3 *Id.*

n4 *Id.*

n5 *Id.*

n6 See Peggy C. Davis, *Contextual Legal Criticism: A Demonstration Exploring Hierarchy and "Feminine" Style*, 66 N.Y.U. L. REV. 1635, 1642-43 (1991).

n7 See Gerald Lopez, *Reconceiving Civil Rights Practice: Seven Weeks in the Life of a Rebellious Collaboration*, 77 GEO. L.J. 1603 (1989).

n8 Lucie E. White, *Subordination, Rhetorical Survival Skills, and Sunday Shoes: Notes on the Hearing of Mrs. G.*, 38 BUFF. L. REV. 1, 24-31, 46-47 (1990).

n9 See Gerald Torres & Kathryn Milun, *Translating "Yonnondio" by Precedent and Evidence: The Mashpee Indian Case*, 1990 DUKE L.J. 625, 647-55.

Process Drama: An Introduction for Law Professors

James Webb

We cripple students' ability to rigorously explore and examine the world in which they live when we de-contextualize teaching and reduce learning to the memorization and regurgitation of dates, data, and facts. However, as Joe Kincheloe (2004) has observed, we can use critical pedagogy to spark a form of educational adventurism that pushes students to new levels of social and cognitive achievement.

Drawing upon the theories and practices of several major contributors to critical pedagogy (Freire, 1970; Giroux, 2001; hooks, 1994; Shor, 1992; Vygotsky, 1997), Kincheloe summarizes the role of a critical teacher as dialectical:

As teachers relinquish the authority of truth providers, they assume the mature authority of facilitators of student inquiry and problem posing. In relation to such teacher authority, students gain their freedom—they gain the ability to become self-directed human beings capable of producing their own knowledge (2004, p. 17).

With its roots in the Frankfurt School of critical theory, critical pedagogy builds on such thinkers as Marcuse (1964), Horkheimer and Adorno (1972), to create a contextualized learning environment that empowers students. Critical teachers see themselves not as disseminators of top-down standards but rather as facilitators of learning who draw upon multiple perspectives, voices, and agendas. Critical teachers also embrace the lived-experiences of their students and welcome students' tacit knowledge into the classroom, encouraging them to discover that "they know more than they thought they knew" (Wagner, 1976, p. 228).

Process Drama is a student-centered praxis within the tradition of critical pedagogy. It emphasizes learning by doing (Dewey, 1916); champions classroom dialogue rather than rote memorization (Freire, 1970); uses theatre in non-traditional ways to encourage active learning (Heathcote and Bolton, 1995); stresses the importance of process over final product (O'Neill, 1995); and recognizes that learning cannot be separated from its social context (Vygotsky, 1978).

Rachel Mattson (2008) defines process drama as a "philosophical and experiential approach to teaching and learning" that draws on elements of

theatre “to trouble the traditional dynamics of the classroom and to provoke students into critical investigation” (p. 102). It differs from traditional theatre practices in that it “proceeds without a script, its outcome is unpredictable, it lacks a separate audience, and the experience is impossible to replicate exactly” (O’Neill, 1995, p. XIII). It emphasizes “what is happening now, rather than what is happening next.” It focuses less on final product outcomes than on the moment-to-moment elements of learning.

One of the more groundbreaking techniques of process drama is Dorothy Heathcote’s *Mantle of the Expert*. Heathcote, who has taught children and teachers for more than 60 years, champions the use of drama because it serves to arrest the attention of her students and to stimulate their interest into the curriculum. Heathcote explains,

Drama is such a normal thing. It has been made into an abnormal thing by all the fussy leotards, hairdos and stagecraft that is associated with it. All it demands is that [students] think from within a dilemma instead of talking about the dilemma. (1984, p. 199)

Heathcote’s Mantle technique stemmed in part from her disappointment with the growing decline in apprenticeship-style learning in educational

institutions. She recognized that schools were isolating students from the real world, asking them to drop their lives at the schoolhouse threshold. She could also see that students were learning in fragmented ways, which rarely resembles what they experience outside the classroom walls. Thus, she designed Mantle of the Expert as a means of helping students to live through their curriculum, rather than stand outside of it. Wagner (1976) states, "The only way we ever mature is by recognizing that something carries over from the last thing we just finished to the next thing we move on to" (p. 118). Unfortunately, most students are forced after graduation to figure out a way to piece together and use all the fragmented information they acquired in school.

Thus, the primary focus of the Mantle of the Expert technique is to provide a context where students can call upon their full body of knowledge to work at solving a specific problem or question. To do this, students are asked to take on the roles of experts in a particular field. For example, if students were asked to grapple with the question, *How does gentrification affect a community?* they may take on the role of architects, who have been hired and charged with designing a new shopping mall next

to the Schomburg Museum in Harlem, New York. When they take on expert roles, students shoulder a heightened level of responsibility. They discover that their decision-making carries power, weight, and consequences, and thus, they become personally accountable for acquiring the skills needed to achieve their prescribed task. Reading and analyzing curriculum material becomes essential for students to perform their jobs. The learning goes far beyond simply ingesting the material, for students are then forced to critically grapple with how they will use that material to make decisions. As Gavin Bolton states, students engaged in process drama are forced to take “an active, urgent, purposeful view of learning, in which knowledge is to be operated on, not merely to be taken in” (1995, p. 32). Students are ushered into an imaginative space where they are able to connect corporeally, emotionally, and cognitively with the curriculum.

Barry Orek (2004) notes that although many educators acknowledge the effectiveness and value of using drama within the classroom, they often are resistant to actually using it. Hendy and Toon (2001) suggest that some teachers may perceive drama as being useful for only those

students who are artistically talented. Indeed, some teachers may believe that they, too, must possess a certain level of creative charisma in order to facilitate a drama exercise within the classroom.

Yet, we argue, along with Edmiston (1991) and Heathcote and Bolton (1999) that the use of drama in education depends less on the teacher's or students' artistic abilities and more on the design and structure of the dramatic exercise itself. In other words, effectively using process drama to facilitate and elevate classroom learning has more to do with proper lesson planning than one's artistry. If a process drama simulation is planned and executed properly, students are presented with multiple viewpoints and ways of examining a problem and therefore understand the problem more comprehensively. We believe that use of his method in teaching law and the lawyering process, helps students to enhance their interpersonal communication skills, and ushers them into a deeper analysis of the doctrinal, relational, and social dimensions of law.

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