

Maurice A. Deane School of Law at Hofstra University
Scholarly Commons at Hofstra Law

Hofstra Law Faculty Scholarship

Spring 1998

Exile on Campus

Barbara Stark

Maurice A. Deane School of Law at Hofstra University

Follow this and additional works at: https://scholarlycommons.law.hofstra.edu/faculty_scholarship

Recommended Citation

Barbara Stark, *Exile on Campus*, 48 J. Legal Educ. 430 (1998)

Available at: https://scholarlycommons.law.hofstra.edu/faculty_scholarship/185

This Article is brought to you for free and open access by Scholarly Commons at Hofstra Law. It has been accepted for inclusion in Hofstra Law Faculty Scholarship by an authorized administrator of Scholarly Commons at Hofstra Law. For more information, please contact lawcls@hofstra.edu.

Exile on Campus

Barbara Stark

I'm living in a foreign country, and I'm bound to cross the line.

Bob Dylan, *Shelter from the Storm*

Almost ten years ago at the AALS Faculty Recruitment Conference Marina Angel gave a heartening talk to those of us seeking law teaching jobs. She opened the floor for questions, and one aspiring law teacher dared to ask aloud what we were all wondering: "How many of us will actually get jobs in law teaching?" We waited for the number, the percentage, the cutoff. Instead, cryptically, Angel replied, "For many of you, that will depend on how flexible you're willing to be. Some people are limited to a particular area, but many of us are very happy in places we never dreamed we'd be." I looked around at the other wannabes and wondered whether they wanted to teach badly enough to move *anywhere*.

I was lucky to have choices. But each was several hours away by jet from family, friends, my husband's job, or any of the five American cities I considered "major." Law teaching, however, was closer to a calling than I had ever hoped to get. Strangely, absurdly, I felt this was what I was *born* to do. I had learned in private practice that when a client's heart's desire was at stake, it could sometimes be secured simply by asking the other lawyer what it would take. I asked my husband what it would take for him to leave his well-paid executive position and his two-and-a-half-hour commute.¹

The Move

It was hard to leave New York, but there were many unanticipated perks. Because housing was cheaper in Tennessee, we had to buy a much bigger house than the one we had sold to avoid paying taxes on the difference. The extra rooms quickly became the home offices we had always wanted, and grandparents, planning on frequent visits, claimed the room across from our daughter's.

Barbara Stark is Professor of Law at the University of Tennessee.

This essay is in grateful memory of Hannah Levin, who led me to law teaching. It is for my International Human Rights students. Warm thanks to Jerry Phillips, Evelyn Stark, and Greg Stein for their comments on an earlier draft.

1. We agreed that he could use joint savings to start a new business and that if he wanted to come back in a year, we would. If we didn't agree on which school I should accept, his decision would trump.

But there was a vast empty space downstairs between the kitchen and the small, rather formal living room. A “great room” was the real estate agents’ term for it. It was as big as two of our old living rooms put together, and we had no idea what to do with it. As a temporary measure, we asked the movers to put the furniture from our old sunroom in it. The couch, TV, and rocking chair crowded together in one corner, arranged just as they had been in the old house. It was as if they were actually one unit, linked together with rigid, invisible wires. They occupied about a quarter of the room.

Over the fireplace we hung a picture of the New Hampshire farm bought by my husband’s grandfather as a summer retreat from New York. The farm consists of a house, a barn, an old stone well, and a meadow. We go to the farm every summer to hike and make blueberry pancakes on the old wood stove, to swim in the lake and look for moose. But the picture was somber—an old snapshot with a white sky and a bleached-out farmhouse. It made the room look sad.

I spent a lot of time in this room during the next few years, reading, playing games and watching videos with my family, eating pizza with my students, hosting the women faculty’s potluck. Slowly the room began to take shape. First the invisible wires dissolved. The furniture spread out with relief, as if a too-tight belt had been unbuckled. Bookshelves sprouted up along the longest wall. The other walls gradually filled with maps and photos of family trips. A Nordic Trak fit nicely beneath them.

We went back to New Hampshire and took new pictures of the farm, trying to capture the perfect blue sky, the sunny meadow filled with wildflowers, the crisp white farmhouse, and the freshly painted red barn. We had the best shot enlarged and framed, but it somehow didn’t look right. The old one, the sad one, belonged over the fireplace and there it stayed. And then my daughter was suddenly tall enough to put one of her model horses up on the mantelpiece to the left of the picture. It looked as if it had just galloped from the meadow.

But it was not until I went to a conference in New York two years ago that the room finally came together. During the conference, oversaturated with panels and meetings and coffee, I escaped to the Museum of Modern Art. There I was immediately drawn to a poster for *The Migration Series* by Jacob Lawrence. Stark black figures moved across an unnoticed landscape. They carried large ungainly bundles, and some bent with the weight. Above, a line of birds flew on their own migration, inverted shadows of the people below. I needed that poster, even though it would be awkward to carry on the plane. On my return, I took it to be mounted before I finished unpacking.

It was like a sudden window in the large blank wall facing the Nordic Trak. As I trekked along, past the maps and the photos of family trips, the farm behind me, it felt as if I were trying to catch up with the group in the poster, that I was part of some larger migration. *We* were in exile, I finally realized, and the room was the living record of that exile. After eight years friends from New York still asked when we were coming back. We still hadn’t painted the contractor-beige walls. We still hadn’t put in a garden. The picture of the farm

was the picture of a remembered, faraway home, and only the desolate version would do because it was a picture about what we had left behind, what we had lost.

But we were comfortable now. We had friends, and we knew where to get decent bagels. Our daughter liked the small school she attended on campus. My husband had a growing wardrobe of T-shirts from the local races he had run. I enjoyed my daily walk by the river, exchanging smiles with the other regulars, including several students. Had I become one of those described by Marina Angel, "very happy in places we never dreamed we'd be"?

What Exile Offers

What does it mean to be in exile? My *Oxford American Dictionary* offers a neutral definition: "Long absence from one's country or home." This includes a wide range of experience—from the privileged exile of those freely choosing to leave an already safe, comfortable life for what they hope will be an even better one, to the bitter exile of the dispossessed, driven from their homes by war or brutal need.² It is a long continuum, and the threshold task of exile is to figure out if you are on it at all.

This threshold task presents in microcosm the practical as well as the more existential tasks of exile itself. First, exile forces us to cope with the mundane demands of ordinary life: exile is a reality check. At what point do we stop poring over *Places Rated*, assessing the pros and cons of hypothetical moves, and actually call U-Haul, or the realtor, or the important person we're leaving behind? Second, exile confronts us with a steep learning curve. What do we need to learn about the school, the students, the region, to make this decision? Third, exile requires soul-searching. What does this decision mean to us? How will it enable us, or force us, to reinvent ourselves?

But the threshold decision itself is too concentrated an event. Too much happens in too brief a time for us to understand exactly what we're doing. It offers merely a hint of exile, which is not an event but a process that may take years. This essay explains how the tasks of exile are related to the tasks of law teaching, and how exile connects us to our students.

It is important for students to understand the lessons of exile, the transition through which everything becomes suddenly strange, because they too are in exile. This is a necessary part of their education, since much of their work as lawyers will require them to guide their clients through similar transitions. Lawyers help clients negotiate the terrain between marriage and divorce; between multiple, often complex, business relationships; between freedom

2. While I would like to believe that our own privileged exile enables us to better empathize with those who suffer those hard, coerced exiles, I recall Harlon Dalton's rejoinder to white males who said they had felt silenced by his remarks: "I was instantly reminded of my own response, at age seven or so, to a playmate whose mother had recently died. 'I know how you feel,' I said knowingly. 'We just buried my favorite turtle after it softened to death.'" Harlon Dalton, *The Clouded Prism: Minority Critique of the Critical Legal Studies Movement*, in *Critical Race Theory: The Key Writings That Formed the Movement*, eds. Kimberlé Crenshaw et al., 80, 83 n.10 (New York, 1995).

and incarceration; and even, in estate planning, between this life and the next.

Reality Check

As a group, law teachers tend toward abstraction. Many of us happily live our lives on automatic pilot, comfortable in our routines, while we wander in our virtual worlds. Exile, however, cannot be negotiated on automatic pilot. Exile forces us to pay attention, as I learned while walking in my new neighborhood one morning. I passed some construction workers on a break, one of whom stood on a partially built roof in an odd position. He was holding a *crossbow*, aiming at a small deer just outside the woods about fifty yards away. I quickly pivoted and ran home to call Animal Control. "Is hunting allowed within city limits?" I demanded. "Why, no," the answering voice drawled, assuring me that an officer would investigate. As I pulled out of my driveway ten minutes later, I saw the Animal Control van heading toward the scene of the attack.

The next morning it was drizzling and the workers weren't there. But the deer was, still standing just outside the woods where I had seen her yesterday. Surprised, I slowly edged closer. It was a stand-up photo of a deer, used as a hunting target, readily available from the local mall.

That cardboard deer was a wake-up call. The world is not two-dimensional, a simple fact easily forgotten when you spend most of your time reading, writing, and talking about what you've read and written. I realized that I had to get out into my new community and learn its norms. Hunting is more a part of life in the South than it had been in the dense New Jersey suburb where I had spent most of my life, but this did not mean that I was living among savage Bambi-killers.

And although I had been in practice more than ten years, I had never practiced law *here*. Reading the MacCrate Report was not enough to narrow the gap between teaching and practice. I needed to get out of the library and into the courthouse. I joined the local bar association, and met lawyers who hunt. I learned about the real threat of violence in my new community by sitting in on hearings for protective orders in domestic relations court. It was an eye-opening experience.

Watching my students' eyes glaze over the next day, as we slogged through another twenty pages of domestic relations doctrine, I realized that they too could use a break from the library. I brought them to court and introduced them to the family court judge. I called the lawyer who ran the pro bono divorce project and arranged for students to work with local pro bono attorneys.

For many students, law school itself is a reality check. It's not what they expect. As chair of the Admissions Committee, every year I read stacks of applicants' essays in which they describe their lifelong yearning for an imagined law school experience, a portal to privilege or power. They know it will be difficult, they assure the committee, but they are "eager for the challenge."

It's hard to believe that these essays are written by the same students we see after the first-semester grades are posted. They were prepared for ordeal by

fire, but not for a three-hour nitpicking exam. They have seen movies like *A Time to Kill*, in which brilliant, gutsy law students find the crucial case or the missing document on which the plot hinges. They want to know the secrets of the law that will enable them to do justice in an hour and a half. An early lesson of law school is that there aren't any. Part of the teacher's job is to help them use this lesson as a catalyst—to help them resist boredom and cynicism and instead plunge deeper into the law. It's not that they can't do justice, but they first have to learn that justice is three-dimensional and often complicated. They must master the nitpicking details of doctrine and process, and learn the norms of the legal culture in which they now live.

It is a culture pervaded by reality checks, from the support provisions of a pro bono divorce to the default clauses in a commercial contract. Lawyers have to learn how to deal with reality checks, how to anticipate them, how to explain them to clients, and how to engage in damage control. Most of this can—and should—be learned in law school classes. But the ability to use a reality check as a catalyst cannot be taught. Rather, it is one of the lessons of exile.

Steep Learning Curve

Exile confronts us with a steep learning curve. We have to learn the formal rules—as well as the informal rules, the nuances, and the unspoken taboos—of our new homes, both within the law school and the university and outside them. We have a lot to learn, from simple lessons, learned so long ago that we have forgotten that we ever had to learn them (such as how to get a driver's license), to the more esoteric (such as deciphering standards for tenure).

But however much we learn, the routines of exile are never quite the same as the routines of home. There is always the sense that they might be done differently, a self-conscious distance from our own experience, an awareness of the ways in which the most mundane activity—driving, buying a newspaper, going grocery shopping—feels different in the new place. The habits of the new place may become habits, but never in the unthinking way they can be for those who have known nothing else.

So all law teachers are in exile. We are accompanied by the ghosts of our student selves, always aware of how different it feels on this side of the podium. We learn, sometimes painfully, that we can't simply teach as we were taught. Even if it was done well, and sometimes it was not, we were rewarded for grasping the substance of the course, not its underlying pedagogy. Learning the law is necessary but not sufficient (as they say in law school) for teaching the law. Nor can we merely read about teaching, although this is often helpful. We cannot know how helpful it is, however, until we try it out in the classroom.

It soon becomes clear that excellence in teaching—and who is satisfied with anything less?—requires constant practice, experimentation, self-criticism, and analysis. As Larry Dessem explains: "To become an outstanding teacher, you must become a student of teaching. Baseball players spend endless hours in the dugout watching other players and trying to learn from them. We need

to similarly watch and learn from the many teachers we encounter on a daily basis."³

In short, the learning curve for law teachers is steep. Like lawyers, law teachers have to stay current in our fields, and attuned to the ever-changing demands of practice. But we must also question the law, and consider its broader social and historical implications. Sometimes we must break new ground.

Like their teachers, law students are faced with a steep learning curve. Law school is a foreign country with a new language and a new culture, a culture profoundly alienating for many of our students. They must master vast amounts of substantive material, much of which is subtle and counterintuitive. This can take a lifetime, but the life cycle of the average law student is short. They go from being neophytes to editors of the law review in less time than it takes many of us to write an article.

To do so, law students must learn to handle the steep learning curve that exile always presents—to cope with, if not thrive on, the constant overload of law school. We can comfort the struggling by reminding them that it will be over soon, and that in fact practice need not be so demanding. We can promise those who thrive on the overload that practice can be even *more* challenging. Finally, we can assure them all that the steep learning curve of law school will help them cope with whatever they encounter in practice.

My first job out of law school was riding the circuit for legal services in West Virginia. I had three different "offices," rooms set aside in community centers in three different towns. Hopeful strangers sat in a row of chairs set up outside each makeshift office. They clutched manila folders (and sometimes shopping bags) filled with ancient hearing notices, illegible medical bills, and expired warranties that they thought might be relevant to their legal problems.

None of their wildly ranging problems fit within any of the templates I had learned about in law school. I had thought that the cases in my textbooks were general forms of the cases I would encounter in practice. I was first embarrassed, then increasingly apprehensive, to hear myself say to each new client, "That's an interesting problem. I'll have to do some research." I knew that I had skipped too many classes in law school and skimmed too many reading assignments, but I hadn't realized that I had missed this *much*. I was able to calm my rising panic, however, because I knew that if I had been able to make sense of law school, I could make sense of anything. A shopping bag filled with seemingly random scraps of paper was hardly a challenge after my civil procedure notes. Each new case would add to my impoverished repertoire. If necessary, I would be able to construct templates of my own.

3. R. Lawrence Dessem, *All We Really Need to Know About Teaching We Learned in Kindergarten*, 62 Tenn. L. Rev. 1073, 1077 (1995). This article lulls you into reading it with its folksy title and the comfortable implications that you don't really have to learn anything new. Then it hits you with the zinger: you must learn *all the time*. The author, not surprisingly, has since become a dean.

Soul-Searching

The third task of exile, soul-searching, is the most difficult and the most elusive, the hardest to pin down. Exile removes us from our old, unquestioned networks of meaning and in doing so frees us from our old expectations. But it leaves us in a void. Even as exile compels the quest for meaning, however, it makes that quest possible.

I had learned this the spring before we left New Jersey, although I had not realized it at the time. My daughter and I attended a seder conducted by a guitar-playing rabbi. She had placed small backpacks at each child's seat, filled with toys linked to the Passover story, including tiny woven baskets no bigger than an adult's thumb.

The story of slavery, the baby hidden in the bulrushes, the plagues, and the parting sea can be interminable. Although this version was mercifully short, it was still a long time for small children to sit still. Finally the rabbi concluded, "And so the Jews were free. And now *you're* free. Do you know what that means?" The children were clueless. The rabbi answered by picking up the guitar and playing a wild, irresistible dance. "You can leave! Go play! You're *free!*" And the children, laughing, put on their backpacks and dispersed.

Exile is liberating, but it is often hard. The Jews, it may be recalled, wandered for forty years in the desert. It is not easy to find meaning, to reinvent ourselves. For law teachers, however, this final task of exile is the crux of our jobs, what the first tasks are leading up to. We confront our students with often unwanted reality checks, and urge them up always steep learning curves, hoping they will find the personal meaning that this project has for them. Finding meaning in the law—and enabling others to find meaning in the law—is what gives meaning to our lives.

As lawyers, we are comfortable with reality checks; few of us wander in the arcane regions beloved by other academics. What is the *purpose* of the law, we ask pragmatically, and how can it best be realized? What kind of leverage does our analysis provide, and for whom?

As academics, we welcome steep learning curves, even those that may seem tangential to the law. We spend years exploring a particular area of the law, often delving into other disciplines. What do we need to learn to address, if not answer, the questions that absorb us?

It is as *law teachers*, however, that we seek exile, a place far from the unquestioned assumptions of home, to rigorously interrogate the meanings and consequences of the law. Exile enables us to understand these questions in a visceral way. It provides us with an intense and ongoing experience of the abstract processes we spend most of our lives talking and thinking about.

In fact, many teachers deliberately go into exile to renew themselves, to keep themselves fresh and excited about their work. One of my colleagues who teaches criminal law traded jobs for a semester with the local prosecutor. I know another professor who traded a comfortable retirement for a red Jaguar convertible. He has become a familiar figure driving around various campuses, his white hair blowing in the wind, a vivid reminder that exile is hard but can be liberating.

As I've explained elsewhere, I do not believe that we can teach our students how to find meaning in their work.⁴ But we can facilitate the process by making it explicit, by helping our students articulate the questions that drive them. As their colleagues in exile, we can explain to them why this problematic, onerous process is so crucial to the practice of law.

Exile is one of the ways in which we change our lives, whether deliberately or involuntarily breaking with home, the past, what is given. Many clients come to lawyers because they too are in exile and there are often legal consequences. By helping their clients deal with the inevitable reality checks, the often daunting learning curves, lawyers help them shape their futures and find meaning in their lives.

* * * * *

The students in my Human Rights Seminar came to my house for our last class, filling the big room in which the exile of my family was recorded. Some sat on the floor beneath the migration poster, leaning against their backpacks. They looked as if they had stepped from the poster to rest for awhile, using their bundles as pillows. Others sat beneath the picture of the farm, as if in the meadow in the foreground, eating cookies and drinking Coke.

I had urged them to consider alternatives to the traditional final paper for their class projects, and several had taken me up on the offer. One student put together a tape from the music library. The last song was a 1962 recording by blues guitarist Louisiana Red, *Going to the United Nations*. He sang about being in exile—asking what blacks had to do to feel at home in their own country and toying with the idea of raising the question at the U.N., as Malcolm X was later to suggest in dead earnest.

It was as if we had taken a short break in our collective migration and someone had pulled out a guitar. It was the kind of moment I'd been hoping for, not quite knowing what it would be, when I first left home. The song and the class ended. The students put on their backpacks and dispersed.

4. See Barbara Stark, *The Practice of Law as Play*, 30 Ga. L. Rev. 1005 (1996).