

EDUCATIVE FRIENDSHIP—A PERSONAL NOTE

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In 1992, when I started my doctorate research in the interdisciplinary field of Law and Literature, *The Legal Imagination* was one of the first books I read. To European eyes, it was a most unusual book since in continental legal theory in those days, the Anglo-analytical tradition was predominant, and French deconstruction had for some time been the up-and-coming stream. Fascinated as I became with Professor White's works, I decided to try to get in contact with him in order to ask him about the genesis of his ideas. So much for the dangers of the intentional fallacy Whimsatt and Beardsley warned us against! My supervisor agreed wholeheartedly when I told him about my project, though, with hindsight, probably because he thought the whole enterprise preposterous. After all, from our European perspective then, it would be outrageous to suppose that any famous American professor, and one of the founders of an expanding movement at that, would ever grace such a request with an answer. Nevertheless, write I did, and to my surprise I received a reply, saying, in a letter of September 8, 1992, "It is a great honor to me that you have such an interest in my work." I was elated!

It was not until I arrived in Ann Arbor that I truly experienced what the concept of translation which Professor White elaborated in *Justice as Translation* really meant. On the day of my arrival, I asked the cleaning lady at my lodgings with the grand name of Oxford House for the way to the law school; I wanted to check the distance to make sure I would be on time for our first interview the next day. She told me that I could not miss it because it was an impressive and very old building. Well, I walked and walked past many buildings, some of them nineteenth-century Oxbridge style, but I did not find the law school. Why? Because it had never occurred to me that the buildings I saw were "very old." With most of the European universities "very old" is late Middle Ages, or early renaissance. There's old for you! And it worked the other way around too, when in a letter of January 10, 1995 Professor White wrote in a postscript, "Could you possibly bring yourself to call me Jim rather than Professor White? I do not want to tax your European sensibilities beyond reason, but I really think that this degree of formality is not necessary." He was right about the European sensibilities, but how could I possibly be the first to suggest to continue on a first-name basis, even in the educative friendship we had by then started to develop?

Words do indeed have different histories in different cultures, and translation, even in simple cases, is necessarily imperfect as Professor White has

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consistently argued. Hence the importance of a professional negotiation of the relation between languages, discourses, and people. Hence the importance of the legal imagination for the process of translating a text, a case, or a precedent to a new situation in the world. The whole process, of course, is a coming to terms with different claims of meaning, recognizing the pitfalls and peculiarities along the way, more specifically the danger of reification and cliché. Professor White consistently and emphatically warns the legal storyteller not to yield to the temptation of reducing human experience to legal cliché, of reducing people of flesh and blood to objects. And temptation there is, when you come to realize that the things you want to say have to be said in a technical language that cannot provide you with the nuances necessary to do justice to actual human experience.

Daily legal practice shows how amazingly difficult it is to resist what Professor White in his most recent book *Living Speech* terms “empire of force.” I found that out when I entered the judiciary. We should indeed beware of our own prejudices, professionally and otherwise, and counter the risks of mechanical, bureaucratic applications of the law by making our performances in law the object of our own critical attention as Professor White suggests.

The other day I had to decide what seemed on the surface after having read the file an open-and-shut case of simple vandalism. After a night of heavy drinking, a young man had smashed up several cars on his way home from the bar. Standard sentence: a fine and the order to pay damages. The defendant entered the courtroom accompanied by a lady twice his age. Surely, this must be his mother I thought. It often happens that young men bring a parent, usually to impress the judge that they are really decent boys after all. Somewhat vexed, I immediately asked the lady who she was. It turned out that she was a therapist from the institution where the defendant was being treated. He was a Dutchbat veteran who had witnessed the fall of Srebrenica, and had been suffering from a post-traumatic stress syndrome ever since. Gone was the simplicity of the decision when the defendant told me that he suffered from bouts of aggression he could not sense in advance, let alone explain, and when his therapist testified that in such a state the defendant could not be held fully liable for his actions.

Articulating the rule or principle on which a judicial decision rests indeed forces the judge to recognize that the instruments in the legal toolbox are not self-applying, and it demands cultural humility from the legal translator. In offering us translation as an ethical model, Professor White has made a consistent plea for open-mindedness, which he himself exemplifies. His is a contribution to law and legal theory most welcome in an era in which we will have to put all our strength into keeping or making our world a place fit to live, and in which we should continue to resist a variety of empires of force. In contemporary legal academia on both sides of the Atlantic we remain preoccupied with the question of the purpose of legal scholarship—is our intended audience restricted to law professors, or does it include practitioners?—and of legal education—vocational or purely academic?. I think we would do better to cherish the value of friendship as

Professor White defines it, that is, the recognition of others and the establishment of educative and reciprocal relations, because in theory and practice the relational aspect of law is indeed its central value.

