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# Must Virtue Be Taught?

Thomas D. Eisele

Wittgenstein's stories using mathematical imagery—about the group of wood sellers, and others about people 'measuring' with lax rulers, making unsystematic lists, not caring whether they are cheated or not, 'calculating' by asking someone to let a number come to mind—read, from a step away, as though their characters are children. It is appropriate, in writing so fundamentally about instruction, and in which a central character is the child, that we have dramatized for us the fact that we begin our lives as children. Those tribes of big children can put us in mind of how little in each of us gets educated; and make us wonder how we ever have fresh recruits for our culture.<sup>1</sup>

Do we teach virtue? Can we teach it? Must we teach it? How do we teach it? Asking these questions from the perspectives of law and philosophy, in which I have trained and taught, I realize that they are not new questions, but rather are a perennial problem of education. The question, "Can virtue be taught?" has presented a problem for Western education since its inception in Socrates, who wandered the streets of Athens, asking his troublesome questions and pursuing them without stint to his death.

Here I pursue a more modest goal. Of course I mean to recall Plato's presentation in the *Protagoras* of Socrates' inquiry into the nature of virtue and its teachability. But, as my title suggests, I am displacing the traditional Socratic-Platonic question somewhat: I am claiming that the issue of the teachability of virtue is misrepresented by our traditional understanding of Plato's and Socrates' inquiry. In its place, I am suggesting not only that virtue can be taught, and that it is taught, but that it must be taught. It must be taught by us, to our children and students, for better or worse. How I come to this conclusion, and what it means, are at the heart of this article.

## I. Socratic Knowledge, Platonic Ignorance, in the *Protagoras*

The *Protagoras* begins and ends paradoxically.<sup>2</sup> The greatest teacher in

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1. Stanley L. Cavell, *The Claim of Reason* 124 (New York, 1979).
2. See Plato, *Protagoras*, trans. Benjamin Jowett & Martin Ostwald (Indianapolis, 1956). Page references to this text are given parenthetically in the text of this article, first citing the page of this edition and then the standard Stephanus pagination.

Western culture, Socrates, confronts Protagoras, one of the greatest of the so-called Sophists, and asks him to say what it is that he teaches and how he manages to teach it (13–16; 316b–318d). Socrates does this as a help to his friend Hippocrates, who wishes to associate with Protagoras and acquire his wisdom. Protagoras self-importantly announces his subject as “the art of politics” and proclaims himself a maker of “good citizens” (16; 319a). Socrates objects to this claim, on the principle that politics is not a special art or technical skill, but instead is a matter of common virtue, something about which all people can have knowledge and wisdom. Politics, as virtue, is accessible to all (although no one *necessarily* possesses it), and no one requires or can have any special training in it (16–18; 319b–320c). (“Virtue” is *arete* in the transliterated Greek and might better be translated as “excellence.”<sup>3</sup>) From this point on, Socrates subjects Protagoras to a devastating dialectical analysis, during which Socrates protests his own ignorance as to the nature of virtue.

By the end of the dialogue, we find a remarkable transformation: Protagoras, broken by Socrates’ questions, fails to make out any clear or consistent account of virtue and is reduced merely to assenting to or dissenting from Socrates’ dialectical barrage (68; 360d–e). Socrates finds this strange, because Protagoras is forced to move toward embracing the position that virtue is not a kind of knowledge, not a thing that we can claim to know, and thus is not teachable. But, if Protagoras embraces this position, he effectively refutes his own authority to teach what he had earlier claimed to be able to teach and had been recognized as teaching.

Socrates, on the other hand, moves in the opposite direction. From an initial stance of self-professed ignorance concerning the nature of virtue or excellence, we find him moving toward the claim that virtue is knowledge, such that virtue *is* teachable. Only Socrates cannot find anyone who, because he or she knows sufficiently what exactly the elements of virtue are, can claim to be able to teach virtue (68–69; 361a–d).

So Protagoras, a famous teacher of virtue, ends up acquiescing in the claim that virtue is not teachable; Socrates, an irritating gadfly, concludes that virtue may be teachable, but that there is no one who knows enough about it to teach it. This is not a happy conclusion for virtue, or for education, or for our culture, or for us.

So far, and so understood, this is the traditional reading of the *Protagoras*, I believe, but it is not how I read the text. Protagoras and Socrates conclude by agreeing, seemingly, that even if virtue is knowledge and thus teachable, no one seems to know specifically what virtue is or how specifically to teach it. But I claim that someone does know these things. Socrates knows them. And we know them too.

3. See Aristotle, *Nicomachean Ethics*, trans. Martin Ostwald, 303, 304 (Indianapolis, 1962). See also Bruno Snell, *The Discovery of the Mind*, trans. Thomas Rosenmeyer, 158 (Cambridge, 1953). In a recent translation of the *Protagoras*, the rendering of *arete* as “excellence” is followed systematically. See B. Anthony Hubbard & Ellen Karnofsky, *Plato’s Protagoras* (Chicago, 1982). See also David Luban, *Epistemology and Moral Education*, 33 *J. Legal Educ.* 636, 650 (1983).

On my reading of this dialogue, Socrates is an example (or exemplar) of virtue or excellence; he enacts or performs excellence in his incessant questioning and questing. He may not be able to articulate fully what virtue is—but this only shows perhaps that virtue is not a matter of *propositional* knowledge. Socrates *is* able to *embody* it. And his example *teaches* us what virtue or excellence is. We learn virtue from his example.

Think, first of all, of the way Socrates behaves with his friend Hippocrates. When Socrates learns that Hippocrates is hurrying to see Protagoras and is eager to pay Protagoras for the value of his teaching, Socrates neither accepts nor rejects Hippocrates' conduct at face value. Instead, Socrates questions it, he tests it. He asks Hippocrates: Who is Protagoras and what will he teach you for your money? In other words, Socrates confronts Hippocrates with his own actions and asks him to explain himself (6; 311b). This confrontation forces Hippocrates to scrutinize himself. When Hippocrates realizes that he cannot explain his actions, does not in fact understand them, and does not even know what Protagoras will teach him for his money, then we have the dawning of self-awareness (8; 312a). Hippocrates cannot explain *his* actions—*this* is his undoing. His inability to say what virtue is, or to define virtue, is not what leads to Hippocrates' enlightenment. Rather, it is his inability to clarify his own actions, for the benefit of Socrates or himself, that makes him realize that he is acting foolishly, unreasonably. This knowledge pulls Hippocrates up short; having been stopped, he begins to think. This pause in the face of clarifying confusion, or acknowledged ignorance, is an ancient image of the tension between thought and action.

Hippocrates learns that he does not know what he thought he knew, or that he did not even bother to ask himself what he knew before he acted. This discovery of his own deadness to himself is a kind of self-discovery, a kind of self-knowledge, and it is the beginning of the Socratic wisdom for which Socrates himself is famous. And rightly so. The recognition of ignorance is the beginning of wisdom (a traditional virtue). Socrates responds to the Delphic oracle's challenge, "Know thyself," by creating methods or the means by which one might carry out this injunction.<sup>4</sup> By questioning himself (and others) Socrates transmits his methods of gaining self-knowledge to Hippocrates, who then himself acts wisely (virtuously) by questioning himself and, to his chagrin, learning something about himself.

The bulk of the dialogue, however, consists of Socrates' confrontation with Protagoras. Here, too, Socrates displays his virtue by enacting it: He befriends Protagoras in the act of questioning him and asking him to question himself. (See, e.g., 13, 18; 316b–d, 320b–c.) Socrates' aptitude for inquiry is denied no one, even his "adversary," Protagoras, and the willingness of Socrates to lend his efforts to anyone genuinely interested in the pursuit of knowledge is further proof of Socrates' virtue (68; 360e–361a). His excellence in inquiry has to do with his willingness to engage in it and ability not to tire of it, not to tire of what Richard Poirier,

4. See Cavell, *supra* note 1, at 175–176.

in his fine book on Robert Frost, calls “the work of knowing”.<sup>5</sup> What distinguishes Socrates from Protagoras (and Hippocrates) is his ability to call upon his capacity for inquiry, for questioning, whenever he wants it—that is, whenever he needs it. Although Socrates can goad him into thought, Hippocrates is pretty clearly not up to pushing himself in the same way. And Protagoras is also left, by the end of the dialogue, looking for respite (68; 360e). Only Socrates wishes to continue, despite his social engagements and other commitments (69; 361c).

Not only does Socrates persist, but also he never withholds his gift, his willingness for inquiry, from anyone who has need of it (namely, everyone). This is what I mean when I say that he “befriends” Protagoras. Of course, this is a daunting kind of friendship that Socrates shows Protagoras (and Hippocrates). But we know that friendship requires candor and admits of disagreement and argument. A part of the virtue of Socrates that I see displayed in the *Protagoras* is his ability to call upon his capacity for inquiry in aid of anyone—this seems true friendship indeed. He is a stranger to no one deliberately—unless they estrange themselves from him or his methods. Equally, Socrates befriends himself. This strikes me as one of the hardest lessons we have to learn from his example. Self-knowledge requires that we befriend ourselves (thus, treating ourselves as we treat others), and Socrates’ ability to do so is an important part of the virtue of his example.

Socrates knows what virtue is in that he can perform (display) it, and we too know what it is in that we can recognize it in his actions. Our knowledge of virtue is shown or revealed either in our ability to act virtuously or in our ability to recognize virtue in action. (In Wittgensteinian terms, this is a claim about our “criteria” for virtue, about the “grammar” of virtue.) Hence, if the brunt of Socrates’ charge against Protagoras is that he does not know what virtue is because he cannot define it, cannot *say* what it is, then this charge is wrong, is misguided. (Remember that Socrates makes his demand on Protagoras by requesting that Protagoras *say* what he teaches, *explain* what he does.)

A perennial paradox about knowledge is that we can know something without being able to define it or being able to say in what our knowledge consists.<sup>6</sup> This is one way in which Socrates goes wrong in the *Protagoras*, although I am inclined to blame the error more on Plato and his theory of knowledge than on anything that Socrates believed. (I think of this as Plato’s ignorance.) Socrates’ insistent search for the definition of virtue, for a complete and exhaustive statement of the elements of virtue (e.g., “Is virtue one thing or many different things?” [28; 329c–d]), is misdirected and misleading.<sup>7</sup>

5. Richard Poirier, *Robert Frost* xii, 14, 278 (New York, 1977).

6. Ludwig Wittgenstein, *Philosophical Investigations* § 78, trans. Gertrude Anscombe 3d ed. (New York, 1953, 1967). See also John Langshaw Austin, *Other Minds*, in *Philosophical Papers*, ed. Geoffrey Warnock & J. O. Urmson, 52–53 (Oxford, 1961).

7. See Cavell, *supra* note 1, at 98.

## II. Virtue is What?

We can see the misdirection in Plato's definitional goal if we consider two kinds of tension or ambiguity in our use of the term "virtue." First, the meaning of the term is unclear; second, the subject to which we apply the term is diverse or dichotomous. These conceptual tensions make it impossible ever to achieve the kind of lexical definition of virtue that Plato sought. They do not prevent us, however, from learning what virtue is, or from teaching it.

The transliterated Greek word *arete*, as noted earlier, suggests "excellence" as much as it does "virtue." This systematic ambiguity in the Greek term remains in Western terms that inherit the history of *arete*.<sup>8</sup> One way to put this point is as follows: Virtue is not so much a matter of learning specific rules or principles or maxims as it is one of developing the knack of exercising one's capacity for right action. Only "right action" here can mean not so much (or not only) "acting good" as (or also) "acting well" or "successfully." "Virtue" refers to both the phenomena it covers in its more limited sense (i.e., moral goodness) and the phenomena it covers in its more general sense (i.e., excellence in action or function). Since "virtue" can mean both "moral goodness" and "successful or excellent action," my comments about the teaching of virtue are intended to apply to both senses or uses of the term, narrow and broad. Both are matters of human action or activity and, as such, are taught nondidactically, performatively.

That virtue is taught (and learned) performatively has something to do with the ineluctably normative quality of human action or activity. Human action, being normative, embodies and expresses norms, and norms are ways of doing something, getting something done. These ways of acting are taught by doing and showing how to do. Being normative, however, human actions can go wrong. They can be done wrong, or be wrongly done.

The most characteristic fact about actions is that they can—in various specific ways—go wrong, that they can be performed incorrectly. This is not, in any restricted sense, a moral assertion, though it points the moral of intelligent activity. And it is as true of describing as it is of calculating or of promising or plotting or warning or asserting or defining. . . . These are actions which we perform, and our successful performance of them depends upon our adopting and following the ways in which the action in question is done, upon what is normative for it.<sup>9</sup>

Thus, in talking about virtue, we are talking about normative matters, matters taught and learned in terms of successful or unsuccessful human action (measured from a certain perspective).<sup>10</sup> As such, we are speaking about the cultivation of human skills and practices, human ways of acting (or ways of acting humanly) in this world.

Whether virtue is narrowly or broadly understood, the teaching of virtue

8. See Alasdair MacIntyre, *After Virtue* 121–203, 2d ed. (Notre Dame, 1981, 1984).

9. Stanley L. Cavell, *Must We Mean What We Say?* in *Must We Mean What We Say?* 22 (New York, 1969).

10. This means that the view of virtue as excellence is not an expression of amorality; it depends (as every other view of virtue does) upon an explicit or implicit sense of the proper functions of humankind, the proper conditions and limits of human action, and much else. See, e.g., MacIntyre, *supra* note 8, at 186, 202.

is the teaching of a skill within a practice or form of life, the training of a capacity, not the memorization or indoctrination of rules or guidelines.<sup>11</sup> The latter may indeed play some part in teaching a skill within a practice, but it is not all, or even most, of what I understand the teaching of virtue to be. Virtue is embodied in action; accordingly, our knowledge of virtue is a kind of performative knowledge—both knowledge acquired through action and knowledge expressed or revealed in action, in performing a task. Our knowledge of virtue is not, then, a matter of *propositional* knowledge. Hence, an inability to articulate the meaning of virtue is not a sign of the lack of knowledge of virtue, contrary to Socrates (or Plato). Instead, it is a part of the grammar of virtue: It shows what kind of thing virtue is.<sup>12</sup>

The second tension in virtue concerns the subject of attributions of virtue. When we speak about virtue, are we primarily speaking about the character of people, or about their actions? The answer is both, and to divide the two is to attempt to conquer through misunderstanding.

Common terms for virtue (“courage,” “wisdom,” “love,” etc.) are equally applicable to, and equally characteristic of, persons and actions, but not objects. Think of the fact, for example, that we may call either a person or an action “courageous,” but not an object. Or that we may say either “He is a wise man” or “That was a wise move.” But there are no “wise” objects.

I expect this fact to suggest two things. First, since our terms of virtue name both character-traits (attributes of persons) and action-traits (attributes of actions), we should expect to find an ambivalence in our theories of virtue. Are they, primarily, theories of being a good person or having a good character; or are they, primarily, theories of good action, acting well or correctly? We cannot resolve this question one way or another. It is a false question because it poses an “either/or” choice in a nonbifurcated world of human beings and their activities.

Second, to the extent that virtue deals with the performance of skills within a practice, it is not a matter of knowledge of objects, but rather a matter of performative knowledge. This helps to account for our relative inability to define or say what virtue is with any confidence or assurance. Knowing what virtue is, is *not* the same as knowing what some kind of object is, because virtue is not an object. (Virtue may be an object of knowledge, but it is not an object.) And since so much of Western thought—especially traditional philosophy and the canons of Western epistemology—uses our knowledge of objects as *the* paradigm of knowledge,<sup>13</sup> any kind of knowledge that does not fit the model is apt to seem not quite or fully knowledge at all—second-hand knowledge, at best.

Virtue is not acquired genetically; rather, its possibility is culturally inherited. This possibility is acquired or inherited from the family and the

11. See MacIntyre, *supra* note 8, at 187–196; Erik Erikson, *Insight and Responsibility* 112–113 (New York, 1964); J. Glenn Gray, *The Promise of Wisdom* 98 (New York, 1962); and Jon Moline, *Classical Ideas about Moral Education*, 2 *Character* 1, 4 (June, 1981).

12. See Wittgenstein, *supra* note 6, at § 373.

13. See Stanley L. Cavell, *The Availability of Wittgenstein's Later Philosophy*, in *Must We Mean What We Say?* 68 (New York, 1969).

society and the familial and societal practices and institutions into which we are born and within which we grow up. (A curriculum is only the most immediate example of this kind of societal framework.) But, in addition to our inheritance, we must learn to exercise what we have inherited if we are truly to possess it. To earn it we must spend it, use it. And we do by watching our elders and following them. Or not following them. Virtue is a kind of skill based upon performative knowledge, a capacity for judgment and action. Since performative knowledge is taught performatively and not didactically, we teach virtue by doing virtue, by acting virtuously. In this respect, virtue is like language. Both are inheritances that are learned, and earned, through use.<sup>14</sup> Virtue, like language, is taught by example.

Socrates' mistake (in addition to his Platonic demand for an explicit or lexical definition of virtue) was to think that the failure to transmit virtue from generation to generation implies that virtue is unteachable. (A part of the problem is that we have not asked ourselves—and Socrates did not ask himself—what “teachable” means here.) Nothing of the sort is the case. Virtue must be taught because it must be learned; it is an acquired skill within a practice, although of course it has an a priori foundation based on innate human capacities and senses (just as language and language-learning do). Virtue *must* be learned, in the sense that it *cannot* otherwise be acquired. But virtue *need* not be learned; it *can* be ignored or lost or neglected; it is not inevitably transmitted between persons or between generations. Virtue is fragile. That, and only that, is the true moral of Socrates' counter-examples in the *Protagoras*. (See, e.g., 17–18; 319e–320b.)

Some people fail to learn virtue; it is a skill they have not acquired, perhaps because they have not adopted the practice in which the virtue finds its place or home. Or, having acquired it, they exercise the skill imperfectly. Similarly, some people cannot teach virtue, sometimes because they cannot bring themselves to provide the examples necessary to its teaching. Nonetheless, virtue must be taught if it is to be learned.<sup>15</sup>

### III. Examples of Excellence

Virtue or excellence of the kind desired—which I take to be as much intellectual and practical as anything directly moral—is taught and learned by example. Hence, tinkering with a curriculum will not fix the problem, because it is not a problem amenable to changes in course selection, much less course content or course design or format. What is missing from all too many of our courses is exactly the intent of teachers to put themselves forth as exemplars of virtue or excellence. We deny the role we must play if excellence is to be taught and acquired.

The intellectual and practical virtues we find missing from law students today are matters that not only *can* be taught (to answer Socrates), but *must*

14. See Michael Oakeshott, *Political Education*, in *Rationalism in Politics and Other Essays* 129 (New York, 1962).

15. This is not to say that *everything* that is learned is taught. Clearly not. In learning language, for example, children obviously learn more about language and its use than is ever explicitly or implicitly taught them. (See Paul Ziff, *Semantic Analysis* 35 [Ithaca, 1960].)



be taught. They are transmissible in no other way. The continuity of society and culture depends upon such transmissions or inheritances taking place between generations and continuing to take place through the centuries. Taking responsibility for such transmissions is one of the highest obligations of a professional school teacher today.

How does one take on such responsibility? Since I believe that virtue or excellence is taught not by didactic methods, but through modelling—imitation and emulation and initiation—teachers can fulfill their responsibility by displaying in class the virtues or excellences that we find lacking in our students. Consequently, it is a component of education that rests upon performances being given and received in the classroom, and then replicated by the students themselves.

Of course we have recognized for a long time that teachers are performers, that teaching is performative; now I am simply asking us to be more conscious of it and its consequences in our lives, especially as they relate to the perceived deficiencies in our students, who after all have only us to follow, or to reject. To enable them to accept the virtues of our legal society and culture would be to show them that they are *acceptable*. We do this—or fail to do this—in our teaching, in our classroom performance.

These claims will seem to some to express the rankest kind of presumption. Equally, they may seem naive, a throwback to an earlier era. If so, I would welcome such a response in the following ways.

First of all, my remarks *are* meant to recall us from our sophistication, which can falsify our experience. In thinking about teaching, as about so much else, we need the cleansing of our senses that a return to nativity (a kind of naïveté) can bring. We begin our lives as children, as Cavell reminds us.<sup>16</sup> And, as children, we learn to do by example, by seeing others do and then by doing ourselves. This is a model, a basis of education or instruction that we may elaborate or complicate or supplement with other models or bases, but it is one that we never outgrow and never stop using.

In addition, the emphasis on “nativity” is meant to remind us that we begin our lives native to some culture and society, as well as to some country and language. A native relation to culture and society is both natural and necessary to human growth and flourishing. So I do not avoid the idea that we teach younger people to accept our current society or culture—here, our legal culture—even with all of its foibles and failings. Every culture, every society, every legal system, has its failings, its vices. It could not be otherwise. Every norm, every accepted way of doing something, every system of facts and values, has its weaknesses, its blind spots, its costs. Thoreau reminded us that nothing is gained without an accompanying loss, and we should not think that acculturation (the civilizing process) is gained without cost.

The view of education I espouse can seem very much a conservative apology for indoctrination. I think this is wrong in at least two ways, but it

16. Cavell, *supra* note 1.

expresses a genuine concern about education (and about teaching in particular) that deserves comment.

The concern about indoctrinating our young into the evils of our culture and society mistakes the real dangers, and our real possibilities. As James Boyd White has said, “The question for any culture, community, or institution is not, ‘What is the best way to be?’ but ‘What is the best we can be?’”<sup>17</sup> This is a question put from within the culture, and it imagines a response that begins not by rejecting that culture but instead by embracing it—and then, if possible, by transforming it from within.

Criticism of a culture (or of a profession) does not begin from a clean slate. This is one reason why the two major epistemological strategies in modern philosophy—Descartes’ rationalism, which begins in global or universal doubt, and Locke’s empiricism, which begins with a “*tabula rasa*”—are doomed to fail from their beginning. Rather, criticism begins from within a system of thought and expression, and it proceeds by way of the tools and materials (norms) that such a system affords the critic. Wittgenstein shows us this much.<sup>18</sup> To teach our children and students the norms of our system is not to indoctrinate them, but rather to equip them to become critics of their own culture.

Second, once inside the system and so equipped, our children and students are very much on their own, and it is arrogant to think that they will not make out of the world and our culture something other than whatever we have managed to make out of them. To speak in terms of “indoctrination” is wrong, then, in a second way, because it mistakes the nature of culture and norms and law (and the world). These phenomena do not dictate or control actions. Each person is a strange conglomeration of the conflicting and contradictory materials that his or her culture presents, and what he or she makes out of them is not ours to say. Hence, whether a child or student embraces or rejects, compliments or criticizes, his or her culture, is not a matter determined by teachers. Trilling said it well:

A culture is not a flow, nor even a confluence; the form of its existence is struggle, or at least debate—it is nothing if not a dialectic. And in any culture there are likely to be certain artists who contain a large part of the dialectic within themselves, their meaning and power lying in their contradictions; they contain within themselves, it may be said, the very essence of the culture, and the sign of this is that they do not submit to serve the ends of any one ideological group or tendency.<sup>19</sup>

Identification with a culture is not indoctrination; nor need it be debilitating. It can be rehabilitating—for both the culture and its critic. To ask others to accept a particular legal culture is as much an invitation for them to accept the internal criticisms generated by that culture as it is an invitation to accept its internal claims of merit. We are “only” giving these others the resources by which they can remake the culture (and themselves, if they so choose). (Need it be said that one of the virtues performed in

17. James Boyd White, *The Judicial Opinion and the Poem*, 82 Mich. L. Rev. 1669, 1692 n. 27 (1984).

18. See Ludwig Wittgenstein, *On Certainty*, §§ 115, 140–142, 160, 354, trans. Denis Paul & Gertrude Anscombe, (New York, 1969).

19. Lionel Trilling, *Reality in America*, in *The Liberal Imagination* 9 (New York, 1950).

teaching law by the Socratic method is the effect and value of a critical intelligence working on its inherited materials?)

Children and students bring their natural ability, or capacity, to the world for training and tutoring.<sup>20</sup> This natural core of sense is a priori. But, once brought to the world, it must be tutored, it must be educated (civilized). We do this in part by teaching normative ways for doing things. To learn these norms is to learn to act normally in one's native habitat. It requires activity on the part of the teacher and on the part of the student, each showing the other what is to be done, how it can be done, how it is done, that it has been done. This is teaching that is both moral and intellectual, practical and imaginative. Here is an instance of it:

[T]he world that stands to be explored is also a moral structure which, simply because it is one of related ideas, is much harder for him [the child] to grasp. He perceives that it is there, he feels its importance to his comfort and security every moment of the day, but it is not present to his eyes and ears; he cannot see and touch it. He is not equipped with the experience and judgment necessary to put it together for himself. For this purpose nature has provided him (and many other small mammals which grow slowly in understanding) with parents. And if they refuse the duty of making the situation clear to him he will suffer. I am ready to bet that a good deal of what is called neurosis and frustration among young children is due to nothing but the failure of parents and teachers (often the most conscientious) to do so, that is, to give a clear picture without uncertainties. Without such a picture, children don't know where they are, and they do all kinds of evil (because it is just this sphere of good and evil that is puzzling them) to find out. A child will torture a cat or some other smaller child, in order to see what will happen, both to himself and the victim, and what he feels like in the new circumstances. The 'crime' is a moral experiment.<sup>21</sup>

It is like learning a language. The child comes to it with a natural sense, otherwise the learning would never begin, never take. But in learning how to make sense in this medium, the child requires instruction, demonstrations of significance. In learning how to make meaning, the child learns what makes sense and what has significance, just as in learning how to do things, the child learns what has value and what is to be valued in this world. It is a feat, or exercise, of the imagination (Kant's synthetic faculty, which generates words and worlds).<sup>22</sup> In teaching virtue, we are teaching not only what is to be done and how it is to be done, but also why it is to be done: We are teaching others to *appreciate* virtue, to value the ways their culture and society give them for living in this world.<sup>23</sup>

Those who fear "indoctrination," who see the teaching of the appreciation of virtue as threateningly easy, have not tried it. It is *difficult* to get people to do things the right way. To stand for virtue in what one does, in how one acts, and to attract people (or their attention) to this stance, are not easy tasks. But they are ours. Trilling's ongoing self-criticism, as he steadily

20. See Luban, *supra* note 3, at 648-649.

21. Joyce Cary, *Charley Is My Darling* 9 (London, 1951).

22. I say more about this theme in *The Activity of Being a Lawyer*, 54 *Tenn. L. Rev.* 345, 349, 359 (1987).

23. See Ronald W. Sleeper, *On Education and Morals*, in *Theories of Value and Problems of Education*, ed. Philip Smith, 188, 189-190 (Urbana, 1970); and Gilbert Ryle, *On Forgetting the Difference between Right and Wrong*, in *Essays in Moral Philosophy*, ed. A. I. Melden, 152-156 (Seattle, 1958).

questions and revises his own thought about Matthew Arnold as an exemplar of excellence, is itself an example of such virtue.

Were I writing of Arnold now I should not say the same things I said ten years ago. I should not, I think, write quite so much as Arnold's advocate on certain particular points, and my feeling of intimacy with him would undoubtedly have a different quality. But I should write of him with an even enhanced sense of his standing for the intellectual virtues that are required by a complex society if it is to survive in real and not in merely simulated life; and also with an enhanced sense of two other things: of how difficult it is to make these virtues seem attractive and necessary, and of Arnold's personal fortitude in carrying out his chosen task of making them appear so.<sup>24</sup>

We must trust to our students' abilities to see value (or to learn to see it) in the world when and where and as we see value in the world. We must have faith that they shall call virtuous what we call virtuous. I do not say that they *must* do this, in the sense that it is *inevitable* for them to do this. (In this world, it is not inevitable that human life shall continue or prosper.) They *must* do so, in the sense that it is a *necessity* of their coming to be like us at all, their coming to speak to us about anything at all. Their ability to make themselves intelligible to us and ourselves intelligible to them, and to make something out of the world we share, is based upon their seeing and doing naturally, normally, what we see and do naturally, normally. Without such commensurability of judgment and response, there is no "us" they can join. For that matter, there is no "they." Community hangs in the balance, as does communication, as does reason itself.<sup>25</sup>

In my emphasis on the need for setting an example for one's students, however, I am aware that a proselytizing tone can be heard. We cannot avoid it, nor should we wish to do so.<sup>26</sup> To teach is to ask others to follow, and thus to risk misleading others. To ask someone to follow you is to ask him or her to make a choice, to make a commitment, to follow you rather than to follow someone else. It is, at least implicitly, to claim a value for yourself, to say that you are more worth following than someone or something else also available to the student. To turn students loose, without example and without direction, in the name of neutrality or tolerance, so that these students must find themselves on their own, if and when they can, is not a better or truer alternative to setting an example for them. It is an abdication of our responsibility for leadership. They *will* follow someone, something; they *will* become acculturated, if not to our culture, then to another. Goslings and ducklings, separated from their mothers, followed Konrad Lorenz.<sup>27</sup> He was the only "maternal" object available as a model, and he was willing to play the part.

#### IV. Model Teachers

How, then, does one *know* what to teach one's students? Am I not assuming that teachers know what virtue is, and did not Socrates destroy this Protagorean conceit once and for all? I am and I am not. We know

24. Lionel Trilling, *Matthew Arnold 3-4* (New York, 1939, 1979).

25. See Cavell, *supra* note 1, at 20.

26. See Moline, *supra* note 11, at 6-8.

27. Konrad Lorenz, *King Solomon's Ring* (1952).

more about virtue, and can recognize it, more than we can say. To know what virtue is, or to be able to act virtuously, does not entail that we be able to *say* what virtue is, or that we be able to define the nature of virtue. But, even given this, my deeper point is that we are inevitably giving portrayals of virtue (and of vice) *in* our teaching.

I mean that the way we act in front of our students, in their view, inevitably provides them with models of *how to act*. (This seems to me to be the larger, and better, context in which to consider the issue of the teachability of virtue. Here, within the context of human action or activity, virtue is a natural topic of thought and discussion.) Every lesson is a lesson in action, in how to act or behave in a certain situation with certain tools and materials given certain conditions and limitations. Every lesson has its moral. Similarly, every action has its value, or worth. At a minimum, human action always implies a valuing, either explicitly or implicitly, a perception or appreciation of worth. And, quite naturally, we expect this value to attract our students' attention and action.

Regardless of the subject being taught, at a minimum we are showing our students one central human activity and how it should be done: teaching. Teaching is an activity that can be done well or poorly; it is an activity that calls for courage, temperance, prudence, and justice in the teacher (to name only the cardinal virtues). Using the term in what he takes to be Plato's and Aristotle's sense, Stanley Cavell defines "virtue" as

[a] capacity by virtue of which one is able to act successfully, to follow the distance from an impulse and intention through to its realization. Courage and temperance are virtues because human actions move precariously from desire and intention into the world, and one's course of action will meet dangers or distractions which, apart from courage and temperance, will thwart their realization. A world in which you could get what you want merely by wishing would not only contain no beggars, but no human activity.<sup>28</sup>

How do we treat our students when they ask questions? Are we solicitous, or are we defensive, or are we simply open? Do we discriminate good questions from bad questions, and say why which is which? Whether or not we articulate our criteria in this regard, our response tells our students something about questions and what questioning is. If I am defensive when my students ask them, then questions are threatening. If I am open and encouraging when students ask questions—enthusiastic even—questions are invitations to intellectual adventure. Also, what questions do we ask ourselves, or fail to ask? What in our assertions and arguments do we find questionable, and what not? And what questions do we pose to the students and to the texts we study with them? In other words, we show them what questioning is and how to do it by the questions we ask them and ourselves, and by the questions from them that we accept or reject. (And how we treat their questions is a part of how we treat them. Hence, we also are teaching them about respect for persons, or disrespect.)

28. Stanley L. Cavell, *Music Discomposed*, in *Must We Mean What We Say?* 198–199 (New York, 1969).

How do we present our lectures? Does our teaching show thoughtful preparation and conscientious application, or does it illustrate shoddiness and slovenliness? Then we are teaching our students that these matters—these things about which we are teaching them—do not matter, or that they do. We are teaching them that these are matters about which a competent adult can honorably and profitably spend a lifetime thinking and caring, or that they are matters that do not require (or deserve) thought or care. Also, we are teaching them what it is to care about something deeply, and to make it an important part of one's intellectual and emotional life. And we also are teaching them about what it is to presume to teach people by lecturing to them, and what care and responsibility are exacted by such presumption.

How do we correct others when they make mistakes? How do we correct ourselves when we or our students have caught us in an error? Is there an inconsistency in our treatment of others' mistakes and our own? What does that say about us, about our character? Does it teach the virtue of honesty, of candid admission of one's mistakes, and of the bitter but necessary medicine of correction? Or does it instead say that we criticize others more harshly and scrutinize the actions of others more closely than we do ourselves and our own actions? Here we are teaching our students what a mistake is, about the pain that correcting a mistake entails, and the worth of enduring such pain for the value of the result—namely, something closer to the truth. Or we may be teaching them what hypocrisy is, and that we love something else more than the truth—our pride, for example.

In all these ways, and countless others, we are exemplars of virtue in the classroom. We show how teaching can be done, correctly or incorrectly. And we show how countless common human activities—criticizing, questioning, correcting, caring, lecturing, praising, listening, responding, learning, studying—are done, and what they are.<sup>29</sup> In addition, in law school we teach the special virtues of the lawyer: How to read a case or statute, how to make or argue a distinction or a point of law, how to apply a legal rule, and so on.

In all of these ways, we teach virtue in the most immediate, most personal way possible: We teach it through ourselves as models, exemplifying virtue (or vice) in our own personal and professional lives.

### V. Coda

Socrates is the patron saint of both law and philosophy. What makes him such a compelling figure? Western philosophy takes him to be the first, and possibly the purest, example of the philosopher—the person moved to think solely because he has an insatiable need to know. In law, of course, we claim to be following his method in our teaching, at least in our first-year courses, and we believe this to be the best possible introduction to and preparation for a life in the law.

29. See Cavell, *supra* note 1, at 177.

What compels us about Socrates is not, I believe, his doctrines, many of which seem wrong or even perverse to us today, nor the logic of his arguments, the fallacies of which are a favorite topic of contemporary philosophical discussion.<sup>30</sup> Rather, I think that it is the *figure* of Socrates that attracts us and compels our admiration and emulation. The model we have in the Socratic activity of inquiry, as displayed for us in Plato's dialogues, is what makes Socrates the teacher of virtue that he is. Hence, I would agree with those who say that the form of Plato's representation of Socrates—his recreation of Socrates in the dialogue genre—is essential to what we know of and think about Socrates.<sup>31</sup> He could not present such a model—he would not be who he is to us—without such a presentation in dialogue form.

In this regard, we need to remember that Socrates' example of excellence is not to be equated either with societal sycophancy or with radical rejection of society. In the *Apology*, Socrates opposes Athens, chiding its prosecution of him on the trumped-up grounds that he corrupted the morals of Athenian youth. He fights for what he thinks is right. Yet, in the *Crito*, Socrates equally chides his friend and student, who implores him to disobey the Athenian decree and to avoid the death penalty that Athenian justice has handed down. Here Socrates displays his fidelity to Athenian law by refusing to remove himself from its faithful—and fateful—execution. Both cases present moving examples of virtue or excellence in action. In the balance displayed by Socrates, achieved again and again in the Platonic dialogues by which we have come to know him, is struck the Aristotelian mean of excellence, or virtue.

We are all students of Socrates. So I ask us now: How well have we learned his lessons? How well have we emulated him? How well have we passed along his legacy?

30. See James Boyd White, *When Words Lose Their Meaning* 94–95, 102–109 (Chicago, 1984).

31. In addition to White's book (*id.* at 94), see Rudolph Weingartner, *The Unity of the Platonic Dialogue* (Indianapolis, 1973).