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Editors' Note

Psychoanalytic Remains? Psychoanalytic Perspectives on Law & the Humanities

Patrick Kabat & Diana Reiter*

The following Transcript records a panel discussion presented jointly by the Yale Journal of Law & the Humanities, the Muriel Gardiner Program in Psychoanalysis and Humanities, and Yale Law School. The panel discussion took place in the Faculty Lounge of the Yale Law School on May 1, 2009. The panel was inspired by Anne Dailey's suggestion that the endurance of psychoanalytic strains in the legal academy would be fruitfully investigated.

The purpose of the conference was to test the academic waters for, as the panel discussion's title states, "psychoanalytic remains." As the focus of the conference was refined, this Journal emerged as a natural home for a transcript of the conversation. Yale Law School generally, and this Journal specifically, each have provided a home for insightful work on the interconnections between psychoanalysis and the law.¹ A sparingly edited transcript, no less than a meticulously revised Article, can both capture the potential of a subject and preserve the energy and spontaneity appropriate to the early stages of renewed inquiry—precisely the aspects which the panel was conceived to measure and explore.

* Editors-in-Chief.

1. See, e.g., JAY KATZ, JOSEPH GOLDSTEIN, & ALAN DERSHOWITZ, *PSYCHOANALYSIS, PSYCHIATRY AND THE LAW* (1967); Susan R. Schmeiser, *The Ungovernable Citizen: Psychopathy, Sexuality, and the Rise of Medico-Legal Reasoning*, 20 *YALE J.L. & HUMANITIES* 163 (2008); Francis J. Mootz II, *Psychotherapeutic Practice as a Model for Postmodern Legal Theory*, 12 *YALE J.L. & HUMANITIES* 299 (2000).

A few notes are appropriate here on our approach to editing the transcript. First, we have preserved a number of elements in the transcript which convey the atmosphere of the panel discussion. If we are interrogating the notion of “psychoanalytic remains,” we should be quite interested in manner in which the subject is engaged by its contemporary audience, and these interpolations provide an excellent sense for the traction generated by the panelists’ propositions. The bracketed notes which memorialize [applause] and [laughter] expressively convey the interest and good-humored inquiry of a packed room of medical professionals, attorneys, law students, and members of the New Haven community.

Second, we ought to note that several threads were pursued with enthusiasm in greater detail at a post-panel dinner and reception. Those threads included the relevance of psychoanalytic insights to the role of a judge, the implications of psychoanalytic consequences in our approach to legal debates surrounding torture and the use of force in interrogations, and the extent to which the jury system creates a space where psychoanalytic judgments silently operate with neither oversight nor review. Following any of these threads would do service to the law and humanities enterprise, and we mention them here in hopes that they will be picked up and pursued elsewhere in greater depth.

We refrain, however, from making any effort at drawing discrete conclusions from the event. The transcript, we feel, speaks for itself. If summation is sought, Professor—now Dean—Robert Post’s remarks effectively draw together several threads from the panelists’ initial remarks, but as you will see, the wealth of this transcript lies in the lively interaction of the panelists, to whom the *Yale Journal of Law & the Humanities* is deeply indebted.

We hope the result is useful to the scholarly community both for the substantive insights of the panelists, and also as a demonstration of how psychoanalytic insights may remain alive in, and indeed enliven, pressing contemporary legal issues.

PANELISTS:

Peter Brooks

Peter Brooks taught for several decades at Yale, where was Sterling Professor of Comparative Literature and on several occasions Lecturer in the Yale Law School. He is currently Andrew W. Mellon Scholar at Princeton University.

Robert Burt

Robert A. Burt is Alexander M. Bickel Professor of Law at Yale Law School.

Nancy Chodorow

Nancy J. Chodorow is Lecturer on Psychiatry, Harvard Medical School, Professor of Sociology Emerita, University of California, Berkeley, and Training and Supervising Analyst, Boston Psychoanalytic Society and Institute.

Anne Dailey

Anne Dailey is Sidley Austin—Robert D. McLean '70 Visiting Professor of Law at Yale Law School and the Evangeline Starr Professor of Law and Associate Dean for Academic Affairs at the University of Connecticut School of Law.

Robert Post

Robert Post is Dean and Sol & Lillian Goldman Professor of Law at Yale Law School.

Jed Rubinfeld

Jed Rubinfeld is Robert R. Slaughter Professor of Law at Yale Law School.

