Virginia Woolf’s *To the Lighthouse*: Toward an Integrated Jurisprudence

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I. INTRODUCTION

Since the publication of Virginia Woolf’s novel *To the Lighthouse* in 1927, a significant volume of critical commentary has grown to surround the work. These critical interpretations come in two types: some consider Woolf’s technical experiments in style and form; others consider her ideology. Commentaries which address Woolf’s ideology include discussions of her views on philosophy, aesthetics, relations between the sexes, and feminist issues. In recent years, scholars have approached the novel with the insight of Woolf’s autobiographical writings and have taken a particular interest in feminist and psychoanalytical themes in the work.

This Article’s analysis differs from the existing body of commentary by exploring another dimension of Woolf’s ideology: her legal philosophy. Existing commentaries interpret the celebrated expedition to the Lighthouse as a quest for psychological maturity, truth, harmonious social relations between men and women, and aesthetic harmonies. This Article adds another dimension to the symbolic voyage and interprets the expedition as a quest for justice. Critics have often placed Woolf within the intellectual aristocracy of her time and judged her as an elitist who avoided themes of social and political importance. This Article counters that criticism and concludes that Woolf’s

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intellectual ideas about aesthetics, philosophy, and social relations are carefully interwoven with a philosophy of legal and social reform. *To the Lighthouse* is not a work of ivory tower intellectualism. Rather, Woolf's legal vision of social change, grounded in the common needs of humanity, is an integral theme of the novel. Approaching the novel through the lens of legal philosophy integrates Woolf’s social, philosophical, and aesthetic ideas into a unified moral aesthetic leading to a just society.

The character of James Ramsay prompted the present inquiry into Woolf’s jurisprudence in *To the Lighthouse*. In the first scene of the novel Mrs. Ramsay imagines her youngest son, James, “all red and ermine on the Bench or directing a stern and momentous enterprise in some crisis of public affairs.” The name James Ramsay suggests two historical figures who engaged in legal enterprises at the time Woolf was writing the novel. James Fitzjames Stephen, Woolf’s uncle, served on the High Court Bench, and Ramsay MacDonald served as prime minister in England. At the conclusion of the novel, when James nears the Lighthouse, his sister, Cam, characterizes him “as a lawgiver, with the tablets of eternal wisdom laid open on his knee (his hand on the tiller had become symbolical to her) . . . .” Read together, these passages suggest an interpretation of the expedition to the Lighthouse as a quest for social justice. Several questions immediately came to mind. If the voyage to the Lighthouse is a quest for social justice, what are the principles guiding James’ hand on the tiller? What are the contents of James’ tablets of eternal wisdom? What, in other words, is James’ jurisprudence?

These questions motivated a return to the novel to investigate whether references to law or justice appear in other passages. The frequency with which the language of judging, justice, law, and morality appears is striking. William Bankes is “exquisitely judicial.” Mr. Ramsay is “tyrannical” and “unjust.” Mrs. Ramsay “presid[es] . . . over destinies” and “judges” her social affairs in the “tribunal” of her mind. Lily Briscoe follows a “code” of social behavior. Even the seasons and storms “held their court.” On reflection, the primary activity shared by all of the characters, despite their varied gender, age, and individual pursuits, appears to be that of judging each other. This recalls Woolf’s assertion that “everyone . . . is a judge of character. Indeed it would be impossible to live for a year without disaster unless one practiced character-reading and had some skill in the

5. VIRGINIA WOOLF, *TO THE LIGHTHOUSE* 4 (Harvest/HBJ 1989) (1927) [hereinafter *To the Lighthouse*].
6. Id. at 168.
7. Id. at 23.
8. Id. at 46.
9. Id. at 50.
10. Id. at 112-13.
11. Id. at 91.
12. Id. at 134.
art." Thus, all of the characters in the novel—adults, children, philosophers, artists, and scientists—are judges. The gathering of guests at the Ramsays' island vacation home is a conclave of judges of human character. A question posed by the female artist Lily Briscoe surfaces as an essential inquiry: "How did one judge people, think of them?"

The idea that Woolf was experimenting with the way characters formed judgments of each other is consonant with her revolutionary literary achievement. In To the Lighthouse, Woolf breaks from the traditional genre of literary realism fashionable in England at the time which dictated the objective portrayal of factual events. Her celebrated accomplishment is that of allowing the reader to enter the characters' subjective frames of mind and to share their individual ways of perceiving knowledge and conceiving the nature of reality. By giving the reader a sense of each character's subjective experience, Woolf demonstrates that each character participates in creating his or her own reality. It seems a natural extension of Woolf's literary experiment that different subjective perspectives would give rise to different ways of forming judgments. Looking at James steering the boat to the Lighthouse, Cam considers, "Of all human qualities [she] reverence[d] justice most." Perhaps this statement accurately reflects Woolf's own sentiments.

Although Woolf was evidently preoccupied with different ways of judging and freely invokes the language of judging, legal themes are not apparent in the novel. There are no courtrooms, lawyers, judges or discussions of legal issues. In fact, the entire novel takes place in the context of a most remote domestic setting—an island vacation home in the Scottish Hebrides. This is less anomalous considering the context in which Woolf was writing. Woolf
was poignantly aware of the fact that every aspect of life in England was "under the rule of a patriarchy." As a woman, she was precluded from studying the law or pursuing a legal career although she was raised in a privileged legal climate.

Woolf was embittered by her exclusion from pursuits that were traditionally masculine and was enraged by the masculine supposition that women were morally inferior to men. An avid reader of Freud's works, she was conceivably familiar with his contention that women showed less of a sense of justice than men. To the Lighthouse may be read as a fictional rebuttal to this claim. Though Woolf did not have access to the public sphere of judging, she had free reign in her fiction to strip the judiciary of its pageantry and expose the act of judging as an essentially human activity. Fiction also enabled Woolf to depict the mindset of the patriarchal male in the domestic setting where that mindset originated and was fostered. Setting the novel in a domestic sphere also presented the opportunity to highlight the contrast between the established patriarchal mode of judging and women's undervalued yet distinctive ways of defining and seeking to resolve moral issues. By effectively offering this contrast, Woolf demonstrates that women are not morally inferior to men; they have other criteria for approaching moral issues and defining justice based on their socialized caretaking roles as wives and mothers. In fact, the novel indicates that if justice is indeed a human quality, women are particularly qualified to form moral judgments. Woolf's jurisprudential vision, symbolized by James Ramsay's arrival at the Lighthouse, is one of justice integrating feminine criteria for morality into the preexisting patriarchal definition of justice.

When Woolf was writing the novel in the 1920's it was within her power to change the shape of literature to accommodate the female point of view. Though she possessed an intuition of how the legal system should evolve to incorporate female values, she was powerless to do for law what she did for fiction. At the time, her sense of integrating female morality into the well-established patriarchal system could only exist as an imaginative vision—a mere sketch of the future of the law. It is striking to see, more than fifty years later, how Woolf's visionary sketch of an integrated jurisprudence is beginning to take concrete shape within contemporary feminist legal theory and the law.
and literature movement.

This Article both interprets *To the Lighthouse* in light of the jurisprudence of its time and examines modern sympathetic trends in jurisprudence through the perspective of the novel. First, the Article elaborates on the distinction between a moral sensibility fostered in the realm of social power—a "masculine" moral sensibility—and one derived from the realm of domestic intimacy—a "feminine" moral sensibility.24 Woolf’s rich portrait of a feminine moral sensibility foreshadows the convergent goals of feminist legal theory and the law and literature movement, to integrate human empathic responses into the law. Part II introduces Mr. and Mrs. Ramsay and their socialized Victorian roles. Part III examines Mr. Ramsay’s way of judging. It identifies a distinctive masculine mode of self-definition and moral sensibility. It then situates Mr. Ramsay’s moral sensibility within the positivist jurisprudence of his time and considers derivative legal philosophies and theories of judging which incorporate masculine values of objectivity and abstraction. Part IV examines Mrs. Ramsay’s feminine sense of self-definition and moral sensibility based upon an ethic of care. Part V considers James Ramsay’s moral sensibility as integrative of both masculine and feminine characteristics. This Part examines three movements toward an integrated jurisprudence: American legal realism, feminist legal theory, and the law and literature movement. All three integrate subjective knowledge of genuine human experience into legal theory. The discussion of the law and literature perspective demonstrates the way in which the narrative voice is a tool for integrating the subjective voice into the law. The law and literature movement provides a context for exploring the convergence of Woolf’s moral and aesthetic ideas, as well as a point of departure for considering the relationship between literary and legal texts and society.

24. In this Article, I adopt the terms “masculine” and “feminine” to signify two different moral sensibilities and two corresponding bundles of traits. It is important to note, however, that these two distinctive sensibilities are not exclusively correlated with gender:

[It is not] exclusively a female voice. We all encounter men, in person and in print, who speak in this voice. . . . We know of no hard data . . . bearing directly on the issue, and we offer none here because we interviewed no men.


The question of whether distinctive “masculine” and “feminine” traits are innate or even identifiable has created a split among feminist theorists and scholars. Some celebrate the transformative potential for society in the traits of care, creativity and intimacy. *See* sources cited infra notes 32-33. Others assert that these “feminine” qualities arise from women’s social and political subordination, and that we reinforce subordination when we extol these traits. *See, e.g.,* James McCormick Mitchell Lecture: Feminist Discourse, Moral Values, and the Law—A Conversation, 34 BUFF. L. REV. 11, 74-75 (1985) (“MacKinnon: . . . ‘[S]he would articulate [what] she cannot now, because his foot is on her throat’”) ( interchange between Catharine MacKinnon and Carol Gilligan); Joan C. Williams, Deconstructing Gender, 87 MICH. L. REV. 797, 803-21 (arguing that the characterization of the “feminine voice” is both inaccurate and dangerous as it has been used against women in Title VII litigation); *See generally* JUDITH BUTLER, GENDER TROUBLE: FEMINISM AND THE SUBVERSION OF IDENTITY (1990); CATHARINE MACKINNON, Difference and Dominance: On Sex Discrimination, in FEMINISM UNMODIFIED: DISCOURSES ON LIFE AND LAW (1987); Mary Jo Frug, Sexual Equality and Sexual Difference in American Law, 26 NEW ENG. L. REV. 665 (1992); Ann Scales, The Emergence of Feminist Jurisprudence, 95 YALE L.J. 1373 (1986).
II. MR. AND MRS. RAMSAY: A CONTRAST IN MASCULINE AND FEMININE SOCIALIZATION

"[T]here are two sexes in the mind corresponding to the two sexes in the body, and . . . . in each of us two powers preside, one male, one female; and in the man's brain, the man predominates over the woman, and in the woman's brain, the woman predominates over the man."

The novel, however, seeks to identify and contrast the two distinctive modes of moral sensibility: one shaped in the public sphere of social interaction, and another which takes its shape in the private sphere of domestic affairs. Woolf embodies these distinctive sensibilities in Mr. and Mrs. Ramsay's distinctive casts of mind. Mr. and Mrs. Ramsay are archetypes of the Victorian male and female. As such, they adhere to a firmly entrenched social "code of behaviour." According to this code, gender identity determined one's social role. Men's work and measure of success resided in the realm of social power while women's occupied the domestic sphere.

Mr. Ramsay is an accomplished philosopher. His work and accomplishments lie in the public sphere of social success. He has achieved worldly acclaim through publication of several books and gained recognition through public tributes. As a representative Victorian male, Mr. Ramsay liked that men should labour and sweat on the windy beach at night; pitting muscle and brain against the waves and the wind; he liked men to work like that, and women to keep house, and sit beside sleeping children indoors, while men were drowned, out there in a storm.

He has been socialized to esteem intellectual and physical prowess. He dwells upon fame and imagines himself as a heroic leader conquering uncertainty in his search for truth.

If Mr. Ramsay embodies the Victorian male, Mrs. Ramsay is emblematic of the Victorian female. Her orientation is entirely domestic; she has stayed home and raised eight children. The Victorian code demanded that a woman marry and give up her own interests to serve her husband: "[T]he thought of marriage influenced what she said, what she thought, what she did. How could

25. A ROOM OF ONE'S OWN, supra note 17, at 98.
26. TO THE LIGHTHOUSE, supra note 5, at 91.
27. Id. at 164.
it be otherwise? Marriage was the only profession open to her." As the Victorian wife, Mrs. Ramsay

was intensely sympathetic. She was immensely charming. She was utterly unselfish. She excelled in the difficult arts of family life. She sacrificed herself daily. . . . she was so constituted that she never had a mind or a wish of her own, but preferred to sympathize with the minds and wishes of others.

In the public realm of social power, it is the "masculine values that prevail." Mr. Ramsay’s intellectual pursuits entail rationality, endurance, foresight, skill, leadership, and strength. In the private world of domestic interchange, a female brain employs different capacities and abilities. Mrs. Ramsay’s caretaking role centers around intimate human relations: intimacy, empathy, imagination, and intuition. Pondering the relative value of these distinctive capacities of the mind, Woolf queries, "[I]s the charwoman who has brought up eight children of less value to the world than the barrister who has made a hundred thousand pounds?" The problem with comparing values is that "we have no rods with which to measure them."

Contemporary psychological theory takes parallel notice of a "splitting of love and work that relegates expressive capacities to women while placing instrumental abilities in the masculine domain." Carol Gilligan identifies "two modes of judging, two different constructions of the moral domain—one traditionally associated with masculinity and the public world of social power, the other with femininity and the privacy of domestic interchange." Women’s moral development has traditionally appeared inferior to that of men because it has been measured according to the sole existing criteria: the masculine realm of social power. Gilligan develops alternative criteria for measuring moral maturity in women based upon women’s experiences. In doing so, she validates a complementary moral sensibility which arises out of a domestic orientation.

28. THREE GUINEAS, supra note 18, at 38.
30. Id. at 73-74.
31. Id. at 40.
32. Id.
34. Id. at 69.
III. MR. RAMSAY'S WAY OF JUDGING: THE MASULINE PARADIGM

A. Mr. Ramsay's Masculine Moral Sensibility

Gilligan argues that a distinctive masculine moral sensibility originates in a distinctive masculine conception of the self. Mr. Ramsay is his purest masculine self when condensed into the image of a spare channel marker on the edge of a spit of land: "It was his fate, his peculiarity, whether he wished it or not, to come out thus on a spit of land which the sea is slowly eating away, and there to stand, like a desolate sea-bird, alone." Charles Tansley, the young, male philosopher staying with the Ramsays, parodies Mr. Ramsay's egocentric self-definition. Mrs. Ramsay observes his need to assert himself, and so it would always be with him till he got his Professorship or married his wife, and so need not be always saying, 'I-I-I.' For that was what his criticism of poor Sir Walter, or perhaps it was Jane Austen, amounted to. 'I-I-I.' He was thinking of himself and the impression he was making, as she could tell by the sound of his voice, and his emphasis and his uneasiness. The children disliked his point of view. When they talked about something interesting, people, music, history, anything, even said it was a fine evening so why not sit out of doors, then what they complained of about Charles Tansley was that until he had turned the whole thing round and made it somehow reflect himself and disparage them—he was not satisfied.

Mr. Ramsay—and Charles Tansley to the extent that he emulates Mr. Ramsay—reflect the paradigm of the masculine existential experience of the self as a separate individual. According to Gilligan, men tend to define themselves as autonomous individuals and to conceive of society as a collection of autonomous individuals. The process of defining the autonomous self requires the process of separation from others. The male "I" is defined through separation; in the process of defining the masculine "I," the male also defines the external "other."

Mr. Ramsay's guardedness over his privacy reflects this self-protective autonomy. Mr. Ramsay glares at William Bankes and Lily Briscoe for the egregious act of having "encroached upon a privacy" and "slammed his private..."

35. GILLIGAN, supra note 33, at 2-23. See also BELENKY ET AL., supra note 24, at 8, 43-48.  
36. TO THE LIGHTHOUSE, supra note 5, at 43-44.  
37. Id. at 106.  
38. Id. at 8.
door on them." Mr. Ramsay's autonomous self-concept affects how he perceives and constructs the world through the window of his separate existence. Others are viewed as separate and distinct entities; he experiences others as something wholly external or objectified. Mr. Ramsay looked once at his wife and son in the window, and as one raises one's eyes from a page in an express train and sees a farm, a tree, a cluster of cottages as an illustration, a confirmation of something on the printed page to which one returns, fortified, and satisfied, so without his distinguishing either his son or his wife, the sight of them fortified him and satisfied him . . . .

Not only does Mr. Ramsay define his family in objective terms, he defines himself by objective criteria: the number of books he has published, their value over time, the number of lectures he gives, and tributes he receives. He manifests what Gilligan considers a masculine definition of the self that is positional or defined in relation to an abstract ideal of success. Mr. Ramsay defines himself, his world, and his place in his world as separate, objective, and positional.

Mr. Ramsay's existential state of separateness and externalized world view bear a striking resemblance to that of the "separate knower." Separate knowers suppress the self and take an impersonal stance toward their object of study, trying to "weed out the self so that the flowers of pure reason may flourish." Separate knowers' procedures for making meaning are strictly impersonal. They rely on procedures which are "most highly elaborated and explicitly codified." Separate knowers speak objectively or dispassionately and examine an issue from a strictly pragmatic point of view, relying exclusively on disinterested reason. They tend to espouse a morality based on impersonal procedures and equate moral maturity with "the capacity for autonomous thinking." The morally mature individual believes there is

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39. Id. at 18, 25.
40. Id. at 33.
41. See, e.g., id. at 107, 118.
42. GILLIGAN, supra note 33, at 35.
43. BELENKY ET AL., supra note 34, at 101.
44. Id. at 109 (citation omitted).
45. Id.
46. Id.
47. Id. at 102.
48. GILLIGAN, supra note 33, at 17. Gilligan illustrates typical masculine morality in "the Heinz dilemma." Id. at 25-26. In this hypothetical situation Heinz considers whether or not to steal a drug which he cannot afford to buy in order to save his wife's life. The subject, eleven-year-old Jake, constructs the dilemma in terms of abstract individual rights—those of property and life—and seeks to solve it in an abstract logical way. He relies on the impersonal system of logic and law, considering the moral dilemma to be "sort of like a math problem with humans." Id. at 26. It is this capacity for formal thought demonstrated by logical deduction which enables him to score high on the traditional scale of moral maturity.
certainty in absolute judgment and that a logical hierarchy of moral values reveals an absolute truth. Similarly, the abstract logical thinking of mathematics characterizes masculine intelligence in the novel. Mrs. Ramsay considers:

A square root? What was that? Her sons knew. She leant on them; on cubes and square roots; that was what they were talking about now. . . she let it uphold her and sustain her, this admirable fabric of the masculine intelligence, which ran up and down, crossed this way and that, like iron girders spanning the swaying fabric, upholding the world . . .

Mr. Ramsay’s work is characterized as an abstract, impersonal, and self-contained system of logic. Whenever Lily Briscoe

“thought of his work” she always saw clearly before her a large kitchen table. It was Andrew’s doing. She asked him what his father’s books were about. “Subject and object and the nature of reality,” Andrew had said. And when she said Heavens, she had no notion what that meant. “Think of a kitchen table then,” he told her, “when you’re not there.” So now she always saw, when she thought of Mr. Ramsay’s work, a scrubbed kitchen table. . . . grained and knotted, whose virtue seems to have been laid bare by years of muscular integrity . . .

The kitchen table was something visionary, austere; something bare, hard, not ornamental. There was no colour to it; it was all edges and angles; it was uncompromisingly plain. But Mr. Ramsay kept always his eyes fixed upon it, never allowed himself to be distracted or deluded, until his face became worn too and ascetic and partook of this unornamented beauty . . .

The table may be seen as a closed system that functions by the internally consistent mechanical application of abstract rules. The absence of human presence emphasizes the impersonal nature of Mr. Ramsay’s thinking. All contextual details about individual lives are filtered out, and human problems are reduced to abstract principles.

Mr. Ramsay’s masculine mode of decision-making is exemplified by his approach to the central dilemma presented in the first section of the novel: whether they will be able to make the expedition to the Lighthouse. Mr.

49. Id. at 32.
50. To the Lighthouse, supra note 5, at 105-06.
51. Id. at 23.
52. Id. at 155.
Ramsay takes an objective approach to resolving this issue. He only collects what he considers to be uncompromising facts: directly observable bits of evidence. He looks out the window and notes that the wind direction was due west (it blew from the worst possible direction for landing at the Lighthouse) and the barometer was falling. Only these objective facts are relevant evidence. They could be demonstrated with his characteristic “exactness.” Believing that the answer is logically deducible from his empirical bits of evidence, Mr. Ramsay concludes that the weather would not be fine “with some secret conceit at his own accuracy of judgment. What he said was true. It was always true. He was incapable of untruth; never tampered with a fact” and believed facts were “uncompromising.” He responds to Mrs. Ramsay’s pained look for dashing James’ hopes with a humble concession to ask the Coastguard for his opinion. This masculine response demonstrates an “Authority-right-we” way of thinking.

As a means of measuring his intelligence, Mr. Ramsay considers that if thought is like the alphabet, ranged in twenty-six ordered letters, then his mind could run over the letters one by one, firmly and accurately, until it had reached the letter Q. Mr. Ramsay prides himself on the fact that he could demonstrate Q when few men ever reached Q. The qualities and capacities that have allowed him to get this far are rationality, endurance, foresight, devotion, skill, leadership, and strength. Mr. Ramsay makes a valiant effort to logically demonstrate R; Woolf sketches a caricature of gripping concentration. Mr. Ramsay musters his strength and clenches himself while the veins on his forehead bulge. Despite his intellectual fortitude, Mr. Ramsay cannot get beyond Q. For a moment, a “shutter, like the leathern eyelid of a lizard” flickers in his mind and obscures the letter R. He catches a glimpse of it, but he cannot get to R and resigns himself to die standing at Q. Woolf’s linear image of the alphabet captures the essence of an abstract linear mode of logical thinking. The linear alphabet is a human construct—a mere device to order language and thought. Likewise, Mr. Ramsay’s philosophical abstractions are inadequate constructions to measure and describe human experience or truth. Through her graphic depiction of the search for truth, Woolf implies that behind the shutter in Mr. Ramsay’s mind lies some additional capacity which, if reached, would enable him to comprehend truth. Mr. Ramsay, however, is blinded to those capacities that would allow him to

53. Id. at 32.
54. Id. at 4.
55. Id. at 32.
56. BELENKY ET AL., supra note 24, at 43 (discussing W.G. PERRY, FORMS OF INTELLECTUAL AND ETHICAL DEVELOPMENT (1970) and T.W. ADORNO ET AL., THE AUTHORITARIAN PERSONALITY (1950)). According to this view, men identify with the authority from which knowledge is received. Since his solution is rationally derived, Mr. Ramsay assumes that anyone following reason would arrive at the same conclusion and that the Coastguard would indisputably corroborate his findings. Contradiction by an authority figure is inconceivable to him.
57. TO THE LIGHTHOUSE, supra note 5, at 34.
go beyond logically demonstrable Q, and because of his inability to exercise
them, he will not get to truth. Ultimately, his construct is inadequate.

B. Masculine Jurisprudence

Mr. Ramsay's primary definition of self as an isolated individual engenders
a moral sensibility that conceives of moral issues in terms of abstract rights
of noninterference which can be resolved by means of abstract logical thinking.
This Section first situates Mr. Ramsay's moral sensibility within the
jurisprudence of its time—legal positivism—and subsequently traces a
progression of characteristically masculine legal philosophies which value
autonomy and emphasize separate or objective knowing.

Woolf wrote To the Lighthouse at a time in which the patriarchal legal
system took the shape of legal positivism. Her primary model for positivist
jurisprudence would have been that of her paternal uncle, Sir James Fitzjames
Stephen. James Fitzjames Stephen was a symbol of Victorian rationalism not
just for Woolf but for all of England. He practiced law, attempted to codify
English criminal law, served as Legal Member of the Viceroy's council in
India, and served on the High Court Bench.58 His legal texts, General View
of the Criminal Law (1863) and History of the Criminal Law (1883),
established him as "the great English criminal lawyer of the nineteenth
century."59 Stephen grounded his theory in the work of Bentham, Mills,
Austin, and Maine.60 Stephen viewed law as a practical system maintained
for an existing state of society, and concerned himself with "clearing up the
analytical muddle . . . 'between actual and ideal states of things.'"61 He
believed in the separation between law and morality; law as it actually existed
had to be analytically cleaved from law in its ideal state. Stephen accepted
the strict utilitarian definition of justice which held that the impartial administration
of legal rules was a just end in itself regardless of its effects on society. In
another work, Stephen concluded that "to call a law unjust seems to me to be
the same thing as to call it inexpedient."62 He rejected natural law notions
of justice as nebulous and imprecise ideals reflecting common sentiments.

According to the separation thesis of positivism, law was ethically neutral
and jurisprudence was an analytical method for exposing the nature and

59. Id. at 52.
60. Id. at 44-54. He accepted Bentham's "reverence for facts" and adopted the empiricist stance that
truths can only be ascertained through direct observation. Stephen harbored a complete distrust of intuition.
Id. at 44. This Benthamite reverence for a scientific approach led him to reformulate the general English
theory of evidence. Id. at 73. Stephen felt the "vital function" performed by the law of evidence was "to
prevent fraud and oppression in their worst form, to keep out prejudices which would be fatal to the
administration of justice." Id. at 85 (citation omitted). The doctrine of relevancy was the means by which
Stephen sought to produce a central articulated scientific rationale for the admissibility of evidence.
61. Id. at 47 (footnote omitted). Stephen also adhered to the command theory which defines law as
a command from a political sovereign. Id.
62. JAMES FITZJAMES STEPHEN, LIBERTY, EQUALITY, FRATERNITY 183 (1867).
structure of law. Thus, law could be studied in its practical completeness. Stephen was appalled at what he saw as the disordered state of English law. His objective in writing *A General View* was to “place the study of criminal law among the empirically based social sciences.” Applying the *a priori* analytical methods of Austin and Bentham, he endeavored to boil down cases and statutes to succinct principles of accuracy and clarity so that the criminal law of England could be studied with scientific completeness.

While Stephen was working to establish law as a social science in England, a parallel project was taking place in the United States. Legal formalism was introduced in the mid-nineteenth century by Professor Langdell at Harvard Law School. Langdell asserted that “law is a science and . . . all the available materials of that science are contained in printed books.” He rejected the notion that experience with the law or with people in general had any bearing on one’s qualifications to study or practice law. Langdell hailed the law library as the exclusive source of knowledge relevant to the practice of law. He described it as “the proper workshop of professors and students alike; that it is to us all that the laboratories of the university are to the chemists and physicists, the museum of natural history to the zoologists, the botanical garden to the botanists.”

The typically masculine values of autonomy, noninterference, and abstract rights also find expression in the modern paradigm of liberal legalism. Modern liberal theory treats rights as zones of noninterference. This atomistic conception may be traced to the theory underlying the drafting of the Constitution—individualism was the basis for defining zones of noninterference in the Bill of Rights. The existential condition of separateness, the very fact that “there are different individuals with separate lives” is the “root idea” of Robert Nozick’s theory of a minimal state. Nozick contends that all moral and political philosophy must “reflect the fact of our separate existences.”

According to Nozick, the objective of the minimal state is to treat its citizens

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63. *Id.* at 73.
64. *Id.* at 45.
65. *Id.* at 49. Bentham described the aggregation of these principles as justice in the image of a “phantom” or “imaginary personage, feigned for the convenience of discourse, whose dictates are the dictates of utility.” *Id.* at 183 (footnote omitted).
67. *Id.*
68. *Id.* Legal formalism has been traced to the efforts of merchant and entrepreneurial groups to advance their own interests through a transformation of the legal system. See generally Martin Horowitz, *The Rise of Legal Formalism*, 19 AM. J. LEGAL HIST. 251 (1975). The legal system was shaped to the advantage of commercial interests by establishing legal doctrines that maintained a distribution of economic and political power favorable to the commercial class. Once these legal doctrines were in place, they were characterized as objective and neutral and “gave common law rules the appearance of being self-contained, apolitical, and inexorable, and which, by making ‘legal reasoning seem like mathematics,’ conveyed ‘an air . . . of . . . inevitability’ about legal decisions.” *Id.* at 252 (citation omitted).
71. *Id.*
as "inviolate individuals" and enable each individual to realize his separate conception of the self. 72

As with Nozick, John Rawls' liberal theory of justice emphasizes the individual's right to personal autonomy and employs abstraction as a method of inquiry. Rawls' particular logic rests upon the abstract notion of "the original position." 73 The "original position" is the hypothetical condition of a group of people who must choose a political structure from behind a "veil of ignorance." 74 The veil blinds the participants to their own socioeconomic status, race, and natural endowments. From this imaginary starting place, Rawls presumes that self-interest and mutual disinterest will motivate the actors. Each will want to maximize his own liberties while remaining disinterested in the disadvantages of others. 75

The contemporary law and economics movement is also prototypically masculine in its approach to solving legal issues. Law and economics engrafts another system of abstract thinking onto an already formalist system of logic: it retains the liberal core of applying neutral abstract principles and shapes those principles by applying the economic logic of market behavior. 76 Judge Richard Posner defines justice as the aggregate satisfaction of individual preferences registered in the marketplace. 77 According to Posner's theory of wealth maximization, the just society is the society that maximizes individual wealth. 78 A single objective criterion forms the basis of law and economics, the manifestation of an individual's rational choice as registered by a consensual transaction in the marketplace. 79 Laws promote what people would choose if they were to enter rationally into bargained exchanges. 80 Thus, law and economics relies on rationality not just in the judge's ability to apply abstract principles to promote the choices of individuals, but also in assuming that the basis of the individual's choice is rational. Since voluntary transactions are presumably rationally based, the judge-economist believes his role is to defer to rationally manifested preferences. 81 Employing the scientific sounding

72. Id. at 333-34.
73. JOHN RAWLS, A THEORY OF JUSTICE 118 (1971).
74. Id. at 136-37.
75. See id. at 142. In her critique of Rawls, Mari Matsuda has pointed out that trust and love are not a part of Rawls' world view since Rawls believes, "Nothing would be gained by attributing benevolence to the parties in the original position." Mari J. Matsuda, Liberal Jurisprudence and Abstract Visions of Human Nature: A Feminist Critique of Rawls' Theory of Justice, 16 N.M. L. REV. 613, 626.
76. The "tool" of law and economics is the "assumption that people are rational maximizers of their satisfactions," not just in the marketplace, but in all aspects of human life. RICHARD POSNER, THE ECONOMICS OF JUSTICE 1 (1981).
77. See id. at 65-87.
78. See id.
79. See id. at 88-103.
80. See id.
81. Law and economics recalls the empiricism of Stephen's legal positivism in being a strictly objectivist legal theory and eschewing subjectivity. Law and economics legal theorists rely solely upon objectively manifested contractual preferences registered in the marketplace because they believe that it is impossible to ascertain the subjective well-being of litigants.
terminology of an "interpersonal comparison of utilities," the law and economics perspective implies that knowledge and comparison of the subjective well-being of litigants is beyond the capacity of a rational judge. Subjective data on experience is foreign to law and economics scholars who apply the methodology of a discipline in which marketplace value is quantified with exactitude.

C. Mr. Ramsay on Trial

The characters in To the Lighthouse pass judgment on Mr. Ramsay's character at various points throughout the novel. In doing so, they effectively judge patriarchy as an institutionalized mindset which lacks completeness. Mr. Ramsay's young admirer, Charles Tansley, judged him by his philosophical work and "thought him the greatest metaphysician of the time." Mr. Ramsay, however, is perhaps his own harshest judge. He lacked confidence in his own work and was perpetually plagued by self-doubt. The other characters share his doubt. Lily Briscoe observes:

He must have had his doubts about that table, she supposed; whether the table was a real table; whether it was worth the time he gave to it; whether he was able after all to find it. He had doubts, she felt, or he would have asked less of people."

Mr. Ramsay seeks to compensate for the impersonality, barrenness, and sterility of his abstract work by demanding human attention, sympathy, and praise from his wife and children. "He was a failure" he complained to Mrs. Ramsay as he stood before her demanding sympathy:

It was sympathy he wanted, to be assured of his genius, first of all, and then to be taken within the circle of life, warmed and soothed, to have his senses restored to him . . . . He must have sympathy. He must be assured that he too lived in the heart of life; was needed; not here only, but all over the world.

He exhausts Mrs. Ramsay's "capacity to surround and protect" such that "there was scarcely a shell of herself left for her to know herself by; all was so lavished and spent."
Mrs. Ramsay finds Mr. Ramsay's inconsistency most puzzling. In the public domain his abstract philosophical work was highly regarded, "[u]niversities and people wanting him, lectures and books and their being of the highest importance." However, in the domestic sphere he needed protection. Mrs. Ramsay continually had to hide the truth about the small daily things from him, "not being able to tell him the truth, being afraid, for instance, about the greenhouse roof and the expense it would be, fifty pounds perhaps, to mend it."

The other characters also judge Mr. Ramsay. William Bankes "weighed Ramsay's case" and concluded that domesticity "gave him something . . . but [it] had also . . . destroyed something." What Lily Briscoe "disliked was his narrowness, his blindness, she said . . . he is absorbed in himself, he is tyrannical, he is unjust." This realization "struck her, this was tragedy . . . children coerced, their spirits subdued." Woolf conveys this subjective experience most powerfully through the children's eyes. "He is a sarcastic brute, James would say. He brings the talk round to himself and his books, James would say. He is intolerably egotistical. Worst of all, he is a tyrant." For Cam what "remained intolerable" in her adolescence "was that crass blindness and tyranny of his which had poisoned her childhood and raised bitter storms, so that even now she woke in the night trembling with rage and remembered some command of his; some insolence: 'Do this,' 'Do that,' his dominance: his 'Submit to me.'"

Mr. Ramsay's "window," for which the first section of the book is named, is both a device which enables him to look at the world and a barrier to experiencing the world; it handicaps him from sharing in the experiences of others and feeling with others. In the name of metaphysical truth, Mr. Ramsay arduously constructs a complex world of philosophical abstractions. Locking himself in abstract thought patterns, he remains oblivious to the human suffering his world creates. Through the window of objectivity he could see "to the extraordinary things, with an eye like an eagle's." However, "[w]as it not odd," Mrs. Ramsay reflects, he was "blind, deaf, and dumb, to the ordinary things."
IV. MRS. RAMSAY'S WAY OF JUDGING: THE FEMININE PARADIGM

A. Mrs. Ramsay’s Feminine Moral Sensibility

Mrs. Ramsay’s moral sensibility originates in her strong sense of connected to others. According to Carol Gilligan, women’s primary definition of self lies in connection to others. Thus, female identity formation takes place in the context of ongoing relationships. Mrs. Ramsay defines herself as the mother of eight children. “She would have liked always to have had a baby. She was happiest carrying one in her arms.” Mrs. Ramsay’s existential state of connection echoes Gilligan’s portrait: “[The] interdependence of people’s lives . . . as a web of interconnection where ‘everybody belongs to it and you all come from it.’”

Mrs. Ramsay’s conception of herself is not tied to external criteria. It is subjective. It is realized when Mrs. Ramsay allows herself to be

[h]erself, by herself. . . . To be silent; to be alone. All the being and the doing, expansive, glittering, vocal, evaporated; and one shrunk, with a sense of solemnity, to being oneself, a wedge-shaped core of darkness, something invisible to others. . . . Beneath it is all dark, it is all spreading, it is unfathomably deep . . . .

Her sense of self is not objective and positional but rather a subjective, emotional, and felt identity.

Woolf’s portrait of Mrs. Ramsay is mirrored by Gilligan’s depiction of women as those who describe themselves through actions that bring them into connection with others. “Women’s place in man’s life cycle has been that of nurturer, caretaker, and helpmate, the weaver of those networks of relationships on which she in turn relies.” Mrs. Ramsay’s caretaking and nurturing role defines her in the context of her ongoing relationships with family and guests. Throughout the first section of the novel Mrs. Ramsay is knitting a heather-mixture stocking, knitting together the colorful lives of her children and guests. Mrs. Ramsay reads to her son James, hosts a dinner party, sympathizes with her husband, and poses for Lily’s picture. Lily Briscoe perceives Mrs. Ramsay’s different capacity for knowing but finds it elusive.

97. See Gilligan, supra note 33, at 163-64.
98. See id. at 7.
99. To the Lighthouse, supra note 5, at 58.
100. Gilligan, supra note 33, at 57.
101. Id. at 62.
102. Gilligan, supra note 33, at 17.
“Was it wisdom? Was it knowledge?” Lily wonders. Sitting on the floor with her arms around Mrs. Ramsay’s knees

[s]he imagined how in the chambers of the mind and heart of the woman who was, physically, touching her, were stood, like the treasures in the tombs of kings, tablets bearing sacred inscriptions, which if one could spell them out, would teach one everything, but they would never be offered openly, never made public. . . . For it was not knowledge but unity that she desired, not inscriptions on tablets, nothing that could be written in any language known to men, but intimacy itself, which is knowledge, she had thought, leaning her head on Mrs. Ramsay’s knee.103

While “separate” epistemology relies on impersonal procedures for establishing truth, in “connected” epistemology, truth emerges through intimacy.104 Just as Mr. Ramsay mirrors the “separate knower,” Mrs. Ramsay exhibits the typically female capacity described as “connected knowing.”105 Connected knowing rests on the conviction that “the most trustworthy knowledge comes from personal experience rather than the pronouncements of authorities.”106 At the heart of connected knowers’ procedures for gaining access to other people’s knowledge is the capacity for empathy.107 Since their knowledge comes from experience, the only way they can hope to understand another person’s ideas is to try to share the experience that has led the person to form the idea. According to this theory, women play a “believing game”108 founded upon genuine care which reveals the kind of truth women value—“truth that is personal, particular, and grounded in firsthand experience.”109 Connected knowers try to approximate others’ subjective experiences.110 In contrast to the separate mode of objectivist thinking, this narrative mode of thought involves the search for the meaning of historical and personal events in their full comprehensive richness. “Through empathy [a connected knower] expands her experiential base; she acquires vicarious . . . experience and so expands her knowledge.”111 She learns by adopting the lens of another person. Connected knowers typically

103. TO THE LIGHTHOUSE, supra note 5, at 51.
104. BELENKY ET AL., supra note 24, at 101.
105. Id.
106. Id. at 112-13.
107. Id. at 113.
108. Id. (quoting P. ELBOW, WRITING WITHOUT TEACHERS (1973)) (citation omitted).
109. BELENKY ET AL., supra note 24, at 113.
110. Mrs. Ramsay tries to imagine and communicate how Charles Tansley might have subjectively felt; Tansley responds by conveying his objective experience. “[Mrs. Ramsay] said, the other day, something about ‘waves mountains high.’ Yes, said Charles Tansley, it was a little rough. ‘Aren’t you drenched to the skin?’ she had said. ‘Damp, not wet through,’ said Mr. Tansley, pinching his sleeve, feeling his socks.” TO THE LIGHTHOUSE, supra note 5, at 7-8.
111. BELENKY ET AL., supra note 24, at 115.
engage with the other—they learn to be energetic listeners and to construct another's experience out of the particularity of the circumstances which led to that perception. An individual experience is based not on abstract rationality but on the "experiential logic" of personal experience. A primary sense of connection and intimacy leads to energetic listening and discovery of the experiential logic behind an idea. Mrs. Ramsay

[visited this widow, or that struggling wife in person with a bag on her arm, and a note-book and pencil with which she wrote down in columns carefully ruled for the purpose wages and spending, employment and unemployment, in the hope that thus she would cease to be a private woman whose charity was half a sop to her own indignation, half a relief to her own curiosity, and become what with her untrained mind she greatly admired, an investigator, elucidating the social problem.

Mrs. Ramsay constructs the experience of others not in the objective terms of abstract logic, but through empathic or connected knowing.

Connected knowing involves not just thinking in contextual particularity but feeling. It "entails 'generous thinking' and 'receptive rationality.'" It requires "the deliberate, imaginative extension of one's understanding into positions that initially feel wrong or remote." Connected knowers use images not of invading another mind but of opening themselves up to receive another's experience into their own minds. Mrs. Ramsay thought of herself as "a sponge sopped full of human emotions." At her dinner party

Her eyes were so clear that they seemed to go round the table unveiling each of these people, and their thoughts and their feelings, without effort like a light stealing under water so that its ripples and the reeds in it and the minnows balancing themselves, and the sudden silent trout are all lit up hanging, trembling.

Mrs. Ramsay's subjective knowledge is not external but internal. Her instinctive truth is personal, private, and subjectively known or intuited. "Truth, for subjective knowers, is an intuitive reaction—something experienced, not thought out, something felt rather than actively pursued or

112. Id.
113. To the Lighthouse, supra note 5, at 9.
114. BELENKY ET AL., supra note 24, at 121 (quoting NODDINGS, supra note 33) (citation omitted).
115. BELENKY ET AL., supra note 24, at 121. One woman explains, "I receive the other into myself, and I see and feel with the other." Id. at 122.
116. Id.
117. To the Lighthouse, supra note 5, at 32.
118. Id. at 106.
constructed.”119 This theory holds that women see themselves as “conduits through which truth emerges,”120 and identify truth “as feelings that come from within” in contrast to “ideas that come from without.”121 Truth is a feeling; Lily Briscoe believes that Mrs. Ramsay experiences a “simple certainty.”122 “Subjectivist women distrust logic, analysis, abstraction and even language itself” in turning inward for answers.123 Mrs. Ramsay could not follow “ugly academic jargon.”124 “Her simplicity fathomed what clever people falsified. Her singleness of mind made her drop plumb like a stone, alight exact as a bird, gave her, naturally, this swoop and fall of the spirit upon truth . . . .”125

Intuition is symbolized by the Lighthouse beam: Mrs. Ramsay “[l]ooked at the steady light . . . which was so much her, yet so little her . . . as if it were stroking with its silver fingers some sealed vessel in her brain whose bursting would flood her with delight . . . .”126 In contrast to Mr. Ramsay’s linear, logical thought process, Mrs. Ramsay’s intuitive process is more like an organic sound and light improvisation:

Words . . . began washing from side to side of her mind rhythmically, and as they washed, words, like little shaded lights, one red, one blue, one yellow, lit up in the dark of her mind, and seemed leaving their perches up there to fly across and across, or to cry out and to be echoed . . . .127

Connected knowing creates a communal “connected-knowing group.”128 It is social form of intelligence—a collaborative exploration.

Connected knowers see personality as adding to the perception, and so the personality of each member of the group enriches the group’s understanding. Each individual must stretch her own vision in order to share another’s vision. Through mutual stretching and sharing the group achieves a vision richer than any individual could achieve alone.129

At the center of To the Lighthouse is the dinner party at which Mrs. Ramsay successfully creates a community among her guests and family through

119. BELENKY ET AL., supra note 24, at 69.
120. Id.
121. Id.
122. TO THE LIGHTHOUSE, supra note 5, at 50.
123. BELENKY ET AL., supra note 24, at 71.
124. TO THE LIGHTHOUSE, supra note 5, at 12.
125. Id. at 29.
126. Id. at 64-65.
127. Id. at 119.
128. BELENKY ET AL., supra note 24, at 118.
129. Id. at 119.
the process of shared communication or social inquiry. Mrs. Ramsay judges herself by her ability to create this connection. She concludes that the dinner is a "triumph" because, through the process of communication, she has created "that community of feeling with other people which emotion gives as if the walls of partition had become so thin that practically (the feeling was one of relief and happiness) it was all one stream . . . ." When the candles were lit, "[s]ome change at once went through them all, as if . . . they were all conscious of making a party together in a hollow, on an island; had their common cause against the fluidity out there." Mrs. Ramsay elicits subjective points of view from all of her guests. In doing so, she legitimizes felt personal experience as relevant inquiry. She convinces Lily to draw Charles Tansley into discussion of the Lighthouse and to elicit his personal story of being thrown from a boat as a baby. By interweaving personal topics of conversation—private letters—with the impersonal—the fishing industry, the weather, the government—Mrs. Ramsay orchestrates collective social intelligence out of subjective points of view in which the personal informs the political.

The way in which Mrs. Ramsay defines and seeks to resolve dilemmas reflects her connected vision of herself and her connected ways of knowing. Gilligan derives a developmental construct of morality from the lives of women, in which relationships are primary. Gilligan articulates an "ethic of care" that stems from an awareness of interconnection. The ethic of care "which reflects a cumulative knowledge of human relationships, evolves around a central insight, that self and other are interdependent . . . . [t]he activity of care enhances both others and the self." Seeing individual lives as "connected and embedded in a social context of relationship[s]" expands the moral perspective to encompass a notion of "collective life" or web of dynamic interdependence. Morality is premised on sustaining connection; the moral life of integrity is centered on restorative activities of care to mend a "fracture of human connection" or "failure of relationship." It is not a metaphysical morality that strives to attain an abstract ideal; rather, it is a responsive morality—a process of making decisions with care. Women, she argues, do not typically organize their world through abstract principles; human relationships are the organizing principle. According to this view, the hierarchy of abstract rights is an illusory organizing principle compared
to the felt interconnection of a web of relationships.140

The ideal of the ethic of care, of “seeing and responding to need, taking care of the world by sustaining the web of connection so that no one is left alone,”141 underlies the expedition to the Lighthouse. The purpose of the expedition is to execute an ethic of care. Mrs. Ramsay imagines what it would be like to be stuck in a Lighthouse in dreary weather.142 She is knitting a stocking for the Lighthouse keeper’s son who had a tubercular hip and intends to send this to the Lighthouse along with a pile of magazines and some tobacco. Mrs. Ramsay asks her daughters:

For how would you like to be shut up for a whole month at a time, and possibly more in stormy weather, upon a rock the size of a tennis lawn? . . . and to have no letters or newspapers, and to see nobody; if you were married, not to see your wife, not to know how your children were,—if they were ill, if they had fallen down and broken their legs or arms; to see the same dreary waves breaking week after week, and then a dreadful storm coming, and the windows covered with spray, and birds dashed against the lamp, and the whole place rocking, and not be able to put your nose out of doors for fear of being swept into the sea?143

The moral dilemma is not how to exercise one’s rights without interfering with the rights of others, but rather is how to lead a moral life which includes obligations to others. Mrs. Ramsay believes in harmonizing social discord: “Strife, divisions, difference of opinion, prejudices twisted into the very fibre of being . . . . It seemed to her such nonsense—.inventing differences, when people, heaven knows, were different enough without that.”144 Mrs. Ramsay considers herself to be responsible to the world as a whole:

Life . . . . A sort of transaction went on between them, in which she was on one side, and life was on another, and she was always trying to get the better of it, as it was of her; and sometimes they parleyed (when she sat alone); there were, she remembered, great reconciliation scenes; but for the most part, oddly enough, she must admit that she felt this thing that she called life terrible, hostile, and quick to pounce on you if you gave it a chance. There were the eternal problems: suffering; death; the poor. There was always a woman dying of cancer even here.145

140. Id. at 147.
141. Id. at 62.
142. To the LIGHTHOUSE, supra note 5, at 5.
143. Id.
144. Id. at 8.
145. Id. at 59-60.
The rights conception of morality is geared to arriving at an objectively fair or just resolution to moral dilemmas upon which all rational persons could agree.\textsuperscript{146} The responsibility conception focuses on the "contextual relativism" of the resolution.\textsuperscript{147} The mode of thinking for resolving the moral problem is contextual and narrative-based rather than formal and abstract. For Gilligan, women's judgments are contextual judgments bound to the particulars of time and place and resisting categorical formulation. Thus, the resolution of a moral issue must take into account the subjective impact of the decision in a particular circumstance. There are no "right" answers to moral issues; answers are only right or wrong in relation to their particular circumstances.

Mrs. Ramsay exhibits this contextual mode of judgment in her analysis of the unfairness of the English dairy system. At her dinner party Mrs. Ramsay was "thoroughly roused" and "talked very emphatically of real butter and clean milk. Speaking with warmth and eloquence, she described the iniquity of the English dairy system, and in what state milk was delivered at the door, and was about to prove her charges\textsuperscript{148} when she was interrupted by the laughter of her children and her husband. Mr. Ramsay dismisses Mrs. Ramsay's concerns as mere folly compared to his lofty abstract thinking. But for Mrs. Ramsay,

\begin{quote}
[i]t was more true about hospitals and drains and the dairy. About things like that she did feel passionately, and would, if she had had the chance, have liked to take people by the scruff of their necks and make them see. No hospital on the whole island. It was a disgrace. Milk delivered at your door in London positively brown with dirt. It should be made illegal.\textsuperscript{149}
\end{quote}

Interestingly, Mrs. Ramsay's maternal role attunes her to social problems that directly represent a failure of society to nurture: hospitals and the dairy system are two social institutions of nurturance. These failures Mrs. Ramsay finds particularly egregious. They are societal failures according to her criteria of an ethic of care.

Mrs. Ramsay’s criteria for assessing whether or not the expedition to the Lighthouse will occur are different from those of Mr. Ramsay. Mr. Ramsay relies exclusively on empirical observations of the weather and logically deduces that the expedition will not occur. He emphatically insists that "it

\textsuperscript{146} GILLIGAN, supra note 33, at 21-22.
\textsuperscript{147} Id. at 22.
\textsuperscript{148} To THE LIGHTHOUSE, supra note 5, at 103.
\textsuperscript{149} Id. at 57-58.
won't be fine"\textsuperscript{150} and "[t]here wasn't the slightest possible chance that they could go to the Lighthouse."\textsuperscript{151} For Mrs. Ramsay,

[t]o pursue truth with such astonishing lack of consideration for other people's feelings, to rend the thin veils of civilization so wantonly, so brutally, was to her so horrible an outrage of human decency that, without replying, dazed and blinded, she bent her head as if to let the pelt of jagged hail, the drench of dirty water, bespatter her unrebuked.\textsuperscript{152}

Mrs. Ramsay's reaction demonstrates her belief that "[t]he blind willingness to sacrifice people to truth . . . has always been the danger of an ethics abstracted from life."\textsuperscript{153} Mrs. Ramsay is aware of the weather conditions, but she consistently expresses the hope that the expedition will take place. She offers the hope that the wind direction might change.\textsuperscript{154} She knows that the expedition means a lot to James—it is a passion of his—and she takes his feelings into consideration in making her judgment.\textsuperscript{155} Mr. Ramsay can not accept this response. "The extraordinary irrationality of her remark, the folly of women's minds enraged him. He had ridden through the valley of death, been shattered and shivered; and now, she flew in the face of facts, made his children hope what was utterly out of the question, in effect, told lies."\textsuperscript{156} While rationality—the objective assessment of facts—is the sole criterion for Mr. Ramsay, Mrs. Ramsay judges the prospect of making the expedition in the context of James' subjective feelings. She empathizes with her son: "'Perhaps you will wake up and find the sun shining and the birds singing,' she said compassionately, smoothing the little boy's hair, for her husband, with his caustic saying that it would not be fine, had dashed his spirits she could see."\textsuperscript{157} Mrs. Ramsay does not limit herself to objective evidence. She can imagine a clear day in the future even though she cannot directly observe it at the moment. Judgmentally, this ability to imagine a clear day can be instrumental in providing the impetus for reform. The first step toward reform is the capacity to envision a brighter possibility.

\textsuperscript{150.} Id. at 4.  
\textsuperscript{151.} Id. at 31.  
\textsuperscript{152.} Id. at 32.  
\textsuperscript{153.} GILLIGAN, supra note 33, at 104.  
\textsuperscript{154.} TO THE LIGHTHOUSE, supra note 5, at 31.  
\textsuperscript{155.} Id. at 3.  
\textsuperscript{156.} Id. at 31.  
\textsuperscript{157.} Id. at 15.
B. **Envisioning Feminine Jurisprudence**

According to legal theorist Judith Resnik, "The Judge, as Justitia, as Other, cannot be."\(^{158}\) The emblems surrounding the goddess symbolize the classical vision of the proper judicial attitude. Justitia is depicted with scales, representing the obligation to weigh matters fairly through an abstract mode of "moral geometry."\(^{159}\) Justitia also possesses a sword, symbolizing her power to enforce decisions through domination and force, and wears a blindfold which protects her from knowledge of the identity of the parties, ostensibly freeing her from bias.\(^{160}\) This classical image presupposes that disengagement and dispassion are required for judges to decide cases fairly and impartially. Resnik seeks to transform the judge "from a powerful unrelated 'Other' to a connected, powerful, and responsible not-so 'other.'"\(^{161}\) Resnik redefines the meaning of "judicious" in light of Gilligan's ethic of care. In opposition to the traditional image of the judge as independent, impartial, and disengaged, Resnik's judge is empathic, imaginative, caring, nurturing, and engaged.

Resnik calls upon the work of feminist philosopher Sara Ruddick in considering how the socialized experience of women as mothers might transform the judicial role.\(^{162}\) Mrs. Ramsay exhibits what Ruddick calls "maternal thinking,"\(^{163}\) a concept derived from "features of the mothering experience."\(^{164}\) The lesson of maternal thinking is to "bring a transformed maternal thought into the public realm, to make the preservation and growth of all children a work of public conscience . . . [and to] join in articulating a theory of justice shaped by and incorporating maternal thinking."\(^{165}\) Resnik suggests broadening the critical social practice of "mothering" to include the skills and human qualities exercised in the more general category of

\(^{158}\) Judith Resnik, *On The Bias: Feminist Reconsiderations of the Aspirations for our Judges*, 61 S. Cal. L. Rev. 1877, 1908 (1988). The attributes of objectivity and abstraction which informed the legal theory of patriarchal society also shaped the image of the patriarchal judge and the hierarchical structure of the judiciary. *Id.* at 1879.

\(^{159}\) *Id.* at 1882.

\(^{160}\) The modern conception of the judicial role derives from this image of a "powerful unrelated 'Other.'" Impartiality is celebrated as the preeminent judicial virtue, legitimating the exercise of dispassionate objectivity. Subjectivity is forbidden as a form of bias. *Id.* at 1879-82.

\(^{161}\) *Id.* at 1880.

\(^{162}\) Ruddick emphasizes the contrast between the public realm of social power and the private realm of domestic life and notes that the experiences of women as mothers in the private domain is removed from the domain of societal decision-making. Ruddick poses the question, "Do women, who now rightfully claim the instruments of public power, have cultures, traditions, and inquiries which we should insist upon bringing to the public world?" *Id.* at 1916 (quoting Sara Ruddick, *Maternal Thinking*, 6 Feminist Stud. 342, 345 (1980)).

\(^{163}\) See Sara Ruddick, *Maternal Thinking* 23-27 (1989). "Maternal" is a social category; there can be "mothers" of both sexes. Maternal thinking is a caretaking mode which comes from an orientation of caring and sensitivity to others. The knowledge acquired through intimacy and relationships is "intuitive" or "instinctive," not academic.


\(^{165}\) *Id.* at 1918 (quoting Ruddick, *supra* note 162, at 361).
"caretaking." The judicial aspiration would be to translate the intimate connections developed out of caretaking into modes of expression in judicial relationships. As a socially embedded process, "[a]djudication . . . has the potential for genuine contextualism, for taking seriously the needs of individuals affected by decisions . . . . it can be fluid and responsive."

Resnik envisions a "judiciary of nurturance" based upon learning from "maternal thinking": "We do not, but we could, demand that those who hold power do so with attentive love, with care, with nurturance, with a responsible sense of one's self as connected to and dependent upon those who are being judged." Resnik describes the feminist mode of adjudication of Shirley Abrahamson, a Wisconsin Supreme Court Justice. Abrahamson considers, "'What does my being a woman specially bring to the bench?' It brings me and my special background. All my life experiences—including being a woman—affect me and influence me . . . ."

A reconceptualization of the judge requires a new ichnography. Resnik's judge bears a closer resemblance to Woolf's Mrs. Ramsay than to the traditional Justitia. Mrs. Ramsay's symbol of power is not an instrument of force and aggression (a sword) but rather is an instrument of connection (her knitting needles). Knitting her reddish-brown heather stocking, she lovingly knits the lives of her family and guests together into a connective organic community. Removing Justitia's blindfold to allow her to see the litigants in their contextual particularity would yield a partial vision through a single pair of eyes. The maternal judge must exercise her empathy to experience the subjective lives of the litigants. Accordingly, Mrs. Ramsay is identified with the Lighthouse beam: "her eyes were so clear that they seemed to go round the table unveiling each of these people, and their thoughts and their feelings, without effort like a light stealing under water."

The nonempathic judge believes the subjective experience of the litigants is "cognitively impenetrable" and relies on objective behavioral

166. Id.
167. Id. at 1909. See also Carrie Menkel-Meadow, Portia in a Different Voice: Speculations on a Women's Lawyering Process, 1 BERKELEY WOMEN'S L.J. 39 (1985). Menkel-Meadow argues that the Anglo-American adversarial litigation model reflects the masculine values of persuasion, hierarchy, competition, and binary results. She theorizes that women might create a more cooperative form of advocacy. Id. at 50-55. Women might create a personal conversation with the fact-finder instead of relying on a macho ethic of persuasive intimidation and power. Id. at 53-54. A heightened sense of empathy in women also suggests that women might choose mediation as a more cooperative form of dispute resolution than litigation. Id. at 52-53 & n.78.
168. Resnik, supra note 158, at 1922.
169. Id. at 1928 (quoting Shirley S. Abrahamson, The Woman Has Robes: Four Questions, 14 GOLDEN GATE U. L. REV. 489, 492-94 (1984) (remarks given at the Second Annual Meeting of the National Association of Women Judges in Washington D.C. (Oct. 5, 1980)). Through her speeches, writings, and actions Justice Abrahamson has attempted to bridge the gulf between the private world of intimate human relations and the public sphere of judging. Justice Abrahamson has urged citizens to participate in our judicial culture—to visit courthouses and educate themselves. She has also urged judges to step down from the bench and visit courtrooms in the capacity of citizens. Id. at 1929.
170. To THE LIGHTHOUSE, supra note 5, at 106.
proxies—private contracts and public legislative votes. The general principle of adjudication for nonempathic, conservative judges is a perceived moral obligation to regard private contracts and legislative votes as inviolable mechanisms which dictate the morally required result.

Legal theorist Robin West advocates the integration of "sympathetic understanding" into the act of judging and conceives of a feminist ethic of judicial paternalism. In doing so, West draws a new conception of the judge as a moral actor. For West, the judiciary's deference to contractual and legislative preferences does not constitute a defensible moral impulse; rather, a deference to preference constitutes a moral failure. West asserts that "far from being impossible, as the conservative legalists insist, an interpersonal comparison of subjective utility is the act of love, care, or sympathy that constitutes the essence of judicial paternalism." She offers a broader vision of the competencies of the judge as a moral actor. She rejects the assumption that we cannot know the subjective welfare of litigants. Rather, she argues, the refusal to sympathize with others is self-imposed, and "does not reflect an inherent limitation on our moral capacities." A "sympathetic understanding" is possible.

West maintains that knowledge of the subjectivity of others is acquired sympathetically, not rationally. "[I]t is gained through the heart, not the head. It is an act of care, not of reason." The ability to understand sympathetically requires a moral choice to become sympathetically engaged with the litigants through exercise of the "sympathetic imagination." It is a direct understanding of another's pain, sorrow, or suffering: "When we sympathize with the pain of another . . . we acquire a sense of the subjective feel, intensity, quantity, quality, and perhaps most crucially, the importance of that pain as felt by the other." The judge acquires the knowledge of the subjective welfare and interests of the parties before her by sympathetically listening to the narratives of the parties and opening herself to their stories “to allow herself to be moved.”

West's insistence upon the judge's innate sympathetic capability leads her to a different conception of the moral act. The moral act is not one of deference, it is one of sympathetic engagement. Judges are particularly well-positioned institutionally to make sympathetic judgments by virtue of the case-by-case nature of adjudication and the immediacy of the litigants’

172. Id. at 667-69.
173. Id. at 680 (1990). Sympathetic understanding involves "a direct apprehension of the subjective suffering or well-being of the other." Id.
174. Id. at 691.
175. Id. at 665, 700-03.
176. Id. at 665.
177. Id. at 700.
178. Id. at 685.
179. Id. at 701.
180. Id. at 681.
181. Id. at 665, 680.
narratives. West analyzes the recent case of *In Re Baby M* in which a New Jersey trial court upheld a private surrogacy contract. For West, "a regime of reasoned, rational, and efficient decisions unchecked by the demands of love raises . . . [a] horrific vision." The refusal to sympathize with the suffering of others is a moral choice, an act of will, an intentional and aggressive refusal to face human pain and suffering, not an inherent limitation on the judge's moral capacity. West's moral judge will employ her sympathetic imagination and "ask, imagine, analogize, listen, and feel her way to an answer."

Robin West asserts that jurisprudence is "masculine" because jurisprudence is about the relationship between human beings and the laws we actually have, and the laws we actually have are "masculine" both in terms of their intended beneficiary and in authorship. . . . We will not have a genuinely ungendered jurisprudence (a jurisprudence "unmodified" so to speak) until we have legal doctrine that takes women's lives as seriously as it takes men's.

West calls for a feminist jurisprudence derived from the context of women's distinctive material and existential connection to others. She argues that the "separation thesis"—the assumption that all individuals are separate and cut off from each other—is the unstated norm of historical and contemporary legal theory, and that it does not apply to women. Rather, West advances a "connection thesis" as a foundation for her jurisprudence: "Women are actually or potentially materially connected to other human life. Men aren't."

West highlights two separate projects of feminist jurisprudence. The first is the critique of patriarchal jurisprudence or the uncovering of "patriarchal jurisprudence" from the "protective covering of jurisprudence." The aim

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182. *Id.* at 665.
183. 525 A.2d 1128 (N.J. Super. Ct. 1987), *aff'd in part, rev'd in part*, 537 A.2d 1227 (N.J. 1988), *on remand*, 542 A.2d 52 (N.J. Super. Ct. 1988) (original trial court opinion upheld surrogacy contract between biological father and biological mother requiring biological mother to surrender child to biological father and his spouse and relinquish custody after birth, but ultimately allowing liberal visitation rights for the biological mother). According to West, the trial judge's refusal to intervene was a judicial failure because it was a failure to sympathize with the biological mother's pain. *West, supra* note 173, at 700-01. West argues that the judge should have linked cognition to sympathy and intervened paternalistically to reach a moral decision. The court's opinion "reveals a stark insensitivity to the desperation of a woman who is forced to sell a child to whom she has given birth," *id.*, and "constituted a failure of sympathy, a refusal to care, a turning away from the other, and accordingly, a breach of the court's moral role." *Id.* at 665.
185. *See id.* at 700-01.
186. *Id.* at 703.
188. *Id.* at 1-3.
189. *Id.* at 14.
190. *Id.* at 60. West likens the patriarchal critique to "shining a light on darkness, or proving a
of the second project, "reconstructive" feminist jurisprudence, is to re-articulate rights in such a way as to reveal their origin in women's distinctive connectedness. Gender-specific harms ought to be cast in a language that emerges from the context of women's true nature. West maintains that gender-specific laws are necessary to the task of constructing a jurisprudence "unmodified" by an implicit masculine norm. West describes the conceptual and political challenge of feminist jurisprudence. She concludes:

But jurisprudence—like law—is persistently utopian and conceptual as well as apologist and political: jurisprudence represents a constant and at least at times sincere attempt to articulate a guiding utopian vision of human association. Feminist jurisprudence must respond to these utopian images, correct them, improve upon them, and participate in them as utopian images, not just as apologies for patriarchy. Feminism must envision a post-patriarchal world, for without such a vision we have little direction. We must use that vision to construct our present goals, and we should, I believe, interpret our present victories against a backdrop of that vision.

Thus the continuous cycle of feminist jurisprudential vision and revision can contribute to the creation of a humanist jurisprudence.

In light of Virginia Woolf's remark that "a woman's writing is always feminine; it cannot help being feminine: the only difficulty lies in defining what we mean by feminine," consider legal theorist Suzanna Sherry's contention: "What is true of women's writing is also true of women's jurisprudence." Calling upon Gilligan's work, Sherry contends that while the "masculine vision parallels pluralist liberal theory, the feminine vision is more closely aligned with classical republican theory . . . ." She raises the possibility of the emergence of a feminine "jurisprudence of community" based upon the Jeffersonian classical republican tradition that will balance individualist liberal philosophy. As in feminist theory, the central theme in the classical paradigm is connection rather than autonomy. In classical theory, humans are perceived primarily as members of a community, and self-interest is subordinated to the good of the community. Classical theory rejects the atomistic liberal modern paradigm in favor of a holistic view of society. "The republicans conceived of society in organic terms, viewing it as

negative—it involves looking at what lies between the images of legalism." Id. at 67.

191. Id. at 61, 69.
192. Id. at 71-72.
193. VIRGINIA WOOLF, Women Novelists, in WOMEN AND WRITING, supra note 29, at 68, 70 (1918).
195. Id.
196. Id. at 543-44.
an independent entity distinct from its members." The individual achieved liberty and happiness by sharing in collective freedom and happiness. A unitary community public good was defined by the whole and constituted a "shared telos, a common value system for citizens and their community." A feminine jurisprudence would adapt the communitarian and virtue-based framework of Jeffersonian republicanism. In Sherry's feminine jurisprudence of community, rights would belong to individuals as members of communities rather than as autonomous units.

Elsewhere in her writing, Woolf links the domination of women and nature to a combative individualist masculine mindset: "the vast majority of birds and beasts have been killed by you; not by us." Ecofeminist philosophers combine women's existential state of social interconnection and the knowledge that the biosphere consists of fragile interconnected webs of life to engender a feminine morality of community that focuses on the membership of all life-giving organisms in the biospheric community.

Mrs. Ramsay imaginatively bridges her relationship to the natural world. She personifies the two rooks outside her bedroom window as Mary and "the father rook, old Joseph." She constructs a story about their lives from their movements and imagines that Joseph and Mary are judging, "trying to decide which tree to settle on. Every time, they seemed to change their minds and rose up into the air again . . . ." By endowing them with human attributes and emotions Mrs. Ramsay bridges their experience to her own and is able to empathize with them. Mrs. Ramsay is disturbed that her son, Jasper, amuses himself by shooting birds. She asks Jasper, "Don't you think

197. Id. at 552-53.
198. Id. at 553.
199. Id. at 554 (quoting Letter from John Adams to Mercy Warren (Apr. 16, 1776), in THE SELECTED WRITINGS OF JOHN AND JOHN QUINCY ADAMS 57-58 (A. Koch & W. Peden eds., 1946)).
200. Id. at 555.
201. Sherry points to an emphasis on community in the jurisprudence of Justice Sandra Day O'Connor which distinguishes her from her conservative male colleagues on the Supreme Court. See id. at 592-616. In establishment-clause cases, O'Connor has most explicitly articulated a preference for notions of community over notions of individual rights. See id. at 593-95. Justice O'Connor rejects government endorsement or disapproval of religion based on values of community: "Endorsement sends a message to non-adherents that they are outsiders, not full members of the political community, and an accompanying message to adherents that they are insiders, favored members of the political community." Id. at 594 (quoting Lynch v. Donnelly, 465 U.S. 668, 688 (1984) (O'Connor, J., concurring)). In other decisions "she seems to treat the community as a discrete and important juridical entity . . . often entitled to more favorable treatment than individuals." Id. at 601-02.
202. THREE GUINEAS, supra note 18, at 6.
204. TO THE LIGHTHOUSE, supra note 5, at 80.
205. Id.
206. Robin West has suggested that "the narrative voice might help us achieve that minimal degree of empathy for the 'non-human' world which increasingly appears to be necessary for our own survival." Robin West, Communities, Texts, and the Law: Reflections on the Law and Literature Movement, 1 YALE J.L. & HUMAN. 129, 156 (1988).
they mind . . . having their wings broken?’ Why did he want to shoot poor old Joseph and Mary?”

For Jasper, the “fun of shooting birds” rested on the premise that “they did not feel.” Mr. Ramsay attempts to justify Jasper’s behavior as a natural boyish stage that he will outgrow. Yet it seems likely that Jasper’s youthful domination of nature will mature into Mr. Ramsay’s masculine adult practice of dominating his wife and children.

Ecofeminist philosophy implies expanding the notion of a feminine jurisprudence of community to include nonhuman forms of life in a legal structure of inter-species equity. A feminine jurisprudence of community might emphasize a moral responsibility to preserve interconnected webs of life. An ecosystem could be treated as a juridical entity in which individual species would be protected as members of dynamic bioregional communities. Mrs. Ramsay feels connected not just to people but to things:

Often she found herself sitting and looking, sitting and looking, with her work in her hands until she became the thing she looked at—that light, for example. . . . It was odd, she thought, how if one was alone, one leant to inanimate things; trees, streams, flowers; felt they expressed one; felt they became one; felt they knew one, in a sense were one; felt an irrational tenderness thus (she looked at that long steady light) as for oneself.

A feminine communitarian jurisprudence reflects a sense of collective community over time and includes the interests of future generations. In To the Lighthouse Mrs. Ramsay feels unified with the continuous rhythms and cycles of the natural world and senses the fleeting nature of her individual human existence. She feels the awesome power of nature which “like a ghostly roll of drums remorselessly beat the measure of life, made one think of the destruction of the island and its engulfment in the sea, and warned her . . . that it was all as ephemeral as a rainbow . . . .” Mrs. Ramsay’s sense

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207. To the Lighthouse, supra note 5, at 81.
208. Id.
209. Small inroads have been made in legal theory to account for a conception of an integration of human life with natural life. Legal theorist Christopher Stone has proposed giving legal rights to natural objects including forests, oceans and rivers. See, e.g., Christopher Stone, Should Trees Have Standing? Toward Legal Rights for Natural Objects, 45 S. Cal. L. Rev. 450 (1972). Even Stone’s inclusive efforts, however, are modeled on an individualist rights-based approach.
210. To the Lighthouse, supra note 5, at 63-64.
211. See infra text accompanying notes 216-20.
212. To the Lighthouse, supra note 5, at 16.
of belonging to an intergenerational collective community is expressed by the lines of poetry that wash through her mind:

And all the lives we ever lived,
And all the lives to be,
Are full of trees and changing leaves.\(^{213}\)

She defines her existence on the continuum of human life.

Mrs. Ramsay's sensitivity to time and attunement to temporality distinguish her from Mr. Ramsay, who disenfranchises himself from human fate: "He turned from the sight of human ignorance and human fate and the sea eating the ground we stand on . . . ."\(^{214}\) Mr. Ramsay is obsessed with order and certainty. The uncertainty of the future does not fit into his mode of rational thinking because the future cannot be readily quantified or calculated. He keeps his gaze safely focused on demonstrable historical certainty and shrinks from the task of imagining the future. Mr. Ramsay broods through the first section of the novel, wondering whether his work will endure. Ironically, Mr. Ramsay's work, which is based on the solid island of the observable present, will fail to endure precisely because it disallows a temporal dimension to reality. For that reason it will not be relevant to future generations.\(^{215}\)

In her writing about international environmental jurisprudence, Edith Brown Weiss has expanded the notion of community to include the interests of future generations.\(^{216}\) Weiss considers the equitable allocation of natural resources between members of present and future generations.\(^{217}\) Weiss maintains that fairness to future generations is a relevant consideration in decision-making.\(^{218}\) Since future generations are not represented in the process for making decisions today, they are not able to register their preferences in the marketplace.\(^{219}\) The present generation may benefit from natural resources and cheap waste disposal costs at the expense of future generations.\(^{220}\) Weiss effectively demonstrates that in the environmental

\(^{213}\) Id. at 119.

\(^{214}\) Id. at 44.

\(^{215}\) Mr. Ramsay's utilitarianism shares the fundamental flaw of the law and economics movement. The ethical goal of utilitarianism is to maximize the total amount of happiness in society. Similarly, Posner's theory of wealth maximization defines justice as the aggregate satisfaction of preferences registered in the marketplace. See supra text accompanying notes 77-78. The flaw is that both theories are limited to society as it exists at a particular moment in time. The analysis may in fact lead to the most inefficient results if evaluated in terms of intergenerational equity.

\(^{216}\) EDITH BROWN WEISS, IN FAIRNESS TO FUTURE GENERATIONS: INTERNATIONAL LAW, COMMON PATRIMONY, AND INTERGENERATIONAL EQUITY (1989).

\(^{217}\) Id. at 17-46.

\(^{218}\) "[W]e must systematically incorporate an intertemporal dimension into the traditional spatial foundation of international law." Id. at 3.

\(^{219}\) Id. at 5.

\(^{220}\) Id. at 5, 9. When nonrenewable environmental resources are exhausted, an inequitable distribution of resources over time results. If present generations fail to make a concerted effort to conserve biodiversity, this forecloses applications of the resources that the present generation has not yet appreciated but which could be valuable for future generations. Another inequitable and inefficient imbalance arises
arena, individual wealth maximization may lead to the most efficient results when considered in light of the certainty of this generation's preferences, but grossly inefficient results when viewed through a wide-angle lens encompassing future generations.

C. Mrs. Ramsay on Trial

Woolf has endowed Mrs. Ramsay with the faults, as well as the virtues, of her Victorian archetype. Mrs. Ramsay is not regarded for her intellect. She never had time to read books, and when she did pick up a volume of poetry on a rare occasion Mr. Ramsay “wondered what she was reading, and exaggerated her ignorance, her simplicity, for he liked to think that she was not clever, not book-learned at all. He wondered if she understood what she was reading. Probably not, he thought.” Books are not a part of her world. “Books, she thought, grew of themselves. She never had time to read them.” She has difficulty understanding academic subjects. “Mrs. Ramsay did not quite catch the meaning, only the words, here and there . . . dissertation . . . fellowship . . . readership . . . lectureship.” She thinks “very irrationally,” and commonly exaggerates. “[I]t did her husband good to be three thousand, or if she must be accurate, three hundred miles from his libraries . . . .” Her children ask if they should wait dinner. “‘Not for the Queen of England,’ said Mrs. Ramsay emphatically. ‘Not for the Empress of Mexico.’” Mr. Ramsay reproved her. “‘You’re teaching your daughters to exaggerate . . . .’”

Instead, she is celebrated for her beauty. William Banks observes “she’s no more aware of her beauty than a child . . . .” Lily thinks, “How childlike, how absurd she was, sitting up there with all her beauty . . . .” A proper Victorian wife, she is self deprecating, deferring always to her regarding degradation of the quality of the global natural environment. The present generation reaps short-term benefits from the cheap disposal of wastes and passes along the cost to future generations. See id. at 5-15.

221. Id. at 121.
222. Id. at 27.
223. Id. at 12 (ellipses in original).
224. Id. at 79.
225. Id. at 26.
226. Id. at 79.
227. Id. at 67.
228. Id. at 28.
229. Id. at 29.
230. Id. at 101.
husband. "There was nobody she reverenced more. She was not good enough to tie his shoe strings, she felt."\textsuperscript{231}

She did not like, even for a second, to feel finer than her husband; and further, could not bear not being entirely sure, when she spoke to him, of the truth of what she said . . . . [t]hey must know that of the two he was infinitely the more important, and what she gave the world, in comparison with what he gave, was negligible.\textsuperscript{232}

Lily "remembered what she had been going to say about Mrs. Ramsay. She did not know how she would have put it; but it would have been something critical."\textsuperscript{233} Although Mrs. Ramsay leaves the legacy of her "essence of beauty" to her daughters, along with this legacy comes the legacy of self-sacrifice and servitude to a husband which is deplorable to Lily:

\begin{quote}
Indeed, [Mrs. Ramsay] had the whole of the other sex under her protection; for reasons she could not explain, for their chivalry and valour, for the fact that they negotiated treaties, ruled India, controlled finance; finally for an attitude towards herself which no woman could fail to feel or to find agreeable, something trustful, childlike, reverential; which an old woman could take from a young man without loss of dignity, and woe betide the young girl—pray heaven it was none of her daughters!—who did not feel the worth of it, and all that it implied, to the marrow of her bones!\textsuperscript{234}
\end{quote}

Lily was critical of Mrs. Ramsay’s "simple certainty" that Lily was a fool for wanting to live her life alone, and "laughed almost hysterically at the thought of Mrs. Ramsay presiding with immutable calm over destinies which she completely failed to understand."\textsuperscript{235} Mrs. Ramsay "led her victims, Lily felt, to the altar."\textsuperscript{236} Mrs. Ramsay’s daughters could only silently "sport with infidel ideas which they had brewed for themselves of a life different from hers; in Paris, perhaps; a wilder life; not always taking care of some man or other; for there was in all their minds a mute questioning of deference and chivalry . . . ."\textsuperscript{237}

\begin{flushleft}
\begin{itemize}
\item \textsuperscript{231} \textit{Id.} at 32.
\item \textsuperscript{232} \textit{Id.} at 39.
\item \textsuperscript{233} \textit{Id.} at 48.
\item \textsuperscript{234} \textit{Id.} at 6.
\item \textsuperscript{235} \textit{Id.} at 50.
\item \textsuperscript{236} \textit{Id.} at 101.
\item \textsuperscript{237} \textit{Id.} at 6-7.
\end{itemize}
\end{flushleft}
V. TOWARD AN INTEGRATED JURISPRUDENCE

A. Nature Holds Court: "Time Passes"

The brief interlude in the novel, *Time Passes*, marks a period of precipitous change and destruction. During World War I, the house in the Hebrides is abandoned by the Ramsays and partially destroyed. Ultimately "the patriarchy" destroys itself: Mr. Ramsay's patriarchal cast of mind has led to large-scale societal destruction. In defining himself as separate, as a lone channel marker, Mr. Ramsay had viewed others as threatening to his personal integrity; survival for him was contingent upon self-protection and domination. Domestically, Mr. Ramsay dominated his wife and his children. Socially, conquering uncertainty in the search for truth seemed a benign enterprise, but the same dominating cast of mind culminates in the destruction of World War I.

*Time Passes* is a poetic description of the decay of the Ramsay house which may be seen as a symbol of the legal system. Nature is the main character in this section. Removing the reader from the context of the human point of view reinforces awareness of the patriarchal man-made structure of the existing legal system. The structure seemed inevitable and natural because it had been in existence for so long. By personifying the forces and cycles of nature, Woolf emphasizes that the only things which are constant and inevitable are those cycles. The personified elements of nature indifferently weather the house. "The body of the wind" contained airs which spread throughout the house, undoing the humanly crafted trappings so that the clothes and furniture ceased to hold their human shape. Nature triumphed over the house as it rotted and decayed, "night after night, summer and winter, the torment of storms, the arrow-like stillness of fine weather held their court without interference." The forces of nature are truly impartial in their complete indifference to the structure of the Ramsay house. The airs "blustered" and "nibbled" and pried through the house "indifference, the air of pure integrity." Nature's true indifference mocks the masculine claims of impartiality and reveals the biases and prejudices inherent in the patriarchal legal system.

Although the structure of the patriarchal legal system seemed inevitable and natural, the legal rhetoric of abstract rights of noninterference was merely an imaginative conceptual aid constructed by the masculine mind. What was known as the legal system was, in truth, a masculine legal system constructed from the vantage point of the male experience of separateness and autonomy. The animated forces of nature which subvert and pry away at the structure of

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238. *To the Lighthouse*, supra note 5, at 126.
239. Id. at 126-35.
240. Id. at 134.
241. Id. at 129.
the house find contemporary expression in the critical legal studies movement. Critical legal scholars expose the existing patriarchal structure of law as a system of meaning which has become "reified" by people acting as if abstract rights were an inevitable set of legal principles.

Woolf articulates her antipathy toward a hierarchical separatist society in her essay The Leaning Tower. In this essay Woolf describes nineteenth-century life as:

-divided up, herded together, into many different classes. There is the aristocracy; the landed gentry; the professional class; the commercial class; the working class; and there, in one dark blot, is that great class which is called simply and comprehensively "The Poor"... human life must have looked like a landscape cut up into separate fields. In each field was gathered a different group of people. Each to some extent had its own traditions; its own manners; its own speech; its own dress; its own occupation... each group was tethered, stationary — a herd grazing within its own hedges. And the nineteenth-century writer did not seek to change those divisions; he accepted them. He accepted them so completely that he became unconscious of them.

The class structure became reified such that men "did not see the hedges that divide classes." Woolf in this essay posits that the pervasive rhetoric of abstraction in the privileged "tower" of academia reflected the prosperity and peace of the nineteenth century. World War I changed the view from the tower. Revolution and change throughout the world forced those accustomed to thinking in abstract terms to be aware of public causes and voices of revolution. "The tower they realized was founded upon injustice and tyranny." The tower became a "leaning tower," and as soon as "we feel that a tower leans we become acutely conscious that we are upon a

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243. Robert W. Gordon, New Developments in Legal Theory, in THE POLITICS OF LAW, supra note 242, at 281, 281-93. Critical legal scholars argue that abstract rights were defined by powerful elites to benefit their own interests. By cloaking these rights in the rhetoric of abstraction and neutrality, over time they have come to seem inevitable. The laws are administered by those in positions of power who continue to reinforce the existing hierarchies of wealth and privilege. The language of abstract rights is merely a "belief system" that people have collectively constructed and maintained. Id. at 288-90.


245. Id. at 166.

246. Id. at 172.
The marked tendency of the academic within the leaning tower is the "desire to be whole; to be human . . . the longing to be closer to their kind, to write the common speech of their kind, to share the emotions of their kind, no longer to be isolated and exalted in a solitary state upon their tower, but to be down on the ground with the mass of human kind." Woolf wonders about the next generation: "Must it too be a leaning-tower generation . . . with a foot in two worlds? Or will there be no more towers and no more classes and shall we stand, without hedges between us, on the common ground?" Woolf's utopian vision of a classless and towerless society includes "people who have had a chance to develop their humour, their gifts, their tastes; real people, not people cramped and squashed into featureless masses by hedges." The foundation of a society built out of separateness and difference is inherently fractured. The destruction of the house in "Time Passes" is, perhaps, the destruction of the leaning tower.

B. Lily Briscoe's Moral Struggle: Vision and Revision

Lily Briscoe, an unmarried woman, is engaged in a struggle throughout To the Lighthouse to break from the traditional role in which women "have served all these centuries as looking-glasses possessing the magic and delicious power of reflecting the figure of man at twice its natural size." Mrs. Ramsay pities Lily because "she would never marry; one could not take her painting very seriously; she was an independent little creature . . . ." Lily is under immense pressure to pursue the only occupation open to her sex: marriage. She simultaneously struggles to interpret her landscape through colors, shapes, lights, and shadows, and through the "universal law" of "love" in her feelings and thoughts. Her canvas is the arena for this struggle. She struggles both with Mrs. Ramsay's social command that "people must marry; people must have children" and with Charles Tansley "whispering in her ear, 'Women can't paint, women can't write . . . .'" Lily struggles to realize her artistic vision on her canvas and, in so doing, to realize her self. "[G]athering a desperate courage she would urge her own exemption from the universal law; plead for it; she liked to be alone; she liked to be herself." Mrs. Ramsay's unshakable belief that love, unity, and happiness come through the social institution of marriage is the force behind Paul and Minta marrying. The independent-minded Lily seeks psychically to resist this social pressure.

247. Id. at 171.
248. Id. at 176.
249. Id. at 178.
250. Id. at 179.
251. A ROOM OF ONE'S OWN, supra note 17, at 35.
252. To THE LIGHTHOUSE, supra note 5, at 17.
253. Id. at 60.
254. Id. at 48.
255. Id. at 50.
and redefine the experience of love in her life, just as figuratively in painting
she finds that “the line of the wall wanted breaking.”256 She struggles to
break with the precedent of the patriarchal institution of marriage. Lily
wrestles with Mrs. Ramsay’s shadow, which appears in her painting and her
thoughts as an “obstacle in her design”257 that is “full of authority.”258 It
is not love, nor love between a man and a woman, that Lily rejects. Indeed,
she loved William Bankes.259 Rather, she rejects the forced occupation of
marriage and its concomitant embrace of the feminine value of self-sacrifice.

In the final section of the novel, Lily is painting and initially finds that she
“had taken the wrong brush in her agitation at Mr. Ramsay’s presence, and
her easel, rammed into the earth so nervously, was at the wrong angle.”260
Lily repositions her easel at her own angle, allowing the clear white space to
fill the cognitive space of her mind and stakes out her own point of view. She
resists Mr. Ramsay’s attempt to cast her in the sympathetic female role.

A woman, she had provoked this horror; a woman she should have
known how to deal with it. It was immensely to her discredit, sexually, to stand there dumb. One said—what did one say—Oh, Mr.
Ramsay! Dear Mr. Ramsay! . . . His immense self-pity, his demand
for sympathy poured and spread itself in pools at her feet, and all she
did, miserable sinner that she was, was to draw her skirts a little closer
round her ankles, lest she should get wet.261

Lily does not succumb to the demand that she assume the conventional role
and struggles to maintain her vision.

Her ability to reconstitute love in her work stems from her artistic candor.
Candor is essential to Lily’s artistry: “She would not have considered it honest
to tamper with the bright violet and the staring white, since she saw them like
that, fashionable though it was . . . to see everything pale, elegant, semitransparent.”262 Later, Lily stands trembling before her canvas: “All that
in idea seemed simple became in practice immediately complex.”263 Lily’s
moral struggle is to realize the vision in her mind’s eye:

She could see it all so clearly, so commandingly, when she looked: it
was when she took her brush in hand that the whole thing changed. It
was in that moment’s flight between the picture and her canvas that the
demons set on her who often brought her to the verge of tears and

256. Id. at 193.
257. Id. at 174.
258. Id. at 176.
259. Id.
260. Id. at 157.
261. Id. at 152.
262. Id. at 18-19.
263. Id. at 157.
made this passage from conception to work as dreadful as any down a dark passage for a child. Such she often felt herself—struggling against terrific odds to maintain her courage; to say: “But this is what I see; this is what I see,” and so to clasp some miserable remnant of her vision to her breast, which a thousand forces did their best to pluck from her."\textsuperscript{264}

Lily counters Mrs. Ramsay’s social imperative to marry and forego her painting career by examining with candor the social reality of the institution of marriage. Mr. and Mrs. Ramsay’s marriage “was no monotony of bliss—she with her impulses and quickness; he with his shudders and glooms.”\textsuperscript{265} Mrs. Ramsay had encouraged Paul and Minta to marry and their marriage was not successful. On the contrary, Lily and William found love in their friendship, and Lily finds unity in her work. “For a moment, Lily, standing there, with the sun hot on her back, summing up the Rayleys, triumphed over Mrs. Ramsay, who would never know how Paul went to coffee-houses and had a mistress; . . . how she stood here painting, had never married, not even William Bankes.”\textsuperscript{266} Ultimately Lily overrides Mrs. Ramsay’s social command and realizes “[l]ove had a thousand shapes.”\textsuperscript{267}

The pivotal question for realizing her landscape was

one of the relations of masses, of lights and shadows . . . It was a question, . . . how to connect this mass on the right hand with that on the left. She might do it by bringing the line of the branch across so; or break the vacancy in the foreground by an object (James perhaps) so.\textsuperscript{268}

C. James Ramsay’s Moral Sensibility

*Time Passes* also marks the sense of precipitous change which dominated Woolf’s life. The Industrial Revolution, World War I, the suffrage movement, and radical changes in artistic theory borrowed from the French led Woolf to assert in a lecture to Cambridge undergraduates that, “on or about December, 1910, human character changed.”\textsuperscript{269} The clear outlines of male and female roles and their corresponding sexes of the mind dissolved such that “there was scarcely anything left of body or mind by which one could say, ‘This is he’ or ‘This is she.’”\textsuperscript{270}

\textsuperscript{264} *Id.* at 19.
\textsuperscript{265} *The Lighthouse*, supra note 5, at 199.
\textsuperscript{266} *Id.* at 179.
\textsuperscript{267} *Id.* at 176.
\textsuperscript{268} *Id.* at 53.
\textsuperscript{269} *Woolf*, supra note 13, at 96.
\textsuperscript{270} *The Lighthouse*, supra note 5, at 126. Carol Gilligan notes that the convergence of male and female voices within each sex marks times of crisis and change. *Gilligan*, supra note 33, at 2-3.
The nature of this change in human character is an awakening of the capacity in the mind which would have lain dormant in the previous era. Woolf believed that the two sexes in the mind, masculine reason and feminine intuition, must be united to compose a mind that is “naturally creative, incandescent and undivided.” What Woolf says of writing is true of judging: “It is fatal to be a man or woman pure and simple; one must be woman-manly or man-womanly. Some collaboration has to take place in the mind between the woman and the man before the act of creation can be accomplished. Some marriage of opposites has to be consummated.” That is, one must learn to employ both capacities of the mind in understanding. Male objectivity and female subjectivity must be united to compose a “fertilized” or fully realized mind in which logic is illuminated by the light of intuition and human experience. One must bring together the Victorian Mr. and Mrs. Ramsay who were, as separate entities, incomplete.

James Ramsay is Woolf’s navigator to the Lighthouse, or to justice, because of his capacity for an incandescent mind. At the beginning of To the Lighthouse Mrs. Ramsay envisions James as a judge:

\[\text{he appeared the image of stark and uncompromising severity, with his high forehead and his fierce blue eyes, impeccably candid and pure, frowning slightly at the sight of human frailty, so that his mother, watching him guide his scissors neatly round the refrigerator, imagined him all red and ermine on the Bench. . . .}\]

When Mrs. Ramsay envisions James as a judge in the first scene of the novel she is watching him cut out pictures from an illustrated Army and Navy stores catalogue. In this scene the reader learns that James “had already his private code, his secret language.” James’ experience of cutting out pictures from the catalogue reveals that he has a cognitive template for processing both rational and emotional input. He exhibits his father’s precision in linear thinking as he exactingly guides his scissors around the perimeter of the objects, and he shares his mother’s love as he experiences the emotion of joy emanating from the objects. Cutting out the picture of a refrigerator, James “endowed the picture . . . as his mother spoke, with heavenly bliss. It was fringed with joy.” James does not just look at the picture—he absorbs the catalogued image into his affective experience. Mrs. Ramsay pages through the catalogue in the hope of finding “something like a rake, or a mowing-machine, which, with its prongs and its handles, would need the

271. A ROOM OF ONE’S OWN, supra note 17, at 98.
272. Id. at 104.
273. Id.
274. TO THE LIGHTHOUSE, supra note 5, at 4.
275. Id.
276. Id. at 3.
greatest skill and care in cutting out." In acknowledging the integration of the two qualities, the "skill and care" needed to cut out the pictures, Mrs. Ramsay acknowledges the two types of knowledge—reason and emotion—that will inform James' later decision-making.

As James Ramsay, the "lawgiver," sails toward the Lighthouse, he recalls that in his childhood:

The Lighthouse was then a silvery, misty-looking tower with a yellow eye, that opened suddenly, and softly in the evening. Now—

James looked at the Lighthouse. He could see the white-washed rocks; the tower, stark and straight; he could see that it was barred with black and white; he could see windows in it; he could even see washing spread on the rocks to dry. So that was the Lighthouse, was it?

No the other was also the Lighthouse. For nothing was simply one thing. The other Lighthouse was true too.

Mrs. Ramsay is identified with the Lighthouse beam in the first section of the novel: "She looked out to meet that stroke of the Lighthouse, the long steady stroke, the last of the three, which was her stroke... she became the thing she looked at—that light..." By contrast, the image of the Lighthouse as "a stark tower on a bare rock" confirmed for James "some obscure feeling of his about his own character." Looking at his father reading he knew "[t]hey shared that knowledge." James is in touch not only with physical attributes of the Lighthouse but also with the cognitive capacities for knowing that each attribute represents: the stark tower of rational thought and the Lighthouse beam of intuition.

D. Movements Toward an Integrated Jurisprudence

Mr. and Mrs. Ramsay, as Victorian models, have distinctive means of acquiring knowledge and constructing and resolving moral dilemmas. While Mr. Ramsay perceives an objective reality based on empirical knowledge and reason, Mrs. Ramsay perceives multiple subjective realities based on intimacy and empathy from human relationships. While Mr. Ramsay defines and resolves moral dilemmas in abstract terms employing logical deduction, Mrs. Ramsay forms judgments based on the contextual particularity of a situation.

277. Id. at 15.
278. Id. at 168.
279. Id. at 186.
280. Id. at 63.
281. Id. at 203.
282. Id.
Mr. and Mrs. Ramsay are the only characters in the novel who are not described by their first names. The fact that throughout the novel they are referred to as “Mr. and Mrs. Ramsay” reinforces the notion that each is incomplete without the other; they are only complete as a unified couple, and their capacity for constructing the nature of reality and forming judgments is complete only when coupled. Total comprehension of the nature of reality can only be attained through the combination of Mr. Ramsay’s rationality and Mrs. Ramsay’s empathic understanding gained from her interactions with people. Each is incomplete because the “female” capacity of the mind for empathy lies dormant in Mr. Ramsay and the “male” capacity for logic lies dormant in Mrs. Ramsay. Mrs. Ramsay has been socialized not to use her innate powers of rationality and thus depends on the intelligence of the men in her family. Mr. Ramsay’s academic success is dependent upon Mrs. Ramsay’s sympathy and praise. Mr. and Mrs. Ramsay each enable each other to utilize their socialized capacities for understanding. Mr. Ramsay does not make it to the Lighthouse in the first section of the novel and, relatedly, does not get beyond Q in his quest for truth.283 His splendid mind is a venerable aspect of the quest for justice; he is far-sighted and can rationally demonstrate to the edge of collective human cognition. Ultimately, however, this is inadequate. Mrs. Ramsay, with her myopic vision, can intimately access the genuine human experience. Mr. Ramsay laughs at Mrs. Ramsay’s heartfelt discourse on the iniquity of the English dairy system because the patriarchal system of justice has nothing to do with understanding human experience and the way people actually live. Under his rubric of abstract rationality, feeling is denied legitimacy. It is her experiential understanding, however, which is necessary to bridge the distance to a comprehensive understanding of reality and a corresponding vision of justice.

As James steers to the Lighthouse, it is experience, the tyrannical experience of his childhood, that guides him. James and Cam are united by the shared tyrannical experience of their childhoods and they, “vowed, in silence, as they walked, to stand by each other and carry out the great compact—to resist tyranny to the death.”284 Mr. Ramsay, with his typical exactingness, “could not understand the state of mind of any one, not absolutely imbecile, who did not know the points of the compass,”285 yet James, who kept his eye fixed on the sail “until it had become to him like a person whom he knew”286 is guided by his internal moral compass: “Resist him. Fight him. He said so rightly; justly. For they must fight tyranny to the death . . . .”287

283. Id. at 33-35; see also supra text accompanying note 57.
284. Id. at 163.
285. Id. at 167.
286. Id. at 183.
287. Id. at 168.
As James, Cam, and Mr. Ramsay sail toward the Lighthouse, they leave the Ramsay house—and the patriarchal tradition of constructing a singular world view through the window of false objectivity—behind them. This transition invites not a singular perspective but a multifaceted attempt to describe the voyage to an integrated jurisprudence. As artist Lily Briscoe observes, to get around a subject “one wanted fifty pairs of eyes to see with.” There are an indefinite number of ways of approaching the subject of an integrated jurisprudence. Each legal theory below offers some inroad toward publicly making room for a “chambers of the mind and heart” in a patriarchal legal regime. American legal realism integrates subjective human experience and intuition into logical legal analysis. Feminist legal theory integrates the values of empathy, intimacy, care, and love into a purely rational legal regime. Feminist legal theory also integrates an emphasis on contextual particularity into a system that exclusively values abstract rules. Feminist legal theory further integrates the values of connection and community into an individualist legal regime. The contemporary law and literature movement offers a tool for integrating genuine human qualities into mainstream jurisprudence and a context for exploring the interpenetration of Woolf’s aesthetic and moral ideas.

1. American Legal Realism

Justice Oliver Wendell Holmes, a legal realist, may have served as Woolf’s inspiration for integrating Mrs. Ramsay’s empathic and intuitional knowledge into the traditionally masculine pursuit of justice. Holmes was acquainted with Woolf’s father, Sir Leslie Stephen, and refers to both Sir Leslie Stephen and James Fitzjames Stephen in his essay The Path of the Law. In this essay, Holmes broke from the legal positivist position—limiting the scope of the law to logic—and introduced experiential considerations into his view of the law. Today, multiple and competing interpretations of Holmes work do exist, but at the time that To the Lighthouse was published, the English viewed him as a heroic figure in jurisprudence for his imaginative vision and clarity. It thus seems possible that Woolf would have had his image in mind when theorizing about an integrated jurisprudence for James Ramsay’s path to the Lighthouse. In The Path of the Law Holmes articulates an ideal for the principles of growth which he believes should determine the development of the law. He points to the fallacy that the only force at work in the

288. Id. at 198.
289. Id. at 51.
290. Oliver Wendell Holmes, Jr., The Path of the Law, 10 HARY. L. REV. 457, 475, 478 (1897).
291. The Holmes paradigm has limits. Legal scholars have in fact argued that Holmes’ jurisprudence is similar to English utilitarian legal theory. See, e.g., H.L. Pohlman, Justice Oliver Wendell Holmes and Utilitarian Jurisprudence (1984).
development of the law is logic, rejecting the utilitarian notion that law can
"be worked out like mathematics from some general axioms of conduct."293
In essence, Holmes rejects Stephen’s adherence to mere rationality and, by
extension, Mr. Ramsay’s purely masculine frame of mind. Holmes states that
"certainty generally is illusion," thus denying the existence of a knowable
objective reality.294 Most importantly, Holmes acknowledges that behind the
logical form lies an “inarticulate and unconscious judgment,... the very root
and nerve of the whole proceeding.”295 He asserts that “other tools are
needed besides logic,” noting that “[t]he life of the law has not been logic: it
has been experience.”296 Holmes legitimates the role of “felt necessities” and
“intuitions” in the decision-making process.297 He advocates a balance
between rational knowledge and experiential knowledge, analogous to the male
and female capacities of mind Mr. and Mrs. Ramsay each exercise. Holmes
maintains that rational study of the history of law is an important first step
toward an enlightened skepticism, but he rejects pure rationalism, likening it
to an untamed dragon.298

James Ramsay, too, likens mere rationality untempered by humanitarian
concerns to a beast. On the way to the Lighthouse, James and Cam enter into
a pact to fight their father’s tyranny. James considers his boyhood fantasy of
taking a knife and striking his father to the heart. James realizes, however, that
it was not him, that old man reading, whom he wanted to kill, but it
was the thing that descended on him—without his knowing it perhaps:
that fierce sudden black-winged harpy, with its talons and its beak all
cold and hard, that struck and struck at you . . . . that he would kill,
that he would strike to the heart. Whatever he did . . . he would track
down and stamp out—tyranny, despotism, he called it. . . .299

James learns to accept and revere his father’s intellectual abilities, but rejects
the unrelenting tyranny of unchecked rationalism. Holmes, too, veneration
the law “as one of the vastest products of the human mind,” but in his vision of
the progress of the law Holmes speaks of tempering rule-of-law analysis with
experiential understanding.300 In asserting that the life of the law has been

293. Id. at 465.
294. Id. at 466.
295. Id.
297. Id.
298. Holmes, supra note 291, at 469. He writes:
When you get the dragon out of his cave on to the plain and in the daylight, you can count his teeth
and claws, and see just what is his strength. But to get him out is only the first step. The next is either
to kill him, or to tame him and make him a useful animal.
Id.
299. TO THE LIGHTHOUSE, supra note 5, at 184.
300. Holmes, supra note 291, at 473.
experience rather than logic, Holmes effectively legitimates the feminine empathic mode of understanding grounded in human relations as a necessary component for arriving at justice.

Legal realist Benjamin Cardozo also humanizes the judicial role. Confronted with the question of whether to follow principles or precedents, Cardozo replies: "when the social needs demand one settlement rather than another, there are times when we must bend symmetry, ignore history and sacrifice custom in the pursuit of other and larger ends." Cardozo reminds us that law is not an end in itself; rather, the "final cause of law is the welfare of society." Cardozo also recognizes the subjective aspect of judicial decision-making when history, the welfare of society and his sense of fairness diverge:

At first we have no trouble with the paths; they follow the same lines. Then they begin to diverge, and we must make a choice between them. History or custom or social utility or some compelling sentiment of justice or sometimes perhaps a semi-intuitive apprehension of the pervading spirit of our law must come to the rescue of the anxious judge, and tell him where to go.

Karl Llewellyn’s theory of judicial decision-making also allows for a creative and flexible judicial role. Stephen was concerned that without strict codification, judicial decisions would be arbitrary or based on a judge’s values, beliefs, and biases. However, according to Llewellyn’s concept of “situation-sense,” a judge is capable of arriving at a decision which produces a feeling of objective justification and validity although it arises out of his immersion in life conditions of the situation. Llewellyn rejected formalistic reasoning in favor of a form of cultural knowing:

We have discovered that rules alone, mere forms of words, are worthless. We have learned that the concrete instance, the heaping up of concrete instances, the present, vital memory of a multitude of concrete instances, is necessary in order to make any general proposition, be it rule of law or any other, mean anything at all.

302. Id. at 66.
303. Id. at 43; see also Joseph C. Hutcheson, Jr., The Judgment Intuitive: The Function of the "Hunch" in Judicial Decision, 14 CORNELL L.Q. 274 (1929) (describing the role of intuition in judicial decision-making with the precision of a literary artist).
Situation-sense is a form of experiential logic:

Every fact-pattern of common life . . . carries within itself its appropriate, natural rules, its right law. This is a natural law which . . . is not a creature of mere reason, but rests on the solid foundation of what reason can recognize in the nature of man and the life conditions of the time and place; it is thus not eternal nor changeless nor everywhere the same, but is indwelling in the very circumstances of life. The highest task of law-giving consists in uncovering and implementing this immanent law. 306

2. Integrating Feminine Jurisprudence

a. Integrating Reason and Passion

The splitting of reason from emotion dates to the time of the Enlightenment when emotions and passions were thought to be “frightening specters” that had to be controlled by reason. 307 Human feelings were split off from the ideal of neutrality and relegated to the “not-quite-human domains of women, slaves, and other unfamiliar or feared beings.” 308 “The Age of Reason rendered any possible dialogue between heart and head a monologue,” 309 and the primacy of reason has continued to dominate modern thinking. When contemporary social theorist Roberto Unger considers the relationship between reason and passion, he divides passions into the good and the bad and argues that bad emotions always threaten to overcome the good. 310 Legal theorist Lynne Henderson points out, however, that hatred, anger, and fear are not inherently good or bad passions. 311 Anger or hatred can lead to violence and aggression, but they can also lead to constructive efforts to correct injustice. In To the Lighthouse, it is Mrs. Ramsay’s outrage at the iniquity of the English dairy system that leads her to conceive of social reforms for a model hospital and dairy. Henderson also indicates that pleasurable emotions, far from leading to lack of rigor and progress, motivate productivity. While scientific work is often portrayed as rational and detached, the scientist in “pursuit of a breakthrough feels excitement, anxiety, joy, and despair, all of which

308. Id. at 125-26.
309. Id.
310. See ROBERTO M. UNGER, PASSION: AN ESSAY ON PERSONALITY 193, 220 (1984). Similarly, other social theorists have seen the emotional realm as the source of danger and believe that “bad” emotions are the source of evil in human nature and must be suppressed for fear that chaos will result. They view the “good” emotions such as love, sympathy, compassion, and human connection as mere sentimentality, and believe that if recognized at all, good emotions would lead to lack of rigor and progress. Henderson, supra note 308, at 126.
311. Henderson, supra note 308, at 131.
motivates her or him to pursue the project.”

Woolf’s “exquisitely judicial”

botanist William Bankes combines scientific rationality and “rapture”: “It was love . . . distilled and filtered; love that never attempted to clutch its object; but, like the love which mathematicians bear their symbols, or poets their phrases, was meant to be spread over the world and become part of the human gain.”

Henderson posits that the judge’s “emotive knowledge” may inform his decisions because “reason can take the judge only so far.” For James Ramsay the quest for justice or “[t]his going to the Lighthouse was a passion of his.”

The reason/emotion dichotomy is a false one. In fact, the impulse to rationalize, objectify, and “cling tenaciously to the perspective-free, unemotional, impartial, unbiased, and rational model of judging,” rests on the emotional basis of fear. Efforts to dominate and control one’s environment through rational management help alleviate that fear. Rationality is a refuge from the uncertainty of the emotional realm. In To the Lighthouse Mr. Ramsay’s rigid abstract philosophical work “was a disguise; it was the refuge of a man afraid to own his own feelings, who could not say, This is what I like—this is what I am.” Mr. Ramsay conceives of himself as a valiant intellectual soldier, armed with reason, conquering uncertainty. He stops “on the edge of a spit of land which the sea is slowly eating away” just short of the emotional realm. He “turned from the sight of human ignorance and human fate . . .”

Lily Briscoe and William Bankes wonder “why so brave a man in thought should be so timid in life; how strangely he was venerable and laughable at one and the same time.” Fearing loss of order and the unleashing of “bad” human passions, Mr. Ramsay has constructed a world that divides reason from passion and suppresses the emotional realm. However, human judges are creatures who both think and feel. A jurisprudence which excludes emotion or neglects the vast sea of knowledge of the emotional realm is incomplete. The landscape of the judicial psyche is both land and sea: the fixed paths of

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312. Id.
313. To the Lighthouse, supra note 5, at 23.
314. Id. at 47.
315. Henderson, supra note 308, at 132.
316. To the Lighthouse, supra note 5, at 15 (emphasis added).
317. See, e.g., Henderson, supra note 308, at 132-33. Henderson rejects an either/or distinction between reason and emotion, asserting that emotions and reason are interacting components of thinking and decision-making. Reason does not operate independently of our human selves but is intertwined with the affective component of our experience. Rather than a line which has at one end point emotion, body, and other, and at the other end reason, mind, and self, there is a kind of double helix intertwining and combining these threads. From this comes a view of interconnectedness of reason and desire rather than a split.
318. Id. at 128.
319. To the Lighthouse, supra note 5, at 45.
320. Id. at 44.
321. Id. at 45.
reason and the vibrant passions. Henderson challenges the prevailing patriarchal judicial view that reason and emotion are separate and irreconcilable. She asserts that judges will judge more humanely “if they do not try to take refuge in the pretension of ‘pure reason’ alone.”\textsuperscript{322} Henderson asks that judges attend to the subjective, experiential, and emotional influences on their reason because “attending to it rather than suppressing or denying it will lead to better human and individual understandings.”\textsuperscript{323} Being attuned to one’s passionate responses is a desirable part of the judicial process. Henderson’s model judge explores his own humanity and recognizes, nurtures, and uses the emotional realm. Henderson’s judge remains conscious that human cognition is linked to affective states and engages in a perpetual “dialogue of heart and head” which is central to the vitality of the judicial process.\textsuperscript{324}

Henderson maintains that empathic understanding is indeed possible and calls for integrating such knowledge into our legal discourse, including briefs and judicial opinions.\textsuperscript{325} She suggests that one effective way to convey human situations or “affective understanding” to a judge is by use of an “empathic narrative.”\textsuperscript{326} An empathic narrative conveys experiential understanding. It is contextual, descriptive, and affective. It includes descriptions of concrete human stories in the discourse of legal problems.\textsuperscript{327} Henderson believes that empathic knowledge has great potential for transforming the law: “it is a way of knowing that can explode received knowledge of legal problems and structures, that reveals moral problems previously sublimated by pretensions to reductionist rationality, and that provides a bridge to normatively better legal outcomes.”\textsuperscript{328} She advocates interweaving rule-of-law analysis with empathic narratives. An effective brief will tie concrete stories of the individuals involved to legal doctrines.\textsuperscript{329} Henderson’s balance between legality and

\begin{itemize}
\item Henderson, supra note 308, at 148. Henderson indicates that the separation of reason from emotion is a false and dangerous separation. Descriptively the dichotomy is inaccurate; prescriptively it is an impediment to just decision-making. A judge’s emotional knowledge will invariably enter into his decision-making: if not consciously, then on an unconscious level. Affective knowledge is more subject to abuse when denied or suppressed than when explicitly recognized. \textit{Id.} at 132-33.
\item \textit{Id.} at 133.
\item \textit{Id.} at 147.
\item \textit{Id.} at 1592.
\item \textit{Id.} at 1576.
\item \textit{Id.} at 1613. See Henderson’s analysis of Brown v. Board of Education, 347 U.S. 483 (1954), and Shapiro v. Thompson, 394 U.S. 618 (1969), for a description of empathic narrative in Supreme Court cases. \textit{Id.} at 1593-1620. See also Justice Blackmun’s dissent in DeShaney v. Winnebago County Department of Social Services, 489 U.S. 189 (1989) (Blackmun, J., dissenting) (dissenting from holding that state’s failure to intervene and protect an abused child did not deprive him of liberty without due process of law):
\begin{quote}
Today the Court purports to be the dispassionate oracle of the law, unmoved by “natural sympathy.” But in this pretense, the Court itself retreats into a sterile formalism which prevents it from recognizing either the facts of the case before it or the legal norms that should apply to those facts . . . I would adopt a “sympathetic” reading, one which comports with dictates of
\end{quote}
\end{itemize}
empathy finds its parallel in Woolf’s literary technique in the novel. Woolf weaves poetry and prose—subjectivity and objectivity—intermittently throughout her passages to give experiential meaning to her characters. Similarly, Henderson’s call for empathic narrative breathes human meaning into the lives of litigants.  

b. Integrating Rules and Contexts

Traditionally, lawyers are trained to place litigants within established categories of legal thought and to screen out “extraneous” contextual facts. This creates a tension for “connected knowers” whose ways of resolving moral problems tend to be contextual and narrative rather than formal and abstract. A call to construct moral dilemmas in context is a resounding theme in feminist legal theory. Feminist theorists are increasingly insistent upon the need to examine the contexts in which moral issues arise, and to define legal relations in accordance with concrete facts that touch the lives of people affected by the decisions. Attention to context, because it widens inquiry, is the essence of judicial creativity. Woolf’s most telling description of the subjective experience of judging in To the Lighthouse is an intuitive integration of abstraction and contextual impressions. When Lily judges Mr. Ramsay she asks herself:

How did one judge people, think of them? How did one add up this and that and conclude that it was liking one felt, or disliking? And to those words, what meaning attached, after all? Standing now, apparently transfixed, by the pear tree, impressions poured in upon her . . . to

fundamental justice and recognizes that compassion need not be exiled from the province of judging. Cf. A. STONE, LAW, PSYCHIATRY, AND MORALITY 262 (1984) (“We will make mistakes if we go forward, but doing nothing can be the worst mistake. What is required of us is moral ambition. Until our composite sketch becomes a true portrait of humanity we must live with our uncertainty; we will grope, we will struggle, and our compassion may be our only guide and comfort”). Poor Joshua! DeShaney, 489 U.S. at 212-13.  

330. Marie Ashe picks up Woolf’s rhythm of using subjective points of view to weave a social text of meaning, employing the image of needlework to illustrate her vision of stitching women’s subjective realities into laws regulating reproduction and motherhood. Marie Ashe, Zig-Zag Stitching and the Seamless Web: Thoughts on “Reproduction” and the Law, 13 NOVA L. REV. 335 (1989). Ashe interweaves vivid accounts of her own experiences of birthing and abortion into her discussion of court decisions involving reproduction. The contrast between her standard legal discourse and her graphic descriptions is striking. Ashe seeks to bridge this gulf, arguing that reproductive law should be written from the deepest parts of women’s bodies—with blood and milk—and inscribe the realities of women’s bodies, marking women’s rhythms and cycles. Id. at 358. For Ashe the central question remains how to work the “yarns” of the self-accounts of all women who have experienced the physical realities of the decisions of pregnancy, birth, and abortion into “the fabric of a law that calls itself ‘humanist?’” Id. at 382.

331. See, e.g., Ashe, supra note 332; Henderson, supra note 308.

332. The creation of new legal doctrines often begins with a sense of justice that is not analyzed but felt. A wider inquiry and experiential base often forms the basis of a moral intuition about justice in a particular situation or type of situation. Moral intuition evolves out of contextual patterns. Attention to context can redefine issues and expand the range of solutions which promote justice. See, e.g., Kenneth L. Karst, Woman’s Constitution, 1984 DUKE L.J. 447, 495-503 (1984).
follow her thought was like following a voice which speaks too quickly to be taken down by one's pencil, and the voice was her own voice saying without prompting undeniable, everlasting, contradictory things . . . . All of this danced up and down, like a company of gnats, each separate, but all marvelously controlled in an invisible elastic net—danced up and down in Lily's mind, in and about the branches of the pear tree, where still hung in effigy the scrubbed kitchen table, symbol of her profound respect for Mr. Ramsay's mind, until her thought which had spun quicker and quicker exploded of its own intensity; she felt released; a shot went off close at hand, and there came, flying from its fragments, frightened, effusive, tumultuous, a flock of starlings.

Lily's subjective thinking process is simultaneously impressionistic and abstract; both her rational and imaginative faculties are at work. Lily's thoughts weave an intermittent pattern of general principles—the effigy of the kitchen table—and momentary impressions—the dynamic dance of a company of gnats. The intensity of her final judgment is experienced as an intuitive power of expansion. Abstraction is not an end; it is a springboard for her intuition to leap to present knowledge.

Legal theorist Martha Minow considers the theme of judicial perspective in *Justice Engendered*. Minow rejects the notion of an impartial point of view: "The idea of impartiality implies human access to a view beyond human experience . . . . Not only do humans lack this inhuman perspective, but humans who claim it are untruthful, trying to exercise power to cut off conversation and debate." Each human perspective is grounded in a particular context. There is no such thing as an objective point of view, only unstated vantage points. If reality is not singular, impartial, and objective, but rather is made up of subjective points of view, then what is the judicial point of view from the Lighthouse? The "silvery misty-looking tower with a yellow eye" is neither what Minow refers to as a "'God's eye point of view'" nor a view beyond human experience. Impartiality is a false certainty. Human access to reality is subjective, partial, and inextricable from its human context. Since it is impossible for any human judge to know and keep in his mind's eye on all subjective points of view at once, "[t]he task for judges is to identify vantage points, to learn how to adopt contrasting vantage points, and to decide

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333. To the Lighthouse, supra note 5, at 24.
334. Id. at 25.
335. Martha Minow, *The Supreme Court, 1986 Term - Foreward: Justice Engendered*, 101 Harv. L. Rev. 10 (1987). Minow uses the term "engender" with a dual meaning—"gender" meaning the difference between men and women and "engender" meaning to bring about a transformation in the nature of judging. Id. at 16 n.25.
336. Id. at 75.
337. To the Lighthouse, supra note 5, at 186.
338. Minow, supra note 336, at 75.
which vantage points to embrace in given circumstances." Minow recommends that judges acknowledge the subjective context of their individual points of view and devise ways to take minority perspectives seriously. This calls for a process of dialogue in which the judge tries to reach beyond the assumption of one reality.

The results of engendering justice will be the ability to reshape legal categories for relevant differences in context. A partial view from a subordinated perspective is "a corrective lens." It gives the judge the chance to examine the reference point and possibly conclude that it should change. Instead of impartiality "we should strive for the standpoint of someone who is committed to the moral relevance of contingent particulars." For Minow, the judicial imperative is to bear into complexity rather than turning away from it. Listening to multiple voices means letting go of a familiar sense of certainty, but Minow warns that responding to complexity with passivity is not impartial but simply favors the status quo. She also addresses the legalist concern that "feeling the tugs in all directions [would] render us powerless to choose." Minow welcomes complexity and challenges complacency. She does not fear that the judge will be mired in relativism and be unable to make judgments. She notes that we can and do make judgments all the time by immersing in particulars. In the decision-making process:

We reflect on an incident not by subsuming it under a general rule, not by assimilating its features to the terms of an elegant scientific procedure, but by burrowing down into the depths of the particular, finding images and connections that will permit us to see it more truly, describe it more richly; by combining this burrowing with a horizontal drawing of connections, so that every horizontal link contributes to the depth of our view of the particular, and every new depth creates new horizontal links.

339. *Id.* at 15.
340. *Id.* at 69.
341. Minow’s point of departure is the Supreme Court’s treatment of what she terms “the dilemma of difference.” *Id.* at 12. “[W]hat initially appears to be a fixed and objective difference may seem from another viewpoint like the subordination or exclusion of some people by others.” *Id.* at 14. When the Supreme Court refuses to establish the pregnant person as the norm in the workplace, the Court continually recognizes only one reality—a “neutral” workplace which excludes the difference of pregnancy. This reality discriminates against pregnant women who then have less latitude in job choice than men. *Id.* at 42-43.
342. *Id.* at 75.
343. *Id.* at 76.
344. See *id.* at 82.
345. See *id.* at 82-83.
346. *Id.* at 90.
347. *Id.*
348. *Id.* at 91.
349. *Id.* (citing MARTHA NUSSBAUM, THE FRAGILITY OF GOODNESS: LUCK AND ETHIC IN GREEK TRAGEDY AND PHILOSOPHY 69 (1986)).
Similarly, Minow believes it is possible to make decisions in context without relinquishing general principles. According to Minow, "[t]he struggle is not over the validity of the principles and generalizations—it is over which ones should prevail in a given context." There is not a single rule, concept, norm, or test to apply. Minow sees the Supreme Court as a setting "in which to engage in the clash of realities that breaks us out of settled and complacent meanings and creates opportunities for insight and growth." The law is "a medium through which particular people can engage in the continuous work of making justice." It is "part of a distinctive manner of imagining the real." Virginia Woolf wrote in her memoirs, "I am telling the truth when I see myself perpetually taking the breath of... voices in my sails, and tacking this way and that, in daily life as I yield to them..." This resonates with Mari Matsuda's statement, "There is... a place called Justice, and it will take many voices to get there." Ultimately, it culminates in Minow's definition of justice: "justice is the quality of human engagement with multiple perspectives..."

The work of recognizing multiple perspectives requires creativity, and creativity requires expression. Mrs. Ramsay accommodates the dual perspectives of her children by employing her imagination, her knowledge of the subjective nature of experience, and her gift of storytelling. Mrs. Ramsay enters the nursery to find James and Cam wide awake at night quarreling over the boar's skull nailed to the wall of their bedroom. James insists upon keeping it there, but Cam is afraid of the "horrid skull" and its shadows "branching at her all over the room." Mrs. Ramsay artfully wraps her shawl around the skull and rhythmically tells Cam "how lovely it looked now; how the fairies would love it; it was like a bird's nest; it was like a beautiful mountain such as she had seen abroad, with valleys and flowers and bells ringing and birds singing and little goats and antelopes..." At this point the semi-conscious Cam falls asleep with this utopian vision of reality constructed in her mind. Mrs. Ramsay confirms the existence of the hard bony skull beneath the shawl to James and leaves the nursery with two distinct realities etched in the minds of her children.

Matsuda maintains that "the search for the pathway to a just world" lies in "multiple consciousness as jurisprudential method." Matsuda asserts

351. Id. at 92.
352. Id. at 95.
353. Id.
354. Id.
355. MOMENTS OF BEING, supra note 19, at 115.
356. Matsuda, supra note 75, at 630.
357. Minow, supra note 336, at 16.
358. TO THE LIGHTHOUSE, supra note 5, at 114.
359. Id. at 115.
that consciousness of the experience of life under patriarchy and racial hierarchy is vital to jurisprudential inquiry and encourages the inclusion of stories detailing the reality of the anger, pain, daily lives, and histories of women of color. Matsuda criticizes abstraction as a way out of the "discomfort of direct confrontation with the ugliness of oppression." Abstract rule-of-law analysis "denigrates nitty-gritty detail" and allows theorists to discuss abstract rights with no regard to what those rights mean in real people's lives. Exercising multiple consciousness entails a deliberate choice to see the world from the standpoint of the oppressed. Matsuda urges us to "choose to know the lives of others by reading, studying, listening, and venturing into different places." Holding on to a multiple consciousness enables us to operate both within the abstractions of standard jurisprudential discourse and within the details of our own specialized knowledge. Matsuda stresses the importance of staying close to oppressed communities to acquire other knowledge. The reality and detail of oppression is the starting point for the emergence of new legal concepts which challenge the neutrality of finite and certain principles of law. Matsuda pointedly asks, "'Exactly what are you talking about and what is the implication of what you are saying for my sister who is carrying buckets of water up five flights of stairs in a welfare hotel? What do you propose to do for her today, not in some abstract future you are creating in your mind.'" For Matsuda such inquiry is not quaintly naive; it is essential to justice.

3. The Law and Literature Perspective

The contemporary law and literature movement has emerged as a recent force in legal scholarship, and provides another model of an integrated jurisprudence. The aesthetic dimension of lawmaking—the process of

in 11 WOMEN'S RTS. L. REP. 7, 9 (1989). Multiple consciousness is the daily experience of women of color. Women of color adopt standard abstract legal discourse for advocacy purposes and keep the pain and anger of their woman-of-color-consciousness to themselves. Id. at 8.
361. Id. at 9.
362. Id.
363. Id.
364. Id. Changing that pattern will require affirmative non-neutral measures. Matsuda's proposals for non-neutral laws include "affirmative action; proposals for desegregation; proposals for curtailment of hate groups and elimination of propaganda advocating violence against women . . . ." Id. at 9-10.
365. Id. at 9.
366. The law and literature movement may be broadly broken up into two distinct projects, both of which involve the joint study of law and literature. One branch considers content; the other branch considers form. The law-in-literature branch examines themes of moral content in literature. See e.g., RICHARD H. WEISBERG, FAILURE OF THE WORD (1984); ROBIN WEST, NARRATIVE, AUTHORITY, AND LAW (1993); JAMES B. WHITE, THE LEGAL IMAGINATION (1973); David Luban, Some Greek Trials: Order and Justice in Homer, Hesiod, Aeschylus and Plato, 54 TENN. L. REV. 279 (1987). The law-as-literature branch considers the formal or aesthetic dimension of the law with reference to literary criticism as a mode of textual interpretation. See e.g., Robert M. Cover, The Supreme Court, 1982 Term—Foreword: Nomos and Narrative, 77 HARV. L. REV. 1 (1983); Robert M. Cover, Violence and the Word, 95 YALE L.J. 1601 (1986); Owen Fiss, Objectivity and Interpretation, 34 STAN. L. REV. 739 (1982). For the purposes of analyzing To the Lighthouse, the distinction between these two projects is somewhat artificial; form and
judging—is the essential moral theme of the novel. The legal subject or content of *To the Lighthouse* is the process of forming a judicial opinion.

a. *The Narrative Voice*

The law and literature movement provides a point of departure for discussions of themes of morality and social justice in a legal academic setting. There is value in discussing issues of morality and social justice in the context of literature; the language of the law describes moral issues in objective terms, whereas literary artists often express the subjective human experience of moral issues. A literary artist can create and define a character by placing him in scenes of moral confrontation. The possibility that this character may live on in the mind of the reader has moral potential: if a moral fictional character lives vividly in the mind of the lawmaker, that character can play the role of moral counselor when the lawmaker struggles with a moral issue. The law and literature movement also recognizes that the study of literature lacking explicit legal themes can be valuable to the judge, lawyer, and student of law. Literature can be used as a tool to sensitize lawmakers to human life.

Woolf believed that literature had judicial merit for its insights into human nature. In her memoirs, Woolf describes her brother, Thoby Stephen. Beneath the silence dwelt “a depth and a seriousness, an emotional quality that speech destroys . . . [a] great susceptibility; great sensibility . . . . Publicly, he would have been . . . a judge certainly. Mr Justice Stephen . . . .” It was literature, she indicates, that nurtured this emotional quality:

He had consumed Shakespeare, somehow or other, by himself. He had possessed himself of it . . . . He would sweep down upon me with his assertion that everything was in Shakespeare . . . . I felt that Shakespeare was to him his other world; the place where he got the measure of his daily world. He took his bearings there . . . . I once felt that he was half thinking of Falstaff and Hal and Mother Quickly and the rest, in the third-class smoker in the underground, when there was some squabble between drunken men; and he sat in the corner, with his pipe in his mouth looking over the edge of a newspaper . . . . I felt that he scented the battle; was already, in anticipation, a law maker; proud of his station as a man and was ready to play his part among men.368

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367. *MOMENTS OF BEING*, supra note 19, at 139-40.
368. *Id.* at 139.
Woolf had the conviction that for Thoby, reading Shakespeare served the purpose of cultivating his sensibility to the human condition. Through literature he acquired knowledge of a wide range of human experience that could inform all of his potential human interactions, including those of practical importance in the realm of judicial affairs. Imaginative literature can expand the reader’s sensibilities to the range of human experience. Stories are especially valuable for insights into the experiences of minority groups who have been traditionally marginalized because of race, gender, or socioeconomic status. Legalists who embrace abstraction do not perceive the value of literature, sharing Mr. Ramsay’s view that “the arts are merely a decoration imposed on the top of human life; they do not express it. Nor is Shakespeare necessary to it.”

The abstract genre of legal thinking and writing has blunted legalists from empathizing with literary characters as well as humans.

Woolf’s interest in the interrelation between literature and life reflects the Bloomsbury cultural ideal of an interconnected relationship between the artist and society. Woolf’s description of her brother Thoby incorporates an ideal of a synthesis between the literary and legal realms which has historical roots in the ideal of the republican lawyer-poet. Robert Weisberg writes that “one model of a world in which aesthetic and political forces work in harmony” is in the republican model of “the American lawyer as Ciceronian statesman of culture.” The lawyer as cultural statesman turned to literature as a source for the public values of republicanism. Woolf embodies this ideal of the republican lawyer-poet in the character of the poet Augustus Carmichael in whom she links power to literature. “One was always waiting for the man. There was always a chance. At any moment the leader might arise; the man of genius, in politics as in anything else.” At the climax of the dinner party it is Augustus Carmichael who rises “holding his table napkin so that it looked like a long white robe” and stands leading the guests in chanting the words to a poem, “as if they were voices at a service in a cathedral.”

In the republican tradition “[l]awyers were ministers and maestros of culture as well as of politics;” the poet and lawmaker was combined in the role of the secular priest. At the moment the boat lands at the Lighthouse, Lily observes, “old Mr. Carmichael stood beside her, looking like an old pagan god, shaggy, with weeds in his hair and the trident (it was only a French

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370. To the Lighthouse, supra note 5, at 43.
371. Most notably, painter and art historian Roger Fry endeavored to create a synthesis between the artist and society that “can be traced back to Plato’s Republic. ” A Cézanne in the Hedge (Hugh Lee ed., 1992) at 80.
373. To the Lighthouse, supra note 5, at 94.
374. Id. at 111.
375. Id. at 110.
376. Weisberg, supra note 373, at 9.
With this image Woolf links knowledge of the subjective human experience to power. Lily Briscoe, sitting on the floor with her arms around Mrs. Ramsay’s knees, wonders how to access Mrs. Ramsay’s subjective experience or her “chambers of the mind and heart.” Robin West suggests that the literary voice can serve as the tributary to another’s subjective experience. West correlates Woolf’s gendered capacities of the mind with a modern contrast to Mr. and Mrs. Ramsay: West conceives of “economic man” and “literary woman.” “Economic man” is Mr. Ramsay’s contemporary counterpart as rational man. One distinguishing attribute of “economic man” is his “empathic impotence” or inability to acquire empathic knowledge regarding the subjective well-being of others. Economic man is unable to compare the relative intensity of the subjective experience of another with his own experience. Like Mr. Ramsay who is bold in thought and timid in life, economic man is a “rational, self-regarding Hercules, and an empathic, other-regarding weakling.” Mrs. Ramsay finds her contemporary counterpart in West’s literary woman. Literary woman possesses the ability to empathize with others. West suggests that reading narrative literature can provide the subjective dimension to the human experience, for “narrative literature, when it is good, is the bridge that facilitates empathic understanding.” Literature can make us “empathically competent.”

The knowledge of others’ subjectivity is a peculiar sort of knowledge, but it is absolutely essential to any meaningful quest for justice, legal or otherwise. It is the knowledge that facilitates community, and the capacity for that knowledge is the capacity that makes us social. . . . We “make room” for this knowledge in our heart, not in our head. . . . Without knowledge of this sort, we cannot attain true community, and without true community we cannot attain any meaningful justice.

Patricia Williams also seeks to legitimate the narrative voice in the genre of legal writing. Williams relates the experience of attempting to publish a law review essay about a personal encounter with racism. Throughout the

378. To the Lighthouse, supra note 5, at 51; see also supra text accompanying note 103.
380. Id.
381. Id. at 869.
382. Id. at 870.
383. Id. at 874.
384. Id.
385. Id. at 876-77.
386. In mid-afternoon, the clerk at a Manhattan Bennetton’s refused to “buzz” Williams, an African-
editing process Williams' rage was edited out, and the "active personal" was changed to the "passive impersonal." References to her race were omitted along with the contextual particularity of the incident. The "blind application of the principles of neutrality" stripped the essay of William's felt experience of racism. The rhetoric of abstraction sterilized her experience. An account loses its potency once an individual's pain has been screened out.

Williams gives an impassioned account of her experience of racism—"a phantom-word," which takes the shape of "a phantom room" in her mind. She likens "the force of its spirit" to an odor drifting throughout the house. To communicate her anger and pain and allow us to enter the phantom room of her racist experience, Williams must be permitted to tell her story in her own way. The potency of Williams' experience of racism is inextricably tied to the narrative and the metaphorical manner in which she expresses it. Her pain and anger were the essence of the experience of racism. Another individual is disabled in her attempt to step outside of the room of her own personal subjective experience and cross the threshold to enter Williams' phantom room of racism without these experiential qualities.

The narrative voice is valuable to lawmaking because it is in the language of the narrative voice that we can envision a better future. On the expedition to the Lighthouse it is Cam, Virginia Woolf's analogue, who brings with her the visionary narrative voice:

So we took a little boat, she thought, beginning to tell herself a story of adventure about escaping from a sinking ship. But with the sea streaming through her fingers, a spray of seaweed vanishing behind them, she did not want to tell herself seriously a story; it was the sense of adventure and escape that she wanted . . . .

The narrative voice constructs the subjective feel of the expedition. At once, aware of the reality of the moment, Cam lets her imagination drift and senses alternative visions of the future:

From her hand, ice cold, held deep in the sea, there spurted up a fountain of joy at the change, at the escape, at the adventure (that she should be alive, that she should be there). And the drops falling from
this sudden and unthinking fountain of joy fell here and there on the dark, the slumberous shapes in her mind; shapes of a world not realized but turning in their darkness, catching here and there, a spark of light; Greece, Rome, Constantinople.392

We can imagine a better world, a world of what could be, a world of what ought to be, by stretching our minds in the narrative voice. The narrative voice is the voice that speaks in the language of what feminist legal theorists call justice.393

b. The Aesthetics of Justice

At the beginning of To the Lighthouse Mrs. Ramsay envisions James as a judge.394 At another point in the novel she thinks, “what a delight it would be to her should he turn out a great artist; and why should he not? He had a splendid forehead.”395 The final section of the novel suggests that the professions of judge and artist are not naturally antagonistic.396 Woolf weaves passages describing Lily painting her canvas among passages describing James the lawmaker steering the sailboat to the Lighthouse;397 in doing so, she establishes a kind of equivalence between the artistic and judicial enterprises. James Boyd White similarly emphasizes the compositional nature of justice and characterizes a judicial opinion as “an ethical and political, as well as an intellectual, text for which the mind composing it is responsible.”398

Aesthetics, in particular the aesthetics of Bloomsbury Post-Impressionism,399 worked its way into Woolf’s mind and seems to have

392. Id. at 189.
393. West, supra note 380, at 876-77.
394. To THE LIGHTHOUSE, supra note 5, at 4.
395. Id. at 31.
396. Guido Calabresi invokes the image of the common law judge as an intellectual and moral artist. GUIDO CALABRESI, A COMMON LAW FOR THE AGE OF STATUTES (1982). See also Robert Weisberg, The Calabresian Judicial Artist, 35 STAN. L. REV. 213 (1983). Calabresi envisions a creative judiciary engaged in principled decision-making within a “legal landscape” giving primacy to common law principles, rather than statutes, where necessary. CALABRESI, supra, at 96. He argues that “courts are better than other institutions at discerning principles of law and at working out the demands of the ever changing legal topography.” Id. When engaging in the interpretive process, the role of the Calabresian judge is not to impose his own view of the legal landscape, but to “perceive and express.” Weisberg, supra, at 229.
397. To THE LIGHTHOUSE, supra note 5, at 145-209.
399. The “Bloomsbury group” began as a group of friends at Cambridge in 1899 and moved to London in 1904. Among those who met regularly to discuss art, literature, and philosophy were Virginia and Leonard Woolf, Vanessa and Clive Bell, Roger Fry, E.M. Forster, Duncan Grant, Lytton and James Strachey, and Maynard Keynes. Nigel Nicolson, Bloomsbury: The Myth and the Reality, in VIRGINIA WOOLF AND BLOOMSBURY, supra note 4, at 7, 14-21. They did not share a single system of aesthetics or philosophy but similar “tendencies of thought and feeling.” QUENTIN BELL, BLOOMSBURY 22 (1968). 1910 was a pivotal year. Modern art criticism was born in England in 1910 when art critic Roger Fry hosted the first Post-Impressionist exhibition at the Grafton Galleries. Id. at 44. Woolf wrote in her introduction to Orlando, “To the unrivaled sympathy and imagination of Mr. Roger Fry I owe whatever understanding of the art of painting I may possess.” VIRGINIA WOOLF, ORLANDO 7 (1928). Indeed, Fry’s sister asked Woolf to write Fry’s biography. VIRGINIA WOOLF, ROGER FRY 5 (1940).
permeated her thoughts not just about art and literature but about all subjects that involve relationships, whether among shapes on a canvas, scenes in a novel, or among people in society. For many years Woolf was closely associated with art critic Roger Fry, the seminal figure in Bloomsbury aesthetics and the host of French Post-Impressionism in London. Fry’s Post-Impressionist aesthetic apparently provides the foundation not only for Lily’s visual aesthetic but also for James’ judicial aesthetic. Lily and James are both artists and judges. As an artist, Lily is concerned with judging relations among masses on her canvas. As a lawmaker, James must be an artist in his understanding. Woolf’s technique of revealing the process of judging in aesthetic terms in the mind-space of Lily’s canvas serves as a conceptual aid to the reader.

As an intellectual framework, James Boyd White has espoused interdisciplinary approaches between law and other fields of study. Instead of taking the traditional approach of applying findings or methods of other disciplines to the study of law, White takes a broader anthropological approach and focuses on the life of the individual human mind inquiring and conversing. White considers that “people are inquirers and processors of knowledge, which they organize into structures. But how is this done? What is the life of the inquiring and investigating mind?” White conceives of law “as a compositional process, as a set of activities by which minds use language to make meaning and establish relations to others.” He seeks to bring to consciousness the intellectual practice of lawmaking as an ethical discourse. His basic approach is distilled in this essential question: “How to think?” White conceives of law as a system of discourse. Visual aesthetics can also be conceived as a system of discourse and can be analyzed in conjunction with the study of law by reference to the compositional process of both enterprises. In both cases, “[t]he center of attention would always be on the individual as a writing or composing mind, putting into shape and order his or her responses.”

While Lily is painting she invokes the “tune of Mrs. Ramsay” in her head, following the “rhythm which was dictated to her. . . . by what she saw,

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400. Fry held Paul Cézanne to be the greatest master of Post-Impressionism and shaped his aesthetic ideals from Cézanne’s work. Woolf was most closely associated with Fry while she was writing To the Lighthouse and he was working on his monograph of Cézanne. Both works were published in 1927. See Roger Fry, Cézanne: A Study of His Development (1927). For an introduction to Fry’s visual aesthetics, see generally, Roger Fry, Transformations: Critical and Speculative Essays on Art (1926), and Roger Fry, Vision and Design (1920) [hereinafter Vision and Design].


402. Id. at 12. In the context of the law and literature movement, a “findings” approach would examine insights into history, morality, human nature and explicit legal themes in literature. A “methods” approach would apply the methods of literary criticism and interpretation to the interpretation of the laws.

403. Id.

404. Id. at 14.

405. Id. at 12.

406. Id. at 18.

407. To the Lighthouse, supra note 5, at 49.
so that while her hand quivered with life, this rhythm was strong enough to bear her along with it on its current."\textsuperscript{408} Mrs. Ramsay's method of feminist consciousness-raising, Lily's visual Post-Impressionist aesthetic, and pragmatist thought share the commitment to seek out multiple points of view in their contextual particularity, to respond experientially, and to build structures of meaning out of those responses.\textsuperscript{409} Mrs. Ramsay builds collective social intelligence out of subjective points of view, legal pragmatism constructs the resolution of a conflict out of contextual details, and Post-Impressionism builds "significant form"\textsuperscript{410} out of perceived impressions.\textsuperscript{411} Legal pragmatism relies on an intuitive sense of the good; likewise, Post-Impressionism relies on an intuitive sense of the beautiful. It is an approximate feeling. Holmes writes that legal decisions are made by a very slight preponderance of feeling, rather than articulate reason; and at last a mathematical line is arrived at by the contact of contrary decisions, which is so far arbitrary that it might equally well have been drawn a little further to the one side or to the other. The distinction between the groups, however, is philosophical, and it is better to have a line drawn somewhere in the penumbra between darkness and light, than to remain in uncertainty.\textsuperscript{412}

Likewise, Lily's line down the center of her painting is a blurred approximation, a "razor edge of balance between two opposite forces."\textsuperscript{413} With the end-means continuum, the integrity of the process or means of judging guides the ends. This emphasis on the integrity of the responsive thought process is at the core of the feminist methodology of consciousness-raising and Mrs. Ramsay's dinner party. It is through the integrity of the process of conversation that the end of a feeling of community is created.

This responsive process guides Lily in the process of painting. Lily engages in the process of perceiving and conceiving her visual impressions of the landscape and her mental impressions of the people she judges in her mind. Lily's "mind kept throwing up from its depths, scenes, and names, and sayings, and memories and ideas, like a fountain spurting over that glaring,

\textsuperscript{408} Id. at 159.
\textsuperscript{409} The convergence of feminist and pragmatist thinking is explored in Margaret Jane Radin, \textit{The Pragmatist and the Feminist}, 63 S. CAL. L. REV. 1699 (1990).
\textsuperscript{410} Clive Bell introduced this term in \textit{CLIVE BELL, ART} 6-8 (1958).
\textsuperscript{411} The end-means continuum of John Dewey's pragmatism runs parallel to the polar tension between vision and design in Roger Fry's Post-Impressionist art theory. See \textit{generally JOHN DEWEY, EXPERIENCE AND NATURE} (1929). A central tenet of pragmatism is the continuum of end-means in which the integrity of the means is, in essence, the ends: "[T]hinking 'becomes an end in itself.'" Thomas C. Grey, \textit{Holmes and Legal Pragmatism}, 41 STAN. L. REV. 787, 854 (1989).
\textsuperscript{412} Id. at 821 (quoting Holmes, \textit{The Theory of Torts}, in \textit{THE FORMATIVE ESSAYS OF JUSTICE HOLMES} 117, 119 (F. Kellogg ed., 1984) (1873)).
\textsuperscript{413} \textit{TO THE LIGHTHOUSE}, supra note 5, at 193.
hideously difficult white space, while she modelled it with greens and blues. 414 Lily processes her sensory impressions, "[b]eautiful and bright it should be on the surface, feathery and evanescent, one colour melting into another like the colours on a butterfly’s wing." 415 Then, "beneath the colour there was the shape." 416 Lily “collected her impressions” 417 and “built up a whole structure of imagination” on sayings and scenes and stories. 418 She constructed a color logic out of her sensations. She “saw the colour burning on a framework of steel; the light of a butterfly’s wing lying upon the arches of a cathedral.” 419 In the rhetoric of Post-Impressionism, Lily’s “significant form” coalesces when she experiences the “aesthetic emotion.” 420 Lily de-emphasizes the final product—the end of producing a painting—and focuses instead on the integrity of the process of painting:

[It would be hung in the attic, she thought; it would be rolled up and flung under a sofa; yet even so, even of a picture like that, it was true. One might say, even of this scrawl, not of that actual picture, perhaps, but of what it attempted, that it “remained for ever.” 421

Anthropologist Mary Catherine Bateson considers that the way to approach decision-making lies in a mindfulness based in the concept of response. 422 It is a “mode of action” that is “responsive rather than purposive: it is based on looking and listening and touching rather than the pursuit of abstractions.” 423 The ethic of care described by Carol Gilligan and enacted by Mrs. Ramsay is a responsive ethic. The “tune of Mrs. Ramsay” 424 is the rhythm of her pattern of responses as she responds to the needs of those around her. 425 She responds to the Lighthouse keeper’s son’s tubercular hip by knitting a stocking; she responds to her husband’s insecurity by giving him sympathy; she responds to a struggling widow by paying a visit; she responds

414. Id. at 159.
415. Id. at 171.
416. Id. at 19.
417. Id. at 172.
418. Id. at 173.
419. Id. at 48.
420. VISION AND DESIGN, supra note 401, at 206.
421. TO THE LIGHTHOUSE, supra note 5, at 179.
423. Id.
424. TO THE LIGHTHOUSE, supra note 5, at 49.
425. Woolf seems to espouse this principle of responsiveness in acts of judging throughout To the Lighthouse, in a variety of experiences. The responsive habit of mind guides different characters in their engagement with different instruments of inquiry. Lily responds to her varied visual-sensory impressions with her paintbrush; William Bankes responds to Lily’s unusual use of color, mass, abstraction, light, and shade by taking the bone handle of his pen-knife to examine Lily’s painting and question her aesthetic; while sailing, James responds to the shifting wind direction as he steers his course to the Lighthouse with the tiller; Augustus Carmichael is depicted “sailing serenely through a world” with his poet’s pen. TO THE LIGHTHOUSE, supra note 5, at 179. The current that runs through all of these activities is a responsive mode of thought that leads to a mode of action.
to Charles Tansley's alienation by including him on her errand in town; she responds to Lily's need to paint by posing for her picture; she responds to Cam's fear by telling her a story. Mrs. Ramsay invokes her responsive rhythm as she begins the dinner conversation:

\[ \text{[giving herself the little shake that one gives a watch that has stopped, the old familiar pulse began beating, as the watch begins ticking—one, two, three, one, two, three. And so on and so on, she repeated, listening to it, sheltering and fostering the still feeble pulse as one might guard a weak flame with a newspaper.} \]

The process of thinking and acting responsively is a moral mode of action. The responsive thought process becomes an ethical mode of social action when it manifests itself in activities of care. To attend responsively to the needs of those close by is to think and act with an ethic of responsibility.

Likewise, pragmatist thought treated thinking as contextual, situated and an end in itself: "it came always embodied in practices—habits and patterns of perceiving and conceiving that had developed out of and served to guide activity." Woolf renders a moral process, a process of composition which, at its core, is a moral habit of mind and heart. There is a moral way of composing anything: a painting, a community, a scientific study, a judicial opinion. The intellectual recognition of truth and justice as well as the realization of balanced form in art arise out of a responsive habit of mind.

c. Texts and Communities

A final law and literature theme emerges in To the Lighthouse—the role of a text, whether legal or literary, in the community. The objective of the lawmaker is not to compose a text but a community. Our texts, whether legal or literary, are tools for forming that community. They are not ends in themselves. They cannot be. Individuals are constantly changing. As individuals change their relations between and among each other change and the nature of the community changes. This is a dynamic process, and it requires not static laws for a fixed arrangement of individuals, but rather moral guiding principles for constantly evolving dynamic arrangements of society.

James Boyd White has described the production of legal and literary texts

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426. Id. at 83.
427. In Bateson's work this responsive habit of mind runs through the lives of five female subjects engaged in very different activities, yet in the compositions of their lives each engages in this like-minded responsive pattern. See BATESON, supra note 423, at 1-18.
428. Grey, supra note 412, at 798. The second tenet of legal pragmatism, contextualism, also runs through feminist methodology and Post-Impressionism. These are inferential, inductive processes. Pragmatism involves reconstituting rules into present experience. Rules are indeed helpful tools for conceptualizing experience—but the concepts are not rigid ends in themselves. They are "rules of thumb, instruments of inquiry designed as practical aids to making sound decisions." Id. at 819.
as a "cultural performance" that is central to the formation of community values.\textsuperscript{429} He highlights the role of the text in improving the community's morality. White believes that the activities of creating, reading, and interpreting texts are critical to the formation of moral communities. According to White we improve our communities by improving the language of the texts which produce them.\textsuperscript{430} Robin West describes White's emphasis as one of "textual virtues" or "moral textualism."\textsuperscript{431} According to this view, "it is through a critical transformation of its definitive text that the community itself is transformed."\textsuperscript{432} West shifts the emphasis from the virtues of the text to the virtues of the community that participates in reading and creating the text. She focuses on the quality of the affective relations of members of "interactive communities."\textsuperscript{433} In order to create moral communities, West asserts: "We need to transform our communities of violence, terrorism, and oppression into communities of compassion and respect. The way to do so is by improving the quality of our affective interaction with others."\textsuperscript{434} The way to improve interactive communities is to improve ourselves. For West, the quality of the interactive community depends on the degree to which its members include voices that have been excluded.

In \textit{To the Lighthouse}, words are tools for bridging connection between people, not ends in themselves. What matters is that the words facilitate connection among individuals. This occurs on both intimate and communal levels in the novel. The sharing of stories bridges connection to form moments of friendship. At the dinner party Mr. Ramsay and Augustus Carmichael are reconciled by sharing stories of their undergraduate days. William Bankes and Mrs. Ramsay are united by exchanging stories of the Manning family. Mrs. Ramsay connects with Charles Tansley on their walk into town by encouraging him to tell the story of his childhood.

The danger with focusing on the text is that it obscures the goal of the formation of a community. Woolf in fact de-emphasizes the writtenness of text to the extent that one can within a work of literature: "one could say nothing to nobody. The urgency of the moment always missed its mark. Words fluttered sideways and struck the object inches too low . . . . For how could one express in words these emotions of the body?"\textsuperscript{435} Mrs. Ramsay finds

\begin{footnotes}
\item[429] White, \textit{supra} note 399, at 745 n.14.
\item[430] \textit{Id.} at 746-47.
\item[431] West, \textit{supra} note 206, at 131-32.
\item[432] \textit{Id.} at 132.
\item[433] \textit{Id.} at 146-54.
\item[434] \textit{Id.} at 147.
\item[435] \textit{TO THE Lighthouse}, \textit{supra} note 5, at 178.
\end{footnotes}
words inadequate to express her feelings of love for Mr. Ramsay. She knew that Mr. Ramsay was thinking,

[w]ill you not tell me just for once that you love me? . . . But she could not do it; she could not say it . . . as she looked at him she began to smile, for though she had not said a word he knew, of course he knew, that she loved him. . . . she had triumphed again. She had not said it: yet he knew. 436

At the end of the novel, when Lily completes her picture with Augustus standing next to her, "they had not needed to speak. They had been thinking the same things and he had answered her without her asking him anything." 437

[T]hey were up here together, on this exalted station, she thought, looking at old Mr. Carmichael who seemed (though they had not said a word all this time) to share her thoughts. . . .[Lily] had never read a line of his poetry. She thought that she knew how it went though, slowly and sonorously. It was seasoned and mellow. It was about the desert and the camel. It was about the palm tree and the sunset. It was extremely impersonal; it said something about death; it said very little about love. 438

Woolf seems preoccupied with the idea that words are a tool for communicating feeling, for bringing people together, but what matters is not the words but the subjective transmission of experience. Community is a feeling, not a text. Lily remembers a scene on the beach with Charles Tansley and recalls not the words exchanged but the "moment of friendship and liking—which survived, after all these years complete, so that she dipped into it to re-fashion her memory of him, and there it stayed in the mind affecting one almost like a work of art." 439

Texts, whether legal or literary, are not ends in themselves; they contain moral principles for composing a community. Woolf demonstrates her theory of reconstituting moral texts as guiding principles by her use of the literary precedent of a Brothers Grimm fairy tale440 to compose her own literary

436. Id. at 123-24.
437. Id. at 208.
438. Id. at 194-95.
439. Id. at 160.
440. See JACOB GRIMM, The Fisherman and His Wife, in THE COMPLETE GRIMM’S FAIRY TALES 103 (Random House 1972). The fisherman in this tale catches a flounder at sea, and in exchange for letting the flounder swim free, the flounder grants him a series of wishes. The fisherman’s wife, a poor peasant, wishes to be a queen, emperor, and pope. After each successive wish is granted her circumstances become more lavish and she finds herself elevated to higher and higher levels of ascendancy. As her final wish she requests to be God. This wish is granted by restoring the wife to her original position back in her hovel on the ground.
work. Mrs. Ramsay intermittently knits her heather mixture stocking, tells James the story, and attends to the needs of her family and guests. In doing so, she knits the fairy tale into their daily lives. During the goings-on at the Ramsay's house "the story of *The Fisherman and his Wife* was like the bass gently accompanying a tune, which now and then ran up unexpectedly into the melody."441 The story can be reduced to the moral principle that the "sovereignty of good"442 comes from immersion in the particularity of life's circumstances. This principle of fairy tale justice serves as the guiding moral principle in the novel. The wisdom which guides James Ramsay to the Lighthouse, drawn from the "chambers" of Mrs. Ramsay's "mind and heart," is that of human experience—the "sovereignty of the good" comes not from a position of detached hierarchical domination but from the contextual particularity of genuine human experience. Relying on the oral tradition of storytelling to convey morality to James de-emphasizes the written aspect of the moral tale. Woolf's method of weaving a moral tale into the daily lives of her characters suggests a method of lawmaking which would consist of weaving a social text out of guiding moral principles, rules, and human context.

This methodology runs against the current of the utilitarians of Woolf's day who hailed self-contained frozen treatises such as James Fitzjames Stephen's *General View of the Criminal Law* as scientific dictates of utility. Their celebration of the textuality of the law brings to mind present-day attention to the "writtenness of the Constitution."443 Legal theorist Edward Corwin states: "The first and most obvious fact about the Constitution of the United States is that it is a [written] document."444 Americans regard the Constitution as scripture or a sacred symbol of the nation itself. Thomas Grey considers: "Is not the Constitution a sacred symbol of nationhood . . . . Does it not provide the scripture of a national civil religion?"445 American constitutionalism depends on the objective character of a written constitution. Constitution-worship, the phenomenon of regarding the written document as a sacred text, inclines textualists toward a narrow method of constitutional interpretation which excludes context.

By contrast, Woolf emphasizes not the sanctity of the text but the sanctity of community. The formation of the community is the sacred phenomenon. The relationship between the text as a set of general principles for forming a society and the organic community of virtue itself comes into focus when considering the relationship of Mrs. Ramsay's recipe for the masterpiece of the dinner party, the Boeuf en Daube, to the spatio-temporal image of the dish

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441. To the Lighthouse, supra note 5, at 56.
444. Id. at 14 (quoting Edward Corwin, Some Lessons from the Constitution of 1787, in 1 Corwin on the Constitution 157, 158 (R. Loss ed., 1981)).
445. Id. at 17.
itself. When the characters refer to the “Boeuf en Daube” what comes to mind is not the text of the recipe, but the actual dish. The “triumph” at the dinner party is the simmering, blending, heterogeneous mixture. By analogy, the “triumph” of justice is the moment of collectivity and community—not the written law that guides the formation of collectivity. It is the blend of heterogeneous individuals, not the written recipe, that is sacred. Textualists stress, “it is a Constitution we are expounding.” Woolf reminds us that it is a community we are constituting.

Mrs. Ramsay likens the effect of the words of poetry chanted at the end of the dinner party to “a service in some Roman Catholic cathedral.” She does not know what the actual words of the poem mean, but like music they hold everyone together in a moment of collective pleasure. Instead of regarding a written Constitution as scripture, Woolf venerates the community. For Woolf the experience of community is sacred, not the text. This celebration of the collective recalls the sentiments of one of Carol Gilligan’s female subjects:

"It is the collective that is important to me, and that collective is based on certain guiding principles, one of which is that everybody belongs to it and that you all come from it. You have to love someone else, because while you may not like them, you are inseparable from them. In a way, it is like loving your right hand. They are part of you; that other person is part of that giant collection of people that you are connected to."

Woolf’s philosophical thoughts are consonant:

"I reach what I might call a philosophy; at any rate it is a constant idea of mine; that behind the cotton wool is hidden a pattern; that we—I mean all human beings—are connected with this; that the whole world is a work of art; that we are parts of the work of art. Hamlet or a Beethoven quartet is the truth about this vast mass that we call the world. But there is no Shakespeare, there is no Beethoven; certainly and emphatically there is no God; we are the words; we are the music; we are the thing itself."

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447. To the Lighthouse, supra note 5, at 110.
448. Gilligan, supra note 33, at 160.
449. Moments of Being, supra note 19, at 72.
To the Lighthouse

For Woolf, society is a sacred work of art. Woolf's philosophy is akin to Emile Durkheim's sociology of religion. Durkheim believed that

at the heart of all religion is the celebration of the collectivity. People have the basic religious experience when they project onto imaginary or mythical objects of worship their feelings of awe toward the social collectivity that makes possible the sustenance of life, that supplies them with language and culture . . . .450

The reality behind the religious experience is society itself. Woolf gives us a sacred conception of community in which collectivity or human connection is moral.

The role of the text in the community is not unlike the dish of fruit which serves as the centerpiece at the dinner party. The flames of the candles illuminate the yellow and purple dish of fruit, drawing Mrs. Ramsay and Augustus Carmichael into a shared intensity of focus:

[T]o her pleasure (for it brought them into sympathy momentarily) she saw that Augustus too feasted his eyes on the same plate of fruit, plunged in, broke off a bloom there, a tassel here, and returned, after feasting, to his hive. That was his way of looking, different from hers. But looking together united them.451

We all have different ways of looking. Unity is based on the commitment to look together. It is the willingness to engage in shared inquiry that forms social cohesion, not the object of the gaze. Love is the emotion that bridges people into individual moments of friendship and societal moments of community. It does not translate easily into written texts or even spoken words. Mrs. Ramsay likens her experience of community to

a flag floated in an element of joy which filled every nerve of her body fully and sweetly, not noisily, solemnly rather, for it arose, she thought, looking at them all eating there, from husband and children and friends; all of which rising in this profound stillness (she was helping William Bankes to one very small piece more, and peered into the depths of the earthenware pot) seemed now for no special reason to stay there like a smoke, like a fume rising upwards, holding them safe together.452

450. Grey, supra note 444, at 21 (discussing EMILE DURKHEIM, THE ELEMENTARY FORMS OF THE RELIGIOUS LIFE 464-66 (1915)).
451. TO THE LIGHTHOUSE, supra note 5, at 97.
452. Id. at 105.
Woolf reminds us that the substance of community lies in ourselves. Community is held together not by texts, but by feeling—alternatively called “joy,” “peace,” “happiness,” “friendship,” “liking,” “unity,” and, most of all, “love.”

VII. CONCLUSION

Describing Mrs. Ramsay, William Bankes reflects, “if it was her beauty merely that one thought of, one must remember the quivering thing, the living thing . . . .”\(^\text{453}\) Similarly, if it is Virginia Woolf’s vision of justice that one thinks of, one must remember the process of judging. To speak of Woolf’s “vision” of justice is misleading. It implies stasis. Woolf’s vision of justice is a responsive rhythm of judging. It is a natural method of truth. Woolf’s legal philosophy, social relations, and aesthetics coalesce into a responsive mindset—a rhythm of perceiving and conceiving. In Woolfian terms it is the “tune of Mrs. Ramsay.”\(^\text{454}\) In the rhetoric of feminism it is consciousness-raising. To legal theorists it is the music of justice. Justice lies in the integrity of the process of judging. The role of the judge is to weigh the subjective experiences of the parties before him on the “scales of an infinitely responsive conscience”\(^\text{455}\) and feel his way to a resolution that has the character of generic order and universality, though it is grounded in contextual experience.

Can Woolf’s jurisprudence be distilled to a substantive component? Is anything of permanence etched on James Ramsay’s “tablets of eternal wisdom?”\(^\text{456}\) Woolf indicates what they do not contain. There is no divine, abstract, conceptual scheme through which we can finitely divide our thought, our laws, and ultimately our lives. It is not, as Mr. Ramsay considers, either the notes on the keyboard of a piano or the letters of the alphabet. It is not Sir James Fitzjames Stephen’s codified legal treatise. It is not the Bill of Rights. Nor is it the laws of market behavior as present-day law and economics scholars would have it. None of these abstract ordering devices are impartial, universal, or natural. There is no impartiality. There is no universal objective judicial vantage point. We simply cannot attain a universal vantage point of judgment through abstract thought. But that does not mean our judges cannot strive for and realize universality. Our judges can realize the universal, although they cannot arrive at universality through abstract logic.

Universality does not lie in an external vantage point; it lies in the “chambers of the mind and heart.”\(^\text{457}\) It is “nothing that could be written in

\(^{453}\) Id. at 29.
\(^{454}\) Id. at 49.
\(^{455}\) RAINER M. RILKE, LETTERS ON CÉZANNE 65 (Clara Rilke ed. & Joel Agee trans., 1985).
\(^{456}\) TO THE LIGHTHOUSE, supra note 5, at 168.
\(^{457}\) Id. at 51.
any language known to men." It can only be learned through intimacy. Every human judge is made up of the same "bundle of sensitiveness" as James Ramsay, and the plaintiff, defendant, lawyers, and jurors before him. Like Mrs. Ramsay, we possess the capacity to sink down into the "wedge-shaped core" of our common human feelings. We are all endowed with the same spectrum of genuine human emotions. We all have the capacity to resonate with the experiences of others.

Legalists fear the emotional realm. They fear that if judges open themselves to the emotional realm they will be mired in relativism and uncertainty. This fear leads them to construct windows of objectivity. Seeking impartiality through abstraction, they have screened out their own feelings from judicial decision-making, and they have blocked their ability to empathize with the feelings of others. Dismantling the window of false certainty requires that the judge make the threshold decision to contemplate the varied and complex nature of his own human feelings. It also entails the courage and commitment to engage with the litigants before him and allow himself to be moved.

Only by engaging our emotions can we strive for the certainty of fellow feeling. The moral role of the judge is to cultivate his experiential genius—to exercise his ability to feel in common. The reservoir of his own human experience is the source of his ability to navigate. He can employ his empathic sensibility to allow himself to feel in common with the parties before him and restore his reason to its proper role of making sense and order out of his perceptions and emotions. The universality he must strive for is not thinking in common abstractions but feeling in common emotions. Therein lies the source of our common humanity and our hope for forming community.

It is by fostering the flame of our common humanity that we can chart our course toward moments of justice. We need to stretch our minds to seek out different world views and delve into our hearts for eternal feelings. With our minds we can learn to look with reciprocal regard, and with our hearts we can learn to feel in common. Thinking in differences and feeling in common will guide our judges closer to what appeared to Virginia Woolf writing and Cam sailing as "slumberous shapes in her mind; shapes of a world not realized but turning in their darkness, catching here and there, a spark of light . . . ." Feeling and responding to this common passion for justice, contemporary legal feminists are "sailing swiftly, buoyantly on long rocking waves which hand them on from one to another . . . ."