

STOICISM AND PROFESSIONAL RESPONSIBILITY IN A PANDEMIC

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Every year I do a section on procrastination in my Professional Responsibility class. Procrastination, like (and often in combination with), stress, anxiety, depression and substance abuse can be a springboard for lawyer misconduct. I have the students read Neil Fiore who claims that procrastination is a mechanism for coping with anxiety about self-worth. Much of the time, the reason people avoid beginning or completing a task is that they fear their performance will be disappointing, that the imperfectly done thing will reveal all flaws and shortcomings. Procrastination is not always task aversion. Rather, it's the impulse to leave our ideas in the inchoate realm of an imaginary future so that we never have to confront the artifacts of our limitations. The claim is that if you stop letting your performance determine your self-worth you will be able to jump into the tasks more freely and effectively. You'll get the inevitably imperfect job done -perhaps even done well.

The topic came around a few weeks after we'd gone remote. I had been taking a "business as usual" approach to seminars online. The form had to be altered for extraordinary times, but why alter the content? In the first half of the class we had a panel on developing competences representing Indigenous clients. Even though a number of the Indigenous lawyers joining us were coping with the many legal problems facing Indigenous communities as a result of the pandemic, they were able to pop into the Google meeting at their convenience, and give us the benefit of their insights on cultural sensitivity and Indigenous clients' needs, and pop out again. This would not have been possible without remote delivery.

Next we were onto procrastination. I had not yet figured out how to prevent my slides from taking up the whole of the screen. So I couldn't see anyone's faces. Nor could they see mine. I put up some questions for discussion:

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1. How do the “victim role” and “I have to” messages contribute to procrastination? How can one turn this around?
2. How does Fiore think the ideas of freedom, responsibility and choice are helpful in overcoming procrastination? Do you agree with him?

The argument I wanted the students to engage with was this: to avoid procrastination it helps to take responsibility. If you have a paper assignment in PR, for example, and you don't want to do it, you have a choice to make. That choice has consequences but law school is not compulsory. There are plenty of other worthwhile things to do. Do you choose to do the paper or not? Make a decision but don't drag yourself into the task with a begrudging sense of “I have to.”

It's always difficult to interpret my students' silence; more so when I can't see them. But this silence felt like skepticism mixed with anger. And I was beginning to realize I had led them down a road more perilous than I had anticipated. And I didn't have the agility to do anything besides, in an even more than usually over-hearty way, trying to encourage them to share their thoughts. Not having the presence of mind to shift back from the slide to the webcam, I couldn't even try on-screen pleading eyes and hopeful smile. A few voices questioned the assumption of autonomy. Then in the comments came this,

“I don't want to apply for EI this week. I don't choose to apply for EI this week. I have to.”

Oh dear! How could I begin to imagine all difficulties students must be facing; financial difficulties, child and elder care demands, having to leave their residences, being suddenly deprived of many of their support systems? Choice? Autonomy? Maybe not. What was more, the power and privilege gap between students and me had never seemed like such a chasm before. What could I do or say to acknowledge this student *having* to apply for EI? I might have said something helpful, but I didn't. Was it something about the chat box that made responding seem optional to me? I don't know. But I ignored the student's truth, shifted out of “present” mode, into “gallery view” and doubled down on the chirping:

“OK, so let's take a look now at Fiore's ‘worry worksheet’ which gives us some tools for dealing with the kind of anxiety that sometimes makes it

so hard to move forward with a task. Here are some questions we can ask ourselves when we find ourselves paralyzed.”

1. What is the worst that could happen? And if that happened, what would happen then?
2. What would I do if the worst really happened? How would I take care of myself? How would I make the best of things?
3. What can I do now to lessen the probability that the worst will happen?

More silence! Now I was really panicking. The worst that could happen? Why ask anybody to descend the spiral of worst-case scenarios now? I was used to the good old days when the worst cases consisted of things like failing a course, flunking out of law school, having a panic attack, fainting during a moot, disappointing your parents. For these sorts of risks who could not benefit from creating a “Personal Safety Guarantee”? This was part B of the exercise where students were then to plan how to recover from the imagined worst, how to cope and remain connected with their own values and sense of self.

As I struggled to make human-to-human contact, experiencing the disorientation of ersatz eye contact, I had a rush of imaginings of the future they might be envisioning. Of course, we had pivoted now from what’s the worst that could happen as regards your PR paper, or the file you’re working on, to a global kind of worst-case of a pandemic. I felt unable to make space for the depth of the discussion I had initiated. More silence from the students. More chirping and stammering from me. Why hadn’t I thought this through!? How could I drop the ridiculous pose of authority I had struck about the manageability of their futures and offer some real compassion for their situation?

Eventually, of course, time ran out. As soon as I “left the meeting” I tried to think about damage control. I fired off an email to the class.

Subject: And speaking of cultural insensitivity...

Dear All,

Please do **not** think about worst-case scenarios right now!!

It was an egregious player-error on my part to suggest that might help.

Culture is also relative to time and this is not the time to be writing out scenarios about the worst that can happen!

And yes, I also see that the assumption of choice sounds a bit entitled at the moment.

We are all digging in and hoping for the best.

Thank you all so much for showing up today and for your insights.

Very best wishes,

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No sooner than I hit "send," I saw I might have erred again, now missing the mark in the other direction. Stoicism, after all (and the exercise is a quintessentially stoical one) was never a philosophy for the comfortable. It was born in desperate times. The point of the exercise, after all, was to liberate the soul, foster equanimity and build resilience in the face of adversity. Having been wrong to recommend envisaging the worst case scenario, perhaps now I had been wrong to advise them against it. Maybe there was value, even in these terrifying times, in imagining the worst that could happen. Why had I again paid insufficient attention to the need to articulate all this?

I received only one response to that email.

Hello Professor Acorn,

As per last class, I didn't find the worksheet you gave us to be in poor taste at all. I hope students were able to see the difference between engaging in worst case scenario thinking during normal times and crisis times.

The exercise you gave us is one I've worked through over the years and I have found it very beneficial! I hope students were able to take the good out of it. I've found it has built my resilience to the events around me and even as we enter this time of uncertainty I find myself to be remarkably calm. Life timelines are altered, but things will work out! Even the "worst"

case scenario is not that bad, and we can always choose to move forward. The power of choice is real!

I was grateful for his response. But what *was* the difference between engaging in this kind of exercise in crisis times as compared to normal times? The obvious difference is the nature of “the worst.” Now? Well, we could all die in horrible pain and isolation. The university could collapse.

Even the possibility of a degree could disappear. We could face unprecedented levels of unemployment, far worse than the great depression. Food supply chains could falter. There could be mass starvation. Worst-case scenario? The end of humanity as we know it.

Again, the goal of the exercise is to foster detached resilience; a willingness to embrace risk based on a provisional pessimism about possible outcomes combined with optimism about one’s capacity to cope. But maybe when the worst cases are catastrophic this brand of stoicism carries the seeds of a cosmic death wish. Of course, equanimity about death has always been a core tenet of stoicism. But so much death? Can facing *that* disastrous a possibility still have a liberating effect?

A few days later CBC aired an episode of *Ideas* entitled “Taking it Like a Stoic: coping in the time of coronavirus.” The guests recommended the same exercise calling it “negative visualization,” noting, “It might be imagining that members of your family or you yourself get coronavirus. It might be imagining that you have trouble accessing food. It might be that you’re isolated for maybe a year from your immediate family.” These were definitely not the worst I could think of. The benefits of the exercise were described as follows, “If it does happen you have mentally prepared yourself and if it doesn’t happen you appreciate the circumstances that are free from those terrible things.”

Yet surely as the worst cases become more extreme, the benefits of mental preparedness decrease. How, for example, would it help to be mentally prepared for, say, slow starvation? In the procrastination context, of course, there are other hoped-for benefits. The desire is that such negative visualization (about what could happen as a result of completing a task) will break down the anxieties giving way to enthusiastic engagement with the work. But when the fact of a pandemic compels us

to overlay onto that so many other catastrophic possible worsts what does *that* do to motivations and capacities for action?

I don't know. I continue to believe, however, that the pedagogy of professional responsibility should make space for discussions of anxiety; especially the anxiety associated with the development of professional voice and professional competence. Such conversations are always delicate. The vast store of information that comes with face to face discussion (body language and all the nuances of personal presence) are essential to effective facilitation of these communications. Even then, there is always a risk that academics, from a position of relative safety, can fail to appreciate the pressures and risks facing students trying to find work and steeling themselves for legal practice. Everyone is now more anxious. Everyone now has more to fear. There is more desperation. And it will be the lawyers, not the legal academics, who are likely to have to manage more of that fear and with higher stakes. As the need to arm our students with tools for recognizing and coping with anxiety becomes increasingly pressing, giving them those tools has also become more difficult partly because of the limitations of remote delivery (which may be our classroom reality for an indefinite future) and partly because our students may be increasingly (and rightly) skeptical about their instructor's ability to relate to the realities they are facing.