



## Spring Break

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## Spring Break

David Kennedy\*

### I.

At 10:00 a.m., March 22, 1984, as guards led Ana Rivera into the small white clinic at Punta Rieles prison, Dr. Richard Goldstein, Patrick Breslin, and I became the first outsiders to speak privately and unconditionally with any of the roughly 700 political prisoners held in Uruguayan prisons at that time. We shook her hand, invited the prison officials to leave, and sat down at a small table. She was a small woman, about 23 years old, her auburn hair pulled awkwardly back in a child's yellow plastic barrette. Around each wrist hung a red and white string bracelet. Under her prison overalls, stenciled boldly with her identification number, she wore two layers of clothing. Fearing transfer to another prison or judicial proceeding when officials had come for her some moments before, she had worn her wardrobe to our brief meeting. Her hands trembled nervously.

Patrick's explanation of our presence was calming. Worn smooth by repetition before numerous officials, his introductory litany of our professions and affiliations was reassuring, factual, and brisk. I'm a writer, he's a doctor, and he's a lawyer. We're from the United States and we represent five scientific and medical institutions, the New York Academy of Sciences, the American Public Health Association, the Institute of Medicine of the National Academy of Sciences, the National Academy of Science, and the American College of Physicians. These became my first one hundred words of Spanish. His next sentence was too long to remember, something like: We have come to Uruguay be-

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cause these our institutions are concerned about the general health situation among political prisoners in Uruguay and in particular about four medical students arrested in June of 1983 on charges of "subversive association" and a number of other political prisoners reported to be in poor health. Patrick was careful to summarize his point: "In short, Ana, we have come to speak with you." Dr. Goldstein will also be happy to discuss any health problems you may have and to examine your body, if you so desire. I think now what I thought as he finished: this moment could be savored if only it would last.

As I tell this story, our moment with Ana seems well structured and meaningful. North meets South, the climax of an adventure which needs to be introduced, retraced, and concluded. Where did they come from? How did they find her? What happened to Ana after they went home? Her trembling and Pat's soothing writer-doctor-lawyer speech seem to fix a point between two worlds: native and foreign, authentic subject and objective role, the agents and their mission's object, cultural life and the law.

But in Montevideo, when Pat stopped talking, things seemed much less clear. Although we seemed to have gotten going, Ana trembled less and the three of us shifted in our chairs, relaxing, it was hard to see where things were going, hard to figure out exactly what we should do next. As we moved forward, interviewing first Ana and then other prisoners, returning to our hotel to plot our next moves, we wove these moments into stories about our institutions, our professions, the changing Uruguayan political scene, our mission, ourselves, developing stories about the experience in order to continue it.

In this story, I want to explore both our confusion about these experiences and our efforts, in Montevideo and Boston, to make sense of them. I want to evoke the activist's sense of not knowing what things mean or where they are going in human rights work by exploring the ways our search for the right tactic produced results we could not evaluate, and the ways our inability to know what was intrusive in a situation we had defined as foreign left us confused about our connections and responsibilities. By doing so, I want to explore the sense in which efforts that are often described in a way that makes them seem either noble and important or misguided and trivial are experienced more directly as tawdry and uncertain. In all these ways, I want to examine the situation in which we find ourselves as human rights workers.

My sense is that telling about a human rights mission and undertaking one are not as different as they sometimes seem. Both activities seek to transform the ambiguity and confusion of moments like ours with Ana

into comprehensible narratives. I would like to tell the story of this human rights mission so as to expose the similarity of analytic and activist work in the field of human rights as well as the differences between them. Normally, we are careful to distinguish the muddle of practice, experienced as a mix of intuition, confusion, and quick thinking, from the remove of analysis. We imagine that the confusions of action can be clarified by analysis, and indeed, that the analytic capacity of the mentally agile human rights activist contributes to his success.

Despite this sense of difference, however, analysis often seems simply to relive the experience, digging its confusion more deeply into wisdom. Many of the stories that we characteristically tell ourselves about human rights missions have a similar plot: a knight bursts forth from his domain, has a number of adventures crossing borders, foiling enemies, or bonding friendships, and eventually reaches the land beyond the pale, returning with tales aplenty. Stories like this are good fun. But they also reinforce a particular set of ideas about potent actors and their terrain, placing the calculating activist in center stage, bringing reason and justice to the land of the unjust, the victimized. Through these stories we construct our activism in the image of cultural stereotypes about men and women, avengers and victims. It comes as no surprise that as the moment marked by Patrick's words and Ana's behavior came to be acted upon and analyzed, his words took precedence over her suffering.

Patrick opened our story with Ana by reciting our professional roles and institutional affiliations, showing her our coats of arms. In a very real sense, for Ana, these identities and origins explained our surprising presence inside her prison, responding to her desire for an explanation. As I write this now, facing the demand of an audience for a comprehensible story about human rights, rather than Ana's for my credentials, our roles no longer seem so important. To begin where Patrick began, to recount our meeting with Ana just as it was, obliterates a great deal of the moment's originality and complexity by situating the story in an ongoing tradition of human rights discourse.

I could tell a story about "human rights abuses in Uruguay and the work of private institutions to combat them." Such a story might be about strategies. Our moment with Ana would be given meaning by reference to earlier tactical calculations and later evaluations of our "success." Thought of as a moment in the evolution of law, our mission might be placed in a narrative about evolving human rights norms and machinery. Uruguayan social and political life would be rendered as the rhythmic ebb and flow of the rule of law. The process of Uruguayan "democratization," underway by the time we arrived, might enable,

limit, or determine the pace of our efforts. Even an American Presidential election might appear as a "factor" influencing the developing interests of our sponsoring institutions in a variety of ways. Alternatively, our mission might be thought of as a moment in some political or historical unfolding, placed in a narrative about social struggle or foreign relations. Our professions, institutions, and norms would be factual intrusions in a narrative about processes beyond their ken.

For all this potential narrative variety, however, it seems that no matter which story I tell, our moment with Ana is bound to be rendered too lucid, its own ambiguity lost to history. The difficulty is that both the analysis and the activism respond to narrative demands. Both enterprises struggle against the confusion of moments like ours with Ana, continuously creating new ambiguities and confusions. Although one point of a story like this one is to remember what was put aside in our moment with Ana, the telling reinforces a deeper social practice of conflict management: we defer coming to terms with the confusion of the moment by embroidering it into the fabric of numerous comforting stories.

## II.

Six days before meeting with Ana, I had left Boston amid the half-joking admonitions of friends to stay out of trouble. Driving through the Callaghan Tunnel to Logan Airport, our mood was jocular. Uruguay seemed far away: dangerous, exotic, exciting. So long as we kept it distant, Uruguay seemed able to bear the burden of our excitement. As spring vacation approached, I had felt drawn by anything elsewhere, by the prospect of new people and different problems, by the possibility that in Uruguay I would feel more like an international lawyer than I did grading midterm papers on the living room floor. I might be respected differently than in my habitual workplace environment. Although I would be gone only two weeks, I knew time would move differently, more intensely, more quickly, and, lost in new details, I would break sharply the semester's continuity. With luck, I might even return tanned. Uruguay occupied a difficult position; it would need to remain foreign to excite me and to sustain my identity as an American and a human rights lawyer, and yet disclose to me its secrets to satisfy the attraction that brought me there.

Waiting at Logan for my flight to be called, I described my plans to friends who would remain behind. Despite the rush of adrenalin these fantasies produced, I felt a nagging doubt. The more remote I imagined Uruguay to be, the more I doubted whether I had anything to offer it. This doubt surfaced first as a political question of standing. What

“right” did I have to do this to “them”? So long as I pictured Uruguay and myself as different enough to sustain my excitement, I worried about becoming an agent of “cultural imperialism.” Yet if I were not so different, I would never have been invited. If I could believe that I had a right to go, or even a duty, a formula from which I could derive some limit and basis for my interference as well as some expectation about my effectiveness, my doubts would fade. I could at once respect and contain our mutual difference in a familiar framework of rights and duties.

The complement of this noble doubt, of course, was fear. I worried that I would find Uruguay disorienting, unsettlingly different, outside both my competence and my legitimate involvement. Sitting aboard our Varig flight, Richard and I carefully memorized and shredded background documents detailing the Uruguayan human rights scene from various legal and political perspectives. We hoped that the information from these documents would arm us in Montevideo, would keep us from being duped and empower us to confront, interrogate, and understand. But we did not want to take them with us. Who knew what might jeopardize our intention to float through the official scene buoyed by our reasonable demeanors and institutional affiliations? The documents might disarm us, marking us as foreign, dangerous interlopers just as we sought to assimilate. By destroying the documents while preserving their power for us, we reassured ourselves that we could remain sufficiently innocuous to establish common ground with Uruguayan officials without sacrificing our ability to oppose their regime. Finding a way to seem unthreatening yet potent adversaries would be a recurring problem.

By our fourth day on the ground, as we approached Punta Rieles, Richard, Pat, and I thought we knew each other pretty well. If Uruguay still seemed foreign, we seemed to have become a close team. On the one hand, in three days of intense negotiations, we had developed a comfortable division of labor. The writer introduced us, translating, explaining, clarifying. The doctor spoke for our institutions, enunciating our compassionate concerns, setting forth our objectives. I tried to make sure that the agenda for each meeting was completed and our demands were clearly presented. On the other hand, the more smoothly we worked together, the more comically reductionist it sounded to hear Patrick described as a “writer from Washington,” or Richard as the “doctor from New York.”

### III.

Punta Rieles prison stands on a slight rise at the end of a long driveway, somewhat off a main highway out of Montevideo behind a poor

suburban settlement. As it became visible some distance behind a low fence, it resembled a small red brick sanatorium near my home town in southern Michigan. We passed smoothly through the checkpoints despite our early arrival. Guards checked our documents, more formally and seriously than thoroughly. Someone looked in the trunk. Gates opened, and we drove up a freshly raked white gravel drive toward the main entrance. Off to the left stood a small barracks with eighteen or twenty off-duty soldiers gawking at us from its front steps. Two junior officers walked smartly to the gate to meet our car.

For me, we seemed to have reached the final boundary separating our mission from its object. Our passage into Uruguay had taken us across a series of boundaries. Each ritual of entry, through a customs portal at the Montevideo airport or into the office of a government official, had both strengthened our sense of solidarity and reassured us that we were making contact with Uruguay. Each time we were confronted with a man who emerged from the background of Uruguayan life, cast suddenly in the role of gatekeeper. Often as we crossed such a boundary we found common ground with him by momentarily suspending our identities. Sometimes we argued, pleaded, or tricked our interlocutor into letting us pass. Usually we simply presented documents. When we presented and imagined ourselves as our passport identities, as generic professionals and procedural conformists, we normally felt no particular relationship to the men who emerged to usher us in. Nor, it seemed, did our identities shift as we passed from one side to the other.

This time, however, as we stepped from the car in front of the prison gates, the boundary crossing seemed threatening and confusing. To our bemusement, the government had provided us with a blond, miniskirted guide in addition to a blue Peugeot and driver. As she emerged from the car to curious stares from the barracks crowd, I realized that she was the only woman in sight. Surrounded by men with machine guns, the women's prison secreted its female charges from view. Standing in the sun watching our guide step gracefully from the Peugeot, I feared that my desire to see the women prisoners, to cross the boundary guarded by these men, shared something with their prurient fascination for our guide.

Pat and I shed our professional accouterments, legal documents, cameras, notepads. Richard tucked his medical bag beneath the car seat, but turned back to slip a stethoscope into his pocket. I wanted to be inconspicuous and open to whatever might confront us on the other side, and Richard wanted to be prepared.

Both young officers greeted us warmly. The leanest, who was

clearly in charge, ushered us past a statue of Artigas, ubiquitous sign of Uruguayan nationalism, and into the warden's office where we received smiles, handshakes, and coffee. Smartly pressed but curious soldiers milled outside the door. We sat down for an exchange of formalities.

Across the black leather arm of my chair was draped a leopard skin antimacassar topped with a copper ashtray. As I fingered its tassels, Pat identified us: names, professions, institutional affiliations. The warden seemed unsure how to treat his first international delegation, but was visibly proud of his office, its order, his officers' demeanors. Pat described our object: we want to confirm the health of one medical student "in whose case our sponsors are interested" and of five other prisoners "reported to be in ill health." Does the warden believe that this is really our object? Is it even slightly plausible—to him, to us—that five American institutions would "become interested" in particular prisoners? Although I realize that defining interests this way might free us from anything but professional detachment, I wonder whether Pat has put the assertion too matter-of-factly. Perhaps he should tell a story about how institutions like ours get interested in cases like this and send delegations such as this to prisons like his. Despite my doubts, the younger officer has been nodding as if he were checking the text of Pat's speech against his delivery. I am relieved. Maybe we all share a comfortable distance from Pat's remarks and the officer understands that this is merely our handle. Perhaps he talks about his prison's having "taken an interest" in this or that when he is downtown. Maybe these "interests" are what we and they care about.

In any case, everyone is determined to play this script to the hilt. We explain that our concern is scientific and our motivation humane. We are interested in public health, not public policy. (I wonder as I make this bald assertion what it could mean in such circumstances to say that public health and public policy are distinct. On the other hand, if our institutions did not think we could keep them separate, would they have sent us on this mission?) Richard agrees with the warden that we will see the medical student for a substantial period of time, the other prisoners only long enough to ascertain their health. The duration of our contact with each prisoner will be determined by the theory we have used to justify interest in her case and access to her presence. But does a physical exam really take less time than a symbolic interrogation? Although it might scare the warden off to do otherwise, I wonder whether we are right to deny interest in other prisoners, treating our Washington-based list of the sick as definitive. Perhaps we could ask for more: more prisoners, more access, more time. But it appears that the



hollower the story of our institutional motivation sounds, the easier it is to get the warden's cooperation and the smoother our relations seem. His superiors have authorized him to grant these specific requests and he is relieved when we press on him no other demands.

As the warden takes over the conversational initiative, he builds upon the common ground that Pat has established. He describes the prison clearly and proudly. He appears to assume that everyone appreciates a well run detention facility. I nod sincerely. I picture him, reduced to a stereotype, expounding this story to his wife over dinner. He explains that we must understand that these are violent prisoners, threatening the Uruguayan community. I hope he knows that our conversation is ceremonial and that my acquiescence signals only my foreknowledge of the text he is reciting. As he continues, I begin to fear that we may betray the prisoners before we see them by associating ourselves too completely with his authority. But surely they will understand that I recognize he must say this, accept that he wants to say it, that he believes it, and that our silence is in their interest. This is just trickery, just a ceremony, men's talk. I think, "When its over, ladies, I will be true to you." Because they are violent, the warden continues, these individuals have been segregated in this more secure facility. I recognize that he is reversing the violence, projecting it into the prisoners. I notice the nineteenth century military portraits behind the warden's desk, signs of institutional continuity in this comfortable office. One of the portraits resembles the gaunter of the two junior officers. There is indeed no violence here. These men are managers.

I begin to suspect that he must be convinced, not that we buy his arguments, but that we will respect his assertions, taking them without challenge. This is his office, and his characterization of the situation will stand. We are merely passers through, far from our offices. My nodding becomes vigorous, even understanding. Perhaps our institutions understand their institutions. As I nod persistently, Richard sits forward and begins to interrupt the warden's lecture. The initiative passes to us. My instinct now is to spar with the warden. Assuming a demeanor of factual curiosity, I ask how violent prisoners are selected for segregation here: on the basis of their crime, their particular acts, etc. The warden explains, as we already knew from our shredded documents, that only those accused of crimes against the state are here, even if they have not been convicted or are accused merely of association or spoken criticism. We let the contradiction pass. The warden reclaims the initiative by playing upon our insecurity about interfering in Uruguayan affairs. In our alienage we, the interlopers, remain obsequious while he explains

that in the Uruguayan context, political criminals are the dangerous social threats. He recommends two books on national security and the role of the Uruguayan military in case we have any questions. Our turn. We have heard that the prison routine at Punta Rieles and Libertad is intended to break down the prisoners' personality structures. I expect that he will rebut these charges by protesting that the routine is necessitated by bureaucratic considerations. This protest would allow him to feel justified while underscoring the banality of the prisoners' suffering, thus permitting us each to feel satisfied by the exchange. To give him this chance, I ask our host about running a high security prison—how does he determine the measures necessary to deal with such criminals? Without hesitation he breaks the cultural barriers between us by acknowledging with pride that he learned what he knows from the American military that trained him.

#### IV.

In a way, edging towards Punta Rieles, we were just actors playing parts in a tale made familiar by hundreds of childhood fantasies. Like knights-errant setting forth from their domain in search of adventure, we were grounded in fealty to our sponsoring institutions and bounded by the oaths of our professional service. We hoped that, like knights abroad, we would band together warmly in foreign territory, our friendships tested and forged. But, in another way, we were more than just actors in a familiar cultural drama. Whether in remaking our institutional sponsorship, redefining our professional roles, or developing our team spirit, we were also narrators and directors, creating our roles and casting others as we wished in a production staged against the backdrop of Ana's imprisonment.

There seem few human rights activists without sponsors. Activism is, in this sense, a representational activity. But not every potential institutional patron is anxious to send would-be activists charging into battle. The scramble for the credentials of patronage and the processes by which institutions come to sponsor activists mean that action, even when guided by the activist's intuition or inspired by his faith, refers back to the institution's motive and forward to its goal. In this sense, the activist merely implements.

Transforming Pat, Richard, and me from Writer in Washington, Doctor in New York, and Lawyer in Boston to writer-doctor-lawyer in Montevideo required imagination on the part of our sponsoring institutions, which initially regarded sending missions to Montevideo as somewhat outside their normal portfolio. Their long-standing concern for the

plight of foreign colleagues needed to be translated into an "interest" in four specific Uruguayan medical students and a willingness to send three activists on their trail. Our institutions were somewhat uncomfortable becoming involved in human rights work for several reasons. Scientific institutions often resist engaging in human rights work because they fear it would diminish their scientific neutrality—ironically the very neutrality which might enable and legitimize their human rights work. Often they resist this work because they fear they have little to offer—it seems counterintuitive, if not a little perverse, to think of political surveillance and imprisonment as threats to the confidentiality of the doctor-patient relationship, of systematic torture as a deterioration in the public health system. Moreover, in my experience, scientists and professionals in institutions normally removed from politics sometimes seem to fear that they will appear naive and out of place in the hurly-burly of human rights work.

Overcoming these doubts was not simply the triumph of action over the passive habits of professional fuddy-duddies, however attractive that image might be. These doubts were overcome primarily by relying on the well-worn norms of professional responsibility and human rights ideology. As a result, we moved to action by learning to think about Ana and her compatriots as fellow professionals and objects for our moral outrage. My own employer, the Harvard Law School, has moved over the past few years toward a public commitment to "international human rights," which facilitated my own involvement in the Uruguayan mission considerably. This commitment is a bit difficult to explain, particularly given our widespread sense that any institutional participation in advocacy threatens the academic freedom which gives the faculty faith in its prerogatives. In part, I suppose, foreign advocacy seems a neutral defense of the "rule of law" rather than a partisan choosing up of sides. As a result, we tend, oddly enough, to use the rubric of "human rights" to refer to everything from foreign investment to cultural revolution. Partly, international human rights work seems to promise safely distanced contact with the certifiably barbaric. Partly, this work seems the natural modern extension of an institutional commitment to civil rights and social responsibility.

Taken together, these images render institutional support for human rights activism possible. They also give that activism a certain structure. The activists will be dispatched professionals, individual advocates deployed upon a foreign context in service of human rights. Thinking of ourselves as deployed professionals created a double sense of Uruguay as client and abuser, familiar and barbaric. These contradictory images of

Uruguay could be stabilized, controlled, tamed by the language of human rights, our professional language. We render the exotic familiar by scripting the barbarian as "rights abuser" and the victim as our "client." We now have a role in Uruguay: to "represent" the client against the abuser. Our mandate channeled our concerns about violence into a rhetoric of health, our interest in Uruguayan politics into a physical examination of Ana's body, our outrage into a dispassionate recounting of rights violated, remedies not provided.

An activist's mission is shaped by the oaths of his professional service as much as by his institutional origin. There seem few human rights activists who do not enter the field as something: as Christian witness, concerned citizen, public health worker, lawyer. To feel at home in human rights work and to become successful in the field often requires only that an activist become better at playing such a role. As a result, action occurs through the prism of these identities. It is, after all, the "activist" who acts.

In the warden's office, our roles seemed like stepping stones across the cultural divide, simplifying our relations, rendering them possible, closing out the distracting issues raised by unstructured thinking about our situation. We could communicate as Doctor to Lawyer through Writer-Translator to Warden. But our roles produced new walls between us as well as intimacies and complicities. Often I feared that our roles would trap us in wooden sterility or render us complicit in our prisoners' dilemma, even as I counted on them to facilitate direct human contact.

Yet even when I tried to cast aside my professional identity, I could not avoid the prism of my activism. It would be a mistake to think of an edifice of roles simply as a prison for our imagination and to romanticize confronting one another more directly. When I pictured the warden dining at home I was trying to give voice to the desk plaque which announced his name: Kleber Papillon. David and Kleber relaxing around the piano. Sherry. Wives lounging on couches. Servants spreading dinner. For all my effort, I found myself picturing the scene from a television movie aired the previous fall, reducing him to a stereotype precisely because I, the foreign lawyer, would never find him revealed, no longer the warden. The best I could do was to write a soap-opera husband into the script in his place. No matter how many Klebers I imagined and how different they seemed from the warden, none existed outside my imagination.

As warden, Papillon had to defend his prison while letting us in, an admission which belied his defense. As doctor, Richard had to cast his

concerns in the language of medical ethics, an identity which his presence in this remote political prison belied. But these scripts were much more open than these structural tensions suggest. To me, Papillon's name and title were more repositories than identities. When I spoke to "Kleber Papillon," I placed his violence elsewhere, in his profession, his institution, his service. On the other hand, when we connected as professionals coolly sipping tea across mahogany, I placed the violence in Papillon or his men, in the rough edges of his silken intention to help us. Working with this ambiguity—now Papillon, now the warden—I avoided both blaming the prisoners for the violence against them and openly rebuking Warden Papillon's account of their suffering. One might analyze our coffee klatsch flirtation as complicity or shrewdness, measure it against the greater complicity of accord or the greater opposition of rebuking him directly, but the play was simply more ambiguous, more tenuous, more shifting than such accounts suggest.

If relations with the warden seemed wooden, getting to know one another as a team seemed unambiguously human. Indeed, it was by contrast to our own solidarity that relations with the Uruguayans seemed satisfactorily distanced and professional. But banding together on foreign soil, like relating to our Uruguayan counterparts, was a far more ambiguous affair than it seemed. We became friends, but that friendship developed out of a fluid roleplay.

Our delegation had been constructed around our diverse professions, and indeed, we fell easily into a stereotypical division of labor. I, the lawyer, became responsible for aggressive formality; Richard, the doctor, for compassionate bed-side manners. Patrick, the writer-translator, mediated, interpreted, and explained. After a while we joked about the writer who refused to travel without his doctor and lawyer. This joke, by reducing our roles to mere tools to be put on and discarded as we thought fit, released some of the discomfort we felt about believing in such stereotypically professional ways. Although we were glad for the release, we were still unable to transcend our roles completely. As it turned out, the simple opposition between roles and selves did not capture the complexity of our relationships. We came to know one another by playing with our sense of one another as Patrick-Richard-David and as writer-doctor-lawyer.

This play required that we each posit the others as roles and as differences from roles. I came to know Richard as "Richard" by contrast to "the Doctor," yet the characteristics associated with each seemed fluid. Sometimes Richard seemed more firm than my image of the compassionate Doctor, and I knew him by contrast to his role. Sometimes,

when he seemed too nice, I knew him as a Doctor, whose compassion was required for the triad doctor-lawyer-writer. But my image of doctors was fluid—they seemed both compassionate healers and dispassionate scientists. Which was Richard? Whichever he was, both were projections of my own interpretive imagery. And I am sure he came to know me by interpreting my behavior both within and against his notions about lawyers. Repeated in all the permutations three people and three roles can generate, these experiences were what “becoming friends” meant.

In relating to each other and to the warden, we thus shifted in and out of various identities. Now I was the lawyer, now David; now he was the warden, now Papillon. Throughout, we deferred the moment at which we would settle our identities. Indeed, our ability to relate both to one another and to the warden depended upon our ability to defer the moment at which we would choose to be just the doctor or to treat our opposite number as simply a warden. Usually, telling stories about our activities is supposed to settle issues left open in the experience. In analyzing my time with the warden, however, I seem only able to decide whether he was a dutiful warden or a nice guy by treating some detail of our interaction as dispositive: he offered us coffee, or grimaced menacingly, for example. In this way activism avoids ambiguity by reference to an analysis that can do no more than treat the ambiguity as already having been resolved in action. Yet, just as the patterns we embroider onto our relations are undone when the ambiguity of the experience is recaptured, so the ambiguity of our analyses is belied by the felt authenticity of our experiences.

Oddly, this work—weaving meaning into our lives only to rip out the cloth—is forgotten, and the story seems simply to unfold, to progress. Propelled forward by our practice and reimagined by our analysis, time seems to move forward independent of our activities. Moreover, as we forget the ambiguity of our play, the results of our activities come to seem real. Papillon was and had always been a warden when our team arrived. What began as a play which we made came to seem like life itself. As a result, while playing with one another’s identities, we came to feel that we were manipulating real boundaries and transcending real differences which preexisted our play.

For all its ambiguity, as both lived and told, our story seemed to have both direction and meaning—both provided by Ana. The promise of access to Ana gave significance to our work and the prospect of meeting Ana shaped our relations with each other and with the Uruguayan officials. When we found ourselves connecting emotionally, rather than

just professionally, with Papillon, it was fealty to Ana that made us reassert our difference from the warden. When we differentiated ourselves from the warden, it was a sense of our shared difference from Ana that rejoined our team to Papillon. Ana shaped our relations, ordered our experience, gave our mission significance and meaning.

## V.

After our introduction, Ana asked Pat what we wanted to know. A moment of fumbling silence. Pat, Richard, and I had planned our interrogation. We had known that time would be short and conditions uncertain. We had worried that the prisoners might have been too well briefed or too frightened to speak freely. We had thought that we would need to "establish trust" and move quickly to get what we needed. Richard was a doctor: he needed some health history and we needed to leave time for a brief physical exam. I was a lawyer: I needed details of the arrest, incarceration, and defense. Our interrogation would have to pass through Pat's simultaneous translation. We acknowledged, of course, that the client/patient/prisoner should be able to tell his/her/its own story. That was sometimes necessary, we knowingly reassured one another, before one could get a direct response to questions, and it might uncover something we would not have thought to ask. Thinking like a lawyer, however, I realized that open-ended questioning, like other luxuries of a relaxed interrogation, would have to give way to direct questioning under difficult conditions such as these. But despite this fairly clear sense of the professionally necessary, doubt seeped into my demeanor as we began. Perhaps because I was uncertain about our standing—we were, after all, only the self-styled doctor and lawyer for these people—I wondered whether we might not need a relaxed interrogation. I felt apprehensive that this ambivalence might combine with difficult interviewing conditions to sabotage our ability to obtain the information that later would turn out to be important.

Richard told Ana we had about an hour together and asked her to begin by telling us about her arrest and the subsequent events which led to her arrival at Punta Rieles. Good approach, I thought; chronological. With so little time, her story has to make sense. If it rambles, she might not cohere. Ana, calming now, seems to know exactly how to proceed. As she picks up Richard's invitation, she seems to me to have prepared several stock cassettes for such an interview, dry factual renditions of her arrest, treatment, prison life, student politics, and Uruguayan militarism. My fears about reticent or inarticulate prisoners, which Ana's trembling hands had rekindled, now faded. I stopped staring and listened.

She had been arrested on June 13, 1983, while walking on the street alone near her boyfriend's flat. I start taking notes. Officers put her in a car and took her to the police station about 4:00 p.m. She relates some details about her boyfriend. He too is a medical student. They met . . . I steer her back: what did they tell her when they put her in the car? Did they take any documents or possessions? She responds nicely—nothing, no, but they ransacked her boyfriend's flat, picking up some literature from the medical school student council. What happened at the police station? I inject the questions softly through Pat, recording her responses seriously. Smooth so far. Her boyfriend is now in prison at Libertad. I realize that we will be seeing him later in the day. I begin to think of Ana as a student activist; her calm willingness to speak seems to reflect a self-assured politicization. She says that she never advocated violence and renounces it, contrary to charges made at the police station. As her demeanor reassures, my mind wanders from her words. Although I suppose I called forth this stereotype, it begins to bore me. I think about her boyfriend, wonder how they got together, whether they discussed the possibility of imprisonment, separation. But I ask about the police station again: who said what when?

Richard, less bored than impatient, interrupts—perhaps we should just let her narrate. I stop, but feel a bit uneasy about abandoning my campaign for the legally relevant facts. Our need for this specific information stemmed more from our desire to be their doctor and lawyer than from something intrinsic to our representation. Perhaps our institutional sponsors needed to have certain information to remain interested in the cases, in the mission, to feel successful. Perhaps they even had a right to certain information, having sent us so far. Luckily, my insecurity gives way to resignation. Maybe it's hopeless to get all the information we wanted. I'm not really their lawyer, after all. Her own story, I imagine, will at least be more interesting.

Ana skips ahead to her first days of incommunicado incarceration. The chronology is broken, although her story remains familiar from background reports. But suddenly there is no cassette. She reports being blindfolded, doused in cold water, forced to stand in unheated and drafty surroundings, arms and legs outstretched. An electric prod is applied to her fingers, toes, eyes, nose, mouth, and genitals. She is tied to a metal bed frame, electrodes are fastened to her face, genitals, and extremities. Someone cranks a hand operated generator. She can hear it. Electricity surges through her body. She is doused in water. The cranking resumes. Her hands, wrapped in cloth, are tied behind her back. She is hoisted by her wrists and suspended. As she hangs, they strike and prod her. She



wakes up on the ground near a stair. Still blindfolded, she hears a medic cautioning the torturers about head injury. The hanging, the electricity, the torture is repeated.

On June 28th, the torture ends and she appears before a judge, charged with membership in the Communist Party. She has signed a confession and a statement that she has been well treated. The police return her to the police station and allow her to contact her family for the first time. On August 4th she is brought to Punta Rieles where she remains awaiting trial.

We have spent forty-five minutes together and still have not discussed the prison, her health, or her defense. But somehow in the last few minutes I have lost interest in the case; I find her personal story too intimate and shocking to relate to. Ana stops talking and Pat looks to me for more questions. I am fascinated by the strings around her wrists, stare at them, want to admire them, inquire about their origin.

Richard asks about her health. They discuss several medical complaints. Ana describes the prison regimen. Her tone is flat, matter of fact. My mind holds and cannot release the image of electrodes on her wrists, tries, but cannot visualize 200 volts surging on her lips as she speaks. As Richard begins a physical exam, I leave the room. I have become the lawyer again. The doctor will view the body. Outside, in the hallway, the young officer who had accompanied us to the examining room stands chatting with a group of female infirmary personnel. His uniform is smart beside their sack-like smocks. I straighten my tie. The autumn sun lights the group through the bars of an open window. The officer flirts with a nurse. She touches his cheek. They laugh.

We spoke with five other women that morning, all of whom had been at Punta Rieles longer than Ana and had been reported to have had health problems. All reported torture. The wrists of one young woman showed the scars of a recent suicide attempt. Another, whom I had taken for sixty as she described her fourteen years in prison, her cardiac difficulties aggravated by years of hard labor, the ear infection and deafness induced by torture, told us she was forty-four. It was Pat's forty-fourth birthday. "Different lives," she remarked. Pat, a boyishly handsome Washingtonian, tried to bridge the gap. "Same grey hair," he said.

The women's stories began to blend together, a parade of sick and mutilated people. At one point depression overcame the group. Silence, four people staring at the formica table top. One of us said something about there being people outside, in America, who knew she was here and would not forget her. Our institutions would remember. Several of the women wanted to make specific pleas, usually on behalf of nine pris-

oners purportedly confined in scattered places throughout Uruguay who had not been seen in over a decade. We discussed the psychological pressure of incarceration, the food, the exercise or visitation privileges which guards often irrationally withheld. Often the lull of such normal prison conversation distracted me from empathy. Sometimes, when I remembered that many of these people had been imprisoned under *ex post facto* laws or for crimes of speech or association, my lawyerly sensibilities made me angry.

Here on my word processor, as I put our experiences in Punta Rieles together, I want to respond to the worries that we had before going in to Uruguay, about being pawns in an Uruguayan propaganda show, about finding prisoners suspicious, about being unable to tell the true from the false in an environment which promised to be so foreign and exotic. I am tempted to declare that the prisoners' stories seemed by and large credible by all recognized indicia of demeanor, but to make this judgment—to enter into a debate about credibility—is to reduce and denigrate our experience at the prison. I want to make our time in Punta Rieles seem beyond assessments of credibility, out of reach of reason. I want to have been part of the crude solidarity and witness which seemed so endearing among the prisoners. At one point we heard shouts from the cell block below us. Ana explained: whenever anyone is removed from her cell, she yells her number so that others can keep track of her and know if she has disappeared. I want our visit to have been like that. Sometimes, of course, it seemed so. Ana wanted us to write down our names and the names of our organizations so that she could tell the others who it was that knew they were there. In the face of such experiences of solidarity, assessments of credibility would seem insignificant and beside the point.

But our experience at Punta Rieles was not simply one of solidarity and witness, as might be suggested should I now give in to the temptation to rebuke these earlier doubts and flatten our time with the women into a single unambiguously true experience, thereby constituting us as those who went, saw, and returned, having seen something too true to be described or proven in the worldly, lawyerly language which we, so removed from grace, are used to speaking. As a result, such a refusal to analyze our prison experiences in the language of credibility and doubt seems no more faithful to Ana than doing so. Although the refusal captures something of our solidarity, it threatens to suppress the many ambiguities of our experience with the women. Similarly, although assessing credibility seems removed from the immediacy of our sense about the truth of Ana's experience, it seems the only way to avoid placing her on a pedestal of untouchable authenticity. Analyzing our experiences from

the remove of my Cambridge study, I feel trapped between the necessity and the danger of assessing the truth of Ana's story.

One response to the difficulty of thinking truthfully "outside" the prison about an experience "inside" might be to acknowledge that the boundaries which divide Cambridge and the prison or which separate my experiences from my analytical reflection may be quite permeable. Now that I think about it, this permeability had some basis in our experience. As we left the warden's office in the other direction at 1:00 p.m. and returned to the gaze of the militia outside the prison, the women hidden in one cell-block were singing Happy Birthday. As the officers glanced nervously at one another, we smiled at Pat.

## VI.

Both within and without the prison walls, our meetings with Uruguayan officials seemed purposive and deliberative, lacking the easy give-and-take of our meetings with the prisoners. As activists avenging our prisoners' honor, we wanted our relations with Montevideo officials to be, first and foremost, effective official relations, and we embraced the rhetorics of human rights and medical ethics enthusiastically. From the start, however, we had a hard time finding the right mix of lawyerly aggression and medical compassion with Uruguayan officials, and it was difficult to release the full force of our concern effectively.

We got our first chance to practice while still inside Punta Rieles. After speaking with the women prisoners, we met with the prison doctor. He was a small and somewhat ugly bureaucrat, the perfect central casting prison doctor. We had stalled him off all morning, brushing aside his offers to sit in on Richard's examinations, to spend time going over each medical record in detail, really, he kept repeating, to help us any way he could. Finally, as the last prisoner left, I asked him to come into the examining room. Richard was completing the notes of his medical examinations and skimming the prison medical files. Interrogation fell to me. After meeting with the prisoners and hearing their medical complaints, I wanted to cross-examine him to the wall. Two general problem areas seemed promising for interrogation: lack of patient confidentiality and the high incidence of torture-related complaints among the prisoners. After getting him to produce evidence confirming these charges, I would be able to force his acknowledgment of the newly adopted United Nations standards on participation by health workers in torture. I had a copy in Spanish and wanted to work through its terms with him.

I started with a set up question: could you describe your responsibilities at Punta Rieles? Your staff? Female doctors? Psychiatrists? Are

they military officers? I figured I had about twenty minutes, including translation. So far the facts looked good: the psychiatrists were military. In describing the range of medical complaints, the doctor emphasized an abnormal incidence of psychological distress of various sorts, spinal problems and other “functional” complaints related to hypertension, and digestive irregularities. Almost too good to be true for my case about torture. I pressed on. We went through procedures for access to medical care. I circled around, increased the pace and had him on the run about patient trust. The next step was confidentiality. Richard looked up and slipped me the UN Code. One of his institutions had been instrumental in drafting it, and he wanted to make sure we spread the word. My time was short. I switched to torture.

Did he know that charges had been made that Punta Rieles prisoners had been systematically tortured? Yes. By wrist suspension? Yes. What might be the medical results of such treatment? I would need to hurry. He couldn't speculate. Spinal dislocations? My mind flashed to our forty-four-year-old and the extra struggle ill prisoners confronted enduring the Punta Rieles regime. I was furious with him for not easing their burden. Suddenly everything was upside down. The more he confirmed our worst suspicions, the better my interrogation seemed. I pulled out the UN Code. Did he know that international standards had been adopted governing medical personnel working in political prisons? He did. Did he know what they said? Yes. About torture rehabilitation? No. Had he seen this document? No commanding officer had ever put pressure on him to act unethically, he offered. I sensed a slip, and restated the question: did he know what was required of medical officers regarding torture rehabilitation? Richard stepped in.

Surely the doctor sensed the importance of such standards for the profession as a whole, Richard soothed. Suddenly there were two doctors in the room. Solidarity. Mutual respect. He sprang for the escape. Yes, and he shared Richard's pride. It was an honorable calling. I was relieved, but also frustrated. My anger had not yet found its outlet, although, as we reconstructed it later, the combination seemed defensible, both effective and authentic. Nonetheless, I was left hanging, enraged interrogator without a subject.

In part, confusion about the goals of our interrogation made our exchange with the prison doctor difficult. At times I could only focus on a desire to affect him, to imprint our visit on him one way or another—but why not just punch him out? Sometimes I wanted him to admit responsibility for Ana's suffering. I wanted someone to blame and I wanted him to assume the role of the blameworthy and the stance of

subjugation before our witness to their deeds. More often, we sought to induce the doctor to change his ways, perhaps by getting him to recognize a shared professional sense of the "reasonable" or some external legal/ethical standard. We also thought of being effective in ways that did not relate so directly to the object of our interrogation and, in particular, did not require him to change his behavior: by bearing witness to his complicity, monitoring his activity, expressing solidarity with his victims, and reinforcing the human rights norms and institutions with which we confronted him.

Sometimes these goals seemed to conflict or to suggest divergent tactical mixes of lawyerlyness and medical compassion. Getting the doctor to acknowledge a common professional norm seemed, at least to Richard, to require tactics softer than those I was employing to force admission of his complicity and show solidarity with his victims. Similarly, when I thought we might best induce acceptance of a legal norm with a complacent tone, Richard hoped to bear witness with firmness. Nor could we face our sponsors if we seemed to have sold out. Even when we could resolve these dilemmas by imagining, as we did with the doctor, that our roles "complemented" one another, we often felt a bit unsatisfied.

Often we tried to structure these ambiguities as personal choices between doing good and doing well. Thinking of things this way channeled my confusion and anger into a set of calculations manageably informed by my sense of my own moral agency. How, I asked, might I combine success and virtue, recognizing that neither authentic, human relations nor instrumental, effective encounters would alone be satisfying. After all, just as "effective" interrogation kept getting in the way of my relations with Ana, so a desire for "authentic" feelings, to express my anger, kept intruding on my talk with the doctor. By imagining that we wanted to be "effective without compromising our true beliefs," we could make authenticity seem like either a limit on being effective or a goal of secondary importance. I used this approach when one official described his pleasant days at Harvard. I considered whether to respond with a tone of common or divergent experiences in tactical terms: how far could I go in appearing complicit before I would jeopardize his sense of our commitment to the prisoners? In the end, we traded a few anecdotes about how Harvard Square had changed.

Once we started thinking this way, we were adept at formulating strategies (one might even call them doctrines) to accommodate our instrumental interest and our moral position. Sometimes, for example, we distinguished our reasonableness from the hard-heartedness of our spon-

sors, or our professional reasonableness from the shocking facts of these particular cases. It was more difficult to arrive at a satisfying resolution when our problem was to choose either among conflicting moral values or among conflicting tactics: how far, for example, might I empathize with the doctor before denying my sense of his injustice? Despite these strategic resolutions, moreover, our confusion about goals never fully disappeared.

To a certain extent, this fluid confusion served a purpose. It often allowed us to differentiate our moral and our instrumental selves, our retrospective sense of the authenticity of our relations with the prisoners and our more purely instrumental relations with Uruguayan officials, without abandoning our sense that these two dimensions of our personality and activity were integrated in some way. Indeed, we pursued these official relations in part precisely to reconnect us with the authenticity we now imagined ourselves to have experienced with the prisoners.

As Richard asked the Punta Rieles doctor a series of questions about the general health among the prison population, my mind turned to another doctor, on a podium in Paris four months before. As I had pushed through the crowd of leftists and luminaries gathered in the Assemblée Nationale for a conference on the Application of Humanitarian Law to the Conflict in El Salvador, an American physician was finishing his report on the health situation in the area of conflict. It was a numbing litany of statistics: birth weights, arm circumferences, and calorie counts. The crowd milled. I looked to see who I might know in the hall. I wondered how this Manhattan internist had found his way to this motley conference, or to El Salvador for that matter. Probably some UNESCO tour. As his account came to a close he concentrated on a family he had interviewed in the hills—a woman with four children, husband presumed dead or at war. The imagery is strong, of shrinking babies and sagging breasts, birth weights and the dirty faces of sickly children. He has the audience. Disease gives way to a rhythmic incantation of pharmaceutical shortfalls. Wounds that cannot be sutured, sores that cannot be salved. He knows we share his shame, his outrage, his intensity. He has taken us to El Salvador with him. He entreats us to make this conference a success, to respond to the wounds to which he is witness, to find—he pauses for breath before the climax—and to declare a right to health within the annals of humanitarian law. Applause. He is coming down, wiping sweat from his hands. We will respond, the law that is empty will be filled. He will not have gone, and we shall not have come, in vain. Two extra words have crept into his medical diction,

promising to transport our concerns to the sick and the needy. Not health, but a right to health. Not engagement, but declaration.

After we had left the Punta Rieles doctor behind, I wondered how I, trying to release my emotions through the rhetoric of medical ethics or the device of cross-examination, differed from my Paris doctor, titillating us with barbarism while promising a successful, if disengaged, response. For my strategic planning and my tactics, like his, had been constructed to revive images of prisoners bound, and to bring our unresolved and perhaps voyeuristic feelings about being with Ana and others safely into our normal lives.

Sitting with officials, we tended not to think about this. We were with them, after all, precisely because we had left the prisoners firmly behind. If we did wonder, as we projected as much self-assurance about the naturalness of our presence as we could muster, we did so in the language of standing: what right had we to be there, asking these questions? Why should the Punta Rieles prison open its files to us? The issue of standing—the question of our right to intervene in Uruguayan affairs—seemed to trouble the Uruguayans less than it bothered me. I think now that my concern about standing sprang in part from my perception of our relations with Uruguayan officials as purely instrumental rather than as personal and human. These concerns were the products of our unresolved feelings about the chasm we were opening between our moral and our professional selves. In the context of instrumental relations, the intermeddler needs a basis for his intermeddlery. He needs a doctrine like standing. My worries about standing arose from my desire to deny that my relations with the Uruguayans had a personal and human dimension. Yet my experience with the doctor, as with other officials, was not an impersonal ritual. It was a complex social and personal crossroads in which dozens of desires, emotions, and roles found expression. My worries about standing arose from my desire to deny that relationship because it was the product of a continuing barbarism, our secret desire to take one more look at the wound.

## VII.

Back in the blue Peugeot, we speed to Libertad, prison for male politicians. The car is hot. Food and five minutes to relax with one another would be fine. If it weren't for the driver and guide we would go over our Punta experiences. Behind schedule, we sit silently in the back seat, trying to turn our minds to the longer list of male prisoners awaiting us. I close my eyes. Libertad prison is in the countryside on the other side of Montevideo, in another military district. We see the massive rec-

tangular building long before the sign reading "Rehabilitation Center #2." Just outside the inner grounds, in the military recreation area, healthy young soldiers are playing handball. In a cruel joke on parents who drive this road for brief telephone contact with their children, the last government billboard before the prison depicts a small boy and girl, beside them the words "our hope." As we approach, I notice more uniforms, more check points, more serious expressions, more guns.

There is no rite of passage into the prison here. Indeed, we never make it to the prison proper. As we step from the car, I can't make out the outline of the prison itself, obscured by too many watchtowers and outbuildings. Someone hands me a red identification badge as we step from the car, surrounded by gun-toting soldiers on a hardscrabble parking area. We trot between two walkie-talkied soldiers across a compound towards a small brick building. We step through the side door into an office labeled "Director." Inside, an officer in well-worn fatigues confronts us. There are no portraits, no antelope ashtrays, no coffee. This fellow makes no pretense to be the director. On the walls are blurred black and white photographs of mangled bodies, victims of Tupamaro terrorists.

The officer seems ill at ease with an international delegation. He plays it tough and close. State your business. We offer no elaborate introduction. Still standing, Richard hands him our list of names. We may see the three medical students. As to the other ill prisoners, that will not be possible. His orders from Montevideo include only three names. Our list lies limp on the table.

I assure him that this must be a misunderstanding, not to say an error. I suggest that we will gladly wait in his office while he straightens it out. No, he says, we will see the students now. In the meantime he will check with his commanding officer. This seems unlikely to clear anything up—the communications gap must lie between our political contacts in Montevideo and his superior, commander for this military district. I think Papillon would have said that he would have liked to help us, if only . . . . A truly malevolent director might have relished the rejection. This guy simply hands his list to someone and opens the door.

Guards take us to the visiting rooms. One wing of this outbuilding is partitioned into small chambers by walls of steel and glass. Inside each chamber are fifteen or twenty visiting posts—each with a telephone. Around the outside walls are phones for the prisoners. The wing is empty. The atmosphere beneath the bare bulbs is tense. Our voices echo as we protest the unacceptability of such a location for a medical exam. I invoke medical confidentiality: Richard cannot examine a patient under



such exposed conditions. Although we will be able to speak privately with the students within one visiting chamber, the glass walls are lined with open telephones. There must be another room. No dice. We are being neither let in nor kept out. I can't seem to build a relationship with these men; there are too many of them, they all look alike. Everything is moving too quickly, we can't sort out who is who. We confer briefly and decide to go ahead on their terms, more resignation than strategic bargaining concession. Still, we hope our acquiescence will advance our attempt to see the ill prisoners. We are to have about twenty minutes with each student.

A steel door opens behind us and through the glass I can see a young prisoner being brought across a barren field into the building. Head bowed and shaven, he stands with his hands clasped behind him, facing away from the guards who escort him. In a grey uniform, number stenciled across his chest, he is the image of subjugation. He catches my eye and winks while the guards slide the door closed.

Ramon Hernandez shakes my hand. His eyes brighten, and I realize that he may not have touched someone from the outside since last June. As Pat races through our introduction, I notice new running shoes beneath his drab overalls. He is Ana's boyfriend. We convey her greetings. We admit that there is nothing in particular that we want him to tell us, nor that we have to tell him. We are here, we explain, to see that he is all right and to be with him for the few minutes available.

Ramon puts our visit in political context: our presence here, he reasons, is an opening, a sign of the democratization process; the more significant when viewed in light of the recent release of two well-known political prisoners. He has heard of their release from a comrade who spoke with the Red Cross. We add as an afterthought that Richard will be glad to discuss any medical concerns Ramon may have. He nods. Ramon's political analysis has brought us together, no longer doctor-patient, lawyer-client, but four whisperers, talking politics. There seem no artificial boundaries here, no artificially imposed violence, no hidden mysteries.

Ramon seems to know that he is supposed to tell his story, the story of his arrest and imprisonment. He tells it as though he were in a film: prisoner is brought to meet foreign delegation, describes prison conditions, tells some gory bits, seems in good spirits, complains about the food, scene change. I enter his script and take some ritualistic notes. He warms to his subject. After his arrest, Ramon was charged with membership in the student council of the medical school, a charge he admitted in a declaration signed after torture. He was beaten, doused in cold

water, forced to stand with arms spread, deprived of sleep, and hung by his wrists, tied behind his back. He demonstrates each position with quick gestures. I notice that he stutters. He touches his eyes, lips, ears, and nose where the electric prod was applied. Also his toes and genitals. Sitting cramped on wooden benches in this drab chamber, I picture him being tortured, his face smashed against the cement floor. The police sanctum in which Ana had been violated had seemed distant from the Punta Rieles clinic. Although we had been admitted to the prison, the site of the violence had receded into mystery. Ramon's story seems more violent, his environment tougher; less subtle. He seems to have used his body, deployed it, spent it. He is also an activist. By contrast, Ana's pain seems extra, gratuitous, imposed. They tied Ramon to an iron bed and attached electrodes to his extremities and penis. He could hear the generator too. I find myself recording the details in shorthand, hiding the references in my notebook. My emotional resistance has diminished. I feel as if I understand what has happened to Ramon.

Francisco Zelaya told a similar story, focusing slightly more on the details of time and place than had Ramon: eighteen hours standing, two hours electricity, nine hours suspended by his wrists, etc. There had been a radio playing at the locations of his torture. Francisco is an animated boy, his eyes joke with us. We are all at a dinner party and he is describing the antics of an opposing soccer squad. I try to picture him with hair. He tells us the posters and documents they found in his apartment he had received unsolicited in the mail and never distributed. I think about the similarity of all alibis, world round.

Libertad is a harsh regime: strict discipline, silence, poor food, infrequent visits. But Francisco seems in good spirits. He thinks medical treatment in the military hospital is fine, but complains about routine health care; waiting days for aspirin, etc. His problems begin to sound trivial. He seems just another tortured youth, giving what he had in a battle with many fronts. Libertad's main terror seems to be punishment cells. Prisoners apparently begin their stay in these single unheated cells some distance from the main prison. There, without water, toilet facilities, or furniture beyond a bucket and mattress brought in at night, newcomers learn what can happen at Libertad. Francisco spent eleven days there. As he tells it, the worst seems stripped of mystery. I don't think it could happen to me, and, I suspect, neither does Francisco. Our connection has reaffirmed the gulf between us.

Victor Guerra, our last medical student, was different from the others. A veterinarian graduate, he seemed a naive and sensitive man. Where Ramon and Francisco had focused on the political context of our

visit and told of their torture rather matter-of-factly, Victor seems more interested in pleading his defense, more embarrassed to be seen. He describes his arrest and initial appearance before a judge, explaining plaintively that the charges were exaggerated, the process defective. I am not a Communist. His soft eyes melt. Sheepishly, he describes his only political acts: attending a rally, voting against the military in a recent referendum.

Victor re-engages me, in his case and in our mission. He explains that the whole group of medical students arrested the preceding June has yet to be sentenced. As I tumble to the fact that none of our students has been either tried or sentenced, hope returns that his incarceration and our visit might be creatively linked. Gone is the mutually resigned solidarity of our conversations with Ramon and Francisco.

Ramon and Francisco seemed to carry themselves as temporarily defeated warriors in a greater political struggle, and that is how they seemed to view their own stories of capture, torture, and imprisonment. Imprisoned warriors like Ramon and Francisco seemed our equals; they needed no rescue. To them we were comrades, coparticipants in a political struggle. The connection we had felt when in their presence—achieved by contrast with our experiences at Punta Rieles—diminished my sense of purpose. Like Ana, Victor, the passive victim, awakens my indignation and motivates me to act. Suddenly, our meeting the next morning at the court might be more than a formal plea for pardon. We might be able to do something. Victor, pleading legal procedure and propriety, rekindles our involvement, somewhat dampened by our abstract political solidarity with his fellows.

Victor describes his torture as if to convince us that it had really happened to him, telling against doubt and strangeness. If Ramon and Francisco had spoken of torture ritualistically—three hours, two blows, 150 volts—Victor's pain comes through plainly as he details the familiar mix of blows, shocks, and suspensions. Fifteen days of incommunicado detention and torture. Victor, a man without politics, suffers under the harsh prison regime. As the guard returns for him he resumes the stance of subjugation, back to his captor, head bowed, hands behind his back. He cocks his head toward me and says softly in English, "The position."

The three interviews have gone quickly. We are exhausted and drained and have learned nothing new about prison health care or about their legal cases. We seem to have forgotten about being a delegation. These interviews, each emotionally charged—the wink, the touch, the words, the eyes—have disintegrated our difference, our special team spirit, and made me feel subject, for the first time, to the Uruguayan

regime. When Pat slips Francisco a cough drop it seems both natural and furtive, pressed by the prison atmosphere. We glance apprehensively at the guards walking on the other side of the glass. We hear them talking down the hall. No flirtation here. I compose myself. As we walk back to the director's office, I straighten my posture and, somewhat foolishly I think, try to look severe.

We were not to see the other prisoners. In part, I was relieved. I wanted out. But I was also angry and wanted revenge. Victor's parting comment had unhinged me somewhat. Richard began a firm, but respectful dialogue with a junior officer. Snapped back into our delegation, anger and revenge were again our tools, deployable emotions. We huddled in the hall to talk tactics. I wanted the director to feel threatened with responsibility for the failure of our mission if we were kept from seeing the ill prisoners. Richard thought the main players were in Montevideo and that anger was likely to be wasted here. Besides, he was satisfied with what we had done. He suspected that the institutions would think it sufficient. I insisted. Faced with a malevolent opponent, I argued, we must be especially careful to see the one thing hidden from us: there will be secreted the smoking gun. Very lawyerly. Richard was unimpressed. Back in the office a second time, I expressed anger. Richard expressed disappointment. Pat mediated. We walked briskly to the car and left for Montevideo. It was 6:20 p.m.

### VIII.

Sitting in the car on the way back to Montevideo, my mind turned eagerly to the tasks ahead. Unlike the drive from Punta Rieles to Libertad, this trip was animated. We had come out. Discussing what we were to do in the coming days, we talked a bit too insistently, too loudly, anxious to ignore the heat and dust. In a way, we wanted to forget the prison, and I was struck by the strength of my desire to put it behind us, to break forward from it, as if the memory were pornographic. Just as the temptation in writing about our prison experience with Ana was to analyze the moment's ambiguity into recognizable patterns, responsive to preexisting doubts, so driving back to the city was itself a plunge forward into meaningful action, and the temptation, for us then and for me now, is to get on with the story of our Montevideo follow-up. First, however, I want to suspend this flight briefly to explore the ways in which the rush to move from one place to the other helped create a system of images ordering the progress of our mission.

Driving back to Montevideo, we differentiated our time inside the prisons from activism outside their walls in two ways. First, we felt the

intensity of "the moments we're all in this business for," as a fellow human rights junketeer termed them, those times when you seem able to see it like it really is and in the face of which all else can be merely preparation or follow-up. This sense of difference makes it seem only natural that activists returning from adventures tend to think wistfully of their time away. At the same time, we thought that our prison visits needed—in fact, demanded—expression and completion. Despite their apparent authenticity, as the products of our preparation or the origin of our response they seemed hollow. Suffering seemed meaningful only when rendered productive. Of these two differences, the second was more useful, for it motivated the response we felt able to give. For all these differences, however, the complicated play of identities, roles, and names which had characterized our relations with the warden and the prisoners, as well as with one another, would be intensified rather than set aside in Montevideo.

The mystery is that we experienced the drive not as an active analytic process, but as a natural transition from the country to the city. We sustained this sense of spatial and temporal difference by relying upon notions about gender. We distinguished a sphere of violation to be witnessed from a field for active response. In prison we had been with the women, the victims, and we were returning to the men, the victimizers, in Montevideo. This spatial difference was partly sustained by contrasting the sacred woman with the profane man and partly by contrasting the female victim with the male avenger. In Montevideo, our will, reason, and action could redress the horrors we experienced in prison. These divisions helped us feel we, the men, were moving, first toward, then on behalf of, and finally away from the women. We had kept our relations with Papillon purposive and fluid by holding before us the promise of access to Ana. Coming out, these contrasts made us feel we were back on familiar ground, activists with a cause. Taken together, these two mechanisms of differentiation structured our sense of progress, of moving meaningfully forward with our mission. My sense of connection with the male prisoners was achieved by contrast with our experiences at Punta Rieles. Once we had reimagined Ana's torture as an abomination, forgetting our elaborate efforts to connect with her as a person, a political sympatico, it became possible to relate more objectively to Ramon's tales. Ramon seemed subjugated, not violated. His pain was instrumental, his body political. Ana had been trespassed upon, Ramon punished. We repeated this contrast within Libertad between Ramon/Francisco and Victor, the victim. Thinking about it now, I sup-

pose we thought of our forty-four year old as a spent warrior, different from Ana.

It was by manipulating this gender distinction that we got the feeling of simultaneous engagement and distance, of having touched the forbidden and of being able to respond to it, both within the prisons and in relating the prisons to our response. This basic contrast accommodated violence to the vocabulary of calculation and barbarism with which we had prepared our visit and which we would use to complete it. Both inside the prison and en route to Montevideo, the incomprehensible violation of woman's body kept something hidden and mysterious, so that something else, intentional knightly deployment, could seem familiar. In rethinking the trip, this motion, this break between female and male, experience and action, seems its crucial feature. The odd thing is that we experienced only a rush to move on with the show.

Thursday evening, back in Montevideo after a day at the prisons, we sat around a quiet table at a bar near our hotel, reveled in our success, and strategized our remaining thirty-six hours in the country. The next day we were to appear before the Chief Judge of the Supreme Military Judicial Court to plead for the early release of the prisoners who had become subjects of our concern. There were meetings with families, human rights groups, political parties, and government officials. We would return to the United States Embassy to brief rather than to be briefed. There were press releases, reports, and law review articles to be written. We had to confirm our onward flight to Santiago, where we would begin again. Our success in getting into the prisons burdened us. We wanted to be sure to maximize our positive impact, paying our debts and finishing what we had started. Heading out, the pace of the trip quickened dramatically.

It may have been wishful thinking or tired excitement, but by Thursday afternoon we suspected that the hearing at the Supreme Military Judicial Court set for Friday morning might be more than a formality. Government moderates had surprised us by hinting that our four students might be released after our visit. Perhaps contending government factions had struck a deal, and our visit would be the occasion for a demonstration of largesse. Procedurally, we had discovered that no judgment had been entered. It would not be too late to drop the charges. The sentences, due in three weeks, might at least be reduced to time served. I began to hope that our presentation, if done right, might increase the likelihood of such an outcome. At the very least, I didn't want to jeopardize a deal, should one have been struck, and I had professional pride in presenting a good oral argument.

But should I be easygoing or formal? Present myself as an attorney pleading four cases or as a humanitarian interloper representing five North American institutions? Should I plead our clients' naïveté? Rehabilitation? Minimizing the chances of error if a deal had been struck seemed to require more role fidelity and formality—a more ritualistic presentation, a greater emphasis on official Uruguay—than did effective adversarial advocacy. More than just tactical choices, these seemed to pose a conflict between honest witness and ceremonial advocacy. Was it time to come out of the closet, or should we wait until we left Montevideo? Until our prisoners were finally released?

In all these scenarios, invoking international law seemed the least promising strategy, in part because the court would need to repudiate a good bit of its autonomous and legal self-image to find international law relevant. Nevertheless, I thought that mentioning international law might in some fuzzy way strengthen international norms. More importantly, this approach seemed most closely connected to any theory of our standing (and my competence) that I could devise. Perhaps, I theorized, once a state violates a widely accepted norm of human rights, it loses the right to oppose jurisdictional interference, if not legally, at least in terms of perceived cultural legitimacy. This exchange theory seemed comforting, for it grounded our presence in their conduct, if not their direct consent. In the end, I decided to abandon international law and not to worry about standing. If they had any objection to my appearance, I would try to answer it on other grounds, perhaps agreeing to argue in general on humanitarian terms if the judge would hear no argument on the specific cases. Looking at it now, this shift from a formal standing doctrine to one based in humanitarianism seems fragile. At the time, however, I felt I was escaping doctrine for the bravado of a more direct advocacy style. In any case, having abandoned legalism, I became obsessed with the idea that I needed more information about the Court, the judges, the law, the advocacy practices, the cultural norms of humanitarianism, about Uruguay.

Thursday evening, Pat and I phoned everyone we could think of to set up meetings with attorneys who had represented prisoners before Judge Ledesma. We came up with three, including the attorney of record for one of our students, and arranged appointments for Thursday night and Friday at breakfast. I sat down at an old portable typewriter to draft a press release and oral argument for the next morning. Afterwards, we taxied from lawyer to lawyer to pin down the details of Uruguayan military court procedure and test run my evolving argument.

In a nicely appointed apartment twenty minutes outside Monte-

video, we found the attorney for one of our students. She was a thin, upright woman in her middle fifties who had been representing these “youngsters” for several years. As she spoke, my building hope for the following day shrank. Yes, she condescended, the fact that the judge would hear us might mean something. Anything might mean something. But I should realize, she stressed as I questioned her about the Court’s jurisdiction and procedure, that these were not trials, but the imitation of trials. She was cynical about new-fangled human rights concerns. Where had the political parties been, and where, for that matter, had we been, during the long Uruguayan political silence? She had been driving to the prisons to seek access to her clients, supporting their families, filing habeas corpus petitions as witness to their incarceration. To represent these prisoners had nothing to do with their release, or with sentence reduction. To represent them was not to forget them when nothing could be done.

She addressed me in English. She had seen no files, had not been permitted to discuss the charges with her clients, had been interrogated and searched upon reaching the prisons. To have challenged the Court’s procedure would have been to risk professional sanction. At my insistence she outlined the typical case history—arrest, summary process, first instance, decision, sentence, review—in a distracted and distant manner. Here, in her middle class sitting room, sitting stiffly forward in her chair, she described the paperwork of prosecution and defense abstractly, without meeting my gaze, as if she were describing some embarrassing, though fortunately distant, family scandal. But for all her distance, I felt that she was teasing us, holding out the promise of something, something beyond cynicism. We were not like her, not Uruguayan, yet she kept hinting, if only we asked the right question, showed the right solidarity, she would release her secret.

Finally, I asked her what she, a lawyer, would do if, like me, she were to face Judge Ledesma ten hours later. Colonel Ledesma, she corrected me, adding somewhat incongruously that I should “not challenge his assertions about procedure and about the Court’s fealty to law.” He will say he can do nothing; that the case is not yet before him; that military law is punctilious about procedural regularity. She scoffed. Stress, she advised, that these are young prisoners, awkward victims of tough political times, without records, who were picked up for pursuing the natural student curiosity about ideas. I wondered whether this story bore any relation to the cases. She didn’t know, not having yet been able to see their files. A factual plea for mercy on fabricated facts seemed



risky to me. Yet as she settled on this course, she warmed to our inquiries.

This was a technical, professional problem; fashioning an oral argument. She gave it her best shot, and as our adrenalin began to flow in the hopeless late night aura we found professional solidarity. Nevertheless, as we left her on her porch at 12:30 a.m., I felt a bit foolish for having imagined there to be any point to my efforts in Uruguay other than the working out of professional courtesies. Yet for all her tragic demeanor, before we left she took my notepad for a moment and, in a rigid block script, printed the names of three other clients. Gonzalo Mujica Benoit, five years, six months; Ricardo Cohen Pappo, twelve years; Dr. Guillermo Dermit Barbato, five years. Like others whose names would be pressed upon us in the coming hours, these too had a "medical angle," had suffered, deserved our attention.

At 9:00 the next morning, the Peugeot dropped us at a modest building of stone, identified only by the most discreet chiseling beside the door: Supreme Military Judicial Court. The door opened onto the tiled entrance court of a nineteenth century city villa. We were ushered up a lavish central oak staircase beneath a stained glass skylight. In and off the courtyard sat military clerks and guards. Around the second floor lobby were the judicial offices. One, crammed with files on open shelves, showed the only sign of business. I felt the European aristocracy debased, their court, still noble in service of a democracy, overrun by the philistines. To the left, an ornate office—head of the Supreme Court—brocade, leather, oak, and books reduced to signs of the law, and of the tradition.

A large man with an open collar approaches us. Car salesman turned judge. His very severe aide introduces him. She, her mouth a penciled formality beneath rouge cheeks, will translate. I thank her, but we have brought our own. Although we know Ledesma speaks English, the rituals of power and respect have taken over. The aide ushers us in. Four chairs have been arranged before his desk, three upright black, one of elaborate red brocade. As we shuffle around the room, I sit decisively in the red chair, perhaps only to befuddle our would-be translator. Ledesma, after some hesitation, produces a second red chair from behind his desk and sits.

Richard introduces us, politely, firmly, and presents thick written appeals from our five sponsoring organizations. I am grateful for word processing. Ledesma interrupts. As this is legal business, and he a lawyer, he will deal directly with the lawyer. Lawyer to lawyer in a court of

law. The word law festoons his every phrase. The Spanish word for lawyer sounds like "avocado." The avocado will speak.

I speak slowly, in a tone that I hope will secure ten minutes without interruption. The translation pauses heighten the drama. Phrase by phrase. I don't want to impinge upon these prisoners' proper defense, nor prejudice their legal claims, nor interject any inappropriate considerations into his formal and legal deliberations. I want to speak to him only as one lawyer to another. I think: what does this mean? Why would we be here if not to introduce pressure beyond military law? He nods, and seems satisfied. We have given a sign that we will stay within the protocol assumptions about his dignity as an independent judicial officer. He will reciprocate.

We have come, I intone, to appeal for the earliest possible release of four medical students arrested last summer on charges of subversive association. I have not had access to their files and cannot speak as their counsel, but I speak on behalf of the many thousands of American scientists who have been concerned about these students. Of course, we seek no special treatment for medical prisoners, or for these individuals, beyond what the law allows. The contradictions mount. This appeal is grounded in general considerations, considerations of international concern, international law, and political democratization which apply to other cases, to be sure. But it is also an appeal specific to these individuals. With his permission, I would like to go over these specific cases. He nods. I am glad I have remembered my opening set of points. The tone seems O.K. The sergeant-translator looks uneasy. I proceed.

I portray our students as naive children, refer to our visit with them, itself an important signal of Uruguay's political openness. I describe their eyes. Their offenses are nonviolent, crimes of curiosity. They renounce violence, their punishment has already been severe. I do not mention how hard it is for the international community to comprehend such punishment for crimes of association; for Uruguay's friends to hear of physical abuses which contravene international obligations. Perhaps this omission is a mistake. He breaks in.

The judiciary is independent and will follow the law. Why does he keep saying this? He delivers an elaborate discourse on the independence and procedural formality of the military judiciary, a speech oddly incongruous with his availability to hear an extraordinary appeal from five U.S. scientific institutions before the trial court has even convicted our medical students. Superfluous protestation. But he is just warming up. These are dangerous, violent criminals with years of hardening political experience. Can that be right? Although he is merely repeating Papil-

lon's story, it throws me off momentarily, feeds directly my doubts about my standing, my oral strategy. I say nothing. I am reassured to remember that a judge is not supposed to deliver, before conviction, a speech one might expect of a warden.

The country is in danger. Families have lost members to political violence. He can never forget that. His contradictions mount. He, of course, can't comment on specific cases. He pulls four files from his desk. Which was the veterinarian? Victor Guerra. These individuals have been involved in ten years of political work. Work which was, I think, but do not say, legal at the time. He will, of course, review these cases when he receives their files. He will certainly take what we have said into account. Despite his legal demeanor, he seems unaware of such basics of legal protocol as *no ex post facto* laws, individual guilt and innocence, no associational crimes, innocent until proven guilty, and judicial restraint in discussing cases before the court.

Our presence presents him with a classic dilemma. He must defend his regime, yet any defense will derogate from the propriety which is his best defense. I am also in a bind. Once in his court, I must speak to Ledesma's self-image, yet to do so betrays the ground of our presence. We are each insecure about the ground for the meeting, and as contemptuous of the other's naïveté about the law as of our own gullibility. We embrace the lawyer's role and language to speak in contradiction, but are cynical about it. Polite, respectful, and cynical. It is even a cynicism we can share in a chortle about the protocol of the chairs.

As he stands up, signaling our imminent departure, I begin to suspect that something lurks beneath this cynicism, some rage or fear or tactic that sustains and justifies the pretensions. I think if only I can keep going, it will emerge. But the audience, a formal success, in which we have seemed reasonable, articulate, and firm, is over. Although I am glad that I haven't blown it, I measure my performance against this hidden image. Having not thrown off my role, having not really spoken my heart, I feel I have failed to touch him. He has neither admitted complicity nor told me what he really thinks. Ledesma relaxes and points to a chair in the corner of his office, owned by a Uruguayan Founding Father. He exclaims proudly, with a sweeping gesture, that the tradition ends here, in this office. We descend the stairs, Ledesma behind us. Clerks snap straight. Heels click. Doors swing open and we step into a waiting car. As we pull from the curb, Ledesma smiles broadly, waving until we have pulled around the corner, out of his sight.

IX.

We spent our remaining twenty-four hours in Uruguay with human rights groups, political party members, the press, and with the relatives of the disappeared, of political prisoners, of our medical students, and of victims of Argentinean repression. We tried to be supportive and to share our experience, that we might release our emotions of solidarity and frustration, and, perhaps, that they might be released from isolation. We tried to be informal and empathetic, without breaking the confidences of our prisoners and government contacts. Sometimes we connected, but, I fear, more often we failed.

Those with whom we spoke often seemed to refuse emotional connection with us, transforming us into something foreign and exotic, the responsible and the incapable. Why, they sometimes asked, had we chosen these prisoners when others, their lovers, sons, and mothers, had suffered so much more? Often, on the other hand, they were respectful, treating us as foreign professionals, from whom nothing personal could be expected. We felt gratitude more often for our official than our personal presence. They thanked us as the representatives of our institutions, and the thanks seemed heartfelt.

Some of those we met seemed politically informed and able to locate our visit quite concretely in their stories about social conflict and suffering in Uruguay. Others seemed bewildered by their situation, by our presence. The mother of one prisoner seemed to have been plucked from her middle class bridge game and plunked down amid young radicals, press oppositionists, and now foreign delegations, fully without preparation or premeditation. As we managed the flow of one delegation after another through our hotel bar Friday afternoon, we moved in and out of our professional roles and changed the level of political neutrality we projected. Sometimes we struck a formal pose, hoping that its improbable rigidity would signal our true sympathy. I remember declaiming quite piously to a sympathetic young journalist and his microphone when asked to comment on upcoming Uruguayan elections that "our concern has been with public health, not public policy." He nodded, and I thought he understood what I felt and why I did not say it.

There seemed no way to share the facts of our prison visits with the students' parents. They wanted to know too much and could hear too little. At one point, wrapped in my best demeanor of foreign authority, I assured some mothers solemnly that "yours are children to be proud of." We seemed to connect. At times the tangle of expectations rankled. As Richard set me up to interview one group about their legal cases because he thought they would feel better, tempers flared. By 11:00 p.m., sitting

down to dinner, the three of us needed to release the day's tension. At a gaudy restaurant around the corner from our hotel we found ourselves laughing giddily, imitating ourselves promising, cajoling, reassuring. We slept well.

Rituals. We talked again to U.S. officials at the Montevideo Embassy. One man described such engagement as the U.S. government has with the Uruguayan military around human rights issues this way: "We do what we can, send them up to Panama, and tell them about constitutions and so forth, but it doesn't seem to stick." As if the Uruguayans had not simply learned something else from their American sponsors, something about running a military prison. But we knew what he meant, or why he said it, and I was glad when he put the rest of our talk off the record. We, like they, had heard it all before.

Although nothing we reported had not been repeatedly documented, as we spoke about torture in Uruguay there was a sense in which these political and human rights officers seemed to be hearing about it for the first time. They were hearing it from Americans, we who had crossed to the other side, and they could hear it anew. Still, just as we in talking with the prisoners had oscillated between a nauseous fascination and a vacant sense of ennui, so these embassy officials seemed both fascinated and bored by our story. It all seemed so familiar, so jading, so tragic.

At the end of a trip such as this, I always feel a little guilty. As I realize that I am leaving, returning to my classes and to my library in Cambridge, I feel I am betraying those I came to serve and will be unable to respond successfully or completely to their problems. As we packed our bags in Montevideo, these feelings came over me quite strongly. I felt it would be impossible for me, a marginal American lawyer, to discharge the obligations I felt to those we had met in Uruguay. So many people had told us their stories, looked at us for help, asked us to take on their struggle, to work when we got back. Even those who understood the limits of our context spoke with both resignation and hope about "international public opinion" whose symbol we three became, if only for an instant. We kept saying that our institutions would "remain concerned," that we would write a report, that we would carry their story back. But three individuals cannot fulfill the promise implicit in the words "foreign," "American," "professional," "authority," "witness."

Preparing to leave, I felt corrupt, as if we had deceived the Uruguayans for our own professional and personal reasons. The true price of constituting Uruguay as foreign and exotic was not, as I had feared while leaving Boston, to be paid in Montevideo. It was to be paid upon my return, as I became once more foreign to them, disconnected

and out of touch. No amount of immersion in an international human rights bureaucracy seemed likely to discharge the taint of our distance from those we had come to know, for that bureaucracy is the machinery of our mutual estrangement as much as of any connection.

Despite these thoughts, I felt buoyant as we drove along the beach out of town. I considered our latitude. With good fortune, this autumn sun would have brought spring to Boston when we got back. We would continue what we had come to do back there. Our work in Montevideo completed, we enjoyed the tourist paradise this coast must have been. I was glad we would be able to stay in touch when we got home and was thankful that we would be able to count on a network of human rights activists for institutional support. In a way, I was glad to be a human rights bureaucrat.

Coming to Uruguay, our identities as professionals and our affiliations with the institutional machinery of human rights protection had been reassuring. We had felt prepared. Patrick, armed with the analysis of political science would be able to open up the complexities of a shifting social and cultural environment, taming the foreign power struggle. Richard, bringing the ethical conventions and special talents of the medical profession would be able to render that most dispassionate of compassions, medical assistance, rendering suffering as diagnosis, if not cure. I had compiled the relevant treaties to which Uruguay was signatory and read up on military court procedures. I hoped to provide a point of access, a justification and normative basis for our involvement, orienting us to right and wrong, permissible and impermissible, where everything would be different. As we returned to our American identities, we were reassured by these points of connection. They promised us continued access to the land we were escaping.

But medical, political, and legal science can only partly redeem this promise. They provide continued access to foreign situations in part because they seem objective, neutral, scientific, above the differences which divided us from Ana and Ramon, from the warden and the Embassy. This dispassionate image helps us feel connected to Uruguay in part by reassuring us that we can retain our difference and distance. International human rights law reassured me that I could think of concrete moral outrages while remaining safely distant from them.

International human rights law is self-consciously about foreign violence and distant human suffering. Modern human rights advocacy was born in a burst of energy after the Second World War to people who wanted to respond to nonmilitary atrocities that seemed unthinkable, incomprehensible, even banal; who wanted to know them, tame them, re-

deem them as civilized, name them "genocide," bring them into polite parlance. These people began the process of treaty-drafting and bureaucracy-building which has been carried on by subsequent enthusiasts, bureaucrats, and politicians until one can now speak of a "network" or "community" of international human rights advocates.

Activists in the international human rights community try to develop a "right not to be tortured" or a "right to health" in order to reach out with empathy, assistance, and protection to people who are tortured and sick. They think of their work as a response of civilized society, the response of reason to that which it cannot comprehend. Although it seems obvious to think of human rights work as responsive to a preexisting irrationality, it is far from clear that the world presents itself to human rights advocates neatly divided into realms of reason and chaos. Indeed, human rights discourse plays an important role in sustaining the very image of irrationality to which it purports to be merely responding.

The possibility of not getting into the prisons, of torture remaining beyond our influence, heightened the trip's urgency. And yet, in all facets of our human rights work in Uruguay, the processes by which we responded to Uruguayan violence led us to push the barbarism out of our minds. Papillon's violence remained ahead of us, out of reach within the prison itself. Driving toward Montevideo, the violence receded behind the prison walls. Even with Ana, our interrogation tamed her story, placing her pain safely in the past at some distant police station. I remember discussing the Uruguay mission with a human rights bureaucrat friend of mine who said, "Even if you don't get inside the prisons, you'll have struck a blow for human rights." My mission was, it seemed, independent of any actual contact with any actual torture. It only required that torture be out there. As a human rights advocate, I relied upon exclusion, upon the untouchability, the unknowability of violence, as much as upon a theory making it seem instrumentally approachable, comprehensible as a "violation."

The shared practices of those in the human rights community embolden us, reassure us about our ability to know, react to, engage, and actually control phenomena that we want to imagine to be beyond civilization and reason, foreign to our own lives. As human rights activists, we can touch the barbaric and return unscathed. As "lawyers" pursuing "remedies" for "abuses" of "human rights," we find an articulation joining our images of civilization and our understanding that many suffer in its hands. We find a way to acknowledge their suffering without abandoning our commitment to the system that produces it; indeed, we give ourselves a role in its elimination. But meanwhile, torture and violence

remain “out there,” like the prisoner/victim, perceived only dimly, in a domesticated, civilized form—the body, the self, remaining excluded, imprisoned.

But, for all this fancy talk, human rights discourse does not seem limited or narrow to those of us who work within it. Quite the contrary, we seem able through, and perhaps only through, its devices to achieve our object. We thought it was difficult at times for a doctor and a lawyer to relate to one another. We thought it was hard to get through to Ana. We wondered about our effectiveness. But we did not wonder whether we contributed to the sense of estrangement that we felt in Ana’s presence, or whether our approach to one another was perhaps only one way of being together. We were too busy trying to do as well and as much as we could; we just did not have the time.

And so our professional habits reassured us about the significance of our endeavor and the possibility for its successful conclusion, about returning to America and finding both a continuation and a meaningful stopping point, the possibility of going on to other things. So long as we imagined ourselves to be essentially distinct from Uruguay, able to relate only through our roles, our coming and going would be to cross and reconstitute the barrier of estrangement. We would need a bureaucracy and a discourse of connection. We needed human rights to take us there and bring us back. We needed to reduce the variety of human cultural experiences to spheres, delimited and conjoined as rights and duties. Rights to eat, to work, to develop, to live in peace, to be free from torture—somewhat different from food, jobs, social change, peace, release, but as close as we could come.

Still, for all its promise, for all our need, this discourse keeps congealing, fixing patterns where we felt movement, channeling us, excluding them, and, above all, proliferating itself. As human rights advocates, our discourse is not our tool; we are its property, and the price of our fealty nags at our conscience. What seemed noble comes to seem tawdry and voyeuristic. We were in the discourse, of it, and yet kept resisting its terms. But resistance was heavy, and compliance kept us buoyant.

In the plane to Santiago, we dictated a bit, plunging through the Scandinavian Airlines tunnel across Latin America. Later on, the three of us got together and began to get ready to go in again. *Epilogue* February 11, 1985, Pat writes from Washington:

Other than writing news, we’ve got a new baby girl, named Glenna. (By the way, in case Richard didn’t mention it: Ramon Hernandez was released New Year’s Eve. All the others were out in September. That gray haired woman who was only 44 was released in August.) And Silva Ledesma, when I saw him in Novem-



ber, to make yet one more pitch for Ramon, was thinking about the future, remembered that I was an *escritor*, and wondered whether perhaps I might be able to give him some advice about New York publishers. Seems he's been writing short stories. Ciao.

## Appendix\*

The editors of the *Texas Law Review* have asked me to write a brief note situating *Spring Break* in contemporary legal scholarship. Because *Spring Break* concerns a social as opposed to a legal text, this is a difficult assignment.<sup>1</sup> Nevertheless, or perhaps because this piece is somewhat unusual in approach, I agreed that it might be useful to elaborate more fully some of the methodological issues that I had in mind while writing this Article. Many of these issues will be familiar to those who have followed the recent growth of what might be collectively termed critical legal scholarship.<sup>2</sup> I was concerned to respond to certain tendencies in that literature and, in particular, to extend the use that has been made in legal scholarship of some specific ideas more familiar from post-structuralist literary criticism and continental philosophy.<sup>3</sup> It should be clear that I refer to works of "contemporary legal scholarship" in a most impressionistic way, without any claim to comprehensiveness.

Much recent critical scholarship has attempted to demonstrate that something about legal texts is more "indeterminate" than the reader might have thought.<sup>4</sup> A variety of mechanisms have been used to "expose" this indeterminacy, ranging from the "method of contradictions"

\* I had these thoughts and wrote this Appendix with Nathaniel Berman.

1. See Miller, *A Rhetoric of Law* (Book Review), 52 U. CHI. L. REV. 247 (1985) (reviewing J. WHITE, *WHEN WORDS LOSE THEIR MEANING: CONSTITUTIONS AND RECONSTITUTIONS OF LANGUAGE, CHARACTER, AND COMMUNITY* (1984)). Thinking of my experiences in Uruguay as a "text" is odd, but I mean to suggest that understanding such an experience is just like interpreting a written text. I intend some distance, however, from those who claim that "contextual studies of law and legal thought in action form a necessary part of a genuine program of Critical thought . . ." Trubek, *Where the Action Is: Critical Legal Studies and Empiricism*, 36 STAN. L. REV. 575, 618 (1984).

2. See Kennedy & Klare, *A Bibliography of Critical Legal Studies*, 94 YALE L.J. 461 (1984). For overviews of this movement, see Gordon, *New Developments in Legal Theory*, in *THE POLITICS OF LAW* 281 (D. Kairys ed. 1982); Dalton, Book Review, 6 HARV. WOMEN'S L.J. 229 (1983) (reviewing *THE POLITICS OF LAW*, *supra*); Kramer, Book Review, forthcoming in 20 NEW ENG. L. REV. (1985) (reviewing *THE POLITICS OF LAW*, *supra*).

3. These literatures are usefully reviewed in Boyle, *The Politics of Reason: Critical Legal Theory and Local Social Thought*, 133 U. PA. L. REV. 658 (1985); Heller, *Structuralism and Critique*, 36 STAN. L. REV. 127 (1984); Kramer, *supra* note 2. For some provocative attempts to "apply" these ideas, see Dalton, *An Essay in the Deconstruction of Contract Doctrine*, 94 YALE L.J. 997 (1985); Frug, *The Ideology of Bureaucracy in American Law*, 97 HARV. L. REV. 1276 (1984); N. Berman, *Sovereignty in Abeyance: Self-Determination in International Law* May 1, 1985 (unpublished manuscript); M. Kranier, *The Metaphysics of the Delaney Clause* (June 1985) (unpublished manuscript).

4. This has been a central theme of most of critical legal scholarship. Perhaps the most influential article has been Kennedy, *The Structure of Blackstone's Commentaries*, 28 BUFFALO L. REV. 205 (1979); see also Tushnet, *Legal Scholarship: Its Causes and Cure*, 90 YALE L.J. 1205 (1981) (arguing that legal scholarship has been relegated to the fringes of current intellectual discourse by its failure to address the problems of "indeterminacy"); Note, *Subjects of Bargaining Under the NLRA and the Limits of Liberal Political Imagination*, 97 HARV. L. REV. 475 (1983) (suggesting that the failure to recognize that current labor law is "indeterminate" suppresses the development of alternate conceptions of the industry-labor relationship).

to an elaborate practice-based empiricism.<sup>5</sup> The spectrum of "indeterminacy" positions can be illustrated, at the risk of oversimplification, by the following schematic list:

1. The Wholes and Parts Position A: Individual case outcomes are indeterminate relative to the institutional framework within which they are decided. Although legal reasoning cannot compel results in specific cases, the large-scale operation and understanding of social institutions (perhaps over the long run) produces stable patterns that can be both known or predicted and normatively debated or adjusted.<sup>6</sup>

2. The Wholes and Parts Position B: Because all individual cases terminate in specific results that normally could be predicted (at least in the short run) on the basis of some combination of the particular doctrines, judicial actors, social interests, and so forth that are involved, the possibility of indeterminate results could be seen to reside in the institution itself. In this view, the institution is constituted by its ability to generate an open field of results.<sup>7</sup>

3. The Logic and Society Position A: The legal logic of cases, doctrines, procedures, and institutions is indeterminate. Results are generated and given meaning by the determinacy of social forces that "use" or "manipulate" these open rhetorics. Some people call this second element that gives legal logic the appearance of coherence or necessity "false consciousness"<sup>8</sup> or "reification";<sup>9</sup> others call it the "structure."<sup>10</sup> Still others

5. See, e.g., Klare, *Labor Law as Ideology: Toward a New Historiography of Collective Bargaining Law*, 4 INDUS. REL. L.J. 450, 454 (1981) (noting that collective bargaining law simultaneously encourages and suppresses workers' self expression by both authorizing and limiting employee participation in workplace governance); Olsen, *The Family and the Market: A Study of Ideology and Legal Reform*, 96 HARV. L. REV. 1497 (1983) (arguing that reform efforts to improve the lives of women have been limited and curtailed due to a world view that sets up a dichotomy between spheres of market and family); Simon, *The Ideology of Advocacy: Procedural Justice and Professional Ethics*, 1978 WIS. L. REV. 29, 33-34 (arguing that certain practices of legal professionals are "inconsistent with the values invoked to justify those practices" and suggesting that "respect for the value of law itself may require the repudiation of legal professionalism"); Trnбек, *supra* note 1, at 579 (attempting to "follow out the full implications of indeterminacy, antiformalism, contradiction, and marginality all at once"); Tushnet, *Critical Legal Studies and Constitutional Law: An Essay in Deconstruction*, 36 STAN. L. REV. 623, 627 (1984) (undertaking to "reveal the contradictions among values that liberalism takes for granted and to explore the irreducible conflicts . . . that those contradictions produce").

6. As with any such typology, it turns out that no one is a whole-hearted advocate of any of these positions, but that they float through the indeterminacy literature. See, e.g., Fish, *Working on the Chain Gang: Interpretation in Law and Literature*, 60 TEXAS L. REV. 551, 562 (1982) (interpreters of law are constrained by their "awareness of what is possible and not possible" and what is feasible in a given enterprise); Gabel & Feinman, *Contract Law as Ideology*, in THE POLITICS OF LAW, *supra* note 2, at 172, 181-82 (the key function of a judicial opinion is not the particular outcome, but the legitimation of a "legal rule" that justifies practical norms).

7. Sometimes this position is put quite individualistically, see Boyle, *supra* note 3, at 7 (discussing legal realism); at other times it is grounded in comprehensive social forces, see Gordon, *Historicism in Legal Scholarship*, 90 YALE L.J. 1017 (1981).

8. Some call this element "apology." E.g., Kennedy, *supra* note 4, at 217.

call it "interpretive communities"<sup>11</sup> or "hegemony"<sup>12</sup> or "history."<sup>13</sup>

4. The Logic and Society Position B: Social life is open-textured, whether understood as "interests," "policies," or whatever. This openness is generated by a frame of logical or discursive forms, among them the forms of legal reasoning. Some people call this second "framing" element "cultural codes," "grammar," or "narrative hermeneutic strategies."<sup>14</sup>

5. The Synthesis Position A: Logic and social life in both the general and the particular can be, or perhaps need to be (for what are thought of as "ideological" reasons) both open and closed. Consequently, neither generates predictable or normatively controllable results. But we can nevertheless figure out what is going on, orienting ourselves both theoretically and practically, from our positions as existential selves. Some people call this position "de-reification"<sup>15</sup> or "phenomenology."<sup>16</sup> Others call it "feminism."<sup>17</sup>

6. The Synthesis Position B: Logic and social life in general and particular can be both open and closed. Consequently, neither generates predictable or normatively stable results. But we can figure out what is going on, orienting ourselves both theoretically and practically by "thick descriptions" of historically specific developments or situations.<sup>18</sup> Some people call this "history."<sup>19</sup>

In writing *Spring Break*, I have tried to put into question several tendencies that seem common to these "indeterminacy" theses. All of these positions situate the indeterminacy that they assert against some relatively more determined locale or time. This relatively more frozen element might be the "structure" of the law, or of legal reasoning, or the "tilt" of historical interests as elaborated by some social theory. I thought it would be helpful to get away from assertions of "indetermi-

9. E.g., Gabel, *Reification in Legal Reasoning*, 3 RESEARCH L. & SOC. 25 (1980).

10. E.g., D. Kennedy, *International Legal Structures* (June 1984) (unpublished manuscript).

11. For a summary of this branch, see Fiss, *Conventionalism*, 58 S. CAL. L. REV. 177 (1985).

12. E.g., E. GENOVESE, ROLL, JORDAN, ROLL (1972).

13. E.g., M. HORWITZ, *THE TRANSFORMATION OF AMERICAN LAW, 1780-1860* (1977); Horwitz, *The History of the Public/Private Distinction*, 130 U. PA. L. REV. 1423 (1982).

14. E.g., Garet, *Comparative Normative Hermeneutics: Scripture, Literature, Constitution*, 58 S. CAL. L. REV. 35 (1985); Gordon, *Critical Legal Histories*, 36 STAN. L. REV. 57 (1984).

15. E.g., Kennedy, *Critical Labor Law Theory: A Comment*, 4 INDUS. REL. L.J. 503, 506 (1981).

16. See Gabel & Kennedy, *Roll Over Beethoven*, 36 STAN. L. REV. 1 (1984); D. Kennedy, *Freedom and Constraint in Adjudication: Toward a Critical Phenomenology of the Rule of Law* (Jan. 1, 1985) (unpublished manuscript).

17. E.g., Olsen, *supra* note 5, at 1567-78.

18. So Mark Kelman describes Duncan Kennedy's analyses of the reproduction of hierarchy in legal education. See Kelman, *Trashing*, 36 STAN. L. REV. 293, 335 (1984).

19. E.g., Gordon, *supra* note 7.

nacy" that might as easily be classified as "determinacy" positions. I wanted to see whether it might be possible to think about and experience a legal situation while refusing to locate its determinate and indeterminate aspects in any specific locale, historical or ahistorical.<sup>20</sup> I wanted to deploy all these positions (class analysis, phenomenology, case analysis, thick description, etc.) simultaneously to produce an increasingly textured account of the shifting play, reciprocal constitution, and mutual exclusion of determinacy and indeterminacy in everyday social life and thought.<sup>21</sup>

In this sense, *Spring Break* tries to discredit several limited, vulgar, and dogmatic accounts of indeterminacy by showing their common and indeterminate structure. I intended the Article as an argument against the enterprise of asserting a dogmatic "indeterminacy" as an attack on the normative discourse of liberalism. I undertook to challenge this approach by demonstrating the ways in which any such assertion of indeterminacy undermines itself by reliance upon a shifting, yet nevertheless inescapable image of determinacy.<sup>22</sup> In this way, I sought to oppose the macho skeptical stance that some indeterminacy critics have assumed (and that has been critiqued as either nihilism or lunacy<sup>23</sup>) as well as the excessively structuralist or idealist approach that the project of "demon-

20. This is, of course, a dangerous goal, for any attempt at ruthless dislocation will be its own victim. See J. DERRIDA, *WRITING AND DIFFERENCE* 282 (A. Bass trans. 1978). Derrida comments:

[W]hether he wants to or not—and this does not depend on a decision on his part—the ethnologist accepts into his discourse the premises of ethnocentrism at the very moment when he denounces them. This necessity is irreducible; it is not a historical contingency. We ought to consider all its implications very carefully. But if no one can escape this necessity, and if no one is therefore responsible for giving in to it, however little he may do so, this does not mean that all the ways of giving in to it are of equal pertinence. The quality and fecundity of a discourse are perhaps measured by the critical rigor with which this relation to the history of metaphysics and to inherited concepts is thought. Here it is a question both of a critical relation to the language of the social sciences and a critical responsibility of the discourse itself. It is a question of explicitly and systematically posing the problem of the status of a discourse which borrows from a heritage the resources necessary for the deconstruction of that heritage itself. A problem of *economy* and *strategy*.

*Id.* (emphasis in original).

21. See J. DERRIDA, *OF GRAMMATOLOGY* 158 (G. Spivak trans. 1976).

22. Paul de Man, in analyzing Shelley's poetry, stated:

[His poetry] warns us that nothing, whether deed, word, thought or text, ever happens in relation, positive or negative, to anything that precedes, follows or exists elsewhere, but only as a random event whose power, like the power of death, is due to the randomness of its occurrence. It also warns us why and how these events then have to be reintegrated in a historical and aesthetic system of recuperation that repeats itself regardless of the exposure of its fallacy.

de Man, *Shelley Disfigured*, in *DECONSTRUCTION AND CRITICISM* 39, 69 (Seabury Press ed. 1979) (discussing Shelley's *The Triumph of Life*).

23. See, e.g., Fiss, *Objectivity and Interpretation*, 34 STAN. L. REV. 739 (1982) (arguing against a nihilistic view of adjudication); cf. Singer, *The Player and the Cards: Nihilism and Legal Theory*, 94 YALE L.J. 1 (1985) (discussing the development and intellectual basis of nihilism in legal thought).

strating how things really are this way or that way" has tended to encourage. I tried, in my account of a trip to Uruguayan prisons, to direct the reader's attention to the diverse practices of stability, belief, and "determinacy" that have been, at least in an idealized or projected form, the handmaidens of the "indeterminacy" that has fascinated critical legal scholars all along.

But this is only the beginning. When writing *Spring Break* I was concerned that such a move away from indeterminacy would do nothing more than reverse the tone of critical scholarship, emphasizing determinacy, perhaps ironically, rather than asserting indeterminacy, albeit dogmatically.<sup>24</sup> Indeed, such a reversal has been advocated before, primarily by those who have adopted what I termed a "Synthesis Position." In particular, a number of feminists and phenomenologists seem to suggest that the balance can be set straight, or the epistemological inaccuracy of a macho indeterminacy (which strikes them as typically male in its rigid logic, Oedipal fascination with falsification, and fanatical self assertiveness) avoided by a move to what I think of as the "p's in legal life: the personal, private, particular, and passionate."<sup>25</sup> From the other side, some historians and social theorists have suggested that these defects can be cured by a return to empiricism.<sup>26</sup>

Indeed, so long as the purport of the analysis was not brought into question, it seemed impossible to escape this continual oscillation between determinacy and indeterminacy.<sup>27</sup> Had I left *Spring Break* as an account of the elaborate interplay of openness and closure provided by legal roles, doctrines, and situations, I would not have abandoned the macho assertion of an "indeterminacy." I would merely have asserted an even more thoroughgoing indeterminacy, continuing, rather than repudi-

24. This would be to carry out the first step of deconstruction (inversion) without carrying out the equally important second step (displacement). See J. DERRIDA, POSITIONS 41-43 (A. Bass trans. 1981) (describing the two stages of deconstruction).

25. See C. GILLIGAN, IN A DIFFERENT VOICE: PSYCHOLOGICAL THEORY AND WOMEN'S DEVELOPMENT (1982) (often mis-cited for this position in legal scholarship); Cixous, *The Laugh of the Medusa*, in NEW FRENCH FEMINISMS 245 (E. Marks & I. de Courtivron eds. 1981); Gabel, *The Phenomenology of Rights-Consciousness and the Pact of the Withdrawn Selves*, 62 TEXAS L. REV. 1563 (1984) (using phenomenology to overcome the alienation of personal rights); Irigaray, *This Sex Which Is Not One*, in NEW FRENCH FEMINISMS, *supra*, at 99; Kristeva, *Woman Can Never Be Defined*, in *id.* at 137; MacKinnon, *Feminism, Marxism, Method, and the State: An Agenda for Theory*, 7 SIGNS 515 (1982) (discussing feminism as consciousness-raising).

26. See, e.g., Trubek, *supra* note 1 (advocating the use of empiricism to possibly reconcile the critical legal society with those who look to the social "impact" of law or the attitude and behavior of legal actors).

27. I think that the best way to approach this oscillation is to embrace it without reserve, thus "comprehending" determinacy and indeterminacy. As Derrida observes, determinacy and indeterminacy can be "comprehended: not comprehended by knowledge-gathering comprehension, but inscribed within the opening of the general economy." J. DERRIDA, *supra* note 20, at 271.

ating, the attempt to be that much more thoroughly, systematically, and rigorously indeterminate than the fellow who wrote the last article. Far from transcending the reliance of other indeterminacy theses on some unstated determinacy, I would merely have projected that reliance into a categorical system of methodological alternatives.<sup>28</sup> The determinative structure necessary to sustain my account would not have been located in either the "text" or the "analysis," but in the methodological approach I wielded at each moment in the text, moving from logic to society, from parts to wholes, and back again. In short, far from repudiating the attempt to predetermine the indeterminacy of claims about legal situations on the basis of a logical proof, I would merely have extended this proof to include the indeterminacy of indeterminacy claims. I would have suggested that indeterminacy and determinacy could be approached on the basis of a *a priori* analytic accounts rather than directed the reader's attention to the constant experience and rediscovery of determinacy and indeterminacy, woven and unraveled each time anew.

In *Spring Break*, I wanted to question the purport of accounts about legal situations, their claim about their own status as descriptions. In the first instance, I sought to accomplish this by rendering problematic the position of the analyzing subject—by decentering my own textual presence.<sup>29</sup> It was for this reason that I focused on the notions of *movement*, *break*, and *temporality*.<sup>30</sup> I hoped that by doing so I could illustrate the process by which the analyzing subject constructs itself out of ambiguity.<sup>31</sup> In this way, I intended to champion a practice of determinacy and indeterminacy analysis in which one is always both challenging particular assertions of openness or closure and maintaining an alternative position that asserts its openness and closure.<sup>32</sup> The assertion, then, can no

28. Many have argued that deconstruction, as practiced by American literary critics, has involved this type of projection of determinacy into methodology. Jeffrey Mehlman, for example, claimed that "the rudiments of an orthodoxy have begun to congeal and to be celebrated in terms alternately pious and cynical." Mehlman, *Teaching Reading: The Case of Marx in France*, *DIACRITICS*, Winter 1976, at 10, 11.

29. "There is no constituting subjectivity. The very concept of constitution must itself be deconstructed." J. DERRIDA, *SPEECH AND PHENOMENA* 85 n.9 (D. Allison trans. 1973).

30. Derrida has noted:

[W]hat is supplementary is in reality *différance*, the operation of differing which at one and the same time both fissures and retards presence, submitting it simultaneously to primordial division and delay. *Différance* is to be conceived prior to the separation between deferring as delay and differing as the active work of difference. Of course this is inconceivable if one begins on the basis of consciousness, that is, presence, or on the basis of its simple contrary, absence or nonconsciousness. It is also inconceivable as the mere *homogeneous* complication of a diagram or line of time, as a complex "succession."

*Id.* at 88 (emphasis in original).

31. J. DERRIDA, *supra* note 21, at 89.

32. I take this to be somewhat akin to Rorty's idea of philosophy as "conversation." See R. RORTY, *PHILOSOPHY AND THE MIRROR OF NATURE* 365-94 (1979).

longer be thought of as an "account" of "what is really going on," but only as a tool, a device, a social can opener, and, ultimately, a reference back to the position that asserts it. Thus, far from being a neutral tool, indeterminacy analysis should always be understood to speak with a theoretical and political bias.<sup>33</sup> In this way, as a decenterer of analytical claims, indeterminacy analysis might yield a situated anti-authoritarian practice, or might be simply the ultimate assertion of self: transforming the work of legal scholarship into either *strategy* or *fashion*, constantly shifting its ground. Of course, this move to strategy or fashion might also be seen as too humble in its valorization of the social text, the object of study as subject, confronted only by tactics and design.

In this way, I hoped in *Spring Break* to challenge the political presumptions and earnestness of some contemporary legal scholarship. Once the play of indeterminacy and determinacy in action and analysis has been displaced, it is difficult to choose between an *a priori*, rationalist indeterminacy analysis and a tactical, deconstructive guerrilla operation—or even to know which one we are doing. Do we demystify a text or is the text always already self-deconstructing? Are we the shock troops of anti-authoritarianism or the genteel revealers of the full complex texture of legal writing and the mechanisms of its power of social persuasion? It seems possible that this undecidability can be both affirmed and actively forgotten by shifting to a critical practice that treats each discovery of openness and closure with renewed anxiety and exhilaration. Whether that surprise can be sustained, however, seems less interesting than the acknowledgment that reading and writing a piece of legal scholarship is as much a matter of mood, its critical bite a product of its tone, as it is of a deployed methodology or a revealed truth about the reality of legal situations.<sup>34</sup> *Spring Break* sought to open up one legal experience to this sort of understanding.

33. Cf. Foucault, *War in the Filigree of Peace*, 4:2 OXFORD LITERARY REV. 15 (1980) (describing historico-political discourses as loci of struggle).

34. See P. DE MAN, ALLEGORIES OF READING 246 (1979); P. DE MAN, *Lyric and Modernity*, in BLINDNESS AND INSIGHT 166 (1983); Irigaray, *supra* note 25.



