

Erich Vieth Notes and Citations for Heterodox Academy Presentation:
“When the HxA Way Collides with Brandolini’s Law”

Part I *****

Blue/Green Dress

Strawman Arguments

Confirmation Bias

Ad hominem Attacks

Omitting Relevant Facts

Least Charitable Interpretations

Getting Basic Facts Wrong

Charlatan Experts

Hindsight Bias

Claims of “Whataboutism”

Guilt by Association

Either/Or thinking

Chesterson’s Fence Violations

Motte and Bailey Tactics

Certain People Not Allowed to Speak

Godwin’s Law

Reliance on Sacred Writings

Definitional Anarchy

No Extraordinary Evidence for Extraordinary Claims

Base Rate Fallacies

Ignoring Relevant statistics

Use/Reference Distinction

Kafka Traps

Availability Heuristic

Shrinking of the Overton Window

Brandolini’s Law (also known as the bullshit asymmetry principle), recognizes that the amount of energy needed to refute BS is an order of magnitude larger than is needed to produce it.

E.g., It takes 3 seconds to claim that “The Enlightenment was racist nonsense?”

How long would it explain the importance of the Enlightenment?

Brandolini’s Law ensures a mismatch. The longer some conversations go on, the further behind we fall.

Just How dysfunctional is our national conversation? On an episode of The Twilight Zone “Monsters are Due on Maple Street”), these invader Aliens saw it coming. [flipped electric lights on and off, neighborhood freaked out]. Here’s how I would paraphrase the final scene [SLIDE]

https://en.wikipedia.org/wiki/The_Monsters_Are_Due_on_Maple_Street

Having a good conversation one of my favorite ways to be alive.

Here's my favorite type of conversation

Scott Barry Kaufman [Slide]

"Imagine what discourse would be like if instead of it being conceptualized as a "match" to see who "wins", discussions were seen as mutual attempts to get at a shared truth or seen as a shared mission to get outside of ourselves and transcend our individual perspectives."

Stuart Kaufman (At Home in the Universe: [The Search for the Laws of Self-Organization and Complexity](#) 1996) [SLIDE]

[T]he fate of all complex adaptive systems in the biosphere . . . is to evolve to a natural state between order and chaos, a grand compromise between structure and surprise. Life exists at the edge of chaos

Parts of my Presentation:

Comparing Courtroom Conversations v. Real-World Conversations

(high stakes-high stress-can we borrow techniques? NO)

The Legal System Under Attack

(e.g. of institutions – solution courageous conversations)

Strategies for Productive Conversations

Outline and Powerpoint: www.erichviethattorney.com/hxa/

A few months ago I ask myself whether we use any of the "truth-seeking" procedures used by court to keep real-world conversations productive?

Trials can be seen as highly-structured conversations.

They begin rudely, with petitions STATING things like: "We Want to lock you up in prison" or "We're going to make you pay my client \$3M". [SLIDE]

High stakes and high stress

Nonetheless, most trials proceed methodically.

Without shouting, expletives, ad hominem attacks.

Every week, thousands of high-stakes, contentious disputes are addressed in courtrooms

both parties have opportunities to tell their stories/arguments..

Judges and Juries listen this "conversation" then decide

Examples of Objections

Vagueness (no duty to answer a question you don't understand)

Lawyers and judges the meaning of words and sentences.

Irrelevant –to be admissible, evidence needs relate to the claims.."

Experts

When parties need specialized knowledge relevant to the case,

Bring in experts on both sides who oppose each other point by point. They challenge each others' weakest spots. Very informative.

Judge as gatekeeper

the Daubert Standard

(1) whether the theory or technique in question can be and has been tested; (2) whether it has been subjected to peer review and publication; (3) its known or potential error rate; (4)the

existence and maintenance of standards controlling its operation; and (5) whether it has attracted widespread acceptance within a relevant scientific community.

Turn-Taking.

Everyone gets a chance to tell their side of the dispute.

No cancel culture in court.

Subpoenas & contempt of court for refusing to answer (except crim)

Civility standards (not perfect, Ethics rules and tribunals)

Two main functions of courts

Truth Seeking

Decision making

It's sometimes claimed: "Trials are truth-seeking processes."

Jonathan Rauch – Legal system is imp't part of our "Reality-based community"
& Scholarship. . . Journalism. . . Government. . . (p. 105)

Crudely, Courts work hard to figure out facts /keep out crap.

Heavy-handed & rule-dominated way

Many of our other institutions process and mediate the truth by finessing it, taking their time, attys and judges vigorously SQUEEZE out the truth at trials (typically 1 day – 1 month).

They have no choice to take more time, because another jury trial is scheduled to begin next Monday.

And it's a Strange Type of truth-seeking

Truth? It seems odd to determine truth by jurors voting!

Do Courts Get it Right when they determine truth?

Quite often, both parties feel they had their day in court and they move on with their lives.

If you Survey only the losers, you'll definitely hear some grumbling.

Not to convince opposing parties. - Only judges and juries.

Caveat: Trials work best when both sides are lawyered up.

Many people can't afford the high cost of having a lawyer

Debt collection cases.

[https://pubcit.typepad.com/clpblog/2013/06/new-study-finds-serious-shortcomings-in-new-york-debt-collection-](https://pubcit.typepad.com/clpblog/2013/06/new-study-finds-serious-shortcomings-in-new-york-debt-collection-cases.html?utm_source=feedburner&utm_medium=email&utm_campaign=Feed%3A+ConsumerLawPolicyBlog+%28Consumer+Law+%26+Policy+Blog%29)

[cases.html?utm_source=feedburner&utm_medium=email&utm_campaign=Feed%3A+ConsumerLawPolicyBlog+%28Consumer+Law+%26+Policy+Blog%29](https://pubcit.typepad.com/clpblog/2013/06/new-study-finds-serious-shortcomings-in-new-york-debt-collection-cases.html?utm_source=feedburner&utm_medium=email&utm_campaign=Feed%3A+ConsumerLawPolicyBlog+%28Consumer+Law+%26+Policy+Blog%29)

Study: Debt buyers won 97% of cases v. consumer. 90% inadmiss

Legal Service (eviction, domestic abuse) – \$500M for Halloween costumes – for pets [SLIDE]

Courts are Decision Machines

Litigants come to court seeking more than the court's opinion about what happened.

They want a binding enforceable decision

Winners often don't care about truth-seeking. Order: Straight to the relief.
Arbitrator (private judges) (increasingly popular) gives enforceable decisions. Most courts won't overturn an arb decision even if the arbitrator gets the facts wrong and the gets the law wrong. Might be hard to believe.
You want a decision, here's a decision!
In many cases, flawed decision better than eternal indecision.

Back to my question: Can we harness any of the "truth-seeking" procedures used by court to keep real-world conversations productive?
Trials only work because they involve
Limited issues defined
A complex system of rules procedures enforced by judge in live time
Attys to stay on task.
Elaborate checks and balances
Expensive to hire a judge to preside over the Thanksgiving table
It is the system itself, the legal system that does the heavy lifting. It is the complex inner-workings of the institution, not skills of an individual atty or judge.
That's why I conclude that the best kinds of Real-life conversations won't benefit much

BTW, Most lawyers quickly learn
Don't be a lawyer at home or with friends
You might Win the argument but you'll lose the relationship.
But only 5-10% of my work as a lawyer is in court
Most of my daily conversations (including work-related) I have the same free-form conversations as everyone else.
Part III: I'll discuss some of my strategies for keeping those on track
But Next, I would like to discuss my concerns about the Legal System-and ultimately why it's so important to have courageous free-form conversations.

Part II

I'm concerned that many of our institutions are unraveling
Under attack by people who disparage the Enlightenment,
They disparage entire fields of study, including math, history and biology.
Many of us associated with these institutions are being pressured
To say we DON'T KNOW things we DO know.
& To say we DO know things we DON'T know.

The institutions under attack include the one in which I work, the Legal System,
2008 (economist) Doug North and (law professor) John Drobak took a close look at the legal system [Slide with cite]

“Understanding Judicial Decision-Making: The Importance of Constraints on Non-Rational Deliberations (2008)”

Their conclusions are relevant to my concerns about ALL institutions, not just the legal system
Imagine a judge working to decide a tough case. It looks like she is acting on her own.

That is the prevailing understanding [SLIDE: Prevailing Understanding]: judges are seen as rational actors who make decisions based on rigorous fact-finding and formal rules, such as prior court decisions, statutes, and constitutions

This model is helpful to judges, because the parties who lose trials sometimes accuse Judges of being biased or arbitrary.

This prevailing understanding allows judges to tell disgruntled litigants: “My hands were tied”
Although it is Helpful to judges, North warns that “this formal model explains only small part of the process.”

North spent much of his life studying institutions. Won the Nobel Prize for his work

What is an "Institution"?

Brick and mortar structures are almost irrelevant

An Institution consists of "the humanly devised constraints that shape human interaction."

[SLIDE]

These constrains allow successful institutions to solve the daunting problems of human cooperation in this complex world.

“Institutions” J. of Econ Perspectives. Vol 5, no. 1 Winter 1991.

North identifies TWO kinds of constraints that underlie institutions.

Two ends of a continuum: [Slide of the Continuum]

Formal constraints (rules, constitutions, laws, property rights)

Universities (mission statements, policy manuals & guidelines)

At the other end of the continuum we find (less visible) Informal constraints

(taboos, customs, traditions, and codes of conduct, cultural values – phrase that comes to my mind: “Social capital”)

Considered together North and Drobak call these two types of constraints "the rules of the game."

Under this analysis, Formal Rules

make up a small (but important) part of the totality of constraints.

Work only if they co-exist with compatible informal constraints

In the long run, informal constraints are ultimately more important to the way an institution functions. [SLIDE]

Hold that thought

North and Drobak’s discussion about institutions focuses on the legal doctrine of Stare Decisis

[SLIDE]

Their analysis illustrates the great power of the less visible/less appreciated parts of all institutions.

There is no legal principle more deeply embedded in the legal system than the requirement that judges honor SD –

SD derives from Latin, “Stand by the thing decided.”

It means: Decide THIS case the same way controlling courts have decided similar cases?

But why?:

Seems like a rather strange principle.

Should your surgeon operate on you the same way surgeons operated in 1950?

Commentators:

lowers cognitive load

consistency

Erich Vieth Article: “The Exaggerated Importance of Stare Decisis”

<https://dangerousintersection.org/wp-content/uploads/2020/04/2019.09.27-Exaggerated-Importance-of-Stare-Decisis-SLBJ.pdf>

SD: Always follow precedent . . . unless you don’t.

Plessy v Ferguson vs. Brown versus Board of Education (OVERRULED precedent)

Undeniable reality: Judges can violate their most important formal rule and nullify decades of common law with the stroke of a pen. Doesn’t happen often, but it can happen.

The pending case of Dobbs v. Jackson Women’s Health Organization is of great interest to many of us.

Will the Supreme Court honor (formal rule) SD (thus upholding Roe) or Violate what is arguably the most important formal rule?

People who support Roe are worried that SC judges are UNTETHERED

That they are politicians who happen to wear robes.

North: [Formal] constraints (legal rules) make it look like judges are being logical and rational, [robots/algorithms??]

It is critical to consider the deliberations of judges in context.

Judges are human beings who are tethered in many ways to a thickly woven complex social network

legal customs, norms and traditions re case analyses,

culture, context, and history

political pressures and news reporting.

North: Formal Rules alone give only a limited understanding of institutions.

Institutions can wither if we don't pay attn to the ultimately much more important informal constraints.

Here's a good rule: every citizen has the right to free speech
You'll find this guarantee in the Constitutions of North Korea and Russia

Formal rules often remain on the books even while the real-life core missions of organizations turn upside down

it can happen faster than you can say ACLU - ["The ACLU Has Lost Its Way: The organization now seems largely unable or unwilling to uphold its core values."](#) The Atlantic: "The ACLU Has Lost Its Way". [SLIDE]

FIRE – has brought suits against dozens of universities who violate their own free speech provisions contained in their own by-laws.

Last year I've reached out to FIRE and added my name to their list of attorneys ready to take referrals of speech cases. [SLIDE]

The analysis by North and Drobak inspired me to create a Second Version of Jonathan Haidt's

New Version of Haidt's Elephant.

Original (Righteous Mind)

Original Elephant: Automatic processes, including emotion, intuition, and all forms of "seeing-that")

Rider: controlled processes, including "reasoning-why"

In this new version

New Elephant & Rider combo is an institution

formal constraints (rules) are the rider,

the ultimately more consequential informal constraints are the elephant.

It is an act of great optimism to assume that formal rules will control that elephant.

Here is why I'm concerned about ideological capture of the Legal system.

A tribe of loud people on the far Left currently believes that the law should treat people as members of groups rather than as individuals,

The Rule of Law has become a big juicy target.

Yale - March 2022 [SLIDE]

The two attys invited to speak at Yale

a liberal atheist and a Christian conservative

The topics: how people from different political traditions can find common ground.

& How freedom of expression is critical to the future of the judicial system

120 of the 150 Yale Law students attending, chanted, pounded the walls, and yelled obscenities, tried to shut down the talk.

Speakers had to be escorted from the building by police.

2019. Harvard removed esteemed law professor Ronald S. Sullivan Jr. from his role as faculty dean. [SLIDE]

<https://www.nytimes.com/2019/06/24/opinion/harvard-ronald-sullivan.html>

<https://www.thecrimson.com/article/2019/3/11/52-harvard-law-professors-ron-sullivan-letter/>

What did he do to deserve this demotion?

Sullivan joined the legal defense team representing Harvey Weinstein.

Harvard's Law School Administrators succumbed to pressure of hundreds of Harvard law students who claimed that they were no longer SAFE.

What? Even serial murderers are entitled to attorneys, but apparently not Harvey Weinstein.

Maybe they thought he was as bad as Hitler

Oh, wait. If Hitler had survived the war, he would have been tried at Nuremberg, where [SLIDE

All the Defendants were provided with ATTORNEYS]

<https://encyclopedia.ushmm.org/content/en/photo/the-accused-and-their-defense-attorneys-at-nuremberg>

These are allegedly the "Best and brightest" law students of two of America's elite institutions feelings have become more important than bedrock legal principles

Writing at Bari Weiss' Substack [SLIDE]

"The Takeover of America's Legal System." Common Sense. (March 2022)

[Aaron Sibarium](#):: "The imperatives of race, gender and identity are more important to more and more law students than due process, the presumption of innocence, and all the norms and values at the foundation of what we think of as the rule of law."

<https://bariweiss.substack.com/p/the-takeover-of-americas-legal-system?s=w>

Also consider that many Law Schools and Bar associations have imposed new social justice requirements in the absence of a scientific evidence that these things work

John McWhorter: Use solutions that really work instead of those that are merely popular.

FAIR talk "The Anti-Science Attitude of the Intolerant Orthodoxy"). [SLIDE with McWhorter photo and these four bullets]

- Microaggressions
- Diversity Equity & Inclusion Departments
- Implicit Bias Testing
- Systemic Racism

<https://www.youtube.com/watch?v=Eqz3JMuKxc>

I've personally know many Lawyers who are afraid to publicly state their concerns about these recent developments.

What's the best way to help an institution?

Rauch, The Constitution of Knowledge: p. 235. Institutions. . . form the individuals who pass through them. They store and transmit values. Without [institutions], we only have individuals running around making noise.

But also: “Still, in the end, although institutions and organizing are essential, it comes down to individuals.” P. 247

Solution seems to be BOTH

But can we really fix currently ails our institutions with MORE rules?

It seems like that is trying to put more water into a bucket that’s already overflowing.

As lawyers (and teachers) we need roll up our sleeves and start having lots of brave conversations on contentious issues

We’ve come full circle.

In the final part of my talk, I will offer some strategies for having difficult conversations.

Extra

Formal rules make up a small (but important) part of the totality or constraints.

<https://www.cambridge.org/core/books/abs/institutions-institutional-change-and-economic-performance/informal-constraints/53B202A783AAC5114FAC8933BC333F74>

Of these two types of constraints, Informal constraints are ultimately more important.

North, Institutions, Institutional Change, and Economic Performance. New York, Cambridge University Press, 1990, p. 4)

Whether formal rules work depends on the existence of compatible informal constraints

<https://link.springer.com/article/10.1007/s40803-016-0028-8>

To bring about institutional change we must ensure that the informal rules of society are consistent with the goals the formal rules seek to achieve.

<https://link.springer.com/article/10.1007/s40803-016-0028-8#Fn107>

Part III

[back to Brandolini problem]

Some ideas for keeping conversations on track.

Let’s talk for a moment about the power of ideology.

Is ideology strong enough to convince us to sit back while children are harmed?

Here’s a recent example: How should we teach reading to young children?

Based upon rock solid studies, we have known for a long time that phonics is a much better method for teaching reading than the “whole word” method, which John McWhorter derogatorily refers to as osmosis.

Despite the fact that phonics is a far better method, the inferior “whole word” method has been used enthusiastically for decades by thousands of schools poorly serving millions of students . . . many of them in distressed communities . . .

In May 22 2022, NYT [SLIDE] announced that the leader of the anti-phonics method has finally recanted. A big dose of phonics will now be added in her method. But the damage has been done.

There are countless other examples of ideological excesses.
In the last couple of years, more than a few schools have been caught dividing children into two groups by “color” in order to “fix” racism.
And sadly, you can find a steady stream of cases where parents used fad diets to feed their newborn babies, leading to death by malnutrition.

Ideals can inspire us and lead to human flourishing.
Ideologies can be dangerous, yet those under the spell will always claim that they meant well.

I love John Tomasi’s idea: “If there is a single value the university must hold sacred, I submit, it is curiosity.” [SLIDE]

But as we’ve all seen lately, some ideologies are so strong that they can even overwhelm curiosity.

<https://heterodoxacademy.org/blog/curiosity-u/>

How is it that ideologies can be so powerful?

It’s a complex topic,

I’ve long been fascinated that people have an extremely limited ability to attend to the world around them combined with the illusion they are seeing everything that they need to see.

For many of us, much of the time: whatever we are attending to appears to be the ONLY thing that could possibly matter.

BTW, I’ve noticed a Distressing trend: presenters at conferences sometimes insert pictures of their children into their slides, allegedly to make a relevant point.

Here’s a photo of my daughter JuJu, taken 20 years ago when she was barely one year old [SLIDE].

About this same time frame, while at her new home in STL, JuJu spotted an electric outlet [SLIDE]

She tried to put her little fingers into the little holes.

I needed to pull her hand away repeatedly

But that outlet constituted her entire world at that moment.

If she had language back then:

“This is my purpose in life” “This is why I am on this planet”

This episode reminds me of a phenomenon Daniel Kahneman calls WYSIATI (Thinking Fast and Slow) (quick and dirty “System I”) [SLIDE WYSIATI]

we tend to accept stories and claims based on the scant info.

None of us can completely escape this tendency.

Here’s 3 stunning things Kahneman discovered about WYSIATI:

Our beliefs are radically insensitive to both the quality and the quantity of the evidence. We only need a good story.

It’s easier to construct a coherent story when we have LESS evidence.

Participants [of a psychological study] who saw one-sided evidence were MORE confident of their judgments than those who saw BOTH sides. [SLIDE]
We are hard-wired to find half-truths compelling.

WYSIATI makes it difficult to have free-flowing conversations
When we are at our best, we seek out evidence that challenges our favorite theories.
When we discover that we are wrong, we might be frustrated at first but then we are happy that we found a better a better idea.
But many of the people we encounter today aren't like that.
They are stuck on WYSIATI
Especially when tribal loyalties supercharge their ideologies

When trying to have conversations with true-believers, our evidence-based strategies often seem useless.
Many people fight back with Religious fervor. Religiosity?

When we challenge their ideas, we're sometimes accused being violent
When I encounter these things, I often conclude "I don't have time for this!" and I move on . . .
Sometimes I hang in there. And just when the conversation starts flowing again, it hits another rut

it feels like this: [SLIDE Sheep Video]
Old-fashioned disagreements based on evidence no longer work in many places.
What can we do?

Robert Corn-Revere – (The Mind of the Censor and the Eye of the Beholder 2021) [SLIDE – Book and portrait] Go to . . .
"I don't argue. I tell stories about how censorship has failed in the past."

Dale Carnegie: "Don't Argue": [SLIDE of Book and quote]
Avoid [arguments] as you would avoid rattlesnakes and earthquakes..
How to Win Friends and Influence People, by Dale Carnegie (1937).
Sounds hopeless . . .

Reasons for Hope [SLIDE]
Luckily, there is a universal Longing for Human Connection
The Zealots will eventually get tired of hanging out with each other.
when that happens, maybe they will reach out for meaningful give and take conversation -- with someone like you.
. . . and thanks to seeds you planted in an earlier conversation.
And Luckily, Curiosity is highly corrosive.
It's easy to believe a claim that the sun will rise
When someone makes shit up, it takes much more effort for THEM to maintain that false belief.
It wears THEM down.

Luckily, no one can completely turn off curiosity. Even if we try to suppress it regarding some topics, it continues to rev deep in the brain.

Luckily, curiosity is a general purpose function that doesn't care about your feelings.

When I first met my friend John Fundamentalist Christian

-electric fence –

But then the real world wore down that fence

I'm sure that all of us have done a lot of thinking about how to have productive conversations.

I find that general platitudes don't help much

"Hang in there" "Do your Best"

No more helpful than Nancy Reagan's "Just Say No"

Lots of good advice: Braver Angels & Rauch final chapter & Coddling

For the rest of my presentation, I'll share some of my personal strategies to guide me through difficult conversations.

None of these ideas have to do with persuasion tactics.

They focus on preserving meaningful conversations AND relationships

When I'm finished I'd like to hear some of YOUR ideas.

I look to my heroes.

the fearless people who dare to ask obvious questions, knowing there will be pushback. .

Philosopher Bertrand Russell (encountered as teen-ager) Explosion!

Glenn Loury

Bari Weiss

Andrew Sullivan

The courage of these people (and many others) nudges me out a bit further than I otherwise might have.

Courage is not about NOT feeling fear.

It's often about feeling fear, and then doing the thing anyway.

If we can all edge out together, we might be OK

I sense that it's starting to happen.

Math is on our side

What if we talk to 3 people.

Then they can talk to 3 more. 10 more times = ¼ mil [SLIDES]

Speaking of McWhorter (Woke Racism): P. 184

How can I talk to people without being called a names?

McWhorter's answer was that You can't. Get used to it.

Helped me a lot to hear this

I remind myself of Nick Epley's pep talks:

a psychologist who studies how people think about other people

<https://www.chicagobooth.edu/faculty/directory/e/nicholas-epley>

<https://www.youtube.com/watch?v=dw9drLa0kuM>

Research:

People underestimate how others respond when we reach out to them,
When you reach out to them in positive ways, it has a much more positive impact on them than people tend to predict or expect.
Superpower.

Let's talk about the tuna FISH [SLIDE]

I had the opportunity to audit several Cogsci seminars led by Philosopher Andy Clark (*Being There*)
How does it accelerate?

Tuna Metaphor - Exploit their environment

Warming up the room with good cheer - Dale Carnegie -

Especially if you feel anxiety or you anticipate hostility

I do it a lot as an attorney when entering tense meetings.

It feels fake and bizarre, but often works!

I like this quote by Kevin Kelly: "It's thrilling to be extremely polite to rude strangers." [SLIDE]

<https://kk.org/thetechnium/103-bits-of-advice-i-wish-i-had-known/>

Eddie – Accordion [SLIDE]

Jen wanted to increase attendance in her graphic design classes.

No problem: She announced that her dog would be there [SLIDE]

Increased attendance by 50%.

FB experience – 3 times reached out to prickly FB commentor

Let's take a walk - no agenda.

Walk and talk***** it's a superpower.

Grumpy people became nice

Exposure to Nature is calming

<https://www.apa.org/monitor/2020/04/nurtured-nature> "Psychologist Lisa Nisbet, PhD: You can boost your mood long term just by walking in nature, even in urban nature."

Physical synchrony

The synchrony of walking and being comfortable with each other reinforce each other bi-directionally 2020 Miao Cheng, et al "Paired walkers with better first impression synchronize better" <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0227880>

I'm inspired by the Stoics "The Obstacle is the Way.

Go to the fear.

I set that as your Default.

ENGAGE in conversation, despite risks.

Inner Game of Tennis. Timothy Gallwey [SLIDE] – much broader audience

Take the ego out of the mix:

Don't worry about winning or losing. Worry only about whether you are making the maximum effort . . ."

"When one is emotionally attached to results that he can't control, he tends to become anxious and then try too hard . . ."

Keep a Laser focus: Don't let someone convince you to self-detonate.

e.g., Never take the bait – Sometimes I think: What would MLK do?

When we are earnest, inquisitive and kind-hearted, we have the best tactic in the room.

I remind myself: that I am Always auditioning!

Some of the same people who insult you today are the ones that will show up much later in a different state of mind, maybe years later.

I often hear: There many People out there Not worth talking to.

Are we sure?

JuJu (10) and I spotted people protesting an abortion clinic

We listened respectfully. Nice people. Ended with handshakes and smiles

I loved showing JuJu that the protestors were people who are a lot like us.

I told some people about this later and they reacted with frowns: "Why would you talk to THOSE people? [Slide of good and bad people]

You've probably heard of the halo effect – the tendency to judge someone positively overall based on fact that they impressed you in only one area.

Horn Effect - illustrates the absurdity of writing people off completely based on any one issue e.g., how they voted.

Before I write off ANYONE as not being worth my while I think of THESE Strange bedfellows [SLIDES]

Nixon - China

Shirley Chism and George Wallace

<https://www.history.com/this-day-in-history/shirley-chisholm-visits-opponent-george-wallace-in-hospital>

Chisholm's unexpected visit to Holy Cross Hospital in Silver Spring lasted roughly fifteen minutes. The congresswoman recounted that she told Wallace "I wouldn't want what happened to you to happen to anyone," and that the governor "cried and cried" in response. She added that, despite their profound disagreements on fundamental issues like racial equality, she agreed with Wallace's criticisms of "the domination of corporate institutions...and unresponsiveness of the Government to the people."

Antonin Scalia and RBG – Photo of elephant Riding

Larry Flynt & Jerry Falwell – went on tour together to discuss free speech

<https://www.latimes.com/opinion/story/2021-02-11/larry-flynt-jerry-falwell-friendship>

Daryl Davis - his kindness (and music) convinced dozens of Klan members to renounce their membership

German and American WWI soldiers (Christmas Truce - Photo)

Megan Phelps-Roper & David Abitbol, Israeli Jewish Blogger (Westboro Baptist Church). (death penalty for women bearing children out of wedlock).

Individuate! <https://en.wikipedia.org/wiki/Deindividuation#Applications>

People keep putting me into a tribe.

e.g., Criticize Biden, people accuse me of being on Russian payroll [Coke/Pepsi]

I tell them I am politically homeless. Switzerland. [SLIDE]

We're all being divided by corrupt political parties, tribal news media

I decide Issue by issue

Donald Brown - All human beings do all of THESE things. [SLIDE]

A.J. Jacobs – we are one family. TED talk and good-heartedness [SLIDE]

Thomas Paine: “my country is the world, and my religion is to do good.” [SLIDE]

I try to look for Points of Agreement

Lawyers tell me that they are going to win and I'm going to lose. I say “You might be right. The jury might agree with you!”

Enforced Turn-Taking (there's something about turn taking – a kindergarten rule]

Jehovah's Witnesses [SLIDE]

Kobayashi Maru “Wrath of Kahn” [SLIDE Starship]

Star Trek Training simulation for new officers for which there was no solution. The simulated starship would be destroyed. Guaranteed.

Starfleet ran this simulation to see how well new officers maintain composure in the face of death.

In court, lawyers sometimes get smacked around like piñatas. You see your entire case going down the tubes

Is there ANYTHING you can salvage out of this? Perhaps you can show that you can keep your composure.

Sometimes it IS hopeless

“Sorry, I don't know how to have a meaningful conversation with those restrictions.” [two sexes]

Try for a soft landing, plant a few seeds and move on.

Thank them for engaging.

When a conversation is going extremely badly (civilization crumbling): Remind yourself of the phrase “regression to the mean” as you make your retreat.

Humor be a serious tool.

[SLIDE] Hardware store guy

[SLIDE] Humor – decolonize math

Just because THEY are not laughing doesn't mean you aren't making some progress.

Expand your job description—

We try to be patient and explain our positions but they lash out at us.

Feel familiar?

It's what many of us have done as parents and mentors.

Might need to assume the role of parent or even therapist.

Might need to give the other person a safe place to rant

I don't really want to do that extra work

Younger folks - too much time with their phones, inexperienced with face to face

Dunning-Kruger problem – Maybe they don't know how to have a conversation.

Translate what looks to be anger

Anxiety

Embarrassment of not being well-informed

Let them save face

Metaphors and their Entailments.

Mark Johnson & George Lakoff Metaphors we live by" (1980) [SLIDE]

Strong claim:

No fanciful way of expressing one's self w/o conceptual metaphors rooted in our biology, in or bodies,

Without metaphors, we cannot make sense of any abstract idea, e.g.. Time, Love or Justice.

e.g., Courts often use metaphor of we are in a vehicle traveling down a path

Legal proceedings

Obstruction of justice

We have choices about how to describe conversations

[Conversations] If we choose Argument is WAR: pits us against each other

She attacked my argument.

Our claims were indefensible.

We need to destroy Plaintiff's credibility.

When we use argument is war, winning is the objective.

Zero-sum game

Chris Hedges: "The first casualty when war comes is truth."

"Culture War". An unfortunate name.

Exploration [SLIDES]

Could you walk me through it?

Shall we go deeper into this topic?

Can we find a better way?

Diagnosing

Let's try to figure this out.

How can we make better sense of things?

Invitation to play:

Shall we bat around some ideas for settling this case?

Slow Down

Slow down the environment to really listen

Friend Philip is a missionary;

Trying to keep infants from starving in Burkina-Faso

Tea time [SLIDE]

If you want to do business in a village, slow down & have tea
community, family, friendship require time.

If you are in a hurry, you will be not nearly as kind-hearted to others:

1973 experiment by Darley and Batson. [SLIDE]

Only 10% of the seminarians running late helped.

63% of those who were NOT in a hurry stopped to help.

The actual behavior did not correlate to predictions based on personalities surveys.

Conclusion

Never before in my life have I considered it so important to speak up.

When everyone around us is saying dumb things, many of us feel pressure to conform.

I often think of the experiments of Solomon Asch. [SLIDE]

75% of participants sometimes conformed with the group to state the obviously wrong answer,
BUT As Asch demonstrated, the presence of just one other honest person in the room can
reduce conformity as much as 80%.

Vasily Arkhipov did not conform to the group. [SLIDE]

Soviet Naval Officer –in 1961, His submerged submarine was under attack near Cuba. The other
two officers on his submarine argued with him to deploy nuclear weapons because they
believed war had broken out.

Arkhipov held his ground and that's why all of us are alive today.

When I think of difficult conversations, I think about what is at stake.

[our own intellectual integrity] J.S. Mill wrote that we need to take our ideas outside and
“exercise” them. Otherwise they get flabby & lethargic

[as a country] I also think of Ben Franklin's wise words: “It's a republic, if you can keep it.”

Voting is easy. The difficult part of democracy is between elections.

[SLIDE]

“Free Speech on Campus” Edwin Chemerinsky and Howard Gillman (2017), p. 158:

It is not possible for a diverse, democratic society to survive without some measure of tolerance
for opposing viewpoints, respect for people who hold different views, and a willingness to
discuss and debate across lines of difference—a bundle of norms and practices that amounts to
“hearing the other side.”

How did we become heterodox?

I don't know. Luck?

But because we were the lucky ones, we need to be the ones who bravely step up

Even as the loud people on the extremes try to drown out curiosity.

That's the principle of nobilis oblige (No-bless o'bliige)

We have the best idea.

The best idea is that we don't have all the best ideas.

We know that we need each other to keep from falling off the rails. [SLIDE ant]

All of us fall off the rails some of the time.

Whenever that happens, it is not a failure.

That's what it means to be a human being in search of truth.

We understand that it takes a village to think well. [SLIDE Ant]

We need to keep our focus and our composure

And we need to keep reaching out to those who struggle.

One challenging conversation at a time.

And now I would appreciate hearing from you!