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Making a Case for Academic Values

A history professor brings lessons from the seminar to the jury room.

By Patricia Evridge Hill

My recent experience as a jury foreperson highlighted the importance of collegiality, tolerance, deliberation, consensus building, and the unfettered pursuit of truth—traditional academic values under attack by those seeking to impose a corporate vision of “effectiveness” on the nation’s universities. This process of attack has been documented thoroughly in the past decade. Beyond sounding the alarm, though, we need to explain to colleagues, political leaders, and the general public how traditional academic values are not only crucial to our democracy but are also often more effective than highly touted corporate styles of decision making. In this context, the model of a graduate seminar that led my California jury to a just decision becomes relevant. As the foreperson, I was a seminar leader of sorts, in a position not unlike that of the tens of thousands of academic professionals who implement college and university values on campus and also demonstrate their effectiveness throughout society.

The month-long trial was emotional and tense: a father had been charged with multiple sexual assaults on his twelve-year-old daughter. And the stakes were high: a young woman’s faith in society and authority figures generally was in jeopardy; a conviction would represent the defendant’s third strike. As jurors, we were aware that unanimity was required for a guilty verdict.

After three weeks, we had bonded in the jury room through the numerous breaks, lunches, and delays that characterize long trials. Since we could not discuss the case, we relieved stress and boredom by talking about the work most of us were missing, what we were reading, and various goings-on in our lives interrupted by the trial. Some of us walked together to the light-rail station at the end of the day. As is often the case when people learn that I teach American history, many of the jurors asked me to recommend books. Through these conversations, I learned a great deal about what the other jurors prized and despised in our political and judicial systems. Some wanted to read American political history, but most admitted somewhat sheepishly that they had not enjoyed history in school. They were pleased and surprised when I asked them about their interests and recommended that they read about the history of the cars, food, fashion designers, musical groups, and sports they followed. Much as one does when guiding students toward a topic for a research paper, I found myself encouraging them to begin an exploration of the past by way of the history of something that inspired passion. I respected their civic commitment and liked most of them. The experience of those first few weeks made me comfortable with the concept of a jury of one’s peers.

As the evidence phase of the trial ended and deliberations began, the judge instructed us to elect a foreperson. This individual would moderate the group’s discussions and communicate the jury’s questions or requests to the judge. An impatient young executive with a national grocery chain volunteered, saying, “We all know this guy’s guilty, so let’s take a vote and get out of here.” Taken aback by what struck them as a reaction out of *12 Angry Men*, the 1957 film in which Henry Fonda’s character stands up to pressure from those he believes to be too ready to convict an innocent man, several jurors asserted that they would prefer to nominate someone and hold an election by secret ballot. “Fine, then,” asserted a bank manager who proceeded to nominate the grocery executive. A retired schoolteacher and a fitness instructor nominated me. I accepted the nomination in part because the executives’ impatience was disconcerting. I too believed the defendant was guilty, but the fact that we would determine at least two people’s futures demanded real deliberation. In addition, an autocratic approach would polarize the group and be unlikely to lead to consensus. Since anything less than a unanimous decision to convict would result in the acquittal of a man I believed to be guilty, the situation called for tolerance and a commitment to understanding others’ viewpoints, even if that meant spending considerably more time in the jury room.

The Seminar Model

And so we found ourselves a small group of adults sitting around a conference table searching for the truth. As unusual as the situation was in some ways, it closely paralleled the seminars in American history I have offered to graduate students for more than a decade. Most seminars are designed around a topic—often posed as a question. The instructor provides structure by establishing a schedule or sequence of activities. Sources are varied, so participants generally divide the work of sifting through them and providing the group with a preliminary analysis. Often the group reaches a consensus, but consensus is neither required nor guaranteed.

Since our initial secret ballot resulted in seven votes to convict, two to acquit, and three undecided votes, I asked the jurors to work in groups of three to list the strengths and weaknesses of the prosecution’s and defense’s cases. For example, the prosecution provided solid evidence of why a girl would choose to move in with her father and then find it difficult to confide in her mother when she was assaulted (the mother’s heavy drinking, a series of volatile “boyfriends,” a lack of privacy in the mother’s apartment). When each group presented its analysis, I asked jurors to attach specific sources or evidence—witness testimony, e-mail, invoices from hotels, concert tickets, and so on—to what they believed to be the strengths of each case. We then discussed what sorts of evidence might be required to demonstrate weaknesses. For example, the defendant testified that he took his daughter to a hotel, where she alleged an assault took place, because the rapid transit line was not operating after a concert they attended together. But the check-in time on the hotel invoice was ninety minutes before the last train in the direction of the home they shared with relatives, and the prosecution supplied a transit manager whose records indicated that the station was open and trains had run on schedule. We had a thoughtful conversation about whether any of the defense testimony or exhibits addressed this weakness in its case.

On the second day of deliberations, there were nine votes to convict, one to acquit, and two undecided. I asked jurors to submit written questions or concerns for the group to discuss that morning. Since much of the testimony was of the “she said, he said” variety, the credibility of the daughter and the father was crucial. That afternoon, we brainstormed about the motives of each—making and annotating a list on a white board. At this point, the entire jury was engaged in the task of determining whose version of events was true. Even the executives focused on problem solving and suspended their impatience. Our efforts together made the two undecided jurors comfortable enough to articulate that they were the ones who had yet to make a decision, so we ended the day with a discussion of their remaining concerns and another secret ballot. It yielded ten votes to convict and two to acquit.

We were all surprised the next morning when the retired teacher said she had changed her vote from undecided to guilty after the previous afternoon’s discussion of the California law that instructs jurors that children under the age of fourteen are not required to resist sexual assault or come forward immediately afterward. She spoke of her years in the classroom and noted that many children would be too afraid, intimidated, ashamed, or simply stunned to fight off a parent or authority figure. That got the attention of the second day’s other undecided juror, who had changed his position to “acquit” in the last tally. It had been four days since the judge gave us instructions, so I suggested that we examine the law itself. After reading the statute, the juror changed his vote to “guilty,” acknowledging that he had expected “a little girl” to do something that psychologists consider so difficult that it should not influence a verdict. At this point, we were one vote away from a conviction.

As is occasionally the case in a seminar, I became concerned about the outlier. She might dig in her heels, which would lead to a hung jury, or bow temporarily to peer pressure and then recant before the judge, which would jeopardize a conviction. I cut short a juror’s aggressive and disrespectful “Why do you persist in thinking?” question and gave the floor to a very calm elderly rancher who empathized with the holdout and suggested that we once again try to address her concerns. These stemmed primarily from the fact that the girl lied to family members on several occasions in order to visit friends and attend a concert. (“How can you believe either one when they’ve both lied?”) The juror favoring acquittal refused to distinguish between a child’s small lies and her father’s fabrications designed to cover up a pattern of sexual abuse. Asking a person who sees the world through absolutist eyes to appreciate nuance is difficult, but academics are trained to examine and reexamine sources, so I encouraged the group to return to e-mail messages that the defendant sent his daughter after she had told the school counselor about the abuse and the counselor had reported the abuse to police. As a group, we read the messages aloud and explored their meaning—an exercise in textual analysis common in university seminars. As it became apparent that the father’s tone was more that of a jilted lover than a broken-hearted father who could not understand why his daughter would accuse him of heinous crimes, the lone holdout exclaimed, “Oh, my God, he did it!” We had our conviction.

Finding Consensus

A successful seminar depends on the patience and tolerance of participants. Willingness to invest time and energy to pursue answers to the questions around which a seminar is focused is critical. Although many historians will challenge the notion of a singular Truth, we certainly attempt to interpret human experiences in ways that are authentic and grounded in evidence. Historical analysis based on archival sources, case studies, government records, periodicals, oral histories, artifacts, and the like leads to professional consensus in many though not all areas of study. Such analysis requires the presence of an experienced yet collegial guide and a deliberate examination of available sources. Consensus is facilitated by sharing responsibility and the workload.

The seminar process reinforces values that universities have nurtured for centuries in students who become engaged citizens. Surely, there are many cases such as this seminar in justice where an autocratic, hierarchical approach and an overemphasis on efficiency at the expense of effective consensus building would have resulted in disaster. The university model, with its premium on openness, reason-based argument, shared governance, and academic freedom in pursuit of new knowledge, serves the common good. Let’s work toward finding more explicit ways to convey these values to gown, town, and Capitol Hill.

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