Rationale: Of Manicures, Make-Overs, Matryoshkas, and Transformation *Visualizing My Legal Studies*

Rebecca Bromwich
University of Ottawa

Introduction

I used to be a columnist for the *Lawyers Weekly* when I was in private practice as a lawyer. In 2009, when I decided to go back to school for my LL.D., which turned into my pursuit of a Ph.D., first in law, and then in legal studies, I published a column in which I analogized graduate studies to a "fabulous manicure for the mind." In retrospect, I cringe at this. Was my analogy driven by idiocy or bravado? It was a bit of both, I think. I was trying to be amusingly glib for the audience, I was underestimating what would be involved in my graduate work, and I was trying to act more confident than I felt about starting a program of graduate studies with four children under the age of five, one of whom was six months old.

In the spring of 2015, I completed the Ph.D., and, that fall, it was published as a book (Bromwich 2015). The journey I travelled in my years of graduate study was not easy. It did not involve superficial polishing, refurbishing or other cosmetic alteration. My education was not a service, esthetic or otherwise, provided to me. While I was amazingly fortunate at Carleton in connecting with a supportive and brilliant supervisor and an excellent committee, getting a Ph.D. was hard intellectual work. It involved many hours of reading, thinking, and writing, many of those late at night. It also became deeply personal work. The reading and thinking I had to do to pass my comprehensive exams and write my thesis took me to places that were much darker, much harder to navigate, and much more rewarding, than any sort of cosmetic makeover might be. The

epistemological shifts involved in my thinking were transformative on a deeper level. They led me to rethink what the law is, where to find it, and how governmental regimes might be changed, and they led me to start on a process of reconceptualizing myself.

As I was grappling with concepts that moved my thinking quite far afield of, and even dismantled, my ways of "thinking like a lawyer" and my understandings of myself as a gendered subject identified as a woman and mother, I found it helpful to visualize what I was studying. This painting is one such visualization.

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Social Constructivism and Discourse Analysis

To write the thesis I wanted to write in the interdisciplinary field of Legal Studies, I had to develop an understanding of critical perspectives on the study of law and society. I had to come to understand theoretical foundations found in social constructivist ideas about discourse, power, governmentality, and necropolitics as well as agency and related non-essentialist feminist theories about the social construction and performance of gender. I came to understand that it is through discursive processes involving power relations that social agents constitute knowledge, situations, social

roles, identities, and their relationships with other social agents. I came to see gender and government as such discursive processes. I started to see law as socially embedded in broader practices of governance of bodies, relationships and states.

I read Ludwig Wittgenstein and accepted, as he postulated, that there is no knowledge of the real that precedes cultural constructions (Trigg 1991). I read Richard Rorty and came to agree, as he theorized, that there is no way for actors to objectively perceive the real unmediated by language (Rorty 1979). Put another way, social groups construct knowledge intersubjectively together, collaboratively creating shared meanings and building or constructing social facts in the procedure of this collaboration. I read Donna Haraway, and came to agree, as she suggests in her "Cyborg Manifesto" that: "social reality is lived social relations, our most important political construction, and a world-changing fiction" (Haraway 1991). I read, and adopted, Foucault's definition of discourse. I read and came to rely upon the constructionist theory of representation set forth by Stuart Hall (1997) that relies in turn upon Foucault's (1972) study of discourse not primarily as language but as a system of representation. I accepted Hall's (1997) formulation that the process of representation itself constitutes the world it represents. I grew to accept the Foucauldian understanding that power is "multiple, relational, heterogeneous and pervasive" (Hall 1997: 14). I came to agree with Judith Butler's (1997) understanding that discourses, in giving actors names, provide us a way in which to exist.

This theoretical framework led me to see discourses as systems of shared meanings through which we explain and define our world and our experiences to ourselves. I started to see how the constructed nature of discourse, and the fact that it mediates our understandings of the real, can make it hard to distinguish what is inevitable or unchangeable from what is contingent or possible to change. This framework gave me an epistemological starting point from which I could start to examine how legal, expert, and educational definitions of the "norm," of what is "normal" for the

social identity of "girl," confined some adolescent young women while completely excluding others.

Looking for Law

The social constructivist theoretical orientation I came to adopt had implications for where I looked in order to find law and governmentality at work. In this theoretical understanding, media is a site for production of governance. Media do not simply "get the law wrong." What media reports do in discourse is not a question of translation. Media actually participate in the creation, maintenance, and change of government in the Foucauldian sense. In consequence, my dissertation, as does Desmond Manderson, takes media and other forms of popular culture seriously as sources of law. In his chapter, "Trust Us Justice – Popular Culture and the Law," Manderson contends that popular culture

> …has adopted traditional forms… [it] emerges as a powerful conservative force with its own concepts of law and justice, its own practices and its own memories…[it is] *a source of law*, a record and memory of subterranean practices that have not lost their power to constitute legal actions and ideas. (Sarat 2011: 7)

Manderson studies what he sees as law *in* media. He sees media as providing – a "site of resistance to formal law… the effort to preserve or resuscitate an alternative reality" *(*Sarat 2011: 7). Government and legality, as understood in this way, are not found only in legislation and courtrooms but also in the news, in movies, in television dramas, in crime fiction, and in social media postings. Legality is everywhere and yet its location is not permanently fixed. In particular moments, power acts in particular situations.

In addition to media discourses, I came to understand that expert discourses are also productive of governmentality. It would be difficult to overestimate the significance of expert discourses in late modern governance. Foucault himself drew clear lines linking discipline in the sense of governance and constraint and *the disciplines.* In my dissertation research, I started from the theoretical position that the med/psy-discourses exist "on the underside of law" and naturalize the legal power to punish while they legalize the

technical power to discipline. Foucault called this the "great carceral continuum" (Hunt and Wickham 1994: 46) consisting of disciplinary practices that act on the body and on the soul. Hunt and Wickham cite Foucault for the argument that "law comes to be colonized by the new disciplines being invaded by practices of observation and training" and contend that "this is readily evident in contemporary juvenile justice" (Hunt and Wickham 1994: 47). The "paradox of modernity" is that law then seeks to control or recode the disciplines in the form of law (Hunt and Wickham 1994: 47).

Governmental Technologies and Technologies of Self: Visualizing Dolls

In preparation for my comprehensive exams, as I read and thought about social constructivism and discourse analysis over a period of several months, I started to experience a rupture with my prior understandings not just of law or government, but of myself. To help me think this through, I painted this picture. It is me - embedded within the different, messy, overlapping, constructions of myself that I occupy now and have occupied in the past: a youth, underneath the figurations of a mother, and a lawyer shaped like Russian nesting dolls, also called "matryoshkas."

In my learning, I first found it helpful to think of the construct of "girl" very much like a doll. One of my earliest memories is of playing with a set of matryoshkas my grandmother had in her home. It is a comfortable and happy memory and so it was an idea that I liked developing. These matryoshkas had no centre. Each doll opened onto another and each was a shell. There was nothing in the middle.

I still think the Russian nesting doll is a good introductory image to help understand the concept of figurations or constructions of the girl. When teaching, it might be helpful to think about how the image could apply to students. As a shell, however brightly painted, a matryoshka doll is similarly an imprisoning structure to the way that Michel Foucault and Judith Butler theorize that the soul is like a prison for the body. I found the wooden shell of the matryoshka to be a productive visualization for developing my thinking about the

self as an effect, not primarily a cause, of power relations. Our professional selves and our gendered selves are unstable and produced at the expense of other possible selves. In acting socially, and to act socially, we take shapes in discourse: we take on identities that are available and always changing, in a sometimes disconnected, overlapping and contradictory way. We inhabit available identities and we participate in forging which identities are available. The self is not an authentic, stable, internal pre-existing thing to be found or discovered but emerges in the act of self-creation. In this class, the self is not understood as outside of systems of power and knowledge.

The image of a matryoshka is helpful but it is also limited in its representation of the concepts of social constructivism and representation. For instance, it is limited because the agent in the dolls is depicted as feminine, and gender is itself, as Judith Butler discusses, imprinted. Butler offered tools that helped me start to deconstruct the notion of the integrated, stable identity. Her work gives readers tools that help us see the self not as the extension of an inner essence or a particular (male/female) sexual body. In Butler's (1997) view, these ideas are repressive and dangerous illusions that can be undermined.

To be a better illustration, looking at it in retrospect, I think this image might depict more dolls. To be even better, somehow, the dolls would be moving, interconnected, and always changing. Identities are unstable and are constituted and reconstituted in social interactions as they are performed.

Conclusion

Processes of visualization have helped me learn, unlearn, and re-learn ways of understanding society, culture, power, and law. Analogies can be helpful and images can be instructive, learning, and teaching tools to aid in understanding relationships between law, power, discourses, culture, and society. I found producing a visualization of Matryoshka dolls to be a helpful illustration because playing with that kind of doll is something that is familiar to me. I would anticipate that other people would find quite different illustrations of social constructivism helpful towards understanding

the social constructivist theoretical framework I came to adopt in my studies.

It is also abundantly clear to me now that my experience of getting a Ph.D. in Legal Studies bears far more resemblance to giving birth than getting a manicure. In birth-giving, through the course of struggle and mess, a baby and a mother are produced. In the experience of studying towards a Ph.D., I constructed a dissertation; analysis was produced, and so too was a new fluidity of identity, and a radically altered worldview, for me.

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