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ARTICLE

The law is a conversation – but who gets the mic? Counter-factual pedagogy as reflective legal pedagogy in an elite Indian law classroom

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Abstract

This reflective practitioner essay asks what it means to teach law 'as a conversation' and who is heard as speaking law within that conversation. Drawing on teaching notes from an elite Indian law school writing classroom, the article analyses a staged counter-factual dialogue among four legal thinkers (Nicholas J. McBride, Patricia J. Williams, Kiruba Munusamy and Angela D. Gilmore). 'Counter-factual pedagogy' names a method that stages an 'as-if' encounter that is structurally unlikely within conventional legal education in order to make institutional defaults newly visible, including neutrality as epistemic rigour, professionalism as merit and doctrinal learning as separable from social power. The article reads the exercise through five literature-informed lenses (voice, neutrality, performance, justice, discomfort). No student quotations, paraphrases or artefacts are reproduced.

Keywords: legal education; education; legal writing; critical pedagogy; caste; professionalism

1 Introduction

Law is frequently described as a conversation: a practice of reasoning, disputing and responding across time, institutions and texts (McBride 2018; White 1985). As a pedagogic metaphor, 'conversation' does important work. It suggests that legal education inducts students into a shared practice of reading, argument and response, rather than merely transmitting a fixed body of rules. But the metaphor is not only descriptive. It is also normative: it carries an implicit promise of openness, reciprocity and intelligibility. In classrooms – especially elite professional classrooms – that promise can obscure the uneven conditions under which legal speech is recognised. 'Conversation', in this sense, can function as a smoothing term: one that describes participation while masking an unequal distribution of voice, credibility and audibility – who is heard as speaking law, whose speech is treated as interruption and what kinds of utterance are disciplined into silence long before anyone takes a turn.

This article begins with that puzzle: law-as-conversation versus mic access. The mic is not simply the opportunity to speak. It is the authority to be recognised as intelligible and credible – to speak without being reduced to 'too emotional', 'too political' or 'not rigorous' (Díaz and Almagro 2021). This problem is not only rhetorical but epistemic, because credibility is socially distributed rather than evenly granted across speakers (Fricker 2007). In elite professional settings, that authority is often coded as tone, polish and clarity: what students come to recognise as sounding like a lawyer. But these are not evenly distributed capacities (Rathee 2020). They are learned

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performances, institutionally rewarded in ways that can track caste, class, gender, language and proximity to Savarna (upper-caste) professionalism (Dalwai 2018). The stakes of teaching writing in such a setting are therefore not merely technical. They are political and ethical: what kinds of voice are cultivated, what kinds are treated as noise and what kinds of selves are tacitly edited out in order to succeed inside the classroom.

I approach these questions as a teacher reflecting on a specific pedagogical intervention. This is not an empirical classroom study. It is a teacher-facing reflective practitioner essay grounded in teaching notes and facilitation choices made in the course of ordinary instruction. I use 'reflective practitioner' in the stronger sense of critically reflective professional inquiry, in which teaching decisions and classroom observations become material for disciplined pedagogic reflection rather than informal anecdote (Brookfield 2017; Schön 1983). I write from within the pedagogical encounter – what I attempted, what appeared to become newly visible, what felt pedagogically risky and what this method made harder to ignore about authority and speech in the legal classroom. Because the exercise was conducted for teaching (not research), and no participant consent was sought at the time for research use, I do not reproduce student speech, quotations or artefacts. Nor do I treat students as research participants by retrospective narration. Instead, I use the classroom episode as an occasion for theorising pedagogy itself: the micropolitics of voice, neutrality, performance, justice and discomfort as they arise in teaching practice.

The intervention I examine is what I call counter-factual pedagogy. By this I mean a classroom method that stages an 'as-if' encounter – a conversation that is structurally unlikely to occur within conventional legal education – in order to make institutional defaults newly visible. The 'counter-factual' here is not speculative history. It is a pedagogic device for interrupting what legal education often takes for granted: neutrality as the posture of good reasoning, professionalism as merit rather than socialised habitus and doctrinal learning as if it were separable from the social worlds law governs. Counter-factual pedagogy puts those defaults under pressure by asking what becomes visible when the classroom must listen across voices it does not usually treat as co-equal participants in the core legal conversation. In that sense, counter-factual pedagogy differs from conventional role-play, simulation or mooting formats oriented toward advocacy performance or adversarial persuasion; its primary object is the classroom's distribution of legal voice and audibility. The article proceeds in five parts. First, I situate the exercise within the institutional culture of elite Indian legal education. Second, I describe the pedagogic exercise and clarify why I describe it as counter-factual pedagogy. Third, I set out the approach and ethical limits of this reflective account. Fourth, I read the classroom episode through five literature-informed analytic lenses – voice, neutrality, performance, justice and discomfort. Finally, I consider implications for justice-oriented legal pedagogy.

2 Context

The study of law is often described as a serious conversation, yet it seldom operates as a dialogue among equals in practice (McBride 2018; Mertz 2007; White 1985). In the elite professional legal training environments that concern this article, hierarchy and professional anxiety often shape classroom life. In India, elite law schools established from the late 1980s and 1990s onward have increasingly been shaped by professionalisation imperatives and corporate placement markets, producing a strong 'practice-ready' horizon for what legal education is for (Gingerich and Robinson 2017; Krishnan 2004; Tiwari and Biswas 2024). This emphasis on professional readiness is not unique to India, but part of a broader logic through which professional education socialises students into recognised forms of reasoning, performance and institutional conduct (Sullivan *et al.* 2007). One consequence is a highly performative pedagogic environment in which students are expected to acquire professional fluency (citation formats, procedural tactics, legal genres) while the social worlds that give law its stakes are often recoded as optional 'context'. Courses such as 'legal English' or 'professional communication' may be presented as neutral skill labs, even as they

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can function as early sites for inculcating a particular legal persona – rewarding detachment, coherence and authority while disciplining forms of expression marked as too excessive, embodied or political (Arora and Tiwari 2025; Mertz 2007; Kennedy 1982). This dynamic is especially important for legal writing pedagogy, where 'voice', tone and form are often taught as technical conventions even when they also carry institutional and social norms about credibility (Stanchi 1998; Deviah and Sharon 2024).

This is one way the hidden curriculum travels: not primarily through what is assigned, but through what is rewarded, sanctioned or rendered unserious in everyday classroom life. As Duncan Kennedy argued, legal education trains students not only through doctrine but through non-curricular practices that naturalise hierarchy and reproduce professional stratification (Kennedy 1982). Sociolinguistic accounts of law school similarly show how 'thinking like a lawyer' is learned as a mode of speaking and comportment – an acquisition of professional authority that is never merely technical (Mertz 2007). Work on hidden curricula across higher education underscores a related point: 'professionalism' often operates as a moral and affective pedagogy, shaping what counts as legitimate voice before those criteria are ever named explicitly (Orón Semper and Blasco 2018). In elite law classrooms, the 'best' voice can come to mean the one that mirrors institutional authority (Dalwai 2018; Kennedy 1982; Mertz 2007); this dynamic is also described in contemporary public commentary on Indian higher education (Kisana 2023; Kisana 2025).

This institutional culture is anything but neutral. Indian legal education remains stratified along caste, class, gender and language lines, and those stratifications shape whose speech is readily heard as competent or appropriately legal (Dalwai 2018). Dalwai's account of Savarna professionalism is especially important here: ostensibly 'neutral' professionalism can reproduce upper-caste norms in curriculum, classroom interaction and the default register of competence (Dalwai 2018). When caste appears in legal teaching, it is often pedagogically marginal – an elective, a passing example, an issue-specific detour – rather than a structuring analytic for how institutions work. In that context, the demand for neutrality in tone, form and reasoning can function less as a universal standard than as a mechanism for reproducing privilege under the guise of merit and competence (Lacey 1995; MacKinnon 1989).

Put plainly, what passes as 'objectivity' in the classroom may require erasing context and editing out the personal in order to approximate a Savarna, Anglophone ideal of legal speech (Dalwai 2018). Sara Ahmed's account of institutional 'neutrality' is useful here: neutrality is not the absence of perspective, but a posture that aligns bodies and voices with institutional norms (Ahmed 2012). The law classroom's 'conversation' begins, in this sense, before any student speaks. It arrives with prior expectations about what counts as rigour, what counts as relevance and what must be bracketed out in order to be heard as serious (Ahmed 2012).

I encountered these pressures directly when I entered the classroom as a new writing instructor. I had been hired to teach writing – a course in 'English' that many students expected would deliver templates for memos, the proper tone for petitions or the mechanics of Issue, Rule, Application, Conclusion (IRAC). In other words, the course was often imagined as a toolkit for succeeding within an existing professional script, rather than as an inquiry into how that script is structured. In my teaching notes from the first weeks, what stood out was not my observation of resistance to learning as such, but a careful calibration of risk on my part: a sense that emotion, positionality or 'too much' context might be read as unserious in a skills classroom. Even assigning a text such as Audre Lorde's 'The Transformation of Silence into Language and Action' raised an immediate pedagogic question for me: what does it mean to insist on voice while teaching into an institutional culture that disciplines voice (Lorde 1984)?

Within that atmosphere, I began asking a more specific pedagogic question: what is a writing teacher responsible for in a classroom already organised by unequal conditions of audibility? If law is a conversation, then the classroom I entered often seemed rehearsed for a one-sided one. Some voices, I note in my first day class notes, carried institutional ease; others seemed to enter the room

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under conditions of self-editing and caution. What would it take to unsettle that arrangement, even briefly, without simply producing a new orthodoxy of 'critical' performance? These questions led me to attempt a small pedagogical intervention in the latter half of the class: to stage a counter-intuitive conversation that invited students to inhabit voices legal education does not usually treat as co-equal participants in its core conversation. The aim was modest but deliberate: to interrupt the comfort of classroom neutrality and make the politics of legal voice more discussable within a writing-focused skills course.

This intervention took place in a writing-focused law classroom. I designed it as a single-session exercise that could be run without specialised resources and that would interrupt a common skills-training sequence (lecture → model answer → imitation). The exercise asked students to stage a round-table conversation among four legal thinkers around a shared prompt on legal education, voice and legitimacy. The design aim was not to replace skills instruction, but to respecify what counts as a 'skills' exercise by treating legal voice, listening and authority as part of professional formation. The single-session format was also deliberate: it made the exercise low-resource and easier to adapt within tightly structured skills curricula where instructors may not control the course for multiple weeks.

Structure and set-up (sixty–ninety minutes). I ran the exercise as a single-session (sixty-ninety minute) counter-factual round-table. The class was divided into four groups, each assigned one thinker and a short excerpt to anchor 'in-role' contributions; chairs were rearranged into a circle to mark a departure from ordinary classroom hierarchy. The core prompt asked who gets to speak and who is heard as speaking law, with guiding questions on neutrality, professionalism, credibility and what is treated as 'context' rather than 'law'. Ground rules prioritised fidelity over flourish and explicitly barred identity performance (e.g. accents/mannerisms), with facilitation aimed at sustaining dialogue rather than adversarial debate. The session ended with a debrief where students stepped out of role to reflect on audibility, authority and what shifted when justice was treated as part of 'skills'. (See Box 1 for the replicable prompt, ground rules and debrief structure).

3 Counter-factual pedagogy

The preceding section describes the exercise as it was run. This section clarifies the analytic work performed by the label counter-factual pedagogy. I use 'counter-factual' to name a classroom method that stages an 'as-if' encounter that is structurally unlikely within conventional legal education in order to make visible the institutional defaults that shape what counts as 'law' and who counts as a speaker of law. The 'counter-factual' here is not speculative history; it is an instructional device that pressures ordinary classroom arrangements of authority – neutrality as the signature of rigour, professionalism as merit rather than socialised habitus and doctrinal clarity as separable from social power (Kennedy 1982; Mertz 2007). Recent scholarship on Indian legal education has critiqued the discipline's attachment to 'objective' and adversarial styles of reasoning and the way these styles can displace affect, standpoint and lived experience from what counts as legally relevant (Rathee 2020). In parallel, accounts of teaching socio-legal perspectives within Indian law schools describe how 'context' is routinely treated as marginal and must be defended as relevant in order to enter the legal classroom (Sen 2009). Counter-factual pedagogy functions as a deliberate disruption of legal education's taken-for-granted epistemic defaults by staging an 'as-if' encounter that reorders what becomes audible as legally relevant (Farné 2022). In doing so, it makes the classroom's standards of credibility and exclusion more available for scrutiny rather than silently operative (Pirrie and Manum 2023).

The exercise did not ask students to 'debate' in the abstract, but to stage a text-grounded dialogue using a deliberately uneven collage of materials that foregrounded distinct problems of legal voice and authority. For McBride, students worked from *Letters to a Law Student*,

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including his framing of law as an ongoing 'conversation' about what sort of society we should live in and his 'iron rule' linking professional survival to clarity ('express yourself clearly or die') (McBride 2018, pp. 35–36). For Williams, students drew on *The Alchemy of Race and Rights* to bring into the room a critique of legality's claims to neutrality and the way 'colorblind' or 'coolly formal' discourse can function as an alibi for power, including her insistence that law (statutory or judge-made) is 'a subcategory of the underlying social motives and beliefs from which it is born' (Williams 1991, pp. 120–21, 138–39). For Gilmore, students used her autobiographical account in 'It Is Better to Speak' to foreground the problem of the 'universal' subject and the layered dissonance of being rendered an outsider within professional education, including the institutional pressures that produce strategic silence (Gilmore 1990, pp. 74–76, 79). For Munusamy, students engaged her anti-caste account of institutional exclusion (Munusamy 2022, pp. 38–42, 50–56; Munusamy 2020) alongside a contemporary anchor: her public address ('Born in a slum became a lawyer') and a current-event vignette about exclusion within a feminist protest ('Reclaim the Night'), used to ask who is conveniently silent, who is forcibly silenced and what accountability across difference requires (Munusamy 2020; Shantha 2024). These materials were then staged as a round-table conversation (not an adversarial contest) in which each group had to respond in role to the shared prompt: if law is a conversation, who gets to speak and who is heard as speaking law?

This approach is indebted to a broader family of critical practices that use counter-factual reconstruction to reveal the contingency of legal reasoning. Feminist judgment-writing projects make this point with particular clarity: by rewriting authoritative decisions from feminist standpoints, they show that what appears as neutral method is structured by background assumptions, omissions and institutional comfort – and that judgment (and therefore legal pedagogy) can be otherwise (Hunter *et al.* 2010, pp. 1–6). In the Indian context, the Indian Feminist Judgments Project similarly demonstrates how alternative legal reasoning becomes thinkable once gender, caste, sexuality and violence are treated as constitutive of doctrine rather than optional context (Chandra *et al.* 2021, pp. 261–64; Chandra *et al.* 2023, pp. 5–16). Counter-factual pedagogy adapts that insight to classroom method: rather than rewriting a judgment, it stages an encounter among legal voices that the curriculum does not typically seat together within the same authoritative conversation. In a different register, critical race and anti-caste scholarship has long treated voice as a site where law's claim to universality breaks down: neutrality is experienced not as an even-handed stance but as a demand to assimilate, to translate lived knowledge into authorised idioms or to be heard only when speaking in the register of institutional comfort (Dalwai 2018, pp. 60–75; Munusamy 2022, pp. 38–42, 50–56; Williams 1991, pp. 46–49).

What I wanted to probe pedagogically was a narrow but consequential question: can a staged counter-factual dialogue make the classroom's background distribution of voice more visible – and can it do so in a way that returns justice to the centre of a skills curriculum, rather than leaving it as an ethical afterthought? If legal writing courses are often understood as training grounds for professional performance, counter-factual pedagogy treats voice, authority and legitimacy as part of what 'skills' are and what they do. In that sense, it aligns with Baxi's provocation about 'unlearning law': not abandoning craft, but loosening the grip of professional common sense so that legal education can become accountable to the worlds law governs (Baxi 2014, pp. 1–4). A key contribution of this article, then, is teacher-facing proceduralisation: Box 1 presents the prompt, ground rules and debrief structure in a format that can be adapted in other classrooms without relying on student data.

Box 1 therefore offers a teacher-facing proceduralisation of the method – prompt, ground rules and debrief structure – so that the exercise can be adapted in other classrooms without relying on student data. Presented this way, the method is explicitly not an exercise in identity performance, but a bounded, text-grounded pedagogic encounter designed to make legal voice, audibility and professional authority more discussable (Alcoff 1991).

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Box 1 Counter-factual dialogue exercise: prompt, ground rules and debrief

Purpose (instructor-facing)
To stage a structured 'as-if' dialogue among four legal thinkers so that the class can identify how legal voice, neutrality and professionalism are policed in legal education, and so that justice can be treated as part of what 'skills' training does rather than as an add-on. This is not an exercise in identity performance; it is a bounded, text-grounded exercise in argumentative listening, representation and dialogue.

A. Prompt (for handout or slide)

Students stage a counter-factual round-table conversation among four legal thinkers:

- Nicholas J. McBride
- Patricia J. Williams
- Kiruba Munusamy
- Angela D. Gilmore

Core question: If law is a conversation, who gets the mic – and who is heard as speaking law?
Task: Speak 'in role' as the assigned thinker in a round-table conversation responding to the core question. The goal is not to win an argument, but to sustain a dialogue that makes visible:

- what each thinker treats as 'law';
- what each thinker understands legal education to train students to become; and
- what is excluded when neutrality and professionalism are treated as defaults.

Guiding questions (as needed):

- What does neutrality demand in legal education and legal writing, and who benefits from that demand?
- What does professionalism reward, and what kinds of voice are treated as credible?
- What is framed as 'context' rather than 'law'?
- Where does justice sit in a skills curriculum: centre stage or off-stage?
- What changes when legal writing is treated as a practice of listening and accountability, not only argument?

B. Ground rules (representation and dialogue discipline)

This is an exercise in rigorous listening as much as speaking. Students are 'voicing' a published thinker, not performing a stereotype.

- Fidelity over flourish. Prioritise the thinker's arguments and analytic frame; avoid caricature.
- No ventriloquism as possession. Students are not claiming to 'be' the thinker, but attempting a bounded representation of the thinker's position.
- No identity performance. Do not mimic accents, mannerisms or embodied traits; this is not theatre.
- Quote carefully. If quoting, identify the phrase as a quotation and keep it brief.
- Stay with the problem, not the person. Challenge ideas rather than attacking other groups' speakers.
- Distribute airtime. Rotate speakers so that no group dominates the discussion.
- Instructor pause rule. The instructor may pause discussion to ask: What assumption just became visible? Who is being treated as credible right now? What is being called 'neutral'?

C. Debrief (students step out of role)

Students discuss (or write brief notes on) the following:

- What felt easiest to say 'as law', and what felt difficult?
- What kinds of authority gathered around particular registers of speech?
- What did the exercise reveal about neutrality, professionalism and the 'right' legal voice?
- What would justice-centred skills training require changing?

D. Optional add-on for future iterations: private positionality note

In future iterations, students may be invited (optionally) to write a short positionality note before the exercise, for private use only (e.g.: What is my relationship to institutional norms of 'professional voice' in terms of language, class, caste, gender, accent or prior schooling? What felt risky about speaking?). These notes should remain private and should not be collected unless there is explicit consent and appropriate ethical clearance.

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4 Approach and ethical limits

This article is a reflective practitioner essay, not an empirical classroom study. The pedagogic exercise described above was conducted for teaching purposes and was not designed as research. I use 'reflective practitioner' in the sense of disciplined practitioner inquiry, in which teaching decisions, observations and classroom judgments are treated as material for critical pedagogic reflection rather than as informal anecdote (Brookfield 2017; Rodríguez Escobar 2023; Schön 1983; Seifert and Sutton 2019). No participant consent was sought at the time for the use of student speech, writing or classroom artefacts as research material. For that reason, I do not reproduce student quotations or student work, and I do not paraphrase or attribute particular statements to identifiable individuals or groups. I also avoid cohort identifiers and distinctive incidents that could enable deductive identification.

My account draws instead on teaching notes and facilitation choices, and on non-identifying descriptions of classroom dynamics, read through scholarship on critical legal pedagogy, professional voice and justice-oriented approaches to legal education. Methodologically, I treat the notes as instructor memos: working observations recorded to guide pedagogic decisions (e.g. what I chose to prompt, what I chose to pause, what appeared to be rewarded as 'rigour' and what appeared to be routed into 'context'). Analytically, I read these instructor memos as a form of participant-oriented reflective memoing used to guide pedagogic judgment, not to produce participant data. In that sense, the notes function as tools of critically reflective teaching practice rather than as a dataset of participant responses (Brookfield 2017; Schön 1983). The five sections that follow – voice, neutrality, performance, justice and discomfort – are therefore not presented as findings from participant data. They are analytic lenses drawn from socio-legal and pedagogical scholarship and used to organise an interpretive reading of the classroom episode: what became pedagogically legible to me while running the exercise, and what the method can and cannot do within an elite professional training environment. Ethical approval was granted by the author's institutional Research Ethics and Review Board (Approval No. RERB/2026/338, 12 March 2026).

Because positionality is itself a methodological and ethical pressure point in socio-legal writing, I treat the 'teacher-researcher' posture with caution here: the article does not convert students into research subjects by narration (Massoud 2022). The ethical posture of this manuscript follows a simple principle: where consent was not sought for research use, the article does not treat students as research participants. It treats the classroom episode instead as a pedagogical encounter that can be analysed at the level of method, institutional norm and teacherly responsibility. This manuscript reports no student data (no quotations, no paraphrases, no artefacts, no attributed classroom speech); the exercise was conducted solely for teaching, and nothing was recorded or collected for research purposes.

5 Voice

Having set out the exercise, its counter-factual rationale and the ethical limits of this reflective account, I turn to the first analytic lens: voice. When Nicholas McBride tells aspiring lawyers that 'law is a conversation' (McBride 2018, p. 19), he offers a reassuring picture of legal education as a shared practice of speaking and responding. A sociolinguistic view of the law school classroom complicates that reassurance: learning law is also learning the conditions of audibility – what counts as 'proper' legal speech, which registers are read as competent and which forms of expression are routed into 'context' or dismissed as excess (Kennedy 1982; Mertz 2007; Rathee 2020; Sen 2009). Framed this way, the problem is not only participation but credibility: whose speech is granted uptake as knowledge, and whose is discounted in advance (Fricker 2007). In other words, the pedagogic question is not only whether students can speak, but who is heard as speaking law.

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In my teaching notes, voice appears less as a neutral medium of learning and more as an institutional sorting device. The classroom often seemed to reward certain modes of fluency – especially those aligned with elite Anglophone professionalism – as markers of competence, while hesitation, affect or explicit attention to social power appeared more vulnerable to being read as a failure of form. This is not simply a matter of individual confidence. It is an institutional economy of linguistic legitimacy: particular registers accumulate value because they are recognised as 'professional', while other registers are treated as needing translation before they become legally intelligible (Bourdieu 1991; Mertz 2007). In caste-stratified educational contexts, Dalwai's account of Savarna professionalism helps name how a supposedly neutral baseline of competence can be socially thick: 'professional' voice often tracks dominant-caste norms of language, comportment and what is treated as appropriately legal to say (Dalwai 2018).

That sorting function becomes visible in the micro-genres of writing pedagogy. Early writing tasks often invite students to reproduce an impersonal, judgment-like register – confident, abstract and affectless – as a default way of 'sounding legal'. My notes register how readily that register travels as a marker of seriousness, even when it avoids the normative stakes of a dispute. Legal writing scholarship has long noted that professional form is not merely a neutral container, but can operate as a disciplinary mechanism that rewards some voices while rendering others less legible within dominant legal genres (Stanchi 1998). Conversely, when writing foregrounds power or injury in direct moral language, it is more likely – within ordinary feedback cultures of legal education – to be described as 'emotive', 'subjective' or insufficiently legal, even when the analysis is sharp. The point is not that affect is always good, or that impersonality is always bad. The point is that law school often trains students to treat a particular kind of impersonality as the hallmark of rigour, and to treat moral clarity as a deviation from professional form (Kennedy 1982; Mertz 2007).

This is where credibility becomes the central sub-problem of voice. If some registers are institutionally recognised as law-like, then credibility is not evenly distributed across speakers or styles. Fricker's account of epistemic injustice is helpful here: testimonial credibility is routinely shaped by social power, such that some speakers are granted authority as knowers and others are discounted irrespective of the force of what they know (Fricker 2007). Dotson's account of epistemic violence sharpens the point by distinguishing credibility deficit from practices of silencing: the issue is not only that some speakers are believed less, but that uptake can be structured so that some forms of knowing cannot be heard on their own terms at all (Dotson 2011). In legal education, that injustice can take a specifically professional form: certain voices are presumed to be competent because they approximate institutional style, while other voices are presumed to be 'personal' or 'political' and therefore in need of disciplining. This is one way that 'law as conversation' becomes a gatekeeping metaphor: it describes participation while obscuring the unequal terms on which participation is recognised.

Counter-factual dialogue was designed to make that background distribution of audibility pedagogically visible without converting students into research subjects. It did so by redistributing voice at the level of method: it required the classroom to speak as if legal authority could not be monopolised by a single institutional register. By placing Williams, Munusamy, Gilmore and McBride into the same staged conversation, the exercise treated as central – at least for the duration of the session – voices that, in many legal classrooms (and certainly in the institutional script I encountered), are often treated as peripheral or merely 'contextual': voices that insist that race, caste, gender and sexuality are not merely 'context', but constitutive of how law authorises itself (Gilmore 1990; Munusamy 2022; Williams 1991). In my notes, what became most legible was not any particular utterance, but the mechanics of recognition: how quickly the room's habitual standards of clarity and professionalism threatened to reassert themselves as gatekeeping devices, and how much work it took – methodologically – to keep audibility itself in view.

Running the exercise also sharpened the ethics of 'voice' as a pedagogic aspiration. 'Giving voice' is an easy slogan, but voice is not simply a microphone passed around a circle. Voice comes

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with risk: the risk of misrecognition, the risk of being heard as illegitimate and the risk of being reduced to identity rather than argument. Alcoff's warning about the politics of 'speaking for' others is useful here, because it keeps in view the representational risks that attend even well-intentioned pedagogic exercises (Alcoff 1991). Counter-factual pedagogy does not solve those risks. What it can do – within the constraints named in the ethical limits – is make them discussable as part of legal training, rather than leaving them as private burdens that students must manage alone.

Finally, the stakes of this lens are not confined to classroom participation. The classroom rehearses the profession: who is heard in seminar rooms foreshadows who is heard in chambers, boardrooms, police stations, courtrooms and legal aid clinics. The voice cultivated as 'professional' in legal education becomes, over time, the voice that legal institutions recognise as law's proper speaker (Bourdieu 1991; Mertz 2007). Read in relation to work on professional formation and signature pedagogies, this is also a question about what kinds of professional identity legal education normalises through routine classroom practice (Rathee 2020; Sullivan *et al.* 2007). My claim here is modest and teacher-facing: by changing the method of classroom talk, even briefly, counter-factual dialogue can make the politics of audibility perceptible. It can reveal that the idiom students are trained to perfect is not a universal language of reason, but a particular dialect elevated through institutional power – an insight that sets up the next lens, neutrality, which names the rule by which 'proper' voice is most often policed.

Read together, the four voices staged in the exercise make 'voice' less a generic skill and more a contested condition of audibility. McBride's invitation to join 'law as conversation' assumes that entry is primarily a matter of acquiring a competent register, and his insistence that professional survival depends on clarity ('express yourself clearly or die') foregrounds intelligibility as the threshold condition of being heard (McBride 2018, pp. 17–19, 35–37). Williams complicates that threshold by showing how what counts as 'clear' or 'neutral' is socially weighted: professional evaluation can reward an impersonal stance that requires marginalised speakers to write against what they know (Williams 1991, pp. 46–49, 85). Gilmore names the experiential underside of this weighting through the dissonance of encountering the 'universal' subject as someone else's norm ('What woman are you talking about?'), and by tracing how belonging in legal education can be felt as conditional (Gilmore 1990, pp. 74–76). Munusamy's insistence that caste is constitutive of Indian legal institutions pushes the question further: audibility is not only classroom interaction but institutional credibility, distributed through histories of exclusion that determine whose accounts of harm are treated as legally serious (Munusamy 2022, pp. 38–42, 50–56).

6 Neutrality

If voice concerns who is heard as speaking law, neutrality names the rule that governs how one must speak in order to be taken seriously. In legal education, neutrality is often taught as the epistemic posture of rigour: the objective adjudicator, the dispassionate advocate, the writer who can separate 'law' from 'opinion'. In my teaching notes, however, neutrality appears less as a stable method than as an institutional discipline – something students are asked to perform as a condition of professional recognisability. This is distinct from procedural fairness as such: the concern here is not the value of accuracy, fair-mindedness or careful representation of competing arguments, but the way 'neutrality' can operate as a style requirement that governs tone, affect and legitimacy. Over the semester, a recurring pedagogic pressure surfaced around tone: a sense that credibility depends on stripping writing of affect, positionality and direct moral language, as though these are contaminants rather than features of how law operates as a social practice.

Critical scholarship makes clear why this posture is not innocent. Feminist jurisprudence has long argued that neutrality can function as an alibi for power: a way dominant standpoints present themselves as universal while structural violence is redescribed as 'bias' when named (Lacey 1995;

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MacKinnon 1989). Sara Ahmed helps specify the mechanism: institutional 'neutrality' is not the absence of orientation but a direction – bodies and voices are aligned toward what institutions recognise as reasonable, professional and comfortable (Ahmed 2012). Read through the Indian legal education context, that comfort is inseparable from Savarna, upper-class, Anglophone professionalism – norms that pass themselves off as the natural style of 'the law'. Dalwai's critique is therefore not mere context; it is diagnostic: ostensibly neutral professionalism often reproduces caste privilege by treating the privileged standpoint as default and rendering other standpoints as extra (Dalwai 2018).

In practice, neutrality often works less through explicit prohibition than through self-policing. In my notes, students appeared to anticipate evaluation – by teachers, institutional expectations and recruitment markets – and to adjust their writing accordingly. Neutrality became a pre-emptive constraint: what can be named directly; what must be softened; what must be translated into the idiom of acceptable concern. This is how neutrality links to professionalism as an evaluative style: authority is earned by composure, competence is signalled by detachment and the safest legal voice is the one that appears unmarked. In this sense, neutrality is part of how legal education can reproduce hierarchy while presenting its standards as merely technical (Kennedy 1982; Mertz 2007). Read alongside scholarship on professional formation, these evaluative scripts are not incidental to legal education but part of how classrooms habituate students into recognised forms of judgment and conduct (Sullivan *et al.* 2007).

The counter-factual dialogue was designed to interrupt this neutrality mandate at the level of method. It did not 'solve' neutrality, but it changed what became pedagogically visible. In my notes, neutrality became easier to see as an institutional norm rather than an individual virtue: a rule that becomes most powerful when it is mistaken for common sense. The exercise also clarified the relationship between neutrality and clarity. Legal pedagogy often treats clarity and coherence as unqualified goods; yet unexamined clarity can become a mode of erasure – smoothing friction, compressing contradiction and editing out what does not fit the authorised frame of 'reasonable' legal speech, including in legal writing classrooms where professional form can discipline what counts as a recognisable argument (Baskaran 2024; Stanchi 1998). This is one way neutrality reproduces hierarchy in practice: not by banning justice-talk, but by making justice legible only when it can be voiced without disturbing professional comfort. Accounts of teaching socio-legal perspectives within Indian law schools suggest that abstraction can obscure law's operations and relegate social context to the margins (Sen 2009). Against that, counter-factual method functions as a small refusal – it relocates context, history and affect from the margins to the centre of a skills classroom, and forces the question of what legal education demands students bracket out in order to 'sound like law'.

The exercise also staged neutrality as a norm that different speakers inhabit asymmetrically. McBride's pedagogy frames neutrality as a virtue of craft: students are inducted into legal conversation through disciplined clarity, precision and a style of reasoning that reads as fair-minded and professionally recognisable (McBride 2018, pp. 17–19, 35–37). Williams makes visible what that posture can conceal, arguing that legality's claims to neutrality often launder the standpoint of power and train students to treat race, gender, class and sexuality as dispensable 'context' rather than constitutive of law's operations (Williams 1991, pp. 46–49, 120–21). Gilmore's narrative shows how 'neutral' settings are rarely neutral in experience: the 'universal woman' is a situated figure whose universality depends on erasing other lives, and the professional price of recognisability can include strategic self-silencing (Gilmore 1990, pp. 74–76, 79–80). Munusamy's work extends this critique to caste, insisting that caste-blind institutional neutrality is itself a form of misdescription, because caste structures the judiciary and the distribution of credibility that passes as merit (Munusamy 2022, pp. 38–42, 50–56).

None of this is to deny that neutrality, in a narrower procedural sense, has a place: legal argument requires precision, fairness and the capacity to represent opposing positions without caricature. The point is pedagogically narrower. Neutrality is never neutral about which truths

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matter, which harms count as legally speakable and which voices are granted credibility. A justice-oriented pedagogy cannot simply instruct students to 'be neutral'. It must teach neutrality as a practice to be interrogated, chosen and justified – rather than a posture that passes for rigour while quietly preserving the default. In classroom terms, this also requires making assessment criteria more explicit: students should be able to distinguish being marked down for imprecision or unsupported claims from being informally disciplined for tone, standpoint or politically inconvenient clarity.

7 Performance

If neutrality names the rule that governs how one must speak in order to be taken seriously, performance names the embodied and genre-based work through which that seriousness is enacted. Long before the counter-factual dialogue, my teaching notes repeatedly suggested that 'becoming a lawyer' is learned not only through doctrine but through scripted genres, bodily comportment and evaluative cues about what counts as credible legal speech. Sociolinguistic accounts of legal education emphasise that 'thinking like a lawyer' is inseparable from learning how to sound and carry oneself as one (Mertz 2007). Kennedy's classic polemic makes the political point in starker terms: law school's training reproduces hierarchy not only through curriculum but through the non-curricular disciplines of professionalisation (Kennedy 1982). Scholarship on professional education and legal formation likewise helps situate this dynamic institutionally: professional competence is cultivated through patterned pedagogies, evaluative rituals and role-based performances, not doctrine alone (Sullivan *et al.* 2007). Performance, in this sense, is not theatre added on to law; it is part of how legality is manufactured as recognisable authority.

Mooting is one visible site where this training becomes explicit. As Scott and Soirila argue, moot court is not simply a neutral skills exercise; it is a codified professional ritual that inducts students into affective and bodily habits of the profession – how to hold the body, manage tone and present composure as competence (Scott and Soirila 2021). This induction matters pedagogically because it teaches – often without naming it – that legality is not only argued; it is performed. The 'good' performance is typically calibrated to institutional expectations of professionalism: firmness without anger, confidence without vulnerability, persuasion without visible social location.

That same logic travels into everyday classroom writing. In early writing exercises, my notes record the gravitational pull of judgment-style prose: impersonal register, confident abstraction, disciplined affect. What appeared to matter was not only whether a student could summarise or structure an argument, but whether the writing resembled institutional forms associated with authority. 'Sounding legal' often functioned as a proxy for 'being correct'. Performance anxiety here therefore seemed to arise not only from misunderstanding the article, but from the risk of sounding 'off-register' – a pressure consistent with critiques of legal writing pedagogy that show how dominant instructional norms can marginalise outsider voices while presenting themselves as neutral craft (Baskaran 2024; Deviah and Sharon 2024; Kennedy 1982; Mertz 2007; Stanchi 1998).

Bourdieu's vocabulary clarifies why this performance has staying power. What legal education rewards is not merely discrete skills but a professional habitus – durable dispositions of speech, posture, pacing and self-presentation that come to feel like second nature (Bourdieu 1990). These dispositions are unevenly distributed because they rely on prior access to cultural capital – including schooling, language training and classed repertoires of confidence that institutions misrecognise as individual merit (Bourdieu 1986). When the authoritative legal voice is treated as unmarked and universal, it also functions as linguistic capital: particular accents, rhythms and registers acquire exchange value because they are institutionally recognised as 'professional' (Bourdieu 1991). In my notes, 'performance' therefore names not theatricality but a social technology of legitimacy – one that can quietly demand self-editing and disidentification in order

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to be heard as law. Dalwai's account of Savarna professionalism sharpens the Indian inflection of this point: the 'neutral' professional persona is not socially thin – it is patterned, and it can reproduce caste and class privilege while presenting itself as mere competence (Dalwai 2018).

Across the staged dialogue, 'performance' becomes the bridge between pedagogy and legitimacy: a professional persona is learned, rehearsed and rewarded. McBride makes this explicit by casting legal education as training of 'mind, tongue, and pen', where clarity is not merely stylistic but the condition of professional survival (McBride 2018, pp. 35–37). Williams shows how that performance is policed through assessment norms that prefer the impersonal and can demand that those who live oppression write as if they do not, adopting the 'assumption of an "impersonal" mentality' to be graded as competent (Williams 1991, p. 85). Gilmore offers a lived account of this policing through the labour of image-management: professional belonging is linked to what can be disclosed, what must be kept private and how silence becomes a workplace condition that some bear more than others (Gilmore 1990, pp. 88–90). Munusamy's interventions bring performance back to institution and public speech: to 'voice against injustice' is not only a moral stance but a risky form of professional presence in a caste-ordered legal field, where speaking can trigger institutional discipline rather than recognition (Munusamy 2022, pp. 38–42, 50–56).

The counter-factual dialogue was designed to disrupt this script by shifting what counted as a 'good' performance. Instead of performing the familiar role of the ideal law student or advocate, students were asked to inhabit argumentative frames that refuse the fantasy of a disembodied legal voice. This altered the usual performance cues. There was no stable template for how to sound 'properly legal' while speaking from positions that foreground race, caste, sexuality and institutional violence. My teaching notes suggest that this absence mattered: it made reliance on rehearsed legal catchphrases less available and made responsiveness – listening, adapting, staying with conflict – more central to the task. This is where 'jamming' is analytically useful (and not merely metaphorical): Ramshaw's account of improvisation shows how disrupting settled forms can force attention to timing, judgment and the ethics of responsiveness rather than rote repetition (Ramshaw 2010). In the exercise, what was 'jammed' was not competence, but the automatic equation of polish with legitimacy.

Pedagogically, this made two things easier for me to see. First, it made the professional persona legible as a cultivated role rather than a natural endpoint: the neutral, cosmopolitan lawyer-figure appears less as a given and more as a product of specific institutional rewards (Bourdieu 1991; Mertz 2007; Sullivan *et al.* 2007). Second, it clarified that performance is an ethical question, not just a stylistic one. When professionalisation functions as a demand to bracket social location, it risks reproducing the very injuries that critical scholarship insists law must be accountable to; as Williams's work repeatedly shows, abstraction can itself be a vehicle of harm when it purchases coherence at the cost of lived realities (Williams 1991). In that sense, performance is not a side issue. It is one mechanism through which legal education regulates what can enter the conversation as 'law', and who can enter it without being asked to leave parts of themselves behind.

This returns the article to its central pedagogic stake: if legal education trains students to perform legitimacy, then a justice-oriented pedagogy must also ask what legitimacy is being performed for, and at whose cost. The counter-factual method does not abolish performance; it reorients it – away from polish-as-proof and toward accountability, listening and the capacity to sustain disagreement without converting it into mere professional theatre. That reorientation sets up the next lens, justice, where the question becomes not only how law sounds, but what legal education is training students to do in the world.

8 Justice

The preceding lenses – voice, neutrality, performance – make visible how legal education distributes legitimacy. The next question is what that legitimacy is for. At the heart of this

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pedagogical experiment was therefore a deliberate return to something elite legal education often treats as ambient rather than curricular: justice. It can sound paradoxical to claim that law schools neglect justice – justice is, after all, the ostensible lodestar of law. Yet in doctrinal and skills-heavy curricula, justice is frequently presumed to be served indirectly: students learn the rules, master the genres, perfect professional tone and justice is imagined to follow. Scholarship on legal education reform and professional formation has long questioned that assumption, showing how institutional training can narrow professional identity when craft is detached from ethical and social purpose (Sullivan *et al.* 2007). Upendra Baxi's insistence that teaching is a form of provocation and social intervention challenges the same presumption: teaching and learning are incomplete if they do not interrogate the injustices enacted 'before our own eyes' even as we teach and learn (Baxi 1990). Baxi's later call to 'unlearn law' sharpens the pedagogic stake: the task is not to abandon legal craft, but to loosen the grip of professional common sense so that legal education becomes accountable to the worlds law governs (Baxi 2014).

In my teaching notes, the practical problem was this: a 'skills' classroom is often organised as technique – clarity, structure, citation, persuasion – while justice is relocated to electives or to private conviction. Counter-factual dialogue was my attempt to refuse that split. Rather than treating justice as content to be added after the fact, the exercise treated justice as a question of method: what forms of speech become credible as 'legal'; what is filtered out as 'context'; what kinds of injury must be translated into professional idiom before they become legible. In this sense, 'unlearning' becomes a concrete classroom task: not rejecting rigour, but interrogating what neutrality, polish and doctrinal closure require students to bracket out in order to sound like law (Baxi 2014; Kennedy 1982; Mertz 2007). This problem is not unique to my classroom; critiques of legal writing and lawyering pedagogy have likewise shown how skills instruction can reproduce dominant legal narratives unless its methods are themselves made available for scrutiny (see also Baskaran 2024 on incorporating critical legal research into clinical pedagogy).

Justice is the point at which the four texts most clearly disagree about what legal education is for. McBride frames law as a conversation about 'what sort of society we should live in', positioning legal training as preparation for participation in that collective project through lucid argument (McBride 2018, pp. 17–19, 35–37). Williams insists that the society law orders is not morally neutral: law is 'a subcategory of the underlying social motives and beliefs from which it is born', and justice requires confronting the political work done by ostensibly neutral forms (Williams 1991, pp. 138–39). Gilmore relocates justice from abstraction to lived institutional experience, describing how professional spaces can impose unequal conditions of belonging and require certain subjects to bear dissonance, isolation and strategic silence as the price of entry (Gilmore 1990, pp. 74–76, 88–90). Munusamy makes the Indian institutional claim explicit: caste is not an 'issue-area' but an organising structure of legal life, including the judiciary, so justice-oriented training must treat caste as constitutive of how credibility, rights and equality are administered in practice (Munusamy 2022, pp. 38–42, 50–56).

This is where the translation into justice-oriented pedagogy becomes explicit. Justice-oriented approaches to lawyering emphasise that the point of legal work is not simply to win arguments within institutional rules, but to build forms of advocacy that are accountable to the people and struggles law is supposed to serve (Cummings 2017; López 1992). That orientation has a classroom corollary: argument is not only a competitive performance but a craft of listening, perspective-holding and responsibility. In this frame, 'who gets the mic?' is not merely a metaphor about participation. It is a curricular question about what the classroom trains students to value – detachment or accountability, closure or attentiveness, professional ease or ethical friction. Counter-factual dialogue makes that question harder to avoid because it forces a confrontation with which voices are treated as law and which are routed into disruption or 'mere context'.

The exercise also draws conceptual energy from counter-factual projects in legal scholarship, especially feminist judgment-writing. Those projects show how rewriting authoritative decisions can expose the contingency of 'neutral' reasoning and the institutional comforts that shape what

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judgments can see (Chandra *et al.* 2021; Hunter *et al.* 2010). Counter-factual pedagogy adapts that insight to classroom method: it stages an 'as-if' encounter to reveal what is routinely kept outside the frame of skills training. In my teaching notes, the value of this method is not that it produces tidy 'takeaways', but that it reorganises what becomes pedagogically visible: justice is no longer an inspirational endpoint but a diagnostic for how professional voice is learned and regulated.

Seen this way, justice is not separable from voice, neutrality and performance, because each is already a mechanism by which legal education distributes legitimacy. The counter-factual conversation did not resolve these tensions; it helped me clarify their stakes. It made it possible, for me as an instructor, to name 'unlearning law' as a concrete pedagogic ambition: to teach legal craft while also teaching students how craft can reproduce hierarchy unless justice is treated as part of method, not merely part of motivation (Baxi 1990; Baxi 2014). That clarification leads directly to the final lens – discomfort – because any attempt to reinsert justice into the skills classroom also surfaces the risks, resistances and ethical limits of doing so.

9 Discomfort

In my teaching notes, discomfort is where the method became most legible – both as a pedagogic signal and as an ethical risk. It appeared less as overt resistance than as a charged hesitation: uncertainty about speaking in role, anxiety about misrepresentation and an awareness that a 'dialogue exercise' can slip into caricature or appropriation precisely when it asks participants to inhabit voices marked by race, caste, queerness and professional marginality. It is useful to distinguish, early, between methodological discomfort (friction produced when institutional norms are made discussable) and identity risk (the uneven burden placed on participants when pedagogy edges toward representation, disclosure or misrecognition). I read the discomfort in this exercise as double-edged. On one hand, it suggested that the exercise was interrupting routine classroom performance and making the governance of 'professional voice' newly audible. On the other, it marked the limits of what an elite professional training space can safely hold without reproducing harm.

A growing body of work on pedagogies of discomfort helps clarify what is at stake here. Boler frames discomfort as an affective site where institutional habits – what feels natural, reasonable or 'professional' – can be made available for critique (Boler 1999). Zembylas is more cautionary, arguing that social-justice pedagogy can entail 'ethical violence' if it treats discomfort as a universal good while ignoring how risk is unequally distributed across students (Zembylas 2015). Those cautions matter in an exercise like this: if discomfort is manufactured by demanding identity performance, coerced disclosure or the instrumentalisation of marginalised experience as a learning resource, it ceases to be pedagogically defensible. Read alongside Alcoff's critique of speaking-for and Dotson's account of epistemic violence and silencing, the issue is not only whether discomfort occurs, but whether the pedagogic design reproduces the very asymmetries of representation and uptake it seeks to expose (Alcoff 1991; Dotson 2011).

For that reason, discomfort had to be actively governed, not celebrated. The exercise was designed with explicit limits to reduce the likelihood of representational harm: fidelity over flourish; no accent, mannerism or embodied-trait performance; no claims to 'be' the thinker; careful and minimal quotation; airtime rotation; and an instructor pause rule to surface assumptions about credibility as they formed in real time (Box 1). Put differently, the aim was representation without possession: a bounded engagement with arguments and commitments, not an authorised inhabiting of another's identity or experience (Alcoff 1991). Conceptually, these safeguards aim to shift the task from theatrical impersonation toward what Lugones calls 'world'-travelling as an ethical relation – an encounter premised on humility, non-mastery and attentiveness to the limits of one's standpoint (Lugones 2003). They also align with Sedgwick's insistence that pedagogy can be abrasive rather than reparative: the point is not catharsis or

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closure, but the friction that reveals what the classroom ordinarily protects – clarity as gatekeeping, neutrality as comfort, professionalism as common sense (Sedgwick 2003).

What did discomfort reveal about classroom power? In my notes and facilitation reflections, most sharply, it revealed how quickly professionalism could function as an institutional safety mechanism rather than a learner-centred ethic. When the conversation moved away from polished legal idiom toward structural critique, the classroom's implicit governance became more audible to me: which registers were treated as rigorous, how swiftly 'context' was pushed toward the margins and how easily composure reasserted itself as the price of legitimacy. The value of discomfort, in this account, is therefore diagnostic rather than therapeutic: it helped make visible the mechanics of gatekeeping that are often disguised as technique.

If I were to run this exercise again, I would strengthen safeguards in three concrete ways. First, I would add a clearer pre-brief that distinguishes productive discomfort (friction with institutional norms) from harmful discomfort (pressure to perform identity, to disclose or to speak beyond one's ethical competence). Second, I would formalise an opt-out or observer role as an ordinary participation mode, so that ethical hesitation is not interpreted as reluctance and participation never depends on performing someone else's marginalisation. Third, I would expand and tighten the debrief structure – separating an analytic phase (what norms governed credibility; what moved in the room) from an affective phase (what felt risky and why) – to ensure that emotion is treated as data about pedagogy, not as a proxy for pedagogic success. These are not add-ons; they are part of the method's ethical spine.

The staged collage also clarifies that discomfort is not a generic pedagogic 'good', but a signal of where institutional defaults are being disturbed. Gilmore's account names discomfort as dissonance produced by being positioned outside the 'universal' subject, and as the unequally distributed labour of deciding what can be spoken without sanction (Gilmore 1990, pp. 74–76, 88–90). Williams names a parallel affective pressure inside legal discourse itself: the pain of translating lived knowledge into authorised idioms and the demand that marginalised speakers perform impersonal authority to be treated as rigorous (Williams 1991, pp. 46–49, 85). Munusamy's work foregrounds the political edge of discomfort in caste-stratified institutions: speaking against injustice is not merely uncomfortable; it can be institutionally costly, precisely because it contests who is authorised to speak law and whose accounts count as evidence (Munusamy 2022, pp. 38–42, 50–56). McBride's emphasis on clarity as survival helps locate a different, more conventional discomfort: the professional anxiety of 'sounding legal', which becomes pedagogically useful when the class can see how the demand for polished neutrality can function as a gatekeeping device rather than a neutral skill (McBride 2018, pp. 35–37).

10 Implications for justice-oriented legal pedagogy

McBride's claim that 'law is a conversation' is pedagogically powerful because it frames legal education as induction into a shared practice of reasoning and response; yet the counter-factual dialogue shows how quickly that metaphor becomes incomplete unless it confronts the unequal conditions under which some speakers are recognised as speaking 'law' at all (McBride 2018, pp. 17–19). Williams, Gilmore and Munusamy complicate 'conversation' by relocating attention from participation to audibility and cost. Williams shows how legal discourse's preferred voice, often impersonal and styled as neutral, can require those marked by race, gender, sexuality and injury to translate lived knowledge into authorised idioms, so that entry into the 'conversation' is conditional on adopting the standpoint of institutional comfort (Williams 1991, pp. 46–49, 85). Gilmore renders that conditionality as lived dissonance: the 'universal' subject presumed by professional talk is not universal, and belonging in legal education and practice can involve strategic silence, self-management and differential vulnerability to sanction (Gilmore 1990, pp. 74–76, 88–90). Munusamy extends the critique in the Indian context by insisting that caste is

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not incidental context but constitutive of legal institutions, including how credibility and merit are produced and policed; here, 'conversation' is not merely a pedagogic invitation but a struggle over who can speak without being treated as noise (Munusamy 2022, pp. 38–42, 50–56). Read together, these interventions do not reject the conversational ideal; they respecify its pedagogic demands: if law is a conversation, legal education must teach not only how to speak clearly, but how the microphone is allocated, how neutrality is invoked to regulate voice and what justice-oriented professional formation requires when some speakers enter the room already under conditions of disbelief.

This article has argued for counter-factual dialogue as a micro-method of justice-oriented legal pedagogy – one that treats voice, neutrality, professionalism and audibility as part of what 'skills' are and what they do. The claims here remain deliberately bounded. Consistent with the ethical limits stated earlier, this is a reflective practitioner account grounded in teaching notes and facilitation choices; it does not present participant data, report outcomes or make generalisable claims about students or learning effects. Its contribution is teacher-facing: it offers a replicable exercise, a vocabulary for evaluating what the exercise makes visible and a careful account of the constraints of doing justice-oriented pedagogy inside an elite professional training environment (Brookfield 2017; Schön 1983).

One implication is methodological: the familiar 'skills versus justice' split is not merely curricular; it is also a theory of the profession. It trains students to treat technique as neutral and justice as optional. Counter-factual dialogue contests that theory by treating justice as a question of method – who is audible as speaking law, what registers are treated as credible and what kinds of harm must be translated into professional idiom before they count as legally speakable. This aligns with Baxi's provocation about 'unlearning' law: not abandoning legal craft, but loosening the grip of professional common sense – neutrality as default, polish as proof, doctrine as closure – so that the distributive politics of legality becomes teachable (Baxi 1990; Baxi 2014). Read alongside work on signature pedagogies and professional formation, the stakes here are not only curricular content but the kinds of professional identity legal education normalises through its routine evaluative forms (Sullivan *et al.* 2007).

A second implication is pedagogic: justice-oriented training requires respecifying what classroom argument is for. In adversarial legal education, the default telos is often winning – speed, confidence and rhetorical dominance. Counter-factual dialogue shifts the telos toward accountable listening and responsive judgment: sustaining disagreement long enough to notice how authority is assembled and how quickly the room defaults to familiar hierarchies of voice. In that sense, the 'mic' is not only a metaphor for participation; it is a curricular instrument. Passing it around is a way of teaching that legitimacy is produced, distributed and contested – not simply possessed by those already fluent in professional norms. This is also where the method can speak to justice-oriented lawyering pedagogy more broadly: approaches to movement and community lawyering stress that how advocacy is conducted – how lawyers listen, who they treat as authoritative, how they manage the politics of representation – shapes what advocacy can achieve (Cummings 2017; López 1992). Counter-factual pedagogy treats those questions as part of early professional formation rather than as optional ethical garnish, and it resonates with critiques in legal writing pedagogy that ask what forms of voice and judgment skills training rewards as 'good lawyering' (Baskaran 2024; Stanchi 1998).

A third implication is ethical: counter-factual pedagogy is not automatically emancipatory. It can reproduce the harms it seeks to name if it coerces disclosure, incentivises identity performance or turns marginalised experience into a teaching resource. The ethical task is therefore not only 'including' marginalised voices, but designing methods that do not convert the classroom into a site of extraction. This is why the safeguards in Box 1 matter, and why boundaries matter: what I would not do (collect private reflections; grade vulnerability; require personal disclosure; treat students as research participants without consent) is as important as what I did. Here, too, the problem is not only inclusion but representation and uptake: who gets to speak, under what terms

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and with what risks of being spoken for, misread or structurally unheard (Alcoff 1991; Dotson 2011). The aim is not comfort, but care – care as a design problem, not a tone.

Finally, the exercise helped me clarify something modest but durable about institutional change. Pedagogic interventions rarely overthrow professionalisation; at best, they interrupt what the institution can smoothly reproduce. If one wants a concept for that, 'fugitive' practice can name brief refusals of institutional common sense – small breaks that do not resolve power but can make alternatives thinkable (Campt 2017; Moten and Harney 2013). This is not to overstate what a single classroom exercise can do, but to name the value of bounded disruptions that leave behind a method – and a memory – of how legality might be spoken otherwise.

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