



On the Natural Aspect of Historical Thinking in the Classroom

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History teaching research emphasizes that historical thinking demands knowing and viewing the chasm between the present and the past. History students in schools naturally tend not to see this chasm, and thus, in order to think historically, the students are required to adopt a mode of thought which is not natural to them. Scanning the legal discussion on the issue of protection of fictional characters in copyright law, this article shows that it is very difficult to determine the distance between students and “past people”. Moreover, it tries to argue, using examples, that this distance is not a chasm which must be bridged, that it is not wide a gap and therefore, great amounts of the seemingly “faulty” historical understanding by students is actually correct. In order for students to adopt good historical thinking patterns, a revolution is not necessary. A much more delicate change is required.

Key words: Historical thinking; Unnatural thinking; Fictional character;



Part 1: Is It Hard to Think Historically?

The idea of placing historical thinking at the center of history teaching in schools has roots that are more than 100 years old (see, for example, McLaughlin, et al., 1899: 18). But it appears that in recent decades, and especially in the past few years, the idea is no longer marginal and has become an exceedingly loud call to action. Educators and researchers are talking about the need for a change. Movement. About the need to abandon the traditional passive study of history (Sipress & Voelker, 2009), or in other words, the need to abandon the memory-history tradition (Lévesque, 2008: 15-16), or, put differently, the need to abandon the learning narrative (Barton, 2012), or alternatively, the need to abandon “sit and get” lessons (Lovorn, 2017: 204) or put another way, to abandon “memorizing facts” (Massey, 2015), or more specifically, to abandon “memorizing a set of dates, names and events” (Duquette, 2015: 51), or in other words, to abandon factual knowledge (Bertram , Wagner & Trautwein, 2017: 446). Abandoning all of these in favor of actively doing history. Whose central axis is developing historical thinking.

To the question of what this historical thinking is, what its characteristics are, what its components are, there are many and varied answers (see, for example, Seixas, 2015). But many researchers often base these different components on one principle from which they are derived and to which they are related: *the difficulty in knowing another era*. For example, Peter Seixas casts all of these elements as one principle, “taking historical perspective”, and this principle, he adds, is actually a short form of the question: “How can we understand the minds of people who lived in a world so different from our own”, and he characterizes this question as “impossibly difficult” (ibid, ibid: 601).

Sam Wineburg, as well, positions the components of historical thinking, in the spirit of Hillel the Elder, on one principle. Historical thinking, argues Wineburg, is mostly being able to understand the way the past is different from the present (Levisohn, 2017: 619). And this ability is in tension with our own psychology as “we are psychologically conditioned to see unity between past and present” (Yerxa, 2008: 36). Historical thinking demands that one overcome the natural tendency not to distinguish between the past and the present; it demands



the opposite. For that reason, Wineburg terms historical thinking as unnatural (Wineburg, 2010, 2007).

Both Seixas and Wineburg, two of the leading and most influential voices in the realm of history teaching, like others (see, for instance: VanSledright, 2004: 231), view the acquisition of historical thinking as a very significant stumbling block which must be overcome for students to get to know and to understand history. They view the past as dramatically different from the present and thus, the ability to become familiar with it involves enormous difficulty, almost insurmountable; it involves unnatural thinking. And I would like to ask whether this view holds true to such an overwhelming extent. Is the past really so different from the present? Is historical thinking really so complex, so complicated that it is so difficult to adapt to it? Is there such strangeness and otherness in historical thinking that it is unnatural to our thinking? And how in the world can we answer these questions? How in the world can we measure the “distance” from us to “past people”?

Wineburg uses the name of a book by David Lowenthal in order to position the past in relation to us. *The Past is a Foreign Country*. But he immediately clarifies: “A foreign country, not a foreign planet”. In other words, “past people” are actually very far from us, but not totally so. The past is not a foreign planet. There is no point in changing one extreme assumption - an intuitive psychological connection between the present and the past – with another extreme assumption – there is no connection between the past and the present – nor would it be right to do so, argues Wineburg; it would be like playing mental musical chairs, replacing one extreme reduction for another, replacing a total connection with no connection at all (Wineburg 2010: 86). "The truth" is, as always, somewhere in the middle. But where exactly? Nearer to which pole? Wineburg positions it very close to the strangeness pole. He rejects the possibility proposed, for example, by the historian and philosopher Robin Collingwood, a figure of the first half of the twentieth century, regarding the need and ability of the historian to “get into the mind” of Julius Caesar and know what he was thinking and why he made the decisions that he did, because this ability involves familiarity with Julius Caesar. In contrast, he embraces the determinations of such esteemed figures as Robert Darnton and Carlo Ginzburg, regarding the gaping chasm between the present and the past (Wineburg, 2010: 86). The explanation



Wineburg uses to reject the position of Collingwood and to accept that of Ginzburg and Darnton is the fact that they are “contemporary historians” and Wineburg stresses this twice. But it is hard to understand why this matters, how the historian’s proximity to the present can be used as a criterion for determining a correct or incorrect determination about the “distance” of the past from us.

When discussing our ability to take a historical perspective, Peter Seixas, as well, argues that, after all, they, “past people” were not completely different from us. We may assume, says Seixas, that if they were hurt, they felt pain, and an absence of food made them hungry (Seixas, 2015: 601). Without making that assumption, there is no possibility of “doing history”, he says. And behind his words, as well as those of Wineburg and others, I can read the assumption that the farther away the people are, the more difficult and complicated it is to know and to understand them, and the nearer the people are, the less difficult and complicated it should be. But to what extent are they far or near? To what extent are we “really” far away from or close to our forefathers and our ancestors? And where does the boundary lie? Seixas refers to this inquiry as an “impossible conundrum”. However, I would like to try to deal with this difficult question. I would like to try and think about it outside the realm of history, to position it in the world of the judiciary, and to try to clarify it using a literary/ artistic projector. I believe that this might clear things up.

Part II: Defending Copyrights for Fictitious Characters

The playwright Anne Nichols wrote a comic play called *Abie's Irish Rose* which was staged in 1922 and became one of the greatest box office hits in Broadway history. The play presents the story of two young lovers: an orthodox Jewish young man and an Irish Catholic girl, and the dissatisfaction of the two fathers with the young couple’s marriage. The play tells about the couple’s troubles and conflicts with their families, and their solutions. In 1926, Universal Pictures Corp. released a silent film, *The Cohens and the Kellys*, which also presented two lovers, one Jewish, the other Irish, and the plot was also based on the conflict their relations create between the two fathers. Nichols decided to take the Universal Studios to court, arguing that her copyrights for the play were being violated, and the case was heard before Federal Judge Learned Hand. This very famous case was known as *Nichols v. Universal Pictures Corp.*



“No jurist or legal scholar has had a greater effect on the business and content of American culture than Judge Learned Hand (Vaidhyathan, 2003; 105). During his 52 years on the bench, he issued a few of the most important decisions in the history of intellectual property law in the United States, inter alia, in the realm of copyright law (Karshedt, 2011: 261). In the verdict of this case, Judge Hand expressed distinctions and used them to design judicial tools which still represent a cornerstone for copyright issues.

Superficially, one can easily identify the similarity between the play and the film. Both deal with a love story and marriage of children from two families, one Irish and the other, Jewish, who are in conflict with one another, the birth of grandchildren and the reconciliation. But beyond these basic details, the play and the film are completely different; the characters of the two fathers are totally dissimilar. In the play, the Jewish and Irish fathers are deeply religious, and religion is what plays a central role in the struggles between the two families, while in the film, the central dispute focuses on inheritance.

Hand was easily persuaded that the film was not similar enough to the play in a way that would infringe upon Nichols’ intellectual property rights even though he was convinced that the screenwriters had intentionally copied parts of the play. Even more to the point, Hand stated that they had copied parts of the play because the play had been a blockbuster, and because they had wanted to take advantage of the play’s success. However, “a plagiarist must come closer to the original before the law can take hold” (Gunther, 2010: 276). So when he began to write the verdict, Judge Hand was not just satisfied to make use of his gut feeling or of judicial common sense in relation to this case, nor did he resort to a detailed legal analysis of the case before him, but rather, he tried to pose general criteria for determining the standard/measure of proximity between the source and the plagiarism or, in other words, to pose criteria to determining the measure of protection of intellectual property rights that may be granted to a work of art. Hand articulates the “abstractions test”:

Upon any work, and especially a play, a great number of patterns of increasing generality will fit equally well, as more and more of the incident is left out. The last may perhaps be no more than the most general statement of what the play is about and



at times might consist only of its title, but there is a point in this series of abstractions where they are no longer protected since otherwise the playwright could prevent the use of his “ideas”, to which, apart from their expression, his property is never extended” (Nichols v. Universal Pictures Corp).

First, Hand determines the basic possibility that a fictional character may be protected by intellectual property rights without connection to its artistic context (Spahn, 1992: 333). He then makes the fundamental distinction between an idea and its expression, and determines that ideas cannot be protected by intellectual property rights, while expressions of the idea may in principle be protected. He proposes that the measure for determining the “right” of a character to be protected should be that the less developed and unique a character is, the less protected it is by these rights. “That is the penalty an author must bear for marking them too indistinctly”, warns the judge (Nichols v. Universal Pictures Corp).

Hand could not have predicted the depth of commercial influence his decision would have (Schienke, 2005: 63). Fictional characters from literary works, films, and plays are an inseparable part of our cultural landscape. Tarzan, E.T., Charlie Chaplin’s “little tramp”, Donald Duck, Simba, the lion king, Peter Pan and their friends...We grew up on them as children and we are surrounded by them as adults. Through the years, they have, with the “approval” of Hand, developed independence outside the original works for which they were created, and they became enormous golden eggs for their creators.

In any event, in the Nichol case, the judge determined that what had been copied from the play was a part of Nichol’s idea which was not protected by intellectual property rights, and that the copyright protection for the plot of that play is like copyright protection for the plot of Romeo and Juliet (Gunther, 2010; 277). In addition, the characters in the play were not developed enough to have protection. Hand therefore rejected the suit.

But where is this borderline between the idea and its realization? Where is the border between a character who is developed enough and one who is not? At first glance, we could be tempted into viewing Hand’s distinction between the idea and its expression as a useful tool in solving



the challenge posed to us by the copyright issue. But a more in-depth look indicates that actually, Justice Hand ultimately bases his decision on instinct. His ruling in the case does not really describe the principles making it possible to draw a boundary line between the idea and its expressions. Hand, in fact, compares the play and the screenplay, analyzes their similarity, and *instinctively* rules whether the similarity is enough to justify copyright infringement (Yen, 1989: 405). And in the end, Hand himself admits that actually this issue is very elusive: “Nobody has ever been able to fix that boundary, and nobody ever can” (Nichols v. Universal Pictures Corp).

However, despite its limitations, the criterion set by Justice Hand has become the central criterion in copyright cases of fictional characters (Cracas, 1954:71; Spahn, 1992: 334), and it is the customary tool for judges and is quoted in an enormous number of court rulings. And since then “[n]o court or commentator...has been able to improve upon Judge Learned Hand’s famous ‘abstractions test’ articulated in *Nichols* (Cory van Rijn v. California Raisin Advisory Bd.)

The Israeli writer, Yigal Mossinson, published 44 Hasamba (Hebrew acronym for The Absolutely Absolute Secret Group) children’s books, beginning in 1949. The books focus on the imagined adventures of a secret group of children fighting for lofty ideals against the enemies of the state of Israel, and the children always have the upper hand. Years later, Shifra Haefrati wrote and was about to publish a book entitled *Worthless*, whose plot centered on the Hasamba heroes, but after they had become adults. On the back cover of the book, the blurb stated: “Many years have gone by since the Hasamba group operated on the scene of Israel in battle and defeated dangerous enemies while thwarting threatening attacks. The remnants of the group, now elderly and abandoned, angry and hurting, try to come together for one absolutely final adventure (T’A 1437/02). The widow of Yigal Mossinson, who held the copyright for the Hasamba books, submitted a court claim against Shifra Haefrati for copyright infringement (ibid.)

The district court judge in Tel Aviv, Yehuda Zaft had to deal with the question of the measure of similarity between the characters in the two books while holding to Hand’s abstraction test.



And the question for discussion was whether the characters in the Hasamba books were developed enough to enable their protection under copyright laws. But in continuation of the verdict the judge admitted that “the ruling and the legal literature...do not propose clear criteria to define and determine the virtual minimal level of character development necessary to grant the character copyright protection separately from his/her integration in the work of literature” (ibid.). Thus, Judge Zaft proposed the following: A developed character is one who can be identified according to unique characteristics as developed in the work of literature. This identity does not require full the development of the character – the personal qualities of the character in all of their complexity, his/her inner psychological world, his/her sexual identity and others. Even partial development enables identification and raises the character from the general idea to the level of literary expression of the idea. “It seems to me”, writes Judge Zaft, “that as a sign of recognizing a character developed enough for copyright protection, I would propose the possibility of being able to anticipate his/her actions and reactions in the relevant realm of the work of literature in relation to other characters. In a certain work of literature, the character will be personalized by his/her unique style of talking or writing, in another by striking and special personality qualities which characterize her; all of this in relation to the subject and character of the work” (ibid). The emphasis in the Hasamba books is on the plot; not actually on the depth of character development. And nevertheless, they have qualities which enable identification. That is to a great extent because Haefrati presented the Hasamba characters as “their complete negation”. Zaft proposes this trick: “Erase the names of the heroes of the plot and the reader can fill in the names of the speakers”. That is true of the original books written by Yigal Mossinson, but is it true of the infringing book as well? Zaft’s reply is no.

Haefrati designed her characters as complete negations and except for using the name, there is nothing in common with the original character. “There is no copying here, not even copying with change, but rather redesigning the characters of the Hasamba series,” writes Zaft. If not for the names and the explicit link to the Hasamba series, it would not be possible to connect the books. This is criticism expressed as parody: “Look at what happened to that group of innocent, daring and fine children fighting the war of good against the evil. And what they have become in the end” (ibid). Judge Zaft rejected the suit.



This attempt of Judge Zaft to “improve” Hand’s criterion is also “infected” at its basis by intuitive feeling. Here too, there are many many intuitive feelings, but it is another view of this issue. I would like to take this discussion, that is, the criterion as refined by Judge Zaft following Justice Hand, to determine the distance of an original character from a counterfeit one, and apply it to history teaching and to historical thinking, in an attempt to use it as a measuring stick to establish the distance of “past people” from us and how natural or unnatural our thinking is about them. Or in judicial terms, in the spirit of the discussion I have presented, I will try to clarify whether we can give copyright protection to “past people”.

To that end, I presented the stories of three historical events from different time periods to 35 youngsters in the eleventh grade (16-17 years old). The first was an event which occurred during World War Two, the second took place at the end of the nineteenth century and the third occurred at the beginning of the nineteenth century. These three historical events are taken from the curriculum and they were chosen at random except for the fact that they had receded into the past and distanced themselves from our time. The aim was to investigate whether the measure of distance between the pupils and the people in the past changes in accord with how far the event is from them on the time axis.

I spent one period a week for three weeks in the classroom. During the first lesson, I presented the dilemma of the Judenrat of Ghetto *Šiauliai* in 1943, and then conducted a discussion in class which I recorded and transcribed. During the second lesson we read and discussed parts of the diary written by Theodore Herzl, the father of the Zionist Movement, relating to 1898, a discussion which was also recorded and transcribed. In the third lesson, I presented the story of the Medusa raft (1816) and then asked the students to write a scene from this terrible story that they would have chosen to freeze in a painting and to give reasons for their choice.

I tried to describe dilemmas and situations faced by people in each of these periods and we tried to see whether we could predict the actions and reactions of those people in the past. If the students could succeed in doing that, the conclusion would be that these people could be protected by copyright laws, that is, that there was a significant similarity between us and the figures from the past. Thus, the students’ historical thinking which in most cases does not



assume that there are gaps between the past and the present, would clearly be correct for the most part, and thus, natural.

Part III: Students in the Class Think Historically, Naturally

A. Coping with the Birth Edict by Doctors of Ghetto Šiauliai (1943, 74 years ago)

In the history curriculum of the eleventh grade, students learn about “dilemmas of the Judenrat in the Eastern European ghettos during the period of the ‘Final Solution’ and how they coped”. An example of such a dilemma was attempt of the Judenrat and the doctors of the Šiauliai ghetto to deal with the birth edict. In February 1943, the Gestapo announced to the Judenrat representatives of the ghetto that there was an absolute prohibition against continuing births, and that pregnant women would be killed. Failure to carry out this order would lead to collective punishment of ghetto residents, which meant endangering the entire ghetto with annihilation. A few weeks later, the Judenrat met with representatives of the ghetto doctors to discuss the question of “how to prevent births in the ghetto”. There were then about twenty pregnant women in the ghetto. Rivka Ton-Gutz was in her eighth month of pregnancy and refused to have an abortion. What could they do?

Dr. P. suggested that they try to influence her to agree to the abortion, that they tell her what had happened in Kovna, where there had been a birth and all of the members of the woman’s family had been shot to death. And if they had to, they could lie to her and tell her, for example, that the security police were already looking for her. In the event that she didn’t agree, A. Katz proposed that sanctions be imposed on her family: their food coupons would be taken away, members of her family would be given worse jobs than they had now, they would not receive medical care, and they would be prevented from receiving wood for cooking and heating. And if she still refused, she would be given an ultimatum: If she didn’t agree to an abortion, the Judenrat would report her to the security police. And what if she ultimately agreed to an abortion and gave birth to a living child, what would then be done? Dr. Bechler said that, in that case, the situation would really be critical “because no doctor could take it upon himself to kill a living child as that would be murder”. And Dr. P. suggested or asked, “Maybe we should let the child be born and to give it to a Christian.” And Dr. Lorenz, the gynecologist, proposed that the child be killed “by a nurse without her knowing herself what was being done”.



At the end of the meeting, it was decided “to cause Rivka to have an early birth immediately” (Yerushalmi, 1958: 188).

I presented the dilemma of Rivka Ton Gutz to the students and asked that same question: What should be done with Rivka? Yossi, Dana, Efrat, Miri and their friends made suggestions that might have been added to the protocol of the meeting and which were very very similar to those which had been written in the ghetto 75 years earlier: These were possible actions, both regarding Rivka and the baby who would be born, as well as Rivka’s possible reactions. Michal even anticipated in general terms the developments as they actually happened: Rivka continued to refuse and remained unwilling to have an abortion. In order to put pressure on her, her husband Zangwell Gutz was transferred from his job in the Jewish Police to work outside of the ghetto. But Rivka remained uncompromising and she continued to work at her job as secretary in the courts. Ultimately, she gave birth to a living child and succeeded in smuggling him outside the ghetto to her brother in Vilna. Zangwell and Rivka survived the Holocaust and after the war, reached the United States. Their son also survived and joined them there in 1957. The students in the class could predict the thoughts and deeds of the people who lived and acted 75 years ago. If we adopt the criterion proposed by Judge Zaft for the measure of similarity between the characters justifying copyright protection for them, the way the students could identify the thoughts and deeds of Rivka, Dr. Lorenz and the others involved is testimony to the great similarity between them and the students. A measure of similarity like this justifies the protection of a copyright in the court of history.

B. Herzl and his Visit to Palestine (1898, 119 years ago).

In the eleventh grade, students learn about Herzl, the “prophet of the Jewish state”, who created and constructed the national Jewish Zionist movement and its institutions at the end of the nineteenth century. In addition to his other activities, until his death in 1904, he worked to obtain a charter to the land of Israel from the international powers. One of the high points of his activity was his meeting with Kaiser Wilhelm II of Germany in Palestine. The Kaiser had arrived in order to dedicate the Church of the Redeemer in Jerusalem (on 31 October 1898) and Herzl thought that a meeting with him in Palestine would have both great political and symbolic significance. Herzl set out for Palestine with much anxiety and doubt. During his



journey he met with the Kaiser twice, once in Constantinople as a preliminary meeting, and afterwards in Palestine. In the end, these meetings were futile and their results were disappointing.

I presented the students with sections of Herzl's diary (Herzel, 1999), written between his leaving home in Vienna (13 October) and his return (18 November). I tried to draw their attention not to the political events but rather to Herzl as a person. I asked them to pay attention to the person behind the politician, as a dreamer, and to his inner world, his emotional world as he records it in his journal. Together we found a person who was very much like us, who actually reminded the students of themselves. The diary had been written 120 years ago. But we could not really see that a chasm existed between the students' world and that of Herzl. The opposite was true; they really perceived him as "one of us". They succeeded in very easily applying the similarity principles and copyright protection to him, as proposed by Judge Zaft. Here are the examples:

Herzl's departure from his family in Vienna was not a simple matter. It was a kind of self-examination regarding his parenthood. He was again travelling and "my best days were going by", he wrote, "without my being able to observe the details of my children's blossoming". His parents, worried about the dangers of the journey to Palestine, came to see him off, and "the weeping of my good parents at the time of my departure caused me to tremble greatly" (ibid: 29).

He travelled by the Orient Express to Constantinople, his first stop. The sights of the city, he writes, were already known to him and so "they did not arouse the same interest as they had during my first visit two years previously" (ibid: 30). There is deep concern, then as now, at how routine erodes initial experience and the wonder at what is new. The visit to Constantinople was fraught with uncertainty. He had been informed that the Kaiser, who was now in the city, would receive him for a meeting, but he had not been informed of when and where. He did not succeed in falling asleep: "At night I **slept** on the continuing plan, that familiar situation before you sleep, when you are often anxious about the following day and the planning for it. And on the following day he writes: "Yesterday nothing happened all day"



(ibid: 33). There are days like this when it seems that they are wasted or that there is no progress and nothing is happening with the matters we are trying to advance. And the backdrop to all this was a “beautiful evening with the southern colors on the Bosphorus” (ibid: ibid), the wonder at the sunset over the Bosphorus. Everyone who has visited Istanbul has experienced it. But also for those who haven’t been there. The wonder at sunsets in general has apparently succeed in traversing 120 years and has remained.

Finally, the note arrived, with no signature, from the German Kaiser’s entourage: Herzl was requested to appear before the Kaiser at half past four. He was very very excited. Just before his meeting with the Kaiser, he writes him a letter. He copies his draft “on a clean sheet”, as he writes (ibid: 35). And then, there is another moment, so human and so sensitive. While copying “on a clean sheet”, he makes a mistake: “in my nervousness, I wrote ‘second’ instead of ‘scope’. I feared that I would have to write it all again – really unpleasant at that moment of time pressure” (ibid: ibid). He solved the problem by adding another word so that the sentence made sense. Young people who were born into the computer era with word processors like Word, are not acquainted with this problem, but people like me, who have reached Word after years of writing on a typewriter or by hand really do feel the problem. However, children also are acquainted with it when they sometimes write birthday card wishes by hand, or dedications written in books, or signs that they prepare for Scout activities, and in all of these, annoying mistakes are often made. Sometimes, unlike Herzl, when they don’t succeed in finding an elegant solution, they are forced to start it all from the beginning.

“I am now preparing clothes for the interview (with the Kaiser) and going to the barber” At lunch just before the meeting “I ate and drank little in order to be able to be agile and light on my feet for the moment I have been waiting for...After lunch I tried to grab a nap but it didn’t come...I dressed carefully. The color of my gloves was especially successful: light gray” And he then went to the meeting. The meeting, as expected, left a deep impression on Herzl. But the enormity of the occasion muted his written details. “The preparation around the meeting was etched in my memory more than its essence. It’s like taking a photograph when the hand of the photographer is trembling. The photograph will come out a bit blurry. Especially the course of the conversation which I don’t remember exactly” (ibid: 38).



After the meeting, Herzl went on by ship to Alexandria, and from there, to Jaffa port in a small boat (its name was “Russian”). On the ship’s deck, there was an elderly woman from Romania who was coming to see her sick daughter in Jerusalem and she was afraid that she would be prevented from entering the country because of her Romanian passport. Herzl requested that Mme. Gaullis, the wife of a French newspaper reporter, present the woman as her maid in order to facilitate her entry. Mme. Gaullis agreed and gave the woman her coat to carry. “The poor old woman held on the French woman’s dress and so avoided the guards – and was very happy that she was in Palestine and could visit her daughter who was critically ill”. And Herzl finishes by commenting sensitively that “there are many faces to happiness” (ibis: 49).

The visit to Palestine supplies many more glimpses into Herzl, the man, like, for example, when he visited the Jewish Hospital in Jerusalem and found it neglected and dirty. He writes “To my shame, in any case, I noted my visit in the Visitor’s Book, commenting on the cleanliness of the place. This is how lies are created”, he ends. These examples from his diary very much justify giving Herzl historical copyright protection, His journal contains many more such examples.

C. The Medusa Raft (1816, 201 years ago)

On another occasion, I came into class and told the students the story of the Medusa raft, an event which took place a bit more than 200 years ago. On 17 June 1816, the frigate Medusa sailed with three other ships from the Royal French Navy to the port of Saint Louis in Senegal, Africa. There were 365 people aboard, among whom were the geographer and engineer, Alexandre Corréard and the doctor and surgeon, Henri Savigny. Six months after that fateful day, the two published a book entitled *Narrative of a Voyage to Senegal in 1816* (1818), which shook French society to its very core.

Captain Caumareys, who lacked naval experience, did not strictly obey sailing instructions. He navigated the ship at high speed, and opposite the coast of Mauritania, the ship ran aground. When the passengers began to be evacuated, it became clear that there were not enough lifeboats for everyone on board. So it was decided to build a raft. The division of the passengers between the boats and the raft was conducted in the expected way: Members of the upper



classes and the senior officers were given secure places on the boats. The rest, junior sailors, simple soldiers and travelers from the lower classes were sent to the raft, a flat structure of wood, twenty meters long and seven meters wide.

About 150 people were lowered to the raft, overloading it, along with very little food and water, and five barrels of wine. The heavy weight immediately caused the raft to sink to a depth of a meter. And a bit later, it became clear that the maps, compass and anchor which were supposed to be on the raft were absent. At the beginning, the people in the life boats tried to stick to the original rescue plan and to pull the raft after them to the shore. But they soon understood that this was impossible. The sea was too stormy, and the raft had become submerged under the weight of the people. They then cut the ropes and the raft was left to be carried away to sea. It was impossible to navigate such a contrivance and in any case, there was no way to navigate. The 150 people were abandoned at sea.

When the first night fell, weather conditions worsened. The people on the raft struggled with death throughout the night. They held on tightly to the ropes, rolling back and forth with the force of the waves, floating between life and death, pondering their bad luck, and convinced of their approaching end. They prepared for death, spoke parting words and pleaded to the heavens. At dawn, it became clear that their numbers had been reduced, as 20 of them had been swept into the sea.

This bitter discovery led quickly to a deterioration in the mood of those who remained, and the first suicides took place on the second day: Two young sailors and a baker jumped to their deaths into the sea. The following night was extremely violent. The soldiers and sailors believed that these were their last hours and decided to sweeten their remaining time by drinking themselves into stupefaction...And they tried to lead their peers into a common end. They announced their intention to do away with their officers and then, to destroy the raft by cutting the ropes that held it together. The sign for revolt was given. On one side were most of the soldiers and on the other, the lower officers and passengers. Through the hours of darkness, knives and swords were wielded, and many of the fighters were thrown into the waves. After a night of struggle, the raft was covered by the bodies of 60 people.



On the fifth day, when only 27 were left, it became clear that the quantity of food and wine remaining would enable only 15 to survive for another few days, and it was decided to throw the wounded and weak into the water. Three sailors and one soldier volunteered to carry out the deed, while the others averted their eyes and wiped away tears of blood for the fate of their friends. From the moment that the wounded were thrown into the sea, existence on the raft became a bit more bearable. Those who were left spent the following six days in long conversation, criticizing the taste of their friends' urine. They were excited to find a lemon in one of the bags, and tried unsuccessfully to hunt butterflies and birds. On the thirteenth day, in the morning hours, the survivors discerned the mast of a ship far off on the horizon. It was the Argus, one of the three other ships of the delegation to Senegal. They shouted and waved colorful cloths for half an hour, but in vain. The Argus disappeared from view. "From the delirium of joy, we fell into profound despondency and grief (Savigny & Corréard, 1818:136) A day earlier, the sun had devoured them with its rays, so they had decided to build a tent to shield themselves. From the moment it was erected, they lay under it and did not see what was happening around them. They discussed carving a summary of the events along with their names on a piece of wood and attaching it to the mast in the hope that their country and their families would find it. After two hours of expressing the most difficult thoughts to one another, the artillery officer of the Medusa looked out of the tent and returned immediately with a cry of happiness. His hands pointed across the sea; he was barely breathing. All that he managed to say was: "We are saved!" The Argus had come to save them. "We hugged one another and we were almost crazy with happiness. Tears of bliss flowed down our parched cheeks". Five of the survivors died of their wounds during the following days. Ultimately, only ten of the 150 people who had mounted the raft lived on.

On 30 December 1816, the incompetent captain, Caumareys, was surprised to be arrested immediately upon his return to France. He did not know that, in the months that had passed since he left the sinking ship and had abandoned so many to their deaths, the event had become a scandal of national proportions. Already in August, Savigny had submitted a preliminary report to the naval minister in which he detailed the events as he had experienced them. Later, this document was expanded with the participation of Corréard into a book which was published in 1817.



The French artist, Théodore Géricault turned this disaster into a work of art in his very famous “The Medusa Raft” (1819), a giant oil painting (almost five meters by seven), today hanging in the Louvre. From the story of the disaster, he chose to paint the moment the men on the raft discern the Argus on the horizon and are trying to signal to her, holding out the hope that perhaps her men will see them and come to save them. Géricault might have chosen many other moments from this story. He himself, in sketches for the painting considered painting the moment that the men were saved as the rescue ship is meeting the raft. “Which moment would you have chosen to paint?” I asked the students in the class. Which moment out of all of the moments comprising the story would they have chosen to put on canvas? I asked them to describe that moment and explain why they had chosen it.

The students chose a variety of moments, like the moment the ship ran aground, or the moment the ropes were untied and the raft was left behind. And there was another moment that was chosen by quite a few students, the moment that the wounded were thrown into the water, to their deaths. That was a powerful and moving moment during which the healthy people on the raft are considering their stock of food, water and wine still left, and then deciding to throw the wounded into the sea so that they would not be using the nourishment which is running out. One of the students writes, “I chose the scene in which the three sailors and the soldier had to throw the wounded into the sea. I chose this scene as, in my opinion, it precisely reflects some of the moral decisions that had to be taken on the raft and how human beings behave when their lives are hanging by a thread”. Considering this reaction, and what the others wrote, as well as what was said in class during a discussion I held with them following the assignment, the situation is perceived as especially complex and difficult, both regarding decision making and how decisions were implemented. It becomes clear that the difficulty and the intensity of the difficulty as discussed by the students is identical to the way Savigny and Corréard describe it in their book (118 – 120). Again, the students could reconstruct the discussion and its intensity which took place on the raft when considering the possibility of throwing the wounded into the sea. And in that respect, the “people on the raft” may be protected by copyright laws because of their similarity to us. But... “the people on the raft” are also the “men of the great cat massacre” or their sons.



“The Great Cat Massacre” (1984) is the name of the well-known and influential book by the American historian Robert Darnton. In 1762, a Parisian printer, Nicolas Contat published his autobiography. Darnton read the long autobiography and his attention was caught by a few pages containing the strange story of the cat massacre. The event took place when Contat was still an apprentice at the printing shop of Jacques Vincent on the Rue Saint Séverin in Paris. There was a conflict between the apprentices at the shop and the master. The apprentices complained of low wages, long working hours and terrible food. They claimed that the food fed to the owner’s cat was better than what they received. And they wanted revenge. As they could not take revenge on the master, they decided to take revenge on animals. For several nights they made noise under the window of their employer who thought that it was coming from the neighborhood cats. They received permission from him to get rid of the cats. They hunted out cats, and among them, the cat belonging to their employer’s wife, and they organized a night procession at the end of which they conducted a comic trial against the cats, including the master’s wife’s cat, and executed them by hanging, in a colorful and noisy ceremony. The story describes the screams of their employer’s wife after discovering what had happened and the general jest it had aroused among the printworkers of Saint Séverin. Why was this mass slaughter considered one of the most amusing events that had ever taken place among the printworkers of Saint Séverin (Darnton, 1984:75). Darnton, as a historian, lies in wait for these kinds of episodes. He chooses to clarify the otherness of people of the past using issues that superficially appear strange, and through these, to peek into their world. In this case, he examines an issue connected to death, not of people, as on the Medusa raft, but rather, of cats.

Darnton interprets the mystery with virtuosity, integrating his explanation into the social fabric, with reference to the tension between workers and employers in those days, and with an explanation also revolving around ritual, proposing that the action was connected to a carnival ritual, and to the symbolic significance of cats (Elida, 2016: 293). And he concludes that in this way, the workers could attack their employers without physical violence. From the cat massacre, but not only from that episode, Darnton surmises that the otherness of these people is dramatic:



Other people are other. They do not think the way we do. And if we want to understand their way of thinking, we should set out with the idea of capturing otherness... We constantly need to be shaken out of a false sense of familiarity with the past, to be administered a dose of cultural shock (Darnton, 1984: 4).

Wineburg uses this example, as stated, to reject other attitudes of historians like Collingwood (see p. 2), and to reinforce his argument about the great difference between “past people” and us. And because students naturally tend psychologically not to distinguish these gaps between the present and the past, while historical thinking mainly demands this distinction, Wineburg concludes that historical thinking is an activity which is not natural.

But Justice Hand and all of the judges who followed him, including Judge Zaft did not have an accurate and strict measure to determine the amount of similarity or difference in works of literature, films and theater, and ultimately their gut feelings played an important role in this determination. In the same way, a historian like Darnton (and incidentally, following the criticism of Roger Chartier, he has softened his views about the otherness of people of the past (Elida, 2016: 300-302)), or a philosopher and historian like Collingwood, as well as education researchers like Peter Seixas and Sam Wineburg ultimately cannot provide strict criteria for measuring the otherness of “people of the past” except for their gut feelings. And that is also the only means available to me and actually, to the students as well.

“The cat massacre people” are members of the same generation (or very close to it) as the “raft people” and my gut feeling tells me that what happened on the raft was more significant in determining the otherness or similarity of people living at the end of the eighteenth, beginning of the nineteenth century, in comparison to us. These people perhaps killed cats as a kind of social statement and even celebrated the killing, but these are the people who were also tossed on the raft. And the massacre of the cats certainly indicates otherness, but, in my opinion, not to the extent of being able to cast doubt on my general impression of their similarity to us, a similarity which can be protected by the copyright law. We do not need complete identification for that; there must only be a fundamental similarity. And in my opinion, my gut feeling tells me that that is so.



Therefore, we cannot use the measure of otherness or similarity as an anchor. These are almost subjective measures. And it is impossible to maintain this attitude as a criterion for determining the measure of naturalness or unnaturalness of historical thinking. Students know how to reconstruct the discussion in the Šiauliai ghetto; they view Herzl as “one of their own” and they know how to recreate the debate about throwing the injured into the sea by those on the raft. This comes from their psychological tendency *not to distinguish* the gap between the past and the present. And that’s incorrect historical thinking; non-historical thinking. But the unconscious non-historical thinking of the students, their natural thinking, is thinking which has a wide historical basis. Much of it is correct. It demands refinement. But not revolution. It demands directing of attention, but not mobilizing new ways of thinking. Historical thinking is natural. It is much more natural than unnatural. And there will be those who disagree with this conclusion but will not be able to say more than that their gut feeling tells them otherwise. And that’s fine. There is no other way. This is the only way. Academia finds it difficult to accept gut feelings as a research measure, but, just as there is no other alternative in a court of justice, there is also no other alternative in the history classrooms of universities, and not in the realms of education departments.

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