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## A Drama of Development: Gary Olson on Stanley Fish

Richard Mullender  
*Newcastle Law School*

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CARDOZO LAW REVIEW  
*de•novo*

A DRAMA OF DEVELOPMENT: GARY OLSON ON  
STANLEY FISH

Book Review of GARY A. OLSON, STANLEY FISH, AMERICA'S  
ENFANT TERRIBLE: THE AUTHORIZED BIOGRAPHY

*Richard Mullender*<sup>†</sup>

INTRODUCTION

Gary Olson has two broad aims in *Stanley Fish, America's Enfant Terrible*. Like all biographers, he seeks to leave his readers with an understanding of the personality under scrutiny. To this end, he variously describes Fish as exhibiting “intellectual fearlessness,”<sup>1</sup> as an “academic entrepreneur,”<sup>2</sup> and as “never [having] turned down a good (verbal) fight.”<sup>3</sup> Olson also seeks to bring into focus the significance of Fish’s academic contribution—which spans a number of disciplines (most obviously, literature and law). The focus of this review will be on Olson’s second aim. But before we turn to Olson on Fish-the-academic, a few words on Fish-the-person seem apt (since they have, as we will see, relevance to his academic contribution). A recent novel by Laurent Binet throws light on the force of Fish’s personality. In *The Seventh Function*

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<sup>†</sup> Professor of Law and Legal Theory, Newcastle Law School, Newcastle University, England. I owe thanks to David Campbell, Conall Mallory, David McGrogan, Emilia Mickiewicz, Patrick O’Callaghan, Ole Pedersen, and Ian Ward for their comments on earlier drafts of this review. I also benefited from a number of conversations with T.T. Arvind on the topic of Stanley Fish’s contribution and from Reuben E. Dizengoff’s editorial guidance.

<sup>1</sup> GARY A. OLSON, STANLEY FISH, AMERICA’S ENFANT TERRIBLE: THE AUTHORIZED BIOGRAPHY 157 (2016).

<sup>2</sup> Olson, *supra* note 1, at 118.

<sup>3</sup> *Id.* at 159.

of *Language*, Binet presents his readers with an array of political and academic luminaries from the real world.<sup>4</sup> They include Francois Mitterrand, Valéry Giscard d'Estaing, Roland Barthes, Pierre Bourdieu, Jacques Derrida, Michel Foucault, Julia Kristeva, Jacques Lacan, and John Searle. Binet places in their midst a fictive academic, Professor Morris Zapp. Zapp's presence in this august company makes sense since he, like Mitterrand and the others, has an interest in what Binet (following Roman Jakobson) calls "the seventh function of language." Binet and Jakobson mean by "the seventh function of language," its usefulness as a rhetorical device with which to reshape the social contexts we inhabit.<sup>5</sup> But just as language's "seventh function" is not Binet's creation, neither is Zapp. Zapp owes his existence to David Lodge, an English academic and novelist. Lodge breathed life into Zapp on the pages of his campus novel, *Changing Places*.<sup>6</sup> However, to call Lodge Zapp's creator may be to engage in overstatement. This is because Stanley Fish was the inspiration for the acute, pugnacious, and endlessly energetic Zapp. Lodge first saw the outlines of Zapp when he and Fish worked together in Berkeley's English Department in the 1960s.

The force of Fish's personality becomes apparent when we recognize that he prompted Lodge to usher Zapp into existence and this fictional *alter ego* now lives in the work of a second novelist.<sup>7</sup> To this we should add the further point that Zapp features in the works of Lodge and Binet as an academic who possesses uncommon powers of expression (that are intimately connected with force of personality).<sup>8</sup> These are powers that Zapp shares with Fish (who is, as Olson notes, "a self-confessed connoisseur" of well-wrought sentences<sup>9</sup>). A powerful personality that is "difficult to characterize" and "a storied career" explain why Olson has devoted close attention to Fish.<sup>10</sup> While the resulting biography is illuminating, there are reasons for thinking that we can press the analysis it offers further. To this end, we will draw, later, on the concept of political anthropology. But before turning to this matter, we must examine the contents of Olson's book (and Fish's academic contribution) in some detail.

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<sup>4</sup> LAURENT BINET, *THE SEVENTH FUNCTION OF LANGUAGE* (Sam Taylor trans., Farrar, Straus and Giroux 2017) (2015).

<sup>5</sup> Roman Jakobson, *Closing Statement: Linguistics and Poetics*, in *STYLE IN LANGUAGE* 350–77 (T.A. Seebok, ed., 1960).

<sup>6</sup> DAVID LODGE, *CHANGING PLACES: A TALE OF TWO CAMPUSES* 45 (1979).

<sup>7</sup> Morris Zapp has recently taken up residence in a work of modern history. See RICHARD VINEN, *THE LONG '68: RADICAL PROTEST AND ITS ENEMIES* 63–64 (2018).

<sup>8</sup> See Binet, *supra* note 4, at 242, 246; Lodge, *supra* note 6, at 43–45.

<sup>9</sup> Olson, *supra* note 1, at 151; see also STANLEY FISH, *HOW TO WRITE A SENTENCE AND HOW TO READ ONE* 3 (2011) (where Fish identifies himself as "belong[ing] to the tribe of sentence-watchers" and says that he seeks "performances of a certain skill at the highest level").

<sup>10</sup> Olson, *supra* note 1, at 54, 152.

## BECOMING AN ACADEMIC PLAYER

Olson dwells at length on Fish's early life. We learn that each of his parents possessed a "powerful" personality.<sup>11</sup> This meant that "the Fish household often erupted in contentious bickering and arguing."<sup>12</sup> This was a context that Fish, on occasion, found "distressing."<sup>13</sup> However, it did not impede his academic development. While he was not "bookish," he secured a place in Classical High School—a high quality establishment in his home town, Providence, Rhode Island.<sup>14</sup> Here, he studied Latin for four years, as well as French and German, and developed a facility with language that would serve him well in his academic career. He also fell under the influence of an "inspiring and . . . somewhat aloof" teacher, Sarah Flanagan.<sup>15</sup> In this stimulating environment, Fish went on to secure grades that would earn him entry to the Ivy League (as an English student in the University of Pennsylvania).

Just as Fish opened himself up to Flanagan's influence in Classical High, he responded positively to the guidance of Professors Maurice Johnson and Arthur H. Scouten at Penn. They encouraged him to believe that he could one day be a "player"—an academic with the ability to influence the thinking of others by shaping the fields within which he would work.<sup>16</sup> Johnson and Scouten did this because they recognized that Fish "had an unusual talent for literary interpretation."<sup>17</sup> They also encouraged him to apply to graduate school at Yale. While Fish's application was successful, it presented him with a dilemma. He also had it in mind to study law and had "scored higher on the LSAT [Law School Admission Test] than he had on the Graduate Record Examination."<sup>18</sup> Ultimately, he opted for Yale and English. As at Classical High and Penn, he came under powerful formative influences. Olson numbers among these influences the "rigorous and grueling" William Wimsatt—who delighted in the knowledge that some of his colleagues considered his "polemical" and "critical" stances "too combative."<sup>19</sup> As Olson unfolds this account of Fish's early life and education, he conveys a sense of growing momentum. We see it in, for example, Fish's decision, while at Yale, to write a dissertation on John Skelton. Olson tells us that "Skelton was a Catholic poet living at a time when England was clearly turning away from Catholicism."<sup>20</sup> Skelton thus gave Fish the opportunity to

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<sup>11</sup> *Id.* at 10.

<sup>12</sup> *Id.* at 12.

<sup>13</sup> *Id.* at 13.

<sup>14</sup> *Id.* at 16.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.* at 24.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at 25.

<sup>19</sup> *Id.* at 29.

<sup>20</sup> *Id.* at 33.

dwelling on a site of conflict (Sixteenth Century England) in which a multiplicity of sharply divergent views found expression.

#### ZAPPING THE ACADEMIC COMMUNITY

The momentum on display in Fish's response to Skelton grows as Olson traces the steps of his career as an academic. While in his first academic post (in Berkeley's English Department), Fish developed expertise in a new area. The inspiration for this change in direction came from his dissertation supervisor at Yale, Talbot Donaldson. Donaldson had told Fish, "[I]f you're going to get anywhere in this profession, you are going to have to write . . . on a major figure."<sup>21</sup> Fish acted on this advice by becoming a Miltonist. John Milton galvanized him. Olson (in one of the most intense passages in his biography) carries us into this hinge moment. He describes Fish reading passages of the Englishman's work and asking himself, "How could anybody have done that?"<sup>22</sup> With Milton's linguistic dexterity as a source of inspiration, Fish produced his first two books. The first concerned John Skelton's poetry and grew out of his dissertation. In the second, *Surprised by Sin: The Reader in Paradise Lost*, Fish focused not just on Milton but on the experience of those who read his works.<sup>23</sup> He thus made a contribution to a nascent body of thought known as reader-response criticism.

The momentum on display in Fish's first two books grows more apparent when Olson turns to Fish's next academic post, at Johns Hopkins University (which he took up in 1974). While at Johns Hopkins, Fish published an essay—*Interpreting the Variorum*—that clinched his reputation as a player.<sup>24</sup> In this essay, Fish introduced the concept of an "interpretive community."<sup>25</sup> This concept made it possible for him to drive home the message that, when seeking to make sense of a text, we should pay attention to the group whose members ascribe significance to it. He thus moved the center of interpretive gravity away from texts and the intentions of their authors to an intersubjective reference point. This message rang out again four years later with the publication of *Is There a Text in this Class? The Authority of Interpretive Communities* (a collection of essays that included *Interpreting the Variorum*).<sup>26</sup>

Alongside this development, Olson sets another that would have significance for legal academe (not least in the field of interpretation). During his time at Johns Hopkins, Fish began to devote close attention to

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<sup>21</sup> *Id.*

<sup>22</sup> *Id.* at 45.

<sup>23</sup> STANLEY FISH, *SURPRISED BY SIN: THE READER IN PARADISE LOST* (2d. ed. 1997).

<sup>24</sup> Stanley Fish, *Interpreting the Variorum*, 2 *CRITICAL INQUIRY* 465–85 (1976).

<sup>25</sup> *Id.* at 483.

<sup>26</sup> STANLEY FISH, *IS THERE A TEXT IN THIS CLASS? THE AUTHORITY OF INTERPRETIVE COMMUNITIES* (1980).

law. This led him (in 1976) to secure the post of adjunct professor at the University of Maryland's School of Law. In this role, he forged an alliance with Kenneth S. Abraham (a law professor at Maryland) and Walter Benn Michaels (a literary theorist). This trio taught a seminar together on "Theories of Interpretation."<sup>27</sup> Fish's subsequent essays on law brought him into the orbit of Ronald Dworkin, another prominent academic who had grown up in Providence. This gives Olson the opportunity to recount the details of an exchange between Fish and Dworkin that took place during a conference at the University of Chicago. They each spoke on the subject of interpretation. Olson tells us that "Dworkin deftly cut [Fish] to ribbons."<sup>28</sup> He adds that "[n]ever before—and never since—had [Fish] been so unable to gain the upper hand."<sup>29</sup> In this moment, Fish resolved to "get" Dworkin in print.<sup>30</sup>

This is something Fish has done on a number of occasions.<sup>31</sup> Moreover, he has done so in terms that have been academically fruitful. This response to a searing experience tells us much about Fish's character. It is a character Olson brings into focus when he describes Fish's "combativeness."<sup>32</sup> Here, Olson describes a disposition that finds expression in an "uncompromising attitude" towards "intellectual disputes."<sup>33</sup> He adds that Fish sees these disputes as "a serious business" in which participants must overcome the impulse to be "polite" and tackle others' "mistakes" head on.<sup>34</sup> This approach to his work makes Fish sound very much like Morris Zapp when he says that "the object of the [academic] exercise" is "to put a definitive stop to the production of . . . garbage."<sup>35</sup> Moreover, Fish has confirmed (in an essay from 2012) that Zapp's approach to his work is his own. For he has stated that the intention to be "decisive, comprehensive, . . . [and] definitive" is at work in the arguments he builds.<sup>36</sup> However, a taste for combat is only one dimension of Fish's character. Olson recognizes this when he describes Fish (as we noted earlier) as an "academic entrepreneur."<sup>37</sup> This aspect of Fish's make-up goes a long way towards explaining his decision to move (in 1985) from Johns Hopkins to the post of Arts and Sciences Professor of English and Law at Duke University. A year after his arrival at Duke,

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<sup>27</sup> Olson, *supra* note 1, at 67.

<sup>28</sup> *Id.* at 69.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> See, e.g., Stanley Fish, *Still Wrong After All These Years*, 6 L. & PHIL. 401 (1987); Stanley Fish, *Dennis Martinez and the Uses of Theory*, 96 YALE L. J. 1773 (1987).

<sup>32</sup> Olson, *supra* note 1, at 154.

<sup>33</sup> *Id.* at 155.

<sup>34</sup> *Id.* at 155, 159.

<sup>35</sup> Lodge, *supra* note 6, at 44.

<sup>36</sup> Stanley Fish, *The Digital Humanities and the Transcending of Mortality*, in THINK AGAIN: CONTRARIAN REFLECTIONS ON LIFE, CULTURE, POLITICS, RELIGION, LAW, AND EDUCATION 343 (2015).

<sup>37</sup> See *supra* note 2 and accompanying text.

Fish became Chair of the English Department and immediately set about raising its standing. Olson tells us that he did so by recruiting a group of prominent academics (including Barbara Herrnstein Smith and Frederic Jameson) to a department that had previously enjoyed the reputation of a worthy also-ran. While at Duke, Fish acquired the reputation of a mover and shaker—with some commentators hurling the brickbat of “crass entrepreneurialism” at him.<sup>38</sup> Even after a move (in the late 1990s) to the University of Illinois at Chicago, Terry Eagleton described him as “the Donald Trump of American academia.”<sup>39</sup>

Signs of entrepreneurial chutzpah had, however, been apparent in Fish’s approach to his work long before his move to Duke. In 1971, he seized the opportunity to trade places with a French professor who was visiting Berkeley. This made it possible for him to deepen his knowledge of poststructuralism—a subject that had “sparked intense interest” in the United States following a conference at Johns Hopkins University in 1966.<sup>40</sup> Olson describes the summer Fish spent in Paris as “a major turning point in his intellectual development.”<sup>41</sup> He immediately grasped the relevance of post-structuralism to his work on interpretation (*e.g.*, the assault it mounts on belief in extra-systemic (or absolute) determinants of meaning).<sup>42</sup> When he returned to Berkeley, he wove this body of thought into the fabric of a course that embraced, *inter alia*, stylistic analysis, speech-act theory, and reader-response criticism.<sup>43</sup> Here, we can see Fish engaging in a process of critical reflection that would yield his later insights on interpretive communities (as sources of intersubjective meaning). Moreover, this process carried him in an interdisciplinary direction that would prove to be as much anthropological as it was literary.

As Olson presents his account of Fish’s life and career, we find ourselves contemplating a drama of development. We see this drama unfold as Fish responds to the guidance of Flanagan at Classical High, Johnson and Scouten at Penn, and Donaldson at Yale. Likewise, we see it in Fish’s response to Milton and poststructuralism. However, Olson could have made the intensity and open-endedness of this drama more apparent. Its intensity is plain to see in *Interpreting the Variorum* (where Fish only succeeds in bringing the concept of an “interpretive community” into clear view in the essay’s final section).<sup>44</sup> The open-endedness of this drama is also apparent when we recognize that Fish has

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<sup>38</sup> Olson, *supra* note 1, at 96.

<sup>39</sup> Terry Eagleton, *The Estate Agent*, LONDON REV. BOOKS, Mar. 2, 2000, at 10–11; see also Olson, *supra* note 1, at 96.

<sup>40</sup> Olson, *supra* note 1, at 54. Olson notes that Roland Barthes, Jacques Derrida, and Jacques Lacan were among those who attended this conference. *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> See JACQUES DERRIDA, POSITIONS 19 (Alan Bass trans., 1981).

<sup>43</sup> Olson, *supra* note 1, at 56.

<sup>44</sup> FISH, *supra* note 26, at 147–48, 167–73.

presented us with a contribution whose components stand in complex relations about which it is possible to say more. Two of the matters on which we have fastened attention (interpretive communities and interdisciplinarity) yield a basis on which to explain why this is the case. In combination, they make it possible to bring out a feature of Fish's academic contribution that merits close analysis. This is a political anthropology that informs his writings. Before turning to this topic, we must look more closely at what Fish has to say on interpretive communities and interdisciplinarity.

#### INTERPRETIVE COMMUNITIES AND INTERDISCIPLINARITY

On Fish's account, the significance that a text (or other object of interpretation) possesses (at any moment) derives from the understanding of it that the members of an interpretive community share. A legal example will serve to illustrate this point. The judges whose task it is to interpret the U.S. Constitution make up an interpretive community. As a group, they have in common a sense of significance that attaches to particular provisions. The First Amendment, which establishes a qualified right to free expression, provides an example of such a provision. The views judges share on the First Amendment find expression in a body of case law that identifies the right it establishes as a "trump" in the sense elaborated (in a number of his works) by Ronald Dworkin.<sup>45</sup> While it is permissible to override such an entitlement, a judge should not do this on the "minimal" ground that doing so is "likely to produce, overall, a benefit to the community."<sup>46</sup> Thus the First Amendment gives judges grounds for excluding from consideration reasons for action (*e.g.*, the fact that expression is offensive) that might otherwise justify restrictions on speech.<sup>47</sup> These grounds make it possible for them to identify particular arguments and, likewise, pieces of evidence as having more or less significance in the disputes they must resolve. While such an interpretive community stabilizes meaning, this is not to say that current understandings remain in a state of fixity. Fish argues that those who participate in the life of an interpretive community engage in rhetorical performances with the aim of prompting other members of the group to see norms, pieces of evidence, etc., in a particular light. But to do this, they have to take as their starting point the

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<sup>45</sup> See Ronald Dworkin, *Rights as Trumps*, in THEORIES OF RIGHTS 153–67 (Jeremy Waldron ed., 1984); see also RONALD DWORKIN, TAKING RIGHTS SERIOUSLY 190–92 (1977); RONALD DWORKIN, LAW'S EMPIRE 160, 223 (1986).

<sup>46</sup> DWORKIN, TAKING RIGHTS SERIOUSLY, *supra* note 45, at 191–92. For an illustration of the First Amendment operating in the way Dworkin describes, see *Brandenburg v. Ohio*, 395 U.S. 444, 447 (1969).

<sup>47</sup> See, *e.g.*, *Cohen v. California*, 403 U.S. 15, 25 (1971).



“bounded argument space” any such community identifies as existing.<sup>48</sup> By going about their business in this way, they have a realistic prospect of staking out new positions in such a space or of altering its contours on an incremental basis. Thus, interpretive communities are “constraining,” if not a “constraint” that binds like a fetter.<sup>49</sup>

When we bear in mind that Fish worked up his account of interpretive communities in a literary context and then demonstrated its applicability to law, the interdisciplinary orientation of this contribution is immediately apparent. While Olson recognizes its importance, he might have made it more obvious to his readers by contrasting Fish’s thinking with that of some prominent jurists. This is a point we can illustrate by reference to the writings of two very different legal philosophers, Ronald Dworkin and Hans Kelsen. In *Taking Rights Seriously*, Dworkin offers a detailed account of the way in which judges should resolve “hard cases.”<sup>50</sup> Among other things, he argues that they must attend to “institutional history.”<sup>51</sup> This is a phrase that tends to suggest to lawyers a body of norms that have come into existence along a lengthy institutional timeline. But Dworkin gestures in the direction of a wider understanding. For he talks of a “sense of appropriateness” that grows up among judges, lawyers, and members of the public and is relevant to the resolution of disputes.<sup>52</sup> In his account of interpretive communities, Fish gives us the tools to develop this point. This is because institutional history encompasses and gives expression to the understandings of those who have fashioned the norms that have relevance to hard cases.<sup>53</sup> Just as Fish’s analysis makes it possible for us to deepen our understanding of institutional history, so too we can use it to point up the limitations of Kelsen’s thinking. Kelsen is a proponent of a pure theory of law.<sup>54</sup> This theory holds that, in our efforts to grasp the nature of law, we should only take account of the norms that make up legal systems. To embrace this view is to fail to grasp that law is an institution that gains its shape from something other than an assemblage of norms. This is the community made up of those who usher these norms into existence and invest them with significance.

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<sup>48</sup> STANLEY FISH, *WINNING ARGUMENTS: WHAT WORKS AND DOESN’T WORK IN POLITICS, THE BEDROOM, THE COURTROOM, AND THE CLASSROOM* 129 (2016).

<sup>49</sup> STANLEY FISH, *THERE’S NO SUCH THING AS FREE SPEECH AND IT’S A GOOD THING, TOO* 152 (1994).

<sup>50</sup> DWORKIN, *TAKING RIGHTS SERIOUSLY*, *supra* note 45, at 81–130.

<sup>51</sup> *Id.* at 87, 126.

<sup>52</sup> *Id.* at 40.

<sup>53</sup> Fish, *Dennis Martinez and the Uses of Theory*, *supra* note 31, at 1788–93.

<sup>54</sup> HANS KELSEN, *THE PURE THEORY OF LAW* (Max Knight trans., 1967).

## POLITICAL ANTHROPOLOGY

Fish's account of interpretive community, and the commitment to interdisciplinarity to which it gives expression, afford a basis on which to bring out a feature of his contribution that Olson fails to spot. Fish (while he does not identify himself as such) is a proponent of the communitarian embeddedness thesis. This thesis states that people owe their practical outlook and the purposes that invest their lives with significance to the communities in which they are embedded.<sup>55</sup> Thus it is deterministic in orientation. Our outlook is a function of context. However, Fish has stated that "the individual" has a capacity for authorship and is not reducible to the status of a "relay through which messages circulating in [a] network pass."<sup>56</sup> Moreover, he has identified people as possessing sufficient agency or will to alter the contexts in which they find themselves. This is apparent in, for example, his claim that, in legal contexts, "anything, once a sufficiently elaborated argument is in place, can mean anything."<sup>57</sup> When we juxtapose these features of Fish's thinking, we bring into focus a contribution that is fraught with tension. His emphasis on context as a force that shapes our thinking draws some of its inspiration from and lends force to the argument (advanced by, *inter alios*, Roland Barthes) that we can talk of "the death of the author."<sup>58</sup> But, at the same time, we find in Fish's writings an emphasis on what Don DeLillo calls "the human veer."<sup>59</sup> By this DeLillo means, among other things, the way in which individuals put a distinctive stamp on the activities in which they engage. This happens when, for example, a lawyer, who finds the law "constraining," is nonetheless able to exploit its malleability by "bending" it in a new direction.<sup>60</sup> Likewise, we see "the human veer" when a literary scholar finds a propitious moment to displace the assumptions that hold in place a consensus on a particular text.<sup>61</sup>

The assertion of will, on the model we find in these examples, leads Fish to make a universal truth claim. We have it in our power to mobilize the argumentative resources that exist in literary, legal, and other contexts in ways that make it possible to undercut the foundations on which they rest. This becomes apparent when we remember that "anything" can be

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<sup>55</sup> Simon Caney, *Liberalism and Communitarianism: A Misconceived Debate*, 40 POL. STUD. 273, 274–79 (1992).

<sup>56</sup> Fish, *supra* note 36, at 345.

<sup>57</sup> Fish, *supra* note 49, at 148.

<sup>58</sup> ROLAND BARTHES, *IMAGE MUSIC TEXT* 142–48 (Stephen Heath trans., 1977).

<sup>59</sup> DON DELILLO, *UNDERWORLD* 371 (1997).

<sup>60</sup> Fish, *supra* note 49, at 145; *see also* ÉMILE DURKHEIM, *THE DIVISION OF LABOUR IN SOCIETY* 131 (George Simpson trans., The Free Press of Glencoe, Illinois 1960) (1933) (arguing that "individuation" manifests itself in conformity to the "usages" and "practices" of, for example, an "occupation" in contexts that are "open for the free play of . . . initiative").

<sup>61</sup> Stanley Fish, *Transmuting the Lump: Paradise Lost, 1942–1979*, in *DOING WHAT COMES NATURALLY: CHANGE, RHETORIC, AND THE PRACTICE OF THEORY IN LITERARY AND LEGAL STUDIES* 247–93 (4th prtq. 1999) (1989).

made to “mean anything” with “a sufficiently elaborated argument in place.”<sup>62</sup> Consequently, it is possible to bring down “an entire government” with a “change in vocabulary.”<sup>63</sup> Alongside these points, Fish sets the delight that people take in “the exercise of verbal power.”<sup>64</sup> Here, we have a basis on which to extract from his *oeuvre* support for the proposition that there is no such thing as a safe space. This is a conclusion that fits with the view Fish takes of humankind. On his account, people are restless, assertive, and, inventive. He makes this clear when he states that, in academic and practical contexts, “there is no final word”—only the words that follow those that are supposed to be final.<sup>65</sup> These points provide a basis on which to conclude that Fish presents us with a political anthropology that makes him (like Thomas Hobbes) one who “deal[s] in darkness.”<sup>66</sup> For he draws attention to our ability to use words in ways that undercut the foundations of contexts (interpretive communities) that, at least in some instances, invest our lives with significance. But, at this point, we must note a further feature of Fish’s thinking (to which Olson does draw attention). This is Fish’s commitment to “academicizing.”

#### A COMPLEX CONTRIBUTION

By “academicizing” Fish means a virtue that should find expression in the work of academics. Fish tells us that one who academicizes seeks to work up an accurate account of the particular field(s) in which he or she undertakes research.<sup>67</sup> This approach to academic work has a corollary that limits its scope. To academicize is to resist the impulse to stake out substantive positions on controversial topics. For example, an academic who adopts this approach to law might map the contours of a particular legal system and seek to offer an exhaustive account of all the substantive positions that exist within it.<sup>68</sup> But he or she would not argue for the adoption of any of these positions. This is an approach to academic work that Olson could have probed in ways that would have brought out complexities in Fish’s thinking. He might have done this by reference to the liberal legal systems on which Fish has written. We find within such systems a dense array of institutions, practices, and norms. They are contexts that tend to enmesh those who engage in disputes in a host of complexities. Fish drives this point home over and over again in essays

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<sup>62</sup> See *supra* note 57 and accompanying text.

<sup>63</sup> STANLEY FISH, *VERSIONS OF ANTIHUMANISM: MILTON AND OTHERS* 262 (2012).

<sup>64</sup> *Id.* at 245.

<sup>65</sup> Fish, *supra* note 61, at 286.

<sup>66</sup> MICHAEL OAKESHOTT, *HOBBS ON CIVIL ASSOCIATION* 6 (Liberty Fund, 2000) (1975).

<sup>67</sup> STANLEY FISH, *SAVE THE WORLD ON YOUR OWN TIME* 27–30 (2008).

<sup>68</sup> See HANS KELSEN, *LAW OF THE UNITED NATIONS: A CRITICAL ANALYSIS OF ITS FUNDAMENTAL PROBLEMS XVI–XVII* (1950) (advocating the approach to legal scholarship described in the text).

that dwell on systems of law in which the predictable response to an argument is a counterargument. We tend to bemoan law on this model on account of the time and energy it eats up. But given the political anthropology that, on our earlier analysis, is at work in Fish's thinking, it has much to recommend it. For it exerts a civilizing (if often costly) influence on disagreement. In this way, Fish helps us to understand how societies whose members are restless and assertive can simultaneously be well-ordered. For this reason, we might categorize him as an institutional history man. This is because he gives us resources (his account of interpretive communities and the political anthropology that informs his writings) with which to track complex processes of institutional development that extend along lengthy timelines.<sup>69</sup>

This contribution brings with it complexities that do not come into view in Olson's exposition. The political anthropology that we have detected in Fish's writings is rather bleak and, as such, controversial. Thus it sits awkwardly alongside his commitment to academicizing. Likewise, the deterministic embeddedness thesis (which informs his account of interpretive communities) stands in an awkward relationship with writings on rhetoric that tell a story of human agency and thus sound a liberal note. These features of Fish's contribution reveal tensions within it that we can only examine briefly here. The tension between the determinism at work in communitarianism and human agency may reveal Fish to be something of a "trimmer." To "trim" is to steer a middle course between "polar positions."<sup>70</sup> Such an approach makes sense when we recognize that both communitarianism and liberal counterarguments that emphasize agency have great plausibility. Moreover, the decision to steer between these positions is the sort of thing we might expect from a thinker who is committed to academicizing. For Fish is able to make plausible descriptive claims without having to plump either for communitarianism or liberalism (each of which is normatively controversial). However, matters are more awkward for him when we turn to the anthropological assumptions that find expression in his writings. If he were to bring these assumptions into clear view, he would place a large question mark over his commitment to academicizing. Consequently, we find him poised between these assumptions and his favored approach to academic work. Here, he takes on the appearance not of a trimmer but of one wrestling with the sort of performative contradiction that can induce aporia.<sup>71</sup> The

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<sup>69</sup> Fish, *supra* note 26, at 147 (identifying interpretive communities as "temporal phenomena" in which we find a "base of agreement" that yields "systematic and conventional" grounds for disagreement).

<sup>70</sup> Cass Sunstein, *Trimming*, 122 HARV. L. REV. 1049, 1053 (2009).

<sup>71</sup> On performative contradiction, see JÜRGEN HABERMAS, *THE PHILOSOPHICAL DISCOURSE OF MODERNITY: TWELVE LECTURES* 127 (Frederick G. Lawrence trans., 1987) (identifying it as a problem that arises from the adoption of a position that "outstrips itself"). On "aporia" as a "pathless path" (on which people who face "insoluble problems" lose direction), see DAVID LODGE, *THE ART OF FICTION* 219–20 (1992).

contradiction that, at this point, comes into focus arises from the performance we might call “being Stanley Fish.” “Being Stanley Fish” involves delivering a not entirely stable admixture of academic puritanism (academicizing) and a controversial political anthropology that presents itself as a clear-eyed account of how things stand with people. While the delivery of this performance gives rise to difficulties, we should recognize the benefits it has yielded. For example, it has enabled Fish to challenge the idealizing tendencies in Dworkin’s writings on the law. Where Dworkin has found in legal “principles” the stuff of an egalitarian community, Fish has detected “the rhetorical accompaniments of practices in search of good public relations.”<sup>72</sup>

Each of the tensions in Fish’s thinking on which we have dwelt invites exploration and seems likely to open up possibilities for development. Thus, while we may share with Morris Zapp the aim of putting “a definitive stop” to debate on the subjects we examine, there clearly remains much more to be said on Fish. Terms like “interpretive community,” “interdisciplinarity,” and “rhetoric,” do not give us an exhaustive account of the terrain he leads us through. Had Olson’s analysis been more searching, he would have given us a more complete account of the depths and ranges of Fish’s contribution. In this way he would have enriched the drama of development on which he dwells.

#### CONCLUSION

Unquestionably, Olson could have done more with Fish. But while this is the case, he offers an informative account of his life and throws light on a process of development that has seen Fish become a powerful academic player. Fish emerges from this book as a vivid, engaging personality, with the acuity to seize opportunities and make the most of them. However, Olson’s exposition (while full of enthusiasm for its subject) has a flat, underwhelming quality. This is because he fails to take from Fish one of his most important lessons. Within limits, opportunities arise to move our understanding of the objects we scrutinize in new directions. In Fish’s case, the academic community has set these limits by identifying, *inter alia*, the concept of an interpretive community, interdisciplinarity, and his writings on rhetoric as the things that make him important. But his contribution is complex and invites critical reflection—not least because some of the components that make it up stand in tense relations that merit detailed scrutiny. Here, Olson could (without turning his biography into a monograph) have given his readers some useful pointers. But the ambition to do this is absent from his book.

This review has sought to point up the complexity of Fish’s

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<sup>72</sup> See STANLEY FISH, *THE TROUBLE WITH PRINCIPLE* 45 (2001); DWORKIN, *LAW’S EMPIRE*, *supra* note 45, at 211, 213–14, 243.

contribution by drawing out of it a political anthropology that appears to inform his thinking. While a practically significant topic, it is far from being the final word on Fish. But, then, there are, as Fish tells us, no final words. However, biography is a genre that encourages writers to search for final words. This is a point to which Pierre Bourdieu lends support when he observes that it is easy for biographers to read all the “traces” of a life in the light of an “essence that appears to precede them.”<sup>73</sup> Bourdieu adds that, when we do this, we ascribe to a life a “unity of meaning” that it lacks and, in this way, fall victim to “illusion.”<sup>74</sup> This danger seems to be particularly acute in the case of individuals who have become well known for doing significant things. If this point is broadly correct, it has obvious relevance to Fish. We may end up summarizing his contribution as having to do with interpretive communities in which rhetoric is the practical force that Jakobson and Binet seek to capture in the idea of language’s “seventh function.” However, if we probe Fish’s contribution, we can draw from it further elements (*e.g.*, political anthropology) that go some way towards making apparent its richness and the tensions within it. Thus we have grounds for concluding that Olson has presented us with a drama of development that has not run its full course.

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<sup>73</sup> PIERRE BOURDIEU, *THE LOGIC OF PRACTICE* 55 (Richard Nice trans., 1990).

<sup>74</sup> *Id.*