



**Into the Key of Law:** Transposing Musical Improvisation.  
The Case of Child Protection in Northern Ireland



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*Hydra* was developed between June 2014 and December 2015 by the **Into the Key of Law: Transposing Musical Improvisation. The Case of Child Protection in Northern Ireland** research team, Sara Ramshaw, Paul Stapleton, Adnan Marquez-Borbon, Kathryn McNeilly, Seamus Mullohand, and Matilde Meireles.

More information at [translatingimprovisation.com](http://translatingimprovisation.com)

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## What is *Hydra*?

Traditional moot court training is often criticised for failing to adequately prepare advocates to be nimble-footed in the courtroom and able to respond quickly and responsively to unexpected situations. In contrast, *Hydra*, named after the serpent-like water monster with numerous heads in Greek mythology, hones legal argumentation skills, requiring participants to be Hydra-headed and skilled at rapidly analysing a legal issue from a variety of angles and perspectives, teaching advocates to be prepared for the unexpected. Inspired by *Cobra*, John Zorn's improvised musical game piece, *Hydra* sharpens these skills by requiring participants to:

Within the same case:

- Move to a new thread of argument;
- Rehearse an argument already advanced;
- Become a witness;
- Advocate on behalf of a different party;
- Deal with a witness having gone off-script:
  - Rebut what the witness has said by recollection of contradictory evidence; and
  - Lead the witness to a conclusion which assists their argument;
- Become at ease with overarching techniques;
- Better cope with unexpected disruptions and uncertainties; and
- Reduce argument to a time limited form.

The format of *Hydra* begins with participants being provided with a fact scenario of a legal case and an overview of the basic law relating to this scenario. In the initial pilot of *Hydra* (Pages 5/6), we used facts from a real child protection case and the related "welfare of the child" legal test. Participants acted as barrister for the mother, or the mother herself, barrister for the father, or the father himself, and barrister for the local Health and Social Care Trust/Local Authority, or a social worker. Through the use of hand gestures or cue cards (Pages 9/10) communicated to the judge, participants put forward legal argumentation in relation to the case,

but could at any point in time be directed by the judge (as either a conduit of the participants or of her own accord) to switch argument, to switch from a client to a barrister, to switch parties and argue for an opposing side, to increase or decrease the volume of their argument or to end their argument abruptly or to keep on expanding their argument. Participants could also elect to become witnesses to add information to the fact scenario and be cross-examined by barristers in the case. In addition, following our focus groups with local legal professionals, the latest version of *Hydra* develops the character of the judge by allowing her or him to actively respond to and/or challenge the arguments being put forward by participants.

### **Rules of the Beginner's Version of *Hydra***

- 1.** Prior to the performance of *Hydra*, the law and fact scenario to be used must be finalised and distributed to the participants several days in advance such that they can learn the material and perhaps do further research on the issues and law. It is best to make the legal rules as simple as possible; allowing the facts to drive the performance.
- 2.** Immediately prior to the performance, it is useful to partake in some improvisational movement and vocal exercises, to help lessen the stress and inhibitions of the participants and start the creative juices flowing.
- 3.** Participants divide themselves into the following roles:
  - a.** Judge;
  - b.** Barrister for Applicant;
  - c.** Applicant her or himself;
  - d.** Barrister for Respondent;
  - e.** Respondent her or himself.

In the case of child protection cases, additional participants include:

- a.** Barrister for Local Authority (LA) or Trust; and
  - b.** LA/Trust Social Worker.
- 4.** The performance begins with the judge introducing the case. S/he should provide a brief overview of the law and facts to provide some context to the performance (Pages 5/6).

5. Argument begins when the A (Advocate) card is held up by the judge, either driven by judge or by a “talking” gesture is indicated by a participant. Argument begins at the direction of and on the downswing of the judge’s arm/gavel.
6. When a participant wishes to argue, s/he signals to the judge, using the Advocate gesture (Page 12), and the judge either allows the participant to rise and begin argument, at which time the person talking must stop arguing and sit down, or the judge holds stop hand signal until s/he decides the current argument should stop. Argument begins on the downswing.
7. A participant who wants to begin argument as counsel must first take the wig from the head of the person beside her/him before signalling to the judge that s/he wishes to speak.
8. Counsel who wishes to stop arguing can place her/his wig on the person beside her/him.
9. Any participant can interrupt the proceedings by walking to the witness stand and picking up a witness name, placed facedown on the witness box. The judge asks the witness to state her or his name for the record so that the other participants know who the witness is. The barrister currently arguing either begins cross-examining or examining-in-chief. The witness can return to her or his original position at any time. Other rules do not apply to the witness.
10. The judge can, at any time, ask the standing barrister questions regarding the case or her or his argument. The questions end at the will of the judge.
11. The judge, at any time, can switch positions with one of the other participants. That participant must then take on the judicial role until s/he takes the position of another participant.
12. The performance ends when the judge holds up the End card, either by her/his own choice, or because one of the participants had brought down a fist on her/his palm. The participants can veto a End card by making the cut-throat signal (Page 23) up to 3 times in total.

**Note:** Current information on *Hydra*, including sample videos, can be accessed via the following link: [translatingimprovisation.com/hydra](https://translatingimprovisation.com/hydra)

## Why *Hydra*?

It is through our creation of *Hydra* that we hope to directly impact the manner in which law students, members of the legal profession, and the general public, view improvisational practices, combatting the common myth that improvisation is simply “making it up as you go along”, an entirely spontaneous activity that is not constrained by trained expertise, cultural history or social norms. Rather improvisation is better understood as the ability to draw on prior knowledge and expertise in response to dynamically unfolding situations, which frequently require deviations from normative behaviours. Improvisation conceived as such is not simply an intuitive art form, but a socially engaged ethical practice that directly impacts on our ability to make creative decisions, engage in critical dialogue, take risks that allow for the discovery of new knowledge and new social relationships, and engage in collaborations across diverse domains and levels of expertise.

Applied to legal advocacy, the improvisational practices taught and honed through *Hydra* assist law students and trainee/practicing barristers in identifying the most fundamental tools required for skilled advocacy and learning them so exquisitely well that it is possible to pull together excellent argumentation and reasoning extemporarily. In essence, it is about a process through which advocates can safely hone their adversarial agility and attentive listening skills, the latter being especially necessary for professional responsibility and ethics.

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**Note:** Initial pilot of *Hydra* - December 2014 to February 2015

**Participants:** Ivanka Antova, Adnan Marquez-Borbon, Kathryn McNeilly, Matilde Meireles, Thomas Muinzer, Seamus Mulholland, Sara Ramshaw, Hannah Russell, Paul Stapleton and Timothy Waddell.

## ***Hydra - example case\****

### **OPENING STATEMENT BY THE HONOURABLE JUSTICE RAMSHAW, HIGH COURT OF NORTHERN IRELAND, FAMILY DIVISION**

Welcome. You are about to witness legal argument in the Welfare Stage of a care order proceeding in the High Court of Northern Ireland, Family Division.

This is an application pertaining to an 8-year old little girl, Jane Dahl-Pierson, whose baby sister, Joanne, died on 3 January 2014 with the following injuries: multiple rib fractures caused by deliberate physical abuse; non-accidental bruises to her face, shoulder and arm; and severe untreated nappy rash. The cause of death was asphyxia by obstruction of her airways (although it was undetermined whether this was deliberate or by accident). Both parents, Derek Pierson and Maggie Dahl, who are currently separated, were charged with the murder of Joanne, but were acquitted of the charges in Belfast on 7 July 2014. Derek was additionally charged with assault occasioning actual bodily harm on Maggie. He is currently out on bail awaiting resolution.

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At the threshold stage of the proceedings, I was unable to find definite evidence (proven on a balance of probabilities) that linked one or the other parent to Joanne's injuries, but found that the harm had to be inflicted by one or both of them. I did find, though, that it was beyond doubt that the parents had been lying about what happened to hide the truth. As such, I found Jane to be likely of suffering significant harm in the future due to a lack of reasonable parental care and thus the threshold test in Article 50 of the Children (NI) Order had been crossed.

I am now tasked with determining what order, if any, should be made at the Welfare Stage of the proceedings. To do so I must take into consideration the paramount consideration of Jane's welfare by reference to the Welfare Checklist in Article 3 (3) of the Children Order (NI) 1995, such as her wishes and feelings, (considered in the light of her age and



understanding), the risk of harm to her and the capabilities of the parents to meet her needs. I must also consider the human rights of the parties, such as the Article 8 right to family and private life and the Article 3 right to be free from torture or to inhuman or degrading treatment or punishment.

The following orders are possible:

**(1) Care Order:** typically, the child is removed from the family and placed with foster parents or relatives; the local authority is given parental responsibility of the child, in addition to the parents.

**(2) Supervision Order:** this order directs the local authority to “advise, assist and befriend” a family, but does not give the authority parental responsibility over the child. It is viewed to be most useful in situations where the harm is not as severe and the family is extremely cooperative.

**(3) Residence Order:** as an alternative to placing the child in care, the judge can direct that the child reside with either a parent or a relative, etc. Persons with a residence order (Article 8) in their favour also obtain parental responsibility of the child, which they share with others who have parental responsibility.

**(4) No Order:** judge shall not make an order unless it considers that doing so would be better for the child than making no order at all. Least interventionalist approach preferred.

**(5) Contact Order:** this order directs with whom the child should have contact after one of the above orders is made.

The parties to this proceeding include the mother, the father and the local trust.

\* The example case was drafted by Sara Ramshaw, Kathryn McNeilly and Seamus Mullohand.



# HYDRA

Room Configuration

# HYDRA

Cards and Hand Gestures

# Hydra Cheat Sheet

Card

Hand Gesture



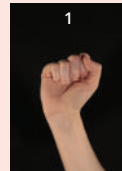
ADVOCATE



VOLUME



INTERRUPTION



SWITCH ARGUMENT



# Hydra Cheat Sheet

Card

Hand Gesture



SWITCH PARTY



END



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VETO



# ADVOCATE Card

**Description:** This card, when held up by the judge, directs the participant to whom the judge points to begin argumentation on the downswing of the judge's arm/gavel.

**Key skills:** Preparedness; mental agility; anticipation of argument; legal argumentation skills.



## ADVOCATE Hand Gesture

*This gesture, directed at the judge, requires the participant who wishes to begin legal argumentation to place hand beside her or his mouth as if calling out.*



# VOLUME Card

**Description:** This card, when held up by the judge, directs the speaker to increase or decrease the volume of her or his argument.

**Key skills:** Preparedness; vocal control and agility; understanding of importance of tone in signifying different emotions, such as empathy, anger, disbelief, etc.

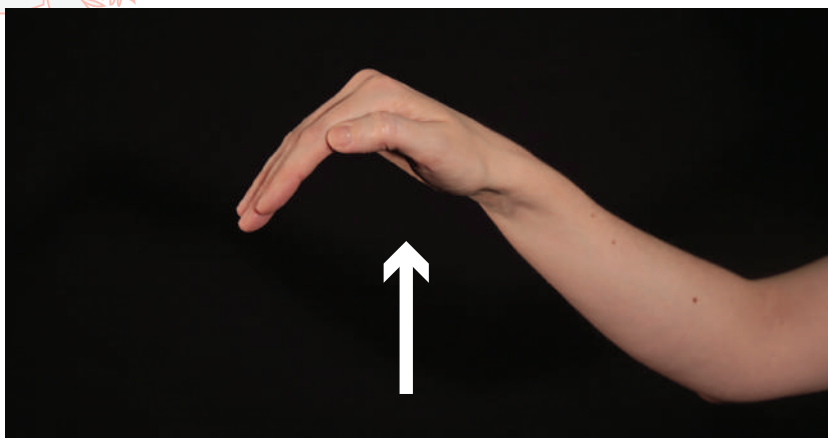




# VOLUME Hand Gestures

*This gesture, directed at the judge, requires the participant requesting the change in volume to move her or his outstretched hand up or down accordingly.*

**Note:** The volume card can be flipped up and down for Volume Up and Volume Down accordingly.



# INTERRUPTION Card

**Description:** This card, when held up by the judge, directs ALL participant to make outlandish sounds or gestures (on the downswing of the judge's arm/gavel) and continue until the Advocate card is held up by the judge and the participant at whom it is aimed begins argumentation (on the downswing of the judge's arm/gavel).

**Key skills:** Preparedness in dealing with the unexpected; mental agility in returning to reasoned legal argumentation after prolonged spell of interruption and/or disruption.



## INTERRUPTION Hand Gesture

*This gesture, directed at the judge, requires the participant requesting the interruption to begin with upheld closed fist, which then opens quickly to signify an explosion of activity and sound.*



# SWITCH ARGUMENT Card

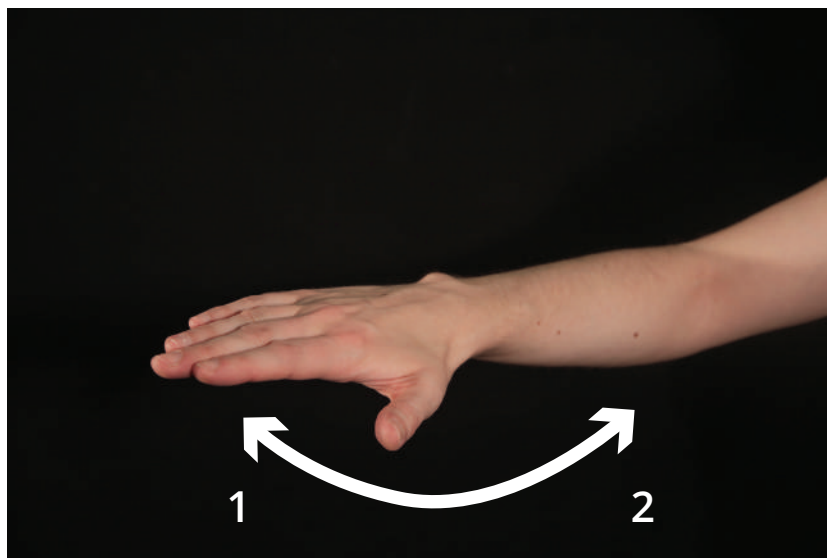
**Description:** This card, when held up by the judge, directs the speaker to switch or move to another argument in support of her or his case on the downswing of the judge's arm/gavel.

**Key skills:** Preparedness; mental agility; transitional ability; dealing with the unexpected.



## SWITCH ARGUMENT Hand Gesture

*This gesture, directed at the judge, requires the participant requesting the switch to move an outstretched hand back and forth in front of her or his body.*



## SWITCH PARTY Card

**Description:** This card, when held up by the judge, directs two (2) participants, as indicated by the judge, to switch parties on the downswing of the judge's arm/gavel. The judge then holds up the Advocate card (see above) and the targeted participant begins legal argumentation for her or his new party.

**Key skills:** Preparedness; mental agility; dealing with the unexpected; heightened knowledge of and attention to all aspects of the legal case.



## SWITCH PARTY Hand Gestures

*This gesture, directed at the judge, requires the participant requesting the switch to move point to two (2) participants and criss-cross the arms back and forth in front of her or his body.*



# END Card

**Description:** This card, when held up by the judge, requests the cessation of legal argumentation by all participants. Participants can veto the End card up to three (3) times, using the cut-throat gesture (see below).

**Key skills:** Coping with time limitations; mental agility; argument summarisation; switching tack and improving inferior argumentation.





## END Hand Gesture

*This gesture, directed at the judge, requires the participant requesting the end of argumentation to place a closed fist on an open palm.*



## VETO Hand Gesture

*This gesture, directed at the judge, requires the participant requesting the veto to wave an outstretched hand back and forth in front of her or his neck.*

