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Learning from Conflict: Reflections on Teaching About Race and Gender

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Narrative Reflections[1]

Lani Guinier's

In 1992 I had been teaching for four years at the University of Pennsylvania Law School. I taught voting rights and criminal procedure, subjects related to what I had done as a litigator. Preparing for class meant reading many of the same cases I had read preparing for trial. Some were even cases I had tried. Teaching offered me a fresh chance to read those cases with new interest. I could see the subtle linkages between cases that I had not previously noticed. From the distance of the academy, I observed the evolution of the doctrine without feeling overcome by the lawyer's instrumental urge to plumb each case for useful language or helpful analysis of an issue. I found teaching a relatively simple yet interesting task. My goal was to communicate what I knew about the case law to students eager to learn a new doctrinal area, as well as to students getting ready to take the bar exam.

A decade later I find teaching more challenging. It is difficult to be clear, I now realize, when cases are informed by an individual judge's intuition rather than any canons of "law." The doctrine, which I formerly felt dexterous in

1. These narrative reflections are posted in a slightly modified form on a Web site we designed on building multiracial learning communities <http://www.racetalks.org> (last visited Feb. 1, 2004). This Web site outlines the process of setting up and running a multiracial learning community in seminars that discuss race and gender, large law school classes, police training programs, and community advocacy groups <http://www.racetalks.org/examples/index.html>. We identify operating principles that are relevant to all of these settings <http://www.racetalks.org/principles/index.html>. The law school overview describes specific activities that educators, students, and community groups can use outside of a law school—in high school or college courses and community organizations as well. On the resource page we provide sample lesson plans, syllabi, student work, and testimonials, which we hope will be useful to those who want to use our experience in their own setting.

manipulating, now seems crabbed. The legal rules often look like opaque alibis rather than guiding lights. Missing, for me, is a theory of fundamental fairness or a commitment to democracy or even an understanding of justice that is not simply an ordered society. This search for an overarching jurisprudential vision—one that links ideas of justice with ideas of democracy—animates my scholarship and inspires my research interests. This is what I now value.

But student concerns have not changed at the same speed as my own. Many students still simply want to do well and pass the bar exam. Competing with their peers, they treat learning as a process of conveying and retaining information. Equally salient is the unquestioned notion that passive forms of information exchange can enable retention of that information over time. They think that what they learn in a classroom matters because it will be remembered three years later when confronted on the bar exam, with a series of multiple-choice questions designed to test their ability to memorize substantive legal doctrines. Or they just want good grades. What they learn is less important than what they need to get a job. Not just any job. A well-paying job. Some need to make enough money to pay back their law school loans. Others are greatly tempted by the prospect of making a lot of money for themselves and their clients.

About five years ago I became so disillusioned I thought perhaps I was the one who needed to find a new job. I wanted to be part of an environment in which students felt an intellectual excitement about learning. I wanted to teach students who were committed to social justice, not just social advancement. I decided to try teaching graduate students.

I went to Cornell for the School of Criticism and Theory in the summer of 1999. I taught a seminar to fifteen graduate students from disciplines of literary theory, sociology, political theory, and theater. I had hoped that graduate students would be intellectually engaged with a seriousness of purpose that I found missing from many of my law students. I had hoped that graduate students interested in critical theory would be steeped in techniques of analysis that could breathe fresh air into our discussions. I had hoped to find enthusiasm among graduate students for a world of ideas that was also anchored in a world of real problems that needed their attention.

Instead I found the graduate students trapped in the learning curve of their disciplines. Unlike law students, they were not searching for "the right answer." They were able to explore many possible understandings of the assigned material. Some were quite dexterous performers, and yet they presented themselves as cautious thinkers. They depended upon their written text as a crucial safety net. The text was beautifully crafted and tightly argued, in the distinctive and obscure vocabulary of their elite academic cohort. Each student's pyrotechnic linguistic displays were fortified by citations to the leading lights within her discipline. As an imposingly interwoven arrangement of ideas, the text was designed not so much to communicate as to impress.

Despite such skillful deployment of the written word, the students were often tongue-tied. Without having first written out their thoughts on a piece of paper, they could not speak. And the need to hold the text directly in front of

their face—as if it were a shield or a mask—literally obscured their ability to make eye contact with anyone else in the room. Their intellectual engagement was real, but it seemed to serve the same role that "the right answer" did for law students. It was a competition for recognition, this time in a world of contested abstractions. The students were struggling for recognition of their intelligence as manifest in their manipulation of words. They were indeed learned but not necessarily capable of using their learning to address, much less solve, real-world problems. I missed my law students, even as I remembered how much they schemed to show off, put down, or simply dominate the discussion. At least some of the law students were seeking to become influential in the world around them. However inelegantly they behaved, my law students had a vision of a world beyond the academic universe in which they were presently submerged.

I decided to use an experimental format with the graduate students at Cornell where the classroom became a site for democratic participation. We rotated responsibility for developing reading assignments, for planning the lesson, and for facilitating discussion among the students. By sharing power and encouraging experimental learning formats, I was able to create a space that opened new intellectual doors for me. Students and faculty renegotiated their relationships to each other, and through that process we each began to understand our roles as life-long learners. Teaching intellectually serious graduate students and learning from them became exciting, even fun.

For example, Tim Mitchell, an actor and Ph.D. candidate in theater at Cornell, taught us to speak without using words.[2] Tim asked students to position themselves and their classmates in silent images that crystalized some of the more abstract seminar themes in vivid yet spare detail. The visual tableaus etched themselves in our memories, becoming a shared vocabulary that transformed the atmosphere in the seminar itself. As an interdisciplinary language emerged, students were less likely to clutter their contributions with erudition while at the same time they became more likely to take intellectual risks.

Each of us was able to learn from Tim Mitchell because of the experimental format of the seminar. I first had begun using this format at the University of Pennsylvania Law School in collaboration with my colleague Susan Sturm. A small group of U. Penn law students had asked me in 1990 to serve as a faculty adviser for a student-initiated reading group on feminist theory. At the time I was untenured and my dean urged me not to take on this additional teaching chore so that I could concentrate on scholarship. But I was curious.[3] Inspired by the work Susan and I had done together, I found myself at Cornell creating

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2.   He had studied the work of Augusto Boal, a Brazilian dramatist and legislator who used interactive theater to engage his constituents in helping him to frame public policy options. Using image theater and forum theater techniques, Tim facilitated one seminar session in the black box at Cornell's theater.

3.   I was eager to join the subjects of race and gender in order to attract a more diverse group of students than I had encountered in my regular teaching role. I wanted to see if it was possible to create a discourse community that openly engaged with these taboo subjects.

a more democratic space in which students and teachers alike participated in the process of making choices that affected how or what they learned.

I now see democracy remaking itself every year in the law school classroom as well. I feel a renewed interest in teaching. And when I left Penn for Harvard in 1998, the same Penn Law dean who had advised me not to take on the chore of helping to facilitate the original experimental reading group told me that he was sorry to see me go. He had several reasons, including the fact that he had never gotten to coteach the Critical Perspectives seminar with me.

Susan Sturm's

Since childhood I have felt connected to issues of racial justice. My father was born in Germany and spent six weeks in Dachau at the age of eighteen. I grew up with a personal connection to the reality of oppression and liberation. Every Passover my father would describe his experience in the concentration camp—how his physical suffering paled in comparison to the emotional torture of rejection by his beloved Germany. We would recount his escape from Nazi Germany, expressing thanks that he hadn't become "a lampshade."

As a child, I somehow connected this passionate refrain of freedom and justice to the situation of blacks in my community. For reasons I still don't entirely understand, I saw my own fate, my own legitimacy, linked to the status and experiences of the black community, at the same time that I was profoundly disconnected from that community. I bonded with the black employees who worked for my father's small company. I worked with "underprivileged" kids of color—at Head Start, a camp for mentally disabled kids, and a home for neglected and dependent children. In college I studied issues of social and institutional change and worked primarily in the area of juvenile justice and social services. During law school and after, I worked on issues that deeply implicated race—prison reform, employment discrimination, housing discrimination. But I had never had a chance to discuss race openly, particularly with people of color in a context in which they set the agenda and openly communicated with each other.

Perhaps it was this sense of a glaring hole in my own understanding of an issue I cared passionately about that led me to the Critical Perspectives seminar. I had never before participated in an ongoing conversation about race in a group that was not dominated by whites. I was also intrigued by a setting that encouraged its participants to bring their range of experiences, motivations, and passions to the intellectual enterprise, that linked students' personal pursuit of professional meaning with their academic inquiry. I was searching for a way to forge an intellectual community organized around solving problems, where value would depend upon the integrity and efficacy of the exploration, rather than the stature and brilliance of the individual contributions. My early interactions with Lani had this quality, and they prompted me to experiment with a more sustained working relationship.

The class was organized in a way that stood conventional assumptions about the law school classroom on their head. Students selected the materials, planned and ran the class, and read each other's work. They worked in small groups, both in and out of the classroom. The form of inquiry in the class-

room was experimental and varied. Students took many more risks that I ever would have at the time as the teacher in charge of the classroom. They created the seminar in part as a reaction to their frustration over how race and gender issues were addressed (or studiously avoided) in the large law school class. They were determined to face the hard questions, to create a format that invited disclosure, conflict, and connection. They also brought an urgency to the work that I had never seen in a conventional classroom, either in my own experience as a student at Yale or as a teacher at Penn.

That first year I decided to take my own risks in the context of the seminar space—to embrace the role of participant rather than to claim the power and safety of professorial position. This meant sharing (as a participant, not only as an authority) my views and experiences that had shaped my current positions and understandings of race and gender. It meant telling the stories that revealed my own blind spots—and not even knowing when I was doing it. It meant in some cases realigning the balance of power in the room, in ways that were unfamiliar and uncomfortable for me both as a white person and as a professor. It was hard.

One class stands out in my mind. It was a class that was exploring intersectionality, more particularly the tensions between feminism and race. We were talking about issues of responsibility. I described a situation involving the daughter of the woman who took care of my children. I did so even though I had a sense that this was a risky conversation—featuring a white middle-class professional and a black caregiver—even though I loved this woman and was confident that we had a relationship of mutual respect. Her daughter was twenty-one, had three children with different fathers, was at the time without any source of income, and seemed unable to care for her own children. Her mother out of necessity assumed responsibility for her grandchildren. I offered this as an example of the complexity of the problem of responsibility, including the responsibility of the fathers who parented these children. I presented the issue as if the problem could be fully understood by focusing on the direct protagonists—mother, father, grandmother, child.

Two or three of the African-American women in the class exploded with frustration and even anger. They perceived that I was making a judgment about the men's irresponsibility. They saw my story as the classic feminist move, framing women as victims in relation to men. For them, it was this type of decontextualization of responsibility that typified the response of white liberals, including the feminist community. It had come to define the public and policy discourse about black families. It erased the capacity of those involved to participate in shaping the understanding of the problem. It also negated any inquiry into the social and economic circumstances that underlie that problem, essentially letting the broader community off the hook.

At that moment, because I was speaking out of love for Florence and her daughter, I was unprepared for the reaction. I was stunned most by the intensity of the students' response. I also was struck by how much it surprised me. I had not anticipated this reaction, nor did I see how my perspective had been shaped by my own connection (or lack of connection) to the circumstances of those I was implicitly judging. My assumption of a position of

universal, detached judgment had the effect of either silencing or provoking those whose perceptions did not match my account.

I was worried that this interaction would damage my relationship with these students, my position in the class, and my capacity to be effective. In fact, it had just the opposite effect. This was in part because the format of the class permitted us to use the text of that interaction as a fault line to be understood, analyzed, explored, and crossed. In subsequent weeks the incident provoked discussion that would not otherwise have happened. Why did we have such different starting points for the discussion of issues of responsibility? Why was the perspective I articulated so troubling to the students of color? Why did they feel free to challenge that view in the space of the seminar? How could I reformulate my concerns in a manner that flagged the responsibility of the larger community for the family dynamics that troubled me? My relationship to the class seemed to me to be transformed by our mutual willingness to remain engaged in the face of conflict, to understand both analytically and experientially the source of the fracture in perspective, and to reconstruct an interaction that built on the necessarily partial perspectives we brought to the problem.

Lani and I spent many hours planning and debriefing the class sessions. We began to think more systematically about the work we were doing together, and to take advantage of the tension generated by our differences in style, background, and focus. This led us to connect our research and writing to our work in the classroom. We began to write together, first about affirmative action and then about the process of building multiracial learning communities that had come to define our collaboration. I also wanted to take the format of Critical Perspectives and harness it to the workplace equity issues that had become the focus of both my scholarship and my teaching. I was particularly interested in workplaces such as police departments that were actively grappling with issues of race and gender as part of a larger struggle to redefine their professional role more generally.

As part of my effort to link pedagogy and research, I hosted a meeting on Selecting the Police of the Future, which brought together innovators from around the country who were experimenting with community involvement as a strategy for building cultural competence within the police department. I used some of the interactive methods that Lani and I had experienced in the Critical Perspectives seminar to facilitate the policing workshop. Without those methods, I never would have learned about the work of K. Codish, the director of training and education at the New Haven Police Department. K. is a soft-spoken, thoughtful person who does not relish traditional public performance. But she is a forceful and visionary reformer who has had the courage to do work with police in New Haven that on first blush seems impossible. In the initial large-group sessions K. rarely spoke. But in brainstorming sessions, small-group interactions, and role-plays, she actively participated. We learned how she created occasions for local community leaders to brainstorm with the police about why members of their communities would not work with or for the police department. She also described a method of teaching future police officers that resembled in significant respects the learning methods we used in

Critical Perspectives. She has future police officers interviewing domestic violence survivors, serving food in homeless shelters, and collaborating with kids of color on police/youth relationships. Students collaborate on "term projects," working with artists to see problems in more complex ways, identify stereotypes, and use plays, sculpture, and photography to communicate their newfound understanding to a broader community. K. now uses these interactive and visual formats in her own public presentations, bringing both the ideas and the methods to life.

I have since brought my Columbia law students together with the policing students in New Haven, to work together on these "term projects." Neither group knew what to expect from each other, and their uncertainty opened them up to questioning their assumptions about police, lawyers, and the community. Because they were not cast in a preformed professional role, they had to struggle with how they would interact and what they wanted to accomplish. They reported that this uncertainty, though uncomfortable, enabled them to forge a role that responded to the problems at hand, rather than to preconceived professional categories that did not fit the circumstances. This was music to my ears.

Introduction

We have experimented together and individually with building what we call *multiracial learning communities* in the law school classroom. We use the term to describe a group-learning practice that involves building a classroom community as well as building the capacities of individuals within that community. A learning community emphasizes the development of the group's capacity to solve problems collectively and to foster individual and joint learning.[4] A multiracial learning community consciously attends to internal and external sources of power (including racial identity, gender, and social class) in shaping the group's membership, the dynamics of group interaction, and the content of the inquiry. People's race, gender, or social class can affect how they participate; it may also influence their background assumptions about issues such as distributive justice. Using relevant differences in perspective, the community destabilizes received wisdom, treats conflict as a source of insight, and generates new frameworks for addressing complex problems.[5]

These learning experiments grapple with the dilemmas inherent in law school teaching these days. How do multiracial groups work, learn, and

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4. Learning goes in all directions. Participants learn not only individually or from the teacher but from each other. Learning involves the development of critical thinking, emotional and personal engagement, and communication and interaction skills. As individuals grow and develop, the group itself also changes and grows in some palpable way through these processes. The community creates a context in which everyone can participate in the learning process. Using relevant differences in perspective, the community destabilizes received wisdom and generates new and more complex understandings. See <http://www.racetalks.org/about/multiracial.html> (last visited Jan. 10, 2004).

5. See, e.g., <http://www-personal.umich.edu/~pgurin/benefits.html> (last visited Jan. 10, 2004) (describing the work at the University of Michigan identifying conditions for a successful multiracial learning community, including the presence of diverse others, equality among peers, discussion under rules of civil discourse, and normalization and negotiation of conflict).

problem-solve together? How do you get people to address problems that create conflict and still remain involved in a common project? How do you create a learning environment that encourages people to see their own potential to affect the world around them? Our efforts to respond to these questions forced both of us to rethink our own assumptions about effective law school teaching and its relationship to scholarship and practice. Thinking about gender and race in our teaching prompted us initially to experiment with building multiracial learning communities. Over time, we began to question systematically our approach to teaching more generally.

From Classroom Collaboration to a Learning Theory

Our exploration of law school pedagogy began with a seven-year stint teaching together at the University of Pennsylvania Law School. We cotaught a seminar called Critical Perspectives in the Law: Race and Gender. It began as a reading group, initiated and run by students interested in critical theory, including feminist legal theory and critical race theory. These students perceived a gap in the law school curriculum and a pressing intellectual, professional, and personal need to explore the assumptions and frameworks underlying legal institutions and doctrine. Although the students who started the seminar first identified the need for such a class because of their interest in feminist theory, they willingly broadened the inquiry to include race after one of us suggested it would bring together students who would not otherwise interact were the seminar framed solely around either race or gender.

The students developed a curriculum that included academic articles, legal cases, poetry, newspaper articles, and other materials. They applied their theoretical work to specific issues such as the First Amendment, affirmative action, and critical lawyering. They met weekly as a group, and they rotated responsibility among themselves for facilitating the classes. They used a variety of pedagogical styles and methods, from small-group discussion to role-plays to multimedia exercises. They threw themselves into the class.

Their energy level was so exciting, and the need expressed for a course on critical race and feminist theory so intense, that we decided to offer the seminar on a regular basis.[6] The seminars that followed focused on issues of race, class, sexuality, and gender, and the lawyer's role in promoting or preventing progressive social change. Our position evolved from adviser to faculty facilitator. We wanted to maintain the motivation, dynamism, and democratic participation that the seminar's student-run origins had unleashed. At the same time, we saw the value of integrating this student-centered enterprise with our experience and knowledge.

We recognized the need to provide counterweights to our status and our authority, while not abdicating our role as teachers. Even as we encouraged students to take greater responsibility for their own learning, we gradually

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6.   Ed Baker and Lani Guinier worked together on the seminar the first two years it was offered. When Ed went on sabbatical, Susan Sturm became a faculty adviser and began the collaboration with Guinier described in this essay.

assumed a more active role in developing the syllabus and pushing students to question established categories of race and gender, issues of professionalism, and the conventions of legal analysis. We created additional opportunities for interaction with even smaller groups, to create more occasions for critical thinking and problem solving.

An extraordinarily engaged dynamic developed within a law school environment—a milieu that characteristically resists and silences open discussion of race and gender. This teaching experience opened our eyes to both the valuable possibilities and the inevitable complexities of building multiracial learning communities. Students reported working harder than in most of their other classes, continuing conversations long after the seminar sessions ended, experiencing an enthusiasm for learning rare in the law school experience, and maintaining relationships with seminar members even after graduation. Many participants discovered ways to connect their social justice commitments with social change strategies and developed new ways of addressing complex racial justice questions that moved beyond the crutch of simplistic and conventional forms of analysis and critique. Our excitement about what we were experiencing in the classroom, along with our newfound understanding of the importance of communicating in multiple media, led us to document the classroom dynamic. In 1996 we filmed a videotape titled *Racetalk: Collaboration Through Conversation,* which illustrates how the seminar built trust, enabled constructive conflict, and transformed participants into more effective problem solvers.[7]

The year we filmed the class we thought we had identified a methodology for "racetalk"—sustained, open, and potentially transformative conversations about race and its relationship to social justice. We had created a small space in which to expand the narrow subject matter of legal education, in response to twin concerns: the absence of other spaces to engage issues of race, gender, and social change, and the relative silence of women and underrepresented students of color in the traditional law school classroom.[8] We began a process that included self-reflection, deliberation with students and colleagues, and research into what it would take to sustain and possibly replicate this alternative space.[9]

We used a grant from the Mott Foundation to explore our methodology, sharing the video and brainstorming with multiple audiences about what we

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7.   See <http://www.racetalks.org/about/index.html> (last visited Jan. 10, 2004).

8.   Recent studies show that women and people of color participate at lower rates than white men in the traditional law school classroom. See, e.g, Sari Bashi & Maryana Iskander, Beyond Numerical Parity: Educating Women and Men at Yale Law School (unpublished draft on file with authors) (reporting that "women participate in class discussions less than men . . . . Women's participation increases in classes taught by female professors. Women's participation decreases. however, in large classes and in classes where there is more student participation overall."); Lani Guinier, Michelle Fine, Jane Balin et al., Becoming Gentlemen: Women's Experiences at One Ivy League Law School, 143 U. Pa. L. Rev. 1 (1994); Elizabeth Mertz, Teaching Lawyers the Language of Law: Legal and Anthropological Translations, 34 J. Marshall L. Rev. 91, 101 (2000).

9.   Andrew Shatte, Research Objectives (unpublished study on file with authors).

were doing. The reaction of participants at a 1997 workshop in Minneapolis for experienced teachers roused us to consider the possibility that our methodology could be expanded from a means of dealing with controversial racial issues to a way to structure learning about complex, multidimensional problems. Workshop participants imagined employing similar techniques in law school classrooms where race or gender was not the explicit topic of discussion.[10]

The reaction of the audience at this workshop was a turning point.[11] We began to see this kind of teaching as a way

- to motivate participants to come to terms with their own moral agency
- to develop a space where different people can participate in addressing controversial and potentially polarizing issues
- to challenge students and others to connect what they are learning in the classroom to their professional roles and their pursuit of social justice

We first focused on understanding the features of the experimental spaces we were creating outside the more traditional law school classroom. As we became more conscious of the contradictions between these alternative learning spaces and the dominant paradigm governing conventional law school teaching, we started to reconceptualize our role within the setting of the large classroom itself, by "reflect[ing] on the understandings which have been implicit in [our] action, understandings which [we] surface, criticize, restructure, and embody in further action."[12] As we have theorized in other work, the silence of students of color and women—a silence that we noticed early on and tried to destabilize through the seminar—is just one of the most visible signs of a larger set of challenges confronting legal education more generally.[13] As Theodore (hereafter Teddy) Miller, a student in a Critical Perspectives seminar, wrote:

> With so many entering law students passionate about justice and equality, about the possibility for heroic action in a far from utopian society, or even about innovative ways to make money, the law classroom is remarkably quiet. Conflict in the traditional Socratic sense is remarkably ritualistic. Side A

10. For comments of Jeff Bauman, a professor of law at Georgetown, about using these techniques in his advanced corporate law course, see <http://www.racetalks.org/stories/index.html> (last visited Jan. 10, 2004).

11. Equally significant, Lila Coleburn, Lani's classmate at Yale Law School and now a psychologist who treats many practicing lawyers, delivered a paper at this conference in which she and her coauthor identified the emotional, psychological, and intellectual benefits to teachers who allowed themselves to learn from an engaged mentoring relationship with students. See Lila A. Coleburn & Julia C. Spring, Socrates Unbound: Developmental Perspectives on the Law School Experience, 24 Law & Psychol. Rev. 5 (2000).

12. Susan Sturm, Lawyers and the Practice of Workplace Equity, 2002 Wis. L. Rev. 277, 325 (quoting Donald A. Schön, The Reflective Practitioner: How Professionals Think in Action 50 (New York, 1983).

13. See Lani Guinier & Gerald Torres, The Miner's Canary: Enlisting Race, Resisting Power, Transforming Democracy (Cambridge, Mass., 2002); Susan P. Sturm, From Gladiators to Problem-Solvers: Connecting Conversations About Women, the Academy, and the Legal Profession, 4 Duke J. Gender L. & Pol'y 119 (1997).

versus side B. Side B responds. Side A rebuts side B, and so on, until the professor wraps it up so the students can finally understand what they are really supposed to write down in their notebooks for the final exam. Increasingly, law schools turn to the internet and classroom discussion boards to foster some sort of broader collective conversation. Ultimately, this method mistakes the isolated individual and virtual cells for the collective conversation that might occur in the classroom.[14]

We had focused on the signals of the problem; it was now time to consider what we might do to interrupt its structural dimensions.

Building Multiracial Learning Communities: Our Operating Principles

We began to organize our teaching practices, to varying degrees, around a commitment to three ideas: shared power, creative experimentation, and critical reframing.[15]

Sharing Power

We involve students in shaping their own learning. We do this, even in our larger classes, by creating opportunities for student and faculty collaboration and shared decision making. In our experience, it is important to have the students adapt and define the project, goals, and methods to fit the subject matter and the needs of participants within the classroom. We meet in advance with student facilitators to help them link the method of inquiry, the approach to conflict, the allocation of responsibility, and the definition of pedagogical goals. Even as we share with our students the responsibility of planning and facilitating classes, we retain the responsibility of integrating evaluation into the learning process, minimizing student hierarchies, and maintaining a coherent, inclusive learning environment.

The participants rotate responsibility for leading sessions, for assigning reading, and, in small seminars, for bringing food.[16] Despite the important work that faculty perform in the classroom, our goal is to minimize the idea that authority is located in a single more experienced person. Instead, we work to circulate power throughout the room, among the student facilitators, the class members, and the teachers. Participants influence their peers, who then respond; sometimes they exercise control; other times they defer. The faculty facilitator never abdicates responsibility for the class discussion, but participants share the responsibility of making decisions about how to struc-

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14. Teddy Miller was a student and then a teaching fellow the following year in the Critical Perspectives seminar at Harvard. His experiences inspired his third-year paper, "Make It Swing Even More," on what he called "jazz pedagogy."

    We cite students by name, including Teddy Miller and Sophie Bryan, because their writings contributed directly and profoundly to our understanding and ideas. When students preferred to remain anonymous, we refer to them by their initials, with their permission.

15. These principles, which we anchor in a theoretical as well as an on-the-ground analysis, are described in greater detail on a Web site and in a teaching manual we developed. See <http://www.racetalks.org/principles/index.html> (last visited Jan. 10, 2004).

16. Our seminars usually meet in the evening and run more than two hours; the teacher and the law school provide funds for food. In larger classes we try to create an informal atmosphere, but we do not provide food on a regular basis.

ture the class and determine who speaks when. Because of the opportunity for each participant to play an active role at some point by facilitating a session, the same people are less likely to dominate the conversation from week to week.[17] The center of gravity of the group continually shifts, depending on the nature of the interaction or the individuals temporarily in charge.[18]

Sharing power fosters positive goal interdependence, by encouraging participants to cooperate in a common project.[19] Each participant must master the material to function as part of the whole; the group is evaluated both as a collection of individuals and as a collective entity with a project and a performance goal (i.e., successful class facilitation or project implementation). Individual contributions continue to matter, but in the context of solving problems and reaching goals, rather than purely as a matter of assessment of aptitude or performance. This mode of evaluation contributes to students' motivation and reduces the likelihood that stereotype threat will undermine their effective participation and achievement.[20]

Positive interdependence requires both resource *and* goal interdependence. It occurs when a small group needs input from every member to solve

17. Peer facilitation "creates dialogue" by expanding the "conversational surface" within the classroom. EG 2003. Other students noted they participate more in the collaborative classroom because "the creativity of my classmates keeps me engaged in class and the power dynamic (I think the classroom has been pretty close to a circle) has been liberating." LY 2005.

18. Several students in Guinier's Public Lawyering course (which employed similar strategies as the seminar but in a larger classroom setting) valued the power sharing involved in student facilitation of lessons. In the larger context,

> successful facilitations generally had the following characteristics: 1) two or more different kinds of presentation styles (skits, small group discussions, film clips, etc.), 2) incorporation of the reading in discussions, 3) small group discussions of three or four students as opposed to five or more, 4) all class discussions that focus on a particular prompt rather than with facilitators asking a variety of questions, and 5) a wrap-up talk at the end of class. AC 2005.

Other students expressed both the challenges and potential benefits that result from power sharing: less control by the teacher may lead to discussions that meander from the intended topic; nevertheless these meandering conversations may engage students by creating unexpected opportunities for learning.

> [I]t's often hard to refocus a discussion that has taken on a life of its own. I knew we were off track, but I was also engaged in the discussion before us that was not really assigned. In the end, we came up with a brief, bland statement that really did not reflect the rich conversation/debate we had in the group. But that was the point, I suppose . . . the adversary[ial] system leaves a lot out." AS 2003.

19. Sharing power not only opens up the classroom to creative learning opportunities but enables students to see the connections between the pedagogical tools and the substance of what they are learning. One student commented, in a course that also uses this methodology: "It was midway through class in Week 7 when [another student] was reading from the works of Paulo Freire that I realized how well the structure of the course complemented the themes of the readings." NB 2003. Another wrote, "For me, over the course of the weeks, I began to value the experimental nature of the course as enabling it to act as a laboratory for the very themes about effective problem-solving that comprised the substance of the course—such that the format and goals of the course were complementary." KT 2003.

20. See Claude M. Steele, Thin Ice: "Stereotype Threat" and Black College Students, Atlantic Monthly, Aug. 1999, at 44.

a problem and is motivated internally by a common commitment. It is less likely to occur if students work together only to enable each one of them separately to master a task. Resource interdependence involves allocating tasks among members of a group who assume individual responsibility for their discrete assignment. It is called "resource" interdependence because the participants share resources but not goals.

We have incorporated resource and goal interdependence into our method of structuring interactions and assessment in the classroom. We set up a variety of group-based projects, including class facilitation and, depending on students' interest in collaborating, group research. As the facilitators search for creative solutions to the problem of how to teach the class, they must interact with each other. They learn to integrate different perspectives as a way of satisfying each facilitator and making use of her particular expertise. This process refutes the idea that there are predetermined answers to hard questions and reinforces the importance of shared power so that participants do not look to authority figures to feed them those answers.

We also ask students to comment on the strengths and weaknesses of different class facilitations and on their peers' papers. We then grade students based on how constructive their critique is to the author.[21] Students and former students also participate actively in evaluating and providing constructive feedback about the class, including our participation and role in shaping the class.[22] These informal, out-of-class interactions also provide invaluable opportunities to build the knowledge and trust necessary to provide what Claude Steele, Geoffrey Cohen, and Lee Ross have referred to as "wise feedback"—a crucial feature of effective mentoring relationships.[23]

21. One recent self-assessment memo (from Theory and Practice of Workplace Equity, 2002) highlights the importance of these structured collaborations to the student's own intellectual development:

> Perhaps the most valuable outcome of the facilitations and my participation in class discussions are the collaborations which have evolved with my colleagues. My facilitation with a colleague in the second week initiated a friendship and was one of the first instances in law school when I had the invaluable experience of sharing work and responsibilities with a colleague. Grappling with the Sen article together and concocting a plan for the class (without the benefit of an example from other weeks) meant an opportunity to learn how much she had to offer intellectually and strategically and to begin to understand my own ability to contribute.
>
> The two other collaborations that have evolved in this course are remarkable to me both professionally and for entirely personal reasons. Working with a classmate on our political autobiographies and then as cofacilitators was an opportunity to learn from a smart, capable, theoretically informed colleague. She made visible for me issues of social class and social action that had been opaque before our conversations. And she asked questions abut my work that were informed by feminist theory and social consciousness and that invited me to think and speak clearly about my theoretical understanding of my work—both my work in the course and my work before law school.

22. Potluck dinners. small facilitation meetings in the teacher's office, or conversations after class that extend into e-mail exchanges provide opportunities for collective reflection about how the seminar or class is going, what is working and what isn't, and how to learn from whatever problems, conflicts, or failures are identified through this process.

23. See Geoffrey L. Cohen et al., The Mentor's Dilemma: Providing Critical Feedback Across the Racial Divide, 25 Personality & Soc. Psychol. Bull. 1302 (1999). Wise mentoring, where the teacher establishes high expectations generally, signals that the student can meet those

In traditional classrooms, by contrast, success is measured against the performance of others: on a curve or in an argument. Students are successful to the extent that they perform better or worse than their peers. This form of cooperation does provide opportunities for informal interaction and peer learning.[24] But it does not always work to promote learning for all participants. It can become dysfunctional when the group is consumed with destructive conflict or when some members of the group fail to pull their own weight or only a few members do all the work. In fact, when it is used in isolation from positive goal interdependence, studies have found that positive resource interdependence produced the lowest individual achievement and problem-solving success. Dividing the work produced even lower achievement than purely individual efforts.[25] Research by others confirms that positive goal interdependence is more powerful than simple resource interdependence.[26]

Creative Experimentation

We encourage students to explore problems using various modes of engagement that reflect different learning styles; we have found that alternative formats encourage brainstorming and innovative problem solving.[27] They also

expectations and provides concrete feedback on how to reach those standards. Wise feedback is essential to establish a basis for trust between students of color and a white teacher. Wise feedback can also transpire between students. For example, when students discuss their strategy for tackling a problem, whether it is conducting their group projects or writing their papers, they create a basis for trust at the same time they share information.

24. For example, in more traditional law school contexts, students' collaboration often takes on a highly individualistic form of resource interdependence, as in a study group in which students divvy up the assigned reading and assign each person responsibility for "teaching" or "outlining" a section for the rest of the group. Members of the study group individually learn the material, produce an outline, and receive evaluations from the teacher. The group improves the short-term efficiency of each member by sharing the results of each student's work. The group's goal is to increase the individual performance of each group member, relative to students in other study groups.

25. See Elaine Morton Bohlmeyer & Joy Patricia Burke, Selecting Cooperative Learning Techniques: A Consultative Strategy Guide, Volume 16 Sch. Psychol. Rev., 36, 43–44 (1987). In a program in Israel involving children in grades 2 through 7, researchers found that students in group investigation classes demonstrated better conceptual understanding of material than students in traditional classes, though there was no difference between group investigation and traditional classes in terms of acquisition of facts. Students in group investigation classes were also found to be more altruistic and cooperative, and to perceive class climate more positively than those in control groups. *Id.* at 44. There is evidence that a similar approach is effective for higher education as well. Empirical evidence from the psychological research indicates that collaborative learning structures are more conducive than competitive learning structures to higher levels of cognitive learning and the generation of new ideas. Moreover, when collaborative learning structures are characterized by strong relationships between participants, the production of new ideas is facilitated. David W. Johnson & Roger T. Johnson, Social Interdependence: Cooperative Learning in Education, *in* Conflict, Cooperation and Justice: Essays Inspired by the Work of Morton Deutsch (1995) [hereinafter Conflict].

26. Johnson & Johnson, *supra* note 25; Virginia Vanderslice, Cooperation Within a Competitive Context: Lessons from Worker Cooperatives, *in* Conflict, *supra* note 25, at 175, 188–89 (discussing the importance of interdependence reflected in shared ownership to the long-term success of worker cooperatives).

27. Participants often plan group interactions within the classroom as well as group projects tackling real-world problems. This form of experimentation requires the teacher's intensive preparation, including meeting with small groups of participants in advance.

create possibilities for students with diverse learning styles to shape the method of inquiry and thus to participate actively in the class. Student or participant involvement in designing innovative formats makes a huge difference to many participants' willingness to take intellectual risks, to invest energy in the learning project, to retain information, and to begin to innovate and problem-solve creatively. Teacher-designed role-plays encourage active learning but often do not have these community-building or cascading effects.

The framework of experimentation is important for a variety of reasons. It positions participants to continually ask the question: what works and what does not?[28] Students must participate actively in their own learning; they cannot sit passively and receive prepackaged modules of information organizable into compact outline format.[29] Their understanding depends on hard thinking, interacting, and reacting. This process provokes reflection essential to learning and growth.[30]

The process of preparing and interacting in the multiracial learning environment models a different set of expectations and processes about problem solving. Creativity rather than efficiency is valued. Because participants are motivated by internal curiosity or passion to explore unfamiliar or novel options, they generate more innovative and contextual approaches to problems. Teresa M. Amabile confirms this finding in her work, which describes how those who focus on grades, confront restricted choices, and operate in highly competitive environments are less likely to be as creative as those who

28. For example, one student noted that not every class was an "unqualified success" but that over time the class developed the capacity to work together: "Earlier, I discussed how Class 5's group work was less than successful, in part because the parameters of the simulation were not well defined. Another reason for the lack of success was the fact that it was relatively early in the semester and many of us were not yet comfortable working as a unit. Contrast Class 5 with our last class, where the parameters of our group work were also very broad (decide what you are going to tell Professor Kagan at today's town hall meeting), yet the groups produced some of the most imaginative and memorable works of the semester. One reason for this was that we had been working together all semester, so that even given a potentially broad or confusing assignment, we were much more comfortable talking each other through the necessary decisions of context and goals to get us to a great product."

29. One student commented: "My first-day move to talk in class cast me in the role of a participator in a way that contrasted importantly from last year. Whereas in all my courses last year my attendance was consistent and I participated as an active listener, in this course I have substantially contributed to the discussion at virtually every meeting, and taken away something valuable from my colleagues every week."

   For some students, taking an active role in the class and responsibility for group learning, does not come easily and is contrary to the rest of their educational experience. One student wrote, "[T]his class pressed me and pushed me to re-evaluate the way I enjoy learning. I had to challenge myself to be open-minded. I like being in my comfort zone with the traditional lecture style."

30. See Johnson & Johnson, *supra* note 25, at 206 (describing the Piagetian emphasis on sociocognitive conflict occurring through cooperation that creates cognitive disequilibrium, which in turn stimulates cognitive development and one's ability to take the perspective of the other); Howard Gardner et al., Intelligence: Multiple Perspectives, 104 (Fort Worth, 1996) (discussing Piaget's emphasis on disequilibration: "when schemes are not in accord with one another, when the balance between assimilation and accommodation is in disarray, cognitive progress is likely to occur.").

are given permission to explore a less straightforward path to developing solutions.[31] The idea is not to develop an ultimate or universal solution, but to generate principles against which to evaluate particular initiatives, to reason back from those principles to particular practices and out from those practices toward rearticulating visions and goals. Tapping into students' creativity also energizes the teachers or session leaders. Students often introduce fresh material; with encouragement, they will experiment with formats that the teacher may not herself have tried. Student innovation expands the teacher's own intellectual horizons and even sometimes influences her research agenda.[32]

The experimental character of the learning environment invites variety in the format from week to week. Participants gravitate naturally to different forms and styles of communication, which can emerge in a decentralized and experimental setting. This accommodates different learning styles and multiple forms of intelligence,[33] creating opportunities for students to experience how each other's racial, gender, or other identities contribute to their perspectives, backgrounds, and capacities. Students have been asked to discuss in front of the class the strategy they plan to take in conducting their individual or group projects. In one such class a Native American student commented on how instructive the presentations of works-in-progress were. She had not realized how differently each student approached the task of writing a paper. The transparency of the process exposed her to alternatives she had not considered, provided a new basis for trust and honest interaction between students, and gave all the students permission to explore new strategies for writing and research. Because of the multiplicity of formats, no one group assumes de facto control.

Critical Reframing

We emphasize the importance of developing a "critical perspective," meaning we focus students' attention on the assumptions and values that underlie conventional approaches to controversial issues. We treat race (and other socially constructed but politically, socially, and economically meaningful

31. Teresa Amabile finds that heuristic problem solving/creative thinking occurs when the path to a solution is not algorithmic or straightforward. Experimentation and the process of learning from error may improve domain-relevant skills (expertise), and creative thinking skills and task motivation (inner passion). Creativity in Context 107; 131–33 (Boulder, 1996). According to Amabile, an unconstrained social environment is most conducive to creativity, especially when evaluation is work related and constructive; an algorithmic problem-solving approach is detrimental to creativity but may be useful if the goal is to master basic information.

32. For example, Sturm's students researching low-wage work have pushed her to think more systematically about the potential differences in strategy for high- and low-end workplaces. Students interested in human rights approaches to domestic discrimination issues have brought to the fore a realm of thinking about law and activism that is becoming an important focus of her current research. Indeed, she is now involved in several collaborative research and activism projects with students, and is exploring the possibility of pulling together the case studies from her workplace equity seminar into an edited volume.

33. Howard Gardner, Frames of Mind: The Theory of Multiple Intelligences (New York, 1983) (describing linguistic intelligence, musical intelligence, logical-mathematical intelligence, spatial intelligence, bodily-kinesthetic intelligence, and the personal intelligences).

categories of difference) as significant not only to the self-identified members of a particular group but also as a lens for identifying more general patterns of institutional dysfunction or unfairness. We use a brainstorming framework to invite students to think outside the box. This often enables discussion to move from the practical to the visionary, and to open up coalitions and perceptions of shared interests that have been camouflaged by more static and interest-group-oriented approaches to race, gender, disability, or sexual orientation. We encourage students to question things they take for granted and try to shift discussions away from polarized or zero-sum thinking to stretch for new paradigms. We also expand the time frame and the scope for thinking about problems, by revisiting conflict in subsequent sessions.

We challenge students to use moments of conflict to focus the group's collective attention. We view conflict as a source of energy and learning. We identify the multiplicity of viewpoints at work, make the fact of the conflict visible, and then give students time to reflect on the sources and meaning of the conflict. The goal is to understand the conflict rather than to resolve it by creating an artificial consensus. Probing the source of the conflict, however, can also generate surprising information and creative ways of reframing the initial problem.

By moving the conversation from the dead end of traditional forms of conflict, we try to engage rather than polarize the conversation. We do not seek to paper over genuine disagreement. Rather we aim to give participants resources to tackle the issues that provoked the conflict, whether the issues are public policy dilemmas or differences about how to realize racial and social justice. We also try to motivate students to connect their social justice commitments with social change strategies, and to integrate diverse sources of information to problem-solve rather than to fall back on the crutch of simplistic or conventional forms of analysis and critique.[34] In confronting these issues, we encourage students to identify the underlying assumptions and values that define conflict, and then reframe their inquiry in ways that engage with those differences and use them to develop fresh approaches to multiracial collaboration and social change.

Because the experimental formats encourage many different occasions for interaction, it is easier to push students to question underlying assumptions, to

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34. This expansive view of terms of time also affects evaluation. We aim to foster strategic, emotional, and creative—as well as logical and analytical—intelligences. We assess students' capacity to investigate, analyze, narrate, navigate, and address complex problems, rather than their speed and precision in parsing complex hypotheticals. As one of our students wrote in her self-assessment memo,

> If law school teaches critical thinking, then I think this class teaches how to actively and consciously think critically and productively. I've learned to be less judgmental, to listen a little harder, and to write with greater clarity, voice, and honesty. I've learned how to take these readings and lessons about power, insiders, coalitions, and canaries, and apply them to my thinking about current events from HLS to Bethlehem. I've learned that social change can begin in a classroom . . . ; there have been countless occasions where I have felt narrow in my thinking (and writing) and outlook on issues and forced to reevaluate my positions and their sources. Most importantly, I've learned that being critical is something that I should strive for, in both my personal and professional lives.

tease out points of agreement, to insist on questioning incomplete analyses, and to use all of these techniques to brainstorm about new paradigms. One example of this dynamic involved a problematic but ultimately very instructive collaboration between an African-American woman and a white Jewish woman who shared responsibility for facilitating a class on critical lawyering. They initially butted heads over both style and content. The black woman perceived the Jewish woman as emotional and condescending, and insensitive to the experiences of people of color. The Jewish woman experienced the African-American woman as rigid, negative, and unwilling to work things through. Both described the interaction as extremely "frustrating." Their initial impulse was to withdraw and defer to each other to avoid further conflict. But they had to stay engaged to produce a coauthored lesson plan. The faculty facilitator helped them to first see each other's frame of reference and then use their differences as a basis for exploring the issue of lawyers' roles. Their own difficulty in communicating became an example of the barriers that must be overcome to enable effective cross-racial representation and collaboration. Working through their differences with the help of a faculty facilitator also provided the student facilitators an opportunity to develop their own capacity to identify, learn from, and deal with differences in interpretation or cultural practice. In the end, they conducted a highly successful class that engaged the material while eliciting diverse perspectives from their classmates. Perhaps most important, the two students felt that the successful collaboration had reshaped the contours of their own understanding of cross-racial collaboration.[35]

This example highlights the role of the faculty facilitator in fostering constructive conflict. In this instance, the faculty facilitator brought out the possibility that the conflicts emerged in part from differences in style, perspective, and experience that implicated functional differences involving race and class. She helped situate these conflicts in a larger context, drawing on both scholarly literature and personal experience. She also pushed each participant to think critically about the assumptions and values that underlay the conflict, and to try to do the same for their counterparts in the discussion. They first did this alone, and then with each other. This reshaped the dynamic in ways that motivated the two students to continue to work actively together, rather than simply withdraw or acquiesce in a result they did not embrace.

Because issues of race and gender were always on the table in the seminar, there were frequent opportunities to use moments of disagreement as learning opportunities. But the seminar did not focus exclusively on one racial group, or on racial identity per se. In larger classes, where the focus is on law and the legal profession, identity issues are placed in a broader context of understanding how legal institutions shape power, access, and participation in a variety of settings. Race and gender continually operated, but did not entirely dictate the problems addressed or critical analysis undertaken. The particular content of each class varied tremendously; often a framework

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35. See Racetalk, Collaboration Through Conversation, at <http://www.racetalks.org/about/index.html> (last visited Jan. 10, 2004).

treating race and gender as diagnostic tools kept people engaged in the group. The metaphor of the miner's canary illustrates this analytic approach.[36] Many of the problems with law and legal process identified or made visible in the context of experiences of people of color or women have far broader implications. Race and gender are not, in and of themselves, sufficient analytical frameworks to understand and address every aspect of structural inequality and injustice. But they provide a valuable wedge into the underlying assumptions and norms of dominant institutions and practice; a conversation that starts with an awareness of racial and gender inequity can trigger a more systemic and critical examination of the core problem. The miner's canary framework for addressing difference interacts with the process of inquiry in ways that permit us to explore why and when difference matters, rather than simply asking whether or how people differ.[37]

A class on sexual orientation illustrates the way critical reframing uses categories of difference to push the conversation in new directions. Several students had previously expressed frustration that sexual orientation was not adequately built into the text or subtext of a workplace equity seminar at Columbia, a course that draws on these operating principles. As a result, the teacher and the student facilitators planned a class on sexual orientation and invited Kenji Yoshini—a scholar who has written extensively on sexual orientation and its relationship to race, gender, and class—to participate. Students read long excerpts from his recent article "Covering."[38] Student facilitators, who included those who had felt most strongly about the marginalization of sexual orientation in our classroom discourse, met with Yoshini and Sturm to introduce Yoshini to the methodology of the seminar, articulate goals for the class, and develop a lesson plan. Beginning with one of the facilitators, students shared examples from their personal or observed experience of situations in which they conformed to dominant expectations to fit in, succeed, or avoid conflict. These examples provided a common text from which to develop the theory of covering, and illustrated the link between personal narratives and theory development.[39] The class then proceeded to a discussion

36. Miners took canaries into the coal mines to detect when the atmosphere was dangerous, not only for the canary, but for everyone. Similarly, race and gender issues are often significant in their own right *and as* indicators of more general problems of injustice or unfairness. See Guinier & Torres, *supra* note 13, at 11.

37. It helps students address questions such as: Why are people seeing things differently or taking different positions? What are the empirical assumptions that underlie people's views? Where do those assumptions come from? How do they differ from those of others in the group? What experiences or preconceptions shape how participants process information and form judgments? How do people's positions affect their experience and understanding of problems? What are the implications of these differences in current and desired approaches to problem solving?

38. 111 Yale L.J. 769 (2002).

39. They connected experiences across race, class, disability, gender, and sexual orientation by embedding these categories in an analysis of how these categories are shaped by assumptions and practices comprising the dominant institutional and cultural norms. Linking narrative and theory also enabled students with different communication styles (some preferring to start from the concrete and some preferring to start from the abstract) to participate and to utilize the perspectives of those with different starting points, something that was often difficult to achieve in other classes.

of similarities and differences among race, gender, and sexual orientation as social, political, legal, and cultural categories, and included a discussion of how traditional legal doctrine addresses covering. Students engaged Yoshini's expertise to explore queer theory as an alternative framework for exposing the inadequacies of dominant institutional practices. They examined the parallels between political race, a concept developed in *The Miner's Canary,*[40] and queer theory for their potential to critically reframe social justice inquiry, and drew on their personal narratives and political autobiographies to help understand why they were drawn to one theory over another.[41] Some also discussed their reluctance to destabilize these political identity categories, and the potential risks and problems associated with moving to more contingent and context-specific roles for race, gender, and sexual orientation.

We also link questions of race to a broader set of issues concerning the adequacy of existing institutional practice. In the Critical Perspectives seminar, for example, we focused on both race *and* gender as frames of critical inquiry, and issues of class also permeated the discussion.[42] This integrative approach to critical inquiry forced groups of people together who would not naturally have gravitated to the same site.[43] It also provided the opportunity to identify patterns, common methodologies, and overlapping concerns among groups and subjects of inquiry that too often proceed on separate tracks.[44]

In one class session, for example, students tackled the intersectionality between race and gender.[45] The four student facilitators structured the class around a lawsuit brought by the NOW Legal Defense Fund and the ACLU

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40. Guinier & Torres, *supra* note 13.

41. This provided students with concrete examples of how forms of assimilation that are highlighted in the sexual orientation context make visible similar assimilation pressures in the context of race and sex.

42. This emphasis on bringing together issues of race and gender was built into the history of the seminar. The joint focus on race and gender changed the racial and demographic composition of the class, and insured that people concerned about race also considered gender and vice versa.

43. See Sturm, *supra* note 13, at 119–20 (noting that those concerned about race and gender exclusion often participate in separate conversations, which are nevertheless related and interdependent).

44. Linking the concerns of different racial groups to a shared goal fostered conversations between members of diverse groups who often fail to interact openly in multiracial settings. In another class at Penn, for example, two students told stories about their experience attending elite public schools in New York City. One white student reported, with great anguish, how he was harassed at lunchtime by black and Latino kids in the neighborhood of Bronx Science. He assumed he was harassed because he was white. At that moment a black woman who had attended Brooklyn Tech said she too had been teased on the subway going to school by black and Latino students from other less academically competitive schools. They could see the slide rule sticking out of her bookbag and defined her as a Techie. The issue, she pointed out, was about class as well as race.

45. For a full analysis of the concept of intersectionality, see Kimberlé Williams Crenshaw, Mapping the Margins: Intersectionality, Identity Politics and Violence Against Women of Color, *in* Critical Race Theory: The Key Writings That Formed the Movement, eds. Kimberlé Crenshaw et al., 357 (New York, 1995).

against several proposed all-male elementary schools in Detroit.[46] For this group of diverse students, who for weeks had wrestled with antiracist and feminist conceptions of justice and the law, the all-male academies posed a difficult problem.[47] The generic and abstract visions of democracy that some students had articulated were now entangled with a real-world conflict and interpersonal conflict too.[48] Teddy Miller described the process of critical reframing, of using the personal to engage with the more theoretical:

> Born and raised in Detroit, one student noted the ways in which the environmental constraints on black children are particularly insidious. Another student told a story about the power of his experience attending his all-boy and predominantly black elementary school. Another student, a white woman, pushed the collective to wrestle with the potential imperfection of a gendered education that essentially renders young girls invisible from the consciousness of boys. Breaking the class up into several smaller groups, the students explored unlikely coalitions (e.g., the large South Asian American population and the black community), multiple roles for lawyers (as litigators, activists, etc.), and alternative visions of democracy. Ultimately, the professor, who clerked in a District Court in Detroit and was actually on the board of directors of NOW LDEF at the time of the school case, provided the expert knowledge and structure for the students to challenge and build to collective critical insights.

He concludes:

> Importantly, a critical perspective does not imply a cohered classroom. While the students collaborate and ultimately challenge each other in a safe space in which even the most vulnerable can speak, the class does not attempt to build a consensus in the typical sense. Just as jazz tracks the unending and perpetual questioning of a musical thought, so too does Critical Perspectives constantly reframe the conventional narrative.

These linkages to broader questions of social justice also disrupted self-referential, static, and internally oriented definitions and approaches to race and gender. This conceptual frame of linkages, of understanding race as a

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46. In 1991 the Detroit school board proposed the opening of these single-sex academies, designed to address the dramatically decreasing academic performances of African-American boys and their increasingly "endangered status." One month before their opening day, the National Organization for Women along with other civil liberties organizations requested the schools be enjoined from opening on the grounds that such schools violated the constitutional and statutory rights of girls in the public school system. See, e.g., Note, Inner-City Single-Sex Schools: Educational Reform or Invidious Discrimination? 105 Harv. L. Rev. 1741 (1992). The NAACP Legal Defense Fund filed a brief in support of the school board initiative.

47. Miller subsequently observed: "The stock story of public education pits blacks, feminists, and other 'liberals' as wanting more government money for education against 'conservatives' who want less government interference and more educational choice. The student facilitators understood the Detroit school problem as posing a more nuanced question about the potential to transform democratic education. The dichotomous model of petitioner/respondent failed to allow students to reconcile the competing considerations and failed to allow the students to see the potentially collaborative 'solutions' to a more responsive Detroit public school system."

48. Some students were members of and had even worked for NOW; others were members of predominantly black organizations like the NAACP; some were members of both.

signifier or lever for rethinking institutional practices, gave white students a way of participating in a conversation about racial injustice without feeling compelled to assume the role of oppressor. Because many white students live in segregated communities with very few people of color, they have few if any experiences or relationships that allow them a chance to see themselves through the eyes of others. Moreover, even liberal students (both white and other) have been trained in recent years to see themselves as colorblind and constantly express surprise that so many students of color still identify racially in important ways. Others experience discomfort whenever they talk about race,[49] or feel that if they are not a person of color, they have less to contribute.[50]

We try to reframe these questions to give white students a point of entry without locking black students into the role of perpetual informant.[51] This frame was encouraged by an emphasis on interactive and improvisational deliberation. Students pushed each other, and were pushed in turn to move dynamically between what should be and what is, in practice, between the structural changes needed to achieve just and functional institutions and the constraints imposed by the existing structure. Students quickly figured out that there was no technical answer that would solve complex and deeply rooted institutional problems, and that asking good questions probing those problems mattered as much as the solutions that were proposed. Getting it "right" seemed both impossible and short-sighted in this context. Rather, the important project was to rethink the categories that seemed to channel discussion and inquiry into zero-sum games and status quo solutions.

For example, in the context of affirmative action, seminar participants at Penn Law School started out with many of the conventional disagreements

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49. One student who was grappling with issues of race, class, and religion put her fears this way: "I find myself writing in my reflection pieces something along the lines of: In response to class discussion today, I thought x, but I didn't say x because I was uncomfortable bringing it up.' I am not sure how to deal with this. I do think that the other students are open-minded and my fears about being judged may not be rational. I will have to do some more soul searching on this topic."

50. One student wrote: "[I]n this course I feel that, for the most part, others have more important or relevant things to say than I do given the focus of our conversations, and it is appropriate that I speak less as compared to most others; I feel rather strongly that in this context, at least in terms of what we tend to discuss in class, I have more to learn from others than they have to learn from me. I have contributed what I know from my work experience in academia and what the job market is like in so far as they pose workplace equity problems. I learn a lot from listening to others talking about their working and activist experiences, and from their discussion of their experience as ethnic minorities (which seemed to be a major focus of the course). In spite of the fact that I have a fairly strong background in feminist philosophy and issues of difference (particularly race), our discussions tended not to focus on theory, but were either more about revealing people's actual experience with race (of which I have comparatively little . . .) or more concrete experiences with litigation, policy, and practice. This was appropriate, I think, but I consequently had less to contribute in these discussions that would help advance the conversation."

51. See Beverly Daniel Tatum, Teaching White Students About Racism: The Search for White Allies and the Restoration of Hope, 95 Tchrs. C. Rec. 462 (Summer 1994) (discussing ways for white students, who struggle with feelings of guilt by association or are uncomfortable with racial issues, to develop a healthy white racial identity so that they recognize that their efficacy in multiracial situations may depend upon understanding the way others see them while simultaneously learning how to function as nonpaternalistic allies).

about issues that often characterize affirmative action debates. Do "preferences" stigmatize the beneficiaries of affirmative action? Does affirmative action privilege middle-class blacks and white women at the expense of poor whites and poor blacks, as well as other disenfranchised groups? The facilitators pushed the class to look at the system of selection that shapes how students are admitted to and evaluated in competitive academic settings. We examined the impact of the current overemphasis on standardized tests, both on marginalized groups and on educational access and adequacy more generally. This connected affirmative action to broader concerns about the fairness and adequacy of public education for everyone. During the discussion participants came to realize that the various terms being used (fairness, merit, equality) meant different things for different speakers and authors. They saw the partiality of each side's perspective; the project of integrating these perspectives became a way of addressing the systematic inequalities in the country's provision of educational resources.

Participants avoided the sound bites and polarized choices familiar in discussions of affirmative action and instead developed innovative, creative approaches. Suggested solutions included holding admission lotteries, emphasizing distance learning through the Internet, allowing students to rotate for a year through high schools specializing in math or science to create more opportunities for more students, using summer school classes to enable some students to be selected on the basis of their actual academic performance, and selecting students through community-based methods.

Linking issues of race, gender, and class also enables participants to confront the stock stories about lawyers' roles, leadership, and social change. In a session in the spring of 2003, students worked with a guest presenter to critically reframe an approach to laws governing sexual harassment. First, the entire class discussed the ways in which the students struggle to reconcile their myriad identities with their vision of social change and their professional role. The student facilitators chose to set the tone for the workspace by beginning with the personal. Students "answered" a series of questions by "crossing the line" (an imaginary line set up in the classroom) for yes or staying on the other side of the line for no, a strategy that creatively deemphasized the sometimes narcissistic verbosity of law students.[52] Second, the facilitators broke the students up into small groups and asked each group to enter the theoretical vision of one of the authors assigned for the session.[53] After working in small groups to interrogate scholarly conceptions of power, resistance, and marginalization, each group presented their author to the rest of the class and fielded any questions. While the facilitators had intended to link the first and second exercises, time limitations compelled them to move straight to the introduction of the guest presenter.

52. The questions attempted to compel the students to share how they dealt with sometimes contradictory identities. For example, one question asked: Have you ever subordinated your gender identity in favor of your racial identity?

53. The scholars for that particular week included Catharine MacKinnon, Cathy Cohen, Earl Ofari Hutchinson, bell hooks, and Gloria Anzaldua.

A former prosecutor and well-known commentator on cable news stations, who was then a fellow in residence at the law school, came to the class seeking feedback on one of her projects. The lawyer for a group of victims of sexual assault and campus organizations dedicated to addressing issues of sexual violence, she posed the problem of a sexual assault policy at a local university that unduly burdens victims, and the challenge of mobilizing other minority groups around this issue. Again, a real-life problem with legal and extralegal dimensions structured the class. Likely the most controversial but also the most energetic session of the course, this problem (and guest participant) galvanized the students to work through the theories and personal conceptions of marginalization in the context of sexual assault (and its policy) at this university. Rejecting the stock (and uninterestingly simplistic) story of "you're against the policy or you're for it," the students collectively challenged each other and the guest to reframe the problem so as to find possibilities for coalition building and addressing the law's role (if any).

The visitor, trained as an adversary, understood the issue as a matter of black and white. The students, through the blending of their narratives—of rape, organizing, growing up in violent homes, organizing for NOW, working at the NAACP, and confronting questionable university policies—improvised and reshaped the conversation. For one student, a former counselor for rape victims in college, the seeming lack of support by racial minorities for the cause appeared reprehensible. For another student, an actual member of the Black Students Association featured in the problem, the issue needed to be reframed in light of critical notions of linked fate. As she saw it, coalition building required organizers to understand the competing risks and goals for the affinity groups. In an institution in which blacks and white women (the predominant leaders of the guest's organization) experience power differently, the coalition could only work through less hierarchical organizing strategies. As Teddy Miller observed, "while not everyone in the room agreed with each individual approach or intervention, everyone felt the workspace 'swinging,' aspiring to a collaborative wholeness. By 10:45 p.m., nearly six hours after the class began and nearly three hours after its 'scheduled' end, the last students and the professor left the workspace exhausted, challenged, and empowered."[54]

54. A debriefing session with all of the students more than five weeks later confirmed the intense connection they felt to that particular class. For most students, the class represented the key moment in the term for them to problematicize the course themes. A small minority noted the way in which this particular session disappointed them in the way in which conflict was handled. Many more students, though certainly not all, were able to use this moment of conflict to energize further reflection and learning. One student, for example, echoing the sentiments of most of her colleagues, later wrote:

> [A]s I engaged in that week's dialogue . . . about how to organize support for a movement against . . . independent corroboration requirement for sexual assault victims, I knew that I changed—I saw more clearly that I needed more direct involvement. [The class] was invaluable to me as it taught me [that] if I do not actively construct my own experience as a student of the law and social justice, my legal education will propel me towards becoming that which I do not want to become—an expert from afar with little or no grasp on how to effectuate change up close. [The guest's] inability to listen to what the class was saying and her subsequent frustration in her failed attempts to mobilize

These examples show how important it is to connect issues of race, gender, and class. This substantive integration broadens the composition of the group and enables the development of a critical, problem-oriented approach that takes account of multiple dimensions and intersections of difference. It also generates incentives for those who do not define their interests in explicitly racial terms to remain in the conversation. Critical reframing encourages the move from demographic to informational diversity that permits constructive conflict to occur. The shift from race and gender as fixed categories of analysis or membership also can change the tenor of discussion, so that genuine disagreements do not degenerate into disruptive or futile verbal combat.[55]

Reflecting About the Implications of our Learning Theory

We believe that power sharing, experimenting with active learning, and critical reframing are the three crucial principles that underlie our best practices. They are rooted in a democratic sensibility about teaching and learning. By democratic we mean that they promote interactive and interdependent formats that are participatory and inclusive of diverse voices and styles.[56] They also seek to plant seeds for intellectual and interpersonal growth.

This democratic pedagogy enables learning that is cumulative. In the words of one of our students, "it sticks with you and fashions the way you think about things," connecting thought to action, theory to practice, aspirations to plans. It is a vehicle for motivating people to think critically, to act on their ideas, and to learn from their mistakes. It works with, rather than avoids, conflict between well-intentioned participants. These classroom methods and techniques give the participants (teachers and students alike) the tools and the confidence to participate more fully within the institutions that shape their lives. Combining these basic elements produces a pedagogy that renews and energizes, that probes taboo subjects (including race), and that integrates theories of power and justice with actual work both in and outside of the classroom.

These principles, however, are part of a learning theory rather than a general discourse theory. They are not a portable technique that a skilled facilitator can use successfully in one-shot interventions that do not offer sufficient time for sustained interaction. They do not function as a how-to guide to navigate public debates in a formal auditorium or classroom where participants aim to win by occupying more airtime, snapping witty retorts, or diminishing the character and questioning the legitimacy of their opponents.

groups around a need to change an obviously horrific policy, sent a powerful message to me and even evoked doubts as to whether becoming a [traditional] lawyer is the right thing for me to do reach my goals.

55. We discuss issues of conflict in greater detail on our Web site and in our guidebook. See <http://www.racetalks.org/examples/lawconflict.html> (last visited Jan. 10, 2004).

56. These principles are not democratic in the classic sense of resolving legislative or policy differences by voting for representatives. Instead, we use the term *democratic* to reference an ideal where participants are involved in helping to make the decisions that affect their lives, including what and how they learn.

Nor do these principles work as a moderating influence on thorny one-time conversations involving a large audience, even when the goal is to persuade. Critical reframing, for example, does not work to resolve intractable disagreements between adversaries with deeply held, emotionally entrenched positions. In other words, these principles are unlikely to work as an appendage to a traditional classroom if the primary method for discussion discourages sustained and complex forms of interpersonal engagement that build trust and encourage students to take intellectual risks. Highly visible, polarized settings designed to produce a single outcome or consensus frequently discourage participants from acknowledging conflicts, collaborating, or taking chances—processes that we have found to be crucial in producing genuine learning.

Thus far we have tried to fully implement these principles only within informal spaces, in the shadows rather than at the center of institutional power. But we have begun to explore other classrooms, beyond the seminar, as sites ripe for connecting action with learning and rethinking practice.[57] More and more, we borrow techniques from the seminar to challenge students in our other law school classes to reflect upon the relationship between their role as professionals and issues of power, race, and gender in the classroom.

We have used these methods successfully in large classes to increase the likelihood of active participation by students who remain outside the margins of the Socratic classroom, notably women and people of color, who gravitate toward the class and speak up often for the first time in law school. In classes with as many as fifty to seventy-five students, we are now using these same techniques, based on the learning theory of the seminar: that students should be encouraged to think, to converse with each other, to reflect upon what they read, and then act in order to learn.[58]

As we expanded our use of this method, we came to realize that it had a threefold function. It was essential for establishing the trust and building the relationships that enable discussion of controversial or sensitive issues such as race and gender. It was relevant as a broader learning theory in classrooms or forums in which race and gender are not at center stage. And it reawakened within us a newfound enthusiasm for the teaching project. As we shared power with our students, we felt greater buoyancy about our own authority and expertise.[59]

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57. See also Sturm, *supra* note 13; Lani Guinier, Lessons and Challenges of Becoming Gentlemen, 24 N.Y.U. Rev. L. & Soc. Change 1 (1998).

58. See <http://www.racetalks.org/examples/lawlcpublic.html> (last visited Jan. 10, 2004) and <http://www.racetalks.org/examples/lawlccivil.html>. We find that using small breakout groups in large classes increases the participation of women and people of color. Research suggests that simply shifting to volunteers in large classes in fact decreases women's classroom participation, as compared to Socratic teaching employed to equalize the number of men and women who participate. See Bashi & Iskander, *supra* note 8.

59. Coleburn & Spring, *supra* note 11, at 34:
    To [the law teacher's] surprise, it may actually be relaxing . . . to be able to think of legal matters in a way that is not rigidly binary or analytical, to let emotions explicitly inform reflection and decision-making in law as they do in everyday life. Ironically, [the teacher] may find [her] authority in the classroom

This last point is one that often gets lost when we attempt to describe what we do to other faculty.[60] Colleagues, especially those women who have struggled with challenges to their authority in the classroom, may ask us, Why should I share power with students when I struggled so hard to earn it? Even colleagues who have not experienced challenges to their authority wonder, Why should I give up my power when I am in the best position to teach students what they need to know? Or: Why should I give up my power when I am using my power constructively to provide resonance for the previously silent voices? We take these questions seriously, since many of them come from colleagues who believe that "the presence of women in formerly male centers of influence can and should transform practice within those institutions."[61]

We have several answers to these questions. One is that we do not assume that everyone should teach like us; nor do we think everyone should teach the same way. We respect those who continue to teach in a more traditional fashion. Like Peggy Davis, we hope for "a diverse, rather than an assimilationist" culture of legal education.[62] Indeed, given the increasingly diverse worlds of practice, it is important to "honor[] diverse approaches to pedagogy and to lawyering."[63] Another of our answers is a version of the first: we do not expect those without tenure to challenge conventions of pedagogy before they learn to use those conventions well. We consider it a legitimate choice not to use these methods in the first years of teaching. We also see the benefit in the first-year curriculum for students to be exposed to a range of teaching styles, ranging from traditional Socratic to more experimental. There are benefits to combining more intensive, hands-on teaching and learning with more traditional forms.[64]

We also recognize that this kind of teaching is fragile in the current culture, because it is so labor-intensive and departs substantially from the dominant canon. Some students resist this approach, not only because they question whether they are "learning the law," but also because their learning style is individualistic and competitive.[65] In addition, class size does affect the way this method operates. Class size, for example, often influences levels of participation by women.[66] It also limits a teacher's ability to manage this method. This is

is increased, because the students see that [she] has something to teach them about life.

60. These questions are raised by experienced as well as junior faculty; they are certainly legitimate questions given the primacy of the traditional model of legal education and the pressure to conform that it creates among both students and faculty.

61. Peggy Davis, We Can Do Better, *in* Taking Stock [AALS symposium book, June 2003] at 35.

62. *Id.* at 38.

63. *Id.* at 42.

64. The demands on students also militate against a hegemonic labor-intensive power-sharing pedagogy. If every class required weekly writing, class facilitation, peer reviews, and group projects, students would not be able to function.

65. We do need to emphasize that, while we value collaborative approaches to learning, there are multiple opportunities for individual skill development and feedback within this model.

66. Lani Guinier, Michelle Fine & Jane Balin, Becoming Gentlemen: Women, Law School, and Institutional Change, 74 (Boston, 1997); Bashi & Iskander, *supra* note 8, at 31 (speaking disparity ratio between male and female participation is increased by 31 percentage points in classes with 50 or more students).

not just a logistical challenge but also involves the teacher's capacity to manage students' expectations when the demands of the class do not conform to the norm. This approach to teaching requires personal contact with groups of students on multiple occasions, providing feedback on individual students' work, and responding to concerns students have about performance and evaluation measures that deviate from traditional first-year classes. Ongoing engagement with students inside and outside class is time-consuming for the faculty and discouraging of students in large classes, who are reluctant to call on a teacher's limited availability.[67]

Moreover, giving resonance to silent students in one classroom may not influence how they interpret their overall law school experience or their general response to law school. Whatever we are able to do in our micro-interventions, the power dynamic of the larger community often creates passivity among students who withdraw in the second and third years. But we find that many of our students are energized by the experience in these classes to become less passive and more self-directed generally. While it is legitimate to give students confidence in their ability to respond to a method of interrogation, it is sometimes more important to give them confidence in their own voice and their capacity to use it in multiple domains.[68]

There is also a self-interested professional response to these questions. We are not giving up power; we are exercising it differently in ways that over the long run have the capacity to enhance a teacher's respect and influence and to build intellectually generative relationships with students. Those relationships are rewarding and productive of new ideas and energy.[69] We find a connection, in other words, between teaching and publication—not only for us, but for students too. Students often end up publishing their work from our courses or write articles that stem from a paper delivered in a class that generated opportunities for immediate feedback and subsequent revision.[70]

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67. In fact, we often find ourselves devoting about 10 hours per week to out-of-class meetings with facilitors to plan or debrief class; with students to give feedback on their reflection pieces and projects; and with outside visitors to orient them to the class and plan their participation.

68. See Davis, *supra* note 61, at 37 (comparing students' lack of voice to the situation of blacks in Southern communities in the 1950s; noting the absence of "resonance or space to articulate their reaction to and feelings about the cases they read or to say what they thought most important.")

69. Guinier & Torres, *supra* note 13, at 108–67.

70. Christopher Anderson, Note, Rethinking the Professional Responsibilities of Federal Agency Lawyers, 115 Harv. L. Rev. 1170 (2002); Sophie Bryan, Personally Professional: A Law Student in Search of an Advocacy Model, 35 Harv. C.R.-C.L. L. Rev. 277 (2000); Stacy Laira Lozner, Local Innovations in Antidiscrimination Regulation and Collaborative Governance: The San Francisco CEDAW Ordinance, ___ Colum. L. Rev. ___ (2004); Janine N. Matton & Christine M. Hernandez, What Motivates Workplace Equity Initiatives in Major U.S. Companies, Oct. 15, 2003, ___ J. Organizational Excellence ___ (forthcoming); Jason Parkin, Providing Meaningful Access Based on Residence Not Race: Lessons from the Port of Oakland's Pathbreaking Project Labor Agreement, ___ Colum. Hum. Rts. L. Rev. ___ (forthcoming); Bethany Rubin Henderson, Asking the Lost Question: What is the Purpose of Law School? 53 J. Legal Educ. 48 (2003); Ursula A. Wynhoven, Case Study of How Novartis International AG Has Begun the Process of Delivering on Its Commitment to the Global Compact <http://www.unglobalcompact.org/Portal/Default.asp> (last visited Feb. 24, 2004).

They also inaugurate projects that redefine curricular choices for other faculty, produce videotapes that are shown before 250 members of the law school community, and present studies of organizations at their national meeting.[71]

We also benefit from the opportunity to teach as part of a community with our teaching fellows, who are former students who did well in the class the year before. They provide feedback on our teaching; they bring their diverse experiences to the teaching enterprise and thus expand our repertoire of practice. They encourage us to take risks that we otherwise might be reluctant to try. For professors who are bored with teaching the same material year after year or whose well of new scholarship ideas has dried, this form of collaboration with students can lead to new and creative ways of thinking about subjects that they have taught for many years.[72]

This pedagogical approach also reflects and advances a broader and more dynamic view of lawyers' roles and relationships than that of the traditional classroom. Teachers model or enact a view of professionalism by the way they structure power and knowledge within the classroom. The traditional hierarchical classroom conveys the idea of professor (and by inference, lawyer) as an individual master of the situation, in charge by virtue of specialized knowledge and institutional position. This conception of professional role is rooted in perceptions about the work of the lawyer as litigator, which is the paradigm most closely associated with the Socratic classroom. And yet the focus on individual mastery may not adequately equip many students to perform even the litigator's role, where often it is good judgment, preparation through collaboration and teamwork, and the ability to draw from multiple perspectives that help lawyers become effective courtroom advocates.[73] Moreover, the adversarial professional role is not important in all contexts; it by no means adequately describes the range of roles and positions lawyers now occupy. Many lawyers have moved away from the courtroom as the metric of their professional and social change activity, although they continue to turn to the courts to articulate social justice aspirations and create pressure for change. Their roles and strategies emerge from a conscious attention to the relationship between legal advocacy and the dynamic character of the problems they must tackle.[74] They participate in forming and adapting the regulatory architecture to permit and encourage this form of problem solving.[75]

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71. Lacey Schwartz & Jasleen Kohli, Legally Black and Brown . . . (2003) (videotape documenting the experience of diversity at Harvard Law School from a range of perspectives that are often invisible). The video includes the stories of students of color who often feel literally invisible. But it also includes the voices of students who otherwise feel quite confident within the law school environment yet become tongue-tied or disabled from articulating their discomfort when confronted by others whose views or experiences are unfamiliar.

72. Our use of Teddy Miller's jazz pedagogy paper, referenced throughout this essay, exemplifies the reciprocal learning we have experienced.

73. Guinier, *supra* note 57, at 12.

74. Innovative lawyers have responded intuitively and creatively to the demands of complex problems, the diffusion of the sites in which legal norms are elaborated, and the limitations of traditional, legalistic responses. This practice is characterized by a problem-oriented approach involving lawyers' capacity to evaluate, collaborate, and innovate.

75. Sturm, *supra* note 12, at 299–320 (describing innovative, problem-solving lawyers).

We have found that the methodology of power sharing, creative experi-
mentation, and critical reframing advances a broader understanding of the
work our students will do as lawyers. It provides occasions to grapple directly
with the question of law's and lawyers' appropriate roles. Exposure to lawyers
who take innovative approaches to their role, as well as to nonlawyers who
interact regularly with the law, provides concrete examples of alternative
conceptions of law and legal practice. This means bringing advocates, om-
budsmen, organizers, managers, community members, and others into the
classroom to become part of the community engaged in reformulating modes
of practice. This process, along with the collaborative work students do with
faculty and with each other, also prepares students for a more collaborative
relationship between lawyers and clients who engage in what William Simon
describes as a relationship that changes both parties.[76] It may also provide an
example of how lawyers (and law professors, for that matter) might become
more reflective and accountable practitioners, by constructing practice com-
munities in which lawyers and others identify and involve the relevant stake-
holders, create standards and metrics to evaluate their own efforts, and
structure occasions for reflecting about the extent to which their practice
meets their stated goals, and what to do about identified gaps. We have found
pedagogy to be an important experimental arena for developing methods of
accountability that conform to lawyers' professional culture and practice.

Finally, we enjoy teaching this way, in a process that is self-renewing.
Learning from and with our students emboldens us to take intellectual risks
and to recommit to the teaching project. Reconnecting to the intellectual and
professional dreams of our students allows us to reconnect to our own dreams.
It brings forth a freshness that is reenergizing, especially for those of us who
have been teaching for some time. As Lila Coleburn and Julia Spring write:

> The younger brings a Dream and eagerness to learn, the older a jurisprudence
> of balance and care for the richness of human life, along with measured doses
> of reality and caring for the specific individuals before him. The student
> begins to align his Dream with real life and create a vision of what he might
> become as he matures personally and professionally. In a sense the professor
> who takes on the responsibility of nurturing his students' fullest growth is also
> creating images of what might become of him as his ideas, knowledge and
> ways of being a lawyer are taken in by his student progeny.[77]

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Ten years ago, when we each went into the conventional law school class-
room, we thought our role was to convey information and "a way of thinking."
We focused on our *performance* as teachers: the content (make it interesting
and path breaking) and the presentation (make it entertaining, engaging,
and provocative). Students were the vessels for our method and message,
motivated by the power of our presentation or their desire to get good grades.
We assumed that every student had to master a basic set of competencies and

76. See William H. Simon, Visions of Practice in Legal Thought, 36 Stan. L. Rev. 469 (1984).

77. Coleburn & Spring, *supra* note 11, at 37.

a core body of knowledge. We approached our task as one of identifying a hierarchy among students: those who were more capable and those who were less so. We integrated this hierarchy into the classroom structure. We were inclined, given the institutional constraints of grading classes with fifty to a hundred students, to standardize teaching, learning, and testing in the interests of efficiency and effectiveness.

Our experience with building multiracial communities has led us to reposition ourselves in relation to this competitive, uniform, and hierarchical notion of education.[78] We have come to believe that learning how to learn is the most important skill that people can have in the twenty-first century. When we succeed in reducing the pressure to always compete, we have seen the law school classroom evolve into a site where students are also less afraid of conflict. With their performance anxiety reduced, our students become participants in and cofacilitators of an experiential and experimental problem-solving approach to learning, rather than vessels to be filled with content.

This approach to conflict differs in important respects from the role conflict plays in Socratic exchange. The teacher-directed in-class inquiry instructs students in the rituals of adversarial debate, the skills of fashioning an argument, and the techniques designed to persuade an adversary or a decision maker. The possibility of a cold call can heighten students' attention and keep them involved in the classroom discussion. But the adversarial nature of the student/teacher exchange can also create tension that, for some students, leads to levels of anxiety inconsistent with learning. The debate format also encourages students to think in zero-sum terms, which often converts disagreements into polarizing fights.

Yet exposure to conflict can be an opportunity for reflection as well as for persuasion. To the extent that conflict is presented as a learning opportunity rather than a moment for determining winners and losers, students often become less risk-averse and more engaged over time. They learn to probe for relevant information in unfamiliar places, build a diverse set of relationships, use dissenting views to challenge familiar assumptions, and grapple with the merits of competing ideas. They come to recognize the importance of understanding the operating structures underlying the law, so that they can craft innovative strategies for social change, make decisions, and revisit those decisions as needed. Indeed, we have found that helping students develop the

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78. Howard Gardner describes the uniform classroom in similar terms:

> There is a basic set of competences, and a core body of knowledge, which every individual . . . should master. Some individuals are more capable than others, and can be expected to master this knowledge more rapidly. Schools should be set up in such a way to ensure that the most gifted can move to the top and that the greatest number of individuals will achieve basic knowledge as efficiently as possible. For that reason, there should be the same curriculum for all students, the same methods of teaching, and the same "standardized" methods of assessment. Students, teachers, administrators, school districts, states, and even the whole nation should be judged in terms of the efficiency and effectiveness with which these common standards are achieved. Paying attention to individual differences is at best a luxury, at worst dangerous deviation from essential educational priorities.

Multiple Intelligences: The Theory in Practice 69 (New York, 1993).

capacity to engage with conflict through multiple forms of interaction, including but not limited to Socratic dialog, is increasingly important as our classrooms become more diverse and the challenges of legal practice grow more complex.

According to Sophie Bryan, a former student who has been practicing law now for four years, it was the destabilizing aspects of her experience in the 1999–2000 Critical Perspectives seminar that helped prepare her for the realities of law practice. The class "surfaced and then would not let us escape from challenging and essential questions in our various/varying roles as fledgling lawyers, activists, community members, and individuals." Although the seminar was "tumultuous in the best possible sense" and made her feel "perpetually off-balance," it pushed her and her classmates to a "richer understanding" of what they can contribute. For Sophie Bryan, the course was "the most complicated," "powerful," "lasting," and "meaningful class" in law school for these very reasons:

> While it perhaps would have been reassuring if we had sailed along as a group—comfortable and confident in our shared beliefs and political commitments, eager to . . . divvy up tasks between us—such a smooth course would have done little to prepare us for the challenges we would soon face outside our sheltered classroom space. The class was at once disillusioning and inspiring. It forced me to come to a richer understanding of what I might be able to contribute and what obstacles could be neither ignored nor quickly resolved.

Presenting conflict as a learning opportunity also emboldens the teacher to take more risks in the classroom. She begins to worry less about "managing" difficult interactions and to focus more on using the unanticipated as an occasion for further reflection. Learning from conflict invites the unpredictable, counsels patience, and encourages persistence in ferreting out what is often unsaid but still thought. Surfacing rather than avoiding conflict can generate a sense of freedom. It is as if danger no longer lurks behind students' questions and mistakes. It is often hard to address conflict constructively, however, unless the teacher has already established a different kind of atmosphere—where power is shared or at least circulated, where creative experimentation is encouraged, and where students are invited to reframe not only the conflict but other substantive issues being studied. In the absence of these conditions, conflict is less likely to be a source of insight and more likely to be magnified in the accompanying tension and even despair.

The principles of power sharing, creative experimentation, and critical reframing have enabled us to transform conflict into a tool for learning. These principles apply in multiple contexts and with a variety of participants. Yet they are not universally applicable. We often are compelled to modify the form of our teaching to meet students' special needs or respond to their interests, which often change from year to year. Teaching now commands more of our time, yet it also informs our research and sustains our energy. The relationships we build with our students continue after they graduate. Former students report that their experience in law school classrooms using this methodology

was "galvanizing" and still "crystal clear."[79] Students have used the work produced in the seminar to help organizations reflect about and transform their practices.[80] Our students learn how to speak before a tough audience. But they also learn to experiment, not just dominate, and in the process they hone their problem-solving skills. Cooperative relationships are often built between students and their work and, what is surprising in a law school environment, between students and other students. As a result of participating in a vital and multiracial learning community, students discover they are not alone.[81] And we, too, reap the fruits of working in a collective project.

79. A professor at Georgetown who saw us give the presentation at the Minnesota Experienced Teachers Workshop tried these techniques and called us a year later to report his best class "in 28 years of teaching." See <http://www.racetalks.org/stories/index.html> (last visited Jan. 10, 2004).

80. Students from the Workplace Equity Seminar at Columbia have made presentations at the annual meetings of the organizations they have studied, including a diversity networking organization, a children's advocacy organization, and a community development coalition. On occasion we have seen students, having learned from role-plays they themselves designed in the classroom, make presentations to the entire law school faculty that were so cogent and persuasive that our colleagues applauded them. After a recent such presentation, a colleague described the students' advocacy skills and oral communication style as "gorgeous."

81. This is not to suggest that our teaching experiments always work. See <http://www.racetalks.org/examples/lawworked.html> (last visited Jan. 10, 2004).