

# A HANDBOOK for SOCIAL JUSTICE ACTIVISTS THINKING ABOUT LAW SCHOOL

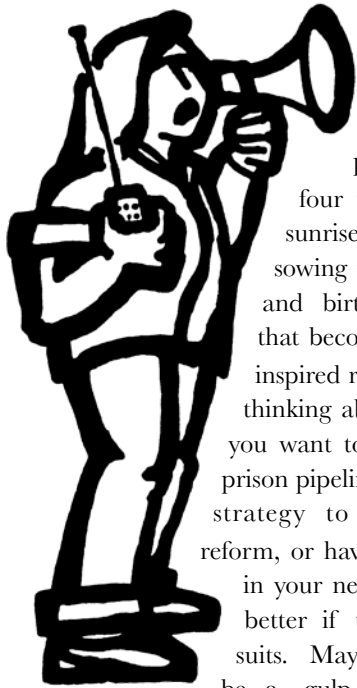


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centerforconstitutionalrights



## Introduction

**Why A Special Handbook for Social Justice Activists?**

Maybe you are like me, and feel called to radical lawyering.<sup>1</sup> Maybe you are like me, and also love playing dinosaurs with four year olds, welcoming the sunrise after a salsa marathon, sowing the season's first tomatoes, and birthing puppet menageries that become the soldiers of an art-inspired revolution. Maybe you are thinking about studying law because you want to dismantle the school-to-prison pipeline, or see legal reform as a strategy to push for immigration reform, or have a hunch that the police in your neighborhood would behave better if they faced more citizens' suits. Maybe you don't want to ever be a—gulp—full time attorney, but

think law school will equip you with some crucial new tools to do your current work better. Maybe you have had contact with radical lawyers who inspired you to join our ranks, or maybe you are tired of enduring bruises after bumping into lawyers who don't embody what you think is the true spirit of radical lawyering.

Maybe law school is for you and maybe it's not.

There are over 190 law schools approved by the American Bar Association (ABA) today, and over a million attorneys in the United States.<sup>2</sup> Just as each school provides a unique educational landscape, each of you are called to serve justice in a different way—whether doing legal work or something equally worthwhile. Will a legal education bring you closer to what you love about being part of a social justice movement? How will you integrate law school into the rest of your life? What does it mean to be a radical lawyer today, and how will you use your education to challenge patriarchy, racism, militarism, and elite power?

This handbook includes excerpts from interviews and surveys I did with about thirty current and recently-graduated law students in the spring of 2009. You'll notice that while each of us has different ways of thinking about activism and law school, there is quite a bit we agree on. We hope you find something in this book that resonates with you.

If you are a prospective law student, it can be helpful to understand how law school attempts to socialize students into defenders of elite power. I start my analysis of that process in Chapter One with a personal vignette about the experiences and curiosities that lead me to law school and my struggle to “dismantle the master's house” while the master's tools were hammering into me. In Chapter Two, I examine the classroom curriculum that serves as a backdrop of the law school socialization process. Next, I offer a Freirian critique of the evolution of the Socratic method into what I term “the pedagogy of the oppressor.” I posit that artificial law school stressors are woven into classroom pedagogy to convert students' unearned privileges into a badge of hard work and sacrifice—a badge that they can later use to legitimize their wealth and power.

Later, I highlight the particular challenges law school poses for students of color, older students, women, and GLBT students. I use commentary from current law school students to explore the consequences of fear-based Socratic learning as well as strategies to survive and flourish in the oppressor's classroom. There are two sub-articles nestled in the Handbook: first, Alison McCrary takes up the issue of spiritual poverty in law school and second, Kate Kelly shares resources about how to finance a legal education. The Handbook concludes with action proposals for justice-oriented law school students, centered around four baseline commitments: 1) building a social justice community at your law school, 2) exposing yourself to critical approaches to legal studies, 3) finding peace with grades and the degree to which you engage in the legal establishment, and 4) accelerating, not pulling away from, your participation in community organizing during law school.

You might notice that we who braid law with organizing and justice do not have a unifying name for ourselves. We think of what we do as public interest lawyering, redemptive lawyering, radical lawyering, social justice lawyering, community lawyering, participatory organizing and mindfulness lawyering. Chose the words that work for you; this handbook is written for people who are already committed to peoples' struggles and already engaged in building a world where justice and love have a bit more space to flourish. We hope this handbook is useful in persuading some of you not to go to law school, and in encouraging others of you to dive into the madness.

## The Letter I Wish I Had Read Before My First Year in Law School

My initial plan was militant: I would approach law school as a three-year long direct action. Get in and get out. I would be a true infiltrator, quiet and covert. Recent law school graduate Tim Phillips had a similar idea: “When I started undergraduate school, I only wore shirts that had political messages on them. When I started law school, I only wore apolitical shirts. I felt as though I was undercover.”<sup>3</sup>

My thirty minute bike ride to school became a devoted ritual in resistance and self-protection. I shielded myself with white light and “zipped up” the things about me I had vowed to never reveal to “the enemy.” I believed that no one was like me, convinced myself not expect or aspire to make friendships in law school, and thought that the best strategy to keep walking the path of justice was to keep most of my walks as far away from law school as possible.

Turns out, that feeling of isolation is pretty normal (in true lawyer fashion, some students even sued their law school when it didn’t work out, claiming they were misled into believing that they could succeed.)<sup>4</sup> John F. Kennedy student Clayton Perry explains, “When I first got to law school I felt super lost and was kind of dismayed and pissed off later when I found out that the kids who had law-connections coming into law school generally did significantly better than those who didn’t. I think a lot of first year law students feel lost, especially at the start.”<sup>5</sup>

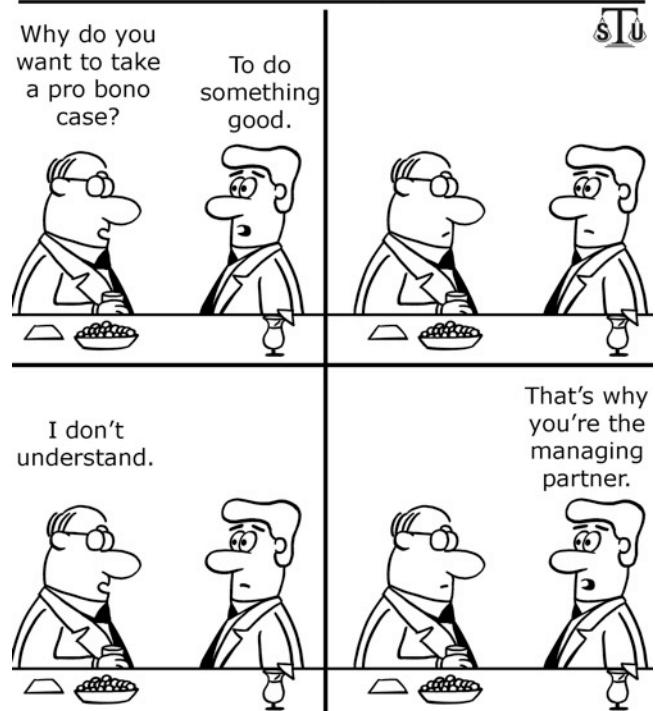
In my case, a ‘me versus the world’ approach didn’t work out so well. I found myself thinking about the potential for organizing at universities, and curious to explore what the legal profession would look like if legal education embodied a justice-oriented pedagogy. And, yes, I yearned for peer camaraderie. As one student reflected in the 1980s, “‘Legal education’ is neither sufficiently legal nor sufficiently educational.”<sup>6</sup> I needed people to study with or, at the least, someone to call to borrow notes when I missed class. Most of all, I needed help understanding the deficiencies of legal education. I wanted to know “what they were doing to me” and why. I began to wonder if it would be three years before I would feel like myself again. Would surviving law school mean shelving my ‘critical consciousness’?<sup>7</sup>

The thought broke my heart. Before law school, I spent ten years working to build *critical consciousness*, a phrase popularized by Pablo Freire in his work to promote liberation-oriented models for teaching and learning.<sup>8</sup> At

its essence, *conscientizacao* (the original Portuguese word usually translated as ‘critical consciousness’ or ‘consciousness raising’) is a radical blueprint for education as well as organizing; for me, it was a way of life. I often lived in community with the people I worked and organized with, and took for granted the way my life was enriched by the committed activists that surrounded me. I internalized many principles of Popular Education<sup>9</sup> — especially a sense of reverence for the multiplicity of liberating stories that lie dormant, waiting for the right space to be told and learned from. I took for granted the diversity of voices who wove their way into my average day, and had a hard time with what seemed—at first—to be a culturally hegemonic legal landscape.

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I came into law school, then, with a well-formulated political consciousness shaped by my participation in the environmental justice movement in the U.S. South, my work as a solidarity organizer in Latin America challenging military and economic imperialism, and a robust network of puppetistas, street performers and Popular Educators around the world. I had done some legal-ish work before, though always on the organizing side of things. I had never read a full case. I had never let words like “plaintiff” and “defendant” escape from my tongue with ease. I reinforced a line between lawyers and “the rest of us.” I made sure to stand on the side of “the rest of us.”

I spend a lot of time sanding down that line now, though I still don’t know that I want to *be a lawyer*. Maybe you do—

if so, keeping that vision close can be helpful in low moments. Brenna Bell, an environmental attorney in Portland, Oregon, explains:

*Coming into law school rooted in the direct action environmental community and having a specific focus on public interest environmental law provided me the inspiration, support and focus that I needed to excel in law school. Rather than feeling buffeted about by all the competing interests at school, I had a clear path to help guide my class and extra-curricular decisions. It also gave me a strong community outside of law school that helped me keep my perspective about what really matters in the world and not get swept up by the elite training camp that law schools try to be.*

*In sum, I didn't go to law school to become a lawyer; I went to become an activist with better tools. Knowing this, I could take what I needed from the experience without getting wrapped up in the baggage that being a lawyer carries with it.<sup>10</sup>*

If you know you want to enter a definable niche, like a public defender, post-conviction attorney, or human rights litigator, it can be easier to embrace your legal education as a necessary training than if you come into it knowing only that you think it will somehow be useful. But don't despair if you don't know what you want to do with a law degree. I didn't when I came in, and still don't have a definitive plan now. In many ways I actually see over-professionalization and over-specialization as dangerous counterforces to the communitarian, place-based and relationship-based values that are critical to a world with justice. It is common to be asked why you're in law school and what kind of law you expect to practice. Rarely will you be asked how you see law fitting into broader movements, or how you plan on integrating your legal skills into the bigger package of what you offer the world. Part of the challenge is a function of the disconnect between law school and real-life lawyering, as Christopher Matthews explained in a 1989 article:

*If house painters were required to graduate from art school, they would need both further training and adjustment of their expectations of what and how they would paint. Law school often is even less relevant to practice than a studio art course is to house-painting. It is more akin to requiring house painters to study art history—never picking up a brush. In this world, house painting students and law students alike must learn everything*

*after school. Consequently, such schools fail to meet the larger objective of training their students for the demands of their careers.<sup>11</sup>*

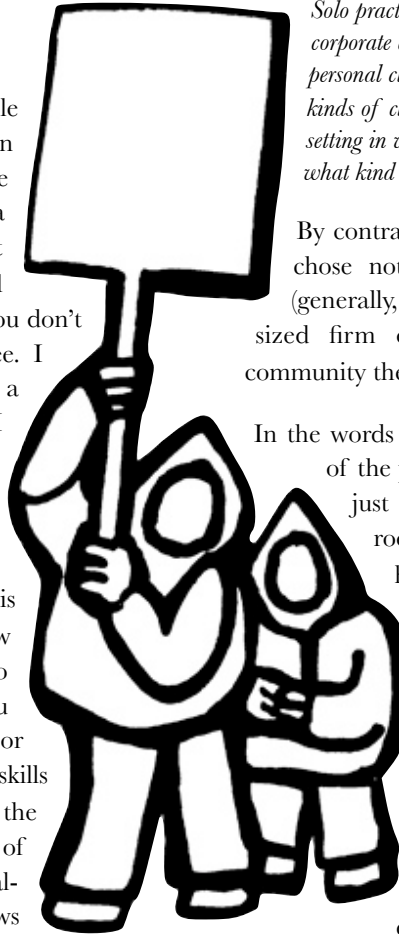
Many of the most influential community lawyers—and certainly my favorites—do work no one has done before.<sup>12</sup> They do not come out of the law school factory branded with a skill set that will provide identity, fulfillment and stable employment. Instead, they piece together work as scholars-lawyers-activists-organizers that is hyper-particularized to the places they live, the issues that most touch their spirit, the pace of work that works best for them at the moment, and a relationship with legal work that nourishes their family and community commitments. Randolph Jonakait illuminates the importance of setting, even for corporate lawyers:

*Solo practitioners and small firms by and large, do not have corporate clients, and large firms by and large, do not have personal clients. As a result, lawyers do not really select the kinds of clients they represent. At most, they can choose the setting in which they will practice, and that setting determines what kind of client the attorneys will have.<sup>13</sup>*

By contrast, social justice lawyers have the freedom to chose not only the setting in which they practice (generally, either a solo practice or a small to medium sized firm or non-profit) but also the clients and community they serve.

In the words of community organizer Lisa Duran, “One of the problems with scholar/activists is that they're just not useful because they are not sufficiently rooted in the community so that they don't have a sense of where their time should be spent. Being clear on how the effort being put forward is short-term, long-term, or medium term and its connection to the larger goal is not just an idea – it's rooted in struggle.”<sup>14</sup> Implicit in Duran's reflection is a recognition that accountable and mutually-supportive relationships with community deserve at least as much attention as one's desire to answer the question ‘what kind of lawyer will I be?’ I try to keep my fretting about the future wrapped around questions of how I see myself fitting into to different social movements as a whole person, not just as a lawyer.

When people who know me from organizing ask (and not always gently) why I came to law school, I often say that I came to study the creation of elite power. I began to identify that curiosity during a series of interviews I did





with about twenty radical attorneys and legal workers as part of my discernment to study law (I can't recommend enough investing in these kinds of conversations before making your decision—it is unreal how many people fall into law school because they 'can't think of something



better to do').

In part, I was pushed into law by a series of interactions with know-it-all lawyers who, for whatever reason, found themselves in a social movement instead of a boardroom. We have all run into an attorney who made us think, 'Hmm, I can do better than that.' For example, during my work organizing rural cannery workers in Oregon, we invited an immigration attorney to participate in an all-day training as, well, a participant. We wanted her to be a part of the community-wide plan we were developing to assert our collective dignity as we prepared for a possible Immigration and Customs Enforcement (ICE) raid. She flew in, two hours late, in the middle of a session being facilitated by a new leader I had been working with, an indigenous Quiche woman named Maribel. The attorney bolted for center stage, turned first to the Maribel, then to me, and said—I kid you not—"now we can start." The saddest thing was that we needed her so bad we tolerated her arrogance. No one else in the region understood the intricacies of a worksite know-your-rights program in the current, and frighteningly unpredictable, landscape. I was crushed. In one moment the attorney dealt a cruel blow to

Maribel's confidence and denigrated a spirit of self-sufficiency our group had been building for months. Once the big-shot lawyer arrived the answer became clear: we were naive to think we could deal with our problem ourselves. What we really needed were the right experts to come in and protect us. Where was our *patron*?<sup>15</sup>

At the time, I didn't know how to describe what had gone wrong, or why, but I knew that legal training would help me be a part of creating a different approach to lawyering than what that immigration attorney offered. So, yes, I came to law school to make some sense of the bruises I endured bumping into systems of elite power in my work as a Popular Educator and community organizer. I also see law as one of a multiplicity of strategies to work for social change. The harder questions to answer about law probe into the "tricky line between engagement in legal reform and condemnation of its ability to co-opt struggle."<sup>16</sup> As Audre Lorde cautioned, there are inherent dangers of using the master's tools to dismantle the master's house.<sup>17</sup> During my first year of law school, I realized that the master's tools were hammering into me—and so hard, I barely had a moment to think about dismantling the master's house. I take that up in the next section, unpacking the pedagogy of the oppressor.

## Transcending the Pedagogy of the Oppressor

**Understanding the Pedagogy of the Oppressor**

There are many ways to teach, and many ways to learn. Legal education is pedagogically sophisticated in that the curriculum, teaching methodology and educational impact accomplish the goals of the education. Those goals largely further the interests of the dominant class. Here, I contrast Pablo Freire's work (developing, among other things, a blueprint for liberation-oriented teaching laid out in his 1968 book, *Pedagogy of the Oppressed*) with legal education's reliance on what I term the "Pedagogy of the Oppressor."

In 2006, before starting law school, I co-authored an article on Popular Education in Palestine.<sup>18</sup> We opened the article questioning, "Can you think of a moment as a teacher when you did not go home feeling that you had learned something – something intimate and revealing about your life and work – from your students? And as a student receiving instruction, was there ever a period when you did not feel that you also contributed a teaching?"<sup>19</sup>

At the time I wrote the article, I had spent a decade immersed as a student and a teacher in Popular Education settings. I still firmly believe we are all both teachers and students, all the time, from the most visionary leader to the greenest novice. However, I never imagined how microscopic my contributions would be to my law school professors and classmates, nor how profoundly the learning environment would stifle my passion.

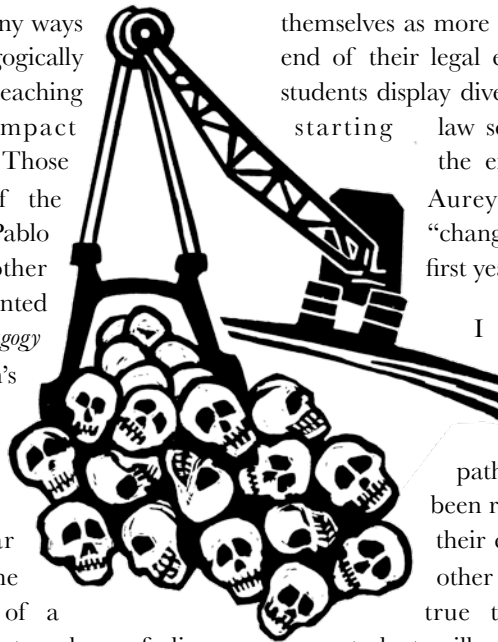
How do you anticipate law school will change you? What changes do you welcome, and what do you need to guard against? I felt like the major risk I faced was defection from the whole enterprise of legal education (i.e., dropping out), not that I would defect from my identity as a social movement warrior. I still find it insulting when others in the movement caution me against pursuing law, worried they will lose me to a political or, more likely, cultural defection. I have always been low flight risk, and you probably think you low flight risk too. But now, I better understand their concern.

As early as 1967, studies began documenting a strange phenomenon: entering law students tended to describe

themselves as more liberal than those same students at the end of their legal education.<sup>20</sup> Studies have found that students display divergent moral reasoning patterns before starting law school, but no significant difference by the end of the first year. One study by Aurey Schwartz found evidence of a "changed world view" over the course of the first year.<sup>21</sup>

I couldn't comprehend how someone who wanted to practice social justice law could, three years later, feel obligated to resign to a different path—either because they had successfully been reprogrammed, or because they felt that their condition of indebtedness left them no other option but to "get a real job." Yet it's true that many public interest-oriented

students will go on to bow to a senior partner, caress a hierarchy of racist law, put on a dress shirt pressed by hired help, and bury their convictions deep inside a suit they dream of shedding after a twelve hour day. The bicycles get exchanged for car payments, the rent checks for a mortgage, and pretty soon folks find themselves drowning in a full-blown "fake it til' ya make it" lifestyle. An American Bar Association Working Group on Loan

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"You like kayaking, travel and yoga. I hope you realize that lawyers don't have time for this stuff."

Repayment confirmed these patterns in a 2003 study, finding that “[d]espite their deep commitment to ensure access to justice for all citizens,” many new attorneys find that the increasing cost of a legal education “forces them to forego any form of public service.”<sup>22</sup>

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The changes often begin with the way students spend their time. Yes, law school takes time, but there are dangers to replacing everything you love with schoolwork. After my first three months of school, I wrote in an unpublished letter, ‘The one way I know I am different is that I am so in my head. Other times in life, I have been so in my body. Or neither in my body or my mind. I miss that. Like from my time at Green Gulch Zen farm, where I spent my time feeling the air hit my nose and watching my abdomen rise and fall. Now I just think, but I don’t even think about anything particularly useful to me or the world.’ Tim Phillips observed, “During law school I began to grind my teeth at night. My vision deteriorated. And, most tragically, I played far less music than before law school.”<sup>23</sup> Third year student Clayton Perry had a similar experience:

*Being a law student can be lonely existence. What one thinks and feels, and what others think and feel, generally is not relevant to what the law is and learning what the law is. A lot of law students fit a pretty tight mold, so if that’s not your thing I would suggest giving a slight edge to law schools that are located near people that you already know and like. Also, I’d put a little more effort than normal into keeping in contact with old friends.*<sup>24</sup>

Most of us who come from organizing backgrounds have experience learning in circles, not lecture rooms; we do not privilege academic intellectualism over other kinds of expertise—in fact we intuit that our openness to appreciate other forms of ‘knowing’ and other life experiences critically informs our human experience. Surviving and thriving in law school requires an understanding of how legal educational pedagogy evolved and a grasp on the way classroom methodology trains students to defect to the status quo. So how exactly does law school do what it does?

### The Privilege of Law School Stress

Who doesn’t like to feel a little special? Law school will offer you a worldview where you can feel special without confronting your privilege. During orientation, your dean, probably an older, white man, will begin a courtship ritual that dates back to 1870. He will dangle the three truffles of power, wealth, and prestige before an eager and largely unpoliticized group of young people. The formula, refined over the years, goes something like this: “Welcome to [blank]. We’re so happy you’re here [we love your tuition checks]. You represent the smartest and savviest of America today. [From here on out, there is only one kind of smart. The electrician who just rewired your house is not as smart as you, nor are the farmers who grew your food during the last drought. Ten years of work history? Three years as a parent? Irrelevant. You are smart because you got good grades fifteen years ago during undergrad and—oh yes—your LSAT score was good enough for us]. We will push you beyond what you thought you were capable of, but it will be worth it. [We will immerse you in a militaristic pedagogy designed to demoralize you and sever the connection between your mind and your heart. If you do what we say, you will get to join our club. We have a nice club. Real nice. Trust us, you’ll like it.] Here, you will learn to be the leaders of the next generation.”

The resulting narrative lacks one crucial element. Why do you deserve to be in this nice club? And that’s where your peers fill in the blank: you deserve the tripartite truffle package because it is a just compensation for the hardships you will endure during your education. Artificial stressors are woven into the pedagogy of legal education, reinforced by students, and effectively convert an unearned privilege into something you think you deserve because ‘you have worked so hard.’ You are learning to dance in the academic industrial complex. And soon you can’t help but wonder, does he dance better than me? If I don’t start dancing with the right people, will I lose the chance to work

for the top dance school this summer? The best dancers land the best dates, the best jobs, and the best lives. Learn the steps—quick!

Don't ignore the floor when you trip and fall. Look at the dirt and remember your connection to the Earth. If your feet feel funny dancing their dance, make up your own. Keep asking yourself, why did I come to law school?

In the early 1980's Steven C. Halpern aptly diagnosed the landscape. "The first year of legal education is as much political indoctrination and ideology as it is anything else . . . fear, intimidation, and psychological manipulation of a law student's sense of self is an integral part of the first year of legal education."<sup>25</sup> The origins of a hellish first year date back to the days when law school admissions were open and "the front loading was designed as a positive feature—to assist in the screening process."<sup>26</sup> The legacy of that model manifests today in what some commentators refer to as "a trauma."<sup>27</sup>

"Law school seems to communicate to students that it is how you do, rather than who you are, that really matters . . . Students who bring this approach with them to the practice of law are obvious candidates for high stress, low self-esteem, and burnout."<sup>28</sup> Around forty percent of law students experience depression or other symptoms as a result of their education.<sup>29</sup> A substantial number of students feel less intelligent when they graduate than when they started school.<sup>30</sup> A leading doctor who studies the psychological health of law students stated, "I have never seen more manifest anxieties in a group of persons under 'normal' circumstances than is visible in first year law students."<sup>31</sup> Arguing for reforms, Deborah Rhode expands:

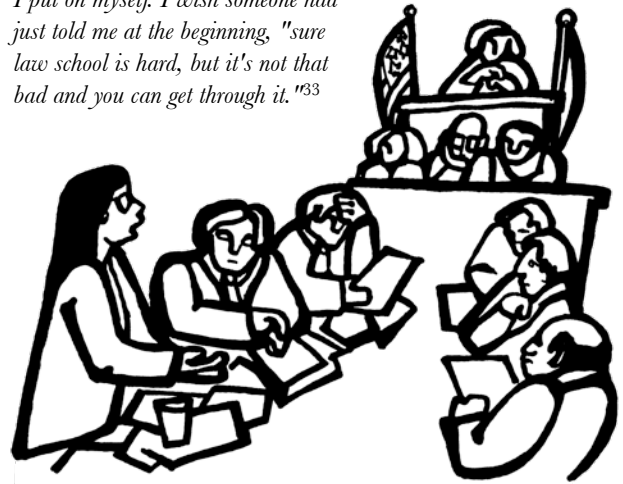
*[T]he highly competitive atmosphere of law schools, coupled with the lack of feedback and personal support structures, leaves many students with personal difficulties that set the stage for problems in their future practice. Although the psychological profile of entering law-school students matches that of the public generally, an estimated 20 to 40 percent of those who graduate leave with some psychological dysfunction including depression, substance abuse, and various stress-related disorders. Such problems are not inherent byproducts of a demanding professional education; medical students do not experience similar difficulties.<sup>32</sup>*

Law school pressure can be debilitating, as American University student Kate Kelly explains:

*The anxiety surrounding attending law school affected my entire first year. I had heard so many horror stories about how hard, torturous and generally awful law school was going to be.*

*Everything I got from the media like watching the Paper Chase, and reading 1L confirmed the reports I heard from those who had been to law school: it was going to be Hell. In retrospect I think it's very similar to the misinformation that many women get about childbirth from mothers and the media. All you hear is about how painful it is and the sheer agony of the entire thing. Many women go into birth terrified, never hearing that it can actually be a very empowering experience or any real information about the natural process. They are so scared; they feel they have very little control.*

*During 1L year I was generally terrified, and lost a lot of sleep and energy busy with that useless anxiety. I almost had a nervous breakdown after my first final exam, and nearly dropped out of school. The build-up and the hype really got to me. I was convinced I had failed, and that it was the end of the world. Turns out, I got a B+. The real agony was the needless pressure I put on myself. I wish someone had just told me at the beginning, "sure law school is hard, but it's not that bad and you can get through it."<sup>33</sup>*



Developing a positive relationship with your lawyer-self during law school is likely to increase the chances you'll escape the dreary fate of most practicing attorneys. One study found "lawyers are unhappy with the culture of the profession, the structure of their work places, and the performance of the justice system."<sup>34</sup> Lawyers have about three times the rate of depression and almost twice the rate of substance abuse as the average American.<sup>35</sup> Most would choose another career if they had the decision to make again, and 75% would caution their children against becoming lawyers.<sup>36</sup>

My second week in law school I witnessed a woman melt down over a missing highlighter. She had opted for the color-coding method to mark up her casebooks but tragically found herself without a pink highlighter. "Pink is for facts," she wailed, fumbling for the lost good. "Now I can't read the case, and my class is in two hours, and I'm going to be unprepared and . . ."



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I sat in silence and relived the stressors that had consumed me pre-law school: will a Colombian paramilitary kidnap one of my friends today? Will a Palestinian lose their home to an Israeli tank? Will one of my New Orleans neighbors lose their life in a post-Katrina territory battle? In my 'old life' as a human rights worker and organizer, these were the kinds of questions 'everyone' was asking. In my 'new life' as a law student, it seemed like my peers exhibited higher stress levels than people facing displacement, disappearances, and death.

Far from poking fun at the woman with the missing highlighter, I think we can learn a lot from her experience. While not all of us will cry over a highlighter, few of us make it through law school without—at least occasionally—overvaluing the trivial demands of student life. Davida Finger, Director of the Community Justice Clinic in New Orleans, remembers being in Cambodia shortly after graduating from law school and taking the bar. As her bar result release date drew near, she shared her anxiety about the results with her Cambodian colleagues at the legal services organization where she was working. They empathized with the pressure and her worry about possibly having failed. They explained to her that they had all graduated from law school but could not meet one requirement for admission to the Cambodian bar, which demanded free service to the government for a year. "They also asked me if I could take the bar again if I failed the bar," Finger remembers. "Those conversations with my

colleagues helped shift my perspective about the bar and law school."<sup>37</sup>

Losing perspective in law school is perhaps the most powerful part of the socialization process. I certainly was unprepared for the abundance of senseless chatter and the debilitating, self-induced stress that defines most law students' identities. Many students, like Tim Phillips, set out to be intentional. "I had read that law school would rob me of all but a few pastimes, so I made a list of my hobbies and selected the three that I wanted to survive school. Even the ones I selected—writing letters, keeping a journal, and playing music—barely survived."<sup>38</sup>

Loyola New Orleans law student Alison McCrary suggests students make a 'mental health medicine kit' to help maintain perspective:

*Write a list of 25 things that you do that make you happy. Make ten copies and place them inside the medicine cabinet in your bathroom, on the refrigerator, in your day planner, in your wallet, on your dresser mirror, in your journal, and any other place you can refer to when it hits you that you may on the road to becoming down or depressed.*<sup>39</sup>

Whatever strategy works for you, nothing beats a dose of reality to contextualize the pressures of law school. Focusing on the privilege of student life has been a powerful re-centering tool for me, but also the most isolating part of my radicality to try and share with others. Students who buy into the stress and pressure share a perverse bonding ritual; opting out of the hoopla can be isolating in its own way. The paralyzing rhythm of the Socratic classroom plays a central role in setting the stage—a topic I take up in the next section.

### Fear Based Learning in the "Socratic" Classroom

"I know that I am intelligent, because I know that I know nothing."

—Socrates

After my first semester of law school, I was terrified to sit down for a December meal with my Greek-American family with nothing but ire for Socrates. My law school, like almost every law school in the country, taught primarily through the Socratic Method, a dialogue-based approach to education where one facilitating teacher poses never-ending questions to her students. The method had left me somewhere between terrified and turned off, and I became curious what Socrates would have to say about his legacy.

Furthermore, why and when did the Socratic Method become cemented in legal education, and what about it furthers the objectives of the legal establishment?

Socrates, unlike every law professor teaching at an ABA-accredited institution today, did not publish his thoughts; most of what we know about him and his teaching is documented in the work of his students. We can state with certainty that Socrates did not sit in a computerized classroom drilling his students about the mundane facts of a property case from eighteenth century common law. He philosophized about stimulating and often intangible concepts, like justice, piety, and wisdom, integrating ideas, contemporary politics, and connection to the divine with a fluidity rarely seen in a law school classroom.

The legacy of his work on legal education today is largely *elenchus*, a concept whereby the teacher elucidates to the student that she does not understand what she thought she understood.

*[Socrates] was accustomed to say that he did not himself know anything, and that the only way in which he was wiser than other men was that he was conscious of his own ignorance, while they were not. The essence of the Socratic method is to convince the interlocutor that whereas he thought he knew something, in fact he does not.*<sup>40</sup>

The emphasis on *elenchus* in the law school classroom seems misguided and is well documented in the legal academy; a recent comprehensive literature review, for example, found over one thousand academic articles critiquing legal education.<sup>41</sup> Far from needing a reminder of their ignorance, most students need encouragement and support. Furthermore, law schools give little space for the other prongs of the Socratic approach to education, largely omitting *aporia* (unsolvable and potentially liberating puzzles) and *psychagogia* (literally, ‘leading the soul,’ focusing on how one constructs new understandings.)

True Socratic teaching requires a level of facilitation and brilliance on the part of each professor, not to mention a small classroom of students mature enough to engage in a dynamic back and forth. Some commentators such as Morrison Torrey see the problem as a perversion of a

viable method: “Although not integral to the process, legal education has incorporated elements of hostility, competitiveness, and humiliation into what is, essentially, an abuse of the method.”<sup>42</sup> Similarly, Professor Rhode argues,

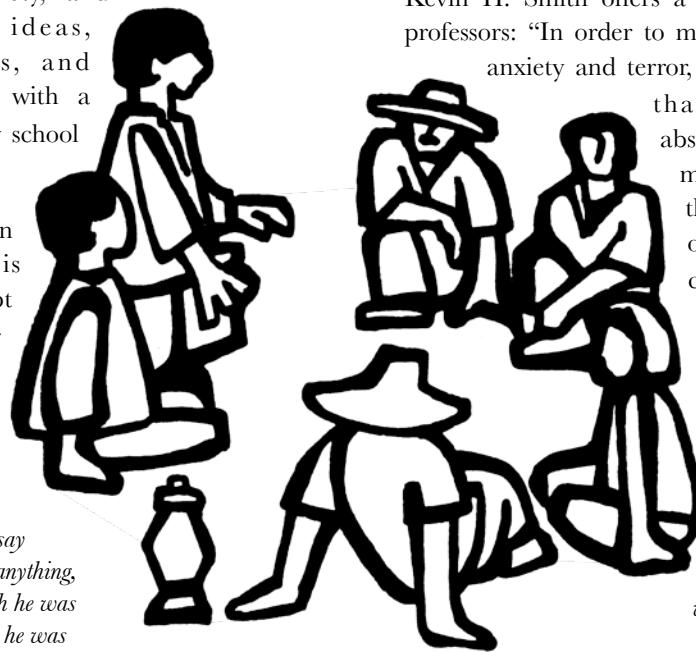
*In the hands of an adept professor, [Socratic formats] cultivate useful professional skills, such as careful preparation, reasoned analysis, and fluent oral presentations. But large-class Socratic formats have inherent limits. They discourage participation from too many students, particularly women and minorities, and they fail to supply enough opportunities for the individual feedback and interaction that are crucial to effective education.*<sup>43</sup>

Kevin H. Smith offers a pithy instruction to fellow law professors: “In order to minimize learning and maximize anxiety and terror, you should be sure, of course, that you offer the students absolutely no insight into such matters as how to dissect cases, the parts of a case, the purpose(s) of each part of the case, or why courts include each type of information in the case.”<sup>44</sup> One student is even more candid in his critique:

*The key to the Socratic method is that the professor never reveals what the answer is. He keeps insisting that THERE IS NO ANSWER. Consistent with this view, he spends the whole class period asking questions that . . . no one even begins to understand. To get the*

*answers, you have to buy commercial outlines, which cost \$16.95 apiece and are published by the same people who publish Cliffs Notes and Key Comics. The commercial outlines are written by the professors and provide them with a handsome income on the side. To insure that you will buy them, the professors tell you that, whatever you do, DO NOT buy any commercial outlines, because they will make it TOO EASY for you, and you will not develop the analytical skills and hard work ethic that law school is supposed to teach.*<sup>45</sup>

In a fascinating reenvisioning of legal education, Christopher Matthews puts it this way: “The widespread use of commercial outlines by students today reveals that supposedly esoteric lawyerly thinking can be reduced to formula. Something is wrong with the pedagogy when the secrets of the kingdom, allegedly guarded by the wizards, turn out to be available on the corner.”<sup>46</sup>



It turns out that my initial reaction to the Socratic method was quite normal; many commentators have found that it tends to “incite sundry emotions in the law student - everything from feverish exhilaration through mortal dread to terminal boredom.”<sup>47</sup> It didn’t used to be like this. Before the first law school opened its doors (and certainly before the first LSAT exam), people who were interested in studying law found someone who knew more than they did and initiated an apprenticeship.<sup>48</sup> Some scholars trace the apprenticeship model in British legal education as far back as 1292.<sup>49</sup> In 1870, though, things began to change in the United States. Around that time, Harvard Law School Dean Christopher Columbus Langdell initiated two bedrocks of contemporary legal education: the case method and the Socratic Method.<sup>50</sup>

Under the Landellian case method, students are asked to read cases (lots and lots of cases) and—hopefully by the time the exam rolls around—be able to identify rules, holdings and trends that emerge from the cases. Theoretically, Langdell saw law as “a science of principles learned by induction through reading cases and systematically arranging their holdings into a coherent body of limited, general principles.”<sup>51</sup> Not all scholars share Langdell’s characterization of law as a science of principles, yet his model continues to dominate classrooms across the United States. When the case method gets paired with the Socratic method, the classroom tends to look like “education by interrogation.”<sup>52</sup> In his article in the National Lawyers Guild’s Disorientation Handbook, Michael Friedman writes, “The casebook method forces students to waste precious time and energy deciphering murky appellate opinions, inhibiting the development of the critical perspective necessary to discern the political implications of the doctrine.”<sup>53</sup>

One can think of the modern law classroom as Socratic, or partially Socratic, or a perversion of true Socratism, but at the end of the day, it is best described as yet another manifestation of what Freire termed the “banking approach” to education. As though she were entering a bank, a student steps into the classroom, opens her hand, and futilely catches several droppings of knowledge from her teacher. She closes her hand and her mind, losing even more content, and is rewarded for spitting back the same information her teacher just imparted. She is an empty bank account, and her teacher must fill her with ‘deposits.’ *Cha-ching.* She exits ‘the bank’ – our law schools – where learning is as dry and transactional as a bank deposit. She has been dehumanized and undervalued. She has not received instruction that relates to her life or experiences,

but she has learned the most important lessons of her life. She has learned subservience, acquiescence, and servility to the pathetic wisdom of a status-quo ‘expert.’ She has learned to be content with her oppression.

Freire argued that we must strive to unify theory and practice, laying out a praxis for transformative action that begins with an experience, deepens through a process of critical reflection, and eventually produces a transformation (first personal, later societal). I wasn’t naïve enough to expect a Freirian, liberation-oriented law school education. I *did* expect law professors to be accountable to the same research influencing educators around the world that indicates students learn best when education is participatory and multisensory. Instead I found a classroom that impostered as philosophically multidisciplinary, yet measured success on students’ abilities to regurgitate rules that are unrealistically isolated for testing convenience.

Clayton Perry had a similar experience:

*I got pretty low grades my first year but I did better later once I caught on. . . The way law classes are conducted make them a lot more like math or physics classes than like English or any of the progressive, touchy-feely, everyone’s entitled to their own opinion courses I took and enjoyed as an undergraduate. The stuff really being taught and tested on is what the law is and it’s demonstrative like math or something is demonstrative. The answers can pretty much be looked up and proven.*<sup>54</sup>

Perhaps herein lies the dagger in the wound that is Socratic legal education. Socrates utilized a circular, unanswerable dialogue with his students because the topics he concerned himself with were in fact circular and unanswerable. By contrast, law school largely tests things that are linear and answerable. Save for a few specialized third-year courses, law school does not explore abstract tensions between anarchy and government control or the intersections of law with popular understandings of right and wrong. Torts, for example, could be an exploration of ideas about community accountability and the appropriate role of the state in rectifying unintentionally-perpetrated injuries. Instead, success on a torts exam necessitates memorizing a series of elements for potential causes of action. As Clayton Perry aptly noted, the analytical skills that are rewarded better parallel a high school biology test than a meandering dialogue between Socrates and Plato about the nature of democracy.

The bottom line is that the pedagogical commitment to Socratic teaching in law school classrooms has much more to do with cementing in place an oppressive hierarchy than

transferring crucial legal skills. Scholar Jennifer Jaff, for example, has argued that the Socratic Method is resilient precisely because it “helps to maintain the mystification of the legal process” and perpetuates “the patriarchal hierarchy of the classroom.”<sup>55</sup>

If you’re committed to dismantling oppression, the Socratic method can hit particularly hard. In a study of changes to law school pedagogies following student activism in the 1960s and 1970s, Alan Stone found that activist students clashed with the way the Socratic Method “challeng[ed] the value systems and moral assumptions with which students approach the law.” Instead of an “intellectual exercise,” many activist students experienced the Socratic Method as an “ideological assault.”<sup>56</sup> Of course, some students—including activist students—like the method, and you might too. Hopefully now you’ll have a better idea of what is going on behind the scenes. Even if you enjoy, or thrive, in a Socratic classroom, it is crucial to remember how destabilizing the method can be for other students.

### Gender, Age, Race, and Sexual Orientation

Law school is a country club; debt becomes social currency. For three years, you pay your membership to the club. The club has a dress code, and prefers high society diction. The club didn’t let in women until 1920 and blacks until the 1940s.<sup>57</sup> Queers still use the back doors. After hours the codes relax. The bar tabs are limitless, the prescription drugs plentiful. Your tuition secures your investment in elite society, and the bargain is secure. If you play it right, you can make six figures straight out of school.

Most of us will have trouble playing it right, and that too is the way it is supposed to be. In a comprehensive survey of American law students, Timothy Clydsdale found that:

*The typical (i.e., modal) first-year law student is a white male in his early twenties, who speaks English as his first language, attends law school full time, expresses high self-confidence, possesses no physical or learning disabilities, is neither married nor has children, plans 0-9 weekly hours of paid employment during the first year, and comes from an above-average socioeconomic background.*<sup>58</sup>

The hard numbers have improved over the years: women now make up 44% of law school students, sixteen percent of us are nonwhite and seventeen percent are over thirty.<sup>59</sup> Yet it is no secret that law school poses particular challenges to women, people of color, folks without class privilege, and queer and transgender individuals.<sup>60</sup>

At the turn of the century, W. E. B. Du Bois wrote about the “double consciousness” blacks develop to survive in



America.<sup>61</sup> Many students who deviate from the dominant law student profile similarly develop a ‘double consciousness’ that becomes crucial to survival in and outside the academy. Critical Race Theory scholar Richard Delgado has extensively explored racism in law school admissions and classrooms, finding that “Anglocentric courses and Socratic teaching . . . reinforce(s) quick responses and a lot of bluffing . . . [a]nd more of the same on the bar exam.”<sup>62</sup>

There is a significant body of literature documenting how dominant classroom pedagogies, particularly the Socratic method, are particularly oppressive for women and people of color. One of the best critiques was articulated by Lani Guinier in her 1994 article and subsequent book profiling women’s experiences at Penn Law School. She begins with an anecdote from her Professional Responsibility professor at Penn Law School, who told her class that “while it was important to understand and follow the various rules and codes dedicated to preserving the ethics and morality of the legal profession, the bottom line was that all we really needed to do to be honorable lawyers was ‘behave like gentlemen.’”<sup>63</sup> She writes, “I don’t know if he consciously excluded me and others of my gender from his articulated and doubtlessly internalized view of model upright attorney conduct. I only knew that I was not and was never going to be a gentleman, so I would have to figure out what constituted good and ethical lawyering for myself.”<sup>64</sup>

In her research, Guinier found that “when speaking feels like a ‘performance,’ [many women] respond with silence rather than participation, especially when the Socratic

method is employed to intimidate or to establish a hierarchy within large classes. This pressure to speak is especially problematic for students who perceive that they are expected to perform as spokespersons for the racial or gender group.”<sup>65</sup>

Importantly, some professors have noted that quiet and reserved students in Socratic classrooms “seemed to blossom when taught in a less intimidating manner.”<sup>66</sup> The quest for gender equity in the classroom begs for alternate, collaborative and interdisciplinary pedagogies. There just doesn’t seem to be enough space in most traditional classrooms for women’s voices; for example, one study of eight Contracts classes found that male students spoke fifty-four percent more frequently than women, and spoke for longer periods of time as much as seventy-one percent more.<sup>67</sup>

Speaking out in class can also be challenging for well-politicized students. Many students are reluctant to speak for fear of being branded as the class feminist, class lefty, or class environmentalist. Tim Phillips explains:

*It is difficult to know when to open your mouth in a law school classroom. Obviously, you're going to have to talk when your professor calls on you. But otherwise, I chose to keep my mouth shut almost all the time - unless someone was mislabeling a policy as "arbitrary" rather than "racist," for example - because I did not want the rest of the students to pigeonhole me as the class radical and thereby justify not listening to me. In addition, I didn't attend law school to hear others' opinions on political issues, so I tried to keep my own opinions to myself during class.*<sup>68</sup>

Professors often marginalize dissenting voices in the classroom, as one University of Texas student explains:

*We were discussing the Baby M. case.<sup>69</sup> The argument was made that the man and the woman in this case were equal biological contributors to the fetus. I raised my hand and pointed out that this was not true; that the gestator also makes a separate biological contribution; thus, the biological contribution of the gestator and the egg donor combined (in this case they were the same person) was greater than that of the sperm donor. . . . The whole class of one hundred gasped, and all turned to look at me. . . . The professor pointed out that the law regarded both parents' [rights as equal] and asked if I remembered that from the readings.<sup>70</sup>*

In one study at U.C. Davis, a student expressed concern at the lack of “understanding of where I’m from, the culture I come from. . . . There is a startling ignorance.”<sup>71</sup> Yet identity pressures at law school are difficult to deconstruct because they tend to be subtle and are often coded as

“professionalism” instead of an imposition of dominant culture. One Northeastern student interviewee said:

*There is a pressure to put a title after your name when you graduate, pressure to dress nicer and to command respect when you are speaking. Then once you've graduated whether it's the bar association or just other attorneys, pressure comes to follow rules that can pose as ethics. Working with attorneys at legal services organizations, I have seen how these rules and boards also try control people who ask for social change.*<sup>72</sup>

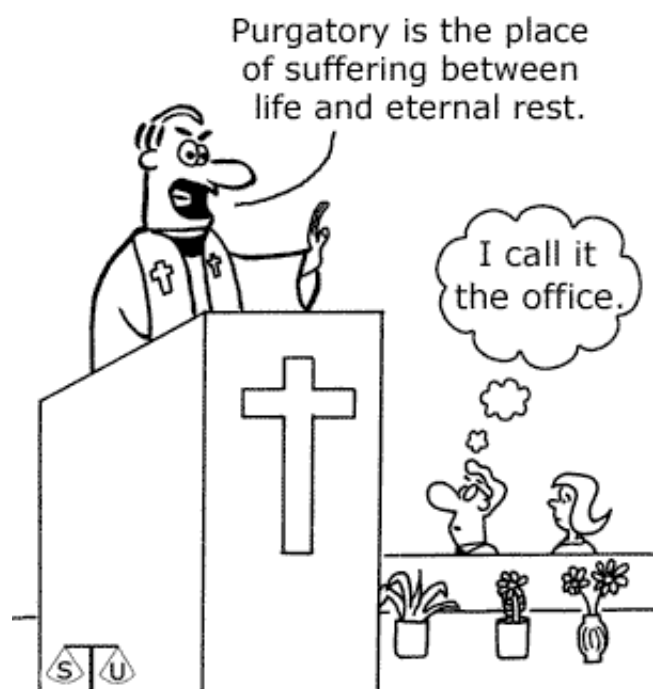
Another student agrees:

*I worked at a class action nonprofit where an attorney once jokingly told me to tuck in my collared shirt. Only later did I realize that he might have been half-serious, and that it might have hurt my chances at landing a permanent job in the office to have dressed as casually as I did.*<sup>73</sup>

The social geography of a law school, including the physicality of the buildings and common spaces, the lighting, architecture and limited access to outdoor spaces, also shapes students’ experiences. “Many law schools today are draped in painted portraits of imposing white male figures in serious suits who are former students and professors.”<sup>74</sup> Reflecting on the decision of the University of Virginia to hang portraits of the (majority white male) Deans, one female student said, “I respect their decision to put up the portraits, but where are the representatives of minorities and women? In light of that absence, it's offensive to me.”<sup>75</sup>

## Stu's Views

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Law school is likely to accentuate the way you are ‘different’ if you in any way deviate from the profile of the typical student. One woman at the University of William and Mary said:

*I have had a few experiences of latent racism here, because this place and time is not isolated from the world. There are ignorant people everywhere, so this place is no different. People often ask me about my hair, I have locs, and I choose not to be the Ambassador for Natural Hair, but when I feel the person is coming from a genuine place, I explain my decision to go natural and reactions I get from employers—which have not to date been negative.<sup>76</sup>*

Diane Oraif at the Birmingham School of Law encountered similar issues with her headscarf:

*I would occasionally wear traditional clothing particular to my religion, and it unavoidably drew attention to that fact that I am Muslim. A classmate who had fought in Iraq with the National Guard accused me of 9-11 while we rode down on the elevator together. He also said I looked like Moses because of my striped headscarf. Other students pulled on my scarf. Overall, these were isolated incidents coming from a student body who had not experienced diversity. I was the first Muslim most of them had ever met, and they didn't know how to react, so I became patient and took on a teaching spirit with them.<sup>77</sup>*

As another student explains, merely immersing one’s self in a law school environment can profoundly change one’s sense of a normalcy in everyday conversation:

*There is maybe one slightly butch woman in my class. Everyone most always dresses up slightly nicely, and when I put on a bandana, tanktop, male pants, and boots, I feel all that more aware of my surroundings, and of people's glances. This may be just going from a large state school with a lot of variety within the student body to a small private institution, but I just feel like doing something like that is a bigger deal here than before. Within the 1L class, there are about three to four other queer members, and they make up a really tight group, so I can either resort to the undergrads or to other grad students, and usually I just don't have time to go and seek them out. When my lesbian friend from undergrad came to visit me this past weekend, I told her that I hang out with mostly straight people now, and she just seemed shocked. I used to talk about gender issues pretty much all the time, but after a few weeks of hanging out with a group of (straight) fellow law students, one of them asked me, why does every conversation with you end with something gay or something about sex? It was bizarre.<sup>78</sup>*

Law schools are, of course, not immune to sexual harassment and violence. However, the pressure to succeed in school and internships can present unique tensions.

Take, for example, the experience of one female law student during her summer job in New York City:

*Everyone in this city [New York] thinks it's this progressive, cosmopolitan, beacon of the free world, thought of by many as the U.S. center of human rights work and nonprofits trying to change the world. It was at one of these ‘dream’ places that one of our students was told by a superior, “for being so skinny, you sure do have big tits.” She cried that night, but had to get up the next day and go to work. Loans and fear of ruining your future will make you put up with things you told yourself you never would.<sup>79</sup>*

Though it is trying, many students do successfully balance home life, partners and children while pursuing legal studies. Some students in relationships and with children find that they are more disciplined with their schedules than other students and less stressed about grades and academic performance.

*My six year-old son and my thirteen year-old daughter both said multiple times that they ‘hate’ law school because I was unable to participate in their lives the way I did before school started. The ten month long 1L experience was long for me at times, but for them it was an eternity. Also, having children certainly does put things in perspective. Because of my responsibilities as a parent, I think that I took the first year less seriously than I would have otherwise.<sup>80</sup>*



## Spirituality Poverty in the Law School Experience: Making the Connection between Faith and Justice

By Alison McCrary

As a law student who tries to integrate my faith into my professional training, I often wonder why morals and values are seldom discussed in the legal academy. It is rare to hear faith discussed by law professors, at university events, or in classrooms—including during “professional ethics” courses. If you are a person of faith or hope to keep a spiritual practice during law school, it might be helpful to ask yourself:

- How public or private or combination or both is my spirituality in the practice of law?
- What elements of my spirituality appear inconsistent with the common perception of law practice as an adversarial endeavor?
- How can I reconcile potential conflicts without undermining professional competency?
- How likely is it that I will find a modern legal workplace that accommodates the spiritual life of employees and/or clients?
- How does spirituality differ from or conflict with the rule-based “ethics” that govern professional conduct, and how important are these differences or conflicts to me?
- In what way might spiritual perspectives lead me to a deeper sense of the “big picture” issues involved in the quest for justice, and what challenges might this raise?

If you have a faith practice, it’s best to early on in your legal education to define what role you want your spirituality and religion to play in your life as a lawyer. You may find it helpful to write down your answer, even if it’s something as simple as being reflective, mindful, or in solidarity with the oppressed as you practice law.

Some opine that one root of spirituality’s unpopularity in the legal academy is the desire to approach legal analysis from a purely objective, analytical perspective. Such a perspective, while intellectually rigorous and satisfying as a logical pursuit, creates a vacuum when it comes to matters of real meaning and value. According to Professor Sanford Levinson, professionalism requires “the ‘bleaching out’ of merely contingent aspects of the self, including the residue

of particularistic socialization that we refer to as our ‘conscience.’”<sup>1</sup>

So, if “professionalism” pushes us further from our spiritual-rooted commitment to justice, how can we as students maintain grounded in our faith traditions? While law schools seldom draw explicit connections between faith and classroom curriculum, Father Hans Peter Kolvenbach, the Superior General of the Jesuits, stated that “[s]olidarity is learned through ‘contact’ rather than through ‘concepts.’”<sup>2</sup> It is possible to find that “contact” during law school! For example, you can:

- Join your law school clinic and participate in outreach programs
- Participate in service initiatives and local organizing campaigns
- Join a mosque, temple, church, synagogue, or other religious center to share your practice in community with others
- Sit in on undergraduate philosophy or religion classes
- Seek out conversations with law school professors or fellow students who are rooted in spiritual traditions
- Organize a panel discussion on “holistic lawyering” (just as doctors are taught that the spiritual life of a patient is an important factor in effective diagnosis and treatment, so too should lawyers reflect on how clients may need space to express their spirituality during the course of legal campaigns or litigation!)
- Take advantage of spiritual retreats (this can be a great gift to yourself after exams)

At the end of the day, many of us find that it was just such “contact” that brought us to law school in the first place.

As you might guess, the charted course is neither easy nor smooth. Regardless of your religion, devotional practice, meditation, or spirituality beliefs, I encourage you to animate your vocation with a lively spirit and join those of us struggling to enrich the spirit of a profession too often accused of being “poor” in spirit.

<sup>1</sup> Sanford Levinson, *Identifying the Jewish Lawyer: Reflections on the Construction of Professional Identity*, 14 Cardozo L. Rev. 1577, 1578 (1993).

<sup>2</sup> Peter Hans Kolvenbach, S.J., The Service of Faith and the Promotion of Justice in American Jesuit Higher Education, Keynote Address at the Santa Clara University Bannan Center for Jesuit Education Justice Conference (Oct. 6, 2000), at [http://www.scu.edu/news/attachments/kolvenbach\\_speech.html](http://www.scu.edu/news/attachments/kolvenbach_speech.html). See generally After Justice, Conversations of Jesuit Higher Education n.19 (Spring 2001) (essays reflecting on Fr. Kolvenbach’s October 2000 address).

## Paying the Bills While Feeding Your Soul—How to Finance a Legal Education

By Kate Kelly

The thought may have crossed your mind in contemplating a legal career, “How is 100K of debt going to help me pursue social justice?” Indeed, law school can be an extremely expensive educational pursuit. Likely the most frequent reason for folks like us not completing law school and launching a career in “public interest law” is the crushing amount of debt we incur. A great resource on student debt is the Equal Justice Works (EJW) website: [www.EqualJusticeWorks.org](http://www.EqualJusticeWorks.org). EJW has information on LRAPs, grants and scholarships, the College Cost Reduction and Access Act and much more.

A few questions to ask yourself when considering WHERE to go to school:

- How expensive is the school?
- What is the cost of living in the area?
- Does the school have a loan repayment program?
- Does the school have special scholarships for public interest students?
- Does the school offer special grants or financial aid for people with your background?
- Does the school offer a part-time program so you can work and avoid living expense loans?

### Cost

First and foremost, how expensive is your school? A degree from a top-tier school will probably never hurt you, but the price tag can be high. It is possible to get a great (and often cheaper) legal education at a second or third-tier law school. Consider the type of law you are interested in, because a first year public interest salary often does not come close to the “average starting salary range” advertised by some schools. Don’t just look at rankings. Consider the school’s commitment to social justice. Ask a lot of questions, because while most schools claim they love public interest law, the commitment can be pretty superficial.

Also consider how expensive it will be to live in the area where you are applying. Keep in mind that the primary place you will be exploring during law school will be the library, not the city you live in. That said, if you are committed to living somewhere new, it may be a good



bargain to take a year off to establish residency in the state you want to study in.

### Part-time Programs

Many law schools offer part-time programs for working people. Classes for these programs are primarily held at night Monday-Thursday. While there are unique challenges for part-time students, like serious time shortages, it can offer a way to keep your debt to a minimum. If you are able to work during school, you may avoid taking out living expense loans which are significant. Additionally, some employers offer tuition reimbursement programs to employees. This option may be particularly attractive to students with families, since living expense loans rarely cover the actual cost of living, especially in expensive areas.

### LRAPs

LRAP = Loan Repayment Assistance Programs. Many schools offer LRAP programs that relieve student debt for students who pursue low-paying public interest jobs after graduation. Admissions counselors often mention LRAPs to lure you into thinking that it is a catch-all safety net for

those wanting to go into public interest law, but few schools offer fully comprehensive LRAPs. Do a little homework about each school's plan. Questions to ask about LRAPs:

- What is the income cap?
- Is there a minimum debt requirement?
- What is the yearly maximum/lifetime cap for funds disbursed?
- Who raises the funds for the LRAP?
- How many students qualify each year?
- What kinds of employment qualify under the program?



### Public Interest And Other School Scholarships

Though less generous than graduate programs, law schools do disperse merit and need based financial aid. Additional aid is often available to upperclass students (2Ls and 3Ls) who perform well their first year.

Some law schools offer special grants or scholarships to those committed to public interest law. These coveted pools of money can cover up to full tuition. Check the EJW cite for a comparison of different schools. Remember that applications for public interest scholarships may be due before the normal application deadline and will likely require additional essays.

### CCRA

One of the things that gives the most hope to aspiring legal radicals is the recently passed College Cost Reduction and Access Act (CCRA). CCRA provides loan repayment assistance and forgiveness for anyone working in the public service (all non-profit jobs qualify as well as government jobs such as public schools, universities, and government agencies). After law school it allows you to make smaller, income-based payments on your loans. Complete loan forgiveness of your remaining debt is available after 10-years of public service employment. Only Federal Direct Loans are eligible for Public Service Loan Forgiveness.

A significant plus of this program is that you can work in many types of employment (legal and non-legal!) and stay eligible. The EJW website provides a lot of information about this, including calculators and webinars.

Schooling It Instead of Letting It School You:

## A Few Ideas to Keep It Real In Law School

In 1983, Duncan Kennedy published a manifesto of sorts for radical law students, urging resistance against the “ideological training for willing service in the hierarchies of the corporate welfare state.”<sup>81</sup> What form, though, does resistance take in law school? What form should it take?

Northeastern law school takes a stab at answering some of those questions in a beautiful guide published annually for its public interest students:

*Don't overlook perhaps the most essential factor to surviving law school: retaining your perspective and remaining yourself. You don't need to look too far to realize that this is no ivory tower. Your past has not vanished; you did not leave the world behind when you came here. Most of us decided to go to law school knowing full well that it would be time-consuming, stressful, and financially burdensome. What we did not know, and could not have predicted, was how much of a sacrifice it would require from almost all other areas of our lives. While lots of juggling is required in the attempt, we have discovered how important it is to stay in touch with your pre-law school identity. Don't forsake that past; it's what propelled you here. Maintain those friendships outside of law school. Don't neglect family and romantic relationships. Continue political work, community activities, sports, or artistic endeavors. And whatever you do, don't wait a month to take a day off from studying.*

*Law school is like a marathon, so remember to pace yourself so you don't burn out too soon. If you ever feel like you are totally overwhelmed, remember you are not alone! You can be sure that there are others feeling the same way, even if it seems like everyone else seems to have it all together. It would be unnatural for you not to feel like you just want to give up at some point. Keep this in mind and you will feel a lot better when times are tough. Also, remember that you came to law school a competent adult who can write, think, and understand things already. Don't forget that. Law school is designed to augment your already numerous talents; don't fall into the trap of thinking you can't do anything right.*<sup>82</sup>

Here, I propose four baseline commitments for new students committed to social justice: 1) building a social justice community at your law school,

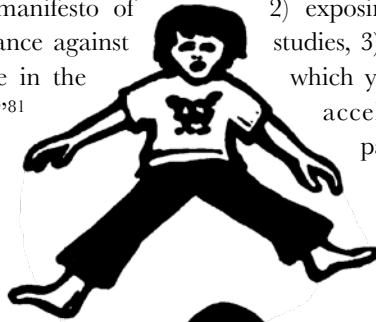
2) exposing yourself to critical approaches to legal studies, 3) finding peace with grades and the degree to which you engage in the legal establishment, and 4) accelerating, not pulling away from, your participation in community organizing.

### 1. Build A Social Justice Community at Your School

Unless you're very lucky, your legal life probably won't get kicked off with a welcoming ritual from those who have gone before you. Instead, you will need to find a 'social movement home' on your own—an endeavor that often becomes a reverse rite of passage. Many of us intuitively understand that law school is a permanent upstream swim, even at the pre-law school discernment stage. Still, if you've come from circles that better understand the crucial role that mentoring plays in strengthening social movements, it can be disappointing to not feel a concerted welcome. When I started school, my new tribe seemed 'too busy doing really important work' to reach out to me, but if you study in places with active National Lawyers Guild chapters like New York City, Boston, San Francisco or Portland, you might have the opportunity to join social justice legal networks early in your studies. Many schools use the Guild's "Disorientation" materials to welcome in new students. Also, the Next Generation Committee of the Guild has been working to strengthen national mentoring programs.<sup>83</sup>

Every school has at least one social justice-oriented faculty member, so be sure to seek them out. Most schools already have student groups who can provide support for you, including chapters of the National Lawyers Guild, your Public Interest Law Group, the American Constitution Society, Amnesty International, or your undergraduate social justice group. Weekly or bi-weekly lunch meetings for students interested in social justice work can help secure a baseline community space, and some constancy in community is useful when exam season heats up.

Radical placemaking at law school can be a crucial way to supplement your coursework and make



school feel like a place you belong. I remember a talk my 1L year by Brenna Bell, a Portland-based environmental attorney, who spoke about the Green Scare. Brenna spoke in the same room as my Civil Procedure class, yet quite unlike my professor, ceremoniously took off her shoes in mid-presentation as she shared her insights about how her work as a naturalist overlaps with her work as a lawyer and organizer. The room was mesmerized. Neither stuffy attorney nor mumbling environmentalist, Brenna defied categorization. We could sense that she had figured out a way to be herself in a lawyer hat, and that helped us have faith we would find a way too. No, there was no sage, but I felt like she cleansed my Civ-Pro room. Afterwards it felt like a room I belonged in.

## 2. Expose Yourself to Critical Approaches to Legal Studies

Much of this handbook has critiqued the dominant teaching methodologies in modern law schools, but there are parts of the education that we all enjoy. Hang on tight to the parts that intrigue or inspire you, and look for ways to bring in materials and voices your syllabi leave out. It can be paralyzing to come across a judicial opinion that seems racist, classist or misogynistic without being exposed to an appropriate framework to launch your critique. Kathryn M. Stanchi lays out a familiar problem for people new to legal studies:

*I knew I did not like the [Model Penal] Code's approach [to the law of rape], but as a first year law student I had no way to articulate that discontent in legal discourse without knowing what feminist theorists like Susan Estrich had said about it.<sup>84</sup>*

There is probably a Critical Legal Studies<sup>85</sup> scholar on your faculty, and you can always search the legal journals for critical spins on the material you're covering. Yes, it can be daunting to look for even more materials to read, but the exposure to crucial perspectives can help you engage and really understand your regular coursework. The material in the field of Critical Legal Studies (including Feminist Legal Theory, Critical Race Studies and Lat Crit) is unquestionably provocative; while serving as Dean at Duke Law School, Paul Carrington once called Critical Legal scholars "nihilists" and demanded they resign if they didn't respect the law.<sup>86</sup>

## 3. Make Peace with Your Relationship to Your Grades and the Degree to Which You Engage with the Legal Establishment

Even among radical lawyers, there is often a daunting double narrative. I interviewed a radical attorney once

who emphasized that she had never been hired based on her law school grades, yet made sure to sneak in the fact that she graduated fourth in her class. So do grades matter or don't they? More importantly, how do you subvert the way grades breed fear and competition, dividing students into a hierarchy that continues after graduation? Steve Nickles explains:

*Examinations typically mean grades, and grades mean everything . . . Grades will buy a spot on the dean's list, membership in honor fraternities, enrollment in specialized classes and programs, and a place on the law journal staff. Upon graduation these prizes can be exchanged for associations with the better law firms, clerkships with prestigious courts, or acceptance by the elite graduate schools. The snowball continues to roll, and these initial professional ties become cherished springboards to others that are still bigger and better.<sup>87</sup>*

Most radical lawyers will tell you grades don't matter all that much—experience does. So start doing the work you want to do upon graduation your first year in law school. Applaud yourself when your focus strays from your study of English common law just long enough to sit and hear the full story of an immigrant who is facing deportation.

Yet just when you are breathing easy and feeling like grades don't matter, don't be surprised if you hear an anecdote about a person who was not hired for your dream job because she didn't go to the right school or didn't get good enough grades. At the end of the day, you have to figure out for yourself how much energy you want to put into law school and find a way to be content with your grades. Most of us want to grow not just as lawyers, but as integral human beings—those 'other skills,' while not on your examinations, are crucially important for your future work:

*At the risk of sounding fruffy-goofy, I think it's important to try to grow and develop emotionally and spiritually. During law school, you will meet some students who might have a really*



*brilliant ability to legally analyze a problem but aren't really in a place of emotional health such that they can listen to a client and not try to act out to satisfy their own emotional needs either in or out of class.*<sup>88</sup>

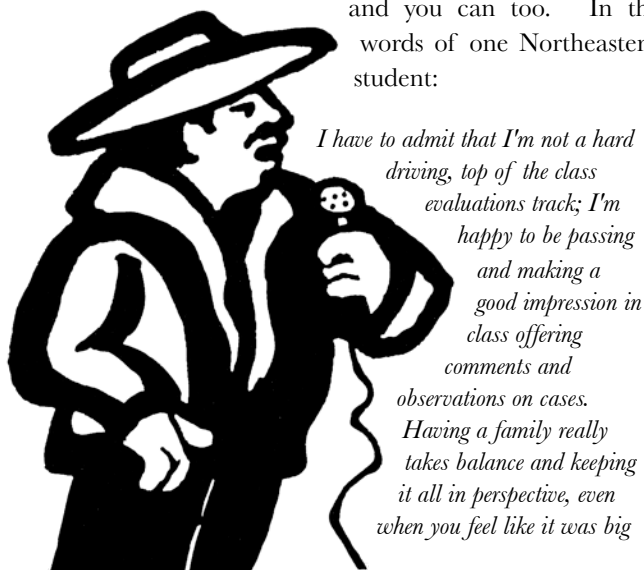
Some students treat law school as a job and place limits (say 9:00 a.m.-5:00 p.m. during normal times and a little more during exam season) on study time. In this camp are students who accept that they might be able to get better grades if they put in more work, but they would rather have time for other things they care about. Other students find peace working as hard as they can as much as they can. “I study all the time and don’t really do anything else—that way I know I deserved the grade I got and there was nothing else I could have done,” said one student from the University of Michigan.<sup>89</sup>

If you happen to perform well, or want to perform well, be intentional about the way you talk about grades with other students and the way your speech can perpetuate the broader, and often oppressive, structure of grading. Excelling at the master’s game is useful only to the extent that you kung fu back the energy; be careful about grade bragging/fretting that creates a “big me-little you” dynamic.<sup>90</sup>

Also, it helps to remember that we don’t all start off on the same foot—there are race, gender and class-based grade disparities that factor into how we perform.<sup>91</sup> These disparities start with the LSAT (the average LSAT score for black students was 142.6 in 2000, while the average white student scored 153.6) and influence admissions as well as scholarship funding.<sup>92</sup>

Thousands of law students each year find a way to live well-rounded lives and avoid being defined by their grades, and you can too. In the

words of one Northeastern student:



*mistake just remember that the goal is to become a lawyer, not to become the most ‘whatever’ lawyer.”*<sup>93</sup>

Another student at Loyola University in New Orleans found balance by focusing on her commitment to justice work instead of feeling disappointed by her grades:

*I have been diagnosed as a very slow reader and yes, it affects my performance on exams, but I refuse to let it affect how I feel about myself and how passionate I am about advocating for justice.*<sup>94</sup>

Many years ago, a man from a humble family dreamed of studying sociology and took the Graduate Record Exam. He flunked it.<sup>95</sup> That man was Dr. Martin Luther King, Jr. You, too, can do great things, however your grades turn out. Yes, law school grading is a humiliating, demoralizing, and underinclusive system to evaluate adult learning, but it will only be as much a part of your identity as you let it. Don’t forget why you came to law school and the millions of wonderful things about you that will serve you as a lawyer but not get you a single point on an exam.

#### 4. Accelerate Your Participation in Community Organizing

Few professions draw as diverse practitioners as Reginald Hugh Hickling, Kenneth Starr, John Woo, Shirin Ebadi and Mahatma Gandhi. Who are your legal heroes? What lessons of their life work are relevant for you? As time consuming as law school can be, there is simply no replacement for, as one student put it, a “working man’s/ woman’s PhD.” She continues:

*There is no substitute for real life experience. You can't buy it for a million dollars. Get in the trenches, and it will change your outlook on professors, the rat race, law school, earning a living, and everything in life. . . The best advice I can give to new law students is to be involved in your community.*<sup>96</sup>

Typical law school activism occurs in three arenas: 1) campaigns and initiatives to change fundamental structures at the law school (including efforts to push for more diverse faculty, change grading systems, and secure funding for public interest scholarships, summer internships, and loan repayment programs); 2) education and awareness-raising activities at school (bringing in speakers, hosting panels, showing films and running campus campaigns); and 3) funneling law school resources into the community (including legal observation collectives, clinic work, and long-term volunteer programs). If you’re new in town, find people who are doing work that interests you and wiggle your way into their universe. Also, the National Lawyers Guild can provide you with extensive resources to push forward organizing initiatives.



## Resources

### Before Making Your School & Funding

#### Choices

- Equal Justice Works Debt Relief Information: <http://equaljusticeworks.org/resources/student-debt-relief/default>
- America's Whitest Law Schools: <http://academic.udayton.edu/TheWhitestLawSchools/>

### Before You Enter Law School

- The National Lawyers Guild's Law Students Disorientation Handbook: <http://nlg.org/resources/DisHandbook2008.pdf>
- Bill Quigley's Letter to a Law Student Interested in Social Justice: <http://law.loyno.edu/~quigley/Articles/LetterToLawStudent.pdf>
- The Truth, The Whole Truth and Nothing But the Truth: An Insider's Guide to Northeastern University School of Law (a publication of the Northeastern Chapter of the National Lawyers Guild)
- Analysis by "Critical Legal Studies" practitioners such as Robin Barnes, Derrick Bell, Leslie Bender, Naomi Cahn, Stephen Carter, Kimberle Crenshaw, Richard Delgado, Diana Fuss, Peter Gabel, Angela Harris, Alex Johnson, Emma Jordan, Kenneth Kalst, Duncan Kennedy, Catherine MacKinnon, Mari Matsuda, Martha Minow, Deborah Rhode, Elizabeth Spelman, Shelby Steele, Mark Tushnet, Patricia Williams, Heather Ruth Wishik and Iris Marion Young. You could start with Duncan Kennedy's *Legal Education and the Reproduction of Hierarchy: A Polemic Against the System and First Year Law Teaching as Political Action*: <http://duncankennedy.net/bibliography/alpha.html>. You can find most of these authors on the crit, a critical studies journal: <http://thecritui.com>.

### When You Get to School

- Email Listserves:
  - NLG Student & Regional Lists: <http://nlg.org/membership/listservs.php>
  - Equal Justice Works: <https://app.e2ma.net/app/view:Join/signupId:16400/maillingId:1931145>
  - Campus Clubs
- Conferences:
  - The NLG's annual convention (usually in September): <http://nlg.org/convention>

- Shaking the Foundations, an annual conference designed to encourage students to use their legal skills in the struggle for social justice: <http://shaking.stanford.edu/>
- Yale's Rebellious Lawyering Conference, an annual, student-run conference: <http://islandia.law.yale.edu/reblaw/>
- Equal Justice Works Conference: <http://www.equaljusticeworks.org/events/ccf/general>

#### Speeches and Panels

- Van Jones, of Green For All: [http://ylsqstss.law.yale.edu:8080/qtmedia/reblaw/RebLawJones\\_s.mov](http://ylsqstss.law.yale.edu:8080/qtmedia/reblaw/RebLawJones_s.mov)
- Stephen Bright, of the Southern Center for Human Rights: [http://ylsqstss.law.yale.edu:8080/qtmedia/reblaw/RebLawBright\\_s.mov](http://ylsqstss.law.yale.edu:8080/qtmedia/reblaw/RebLawBright_s.mov)
- The African Public Interest Lawyer: Rebellious Lawyering on the Continent panel (audio only) [http://ylsqstss.law.yale.edu:8080/qtmedia/reblaw/RebLawAfricanPI\\_s.mov](http://ylsqstss.law.yale.edu:8080/qtmedia/reblaw/RebLawAfricanPI_s.mov)
- Rejecting "Tough on Crime": Fixing a Broken Criminal Justice System panel (audio only): [http://ylsqstss.law.yale.edu:8080/qtmedia/reblaw/RebLawCrime\\_s.mov](http://ylsqstss.law.yale.edu:8080/qtmedia/reblaw/RebLawCrime_s.mov)

<sup>1</sup> Nikki Demetria Thanos is a second year law student at Loyola University College of Law in New Orleans. Nikki wrote most of this Handbook, though many other folks thoughtfully contributed as editors, writers and interviewees, including Suzanne Adely, Brenna Bell, Davida Finger, Leo Gorman, Chanel Gray, Hiba Hafiz, Caitlin Kelly Henry, Rob Jack, Kate Kelly, Samantha Kennedy, Nebula Li, Alison McCrary, Michel Martinez, Terri Nilliasca, Diane Oraif, Jill Pasquarella, Tory Pegram, Clayton Perry, Tim Phillips, Bill Quigley, Tiel Rainelli and Claire Yancey. Thanks to Neil Ransom for the design layout. Thanks to Stu Rees for letting us use his cartoons (more can be found at [www.stus.com](http://www.stus.com)) and to Rini Templeton for the free-use social justice art. Nikki Thanos can be reached at [nikkithanos@gmail.com](mailto:nikkithanos@gmail.com). The Handbook is available for download at: [http://www.loyno.edu/~quigley/Handbook\\_for\\_Social\\_Justice\\_Activists](http://www.loyno.edu/~quigley/Handbook_for_Social_Justice_Activists).

<sup>2</sup> There were 1,143,358 practicing attorneys in 2007. American Bar Association, ABA Approved Law Schools, <http://www.abanet.org/legaled/approvedlawschools/approved.html> (last visited Feb. 7, 2009).

<sup>3</sup> Interview with Tim Phillips, April 12, 2009.

<sup>4</sup> *Maas v. Corp. of Gonzaga Univ.*, 618 P.2d 106 (Wash. Ct. App. 1980) (holding in favor of the university).

<sup>5</sup> Interview with Clayton Perry, April 12, 2009.

<sup>6</sup> Christopher T. Matthews, *Sketches For A New Law School*, 40 Hastings L.J. 1095, 1095 (1989).

<sup>7</sup> See Ira Shor & Paulo Freire, *A Pedagogy for Liberation: Dialogues on Transforming Education* 8 (1987).

<sup>8</sup> The Brazilian theorist Pablo Freire criticized what he termed the ‘banking model of education,’ where education is a transaction between professors who “deposit” information (as if at a bank) into students, who learn as passive receptors. See *id.*

<sup>9</sup> Unlike the ‘banking model of education,’ Popular Education is an approach to teaching and learning that recognizes the liberatory potential of participatory methodologies.

<sup>10</sup> Interview with Brenna Bell, May 3, 2009.

<sup>11</sup> Matthews, *supra* note 6.

<sup>12</sup> Interview with Bill Quigley, Jan. 27, 2009.

<sup>13</sup> Randolph N. Jonakait, *The Two Hemispheres of Legal Education and the Rise and Fall of Local Law Schools*, 51 N.Y.L. Sch. L. Rev. 863, 869-70 (2006-2007).

<sup>14</sup> Laura Pulido, *FAQS: Frequently (Un)Asked Questions on Being a Scholar/Activist*, in *Engaging Contradictions: Theory, Politics and Methods of Activist Scholarship* (Charlie Hale, ed., 2006), citing a 2004 interview with Lisa Duran, Executive Director, Rights for All People (RAP).

<sup>15</sup> *Patron* is Spanish for ‘boss.’

<sup>16</sup> Daniel Farber, *What If Anything Can Economics Say About Equity?* 101 Mich. L.Rev. 1791, 1801-04 (2003); Daria Roithmayr, *Revisiting a Classic: Duncan Kennedy’s Legal Education and the Reproduction of Hierarchy*, 55 J. Legal Educ. 80, 88-89 (2005).

<sup>17</sup> Alexis De Veau, *Warrior Poet: A Biography of Audre Lorde*, W.W. Norton & Co. (2004).

<sup>18</sup> Leo B. Gorman and Nikki Demetria Thanos, *From Cha-Ching’ to ‘Ah-Ohhh’ in Popular Education: Beyond the Banking Model* in *Challenging the Wall: Toward a Pedagogy of Hope*, Arab Educational Institute Press (2007) (applying lessons of Popular Education work in Latin America to Palestinian non-violent social movements).

<sup>19</sup> *Id.* at 1.

<sup>20</sup> Joseph W. Little, *Pawns and Processes: A Quantitative Study of Unknowns in Legal Education*, 21 J. Legal Educ. 145, 167 (1968). For more modern critiques, see Richard Abel, *Choosing, Nurturing, Training, and Placing Public Law Students*, 70 Fordham L. Rev. 1563 (2002); Eliot Freidson, *Professionalism as Model and Ideology*, in *Lawyers’ Ideals/Lawyers’ Practices: Transformation in the American Legal Profession* 215 (Robert L. Nelson et al. eds., 1992); Robert V. Stover & Howard S. Erlanger, *Making It and Breaking It: The Fate of Public Interest Commitment During Law School* (1989).

<sup>21</sup> Sandra Janoff, *The Influence of Legal Education on Moral Reasoning*, 76 Minn. L. Rev. 193, 237 (1991) (highlighting different moral reasoning patterns); Audrey J. Schwartz, *Law, Lawyers, and Law School: Perspectives From the First-Year Class*, 30 J. Legal Educ. 437 (1980) (changed world view).

<sup>22</sup> ABA Comm’n on Loan Repayment & Forgiveness, *Lifting the Burden: Law Student Debt as a Barrier to Public Service* 9 (2003); See also Lisa G. Lerman, *The Slippery Slope from Ambition to Greed to Dishonesty: Lawyers, Money, and Professional Integrity*, 30 Hofstra L. Rev. 879, 886 (2002).

- <sup>23</sup> Phillips, *supra* note 3.
- <sup>24</sup> Perry, *supra* note 5.
- <sup>25</sup> Steven C. Halpern, *On the Politics and Pathology of Legal Education (Or, Whatever Happened to That Blindfolded Lady with the Scales?)*, 32 J. Legal Educ. 383, 388 (1982).
- <sup>26</sup> Matthews, *supra* note 5 at 1101.
- <sup>27</sup> Steve H. Nickles, *Examining and Grading in American Law Schools*, 30 Ark. L. Rev. 411, 411 (1977); Stephen B. Shanfield & G. Andrew H. Benjamin, *Psychiatric Distress in Law Students*, 35 J. Legal Educ. 65, 66-72 (1985).
- <sup>28</sup> See Lawrence S. Krieger, *What We're Not Telling Law Students - And Lawyers - That They Really Need To Know: Some Thoughts-in-Action Toward Revitalizing the Profession From Its Roots*, 13 J.L. & Educ. 1 (1998-99).
- <sup>29</sup> Matthew M. Dammeyer & Narina Nunez, *Anxiety and Depression Among Law Students: Current Knowledge and Future Directions*, 23 Law & Hum. Behav. 55 (1999); B. A. Glesner, *Fear and Loathing in the Law Schools*, 23 Conn. L. Rev. 627 (1991); Daniel N. McIntosh et al., *Stress and Health in First-Year Law Students: Women Fare Worse*, 24 J. Applied Soc. Psychol. 1474 (1994); Marilyn Heins et al., *Law Students and Medical Students: A Comparison of Perceived Stress*, 33 J. Legal Educ. 511 (1983); Phyllis W. Beck & David Burns, *Anxiety and Depression in Law Students: Cognitive Intervention*, 30 J. Legal Educ. 270 (1979).
- <sup>30</sup> Joan M. Krauskopf, *Touching the Elephant: Perceptions of Gender Issues in Nine Law Schools*, 44 J. Legal Educ. 311, 328 (1994) (analyzing results from a 1991 survey distributed at the nine law schools in Ohio).
- <sup>31</sup> Connie J.A. Beck, et. al., *Lawyer Distress: Alcohol-Related Problems and Other Psychological Concerns Among a Sample of Practicing Lawyers*, 10 J.L. & Health 1, 1 (1995-96) (finding that "the professional and the personal well-being of lawyers is in serious jeopardy"); G. Andrew H. Benjamin, et. al., *The Role of Legal Education in Producing Psychological Distress Among Law Students and Lawyers*, 1986 Am. B. Found. Res. J. 225, 248-49 (1986); Andrew S. Watson, *The Quest for Professional Competence: Psychological Aspects of Legal Education*, 37 U. Cin. L. Rev. 91, 121 (1968).
- <sup>32</sup> Deborah L. Rhode, *Kicking the Socratic Method and Other Reforms of Law Schools*, Chron. Higher Educ., Jan. 26, 2001, at B15.
- <sup>33</sup> Interview with Kate Kelly, June 30, 2009.
- <sup>34</sup> Deborah L. Rhode, *The Professionalism Problem*, 39 Wm. & Mary L. Rev. 283, 296-97 n.77 (1998).
- <sup>35</sup> Id. at 297 n.80. See also Patrick J. Schiltz, *On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession*, 52 Vand. L. Rev. 871 (1999).
- <sup>36</sup> Rhode, *The Professionalism Problem*, *supra* note 32.
- <sup>37</sup> Interview with Davida Finger, May 13, 2009.
- <sup>38</sup> Phillips, *supra* note 3.
- <sup>39</sup> Interview with Alison McCrary, March 28, 2008.
- <sup>40</sup> W.K.C. Guthrie, *The Greek Philosophers* (Routledge Press: 1968).
- <sup>41</sup> James R. P. Ogloff et. al., *More Than 'Learning to Think Like a Lawyer': The Empirical Research on Legal Education*, 34 Creighton L. Rev. 73 (2000).
- <sup>42</sup> Morrison Torrey et al., *What Every First-Year Female Law Student Should Know*, 7 Colum. J. Gender & L. 267, 280-81 (1998).
- <sup>43</sup> Rhode, *Kicking the Socratic Method*, *supra* note 32.
- <sup>44</sup> Kevin H. Smith, "X-file" Law School Pedagogy: *Keeping the Truth Out There*, 30 Loy. U. Chi. L.J. 27, 36 (1998).
- <sup>45</sup> James D. Gordon, *How Not To Succeed in Law School*, 100 Yale L.J. 1679 (1991).
- <sup>46</sup> Matthews, *supra* note 6 at 1103.
- <sup>47</sup> Pierre Schlag, *Hiding The Ball*, 71 N.Y.U. L. Rev. 1681, 1683-84 (1996).
- <sup>48</sup> A handful of states still admit individuals to the bar with substantial apprentice experience.
- <sup>49</sup> Charles R. McKirdy, *The Lawyer as Apprentice: Legal Education in Eighteenth Century Massachusetts*, 28 J. Legal Educ. 124, 126 (1976).
- <sup>50</sup> Steven H. Leleiko, *Legal Education—Some Crucial Frontiers*, 23 J. Legal Educ. 502, 504 (1971); Michael L. Closen, *Teaching With Recent Decisions: A Survey of Past and Present Practices*, 11 Fla. St. U. L. Rev. 289 (1983); Alan A. Stone, *Legal Education On the Couch*, 85 Harv. L. Rev. 392 (1971); Paul F. Teich, *Research On American Law Teaching: Is There a Case Against the Case System?*, 36 J. Legal Educ. 167 (1986).

- <sup>51</sup> Carrie Menkel-Meadow, *Taking Law and \_\_\_\_\_ Really Seriously: Before, During and After "The Law,"* 60 Vand. L. Rev. 555 (2007).
- <sup>52</sup> Jennifer L. Rosato, *The Socratic Method and Women Law Students: Humanize, Don't Feminize,* 7 S. Cal. Rev. L. & Women's Stud. 37, 40 (1997).
- <sup>53</sup> The National Lawyers Guild Disorientation Handbook 2008 at 10, [www.nlg.org/membership/DisO2008.pdf](http://www.nlg.org/membership/DisO2008.pdf).
- <sup>54</sup> Perry, *supra* note 5.
- <sup>55</sup> Jennifer Jaff, *Frame-Shifting: An Empowering Methodology for Teaching and Learning Legal Reasoning,* 36 J. Legal Educ. 249, 260 (1986).
- <sup>56</sup> Stone, *supra* note 50 at 414-415.
- <sup>57</sup> In 1870, the first woman graduated from law school at the Union College of Law in Chicago (now Northwestern); one year prior, the first woman was admitted into a state bar. See *Bradwell v. Illinois*, 83 U.S. 130 (1873) (holding, in an 8-1 decision, that the Fourteenth Amendment does not require states to admit women to the bar because the right to practice law is not one of the privileges and immunities). Although women were finally allowed into the ABA in 1920, many schools kept their gates closed to women well into 1950s. See Janette Barnes, *Women and Entrance to the Legal Profession*, 23 J. Legal Educ. 276, 276 (1970); Jurate Jason et al., *The Woman Law Students: The View From the Front of the Classroom*, 24 Clev. St. L. Rev. 223, 223 (1975). In 1844, the first black man was admitted to a state bar. Edward J. Littlejohn & Leonard S. Rubinowitz, *Black Enrollment in Law Schools: Forward to the Past?*, 12 T. Marshall L. Rev. 415, 417 n.3 (1987).
- <sup>58</sup> Timothy T. Clydesdale, *Forked River Runs Through Law School: Toward Understanding Race, Gender, Age and related Gaps in Law School Performance and Bar Passage*, 29 Law & Soc. Inquiry 711, 724-25 (2004).
- <sup>59</sup> *Id.*
- <sup>60</sup> One study at the University of Florida law school found that "the way in which students experience law school varies by race, ethnicity, and gender, both alone or in combination." Betty W. Taylor, *A History of Race and Gender at the University of Florida Levin College of Law 1909-2001*, 54 Fla. L. Rev. 495, 497 (2002).
- <sup>61</sup> W. E. B. Du Bois, *The Souls of Black Folk* 19 (1903, republished by Fine Creative Media, Inc. 2003).
- <sup>62</sup> Richard Delgado, *Rodrigo's Riposte: The Mismatch Theory of Law School Admissions*, 57 Syracuse L. Rev. 637 (2007).
- <sup>63</sup> Lani Guinier, et al., *Becoming Gentlemen: Women's Experiences at One Ivy League Law School*, 143 U. Pa. L. Rev. 1 (1994); Lani Guinier et al., *Becoming Gentlemen: Women, Law School, and Institutional Change* (1997).
- <sup>64</sup> Ann Bartow, *Still Not Behaving Like Gentlemen*, 49 U. Kan. L. Rev. 809 (2001).
- <sup>65</sup> Guinier 1994, *supra* note 63 at 46.
- <sup>66</sup> Torrey et. al, *supra* note 42, at 281 nn.78-79; Rhode, *supra* note 31, at 1555 & nn.31-32.
- <sup>67</sup> Torrey et al., *supra* note 42, at 276.
- <sup>68</sup> Phillips, *supra* note 3.
- <sup>69</sup> The New Jersey Supreme Court upheld a surrogacy contract and awarded custody of a child to a married couple that had contributed the sperm even though the biological and gestational mother wanted to keep the baby. *In re Baby M*, 537 A.2d 1227 (N.J. 1988).
- <sup>70</sup> Allison L. Bowers, *Women at the University of Texas School of Law: A Call for Action*, 9 Tex. J. Women & L. 117, 119-120 (2000) (a survey of women law students at the University of Texas).
- <sup>71</sup> Celestial S.D. Cassman et. al., *A Kinder, Gentler Law School? Race, Ethnicity, Gender and Legal Education at King Hall*, 38 U.C. Davis L. Rev. 1209 (2005).
- <sup>72</sup> Interview with Northeastern Student #21, April 3, 2009.
- <sup>73</sup> Phillips, *supra* note 3.
- <sup>74</sup> Christine Haight Farley, *Confronting Expectations: Women in the Legal Academy*, 8 Yale J.L. & Feminism 333, 343 (1996).
- <sup>75</sup> Univ. of Virginia Portraits of Law School Deans Focus Attention on Need for Diversity, *Jet*, Mar. 3, 1977, at 32.
- <sup>76</sup> Interview with Chanel Gray, April 7, 2009.
- <sup>77</sup> Interview with Diane Oraif, April 14, 2009.
- <sup>78</sup> Interview with University of Chicago Student #14.
- <sup>79</sup> Interview with anonymous interviewee # 29, April 2, 2009.

<sup>80</sup> The Truth, The Whole Truth and Nothing But the Truth: An Insider's Guide to Northeastern University School of Law 34, 26th Edition, Fall 2008.

<sup>81</sup> Duncan Kennedy, Legal Education and the Reproduction of Hierarchy: A Polemic Against the System (Afar: 1983).

<sup>82</sup> The Truth, The Whole Truth, *supra* note 73 at 3-4.

<sup>83</sup> The National Lawyers Guild Disorientation Handbook, 2008, [www.nlg.org/membership/DisO2008.pdf](http://www.nlg.org/membership/DisO2008.pdf).

<sup>84</sup> Kathryn M. Stanchi, *Dealing with Hate In a Feminist Classroom: Rethinking the Balance*, 11 Mich. J. Gender & L. 173 (2005). See Susan Estrich, Rape, 95 Yale L.J. 1087 (1986).

<sup>85</sup> Critical Legal Studies is a theory and a movement that operates from the premise that law is not neutral, but rather reflects power relationships in society. "Crits" often observe how people in power use law to oppress others while maintaining a system that benefits them.

<sup>86</sup> Paul D. Carrington, *Of Law and the River*, 34 J. Legal Educ. 222, 227 (1984).

<sup>87</sup> Nickles, *supra* note 27 at 411-12.

<sup>88</sup> Perry, *supra* note 5.

<sup>89</sup> Interview with University of Michigan student #4, March 15, 2009.

<sup>90</sup> Thanks to Norris Henderson for exposing me to the concept of "big me, little you." Interview with Norris Henderson, Director of Safe Streets, Strong Communities, Feb. 3, 2009.

<sup>91</sup> Richard H. Sander, *A Systemic Analysis of Affirmative Action in American Law Schools*, 57 Stan. L. Rev. 367, 373 (2004).

<sup>92</sup> How Black Law School Enrollments Will Collapse Under Race-Blind Admissions, J. Blacks Higher Educ., Autumn 2001, at 20-21, cited in Dan Subotnik, *Are Law Schools Racist? A 'Talk' With Richard Delgado*, 43 U.S.F. L. Rev. 227 (2008).

<sup>93</sup> The Truth, The Whole Truth, *supra* note 80 at 33.

<sup>94</sup> McCrary, *supra* note 39.

<sup>95</sup> Richard Delgado, *supra* note 62 at 648.

<sup>96</sup> Oraif, *supra* note 77.

## A Final Word

For those of us who are already committed to the struggle for justice, thinking about law school brings up pressing questions about the wisdom of ‘checking out’ of the movement to pursue a course of study in the belly of the beast. There are lots of convincing reasons not to go to law school, and some equally compelling arguments for why we need you. I hope this handbook has helped you sift through some of your curiosities about legal education, and

look forward to seeing you in the struggle, whether you’re filing briefs with me, or doing something that has little to do with the law, like teaching high school, playing music or organizing workers. We need all sorts of people for a thriving movement—only you can discern whether law school is the best forum to fertilize your passions. Rock on, friends, and good luck!



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