

Cultural Competency

Instruct the Instructor: Materials selected to inform instruction and research.

Jamie R. Abrams, *What Inclusive Instructors Do*, 26 LEGAL WRITING 209 (2022) (reviewing TRACIE MARCELLA ADDY ET AL., *WHAT INCLUSIVE INSTRUCTORS DO: PRINCIPLES AND PRACTICES FOR EXCELLENCE IN COLLEGE TEACHING* (2021)).

- This book review applies “Instructors Do: Principles and Practices for Excellence in College Teaching” to the law school curriculum, suggesting concrete modifications to legal writing courses.

Alina S. Ball, *Transactional Community Lawyering*, 94 TEMP. L. REV. 397 (2022), [https://www.westlaw.com/Document/laa6b2263f80711ec9f24ec7b211d8087/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cb1t1.0](https://www.westlaw.com/Document/laa6b2263f80711ec9f24ec7b211d8087/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cb1t1.0)

- This article provides the first textured description of “transactional community lawyering”—the intentional application of community lawyering theory into a distinctly transactional practice. It argues that community lawyering theory must evolve to (1) demand structural, not merely cultural, competency; (2) emphasize strategic alliance building to supplement the boundaries of subject matter expertise; and (3) contemplate the impact of digital technologies in expanding community lawyering beyond its traditional geographic limitations in order to integrate transactional lawyers as community lawyers.

Anastasia M. Boles, *Pivoting Under Pressure: Cultural Proficiency, Race, and Reforms*, 2022 UTAH L. REV. 871

[https://www.westlaw.com/Document/l6cead1c4491611ed9f24ec7b211d8087/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cb1t1.0](https://www.westlaw.com/Document/l6cead1c4491611ed9f24ec7b211d8087/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cb1t1.0)

- This essay seeks to stabilize the frame of the curriculum reform discussion by examining some threshold considerations which are often missing to create sustainable cultural change.
- I focus on two accessible tools that can guide law schools in the exercise of integrating racial justice throughout the curriculum. First, in Part I, I review the “essential elements” of cultural proficiency, a set of culturally proficient standards to guide law schools in crafting reform efforts. In Part II, I illustrate how the cultural proficiency “continuum” can guide interactions in the law school community about racial justice and the law school curriculum.

Nicola “Nicky” A. Boothe, *Black and Barred: The Bar Examination's History of Exclusivity and the Threat of Further Exclusion Posed by ABA Standard 316*, 74 S.C. L. REV. 179 (2022),

<https://heinonline.org/HOL/P?h=hein.journals/sclr74&i=187>

- Statistics evidence that White test takers are significantly more likely to pass the bar exam on the first try than test takers of other races and ethnicities.
- To provide a framework for needed reform to ABA Standard 316, this Article will first provide a brief history of Standard 316. A brief history of the ABA and the bar exam will follow, to include a discussion of a proposed new bar exam format, with the conclusion providing a foundational basis for a timely and relevant discussion in the legal profession beginning with the review of enforcement of Standard 316.

Leslie P. Culver & Elizabeth Kronk-Warner, *#includetheirstories: Rethinking, Reimagining, and Reshaping Legal Education*, 2022 UTAH L. REV. 709

[https://www.westlaw.com/Document/l6cead1b6491611ed9f24ec7b211d8087/View/Full Text.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/l6cead1b6491611ed9f24ec7b211d8087/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- Introduction to the 2022 University of Utah Law Review symposium, which centered around reforming legal education to promote cultural competence.

Sonia M. Gipson Rankin, *What's (Race in) the Law Got to Do with It: Incorporating Race in Legal Curriculum*, 54 CONN. L. REV. 923 (2022).

[https://www.westlaw.com/Document/l53be6f4a5f1311ed8636e1a02dc72ff6/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/l53be6f4a5f1311ed8636e1a02dc72ff6/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- This essay outlines cognitive dissonance theory, color blindness ideology, and its relationship to racial inequality, while providing classroom techniques that encourage dialogue related to conversations on equity and race. These classroom strategies will help professors' awareness of equity in the legal profession and the justice system.

Leah Goodridge, *Professionalism As A Racial Construct*, 69 UCLA L. REV. DISCOURSE 38 (2022),

[https://www.westlaw.com/Document/lab79af80b70911ec9f24ec7b211d8087/View/Full Text.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/lab79af80b70911ec9f24ec7b211d8087/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- This Essay examines professionalism as a tool to subjugate people of color in the legal field.
- Professionalism is a standard with a set of beliefs about how one should operate in the workplace. While professionalism seemingly applies to everyone, it is used to widely police and regulate people of color in various ways including hair, tone, and food scents.

L. Kate Mitchell, Maya K. Watson, Abigail Silva, Jessica L. Simpson, *An Inter-Professional Antiracist Curriculum Is Paramount to Addressing Racial Health Inequities*, 50 J.L. MED. & ETHICS 109 (2022)

[https://www.westlaw.com/Document/I25f5787ef21211ec9f24ec7b211d8087/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/I25f5787ef21211ec9f24ec7b211d8087/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- Legal, medical, and public health professionals have been complicit in creating and maintaining systems that drive health inequities. To ameliorate this, current and future leaders in law, medicine, and public health must learn about racism and its impact along the life course trajectory and how to engage in antiracist practice and health equity work.
- In this article, we: (1) acknowledge the complicity of our disciplines in contributing to structural racism and health inequities; (2) outline calls for incorporating antiracist education and interprofessional training into our curricula; (3) share examples from our institution of interprofessional didactic, experiential, and volunteer opportunities in antiracism and health equity; and (4) discuss challenges and opportunities in integrating antiracist and interprofessional training into our curriculum.

Danielle J. Murdoch & Michaela M. McGuire, *Decolonizing Criminology: Exploring Criminal Justice Decision-Making through Strategic Use of Indigenous Literature and Scholarship*, 33 J. CRIM. JUST. EDUC. 325 (2022). <https://perma.cc/K46N-U2FR>

- Post-secondary institutions have been increasingly called upon to decolonize pedagogy and syllabi. Minimal research has examined decolonization efforts within criminology curricula despite such classes often exploring structural racism in discussions of the overrepresentation of Indigenous, Black, and other racialized persons in the criminal justice system.
- Through a content analysis of multiple written assignments written by 25 under-graduate students enrolled in a decision-making in criminal justice class offered at a university in western Canada - this study explores how an instructor decolonized their course through the strategic use of Indigenous literature and scholarship.

Robert J. Razzante & Breanta Boss, *Dei in the Legal Profession: Identifying Foundational Factors for Meaningful Change*, 2022 UTAH L. REV. 785 (2022)

[https://www.westlaw.com/Document/I6cead1bc491611ed9f24ec7b211d8087/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/I6cead1bc491611ed9f24ec7b211d8087/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- This Essay proceeds into four main examinations of the importance of DEI: institutional factors, programmatic factors, classroom-specific factors, and intrapersonal factors.
- These factors reflect Bernardo M. Ferdman's assertion that organizational change should have adjustments at the macro-, meso-, and micro-levels. The institutional factors reflect macro-level changes, whereas the intrapersonal factors reflect micro-level changes. The meso level of

programmatically and classroom factors reflects the bridge that connects the institutional with the intrapersonal

Rory Bahadur & Liyun Zhang, *Socratic Teaching and Learning Styles: Exposing the Pervasiveness of Implicit Bias and White Privilege in Legal Pedagogy*, 18 HASTINGS RACE & POVERTY L.J. 114 (2021),

<https://heinonline.org/HOL/P?h=hein.journals/hasrapo18&i=115>

- This paper makes four recommendations toward increased understanding and effective use of multimodal teaching methods; (1) critically examine the misunderstanding and misapplication of scientific data that supports the effectiveness of adapting teaching methods to student learning preferences, including the prevalent nomenclature mistakes made by detractors that conflate the concepts of learning styles, preferences and methods, as well as the concepts of teaching and learning; (2) recognize implicit biases and other forms of racism that interfere with the ability to reach all students; (3) show respect for our culturally diverse students by acknowledging their differences and adapting our methods accordingly; and (4) encourage legal educators to engage in cross disciplinary collaboration with fields such as neuroscience and educational psychology which have already made headway in proving the learning benefits of multimodal instruction.

Eura Chang, Note, *Barring Entry to the Legal Profession: How the Law Condones Willful Blindness to the Bar Exam's Racially Disparate Impacts*, 106 MINN. L. REV. 1019 (2021), <https://heinonline.org/HOL/P?h=hein.journals/mnlr106&i=1025>

- As this note discusses, willful blindness to the bar exam's disparate impacts is condoned in part by two legal doctrines that protect decisionmakers from legal accountability—absolute immunity doctrine and an uncompromisingly limited interpretation of the Fourteenth Amendment. This Note analyzes how these two doctrines block a potential constitutional challenge to the bar exam and how courts have declined to accept or assign responsibility. Finally, this Note calls on state supreme courts, the National Conference of Bar Examiners, state bar associations, and other influential decisionmakers to:
(1) start collecting and publishing bar admission rates disaggregated by race, and (2) enter into a broader conversation regarding when decades of turning away from inequitable outcomes should fulfill the Fourteenth Amendment's court-created intent requirement.

Samuel Vincent Jones, *Law Schools, Cultural Competency, and Anti-Black Racism: The Liberty of Discrimination*, 21 BERKELEY J. AFR. AM. L. & POL'Y 84 (2021), <https://heinonline.org/HOL/P?h=hein.journals/afamlpol21&i=138> .

- This article challenges conventional wisdom by advancing what some observers may consider a bold claim—that anti-Black racial

discrimination represents a continuous and constitutive feature of the law school experience.

- This article takes a philosophical incursion into our conceptual mapping of the Black law student experience as it relates to the value of “cultural competency” legal instruction as an effective, and potentially required, response to anti-Black racial discrimination.

Danielle M. Lyn, *More than a Number: A Call to Measure Institutional Diversity through Qualitative Classroom Methods*, 96 NOTRE DAME L. REV. REFLECTION 257 (2021), <https://heinonline.org/HOL/P?h=hein.journals/ndalro96&i=257>

- Authored by a first generation minority student, this article calls on educational institutions to rethink their quantitative measures of diversity, and makes several suggestions for qualitative measures of diversity in law schools.

Stephanie Smith Ledesma, *Compassion: A Critical Skill for Law Students*, 22 MARQ. BENEFITS & SOC. WELFARE L. REV. 181 (2021),

[https://www.westlaw.com/Document/I49220a7c646e11ec9f24ec7b211d8087/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/I49220a7c646e11ec9f24ec7b211d8087/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- The Socratic method, the “black letter law”, essay exams over simulations, legal research skills exalting a style and form of writing that only other lawyers dare to read; and legal writing with its competing theories of organizational forms, IRAC, CRAC, CRuPAC, all designed to highlight and prove rigor of the educational program miss one component, feeling.
- This article is intended to introduce “cultural compassion” into the vernacular of legal education and thereby serve as a platform for exploration of what “cultural compassion” is and open discussions and debates about why “cultural compassion” should be taught in law schools as a critical skill.

Shahrokh Falati, *The Makings of a Culturally Savvy Lawyer: Novel Approaches for Teaching and Assessing Cross-Cultural Skills in Law School*, 49 J.L. & EDUC. 627 (2020)

[https://www.westlaw.com/Document/I67a70763bf8411ebbea4f0dc9fb69570/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/I67a70763bf8411ebbea4f0dc9fb69570/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- In this Article, I focus on teaching and assessing cultural competency and develop three key points. First, I highlight and discuss why cultural awareness and intercultural skills is an increasingly critical skill set for all law students. Second, I review the various stages of cultural competency, highlight the barriers to acquiring a more nuanced cross-cultural skill set, and discuss habits that can foster law students’ cross-cultural skills development. I next discuss the law school curriculum and how strategies could be adopted to introduce, or increase exposure to, “culture” in both

non-clinical doctrinal law courses and law school clinics, providing options for law professors for incorporating and assessing these emerging student learning outcomes in a law school setting.

- The Article ends by offering options for more general intervention strategies that law school Deans and administrators can consider to raise cultural awareness on a law school campus-wide basis.

Michele Benedetto Neitz, *Pulling Back the Curtain: Implicit Bias in the Law School Dean Search Process*, 49 SETON HALL L. REV. 629 (2019),

[https://www.westlaw.com/Document/1a53c17fd53e711e9adfea82903531a62/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/1a53c17fd53e711e9adfea82903531a62/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- The dean search process becomes a lightning rod for the stresses facing law school faculty and staff and university administrators. As a result, the implicit biases of individuals and institutions can play a major (if often obscured) role in the selection of a dean. Although the concept of implicit bias has been extensively studied in the context of judges, the criminal justice system, and other areas, no one to date has looked at the effects of implicit bias on law dean search processes. This article stems from my experience chairing multiple dean searches and my research interest in the existence, genesis, and effects of implicit bias. Part II will review the role of a law school dean, with special consideration of the ways the Great Recession and its outcomes transformed the role of the dean. Part III will describe the typical dean search process and evaluate decanal diversity statistics to determine which candidates are selected for these powerful roles in today's law schools. Part IV will introduce the concept of implicit bias, specifically focusing on in-group favoritism. This part will also analyze the ways implicit bias can manifest itself in the dean search process, focusing on racial, gender, socioeconomic, and sexual orientation biases. Finally, Part V will suggest recommendations to minimize the operation and impact of implicit bias on the part of dean search committees, and will offer creative ways to improve the traditional dean search process. The techniques cover de-biasing techniques for individuals (mindfulness, taking the IAT, mentorship); de-biasing techniques for institutions (selection of Chair, bias climate surveys, composition of the committee, culture and reputation considerations, objective factors and scoring interviews, implicit bias training, additional suggestions for the committee chair); and change the dean search process (diverse leadership conferences, dean search registry, data collection).

Anastasia M. Boles, *The Culturally Proficient Law Professor: Beginning the Journey*, 48

N.M. L. REV. 145 (2018) <https://heinonline.org/HOL/P?h=hein.journals/nmlr48&i=151>

- Law professors can use culturally proficient instruction to deconstruct culture of marginalization in law schools and reconstruct a culture of racial inclusion.
- Law professors may accomplish this by first examining internally held beliefs, or “inside-out” examination.
- Culturally proficient instruction should be redistributed among all law faculty, not only faculty of color to create racial inclusion in the law school environment.

Marcelle Burns, *Are We There Yet? Indigenous Cultural Competency in Legal Education*, 28 LEGAL EDUC. REV. 1 (2018),

<https://heinonline.org/HOL/P?h=hein.journals/legedr28&i=237>

- Over the past decade there has been numerous reports which have highlighted the need for Indigenous cultural competency (ICC) to be embedded in the higher education sector.
- This article outlines the current state of ICC in legal education.

Christina Chong, *Battling Biases: How Can Diverse Students Overcome Test Bias on the Multistate Bar Examination*, 18 U. MD. L.J. RACE RELIG. GENDER & CLASS 31 (2018),

[https://www.westlaw.com/Document/I26ca37417b4011e8a5b3e3d9e23d7429/View/FulIText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/I26ca37417b4011e8a5b3e3d9e23d7429/View/FulIText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- Abstract: Drafters of standardized tests, such as the Law School Admissions Test (LSAT) and Multistate Bar Examination (MBE), strive to eliminate biases in multiple-choice questions by assembling representatives of diverse backgrounds to screen and discard prejudicial questions. But in reality, intelligence tests will always contain some aspect of bias because a committee of test administrators can never represent the views of every person. Nevertheless, the bar exam incorrectly assumes that all applicants learned the same information throughout their academic careers and possess similar cultural experiences and opinions. The bar exam has not fully recognized that questions can be interpreted differently.
- Scholars advocate abandoning intelligence tests as a measure of a person’s future success, but this is unlikely to happen anytime soon because intelligence tests have been used since the early 1900s. Thus, in the meantime, professors must teach students how to identify and eliminate personal biases to increase the students’ chances of selecting the best answer. We must acknowledge that biases will never fully disappear and figure out how to properly support students who experience biases. This article does not promote conforming to social norms, changing our students’ core beliefs, or decreasing diversity. This article addresses the reality of the bar exam and provides students with a chameleon-like skill that they can use to ensure they are triumphant on

the MBEs.

- Part I provides background information on the components of the bar exam and disparity in performance results between Whites and people of color. It defines test validity and explores test biases as a possible reason for the lower passage of minorities, such as language barriers, the equal experience assumption, promotion of dominant values, and bias in item selection. Part II discusses test biases on the MBE portion of the bar by exploring the National Conference of Bar Examiners' (NCBE) five myths and breaking down specific multiple-choice questions from NCBE's Online Practice Exam #4. Part III shares how academics can (a) reframe stereotype threat to help students overcome test anxiety and (b) reframe the speediness and memorization requirements of the bar exam to requirements of grit and determination to join the profession. Finally, Part IV acknowledges that test biases are unlikely to disappear and provides a step-by-step solution to help students be successful on the MBEs. The step-by-step approach is supported by statistics from the Logic for Lawyers class at the University of San Francisco School of Law, a multiple-choice skills-based test that employs the step-by-step method.
- Examines the extent to which legal education and the Rules of Professional Conduct for lawyers are attentive to issues of culture.
- Compares the legal field to both social work and medicine when it comes to training and ethical standards relating to cultural competence and implicit bias and advocates for amending the Model Rules of Professional Conduct to align with the ethics rules that govern health care providers and social workers.

Leslie P. Culver, *White Doors, Black Footsteps: Leveraging 'White Privilege' to Benefit Law Students of Color*, 21 J. GENDER, RACE & JUST. 37 (2018).

[https://www.westlaw.com/Document/11b43bcec689111e8a5b2e3d9e23d7429/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&S=cblt1.0](https://www.westlaw.com/Document/11b43bcec689111e8a5b2e3d9e23d7429/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&S=cblt1.0)

- Law students of color typically avoid seeking the mentorship of white law professors, largely white males, finding female faculty and faculty of color more approachable and willing to serve as mentors. Yet, according to recent ABA statistics, white people make up eighty-eight percent of the legal profession, with sixty-four percent being male. In addition, relevant scholarship comments that one of the primary privileges of whiteness is having greater access to power and resources than people of color do. It follows then, as recent legal scholarship suggests, that law students of color who fail to develop a cultural competence may be at a professional disadvantage if they are ill prepared to work with diverse clients and colleagues. In other words, the success of law students of color, as well as their access to resources in the legal profession strongly correlates with an acclimation toward positive interracial relationships. This article draws upon interdisciplinary research, which suggests a white person's heightened

White Privilege Awareness (WPA), paired with the belief that their influence can enact positive change, reduces racial inequality against people of color. Specifically, this article maintains that WPA among white law professors, who mentor students of color and then leverage their white privilege to open professional doors for these students, will reduce implicit bias and may ultimately increase the retention of diverse attorneys. While the best methods to diversify the legal profession have appeared elusive, it is actually equal opportunity and empowerment of attorneys of color that eludes us.

- Diversity then feels like a “buzz word,” not a tangible priority. Thus this call to action for white professors is not rhetoric, but a unique opportunity for the white professor to diversify the legal profession.

Christine Chambers Goodman, *Shadowing the Bar: Attorneys’ Own Implicit Bias* 28 BERKELEY LA RAZA L.J. 18 (2018),

[https://www.westlaw.com/Document/lcd64bcd2689011e8a5b2e3d9e23d7429/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cb1t1.0](https://www.westlaw.com/Document/lcd64bcd2689011e8a5b2e3d9e23d7429/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cb1t1.0)

- This article analyzes the implications of implicit bias in the legal profession, focusing on how the implicit biases of attorneys impact litigants. Part one summarizes research in the cognitive science field defining bias and explains some of the Harvard Implicit Association Tests (IAT). Part two describes some studies conducted on juror and judicial bias in the courtroom, as well as those dealing with the bias of attorneys in criminal cases. Using this background, part three provides an analysis of the impact of an attorney’s implicit bias on her strategic decision making and conduct of civil litigation, its results for clients, and its impact on the justice system. Part three also provides an argument for the American Bar Association’s (ABA) proposed rule for a negligence standard regarding ethical regulations intended to ensure that lawyers work harder to overcome biases to better serve justice. The conclusion in part four proposes a framework for interrupting biased behaviors.

Sarah J. Schende, *How Academic Support Professionals Can Better Support LGBTQ+ Law Students - and Why We Should*, LEARNING CURVE 12 (Summer/Fall 2018), Ohio State Public Law Working Paper No. 468, <https://perma.cc/YM9J-L8UM> (Go to view live page to download paper).

- This piece is a call to action to support our LGBTQ students by creating a welcoming atmosphere in which it feels safe for our LGBTQ students to be more authentic.

Kevin Sherrill, *How to Help Students Cope with the Challenges Posed by Stereotype Threats*, LEARNING CURVE 17 (Summer/Fall 2018), Ohio State Public Law Working Paper No. 468, <https://perma.cc/348E-U3XE> (Go to view live page to download paper).

- This article explores strategies we may use to assist our diverse

students in overcoming stereotype threat.

Katherine Silver Kelly & Allison N. Meena, *Intelligence is Not Enough: Uncovering & Communicating the Hidden Rules to Promote Success in Law School*, LEARNING CURVE 2 (Summer/Fall 2018), Ohio State Public Law Working Paper No. 468, <https://perma.cc/348E-U3XE> (Go to view live page to download paper).

- This short piece explores how class, privilege and access to resources impact the learning environment, notes the common occurrence of teaching from a singular experience, and encourages us to rethink how we engage with these students as a tool to build cultural competence.

Gregory Scott Parks, *Race, Cognitive Biases, and the Power of Law Student Teaching Evaluations*, 51 U.C. DAVIS L. REV. 1039 (2018), <https://heinonline.org/HOL/P?h=hein.journals/davlr51&i=1059>

- Abstract: Decades of research shows that students' professor evaluations are influenced by factors well-beyond how knowledgeable the professor was or how effectively they taught. Among those factors is race. While some students' evaluative judgments of professors of color may be motivated by express racial animus, it is doubtful that such is the dominant narrative. Rather, what likely takes place are systematic deviations from rational judgment, whereby inferences about other people and situations are illogically drawn. In short, students' cognitive biases skew how they evaluate professors of color. In this Article, I explore how cognitive biases among law students influence how they perceive and evaluate law faculty of color. In addition, I contend that a handful of automatic associations and attitudes about faculty of color predict how law students evaluate them. Moreover, senior, especially white, colleagues often resist considering the role of race in law students' evaluations because of their own inability to be mindful of their own cognitive biases. Lastly, given research largely from social and cognitive psychology, I suggest a handful of interventions for law faculty of color to better navigate classroom dynamics.

Suzanne Rowe, *The Elephant in the Room: Responding to Racially Charged Words*, 15 LEGAL COMM'N & RHETORIC: JALWD 263 (2018), <https://heinonline.org/HOL/P?h=hein.journals/jalwd15&i=266>

- Lessons in interrupting incidents of bias, with focus on bystanders.
- Provides a set of exercises to deal with racially insensitive (derogatory, and worse) statements in professional and social settings.
- This essay shares two approaches for responding to the elephant in the room. Both approaches are based on guidelines developed by

facilitators at work- shops I've attended to address my own discomfort at the possibility of responding to a racially charged comment.

- The first approach seems more appropriate in unstructured situations, such as a social setting or an office meeting. The second approach is designed for leading a Continuing Legal Education (CLE) lecture or a law school class. Obviously, there is overlap between the two approaches, and ideas from each might be useful in a number of situations.
- After introducing each approach, the authors offer scenarios where racially charged words are spoken. The scenarios are drawn from situations I have experienced, heard anecdotally, or read about, and they are presented to provide a basis for reflection. The responses are based on trainings, discussions, and readings, and they express what I might hope to say in the moment.
- For those who have the epiphany of the "right thing to say" hours later, in the middle of the night, the author offers advice about rehearsing responses prophylactically. The author draws on personal methods, to practice responses, just as she would rehearse a public lecture or professional presentation, to prepare one- self to be effective when one facing the "elephant."

Barry Sullivan, *The Power of Imagination: Diversity and the Education of Lawyers and Judges*, 51 U.C. DAVIS L. REV. 1105 (2018), <https://perma.cc/E6DR-3FLP>

- Although there are persuasive arguments for the benefits of diversity throughout higher education, a particularly compelling argument can be made for diversity in legal education, based on the distinctive mission, concerns, and pedagogy of legal education. In making that argument, this paper takes seriously Justice O'Connor's insight in *Grutter v. Bollinger*, 539 U.S. 306 (2003), that "context matters" when courts consider the constitutionality of race-conscious admissions programs, as well as Justice Powell's thoughtful reflections on the particular aims of professional education in *Regents of the University of California v. Bakke*, 438 U.S. 265 (1978). Legal education was the immediate context involved in *Grutter*, of course, but Justice O'Connor mainly focused on the context of higher education more generally. As the value of diversity continues to be questioned across the board, this paper suggests that Justice O'Connor's insight might be further developed, so that more carefully tailored arguments can be made with respect to the value of diversity in specific educational contexts.
- In the case of legal education, the paper suggests, a strong argument for diversity may be made specifically in terms of the work that lawyers and judges do. Whether in litigation or in transactional work, the effective lawyer is one who is capable of understanding and appreciating the values, motivations, and interests of the other parties, as well as those of

his or her client. The effective lawyer must also be able to understand how the other parties' values, motivations, and interests relate to those of his or her client, and the effective lawyer must be able to counsel and otherwise represent his or her client in accordance with that knowledge.

- If anything, it is even more essential that judges be able to understand and appreciate the values, motivations, and values of those who are unlike themselves in every way. Effective lawyering and judging therefore requires professional imagination and judgment, the cultivation of which must begin in law school and requires above all that students be encouraged to see the kinds of issues they will confront in practice from the perspectives of others. That does not come easily or naturally. As this paper suggests, it requires a certain kind of educational experience in which students are actively exposed to a diversity of ideas and considerations, and a diverse student body is critically important to that educational process.

Taifha Baker, Note, *How Top Law Schools Can Resuscitate an Inclusive Climate for Minority and Low-Income Law Students*, 9 GEO. J.L. & MOD. CRITICAL RACE PERSP. 123 (2017).

[https://www.westlaw.com/Document/I540194313ceb11e798dc8b09b4f043e0/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cb1t1.0](https://www.westlaw.com/Document/I540194313ceb11e798dc8b09b4f043e0/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cb1t1.0)

- Note argues that TLS should create an inclusive learning climate to better support minority and low-income students and provides a collection of ideas for creating an inclusive climate.
- Part I of this Note specifies the students and law schools that are the focus of the analysis.
- Part II details the institutional, faculty and student factors that contribute to an exclusionary climate.
- In Part II, I use my own experiences and anonymous reports from minority and low-income law students to demonstrate how exclusionary climates manifest at TLS. Scholars have used this method of storytelling in a range of scholarship, including critical race theory and outsider scholarship. This Note proposes a range of institutional, faculty and student-level inclusive climate ideas that TLS can choose from to create a more inclusive climate. Similar to scholars who rely on their understanding of their legal expertise to suggest changes in the law, I rely on my experiences as a minority, low-income law student at a TLS to suggest ideas that I believe will lead to an inclusive climate on TLS campuses. I recognize that each TLS is different. An inclusive climate practice may work for, or be appealing, to one TLS, but not the other. My goal in proposing different inclusive practices in Part III is to allow TLS to choose which practices would work best for its campus, considering the unique issues the institution, students and faculty face.

- Note concludes that implementing inclusive climate practices will better support minority and low-income students at TLS. It is important to note that this Note is solely driven out of care, genuine concern and optimism that my law school, and law schools in similar positions, will better understand the unique challenges minority and low-income law students face and dedicate its efforts to creating a more inclusive climate.

Michele Benedetto Neitz, *When Myths Become Beliefs: Implicit Socioeconomic Bias in American Courtrooms*, in *ENHANCING JUSTICE, REDUCING BIAS* 131, 133 (Sarah E. Redfield, ed. 2017).

- Neitz' chapter is included in a book that strives to explain how many who pride themselves on being fair can be part of a system which is widely seen as unfair by those who have historically been victims of bias and prejudice. The central focus of the book is on the different approaches that courts can use to lessen the impact of implicit bias by "breaking the bias habit."
- *Enhancing Justice: Reducing Bias* was written by a team of judges, lawyers, social scientists, professors, and experienced trainers worked together to bring cutting-edge research and thinking to this effort. The result offers both perspective and practical advice from their disciplines and their collaboration.
- The focus is on best practices, as we know them today, which can enable courts to lessen the impact of implicit bias. The book seeks to help "break the bias habit" by increasing knowledge and awareness of implicit bias, improved understanding and practice of procedural fairness and of culturally competent communication across cultures.

Anastasia M. Boles, *Seeking Inclusion from the Inside Out: Towards a Paradigm of Culturally Proficient Legal Education*, 11 *CHARLESTON L. REV.* 209 (2017),

[https://www.westlaw.com/Document/I45272185295911e798dc8b09b4f043e0/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/I45272185295911e798dc8b09b4f043e0/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- Examines the need for legal education to adopt a culturally proficient paradigm, beginning at the administrative and faculty level. Further, this author discusses the implication of such a program
- This author scrutinizes the need for a culturally proficient paradigm from several perspectives
- Advocates for adoption of the paradigm of cultural proficient instruction utilized by Dr. Kikanza Nuri-Robins

Debra Chopp, *Addressing Cultural Bias in the Legal Profession*, 41 *N.Y.U. REV. L. & SOC. CHANGE* 367 (2017) <https://perma.cc/2V94-P95J>

- This article addresses the role of implicit cultural bias in the delivery of legal services. Lawyers routinely represent clients with backgrounds and experiences that are vastly different from their own, and the fact of these differences can impede understanding, communication, and, ultimately, effective representation. While other professions, such as medicine and social work, have adopted measures that are designed to mitigate the effects of cultural bias on service delivery, the legal profession lags far behind. In contrast to professionals in these other disciplines, lawyers have seen little by way of change—to either educational models or to the Rules of Professional Conduct—with an eye toward addressing the problem of cultural bias. This article seeks to highlight the failure of the legal profession to take such steps and suggests avenues.

Evan Hamman, *Culture, Humility and the Law: Towards a More Transformative Teaching Framework*, 42 ALTERNATIVE L.J. 156 (2017).

<https://eprints.qut.edu.au/104276/15/Cultural%2BHumility%2Band%2Bthe%2Blaw%2B%28working%2Bpaper%2B7.03.17%29.pdf>

- Cultural competency has proven less effective than its proponents had envisioned. Disciplines outside of the law (social work, health and psychology) have turned to the more powerful theory of 'cultural humility' - a framework for life- long learning and self-reflection. Cultural humility contends that one can never really 'master' another's culture, but that we ought to remain respectful and reflective in our approach.
- In this article I make the case for teaching cultural humility in Australian law schools.

Carol Izumi, *Implicit Bias and Prejudice in Mediation*, 70 SMU L. REV. 681 (2017).

[https://www.westlaw.com/Document/I9b77d99af58f11e79bf099c0ee06c731/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/I9b77d99af58f11e79bf099c0ee06c731/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- Mediators aspire and endeavor to meet their ethical duty of “neutrality” in mediation. Yet their ability to actually conduct mediations without bias, prejudice, or favoritism toward any party is extraordinarily difficult, if not impossible. Research shows that unconscious mental processes involving stereotypes and attitudes affect our judgments, perceptions, and behavior toward others. Implicit bias, the automatic association of stereotypes and attitudes with social groups, may produce discriminatory responses toward parties despite a mediator’s best efforts at creating an outwardly evenhanded process. Even the most well-intentioned and egalitarian mediators must actively engage in bias reduction strategies to mitigate prejudice in mediation.

Palma Joy Strand, *We Are ALL on the Journey: Transforming Antagonistic Spaces in Law School Classrooms*, 67 J. LEGAL EDUC. 176 (2017),

<https://www.westlaw.com/Document/I41f675640d5d11e89bf099c0ee06c731/>

[View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/I4775d838d61d11e79bef99c0ee06c731/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- Abstract: My core insight in this essay is that concrete and usable strategies exist that counter antagonistic space in law schools for students from traditionally underrepresented groups and that concurrently stretch students across the board. Law professors can intentionally engage in “microinclusions” in our classrooms - teaching practices that not only counter microaggressions but that affirmatively create a learning environment of belonging in which historically marginalized and other students can thrive. A mindset of intentional validation - as opposed to microinvalidation - offers a frame for law school pedagogy that goes beyond belonging to empowerment.

Christian Sundquist, *Beyond The ‘Resiliency’ and ‘Grit’ Narrative in Legal Education: Race, Class and Gender Considerations*, 50 J. MARSHALL L. REV. 271 (2017), [https://www.westlaw.com/Document/I4775d838d61d11e79bef99c0ee06c731/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/I4775d838d61d11e79bef99c0ee06c731/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- Abstract: Law students today, despite the unfounded “Millennial” stereotypes, are no less gritty or resilient than those of yesterday. Our law students do not need pedagogical reforms aimed at improving their “grit scale” score or resilient tendencies. Rather, legal education must respond to the changing learning needs of students in a rapidly transforming techno-legal landscape by instilling a sense of public service, professionalism, and adaptability while exploring innovative teaching methodologies. Our students, similar to those of the past, simply need to be inspired and impassioned as agents of change in an evolving world of law and justice.

Raquel Aldana, *Intercultural Legal Sensibility as Transformation*, 25 S. CAL. INTERDISC. L.J. 1 (2016), <https://plus.lexis.com/api/permalink/57072004-41c3-4c5d-8d4d-a1ad264c66cc/?context=1530671>

- Reflection on what it would mean to infuse teaching of intercultural legal sensibility with the necessary lessons to avoid perpetuating cultural dominance and global power imbalances through law
- Why there is a need for a transformation in how law schools train lawyers
- Primarily focuses on summer abroad programs and service-learning opportunities which include student immersion in rich cross-cultural exchanges
- Ways to measure the effectiveness of law school programs aiming to teach intercultural legal sensibility

Drew S. Jacoby, Stacey Sinclair & J. Nicole Shelton, *A Lesson in Bias: The*

Relation- ship Between Implicit Racial Bias and Performance in Pedagogical Contexts, 63 J. EX- PERIMENTAL SOC. PSYCH. 50 (2016), <https://perma.cc/QK3Z-PK43>

- Analyzes two studies where instructors' implicit bias predicted diminished test performance by participants
- Findings suggest that underperformance by minorities in academic domains may be driven by the effect implicit racial biases have on educators' pedagogical effectiveness.

Janet T. Prince, *"Can I Touch Your Hair?" Exploring Double Binds and the Black Tax in Law School*, 20 U. PA. J.L. & SOC. CHANGE 29 (2016), <https://perma.cc/S243-4LBX>.

- Acclimates faculty to experience of Black women as law students
- Study provides empirical support for the assertion that the negative effects of intersectionality do not begin in law firms, they begin in law school and follow black women throughout their careers.

Christina A. Zawisza, *Teaching Cross-Cultural Competence to Law Students: Understanding the 'Self' as 'Other'*, 17 FLA. COASTAL L. REV. 185 (2016) <https://heinonline.org/HOL/P?h=hein.journals/fclj17&i=197>

- This Article expands the repertoire of techniques to teach cross-cultural competence to law students to include a self and other lens. This Article revisits the famed attributes of cross-cultural competence developed by Susan Bryant and Jean Koh Peters in 2001 to adopt defining characteristics of culture that current academics and law students embrace. This Article offers five stepping stones to understanding self and other through a cultural lens, which address self with respect to the "otherness" of clients, lawyers, and judges.

Susan Brooks & Inga Laurent, *Effective Communication and Professional Relation- ships*, in *LEARNING FROM PRACTICE: A TEXT FOR EXPERIENTIAL LEGAL EDUCATION* (3d. ed. 2015).

- This chapter approaches communication with a broad lens by focusing on how law teachers can use communication to create, sustain, and improve professional relationships.
- These ideas also help lawyers when faced with confusing or difficult moments that may arise in practice (with a particular focus on field placement extern- ships), whether they occur with a supervising attorney, co-worker, client, judge, witness, opposing counsel, or any other person within your working environment.
- The teaching methods offered can be adapted to specific issues of cultural difference.

Alisa Cunningham & Patricia Steele, *Diversity Pipeline Programs in Legal*

Education: Context, Research, and a Path Forward, ACCESS LEX INST. (May 2015), <https://perma.cc/8GKB-KQW7>

- Abstract: This report, commissioned by the Access Group Center for Research & Policy Analysis, highlights the issue of diversity in legal education, provides an overview of the diversity pipeline, explores programs that seek to improve the pipeline, and provides several recommendations for leaders and supporters of diversity pipeline programs.
- As the racial and ethnic diversity of the United States continues to grow, it is increasingly important that comparable cultural diversity grows in the legal profession. Diversity in the legal field is central to ensuring public confidence in the legal system and provides society with a sense of fairness in the judicial system. The benefits of diverse leadership are numerous, particularly as the U.S. engages with a global, multicultural marketplace. To address gaps in the educational pipeline to the legal profession, many diversity pipeline programs have emerged to inspire interest, engagement, and success in degree programs in law. The goal of this report is to identify some of the key factors that are associated with successful diversity programs based on a scan of the literature, both within and outside of law school pipeline programs.

Andrea Anne Curcio, *Addressing Barriers to Cultural Sensibility Learning: Lessons from Social Cognition Theory*, 15 NEV. L.J. 537 (2015), [https://www.westlaw.com/Document/I276805e2900611e598dc8b09b4f043e0/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/I276805e2900611e598dc8b09b4f043e0/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- Results from 2 validated law student surveys regarding:
 - The role culture plays in lawyering and how those results relate to social cognition theory
 - What the survey results and social cognition theory suggest for legal educators, lawyers, and judges in terms of improving abilities to effectively work across cultures

Sean Darling-Hammond & Kristen Holmquist, *Creating Wise Classrooms to Empower Diverse Law Students: Lessons in Pedagogy from Transformative Law Professors*, 25 LA RAZA L.J. 1 (2015), [https://www.westlaw.com/Document/Ieb7c4c90636f11e698dc8b09b4f043e0/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/Ieb7c4c90636f11e698dc8b09b4f043e0/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- Created a qualitative study on transformative legal professors and outlines 10 habits of transformative professors

Meera E. Deo, *Faculty Insights on Educational Diversity*, 83 FORDHAM L. REV. 3115, 3138 (2015).

<https://www.westlaw.com/Document/laf4ecf9aff0311e498db8b09b4f043e0>

[/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](#)

- This Article presents findings from the Diversity in Legal Academia (DLA) project, a landmark empirical study of the law faculty experience. DLA findings suggest that law faculty members from all racial/ethnic backgrounds not only appreciate the many benefits of diversity, but they also recognize the educational and professional challenges associated with the lack of diversity currently plaguing many law schools. Courts, administrators, and others should rely on these findings to provide additional support for affirmative action through educational diversity, especially to bolster it while it is under attack.

Meero Deo, *Trajectory of a Law Professor*, 20 MICH. J. RACE & LAW 443 (2015) (noting that 83% of law school deans and 79% of associate deans are white).
<https://plus.lexis.com/api/permalink/739b063a-23cf-4fe3-86f8-fa3b6c4c449f/?context=1530671>

- This Article draws from quantitative and qualitative analyses of data drawn from the Diversity in Legal Academia (DLA) project, a landmark mixed- method study of law faculty diversity, which utilizes an intersectional lens to focus on the experiences of women of color in legal academia while also incorporating those of white men, white women, and men of color. Empirical findings reveal that structural barriers (i.e., outright discrimination) as well as more indirect obstacles prevent women of color from joining legal academia in meaningful numbers and also preclude women of color who are already legal academics from taking on leadership positions. Law school administrators and policy makers should work against these structural and individual barriers to increase and improve faculty diversity at all levels. Greater diversity in legal academia generally, and leadership in particular, will not only provide greater opportunities for particular law faculty members, but will also have a positive effect on law students, legal education, legal academia, and the legal profession overall.

Steven K. Homer, *Using Interculturally Aware Teaching Methods*, in BEST PRACTICES: TRANSFORMING LEGAL EDUCATION IN A CHANGING WORLD (Deborah Maranville, Lisa Radtke Bliss, Carolyn Wilkes Kaas & Antoinette Sedillo Lopez eds., 2015), <https://perma.cc/AP9D-9429>

- Three main aspects of legal education contribute to disparate impacts on non- dominant groups:
 - The presence, or lack, of faculty diversity and the connected effect on the ability of faculty to serve as role models and mentors for students;
 - Course materials that elide the experience of women and

- students of color by omitting them as actors with legal issues;
- The ways in which faculty do, or do not, interact with female students and students of color in and out of the classroom.

Russell G. Pearce, Eli Wald & Swethaa Ballakrishnen, *Difference Blindness vs. Bias Awareness: Why Law Firms with the Best of Intentions Have Failed to Create Diverse Partnerships*, 83 FORDHAM L. REV. 2407 (2015), [https://www.westlaw.com/Document/I26fb017be96511e498db8b09b4f043e0/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cb1.0](https://www.westlaw.com/Document/I26fb017be96511e498db8b09b4f043e0/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cb1.0)

- Abstract: This Article uses the example of Big Law firms to explore the challenges that many elite organizations face in providing equal opportunity to their workers. Despite good intentions and the investment of significant resources, large law firms have been consistently unable to deliver diverse partnership structures - especially in more senior positions of power. Building on implicit and institutional bias scholarship and on successful approaches described in the organizational behavior literature, we argue that a significant barrier to systemic diversity at the law firm partnership level has been, paradoxically, the insistence on difference blindness standards that seek to evaluate each person on their individual merit. While powerful in dismantling intentional discrimination, these standards rely on an assumption that lawyers are, and have the power to act as, atomistic individuals - a dangerous assumption that has been disproven consistently by the literature establishing the continuing and powerful influence of implicit and institutional bias. Accordingly, difference blindness, which holds all lawyers accountable to seemingly neutral standards, disproportionately disadvantages diverse populations and normalizes the dominance of certain actors - here, white men - by creating the illusion that success or failure depends upon individual rather than structural constraints. In contrast, we argue that a bias awareness approach that encourages identity awareness and a relational framework is a more promising way to promote equality, equity, and inclusion.

Christina A. Zawisza, *Teaching Cross-Cultural Competence to Law Students: Understanding the 'Self' as 'Other'*, 17 FLA. COASTAL L. REV. 185 (2015), [https://www.westlaw.com/Document/I3cea74c4056a11e798dc8b09b4f043e0/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cb1.0](https://www.westlaw.com/Document/I3cea74c4056a11e798dc8b09b4f043e0/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cb1.0)

- This article examines culture, cultural competence, bias, prejudices, stereotyping, discrimination, and methodologies for teaching cross-cultural competence
- The latter parts present stepping stones to teaching law students to understand themselves and other through a cultural lens

- Part III describes how the author teaches cross-cultural competence in individual client representation in a Child & Family Litigation Clinic.

Susan Bryant & Jean Koh Peters, *Talking About Race, in Transforming the Education of Lawyers: The Theory and Practice of Clinical Pedagogy* (Bryant, Milstein & Shalleck eds., 2014).

- The Habits of Cross-Cultural Lawyering curriculum serves two useful purposes:
 - Creating a daily practice of self-awareness helps lawyers become thoughtful observers in cross-cultural lawyering interactions;
 - Creating a common vocabulary for discussion of this with others.
- Suggests a structure for successful conversations about race.

Andrea Anne Curcio, Carol L. Chomsky & Eileen R. Kaufman, *Testing, Diversity, and Merit: A Reply to Dan Subotnik and Others*, 9 U. MASS. L. REV. 206 (2014),

[https://www.westlaw.com/Document/1a8302eea7c3811e498db8b09b4f043e0/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/1a8302eea7c3811e498db8b09b4f043e0/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- The false dichotomy between achieving diversity and rewarding merit frequently surfaces in discussions about decisions on university and law school admissions, scholarships, law licenses, jobs, and promotions. “Merit” judgments are often based on the results of standardized tests meant to predict who has the best chance to succeed if given the opportunity to do so. This Article criticizes over-reliance on standardized tests and responds to suggestions that challenging the use of such tests reflects a race-comes-first approach that chooses diversity over merit. Discussing the firefighter exam that led to the Supreme Court decision in *Ricci v. DiStefano*, as well as the LSAT and Bar Exam, the Article questions the way standardized tests are used in making critical gateway decisions. It argues, consistent with Title VII, that racially disparate test outcomes should prompt inquiry into whether better ways exist to determine merit. Based on studies indicating that cognitive tests predict academic and workplace success for a relatively small percentage of test-takers, and on research into assessing a wider range of skills in many fields, the Article suggests we can both better predict who will succeed as future lawyers and reduce the impact of test score racial disparities by modifying law school admissions and bar licensing processes. The Article concludes that questioning over-reliance on cognitive tests to measure merit will lead to the development of better assessment measures with more diverse outcomes, more fairness for all applicants, and more comprehensive decision-making processes that better reflect true merit.

Andrea A. Curcio, Teresa E. Ward, & Nisha Dogra, *A Survey Instrument to Develop,*

Tai-lor, and Help Measure Law Student Cultural Diversity Education Learning Outcomes, 38 NOVA L. REV. 177 (2014).

[https://www.westlaw.com/Document/I0d5831f7568511e498db8b09b4f043e0/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cb1.1.0](https://www.westlaw.com/Document/I0d5831f7568511e498db8b09b4f043e0/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cb1.1.0)

- This article identifies ways law schools might conceptualize learning outcomes that will enhance law students' abilities to effectively represent clients in today's multi-cultural world and global legal environment. It provides legal educators with a statistically valid and reliable survey instrument developed to help identify, and potentially measure, some of those learning outcomes. It discusses the survey design and findings. Finally, this article suggests several ways our survey instrument and re- search can help legal educators conceptualize ways to integrate the inclusion of cultural sensibility learning and learning outcomes into the law school curricula.

Cynthia Pay, *Teaching Cultural Competency in Legal Clinics*, 23 J.L. & SOC. POL'Y 188 (2014), <https://perma.cc/7Z4T-9VVF>.

- Describes several models of cross-cultural training, and offers her own (see Part IV, at p 215).
- Reflects on ways to appropriately and effectively address cultural competency in a clinical legal education setting.

Arin N. Reeves, *Written in Black & White: Exploring Confirmation Bias in Racialized Perceptions of Writing Skills*, in YELLOW PAPER SERIES, NEXTIONS (2014). <https://perma.cc/VNT9-4PVJ>

- Most of the perceptions uncovered in research so far indicate that commonly held perceptions are biased against African Americans and in favor of Caucasians
- These perceptions translate into confirmation bias and impact how individuals evaluate legal writing
- Contains recommendations for next actions

Dean Michael Hunter Schwartz & JB Smiley Jr., *What Do You Do When Nothing Seems to Work: An Evaluation and Suggested Approach to Addressing the Diversity Issue in the Legal Profession*, 49 ARK. LAW. 12 (2014), <https://heinonline.org/HOL/P?h=hein.barjournals/arklwr0049&i=14>

- To remedy the long-lasting problem of lack of diversity in the legal profession, legal education needs a paradigm shift
- Article contains two suggestions for recruiting and retaining minority law students
 - Council on Legal Education Opportunity
 - Posse Foundation

Deborah N. Archer, *There is no Santa Claus: The Challenge of Teaching the Next Generation of Civil Rights Lawyers in a 'Post-Racial' Society*, 4 COLUM. J. RACE L. 55

(2013), <https://perma.cc/SC7C-XGFV>

- Abstract: This Essay takes a fresh look at the scholarship on the practice of cross-cultural and client-centered lawyering. The current scholarship explores methods of training law students to be mindful of the ways that cultural differences can impact legal representation. However, this scholarship has not addressed how to equip students to address issues of racial discrimination in light of the post-racial lens through which many view these problems. Legal educators must examine how law students' beliefs regarding the current relevance of race in America affects their ability to represent clients who believe they are victims of racial discrimination.
- The essay charts a new direction of "immersion lawyering" to better prepare this generation of social justice lawyers for lawyering in an allegedly post-racial society and opens a new avenue of dialogue.

Michael J. Higdon, *A Place in the Academy: Law Faculty Hiring and Socioeconomic Bias*,

87 ST. JOHN'S L. REV. 171 (2013),

[https://www.westlaw.com/Document/I55e9c2a37f3a11e38578f7ccc38dcbee/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/I55e9c2a37f3a11e38578f7ccc38dcbee/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0).

- "[I]f law schools are truly marketplaces of ideas, then faculty diversity enhances that environment by broadening the number of available

Andrea Kupfer Schneider, Ellen E. Deason, Dawn Chen & Zhouxh Xiahong, *Ethics in Legal Negotiation: A Cross-Cultural Perspective*, MARQ. L. SCHOOL LEGAL STUDIES Paper No. 13-13 (2013), <https://perma.cc/YU39-UVHQ>

- Abstract: From Chinese and American perspectives, the authors consider a Chinese negotiation class, when presented with an ethical problem or two, as a lens. They examine the implications of the students' decisions for Chinese negotiations, particularly in an environment of law practice. In turn they use these as the basis for an analysis of the larger implications of a rapid and disorienting series of recent changes in Chinese law and legal practice.
- Cultural difference in teaching negotiation simulation, with a requirement to disclose client-damaging information (Beijing v. US classroom); application of MRPC rules of truthfulness, candor, fraud, material misrepresentation (US) vs. Confucian discussion of personal ethics (what did we learn about what kind of person we would like to be?)

Rachel Moran, *When Intercultural Competency Comes to Class: Navigating Difference in the Modern American Classroom*, 26 PAC. MCGEORGE GLOBAL BUS. & DEV.

L.J. 109 (2013), <https://perma.cc/3LA4-9ZU6>.

- Efforts to bring intercultural competency into American law school classrooms are just beginning. The pressures of globalization lend a sense of urgency to an event like this one, which struggles to concretize a term that often serves as little more than a cipher for anxieties about the role of law in a complex and changing world. Even if the work done at this conference cannot give us all the answers, the dialogue can help us to ask the right questions. In time, perhaps, we will see a range of curricular innovations.
- Curriculum focused: Links cultural competencies needed for marginalized communities and global/cross border practice to curricular debate about integrated competency training in contrast to discrete immersion classes. Author asserts the need for teaching approach to be specific/problem-solving orientation.

L. Song Richardson & Phillip Goff, *Implicit Racial Bias in Public Defender Triage*, 122 YALE L.J. 2626 (2013),

[https://www.westlaw.com/Document/I55f21e19f69011e28578f7ccc38dcbee/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cbt1.0](https://www.westlaw.com/Document/I55f21e19f69011e28578f7ccc38dcbee/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cbt1.0)

- Abstract: Despite the promise of Gideon, providing “the guiding hand of counsel” to indigent defendants remains unmanageable, largely because the nation’s public defender offices are overworked and underfunded. Faced with overwhelming caseloads and inadequate resources, public defenders must engage in triage, deciding which cases deserve attention and which do not. Although scholars have recognized the need to develop standards for making these difficult judgments, they have paid little attention to how implicit, i.e., unconscious, biases may affect those decisions. There is reason to suspect that unconscious biases will influence public defender decision making due to generations of racial stereotypes specific to stigmatized groups and crime. This Essay urges legal scholars and practitioners to consider how implicit biases may influence the rationing of defense entitlements and suggests ways to safeguard against the effects of these unconscious forces.

Deborah L. Rhode, *Access to Justice: An Agenda for Legal Education and Research*, 62 J. LEGAL EDUC. 531, 546 (2013),
[https://www.westlaw.com/Document/I62b4a81dd7e711e28578f7ccc38dcbee/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt 1.0](https://www.westlaw.com/Document/I62b4a81dd7e711e28578f7ccc38dcbee/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt 1.0)

- The recent economic recession has brought new urgency to longstanding problems in the delivery of legal services. For decades, bar studies have consistently estimated that over four fifths of the individual legal needs of the poor and a majority of the needs of middle-income individuals Americans remain unmet. Our failures in providing access to justice have been compounded in the recent downturn. High rates of unemployment, bankruptcies, foreclosures, and reductions in social services have created more demands for legal representation at the same time that many of its providers have faced cutbacks in their own budgets. As a consequence, legal aid and public interest programs are often being asked to do more with less.
- In this context, the need for greater research and education about the justice gap assumes increasing importance. To allocate scarce funds wisely, we need better information about unmet legal problems, the gaps in service provision, and the cost- effectiveness of possible responses. And to build a coalition for progress, we need a profession and public that is more informed about what passes for justice among the have nots.
- The recent creation of an office on Access to Justice within the United States Department of Justice under the Obama administration reflects these concerns. The office's interest in building bridges to legal academics prompted a meeting at Stanford University in 2011 under the sponsorship of the Stanford Center on the Legal Profession, the American Bar Foundation, and the Harvard Program on the Legal Profession. One result of that meeting was the creation of a Consortium on Access to Justice. The mission of the Consortium is to promote research and teaching on access to justice, and one of its first initiatives has been to propose and assist preparation of this report. Although the Consortium's primary focus is on civil matters, many challenges that it identifies are equally apparent in indigent criminal defense. The point of this overview is to enlist more academics in focusing on the fairness of the American justice system, and to create constituencies that are more informed and motivated to address its challenges.

Andrea Anne Curcio, Teresa Ward & Nisha Dogra, *Educating Culturally Sensible Lawyers: A Study of Student Attitudes About the Role Culture Plays in the Lawyering Process*, 16 U. W. SYDNEY L. REV. 98 (2012), <https://heinonline.org/HOL/P?h=hein.journals/uwsydl16&i=98>

- Abstract: Lawyers' cultural experiences, biases, and perspectives may differ from those of clients, colleagues, and judges. Awareness of such differences is critical to effective representation because cultural perspectives may affect numerous aspects of the lawyering process, such as interviewing, counseling, negotiating, strategizing, and persuading. Empirical data that informs the debate about the need to teach students to work across cultures is particularly relevant as lawyers serve increasingly diverse populations and transnational practice continues to grow. In this article, we describe a survey developed to provide law faculties with data to help assess the need for cultural competence education and to inform the discussion of what that education might encompass. In this article, we discuss the reasons to consider developing students' abilities to work effectively across cultures, the survey design and methodology, and the survey findings. Initial results indicate that the students surveyed largely want to learn about how culture may affect the lawyering process, generally are aware that culture may affect client behaviors, but may be less aware of the effect culture has on their own perceptions and behaviors. They also indicate that simply taking a survey such as the one described herein has an educational benefit. We discuss the implications of those findings for law teaching. While the work described herein was done in the United States, we believe the issue transcends national borders and we hope this article provokes discussion across borders about the need to develop law students' abilities to work effectively amongst countries' own diverse populations as well as transnationally.

Mary A. Lynch, *An Evaluation of Ten Concerns about Using Outcomes in Legal Education*, 38 WM. MITCHELL L. REV. 976, 1004-05 (2012), [https://www.westlaw.com/Document/I0d569b2083be11e18b05fdf15589d8e8/Vjiew/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/I0d569b2083be11e18b05fdf15589d8e8/Vjiew/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- Relying on the expertise of higher education experts, such as Professor Barbara Walvoord, this article examines some of the realities and misconceptions surrounding the use of student learning outcomes. It identifies the likely consequences of institutionalizing an outcomes model, acknowledges the pitfalls, and attempts to allay fears that are based more on antagonism to change than on likely risks.
- Moving to a process by which we identify and assess outcomes while integrating theory, practice, and professional identity is not a simple matter, but it is an important one. Those who work on legal education

reform need to be aware of the benefits, risks, pitfalls, and choices involved in institutionalizing an outcomes approach.

KIKANSA NURI-ROBINS ET AL., CULTURALLY PROFICIENT INSTRUCTION: A GUIDE FOR PEOPLE WHO TEACH (3d. ed. 2012). See Dr. Nuri-Robins consulting site here: <https://perma.cc/E42X-YPN6>

- Culturally proficient instruction is the result of an inside-out journey during which you explore your values and behaviors while evaluating practices of your workplace. In the newest version of their best-selling book, the authors invite you to reflect on how you engage with your students and your colleagues as a community of learners. The third edition includes: Culturally proficient instruction is the result of an inside-out journey during which you explore your values and behaviors while evaluating practices of your workplace. In the newest version of their best-selling book, the authors invite you to reflect on how you engage with your students and your colleagues as a community of learners.

RUBY K. PAYNE, A FRAMEWORK FOR UNDERSTANDING POVERTY: 10 ACTIONS TO EDUCATE STUDENTS (2012)

- Acclimates faculty to impact of socioeconomic cultural dynamics in the classroom
- Mostly aimed at K-12, but may prove useful to all levels of education. [Plenty of law students come from backgrounds of financial instability and poverty.]
- Offers methods for how a teacher should approach and work with such students. The ten action steps covered in detail in this workbook include:
 - Build relationships of mutual respect
 - Teach students the hidden rules of school
 - Analyze student resources; make interventions based on resources that students can access
 - Teach formal register, the language of school and work
 - Teach mental models
 - Teach abstract processes
 - Teach students how to plan
 - Use the adult voice and reframing to change behaviors
 - Understand the family resources and dynamics
 - Teach how to ask questions

Antoinette Sedillo Lopez, *Beyond Best Practices for Legal Education: Reflections on Cultural Awareness - Exploring the Issues in Creating a Law School and Classroom Culture*, 38 WM. MITCHELL L. REV. 1176 (2012), [https://www.westlaw.com/Document/I0d569b3283be11e18b05fdf15589d8e8/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/I0d569b3283be11e18b05fdf15589d8e8/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- Explores some of the challenges and opportunities of bringing cross-cultural issues into a law school classroom and some of the issues raised in consciously creating a more professional and culturally sensitive law school culture
- Helps develop ideas for training students about cultural context and awareness, cultural sensitivity, and communication
- Builds on her earlier work, Antoinette Sedillo Lopez, *Making and Breaking Habits: Teaching (and Learning) Cultural Context, Self-Awareness, and Intercultural Communication through Case Supervision in a Client-Service Legal Clinic*, 28 WASH. U. J.L. & POL'Y 37 (2008)(objectives for teaching cultural knowledge, self-awareness, and intercultural communication in a clinical setting).

DOROTHY EVENSEN & CARLA PRATT, *THE END OF THE PIPELINE: A JOURNEY OF RECOGNITION FOR AFRICAN AMERICANS ENTERING THE LEGAL PROFESSION* (2011).

- Study of African American law students and recent law graduates which focused on the pipeline to law school and their experience during law school.

Neil Hamilton & Verna Monson, *Legal Education's Ethical Challenge: Empirical Research on How Most Effectively to Foster Each Student's Professional Formation (Professionalism)*, 9 U. ST. THOMAS L.J. 325, 347 (2011), [https://www.westlaw.com/Document/I3b3830395c6011e28578f7ccc38dcbee/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/I3b3830395c6011e28578f7ccc38dcbee/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- Abstract: How law professors can integrate best practices in instructional methods that are empirically shown to foster professional formation or professionalism is the topic of this literature review. This nascent field of inquiry in legal education draws upon constructive-developmental approaches to professional formation, informed by an extensive body of empirical research and scholarship from ethics education in other professions. This interdisciplinary approach to defining, measuring, and teaching professionalism produced a definition that is a synthesis of scholarship across the professions that also is grounded in research with exemplars in the legal profession using in-depth interviews. Professionalism in law is thus defined as "an internalized moral core characterized by a deep responsibility to others, particularly the client, and some restraint on self-interest in carrying out this responsibility, a

standard of excellence for technical skills, integrity, honesty, public service (particularly for the disadvantaged), and independent judgment and honest counsel.”

- This review of pedagogies of professional formation drew upon peer-reviewed scholarship and research in applied fields of law, management, dentistry, medicine, and higher education as well as adult learning theories, lifespan developmental psychology, moral psychology, and the social psychology of education. Using a dynamic process model of morality as a framework for our inquiry, we identified four principles of effective instruction to foster formation, including (1) students arrive with unique backgrounds and abilities, and instruction should consider each student’s unique developmental level along a continuum of lifelong growth; (2) positive conflict, in which the learner is both sufficiently challenged and supported, is an essential element of professional formation spurring cognitive, emotional, and social development and growth in a holistic fashion; (3) throughout the curriculum instructors should foster in each student the habit of actively seeking feedback, moral dialogue and reflection (FDR); and (4) integrate opportunities for self-assessment and formative assessment throughout the curriculum.

VERNA A. MYERS, *Moving Diversity Forward: How to Go from Well-meaning to Well-Doing*, ABA CTR. FOR RACIAL AND ETHNIC DIVERSITY (2011).

[https://www.westlaw.com/Document/I404944fdd8d511ec9f24ec7b211d8087/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/I404944fdd8d511ec9f24ec7b211d8087/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- Attorney Vernā A. Myers' *Moving Diversity Forward* is a consciousness-raising manual designed to help legal professionals understand their role, responsibility, and the concrete actions they can take to promote diversity, equity, and inclusion in the workplace. Published by the American Bar Association in 2011, this book remains timely and necessary a decade later as many law firms, legal organizations, and legal institutions continue to reckon with systemic racism and injustice.¹ With charisma, humor, and straightforward truth-telling, Myers, a black attorney and Boston-based consultant, leads her predominantly white audience to recognize blind spots and peel away layers of implicit bias in order to create a more diverse and enriching legal profession for all. Diversity is not the end goal but rather a stepping-stone to the ultimate objective, which is inclusivity--a sense of belonging within a diverse community that derives from individuals being “seen, respected, and understood.” As Myers explains, “In the workplace, we eliminated legal barriers to racial discrimination, which was a crucial step, but it is not enough. We removed roadblocks, but we did not build bridges of true understanding.” In *Moving Diversity Forward*, Myers explains how to build bridges of genuine understanding. The manual is designed primarily for white legal professionals who seek to transform equitable

intentions into practice within the workplace and beyond.

Justin D. Levinson & Danielle Young, *Implicit Gender Bias in the Legal Profession: An Empirical Study*, 18 DUKE J. GENDER L. & POL'Y 1, 44 (2010).

[https://www.westlaw.com/Document/I7506e1fc55e211e08b05fdf15589d8e8/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/I7506e1fc55e211e08b05fdf15589d8e8/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- In order to test the hypothesis that implicit gender bias drives the continued subordination of women in the legal profession, we designed and conducted an empirical study. The study tested whether law students hold implicit gender biases related to women in the legal profession, and further tested whether these implicit biases predict discriminatory decision-making. The results of the study were both concerning and hopeful. As predicted, we found that implicit biases were pervasive; a diverse group of both male and female law students implicitly associated judges with men, not women, and also associated women with the home and family. Yet the results of the remaining portions of the study offered hope. Participants were frequently able to resist their implicit biases and make decisions in gender neutral ways. Taken together, the results of the study highlight two conflicting sides of the ongoing gender debate: first, that the power of implicit gender biases persists, even in the next generation of lawyers; and second, that the emergence of a new generation of egalitarian law students may offer some hope for the future.

Katharine T. Bartlett, *Making Good on Good Intentions: The Critical Role of Motivation in Reducing Implicit Workplace Discrimination*, 95 VA. L. REV. 1893

(2009). <https://plus.lexis.com/api/permalink/79fb2d86-1227-4083-aa18-8eaef17bd50b/?context=1530671>

- This Article brings together several strands of social science research showing that (1) implicit bias is not only invisible and largely unintended, but not readily reachable through legal coercion; (2) people whose motivation to act in nondiscriminatory ways is based on an internal commitment to nondiscriminatory norms—or “good intentions”—are less likely to engage in stereotyping of others than people who feel pressured by the law; (3) people internalize nondiscrimination values best when they feel a sense of autonomy, competence, and relatedness; (4) the conditions that support these characteristics in the workplace include strong, unambiguous norms, trust, teamwork, leadership, positive example, and opportunities to grow and advance; and (5) excessive legal control and pressure undermine people’s sense of autonomy, competence, and relatedness and thus their commitment to nondiscrimination norms.

Jeffrey J. Rachlinski, Sheri Lynn Johnson, Andrew J. Wistrich & Chris Guthrie, *Does*

Un-conscious Racial Bias Affect Trial Judges?, 84 NOTRE DAME L. REV. 1195, 1197 (2009)

[https://www.westlaw.com/Document/Idcd9408539b611deb055de4196f001f3/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/Idcd9408539b611deb055de4196f001f3/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- Study found that state court judges harbor implicit racial biases that can affect their judgment
- In this Article, we report the results of the first study of implicit racial bias among judges. We set out to explore whether judges hold implicit biases to the same extent the general population and to determine whether those biases correlate with their decision making in court. Our results are both alarming and heartening: (1) Judges hold implicit racial biases, (2) These biases can influence their judgment, and (3) Judges can, at least in some instances, compensate for their implicit biases.

Laura M. Padilla, *A Gendered Update on Women Law Deans: Who, Where, Why, and Why Not?*, 15 AM. U.J. GENDER SOC. POL'Y & L. 443, 454-55 (2007).

[https://www.westlaw.com/Document/I80e063812b6611dc8127fac82529a683/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/I80e063812b6611dc8127fac82529a683/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- This article examines law school deans, how many are women, when they became deans, and what the trajectory is like for their numbers in the future.

Carwina Weng, *Multicultural Lawyering: Teaching Psychology to Develop Cultural Self-Awareness*, 11 CLINICAL L. REV. 369 (2005) <https://perma.cc/ZZ69-6Z4M>

- This article offers a framework for learning cultural self-awareness, starting with the teaching of cognitive and social psychology. This psychology would include an understanding of the unconscious mechanisms by which every person categorizes others and the use every person makes of these categories as s/he encounters culturally different persons. It also provides real-life examples of how unconscious categorization affects behavior and how cultural self-awareness can enable more accurate, client-centered lawyering.

Pat K. Chew & Robert E. Kelley, *Myth of the Color-Blind Judge: An Empirical Analysis of Racial Harassment Cases*, 86 WASH. U.L. REV. 1117 (2009).

[https://www.westlaw.com/Document/Idb14a0e486dd11de9b8c850332338889/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/Idb14a0e486dd11de9b8c850332338889/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- In this Article, we present an exploratory empirical study of federal workplace racial harassment cases that span a twenty-year period. Multiple analyses found that judges' race significantly affects outcomes in workplace racial harassment cases. African American judges rule differently than White judges, even when one takes into account their political affiliation or certain characteristics of the case.

Paul R. Tremblay, *Interviewing and Counseling Across Cultures: Heuristics and Biases*, 9 CLINICAL L. REV. 373 (2002)

<https://heinonline.org/HOL/P?h=hein.journals/clinic9&i=380>

- This paper sets out to explore how the interviewing and counseling processes taught in United States law schools might begin to accommodate differences in culture between a lawyer and her client. It attempts to learn from the rich literature on cross-cultural counseling in non-legal disciplines to suggest discrete changes to the prevailing models currently available to students.

Susan Bryant, *The Five Habits: Building on Cross Cultural Competence in Lawyers*, 8 CLINICAL L. REV. 33 (2001) <https://perma.cc/TF4D-CP3K>

- This article describes a process called “the Habits” that was developed by Professors Bryant and Jean Koh Peters that can be used by lawyers to increase their cross-cultural competence. By outlining and giving examples of the role that culture plays in decision making, communication, problem solving, and rapport building, the article demonstrates the importance of lawyers learning cross-cultural concepts and skills. The article shows how developing the Five Habits increases cross-cultural competence.

Christine Zuni Cruz, *On the Road Back In: Community Lawyering in Indigenous Communities*, 5 CLINICAL L. REV. 557 (1999).

[https://www.westlaw.com/Document/1a4a245314a6211dba16d88fb847e95e5/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/1a4a245314a6211dba16d88fb847e95e5/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- This paper looks at lawyering for, and within distinct communities and at the responsibility lawyers have to understand how culture, both their own and their clients’, impacts their lawyering.
- More specifically, it discusses lawyering for and within distinct native communities and how clinical instructors and students can prepare to enter distinct communities and practice across cultures.

Barbara A. Noah, *Racist Health Care?*, 48 FLA. LAW REV. 357 (1996),

[https://www.westlaw.com/Document/1a9929131643911dbbe1cf2d29fe2afe6/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/1a9929131643911dbbe1cf2d29fe2afe6/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- During the past few years, rationing has become an explicit feature in decisions concerning optimal delivery of health care services, and it poses difficult choices for health care providers and policymakers. Insurers and patients increasingly must balance the desire for access to every possible treatment against concerns about affordability. Cost driven treatment decisions are becoming an unavoidable reality for most patients. Apparently, however, another more pernicious type of rationing occurs in this country. It does not depend on factors such as the likelihood of an

optimal outcome, the comparative efficacy of different available treatment modalities, or even the ability to pay for care. Instead, a growing body of evidence suggests that the race of a patient may adversely affect the quantum and quality of health care provided to minority patients. Although no one has identified overt racism by providers, such inequities in the delivery of health care services pose serious problems. This essay describes racial disparities in three separate health care contexts: the utilization of Medicare services, the selection of recipients for cadaveric organ transplantation, and the representation of racial and ethnic minority groups in clinical research. The essay then suggests ways in which medical educators, health care providers, and government agencies can work to address these disparities in care, and it explores possible constitutional and statutory remedies for the victims of disparate treatment. Ultimately, the medical establishment must face up to the possibility that African-American patients do not receive equal treatment in the health care system.

For the Students: Articles tailored to the law student that can be assigned as reading material prior to class

PERCEPTION INSTITUTE, <https://perception.org/>

- Perception Institute is a consortium of researchers, advocates, and strategists who translate cutting edge mind science research on race, gender, ethnic, and other identities into solutions that reduce bias and discrimination and promote belonging.
- The Institute works in sectors where bias has the most profound impact— education, healthcare, media, workplace, law enforcement, and civil justice.
- At Perception, we turn research into remedies—designing studies, evaluations, interventions, and communications strategies. We craft real-world solutions for everyday relationships, to help us all navigate differences.

Shiv Narayan Persaud, *Towards an Understanding of Critical Race Theory: Dispelling False Claims and Misrepresentations*, 18 U. MASS. L. REV. 79 (2023) <https://perma.cc/3LH9-9X56>

- The Article discusses critical race theory as a paradigm shift, and further dispels the notion that it promotes a form of Marxism. With the rise of political attitudes toward seeking legislation to denounce CRT, it is incumbent upon those in legal studies to investigate and bring the value of CRT into the forefront. The purpose of this Article is to open a new discussion on these issues, rooted in promoting cultural competency in the legal profession.

Atinuke O. Adediran, *Racial Allies*, 90 FORDHAM L. REV. 2151 (2022).

[https://www.westlaw.com/Document/I52755926dccb11ec9f24ec7b211d8087/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cb1.0](https://www.westlaw.com/Document/I52755926dccb11ec9f24ec7b211d8087/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cb1.0)

- In this Article, I make a number of ground breaking contributions.
- First, I conduct the first systemic investigation of race and ethnicity using the largest dataset of the individuals and groups with relative power in the public interest law sector--CEOs, boards of directors, and large-firm pro bono partners and counsel. The novel dataset contains 650 institutions and over 10,000 individuals. I also interviewed a subset of CEOs and board members. With these data, I show--for the first time--the lack of racial and ethnic diversity among the CEOs of public interest legal organizations (PILOs), PILO boards of directors, and pro bono partners and counsel who lead the public interest sector.
- Second, although there may be other reasons, I highlight five possible explanations for the problem.
- Third, I suggest potential policy responses for each of the identified theories. I also advance reasons why racial diversity in public interest law is important and highlight areas for further research on diversity in the sector.

Alena M. Allen, *Existence As A Threat*, 54 CONN. L. REV. 991 (2022).

<https://heinonline.org/HOL/P?h=hein.journals/conlr54&i=1026>

- In the law school setting, the experience of students of color is often a fraught one. For many students of color, navigating law school is akin to walking a tight rope.
- This Essay attempts to highlight the myriad challenges facing students of color, and it offers some thoughts about how to create a more inclusive environment

Kelly J. Bundy, Nicholas K. Holmes, *Dusting Off Your Firm's Diversity and Inclusion Plan: 10 Key Steps to Building A Framework for Success*, 41 CONSTR. LAW. 27 (2022)

[https://www.westlaw.com/Document/I1a81246adbd911ec9f24ec7b211d8087/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cb1.0](https://www.westlaw.com/Document/I1a81246adbd911ec9f24ec7b211d8087/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cb1.0)

- Most law firms have some stated commitment to diversity, be it a paragraph or page on their webpage, or a statement made to job candidates in an interview. But while stating a commitment to diversity, equity, and inclusion is a first step, creating a more diverse, equitable, and inclusive workplace takes more concrete action.
- There is much work to be done. This article identifies concrete steps that law firms should take to begin building a framework to support the long-term, systemic, cultural change needed in the legal profession.

Angelique EagleWoman, Wambdi A. Was'teWinyan, *Trailblazing and Living A*

Purposeful Life in the Law: A Dakota Woman's Reflections As A Law Professor, 51 SW. L. REV. 227 (2022).

[https://www.westlaw.com/Document/Ia1af685cdca311ec9f24ec7b211d8087/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/Ia1af685cdca311ec9f24ec7b211d8087/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- This Essay is a reflection from my perspective as a Dakota woman law professor on my fifth law school faculty.
- In Part I of this Essay, the necessity of trailblazing is discussed due to the lack of Native American women in the legal academy. Issues around visibility, ethnic fraud, and tribal sovereignty will be discussed. Part II will explore the challenges identified in Unequal Profession through a raceXgender framework and provide a personal perspective on dealing with such challenges. The themes of invisibility and lack of respect experienced as a Native American woman law professor will be discussed. The final section in Part III will provide insight into the motivation to stay the course and continue to make space in legal academia. In living a purposeful life, there is a choice to be a law professor as a Native woman with the goal of holding the door open for more Native American faculty, law students, and legal administrators to walk through.

Angelique EagleWoman, Wambdi A. Was'teWinyan, Dominic J. Terry, Lani Petrulo., Dr. Gavin Clarkson, Angela Levasseur, Leah R. Sixkiller & Jack Rice, *Storytelling and Truth-Telling: Personal Reflections on the Native American Experience in Law Schools*, 48 MITCHELL HAMLIN L. REV. 704 (2022)

[https://www.westlaw.com/Document/I32065e2b01c011ed9f24ec7b211d8087/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/I32065e2b01c011ed9f24ec7b211d8087/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- This essay provides a Native American perspective on the law school experience and legal profession.
- It will focus on five domains: trauma and intergenerational trauma, the importance of mentors and role models, poverty and the consequential financial struggles, systemic racism and discrimination, and finally, culture shock.

Scott Franks, *Some Reflections of a Metis Law Student and Assistant Professor of Indigenous Legal Education in Canada*, 48 MITCHELL HAMLIN L. REV. 744 (2022).

[https://www.westlaw.com/Document/I32065e2d01c011ed9f24ec7b211d8087/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/I32065e2d01c011ed9f24ec7b211d8087/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- This Article is a reflection on some of my experiences as a Métis law student and assistant professor on the subject of Indigenous legal education in Canada.
- I introduce myself and what brought me to law school and describe some of my experiences as a law student, as a co-president of an Indigenous Students Association, and as a student organizer for an Indigenous law

camp. I argue that a significant barrier to Indigenization and decolonization of Canadian legal education is the perseverance of an ideology rooted in settler colonialism and an individual affective commitment to its future, which is facilitated by racism.

Hon. Lisa White Hardwick, *Justice for All: An Overview of the Supreme Court of Missouri's Commission on Racial and Ethnic Fairness*, 67 WASH. U. J.L. & POL'Y 111 (2022)

[https://www.westlaw.com/Document/1e2bf37a5c29911ec9f24ec7b211d8087/View/FulText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/1e2bf37a5c29911ec9f24ec7b211d8087/View/FulText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- After the killing of Michael Brown by the Ferguson police in August 2014, Missouri's need for judicial and legal reform could no longer be ignored.
- The following year, the Supreme Court of Missouri Commission on Racial and Ethnic Fairness ("Commission") was established to examine and review current practices and recommend measures to ensure fairness, impartiality, equal access, and participation for racial and ethnic minorities in the judicial process and in the practice of law.
- This Article, authored by the Commission's Co-chair, Missouri Court of Appeals Judge Lisa Hardwick, discusses the Commission and provides an overview of its background and purpose.

Peter H. Huang, *Anti-Asian American Racism, Covid-19, Racism Contested, Humor, and Empathy*, 16 FIU L. REV. 669 (2022).

[https://www.westlaw.com/Document/1345d410c155a11ed9f24ec7b211d8087/View/FulText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/1345d410c155a11ed9f24ec7b211d8087/View/FulText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- This Article analyzes the history of anti-Asian American racism. This Article considers how anger, fear, and hatred over COVID-19 fueled the increase of anti-Asian American racism.

Asad Rahim, *Race as Unintellectual*, 20 SEATTLE J. FOR SOC. JUST. 632 (2022), <https://heinonline.org/HOL/P?h=hein.journals/uclalr68&i=649>

- This article reveals a widespread but understudied perception that prevents students of color from fully contributing to the "robust exchange of ideas" on their campuses.
- Although Black students commonly report both a desire to talk about race and a belief that discussing race and racism is essential to understanding course materials, they are deeply reluctant to bring up either topic in class discussions.

Rita A. Sethi, *Reflective Journal: Curricular Deficits, Pedagogical Challenges and Constructing Community in a Non-Traditional Law School Class*, 27 ROGER WILLIAMS UNIV.

L. REV. 57 (2022), <https://perma.cc/Z47F-244U>.

- This reflective journal about the experience of teaching a law school class consisting of predominantly students of color, as a woman of color and second-generation immigrant, about subjects that interact with identity.

Etienne C. Toussaint, *The Miseducation of Public Citizens*, 29 GEO. J. ON POVERTY L. & POL'Y 287 (2022).

[https://www.westlaw.com/Document/labc3380d026a11ed9f24ec7b211d8087/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/labc3380d026a11ed9f24ec7b211d8087/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- Some law professors have historically adopted a formalistic and doctrinally neutral approach to law teaching that elides critical perspectives of law, avoids the intersection of law and politics, and tends to overlook the way law can construct the very social injustices that it seeks to contain.
- The objective, apolitical, and so-called “colorblind” jurisprudential stance in many law classrooms inflicts intellectual violence upon law students who discover a legal doctrine in conflict with their own lived experiences, yet who feel silenced and unprepared to reckon with the moral legitimacy of unjust laws.
- This Essay defines public citizenship lawyering as a democratic conception of professional responsibility whereby lawyers engage in routine critique of their lawyering practice through the lens of justice as a moral virtue.

Eduardo R.C. Capulong, Andrew King-Ries & Monte Mills, *Antiracism, Reflection, and Professional Identity*, 18 HASTINGS RACE & POVERTY L.J. 3 (2021),

[https://www.westlaw.com/Document/le5731140ad1a11ebbea4f0dc9fb69570/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/le5731140ad1a11ebbea4f0dc9fb69570/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- This article argues that antiracism is essential to the profession’s responsibility to serve justice and therefore key to legal professional identity. Fortunately, developing a legal antiracist identity does not require inventing a new approach. Rather, infusing reflective practice with critical race consciousness provides a sound basis from which to launch a new effort to develop the next generation of antiracist lawyers.

Goldie Pritchard, *Tupac, DMX, and Eminem Helped Me Through Law School: Building Community to Foster Student Persistence and Academic Success*, LEARNING CURVE (Summer/Fall 2018) 15, Ohio State Public Law Working Paper No. 468, <https://perma.cc/348E-U3XE> (Go to view live page to download paper).

- This article explores how alliance groups can create a sense of belonging for diverse students by helping them create, lead, and/or engage in groups based on their diverse identities.

Joan C. Williams, Marina Multhaup, Su Li, & Rachel Korn, *You Can't Change What You Can't See: Interrupting Racial & Gender Bias in the Legal Profession* (ABA, MCCA 2018), American Bar Association's Commission on Women in the Profession and the Minority Corporate Counsel Association, and Center for Worklife Law at the University of California, Hastings College of the Law. <https://perma.cc/9YWU-3XLN>.

- The implication of this report is that women and people of color have been invited into these high-stakes, high-status workplaces, like the law, but often are expected to play a very specific role," says Joan C. Williams, a professor at Hastings and founding director of the Center for WorkLife Law. "They have to prove themselves more than white men, and are often expected to be worker bees who don't grab the limelight or the highest compensation. And the same mistake can be more costly for a woman or person of color than the identical mistake for a white man."

Debra Chopp, *Addressing Cultural Bias in the Legal Profession*, 41 NYU REV. L. & SOC. CHANGE 367 (2017)

[https://www.westlaw.com/Document/I4a058853a3af11e79bef99c0ee06c731/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/I4a058853a3af11e79bef99c0ee06c731/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- Argues that because implicit bias is pervasive, law schools ought to be doing more to acknowledge and address it in both legal education and in the ethical standards that govern lawyers

Stephen Gillers, *A Rule to Forbid Bias and Harassment in Law Practice: A Guide for State Courts Considering Model Rule 8.4(g)*, 30 GEO. J. LEGAL ETHICS 195 (2017),

[https://www.westlaw.com/Document/Ia81109c258ab11e79bef99c0ee06c731/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/Ia81109c258ab11e79bef99c0ee06c731/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- Abstract: After twenty-two years of failed efforts to add a rule forbidding bias and harassment in law practice to the American Bar Association's Model Rules of Professional Conduct, the ABA's House of Delegates approved one by voice vote in August 2016. Model Rule 8.4(g) will now move to the states.
- The goal of this Article is to aid state courts and bar groups as they debate whether to adopt Rule 8.4(g) as is, with changes, or not at all. Their deliberations should assess earlier ABA efforts to pass an anti-bias and anti-harassment rule, similar provisions now in the rules of American jurisdictions, and the legislative history of Rule 8.4(g) itself. Anti-bias and anti-harassment provisions in the ABA's Code of Judicial Conduct will offer guidance. This Article discusses each of these sources of information and then identifies at least ten issues that must be addressed as the states review Rule 8.4(g). The Article also addresses objections to Rule 8.4(g) from religious communities.

Kirwan Institute, *State of Science: Implicit Bias Review 2016*, KIRWAN INSTITUTE FOR STUDY RACE AND ETHNICITY, [HTTPS://PERMA.CC/7YH2-DQ8F](https://perma.cc/7YH2-DQ8F)

- With the release of this edition of the *State of the Science: Implicit Bias Review*, the Kirwan Institute celebrates the five-year anniversary of this signature annual publication. As part of our commitment to illuminating the multifaceted ways in which unconscious associations can create unintended outcomes, this publication highlights key selections from the academic literature published in 2016 as it pertains to the domains of criminal justice, health and health care, employment, education, and housing. In addition to these focus areas, this publication also uplifts implicit bias mitigation strategies and other major contributions to the field.

Rachel D. Godsil, *Why Race Matters in Physics Class*, 64 UCLA L. REV. DISC. 40 (2016),

[https://www.westlaw.com/Document/I8eb82d12595711e698dc8b09b4f043e0/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/I8eb82d12595711e698dc8b09b4f043e0/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- During oral argument in the second round of *Fisher v. Texas*, Chief Justice Roberts asked counsel for the University “what unique perspective a minority student brings to physics class.” Counsel sidestepped the question, leaving the impression that the presence of Black and Latino students confers an educational benefit only when their presence enhances “diversity discourse.” According to the Supreme Court’s jurisprudence and contemporary social science, I argue, this impression is wrong. The Court has included within the educational benefits of diversity: “the lessening of racial isolation and stereotypes” and promoting cross-racial understanding, in addition to robust classroom dialogue. This vision is strongly supported by social science research, which reveals that inter-group interaction is crucial to promoting cross-racial understanding – by decreasing the cognitive phenomena of implicit bias, racial anxiety, and stereotype threat.
- In addition, racial and ethnic diversity – as well as other kinds of diversity – have been found to act as catalysts for both innovation and error-free decision-making. These benefits all have particular importance in physics classes, as well as other science, technology, engineering, and mathematics (STEM) classes, not to mention the STEM fields. The social science shows that when people of all races and ethnicities are in classes or working together, we are less apt to succumb to “group think” and so engage in more rigorous analysis. I argue here that whether in physics class or any other setting, diversity contributes to our work product, our comfort and capacity to engage with people of all races and ethnicities, and the likelihood that we will contribute to our capacity.

Eli Wald, *Lawyers' Identity Capital*, 22 INT'L J. LEGAL PROF. 109 (2016),
<https://perma.cc/JT8G-Z2AK> (Go to view live page to download
paper).

- Abstract: Lawyers' commodification of personal identity is nothing new. For generations now, white male lawyers have benefitted from positive racial and gender stereotypes regarding their competence and loyalty to clients and firms to secure job offers, promotions and elevated status within the profession. Yet the concept of identity capital – the value one derives from one's personal identity – warrants attention for two related reasons. While prevalent, lawyers' use of identity capital has historically been implicit. As explicit and visible use of identity capital grows, however, lawyers must reckon with the meaning of and consequences of using identity capital in their practice. In addition, because women and minority lawyers are increasingly criticized for undermining professional standards by actively using identity capital or by passively allowing its commodification, fairness dictates that the profession comes to terms with the relationship between merit and capital.
- This essay examines the commodification of women and minority lawyers' personal identity in the context of the ongoing commodification of lawyers' personal identity more generally. Specifically, it explores several qualities of identity capital that ought to inform both the decision- making of individual lawyers who either actively deploy it or passively tolerate its commodification by others in representing clients and of the profession as it assesses the use of identity capital by its members: in- evitable and avoidable uses of identity capital, the desirability of lawyers' commodification of personal identity, active and passive uses of identity capital, the impact of identity capital exchanges on third parties, the interplay of merit and identity capital and the appropriate terms of identity capital transactions.

Rachel D. Godsil & L. Song Richardson, *Racial Anxiety*, 102 IOWA L. REV. 2235 (2017),

[https://www.westlaw.com/Document/lef442f278c8911e79bef99c0ee06c731/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/lef442f278c8911e79bef99c0ee06c731/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- Many have embraced evidence from the mind sciences that our behaviors are of- ten influenced by our implicit biases rather than our conscious beliefs. This is one reason why implicit bias has become a staple in trainings for judges, lawyers, police officers, teachers, and health care providers. While understanding that implicit bias is important, social science research demonstrates that implicit bias alone does not fully account for the racial dynamics that undermine student achievement and

trigger disproportionately harsh discipline, diminish the efficacy of health care and affect morbidity and mortality rates, trigger harsher prison sentences, result in child removal, and lead to unnecessary uses of force by police against civilians. Following the “behavioral realist” approach to provide the most empirically accurate understanding of human behavior, in this Essay, we introduce “racial anxiety” as an additional lens for understanding racial disparities of all types.

- In the social psychological literature, racial anxiety refers to the concerns that often arise both before and during interracial interactions. People of color experience racial anxiety when they worry that they will be subject to discriminatory treatment. White people, on the other hand, experience it when they worry that they will be perceived as racist. Racial anxiety can influence behaviors and judgments in ways that contribute to significant and unwarranted racial disparities even in the absence of both conscious and implicit racial bias. Additionally, in concert with implicit racial bias, racial anxiety can aggravate interracial dynamics in ways that create significant harm. This Essay explores how racial anxiety operates, discusses its probable effects on police-civilian and doctor patient interactions, and highlights interventions for mitigating its effects.

Neil W. Hamilton & Jeff Maleska, *Helping Each Law Student Develop Affirmative Evidence of Cross-Cultural Competency*, 19 ST. MARY'S L. REV. RACE & SOC. JUST. 187 (2017), <https://plus.lexis.com/api/permalink/8b519a54-5db6-4c5d-9a38-0159679382c2/?context=1530671>

- Gives practical advice and techniques as to how the law student and lawyer can improve his or her cross-cultural competence
- Shows how to develop a strong narrative and evidence of the affirmative steps the student or lawyer has taken to develop cultural competency
- Explores the experience of several law schools with strong learning outcomes on cross-cultural competence

Ida O. Abbott, *Come In and Make Yourself Uncomfortable*, ABA LAW PRACTICE TODAY (March 14, 2016), <https://perma.cc/EVK2-Q6VR>.

- Gender Differences Inhibit Relationship Formation
- Increasing the Comfort Level in Male-Female Relationships

MAHZARIN R. BANAJI & ANTHONY G. GREENWALD, *BLINDSPOT: HIDDEN BIASES OF GOOD PEOPLE* (2016).

- “Blindspot” is a metaphor for the portion of the mind that houses hidden biases
- By gaining awareness, individuals can adapt beliefs and behavior

Lory Barsdate Easton & Stephen V. Armstrong, *Giving Feedback Across*

Difference: How to Minimize Implicit Bias (and Maximize Your Team's Legal Talent), 58 FOR THE DEFENSE 80 (Sept. 2016), <https://perma.cc/F7UQ-AQCX>.

- Focuses on three subconscious processes that can interfere and make the feedback less effective or counterproductive:
 - Implicit biases
 - Stereotype threat
 - Racial anxiety

William D. Henderson, *Solving the Legal Profession's Diversity Problem*, PD QUARTERLY (2016),

[https://www.westlaw.com/Document/1697c7a13ba5911e79bef99c0ee06c731/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/1697c7a13ba5911e79bef99c0ee06c731/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- Abstract: Among both diverse and white lawyers, there is a widespread perception that the legal profession's lack of diversity is due to a lack of moral resolve. As a result, each successive generation of leadership pledges to deepen its level of commitment. This article argues that the lack of progress is attributable to a systems problem rather than a moral deficit. A careful examination of relevant data reveals that the biggest areas of bottleneck are hiring, work allocation, and lawyer development systems that are rooted in tradition and past practice and rather than science. The evidence suggests that if we design and implement better systems, out the other side will flow successful diverse lawyers in roughly the same proportion as the number we managed to hire several years earlier.

Stacy L. Brustin & Carmia N. Ceasar, *Bias in the Legal Profession*, in LEARNING FROM PRACTICE: A TEXT FOR EXPERIENTIAL LEGAL EDUCATION (3d. ed. 2015).

- Learning activities for students to use in order to address biases in the legal profession, particularly biases of other individuals that law students and young lawyers will encounter in their professional lives.

Nicole E. Negowetti, *Implicit Bias and the Legal Profession's "Diversity Crisis": A Call for Self Reflection*, 15 NEV. L.J. 930, 930 (2015),

<https://heinonline.org/HOL/P?h=hein.journals/nevj15&i=942>

- Examines implicit bias in attorney hiring, lawyer evaluation; discussing reasons for concern, and offering suggestions for mitigating its impact in recruitment and evaluation.

Margaret Reuter & Carwina Weng, *Navigating Cultural Differences*, in LEARNING FROM PRACTICE: A TEXT FOR EXPERIENTIAL LEGAL EDUCATION (3d ed. 2015).

- Contains learning activities throughout each section briefed below.
- *Motivation*: analyzes the drive of emerging lawyers to appreciate and navigate differences among many cultures.
- *Cultural Awareness*: considers self-knowledge of cultural competence,

specifically what we perceive and value in personal identities and cultures.

- *The Journey of Cultural Observation, Interpretation, and Introspection*: considers the ability to recognize difference between ourselves and others and develop skills to adjust behaviors.
- *Pursuit of Cultural Knowledge*: while recognizing that each person has blind spots regarding their own and other cultures, this section considers how to approach the unknown and become more culturally fluent.
- *Mistake and Repair*: an examination of micro-inequities and micro-aggressions to consider how to be more skillful in identifying mistakes and repairing their impact - observations from the actor, the recipient, and a nearby observer.

Rachel D. Godsil, Linda R. Tropp, Phillip Atiba Goff & John A. Powell, *The Science of Equality, Volume 1: Addressing Implicit Bias, Racial Anxiety, and Stereotype Threat in Education and Health Care*, PERCEPTION INSTITUTE (2014), <https://perma.cc/8XVF-V7CT>.

- Covers topics including: the operation of implicit bias, racial anxiety, stereotype threat
- Provides examples of effects of these topics and provides intervention materials

Michele Benedetto Neitz, *Socioeconomic Bias in the Judiciary*, 61 CLEV. ST. L. REV. 137, 145 (2013),

<https://heinonline.org/HOL/P?h=hein.journals/clevslr61&i=141>

- This Article examines the ethical implications of what Ninth Circuit Chief Judge Alex Kozinski recently called the “unselfconscious cultural elitism” of judges. This elitism can manifest as implicit socioeconomic bias.
- The Article explains that socioeconomic bias may be more obscure than other forms of bias, but its impact on judicial decision-making processes can create very real harm for disadvantaged populations. The Article reviews social science studies confirming that implicit bias can be prevalent even in people who profess to hold no explicit prejudices. Thus, even those judges who believe their wealthy backgrounds play no role in their judicial deliberations may be influenced by implicit socioeconomic bias.
- The Article verifies the existence of implicit socioeconomic bias on the part of judges through examination of recent Fourth Amendment and child custody cases. These cases reveal that judges can and do favor wealthy litigants over those living in poverty, with significant negative consequences for low-income people.
- The Article contends that the American Bar Association (ABA) Model

Code of Judicial Conduct (the Code), the document designed to regulate the behavior of judges, fails to effectively eliminate implicit socioeconomic biases. The Article recommends innovative revisions designed to strengthen the Code's prohibition against bias, and suggests improvements to judicial training materials in this context.

VERNA A. MYERS, WHAT IF I SAY THE WRONG THING? 25 HABITS FOR CULTURALLY EFFECTIVE PEOPLE (2013).

- Concrete tips for individuals and organizations on how to handle varied situations that frequently occur in the workplace and in our personal lives.

Jonathan Rapping, *Implicitly Unjust: How Defenders Can Affect Systemic Racist Assumptions*, 16 N.Y.U. J. LEGIS. PUBLIC POL'Y 999 (2013),

[https://www.westlaw.com/Document/1a12a35868a3e11e38578f7ccc38dcbee/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/1a12a35868a3e11e38578f7ccc38dcbee/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- Three-prong strategy for the criminal defense lawyer working against our racialized criminal justice system:
 1. Working to overcome his or her own racial biases
 2. Developing strategies to educate others about their biases
 3. Continuing to focus on racial justice when everyone else in the system seems to disregard it

Nhat Hanh, Thich, *The Fourteen Mindfulness Trainings* (2012),

<https://perma.cc/KK5W-ZU4N>.

- The Fourteen Mindfulness Trainings are the very essence of the Order of Inter-being. They are the torch lighting our path, the boat carrying us, the teacher guiding us. They allow us to touch the nature of interbeing in everything that is, and to see that our happiness is not separate from the happiness of others. Inter-being is not a theory; it is a reality that can be directly experienced by each of us at any moment in our daily lives. The Fourteen Mindfulness Trainings help us cultivate concentration and insight which free us from fear and the illusion of a separate self.

Alexis Anderson, Lynn Barenberg & Carwina Weng, *Challenges of 'Sameness': Pitfalls and Benefits to Assumed Connections in Lawyering*, 18 CLINICAL L. REV. 339 (2012),

[https://www.westlaw.com/Document/I982905d97fbc11e18b05fdf15589d8e8/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/I982905d97fbc11e18b05fdf15589d8e8/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- Abstract: Our focus is on the intersection of difference and sameness, as they are assumed or actually exist between lawyer and client, and the effect of difference and sameness together on the lawyer-client relationship and the lawyering process. In our experience, lawyers and

clients build professional relationships both because of shared personal characteristics or life experiences and in spite of them. Just as other commentators have helped lawyers develop methods for bridging difference, we seek to offer tools for dealing with the consequences of assumptions rooted in sameness. It is our hope that this inquiry will assist clinic students and their supervisors to acknowledge and deal with the normal human response of making and acting on connections. Ultimately, we hope that all lawyers will interact with clients with holistic awareness of sameness and difference.

Pamela M. Casey, Roger K. Warren, Fred L. Cheesman II & Jennifer K. Elek, *Helping Courts Address Implicit Bias: Resources for Education*, NAT'L CTR. ST. CTS. (2012), <https://perma.cc/YE39-JG9W>.

- Abstract: To raise awareness about the existence of *implicit bias* in the court community, the NCSC, with funding from the Open Society Institute, documented the development and implementation of pilot educational programs on the topic of implicit racial bias in three participating states between 2009 to 2012. These materials are no longer current given the robust research in this area. Although we are no longer disseminating these resources, we are working to provide updated educational materials to the court community that reflect the current state of the continually maturing science. This new project is funded in part by the State Justice Institute and is expected to conclude in late 2018.

Peter H. Huang, *From Tiger Mom to Panda Parent*, 17 ASIAN PAC. AM. L.J. 40 (2012),

[https://www.westlaw.com/Document/Id7b3784beec411e28578f7ccc38dcbbee/V
iew/Ful
lText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.
0](https://www.westlaw.com/Document/Id7b3784beec411e28578f7ccc38dcbbee/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- Abstract: This response to Yale Law Professor Amy Chua's book, *Battle Hymn of the Tiger Mother*, complements a much longer and related article that is also in part a response to Chua's book: *Tiger Cub Strikes Back: Memoirs of an Ex-Child Prodigy About Legal Education and Parenting*, 1 *British Journal of American Legal Studies* 297 (2012). This brief essay discusses the cultural differences between Chinese and Western views about education, learning, and parenting. This editorial draws on research in social psychology to analyze the stereotype of Asians and Asian Americans as being competent yet unsociable. Finally, this reflection draws on economic and psychological research about identity priming to consider the possible impacts of Chua's book and popular cultural reactions to it on how Asians and Asian Americans identify themselves and are identified by others.

Jerry Kang, *Communications Law: Bits of Bias*, in *IMPLICIT RACIAL BIAS ACROSS LAW 132* (Justin D. Levinson & Robert J. Smith eds., 2012), (Book synopsis)
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1968277

- Scientists have demonstrated that implicit biases are pervasive, large in magnitude, and have real-world consequences. What can we do about them? One principal strategy is to decrease the implicit bias in our minds (the other is to disrupt their causal link to behavior). In order to decrease bias, we should understand where they come from in the first place. Put crudely, is it nature nurture? I argue that it's mostly nurture, and of a specific sort - via vicarious experiences with outgroups mediated by electronic media. These vicarious interactions, fed to us via entertainment, news, social media, and computer mediated-communities, strengthen particular mental associations. If these vicarious experiences are indeed a substantial source of implicit bias, what might policymakers do, in the shadow of the First Amendment?

Jerry Kang et al., *Implicit Bias in the Courtroom*, 59 *UCLA L. REV.* 1124 (2012),
<https://heinonline.org/HOL/P?h=hein.journals/uclalr59&i=1138>

- Foundational material for classroom teaching (good piece with concrete, on-the-ground examination of civil and criminal trials and effects of implicit bias. Good for class discussion, perhaps after courtroom observations).
- Abstract: Given the substantial and growing scientific literature on implicit bias, the time has now come to confront a critical question: What, if anything, should we do about implicit bias in the courtroom? The author team comprises legal academics, scientists, researchers, and even a sitting federal judge who seek to answer this question in accordance with behavioral realism. The Article first provides a succinct scientific introduction to implicit bias, with some important theoretical clarifications that distinguish between explicit, implicit, and structural forms of bias. Next, the Article applies the science to two trajectories of bias relevant to the courtroom. One story follows a criminal defendant path; the other story follows a civil employment discrimination path. This application involves not only a focused scientific review but also a step-by-step examination of how criminal and civil trials proceed. Finally, the Article examines various concrete intervention strategies to counter implicit biases for key players in the justice system, such as the judge and jury.

Jerry Kang, *The Missing Quadrants of Anti-discrimination: Going Beyond the "Prejudice Polygraph"*, 68 *J. SOCIAL ISSUES* 314-27 (2012),
<https://perma.cc/8XH8-WGQ6> (Go to view live page to download paper).

- Abstract: Behavioral realists urge the law to respond to new scientific discoveries about the reality of contemporary discrimination. But in thinking about how the law might respond, it is easy to frame the

question as: When should evidence from scientific instruments, such as the Implicit Association Test, be admissible in a discrimination lawsuit. In other words, should we admit into evidence the results of some "Prejudice Polygraph"? But this framing, which focuses on specific facts, found ex post is too narrow and obscures a much broader range of potential legal responses. Indeed, by considering both specific and general facts, as well as both ex post and ex ante time orientations, four separate quadrants of analysis emerge. Psychologists, legal scholars, and policymakers should not miss these other quadrants of anti-discrimination.

Pamela A. Wilkins, *Confronting the Invisible Witness: The Use of Narrative to Neutralize Capital Jurors' Implicit Racial Biases*, 115 W. VA. L. REV. 305 (2012).

[https://www.westlaw.com/Document/17e4972fb33a111e28578f7ccc38dcbee/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/17e4972fb33a111e28578f7ccc38dcbee/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- This Article places the capital defendant at the intersection of cognitive psychology and narrative theory. Specifically, it addresses the following questions: When constructing mitigation narratives, how should capital defense lawyers take into account the research of cognitive scientists on implicit racial biases? What narrative strategies effectively neutralize the testimony of the invisible witness? In attempting to answer these questions, this Article analyzes the opening and closing statements from two capital sentencing trials.

Katherine Frink-Hamlett, *The Case for Cultural Competence*, N.Y.L.J. (Apr. 25, 2011 12:00 AM), <https://plus.lexis.com/api/permalink/51cf6ba2-d372-4220-9a78-d6fb9776e4e2/?context=1530671>.

- In a legal market that has witnessed a contraction of available opportunities for law school graduates, the notion of developing culturally competent law students may not be considered a priority for law school deans or administrators. However, a culturally competent practitioner, particularly in a global economy, is a gem.

CLAUDE STEEL, WHISTLING VIVALDI: HOW STEREOTYPES AFFECT US AND WHAT WE CAN DO (2011).

- Discusses the phenomenon of "stereotype threat," and ways of minimizing its effects

Kenneth B. Nunn, *The "R-Word": A Tribute to Derrick Bell*, 22 U. FLA. J.L. & PUB. POL'Y 431 (2011),

<https://heinonline.org/HOL/P?h=hein.journals/ufpp22&i=437>

- Because of concern over the use of "racism", Americans will not talk about race because they are either satisfied with the racial status quo

or because they do not want to offend.

- Avoiding discussions regarding race, racism, or discrimination deepens the problem.
- “The battle against racism will not be won in the legislatures or the courts, it will be won in the consciousness of the people.”

Adam Benforado, *Frames of Injustice: The Bias We Overlook*, 85 IND. L.J. 1333 (2010), <https://heinonline.org/HOL/P?h=hein.journals/indana85&i=1341>

- The Cultural Cognition Project (CCP) at Yale Law School and the Project on Law and Mind Sciences (PLMS) at Harvard Law School draw on similar research and share a similar goal of uncovering the dynamics that shape risk perceptions, policy beliefs, and attributions underlying our laws and legal theories. Nonetheless, the projects have failed to engage one another in a substantial way. This Article attempts to bridge that gap by demonstrating how the approach taken by PLMS scholars can crucially enrich CCP scholarship. As a demonstration, this Article engages the case of *Scott v. Harris*, 550 US. 372 (2007), the subject of a recent CCP study.
- In *Scott*, the Supreme Court relied on a videotape of a high-speed police chase to conclude that an officer did not commit a Fourth Amendment violation when he purposefully caused the suspect’s car to crash by ramming the vehicle’s back bumper. Challenging the Court’s conclusion that “no reasonable juror” could see the motorist’s evasion of the police as anything but extremely dangerous, CCP Professors Dan M Kahan, David A. Hoffman, and Donald Braman showed the video to 1350 people and discovered clear rifts in perception based on ideological, cultural, and other lines.
- Despite the valuable contribution of their research in uncovering the influence of identity-defining characteristics and commitments on perceptions, Kahan, Hoffman, and Braman failed to engage what may well be a more critical dynamic shaping the cognitions of their subjects and the members of the Supreme Court in *Scott*: the role of situational frames in guiding attributions of causation, responsibility, and blame. As social psychologists have documented-and as PLMS scholars have emphasized while identities, experiences, and values matter, their operation and impact is not stable across cognitive tasks, but rather is contingent on the way in which information is presented and the broader context in which it is processed.
- In large part, the *Scott* video is treated-both by the Supreme Court and by Kahan, Hoffman, and Braman-as if it presents a neutral, unfiltered account of events. However, it does not. Studies of viewpoint bias suggest that the fact that the video offers the visual and aural perspective of a police officer participating in the chase rather than that of the suspect or a neutral third party-likely had a significant effect on both the experimental population and members of the Court.

- Had the Supreme Court watched a different video of the exact same events taken from inside the suspect's car, this case may never have been taken away from the jury. Any discussion of judicial "legitimacy" -in both the descriptive and normative sense-must start here. The real danger for our justice system may not ultimately be the "visible fiction" of a suspect's version of events, as Justice Scalia would have it, or cognitive illiberalism as Kahan, Hoffman, and Braman would, but the invisible influence of situational frames systematically prejudicing those who come before our courts.

Jerry Kang, Nilanjana Dasgupta, Kumar Yogeeswaran & Gary Blasi, *Are Ideal Litigators White? Measuring the Myth of Colorblindness*, 7 J. EMPIRICAL LEGAL STUDIES 886 (2010),

<https://plus.lexis.com/api/permalink/c8fbbeed-a72f-44a4-a038-fdd693cf6312/?context=1530671>

- Abstract: This study examined whether explicit and implicit biases in favor of Whites and against Asian Americans would alter mock jurors' evaluation of a litigator's deposition. We found evidence of both explicit bias as measured by self-reports, and implicit bias as measured by two Implicit Association Tests. In particular, explicit stereotypes that the ideal litigator was White predicted worse evaluation of the Asian American litigator (outgroup derogation); by contrast, implicit stereotypes predicted preferential evaluation of the White litigator (in-group favoritism). In sum, participants were not colorblind, at least implicitly, towards even a "model minority," and these biases produced racial discrimination. This study provides further evidence of the predictive and ecological validity of the Implicit Association Test.

Jerry Kang & Kristin Lane, *Seeing Through Colorblindness: Implicit Bias and the Law*, 58 UCLA L. REV. 465 (2010)

[https://www.westlaw.com/Document/l6cf21e0e146a11e08b05fdf15589d8e8/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/l6cf21e0e146a11e08b05fdf15589d8e8/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- This Article summarizes the empirical evidence that rejects facile claims of perceptual, cognitive, and behavioral colorblindness. It then calls on the law to take a "behavioral realist" account of these findings, and maps systematically how it might do so in sensible, nonhysterical, and evidence-based ways. Recognizing that this call may be politically naive, the Article examines and answers three objections, sounding in "junk science" backlash, "hardwired" resignation, and "rational" justification.

Dan M. Kahan, David A. Hoffman, and Donald Braman, *Whose Eyes Are You Going to Believe? Scott v. Harris and the Perils of Cognitive Illiberalism*, 122 HARV. L. REV 837 (2009),

<https://www.westlaw.com/Document/lf4b45030e34111dd93e9a76b30106ace/View/>

[FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cb1t1.0](https://www.westlaw.com/Document/16a20cde14a7711dba16d88fb847e95e5/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cb1t1.0)

- This Article accepts the unusual invitation to “see for yourself” issued by the Supreme Court in *Scott v. Harris*, 127 S. Ct. 1769 (2007). Scott held that a police officer did not violate the Fourth Amendment when he deliberately rammed his car into that of a fleeing motorist who refused to pull over for speeding and instead sought to evade the police in a high-speed chase. The majority did not attempt to rebut the arguments of the single Justice who disagreed with its conclusion that “no reasonable juror” could find that the fleeing driver did not pose a deadly risk to the public. Instead, the Court uploaded to its website a video of the chase, filmed from inside the pursuing police cruisers, and invited members of the public to make up their own minds after viewing it. We showed the video to a diverse sample of 1350 Americans. Overall, a majority agreed with the Court’s resolution of the key issues, but within the sample there were sharp differences of opinion along cultural, ideological, and other lines. We attribute these divisions to the psychological disposition of individuals to resolve disputed facts in a manner supportive of their group identities. The Article also addresses the normative significance of these findings. The result in the case, we argue, might be defensible, but the Court’s reasoning was not. Its insistence that there was only one “reasonable” view of the facts itself reflected a form of bias – cognitive illiberalism – that consists in the failure to recognize the connection between perceptions of societal risk and contested visions of the ideal society. When courts fail to take steps to counteract that bias, they needlessly invest the law with culturally partisan overtones that detract from the law’s legitimacy.

Jody Armour, *Stereotypes and Prejudice: Helping Legal Decisionmakers Break the Prejudice Habit*, 83 CALIF. L. REV. 733 (1995)

[https://www.westlaw.com/Document/16a20cde14a7711dba16d88fb847e95e5/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cb1t1.0](https://www.westlaw.com/Document/16a20cde14a7711dba16d88fb847e95e5/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cb1t1.0)

- This Article argues that colorblind formalism is counterproductive in reducing discrimination, and it develops an empirically grounded framework for combating unconscious discrimination. The author suggests that automatic negative responses to stereotyped groups can be controlled by activating controlled cognitive processes. Thus, through careful attention and conscious effort, a non-prejudiced person can suppress an ingrained stereotype. As a result, the author concludes that references in court that challenge jurors to reexamine and resist their automatic discriminatory tendencies may actually enhance, rather than impede, the rationality and fairness of legal proceedings.

Videos on Cultural Competency for Students or Classroom Observation

Chimamanda Ngozie Adichie, *The Danger of a Single Story*, TED TALK (TEDGlobal 2009),

https://www.ted.com/talks/chimamanda_ngozi_adichie_the_danger_of_a_single_story?utm_campaign=tedsread&utm_medium=referral&utm_source=tedcomshare.

- Our lives, our cultures, are composed of many overlapping stories. Novelist Chimamanda Adichie tells the story of how she found her authentic cultural voice—and warns that if we hear only a single story about another person or country, we risk a critical misunderstanding.
- 18:43 min

How Microaggressions Are Like Mosquito Bites, FUSION COMEDY (November 13, 2017), <https://youtu.be/hDd3bzA7450>.

- Learning activity/tool for explaining microaggressions, or culturally insensitive comments (2 minutes, line drawings)

Melody Hobson, *Color Blind or Color Brave*, TED TALK (2014), https://www.ted.com/talks/melody_hobson_color_blind_or_color_brave?utm_campaign=tedsread&utm_medium=referral&utm_source=tedcomshare.

- Speaking openly about race and diversity in hiring makes for better businesses and a better society (14 minutes)

Verna Myers, *How to Overcome Our Biases? Walk Boldly Toward Them*, TED TALK (2014),

https://www.ted.com/talks/verna_myers_how_to_overcome_our_biases_walk_boldly_toward_them?utm_campaign=tedsread&utm_medium=referral&utm_source=tedcomshare.

- Myers makes a plea for all people to acknowledge their biases and then move toward the groups that make you uncomfortable
-

Ta Nehisi-Coates, *On Discussing Racism Honestly*, PBS NEWSHOUR, <https://www.pbs.org/video/ta-nehisi-coates-on-discussing-racism-directly-honestly-1443051886/>.

Bryan Stevenson at the First-Year Experience (FYE) 2-15 Random House Luncheon, YOUTUBE, <https://youtu.be/500uoXoRA8Q>.

Stella Young, *I'm Not Your Inspiration, Thank You Very Much*, TED TALK (2014),

https://www.ted.com/talks/stella_young_i_m_not_your_inspiration_thank_you_very_much

[u_very_much?utm_campaign=teditspread&utm_medium=referral&utm_source=teditcom_share.](#)

- Young, an educator and comedian, breaks down society's habit of turning disabled people into inspirational figures.

The House We live In, from the PBS Documentary The Power of an Illusion (2003) (in Bridges).

- Approximately 30 minutes - start at 23:59, starts with clip of young Frank Sinatra). Be sure you are watching Part III - the House We Live in!

Michelle Alexander: *Is Mass Incarceration the New Jim Crow?*, YOUTUBE, <https://youtu.be/XnqjDVhjM0w>.

Classroom Focus: Lesson Plans and curriculum for use in doctrinal courses or experiential learning.

Amanda Sen, NYU, **Teaching constellation** of materials that uses *Scott v. Harris* as platform to teach implicit bias and de-biasing

- This lesson follows one on the fallibility of factual witnesses. In this two-day lesson, Sen has half of the class watch a video of an accident as a witness. The other half of the class interviews the "witness" as an attorney for one side or the other. They all write affidavits and then all watch the video again together, which inevitably is quite different than what is in the affidavits.
- Naomi Mezey, *The Image Cannot Speak for Itself: Film, Summary Judgment, and Visual Literacy*, 48 VALPARAISO L. REV. 1 (2013). [https://www.westlaw.com/Document/la157a94ceaba11e398db8b09b4f043e0/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/la157a94ceaba11e398db8b09b4f043e0/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

Dan M. Kahan, *Whose Eyes Are You Going to Believe? Scott v. Harris and the Perils of Cognitive Illiberalism*, Faculty Scholarship Series, Paper 97 (2009), <https://heinonline.org/HOL/P?h=hein.journals/hlr122&i=845>

- Adam Benforado, *Frames of Injustice: The Bias We Overlook*, 85 INDIANA L.J. 1333 (2010). [https://www.westlaw.com/Document/lb020e0358f5911df9b8c850332338889/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/lb020e0358f5911df9b8c850332338889/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)
- Confirmation Bias: <https://perma.cc/Y93E-28LG>.
- Supreme Court decision: [https://www.westlaw.com/Document/l29543dbcf70711dbaf6c6849dc347959a/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)](https://www.westlaw.com/Document/l29543dbcf70711dbaf6c6849dc347959a/View/FullText.html?transitionType=Default&contextData=(sc.Default))

[\)&VR=3.0&RS=cblt1.0.](#)

- How Police Body Cameras Change Our Perception of Right and Wrong; <https://perma.cc/98QP-TQEX>.
- Why I Ran: <https://youtu.be/JATVLUOjzVM>.
- Cognitive Bias Cheat Sheet: <https://perma.cc/RCM5-HWYL>.
- Court TV Rodney King Episode: <https://youtu.be/rMESBBEQTV0>

Project Implicit, HARVARD, <https://implicit.harvard.edu/implicit>

- International collaboration between researchers interested in implicit social cognition. Goal is to educate the public about hidden biases and provide an outlet for collecting that data. The IAT is an educational tool designed to develop awareness of implicit preferences and stereotypes. It does not measure whether you accept, agree with, or act in furtherance of any implicit bias.
- IAT test cover topics including: weight (fat-thin); disability (disabled-abled); gender/life roles (career-family, male-female); sexuality (gay-straight); age (young- old); and race (Black-white; Native American-white; Asian American- European American; Arab Muslim/Others). Each test is about 10 minutes to complete.
- IAT is used by many organizations to help people reveal to themselves some of the effect of implicit bias. If used as an exercise, it's worth knowing some of the critique of the tool Keith Payne, et al, "How to Think About 'Implicit Bias,'" SCIENTIFIC AMERICAN (March 27, 2018), <https://perma.cc/TR6X-GL62> ("the IAT does have limitations. The stability of the test is low, meaning that if you take the same test a few weeks apart, you might score very differently. And the correlation between a person's IAT scores and discriminatory behavior is often small.")

Look Different, MTV, <https://www.mtvact.com/features/Look-Different>

- Campaign which seeks to help people contextualize threats to equality, empower those individuals to rebel against injustice, and demonstrate how to protect from hate
- Helps individuals to learn biases and open up conversations with others.

Marni Goldstein Caputo & Kathleen Luz, *A Book Club with No Books: Using Podcasts Movies, and Documentaries to Increase Transfer of Learning, Incorporate Social Justice Themes, Create Community, and Bolster Traditional and Character-Based Legal Skills during a Pandemic*, 20 SEATTLE J. FOR SOC. JUST. 635 (2022), <https://heinonline.org/HOL/P?h=hein.journals/sjsj20&i=644>

- This article details an approach to media-based learning and practices to facilitate discussion of topics ranging from racial inequities to social justice

in a post-covid virtual world.

Anne D. Gordon, *Cleaning Up Our Own Houses: Creating Anti-Racist Clinical Programs*, 29 CLINICAL L. REV. 49 (2022)

[https://www.westlaw.com/Document/I8116205e6cd811ed8636e1a02dc72ff6/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/I8116205e6cd811ed8636e1a02dc72ff6/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- A formidable body of research and scholarship describes the unique difficulties faced by various minoritized groups within our law schools. Women, people of color, those with disabilities, LGBTQ+ people, and all those outside, overlapping, or in-between have powerfully described how their turn through legal academia was marked by discrimination, disconnection, and isolation. Law school has been described as a “white space,” and can also be viewed through the lens of white supremacy: a way to uphold and perpetuate a system of racial hierarchy.
- This article is an effort to guide clinics in that process of self-evaluation, to begin to see the many ways that we may be perpetuating racism unconsciously within our own programs and offer concrete suggestions for how to change.

Edward A. Purcell, Jr., *Race Across the Curriculum: A Team-Taught Course on Law and Race in America*, 66 N.Y.L. SCH. L. REV. 125 (2022).

[https://www.westlaw.com/Document/I0670761554c411ed8636e1a02dc72ff6/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/I0670761554c411ed8636e1a02dc72ff6/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- This introduction’s goal is to describe what we consider an innovative intellectual and pedagogical project and to outline the nature of the specific course that the project generated.
- We hope that this might inspire colleagues at other schools to develop their own similar team-taught courses that address the complex problems of racial bias and inequality--or one or more of the many analogous problems that stem from other kinds of prejudice, inequality, and discrimination--that exist in contemporary America.

Doron Samuel-Siegel, *Reckoning with Structural Racism in Legal Education: Methods Toward A Pedagogy of Antiracism*, 29 CARDOZO J. EQUAL RTS. & SOC. JUST. 1 (2022)

[https://www.westlaw.com/Document/I67fc679da6cb11ed8636e1a02dc72ff6/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/I67fc679da6cb11ed8636e1a02dc72ff6/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- Despite a robust body of scholarship on teaching law consistent with the goals of antiracism, many legal educators struggle to put theory into practice.
- This Article responds to that struggle, offering a holistic, methodical

approach to a pedagogy of antiracism whose goal is twofold: create conditions in which racially minoritized students learn to their full potential, free from the harms of traditional legal education; and equip all students, regardless of identity, to contribute to the dismantlement of structural racism.

Phyllis C. Taite & Nicola "Nicky" Boothe, *Teaching Cultural Competence in Law School Curricula: An Essential Step to Facilitate Diversity, Equity, & Inclusion in the Legal Profession*, 2022 UTAH L. REV. 813. (2022)

[https://www.westlaw.com/Document/l6cead1c0491611ed9f24ec7b211d8087/Viaw/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/l6cead1c0491611ed9f24ec7b211d8087/Viaw/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- Part I of this Essay provides the path to integrating DEI in the legal profession, beginning with a definition of cultural competency and providing an explanation of the importance of cultural competency teaching on DEI in the legal profession. Part II will explore barriers to teaching cultural competency, followed by Part III, which provides specific strategies to conquer those barriers. Part IV focuses on specific strategies for the first-year curriculum, and Part V suggests ways to avoid common mistakes. The Essay concludes with a call to action for workable modifications to law school curricula to ensure appropriate training for professors and the next generation of lawyers.

Lynn Su, *Unpacking the Teaching Potential of a Hypothetical Criminal Case Involving a Cross-Racial Eyewitness Identification*, 66 N.Y.L. SCH. L. REV. 339 (2021), <https://heinonline.org/HOL/P?h=hein.journals/nyls66&i=345>

- Instead of realizing that something was wrong when one out of every three Black males landed in prison, the criminal justice system plodded along, relying on "race-neutral laws" to mete out justice. It took a series of tragedies, including the killing of Black men and women by the police, the unveiling of wrongful convictions, and pre-trial detention atrocities, to bring race out of the shadows. The criminal justice system is finally openly acknowledging that race really matters. Race can influence the trajectory of a case, frequently resulting in unjust outcomes.
- This essay highlights the threat of unjust outcomes: it unpacks the teaching potential of a class exercise designed to open students' eyes to the danger of racial bias in eyewitness identifications in criminal cases.

Ambelin Kwaymullina, *Teaching for the 21st Century: Indigenising the Law Curriculum at UWA*, 29 LEGAL EDUC. REV. 1 (2019). <https://perma.cc/ELB2-HSZT>

- The Law School and the School of Indigenous Studies at the University of Western Australia (UWA) have embarked on a project to 'Indigenise' the UWA Juris Doctor (JD) degree.
- The structure of this article is reflective of the process-oriented approach

taken to that project and the implementation of indigenous content in the JD program

Betsy Brand Six, *Contextualizing and Integrating Diversity Education*, LEARNING CURVE 10 (Summer/Fall 2018), Ohio State Public Law Working Paper No. 468, <https://perma.cc/YM9J-L8UM> (Go to view live page to download paper).

- This piece explores integrating diversity education into the first-year orientation by using interactive hypotheticals that invite students to take on a persona other than their own.

Emily A. Bishop, *Avoiding “Ally Theater” in Legal Writing Assignments*, 26 PERSPECTIVES: TEACHING LEGAL RES. & WRITING 3 (2017).

[https://www.westlaw.com/Document/lca51c82399fe11e8a5b3e3d9e23d7429/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/lca51c82399fe11e8a5b3e3d9e23d7429/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- Strategies for successfully incorporating issues of race, gender, and sexual orientation into the legal writing curriculum.
- I use the concept of “ally theater” to reframe some of the risks inherent in white professors’ use of legal writing problems centered on issues of race.
- Part I, I explain the origins of “ally theater” in online social media, discuss the risk that a similar phenomenon could occur within legal writing courses, and identify a more effective form of ally-ship for white legal writing professors.
- In Part II, I recommend that white law professors—whose privilege makes them less inclined to notice the conditions that cause law students of color to bear additional burdens in comparison to their white counterparts—assume that these conditions are present in their classrooms.
- In Part III, I list specific strategies that white legal writing professors can use to address the assumptions presented in Part II.

Stephanie Clifford & Jessica Silver-Greenberg, *Foster Care as Punishment: The New Reality of ‘Jane Crow’* New York Times (July 21, 2017)

<https://www.nytimes.com/2017/07/21/nyregion/foster-care-nyc-jane-crow.html>

- New York Times article looking at the connections between foster care and people of color

Bonny L. Tavares, *Changing the Construct: Promoting Cross-Cultural Conversations in the Law School Classroom*, 67 J. LEGAL EDUC. 211 (2017),

<https://heinonline.org/HOL/P?h=hein.journals/jled67&i=215>

- In this article the author discusses the importance of incorporating

cross-cultural “conversations” in law school classes across the curriculum both to comport with the revised ABA Standard 302(d) promoting the creation of student learning outcomes in the area of “cultural competency” and, more broadly, to promote and encourage cross-cultural awareness among students and faculty. The article begins by providing an overview of the many pedagogic, institutional and professional- developmental goals that are achieved by engaging students in the practice of thinking about legal issues from different cultural perspectives, among them the creation of an inclusive and “safe” classroom environment where students can analyze and discuss legal issues through a number of cultural lenses. The author also stresses the value of examining which cultural assumptions underlie an opinion or legal argument as a means of fostering critical legal thinking and effective client representation.

- Article discusses the many benefits of promoting classroom discussion among people of differing cultural groups who adhere to different cultural norms,
- Provides a “blueprint” for professors to create “an effective and safe classroom environment for conducting cross-cultural discussions by assessing the classroom climate, establishing a respectful and approachable relationship with students, and developing the cultural literacy and emotional knowledge to lead cross-cultural conversations with sensitivity and openness.”
- The author lays out best practices and techniques to explore differing cultural assumptions and expectations held by the professor, by students or implicated in class readings.
- Author offers techniques for professors to navigate any student resistance or incivility that may arise from efforts to discuss and encourage cross-cultural awareness. The article makes clear that to effectuate these pedagogic and institutional goals professors must engage in thorough preparation before walking into the classroom, including thinking through how to facilitate and navigate difficult conversations that might arise.

MATTHEW DESMOND, *EVICTED: POVERTY AND PROFIT IN THE AMERICAN CITY* (2016)

- I follow the story of Lorraine, the character who buys lobster with her food stamps, to get students to think about cultural differences, judgment, and using the 5 Habits if Lorraine were their client

Rhonda V. Magee, *The Way of ColorInsight: Understanding Race and Law Effectively Through Mindfulness-Based ColorInsight Practices*, 8 GEO. J. MOD. CRIT. RACE PERSPS. 251 (2016),

<https://www.westlaw.com/Document/I57fce9add9fb11e698dc8b09b4f043e0/View/F>

[u llText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](http://llText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- Diagnoses impediments to inclusive classroom.
- Offers teaching techniques for inclusivity; use of mindfulness practice to ameliorate stereotype threat, increase student capacity for perspective taking, among other objectives.
- Includes specific exercises (pp. 26-50).
- Abstract: Colorblindness is not, by itself, an effective remedy against racism. It does not comport with our cognitive (or social) experience of the real world. A move from colorblindness to color insight—defined as an understanding of race and its pervasive operation in our lives and in the law—is vital. This Article is the first to explore the role of research-grounded mindfulness-based contemplative practices in enhancing what may be called ColorInsight, and to suggest specific practices, ColorInsight Practices, that assist in its development not only of personal capacity to deal more effectively with race, but, more importantly, of the tools necessary for effective collaborative social change in the 21st century.
- The Article (1) furthers efforts to push beyond the important but limited cognitive-based understanding of racism and discrimination, focusing not only on emotional but relational and systemic aspects of the dynamics of race and racism; (2) mines a rich body of research on mindfulness as a means of supporting cross-racial interactions and systemic change that has gone unnoticed in the legal domain, and uncovers the ways that the law school classrooms and other organized spaces currently tend to keep emotional-awareness and interactional-awareness out of legal education practice and discourse, and fail to create space for developing positive racial interactions and skill-building in the classroom; and (3) offers more than two dozen specific, original or adapted practices for individual, interpersonal and systemic support in opening up space for conversation, learning, and development of positive interactions across race-based and other identity differences.

Eunice Park, *Establishing Learning Outcomes Under ABA Standard 302: Cultural Competence*, in AALS SECTION ON TEACHING METHODS NEWSLETTER 6 (Fall 2016), <https://perma.cc/XL2X-PTQ8>

- In an appellate brief program, Prof. Park introduced cultural competence as a learning outcome by integrating culturally sensitive legally significant facts into the fact pattern.
- One-page explanation of the writing assignment and rubric used to score how well the students recognized the cultural issues present in the fact scenario and addressed how legal analysis might be impacted.

Susan Bryant & Jean Koh Peters, *Reflecting on the Habits: Teaching about Identity, Culture, Language, and Difference*, in *TRANSFORMING THE EDUCATION OF LAWYERS: THE THEORY AND PRACTICE OF CLINICAL PEDAGOGY* (Bryant, Milsten & Shalleck eds., 2014).

- Updates this author's prior work, *Habits of Cross-Cultural Lawyering*.
- Adds a new tool - *Doubting and Believing* - to develop insight into a lawyer's assumptions about a case or matter, also helps lawyers think beyond their assumptions which is a necessary ability when working across cultures.

Jamelle Bouie, *Why Do Millennials Not Understand Racism?*, SLATE (2014), <https://perma.cc/LBF4-49C5>.

- An article that discusses the MTV Bias Survey (found towards the top of the class- room bibliography list)

Serena Patel, *Cultural Competency Training: Preparing Law Students for Practice in Our Multicultural World*, 62 *UCLA L. REV. DISC.* 140 (2014), [https://www.westlaw.com/Document/I292340e15b4e11e498db8b09b4f043e0/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cblt1.0](https://www.westlaw.com/Document/I292340e15b4e11e498db8b09b4f043e0/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0)

- Provides a basic structure for a proposed cross-cultural competency training seminar.
- Explains the goal of a training program focusing on building cross- cultural competency in lawyers.
- Explains the Five Habits outlined by Professors Susan Bryant and Jean Koh Peters.

Deborah Zalesne, *Racial Inequality in Contracting: Teaching Race as a Core Value*, 3 *COLUM. J. RACE & L.* 23 (2013), [https://www.westlaw.com/Document/I00a9d7b57a0211e28578f7ccc38dcbee/View/FullText.html?transitionType=Default&contextData=\(sc.Default\)&VR=3.0&RS=cbt1.0](https://www.westlaw.com/Document/I00a9d7b57a0211e28578f7ccc38dcbee/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cbt1.0)

- Abstract: Today's students live in an era that dominant social voices declare to be a "post-racial society." Issues of "discrimination," it follows, are simply isolated incidents easily addressed by the panoply of existing civil rights laws. This belief creates expectations on the part of first-year law students who may dismiss or ignore the existence of structural racism, sexism, and classism. The law not only creates structures of subordination, it also makes them invisible. Revelation of the subordinating effects of legal rules is an important first step in legal education.
- The apparent neutrality of contract law in particular masks the distributive

effects of legal rules. Contract is an area of private ordering, but it is courts that invalidate or legitimize the use or allocation of power between or among parties to a contract. Unspoken assumptions about power – who has it, who may use it, and how it may be used – are embedded in contract law and theory. These assumptions may conceal bias, stereotypes, and cultural preferences in a court’s final decision. An analysis that presumes neutrality on the part of the court and autonomy on the part of the parties overlooks the various advantages and handicaps that people bring with them to each transaction, some of which may be the result of the social identity of the parties. A “neutral” free market system tolerates certain pockets of discrimination in contracting which are, in turn, endorsed by the law in the name of freedom of contract.

- This Article addresses the importance of incorporating such discussions about identity in the first year core curriculum. It offers specific materials and techniques for doing this in a contracts class, with emphasis on the necessity and the value of grounding theoretical analysis squarely in the instruction students receive in legal reasoning.
- The Article proposes that issues of identity should be incorporated into the classroom not only when the parties in the cases are people of color, and not simply as a politically correct exercise, but pervasively throughout the semester as a way of advancing students’ legal reasoning skills and understanding of legal doctrine. This approach should improve the law school experience for most students and produce lawyers who are more capable of practicing law holistically.
- The article provides suggestions regarding how to raise issues of cultural identity in contracts class, even when not an explicit part of judicial opinion (Part III).

Patti Alleva & Laura Rovner, *Seeking Integrity: Learning Integratively from Classroom Controversy*, 42 SW. U.L. REV. 355 (2012-2013), <https://perma.cc/QX7R-XQY6>

- Outlines a method for engaging students in difficult classroom conversations.
- Classroom moments that involve issues of race, gender, ethnicity, class, disability, sexual orientation, religion, patriotism, or other sensitive subjects can provide valuable opportunities for teaching critical lessons pertinent to becoming self-reflective, well-rounded, and responsible lawyers. These moments can be diverting and disruptive. When handled with intention and care, they can enrich the integrative character of professional judgment and behavior. To make the most of these moments, the article provides a five-lesson framework through which to explore the issues of law, policy, critical thinking, communication and relational skills, and professional values that

comprise an integrative approach to legal education.

- The article attempts to provide theoretical and practical assistance to maximize the learning potential inherent in difficult classroom moments. But perhaps most importantly, it attempts to show the meaning and significance of an integrative approach to learning about lawyering by seeing these moments as vehicles to reinforce that potential. In this way, controversial moments are illustrations on a small scale of how to think about and implement integrated learning strategies on a large scale throughout the law school curriculum, even in non-controversial moments. They can be, in effect, prototypical integrative teaching and learning experiences with benefits beyond their boundaries.

Margaret Martin Barry et al., *Teaching Social Justice Lawyering: Systematically Including Community Legal Education in Law School Clinics*, 18 CLINICAL L. REV. 401 (2012), <https://perma.cc/7HVG-GBCP>.

- Discusses the valuable role community legal education plays in clinics through two projects at different law schools. It evaluates them as a vehicle for teaching and a forum for exercising skills essential to single client representation and social justice lawyering.
- Provides readers with insight into practicalities of incorporating these education programs into clinical programs, shares strategies for success, and identifies challenges that community legal education projects present.

Kim D. Chanbonpin, *Tips for Crafting Writing Assignments: Integrating Diversity Issues in the Classroom and Creating Culturally Competent Lawyers* (Apr. 1, 2011), <https://perma.cc/9WMU-L6SK> (go to live page to download paper)

- Classroom focus on how to raise cultural difference in legal writing courses, e.g., teach students to recognize when and how their life experiences and personal views are being expressed in their analysis of legal problems so that their arguments are the result of conscious, knowing decisions; set issues in a variety of racial, cultural, or otherwise diverse contexts to reduce student alienation by allowing different groups of students to take turns enjoying the status of 'insiders' on a problem, rather than routinely relegating some students to the role of perpetual 'outsider.'