

WHO'S AFRAID OF WHITE CLASS MIGRANTS? ON DENIAL, DISCREDITING AND DISDAIN (AND TOWARD A RICHER CONCEPTION OF DIVERSITY)

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Abstract

This Article describes and theorizes the legal academy's denial of both class disadvantage and class migration, with particular attention to how those phenomena are manifest in relation to white faculty. The Article observes that a general disdain for poor and working-class whites evolves into the denial and distancing of class migrants, those who move into the professoriate from lower socioeconomic stations ("SES"). Further, the academy simultaneously discredits and disciplines these class migrants when they run afoul of narrow norms regarding credentials, scholarship, and culture. The author employs storytelling as methodology, drawing on her own experiences as a white class migrant to illustrate some of these phenomena.

This Article, one in a series that takes up poor whites and the white working class as critical race projects, makes several theoretical contributions. First, it theorizes why white poverty, the white working class, and thus the phenomenon of white class migration, are so taboo among legal scholars. Closely related to this taboo are the reasons white class migrants are not viewed and valued as representing the diversity held so dear by the professoriate. Among other things, the Article begins the work of thinking about the phenomenon of white class migration as one that is as much about race as about class. It does so, however, in ways that go beyond Critical Race Theory's ("CRT") typical engagement with whiteness as monolithic abstraction. The Article suggests that the persistent race-vs.-class debate—regarding whether race or class is a bigger culprit in relation to various social problems and injustices—has proved an attractive distraction that has deterred robust scholarly engagement with many potent intersections of race with class, including that between white-skin privilege and socioeconomic disadvantage. Indeed, the academy is deterred from taking up just this intersection of whiteness with socioeconomic disadvantage for fear

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that doing so will detract from the very grave problems of racial disadvantage and racial discrimination experienced by nonwhites. Yet when we ignore class-based disadvantage—as when we ignore race-based disadvantage—we avoid an uncomfortable but critical conversation about authentic meritocracy. Ignoring the intersection of class disadvantage with white privilege also permits us to avoid confronting long-standing, intra-racial elite biases against poor and working-class whites.

The second theoretical contribution of the Article—written for a collection about the persistence of gender discrimination in the academy—regards the ways in which gender mediates the white class migration experience in the context of legal academia. In particular, the author discusses three junctures when the intersection of gender and class have particular implications for academic careers. These are mentoring, physical appearance, and life partnerships.

Finally, the author identifies several reasons why the legal academy needs the distinctive perspectives of class migrants. First, class migrants have become rarer among the professoriate in recent years because of heightened elitism in law faculty hiring during an era when low-income students are in shorter supply than ever in the prestigious colleges, universities, and law schools that bestow the requisite credentials. Second, the wider trend of diminishing upward mobility not only weighs on our national psyche, it has serious implications for our nation's economic well-being due to this failure to optimize raw human capital of all colors. This situation renders the perspectives and insights of all class migrants more valuable than ever because they have first-hand experience with the upward mobility journey that we should be fostering, and which we support in principle. Furthermore, class migrants can serve as role models and mentors for students in the midst of that process. Third, the author argues that poor and working-class whites are both key stakeholders and key informants in our quest for racial progress, although their perspectives are seldom heard in the academy. We rarely talk about low-SES whites; we talk to them even less frequently.

One way to begin to draw in those particular white perspectives is through the inclusion of class migrants in the law professoriate. That inclusion should also endow future generations of lawyers with a greater class consciousness that will serve the interests of all races and ethnicities in wider society. In faculty composition as in myriad other contexts, the author implores us to move beyond the impasse of thinking we must address only racial disadvantage or only class disadvantage and to grapple with both at their myriad intersections.

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INTRODUCTION

The Call for Papers for a recent collection of articles by working-class academics began with these lines:

Tired of hearing your relatives and childhood friends denigrated by implication when the more privileged assume everyone in their group is ignorant and prejudiced, of seeing people from your background misrepresented through “reality” TV minstrel shows, of being told that you are now middle-class because you have a graduate degree and a college teaching job and so you should get over your past—while you struggle to afford professional expenses colleagues from the bourgeoisie pay with ease? Do you resent the universalization of working-class experience across cultures and national borders, so that all our diversity is erased? When you hear academe described as a meritocracy in which one’s origins don’t matter, do you want to scream? . . . Write Back!¹

1 *Call for Papers*, RHIZOMES (2014).

The Call suggests a number of themes, several of which I take up in my contribution to this collection of Articles about how gender intersects with other aspects of identity to marginalize female law professors. The first theme is disdain, a cultural denigration of the “lower classes” by the interest public²—those “who write the books and do the social analysis”³—who populate the professoriate.⁴ This disdain—sometimes expressed openly—is used to justify a distancing of the poor and working class from the rarefied world of academia. Further, this contempt for low-status whites evolves into a peculiar discrediting of those few who are audacious and tenacious (and lucky) enough to class migrate into the professoriate.

The second theme—which appears at first blush to be in conflict with the first—is related to that very distancing. That theme is a certain denial of class,⁵ in particular a suppression of the phenomenon of class disadvantage. This is reflected in the widespread failure to view socioeconomic disadvantage as an element of diversity in higher education.⁶ In relation to “class migrants”—those who rise to the professional/managerial class although “born and raised working class”⁷—who reach the professoriate, this denial is manifest in the tendency

2 I use this term to mean what others might refer to as the “chattering classes” or, to some extent, “liberal elites.” While those other terms might be more familiar to readers and also more descriptively straightforward, I eschew them because of their negative connotations, particularly the latter as associated with Bill O’Reilly and Fox News.

3 Martha R. Mahoney, *Segregation, Whiteness, and Transformation*, 143 U. PA. L. REV. 1659, 1667 (1995).

4 See JOAN WILLIAMS, *RESHAPING THE WORK-FAMILY DEBATE: WHY MEN AND CLASS MATTER* 154 (2010).

5 For the purposes of this piece, I use the terms class and socioeconomic status interchangeably, although “class” is typically considered a more complex concept. See Angela P. Harris, *Theorizing Class, Gender and the Law: Three Approaches*, 72 L. & CONTEMP. PROBS. 37, 38–39 (2009) [hereinafter Harris, *Theorizing Class, Gender*]; Deborah C. Malamud, *Assessing Class-Based Affirmative Action*, 47 J. LEGAL EDUC. 452, 453–54 (1997) (explaining that class tends to implicate multiple generations, whereas economic disadvantage speaks more to a “snapshot” of what person has in terms of both material goods and, for example, cultural competency); NAT’L CTR. FOR EDUC. STATISTICS, U.S. DEP’T OF EDUC., *IMPROVING THE MEASUREMENT OF SOCIOECONOMIC STATUS FOR THE NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS: A THEORETICAL FOUNDATION* 4 (2012), http://nces.ed.gov/nationsreportcard/pdf/researchcenter/socioeconomic_factors.pdf [<http://perma.cc/D22U-PJJ5>] (writing that the “big 3” of socioeconomic (“SES”) measurement have long been family income, parental educational status, and parental occupational status).

6 See Lisa R. Pruitt, *The False Choice Between Race and Class and Other Affirmative Action Myths*, 63 BUFF. L. REV. 982 (2015) [hereinafter Pruitt, *False Choice*].

7 WILLIAMS, *supra* note 4, at 154. Williams’ definition is slightly different from mine: those “born and raised working class, who join the upper-middle class through access to elite education.” As discussed below, access to elite education is typically required for one to migrate up the class hierarchy and into the professoriate, although it is not strictly required. See *infra* notes 9, 103, 120 and accompanying text.

to discount the enduring impacts (both positive and negative) of spending one's formative years in low-SES milieu.⁸ This is an issue to which I return in Part IV, explaining why the perspectives of class migrants remain highly valuable, even after they have "arrived" in the professoriate and, at least by some definition, in the middle class.

I discuss denial and disdain as inter-related phenomena as they are experienced by poor and working-class whites, thus invoking a third theme implicit in the Call: diversity among academics whose socioeconomic provenance is in poverty or the working class. I suggest that when *white* class migrants do transcend the glass ceiling that polices entrance into the academy—increasingly a rare occasion, indeed⁹—those class migrants are more likely

8 That these impacts are enduring is reflected in the name of the organization formed by these professors, Association of Working Class Academics. These academics are clearly no longer working class, but the mark and manifestations of being raised as such persist. See *infra* Part IV.

9 See Jeffery L. Harrison, *Confess 'n the Blues: Some Thoughts on Class Bias in Law School Hiring*, 42 J. LEGAL EDUC. 119, 119–20 (1992). Harrison writes,

I have the distinct impression that people with working-class backgrounds are not found in our profession in anything close to the same proportion as they are in society. Further, current efforts to improve diversity are far too exclusionary to be responsive to what I believe to be a pervasive class bias.

Id. See also Michael J. Higdon, *A Place in the Academy: Law Faculty Hiring and Socioeconomic Bias*, 87 ST. JOHN'S L. REV. 171 (2013) (linking the lack of SES diversity at law professor feeder schools with a general lack of SES diversity among the legal professorate).

I am confident that an analysis of the law professoriate of the twenty-first century would reveal many fewer graduates of non-elite public law schools than was the case two decades ago, let alone five decades ago. The founding law faculty of U.C. Davis in the 1960s, for example, included many graduates of run-of-the mill public law schools. The public university has long been a primary vehicle for class migration into the professional/managerial class, but is increasingly less effective for migration into elite jobs such as the academy and the highest ranks of both public and private sectors.

Meanwhile, elite colleges generally do not do a good job of attracting or admitting low-income strivers. See Christopher Avery & Caroline Hoxby, *The Missing "One-Offs": The Hidden Supply of High-Achieving, Low Income Students* (Nat'l Bureau of Econ. Research, Working Paper No. 18586, 2012), <http://www.nber.org/papers/w18586.pdf> [<http://perma.cc/6DN7-C7SC>]; Richard D. Kahlenberg, Opinion, *Elite Colleges or Colleges for the Elite?*, N.Y. TIMES (Sept. 29, 2010), <http://www.nytimes.com/2010/09/30/opinion/30kahlenberg.html> [<http://perma.cc/APU4-EP4J>] (querying whether the colleges are elite because of the elite students they enroll, or whether they are elite colleges in the sense of wielding power to convey that status on those they educate). At the same time, some highly prestigious colleges and universities, such as Ivy League schools, increasingly do attend to socioeconomic disadvantage as diversity. See David Leonhardt, *New Prize Rewards Economic Diversity at Colleges*, N.Y. TIMES (Apr. 7, 2015), http://www.nytimes.com/2015/04/07/upshot/07up-leonhardt.html?_r=0&abt=0002&abg=0 [<http://perma.cc/7KC6-R3DC>]. See also *infra* notes 96–101 and accompanying

than nonwhites to be the objects of elite disdain based on class of origin. Social norms in that high-brow milieu (at least in theory) protect nonwhites¹⁰ and sexual and religious minorities as such from hateful comments, micro-aggressions, and bias, but they do not protect this “forgotten majority.”¹¹ Disdain for white class migrants arises and is expressed in part because white elites wish to differentiate themselves from low-SES whites, work that visible racial difference does in relation to nonwhites.

Class is effectively obscured for all, but for different reasons. Nonwhite academics may experience a certain erasure of class because the focus is on their race, which tends to imply socioeconomic disadvantage. But white class migrants also experience erasure of class because they fall outside racial, socioeconomic, and cultural norms that associate whiteness with affluence. Thus, the class migration experience for both whites and nonwhites, as well as the progressive elite response to it, are shaped as much by race as by class.¹² Indeed,

text (discussing educational credentials in relation to class).

10 I tend to use the term “nonwhite” instead of racial/ethnic minority because the racial composition of our country is shifting quickly, and whites as a group will soon be a minority. I also forgo the term “people of color” because, consistent with the push to end the transparency of whiteness, I treat whites as also having color. *See infra* note 12 and accompanying text. In fact, there is reason to believe that nonwhite professors, like their white counterparts, are rarely class migrants these days, as I discuss in Part I.D. Yet socioeconomic disadvantage remains embedded in blackness and brownness, and collectively the economic status of nonwhites is far lower than for whites as a group.

11 *See generally* RUY TEIXEIRA & JOEL ROGERS, *AMERICA’S FORGOTTEN MAJORITY: WHY THE WHITE WORKING CLASS STILL MATTERS* (2000).

12 As critical race scholars have been reminding us for decades, whites have race, too. *See* EDUARDO BONILLA-SILVA, *RACISM WITHOUT RACISTS: COLOR-BLIND RACISM & RACIAL INEQUALITY IN CONTEMPORARY AMERICA* 103–29 (3d ed. 2010) (describing whites’ tendencies to see race as something that shapes minorities’ experiences but not their own); Dorothy A. Brown, *Tales from a Tax Crit*, 10 *PITT. TAX REV.* 47, 58 (2012) (“After all, every one of us has a race.”); Barbara Flagg, *Fashioning a Title VII Remedy for Transparently White Subjective Decisionmaking*, 104 *YALE L.J.* 2009, 2035 (1995) (referring to the transparency of whiteness and defining this term as the tendency for whiteness to vanish from whites’ self-perception); Martha Mahoney, *supra* note 3, at 1663–64 (citing RUTH FRANKENBERG, *WHITE WOMEN, RACE MATTERS: THE SOCIAL CONSTRUCTION OF WHITENESS I* (1993)).

Critical race scholars have lately begun to view more skeptically the notion of “white invisibility.” As Ruth Frankenberg explains, “the current ‘conditions and practice of whiteness’ render ‘the notion that whiteness might be invisible . . . bizarre in the extreme.’” Ruth Frankenberg, *Mirage of an Unmarked Whiteness*, in *THE MAKING AND UNMAKING OF WHITENESS* 72, 76 (Birgit Brander Rasmussen, Eric Klinenberg, Irene J. Nexica & Matt Wray eds., 2001). *See also* John Hartigan, Jr., *Establishing the Fact of Whiteness*, 99 *AM. ANTHROPOLOGIST* 495, 498 (1997); Douglas Hartmann et al., *An Empirical Assessment of Whiteness Theory: Hidden from How Many?*, 56 *SOC. PROBS.* 403, 408–09 (2009).

those phenomena are mediated by an array of race-and-class intersections. I thus take up the class migration phenomenon as one heavily imbued with racial implications, even as I find it necessary to bracket many complex race issues for purposes of this relatively short Article.¹³

Amidst this discussion, I begin to theorize the reasons for these phenomena and to identify some of their consequences. First, I suggest that the academy is reluctant to acknowledge class disadvantage because doing so risks diminishing the myriad and grave manifestations of racial disadvantage, including structural racism. I argue that this need not be the case, and I firmly maintain that we can and must move past a ranking of oppressions that has become a justification for our failure to address the potency of class. I suggest that the professoriate further avoids engagement with class because that engagement would be psychically costly, revealing the idea of meritocracy to be a myth and thus threatening both sense of self and security.

The consequences of this denial of class, this use of race as a proxy for class instead of grappling with class on its own terms (and I do acknowledge the impossibility of completely untangling the two, whatever one's race/ethnicity), include a narrowing of our conception of diversity in relation to the professoriate, a phenomenon also apparent regarding students, where our admitted focus has long been on racial and ethnic diversity.¹⁴ This denial of class means too few class migrants make it into the professoriate, in part because increasingly elitist institutions do not value their credentials and life experiences. This dearth of class migrants, along with the pressure on the few present to class pass and cover, deprives students who are in the process of class migration of role models and mentors. Lastly, these phenomena shape the content of legal scholarship, reflecting this diminution or outright denial of class disadvantage, especially in relation to whites of low socioeconomic status.

* * *

A few prefatory comments are in order here. First, I draw heavily in this piece on personal anecdote, using the storytelling methodology associated with critical race theory and outsider scholarship more generally.¹⁵ Doing so is especially awkward because I use

13 One such issue that I bracket throughout is the simplistic white/nonwhite binary. In spite of this bracketing, I understand that the category "nonwhite" features a great deal of racial and ethnic diversity, including a range of consequences associated with any particular race/ethnicity.

14 See Pruitt, *False Choice*, *supra* note 6.

15 See, e.g., Richard Delgado, *Storytelling for Oppositionists and Others: A Plea for Narrative*, 87 MICH.

these illustrations to advance an argument that, if successful, would in theory yield benefits for me. That is, I am a white class migrant arguing that white class migrants should be more highly valued in the legal academy. Nevertheless, I am in good company in going down a path of advocacy that has implications for the scholar's own situation.¹⁶ Plus, I am surely past the stage in my career where sudden recognition of the value of class migrants will have any real impact on me. Besides, my career has turned out quite nicely, in spite of the periodic slings, arrows, and slights linked to my class of origin and its intersection with gender.

Second, in analyzing this phenomenon in terms of "diversity," I do not mean to suggest that diversity is the proverbial be all and end all. I share many of the same concerns that others have articulated regarding the limitations and pitfalls of diversity, as noted below. Nevertheless, we now exist in a world in which diversity has become a buzzword, a goal not only of higher education, but also in all sorts of employment and corporate settings, in both the public and private sectors. I am thus writing realistically about and in the context of a society and educational institutions where "diversity" matters—indeed, where it matters a lot.

Let me also emphasize that a great deal more is at stake here than my career or that of any other class migrant. This is about the need to affirmatively seek and bring more class migrants into the professoriate because we so badly need their perspectives in this era of burgeoning economic inequality and declining upward mobility. This is about identity (politics), yes, but it is about more than that. This is about economics at two scales. First, while I take seriously "class" as identity, being "lower class" is also about material deprivation. Being low-income or poor has tangible consequences on a day-to-day basis. As I explain in Part IV, some of these consequences survive the class migration process.

But this quandary is also about economics at a higher scale. It is an economic imperative—a matter of our national competitiveness in the global arena—that we optimize the raw human potential of our populace. Yet a great deal of evidence suggests

L. REV. 2411 (1989).

16 See CHARLES R. LAWRENCE III, *WE WON'T GO BACK: MAKING THE CASE FOR AFFIRMATIVE ACTION* (Mari Matsuda ed., 1997) (featuring autobiographic narratives supporting affirmative action); KENJI YOSHINO, *COVERING: THE HIDDEN ASSAULT ON OUR CIVIL RIGHTS* (2007) (making extensive use of autobiographical anecdotes as a gay man to call for heightened awareness of how the pressure to cover implicates civil rights) [hereinafter YOSHINO, *COVERING*]; Mari J. Matsuda, *Who is Excellent?*, 1 SEATTLE J. SOC. JUST. 29, 31–35 (2002) (featuring narratives about being an Asian American student, teacher, and consultant advocate for affirmative action).

we are failing to do so. Among the nation's most selective colleges, for example, just 14% of entering freshmen of the class of 2010 came from the bottom half of the income distribution, while 70% were from the highest-earning quartile.¹⁷ In failing to value and promote class migration, into the law professoriate as in other contexts, we undermine our entire nation. In not explicitly addressing class, we also impede racial progress, a goal that could be advanced considerably with the input and buy-in of low-status, low-income whites.¹⁸

Lastly, I acknowledge that class migration (like class itself) is squishy and indeterminate. Small-ish moves along the class continuum—both up and down—are not uncommon, and they play out to one degree or another in most of our families and in most of our lives. I do not attempt to specify how great a move along the continuum one must make in order to qualify as a class migrant whose perspective is “valuable enough” to count for these purposes. I do, however, note that the greater the class leap during a single generation, the greater the challenge for the class migrant not only in terms of effort, but also in terms of cognitive dissonance, risk, and discomfort. Thus greater class leaps are arguably associated with greater value in terms of the migrant's knowledge gained from the migration process, especially the impediments to it.¹⁹ It is one thing to claim a father or grandfather who had the opportunity to go to college post-WWII on the GI Bill, thereby setting in motion greater opportunity for successive generations. It is quite another to be the first in one's family to get the sort of education that permits one a tenure-track position in the academy. If we

17 Anthony P. Carnevale & Jeff Strohl, *How Increasing College Access Is Increasing Inequality, and What to Do About It*, in REWARDING STRIVERS: HELPING LOW-INCOME STUDENTS SUCCEED IN COLLEGE 71, 137 (Richard D. Kahlenberg ed., 2010) (studying the nation's top 193 universities).

18 Critical race scholars often point out that poor and working class whites do not—and have not historically—formed cross-race coalitions because of the psychological benefit, or wages, that they receive because of their whiteness. See, e.g., DAVID R. ROEDIGER, *THE WAGES OF WHITENESS: RACE AND THE MAKING OF THE AMERICAN WORKING CLASS* (2007) (discussing W.E.B. DU BOIS, *BLACK RECONSTRUCTION IN AMERICA: AN ESSAY TOWARDS A HISTORY OF THE PART WHICH BLACK FOLK PLAYED IN THE ATTEMPT TO RECONSTRUCT DEMOCRACY IN AMERICA 1860–1880* 700 (1965) [hereinafter W.E.B. DU BOIS, *BLACK RECONSTRUCTION IN AMERICA*]). In short, CRT can be read to imply that low-income whites are a bigger culprit—and more racist—than are other whites. See generally Pruitt, *False Choice*, *supra* note 6. In light of the disproportionate responsibility for racism that is heaped on low-income whites, it would surely be helpful if the interest public—including academics—talked to them and not only about them.

19 See, e.g., NICHOLAS CARNES, *WHITE COLLAR GOVERNMENT: THE HIDDEN ROLE OF CLASS IN ECONOMIC POLICY-MAKING* 12 (2013) (arguing that “the shortage of people from the working class in American legislatures skews the policy-making process toward outcomes that are more in line with the upper class's economic interests”). Carnes is a class migrant who discloses, “I've spent more of my time cutting two-by-fours, bussing tables, answering phone, ringing up groceries, and loading trucks than I have being a professor in a college.” *Id.* at ix.

had more of the latter in the professoriate—and if we *encouraged* them to discuss class, to engage class explicitly—we might even gain some new insights into our current economic inequality and socioeconomic immobility crises.

I. Denial and Distance

A. The Class Taboo

My personal experiences with the denial of class are perhaps typical among white class migrants in the professoriate. Others have shared tales with similarities to my own.²⁰ I recount a few anecdotes from my own sixteen-year journey through the legal academy to give a taste of the white class migrant experience—a sense of the slights, the micro-aggressions, and the not-always-benign neglect of the issue of class, particularly in relation to low-SES whites.

The phenomenon of class erasure surfaced most prominently for me a few years ago when I “came out” as a class migrant. I did so in an essay published as part of a collection of law professors’ experiences as “One Ls.”²¹ I wrote of my early days at the University of Arkansas School of Law, detailing my sense of being an outsider there, even as I class passed by dressing a certain way and describing my parents’ employment in euphemistic

20 See WORKING-CLASS WOMEN IN THE ACADEMY: LABORERS IN THE KNOWLEDGE FACTORY (Michelle M. Tokarczyk & Elizabeth A. Fay eds., 1993); Constance G. Anthony, *The Port Hueneme of My Mind: The Geography of Working-Class Consciousness in One Academic Career*, in PRESUMED INCOMPETENT: THE INTERSECTIONS OF RACE AND CLASS FOR WOMEN IN ACADEMIA 300 (Gabriella Gutiérrez y Muhs, Yolanda Flores-Niemann, Carmen G. González & Angela P. Harris eds., 2012); Jill M. Fraley, *Invisible Histories & the Failure of Protected Classes*, 29 HARV. J. ON RACIAL & ETHNIC JUST. 95, 95–97 (2013); Ezra Rosser, *On Becoming “Professor”*: A Semi-Serious Look in the Mirror, 36 FLA. ST. U. L. REV. 215, 215 (2009); Robin Redmon Wright, *Comics, Kitsch, and Class: An Autoethnographic Exploration of an Accidental Academic*, INT’L J. QUALITATIVE STUD. EDUC. (2015) [hereinafter Redmon Wright, *Accidental Academic*]; Robin Redmon Wright, *Research as Quest: An Autoethnographic Exploration of Embodied Class, Intellectual Obsession, and the Academy*, 5 J. CURRICULUM & PEDAGOGY 69 (2011); Grace Cale, *Confessions of a Poverty-Class Academic-in-Training*, CONDITIONALLY ACCEPTED BLOG: A SPACE FOR SCHOLARS ON THE MARGINS OF ACADEMIA (Sept. 1, 2015), <http://conditionallyaccepted.com/2015/09/01/workingclass-pt1> [<http://perma.cc/W8KP-XMBG>]; Rachel Wagner, *Bootstrapping My Way into the Ivory Tower*, CHRON. HIGHER ED. (Nov. 8, 2011), <http://chronicle.com/article/Bootstrapping-My-Way-Into-the/129640> [<http://perma.cc/Q5BS-D8ME>]; Claire Vaye Watkins, *The Ivy League was Another Planet*, OPINION, N.Y. TIMES (Mar. 28, 2013), <http://www.nytimes.com/2013/03/29/opinion/elite-colleges-are-as-foreign-as-mars.html> [<http://perma.cc/T68A-7AYN>].

21 Lisa R. Pruitt, *How You Gonna’ Keep Her Down on the Farm*, 78 UMKC L. REV. 1085, 1092 (2010) [hereinafter Pruitt, *How You Gonna’ Keep Her*].

terms.²² The essay appeared to make readers quite uncomfortable. Among the forty or so who responded to the essay in a sufficiently substantive way to indicate they had read it, just a handful acknowledged that the essay had anything to do with class.

While I was pleased that readers appreciated the aspects of the essay on which they commented—my attempts at humor and my feminist epiphany, the other primary theme of the essay—I was struck that only three readers out of dozens acknowledged that I had written about class, let alone that my own class migration was the heart of the essay. Because I had perceived that I had successfully class passed up until that time, just writing the piece and deciding to publish it had at times felt gut-wrenching and soul-baring, though also liberating. The responses to the class dimensions of the essay—or more precisely, the general lack of response—thus surprised and disappointed me. Readers had seen my class journey laid bare and turned away, embarrassed for me, or perhaps moved by a less charitable impulse.

As I reflected on the matter, I realized that the professoriate's failure to see or to acknowledge my class migration was consistent with some of my other academic experiences and observations regarding class. A few years before the publication, I had begun to formulate a research agenda regarding class and poverty, but when I tried to talk about socioeconomic class to colleagues (both within my institution and among the broader law professor community), the response was typically some version of "you know class is not the only basis of disadvantage." In short, a decided lack of enthusiasm for the enterprise was evident.

One reason for that lack of enthusiasm, I ultimately surmised, was that implicit in the mention of class was "whiteness." Colleagues assumed that my interest was in the *white* working class because I otherwise would have said I was formulating a research agenda about race. To talk and write about race, at least in the legal academy, is to write about racial minorities and the disadvantages associated with that status or identity, one aspect of that

22 *Id.* (describing my father, a truck driver, as a "small business owner," for example). To be clear, I may not have been passing very effectively—particularly since I left Arkansas following law school—because of my (still) lingering Southern accent and my inferior educational pedigree. Only upon ascending into the rarefied world of legal academia did I learn that a public university education—well, depending on the state and the university (think Michigan or Virginia in contrast to South Dakota or West Virginia)—is a dead giveaway that one is not of the professional/managerial class—or at least not reared by elites. Elites understand from the get-go the limitations of a state university education and just do not let their children go there, literally. See *supra* note 9, *infra* notes 94, 160 and accompanying text. For me, the limitations of a non-elite education have been revealed over years, and no doubt more will follow.

disadvantage implicitly being socioeconomic.²³ To write about class unmodified, then, is to write about the white working class.²⁴ To call out “class” is to distinguish from what has increasingly become the implicit socioeconomic default or “norm” for whites, at least in our collective imagination: (relative) affluence. In fact, fellow law professors were correct in assuming that I had the white working class on my mind, though not exclusively so. I was and remain interested in how low-SES status mediates the lived experiences and opportunity structures for people of all colors, and there is no doubt that nonwhite class migrants bring unspeakably valuable—though sadly very rare—perspectives to the academy.²⁵

As law professors, colleagues might have pointed out that legal doctrine—especially the United States Constitution—is infertile soil for discussing class disadvantage because law provides so few protections for the socioeconomically disadvantaged based on their status as such.²⁶ But this did not seem to be the source of colleagues’ lack of enthusiasm for my budding research agenda; at least they did not articulate it as such. I ultimately came to read the awkward silences and dismissiveness of class-based projects as, at best, a warning not to wade into this territory because it would be seen as diminishing the disadvantages suffered by nonwhites, especially blacks and Latina/os.²⁷ At worst, I figured people assumed that I was oblivious to my white privilege,²⁸ or at least sought to divert attention from it

23 See *infra* Part I.C.; see also Lisa R. Pruitt, *Welfare Queens and White Trash*, 25 S. CAL. INTERDISC. L.J. (forthcoming 2016).

24 This is somewhat different from being a poverty law professor or scholar. Those scholars’ focus tends to be on those experiencing extreme socioeconomic disadvantage, and they may or may not take up issues of race explicitly.

25 See *infra* Part I.D.

26 See Mario L. Barnes & Erwin Chemerinsky, *The Disparate Treatment of Race and Class in Constitutional Jurisprudence*, 72 L. & CONTEMP. PROBS. 109, 125 (2009); Michele Gilman, *A Court for the One Percent: How the Supreme Court Contributes to Economic Inequality*, 2014 UTAH L. REV.; Julie A. Nice, *No Scrutiny Whatsoever: Deconstitutionalization of Poverty Law, Dual Rules of Law, & Dialogue Default*, 35 FORDHAM URB. L.J. 629, 632–36 (2008). I note that a race-vs.-class framing is also suggested by a great deal of critical race scholarship, which often compares the relative disadvantage of poor blacks with poor whites. See *infra* note 56 and accompanying text.

27 The “either/or” approach to race and class permeates the discourse in legal scholarship, including that, for example, about affirmative action. See Pruitt, *False Choice*, *supra* note 6; see also *infra* notes 51, 56, and accompanying text.

28 While it is fraught with peril to do so, I will attempt to articulate some aspects of that privilege, which become more apparent to me as I age and get more life experiences under my belt. At the same time, I am increasingly aware of the ways my working-class upbringing has influenced and, indeed, “made” me.

by surfacing class disadvantage. I suspect that my persistent Southern accent and lingering identity as an Arkansan fueled these assumptions. As Martha Mahoney has observed, among “white Americans of middle-class and elite status . . . racism is something that working-class whites (particularly Southerners) do to blacks and other people of color.”²⁹ In other words, it is easy to project our racism onto others, especially onto Southerners, and to buy into a racist/nonracist binary.³⁰

As for my white privilege, I see its impact most clearly in relation to two major episodes of my life: my career as a student at the not-well-integrated University of Arkansas, a very Southern institution in the 1980s, and in my ancestors’ ability to homestead in the second half of the nineteenth century. Five generations later, my parents owned ten acres and the modest home they built the year I was born and paid off over decades. My mother, who is still working outside the home as noncertified personnel at the local school, still lives in that house. Her net worth is close to zero.

On the other hand, being a member of an established family in the midst of a highly impoverished, rural county was psychologically valuable to me as a child, even as my parents lived paycheck to paycheck. In the midst of an all-white county and region, however, that benefit did not appear to implicate race. Only after I left that all-white environment did my whiteness become less transparent to me. By the same token, only after I left that place did my class disadvantage loom large, and I could only see the enormity of it as I looked back many years on. In this regard, I relate to many passages of Justice Sonia Sotomayor’s autobiography. For example, she wrote of watching in 1977 television coverage of President Jimmy Carter’s visit to the part of the Bronx where her grandmother had lived:

[U]ntil I had seen the place at the remove of the television cameras, I couldn’t really see it. When you live in the midst of such decay, everyday life renders it almost invisible. Somehow communities continued to function amid their own ruins . . .

SONIA SOTOMAYOR, *MY BELOVED WORLD* 257 (2013). Sotomayor goes on to suggest that the South Bronx was perhaps “America’s worst urban catastrophe.” By the same token, the persistent white poverty of Appalachia and the Ozarks highlands is one of America’s worst rural catastrophes.

In other ways, of course, the shield of white privilege runs throughout my life, protecting me, for example, from racial profiling, permitting me to connect to networks that might not be available to nonwhites. It has not made me immune from the sometimes paralyzing self-doubt associated with outsider status, and it has not protected me from all types or manifestations of bias. It also has not been a ticket into all the networks into which I have wanted to tap.

29 See Mahoney, *supra* note 3, at 1667. See also Redmon Wright, *Accidental Academic*, *supra* note 20, at 11–12 (discussing class in relation to accent and use of language; collecting sources).

30 See BONILLA-SILVA, *RACISM WITHOUT RACISTS*, *supra* note 12. One aspect of this projection of racism onto others is the racist/nonracist binary. See Osamudia James, *Now We Can Finally Say Goodbye to the White Savior Myth of Atticus*, ROOM FOR DEBATE, N.Y. TIMES (July 15, 2015), <http://www.nytimes.com/roomfordebate/2015/07/15/how-should-schools-deal-with-the-new-atticus-finch-now-we-can-finally-say-goodbye-to-the-white-savior-myth-of-atticus> [<http://perma.cc/NH5Z-MDYD>].

Intrepidly—and perhaps foolishly—I continued to wade into class-oriented scholarship. Beginning in 2011, I gave a number of talks at conferences and faculty workshops about the disadvantages low-income and/or first-generation whites experience in higher education. Mostly I was surfacing Census Bureau data to create a longitudinal depiction of educational achievement in relation to parents' education level—a picture of intergenerational (im)mobility over the decades.³¹ I was also focusing on the literature, which I had not yet seen make an appearance in legal scholarship, about the psycho-social barriers and consequences of being a low-income or first-generation college student—even a white one.³² Sometimes I compared data about low-SES or first-generation whites to corresponding data about low-SES or first-generation nonwhites. I asserted that we needed affirmative action

31 One-third of undergraduate students are first-generation students, although the number of college-age students whose parents are not college graduates is seventy percent. U.S. CENSUS BUREAU, DETAILED YEARS OF SCHOOL COMPLETED BY PEOPLE 25 YEARS AND OVER: 2000 TO 2014 Table A-4 (2014), <https://www.census.gov/hhes/socdemo/education/data/cps/historical/index.html> [<https://perma.cc/BHN4-SLWT>].

First-generation college students are less likely to graduate or to graduate on time than their counterparts whose parents are better educated. Amy Scott, *When you're the first to go to college*, MARKETPLACE (Sept. 16, 2013), <http://www.marketplace.org/topics/wealth-poverty/first-family/when-youre-first-go-college> [<http://perma.cc/PR2Q-72AN>] [hereinafter Scott, *When You're the First*]. See also Avery & Hoxby, *supra* note 9.

32 See ELIZABETH ARIES WITH RICHARD BERMAN, SPEAKING OF RACE AND CLASS: THE STUDENT EXPERIENCE AT AN ELITE COLLEGE (2013) (documenting how race and class shape student experiences at Amherst College); Elizabeth Aries & Maynard Seider, *The Interactive Relationship Between Class Identity and the College Experience: The Case of Lower Income Students*, 28 QUALITATIVE SOC. 419 (2005) (finding that lower income students face greater class related challenges at elite institutions than at state colleges due to the severity of the income disparity and a heightened awareness of class identity); Roslyn Arlin Mickelson, *The Structure of Opportunity and Adolescents' Academic Achievement Attitudes and Behaviors*, in MINORITY STATUS, OPPOSITIONAL CULTURE, AND SCHOOLING 348, 360 (John U. Ogbu ed., 2008) (finding that “oppositional attitudes were strongest” among students “whose parents had the least amount of education” regardless of race and that “among the working class, Whites tended to have stronger oppositional attitudes than African Americans”). See also John Hartigan, Jr., *An Unexpected Minority: White Kids in an Urban School* by Edward Morris, 112 AM. J. SOC. 1960, 1960–61 (2007) (reviewing EDWARD MORRIS, AN UNEXPECTED MINORITY: WHITE KIDS IN AN URBAN SCHOOL (2006)). Hartigan writes that Morris provides:

an account of how white and black teachers differently perceive the behaviors and backgrounds of the school's few white students. In contrast to black teachers, who viewed white students generally as middle class, white teachers regarded these same subjects in highly stigmatized terms as “trailer trash.” “The whiteness of these students,” Morris reports, “did not act as a form of privilege in the eyes of most white teachers. Instead they viewed white students in this setting as somewhat anomalous and extended more positive attention to students in other racial groups.”

for first-generation white students in addition to—definitely not in lieu of—affirmative action for racial and ethnic/minorities.³³

Responses were not universally negative, but they did range from “you can’t say that”³⁴ to “I worry about the nefarious purposes to which this data may be put.”³⁵ One white female professor was apoplectic about my cross-race comparisons. She accused me of not being collaborative, of not seeking racial cooperation, even as I explicitly solicited audience input about how to build cross-race coalitions around access-to-education issues. I also expressed my understanding of and shared alarm at persistent efforts to end race-based affirmative action.

A few people—including a number of nonwhites—expressed surprise that the data revealed such a dismal picture for low-income whites.³⁶ Having grown up a low-SES white surrounded by low-SES whites in an all-white, persistent poverty rural county, I was struck by how surprised many listeners seemed regarding the *very existence* of white poverty. Some readily admitted that it had never occurred to them that there were whites who face serious socioeconomic disadvantages. Some just looked at me as if I were crazy, especially if I talked in terms of (elite) bias against poor whites. In short, they seemed to have fallen hook, line, and sinker for the contemporary adage, “You’re white, you’ll be alright.”³⁷ They had come to view whiteness (or, perhaps more particularly, white skin) as a magic bullet.³⁸

33 This is the topic of my forthcoming article, Pruitt, *False Choice*, *supra* note 6. That piece is a companion to this one, making many of the same points but in relation to student diversity, while this one focuses on faculty diversity.

34 This particular professor suggested it would be acceptable to write about class in connection with rurality, as I had been doing, or perhaps regional identities that were implicitly classed such as Cajuns, but he was insistent that I absolutely could not talk about the white working class as such. He was not able to articulate why I could not do this.

35 In this regard, I am reminded of the admonition of Wendy Brown and Janet Halley that we should approach our work as if we were not threatened by the Right. See Wendy Brown & Janet Halley, *Introduction*, in *LEFT LEGALISM/LEFT CRITIQUE* 1, 36 (Wendy Brown & Janet Halley eds., 2002) (calling on progressive scholars to “open the door of political and legal thought as if the wolves were not there”).

36 See MONICA McDERMOTT, *WORKING-CLASS WHITE: THE MAKING AND UNMAKING OF RACE RELATIONS* 67 (2006) (“Whites were viewed by the blacks I worked and socialized with as having two chief characteristics: weakness and affluence. The perception of affluence and privilege persisted despite the significant numbers of low-income whites in the area . . .”).

37 See *infra* note 115 (discussing the implicit personal failings of whites who are poor).

38 A recent comment by a student in my feminist legal theory class is illustrative. We were discussing how one might seek to shed or diminish one’s white privilege and/or male privilege. A white student from a working

Realizing that I was up against a taboo³⁹—that legal scholars were apparently not supposed to talk about white poverty and the white working class—I began to call out the taboo itself. I began to solicit ideas about *how* to offer a scholarly intervention about the disadvantages associated with poor and working-class whites. Acknowledging the seemingly inevitable comparisons to racial and ethnic minorities—even when I was not explicitly making them—I queried whether a racially palatable way existed to surface the social, cultural, and economic plight of this “forgotten majority.”⁴⁰

At one small and highly-interactive workshop where I explored this taboo as a taboo, I recounted the awkward academic silence that had greeted my own essay of class migration and queried the reasons for it. This, in turn, was greeted with still more awkward silence. A white female professor finally said, “But what is it you want?” She seemed to ask, “What do you expect? What are you looking for from readers?” The short answer, I think, is to be heard and seen, to have my own identity and experiences—and those of other white class migrants—acknowledged in all their complexity. After all, invisibility is arguably the greatest snub of all.⁴¹

Another white female at that workshop refused altogether to see class as identity. She insisted that all the white working class needed was to be unionized. Collective action, she angrily asserted, was the only reason to talk about class. Further, if working-class whites would not help themselves through the labor movement she had nothing more to say to or about them. In short, her response represented another way in which academics distance the white working class. She was genuinely committed to “labor,” but the possibility of “them” among “us” was apparently unthinkable.⁴²

While progressive legal scholars pay some attention to class, it has not garnered

class background explained that it would be very hard for her father, who lives paycheck to paycheck, to see himself as privileged. To this, another white female student responded, “Well, you could explain to him that he has always had a roof over his head.” In fact, the first student’s father might have been homeless—as many white people are—but the second student assumed that he had/could never been homeless simply because he is white.

39 See Helen Joy Policar, *The Shadow of the American Dream: The Clash of Class Ascension and Shame*, 31 REVISION 19, 19 (2010) (noting the “cultural taboos against discussing class identity”).

40 See generally TEIXEIRA & ROGERS, *supra* note 11.

41 See JOE BAGEANT, DEER HUNTING WITH JESUS: DISPATCHES FROM AMERICA’S CLASS WAR 170 (2007).

42 See Angela P. Harris, *Introduction to ClassCrits VIII*, 44 SW. L. REV. (forthcoming 2015) (discussing dichotomy between class as status and class as relational).

nearly the attention now given to race, gender, religion, and sexuality.⁴³ Use of a “classed”

43 See June Carbone, *Unpacking Inequality and Class: Family, Gender and the Reconstruction of Class Barriers*, 45 *NEW ENG. L. REV.* 527, 528 (2011). On the issue of class as an axis of analysis, especially in relation to other axes, Carbone writes:

The left, which long ago abandoned class for race, gender, and, more recently, sexual orientation as targets of mobilization, is rediscovering the intersection of these identity categories with economic status. In the meantime, the right has embraced the faux populism of the Tea Party, solidifying its gains with the white working class, the group most threatened by the changing economy, and directing populist anger at the intellectual elites who supposedly sneer at traditional values.

Id. at 528. See also *infra* note 47 (quoting Carbone regarding scholarship as sometimes about class, even if it isn't explicitly “class conscious”).

On the other hand, thanks in large part to the persistence of Martha McCluskey, Athena Mutua, and Angela Harris, the ClassCrits movement has gained considerable ground in the past few years. See Harris, *Theorizing Class, Gender*, *supra* note 5; Laura T. Kessler, *Getting Class*, 56 *BUFF. L. REV.* 915 (2008); Martha Mahoney, *Class and Status in American Law: Race, Interest, and the Anti-Transformation Cases*, 76 *S. CAL. L. REV.* 804 (2003) [hereinafter Mahoney, *Class and Status in American Law*]; Martha T. McCluskey, *Constitutionalizing Class Inequality: Due Process in State Farm*, 56 *BUFF. L. REV.* 1035 (2008); Ruthann Robson, *A Couple of Questions Concerning Class Mobility*, 36 *HARV. L. REV.* 165 (2009). See also Bob Herbert, Opinion, *Winning the Class War*, *N.Y. TIMES* (Nov. 26, 2010), <http://www.nytimes.com/2010/11/27/opinion/27herbert.html?src=me&ref=homepage> [<http://perma.cc/J9BG-BLE8>].

More precisely, we resist talking about class in relation to culture and class mobility, although the 2008 recession and its aftermath spawned a great deal of discussion of “economic inequality” or “income inequality,” which in some ways have become euphemisms for class. See Robert Frank, *Income Inequality: Too Big to Ignore*, *N.Y. TIMES* (Oct. 16, 2010), <http://www.nytimes.com/2010/10/17/business/17view.html?hp> [<http://perma.cc/W2B3-VQJN>]; Bob Herbert, Opinion, *A Terrible Divide*, *N.Y. TIMES* (Feb. 7, 2011), <http://www.nytimes.com/2011/02/08/opinion/08herbert.html?ref=bobherbert> [<http://perma.cc/2X5S-FVKK>]; Bob Herbert, Opinion, *Fast Track to Inequality*, *N.Y. TIMES* (Nov. 1, 2010), http://www.nytimes.com/2010/11/02/opinion/02herbert.html?_r=1&scp=1&sq=inequality%20herbert&st=cse [<http://perma.cc/73YA-GTNZ>]. See also Pruitt, *False Choice*, *supra* note 6, at Part I.

One exception to the trend to ignore the working class comes in election season, when we talk openly about the need to cultivate their votes. Lisa R. Pruitt, *The Geography of the Class Culture Wars*, 34 *SEATTLE L. REV.* 767, 771 (2011). Cf. Amy Chozick, *The Middle Class is Disappearing, at Least from Vocabulary of Possible 2016 Contenders*, *N.Y. TIMES* (May 11, 2015), <http://www.nytimes.com/2015/05/12/us/politics/as-middle-class-fades-so-does-use-of-term-on-campaign-trail.html> [<http://perma.cc/PGY3-7Y5B>]. Otherwise, talking about class has proved taboo in politics. Journalist and commentator Joe Bageant observes that politicians are disciplined any time they hint at the presence of classes. “America, as we are so often told, is a classless society. And without classes there can never be a class war (which does not prevent any politician who mentions class being accused of fomenting one).” BAGEANT, *supra* note 41, at 101. An example of this phenomenon occurred during late 2010 bi-partisan negotiations over whether to extend Bush-era tax cuts.

lens has struggled for a foothold among legal academics for sure.⁴⁴ A similar squeamishness about class can be observed in sociology, which often purports to be very interested in class but tends instead to study “‘inequality,’ ‘stratification,’ ‘family background,’ or specific indicators (such as education, wealth, income, or occupation)—sometimes interchangeably.”⁴⁵

Indeed, the squishiness of class—the matrix of metrics that might measure it—is no doubt off-putting to many scholars, especially those oriented to the quantitative. Pinning down an individual’s class is akin to nailing a jellyfish to the wall. bell hooks has observed that this amorphousness makes “the threat of class warfare, of class struggle . . . just too dangerous to face.” Without the “neat binary categories of white and black or male and female,” she queries, “How will they identify the enemy?”⁴⁶ Perhaps as a consequence of this malleability of the concept of class, legal scholars (like sociologists) may prefer to

Particularly controversial was whether these tax cuts should be extended for earners in the highest income bracket. David Dreier, Republican of California, expressed amazement “that the Democrats were continuing the same tactics they’d used before they were buried by a landslide in November’s House elections.” Dreier stated, “The standard old class warfare, us versus them, rich versus poor. And I think that all we need to do is look at the November 2nd election. There was a rejection of this divisive tone which we regularly hear around here - the haves and the have-nots.” *Negotiators Seek Tax Deal As House Passes Bill*, NPR (Dec. 2, 2010), <http://www.npr.org/2010/12/02/131761855/Negotiators-Seek-Tax-Deal-As-House-Passes-Bill> [<http://perma.cc/BHJ6-YMMC>].

Yet this divide between the haves and have-nots is essentially the same one Mitt Romney endorsed in his infamous 2012 election trail comment about 47% of the United States population being “takers.” Drier denounces “class warfare,” while Romney talks about it in opaque fashion.

44 See Paul Horwitz, *Tamanaha on Class and Law School Reform*, PRAWFSBLAWG (May 1, 2013, 2:59 PM), <http://prawfsblawg.blogs.com/prawfsblawg/2013/05/tamanaha-on-class-and-law-school-reform.html> [<http://perma.cc/CW5K-UU9J>] (discussing Brian Z. Tamanaha, *The Failure of Critics and Leftist Law Professors to Defend Progressive Causes*, 24 STAN. L. & POL’Y REV. (2013)) (debating law professors’ interest in issues of class).

45 Annette Lareau, *Introduction: Taking Stock of Class*, in *SOCIAL CLASS: HOW DOES IT WORK?* 3, 3–4 (Annette Lareau & Dalton Conley eds., 2008) (writing that “[s]ocial class has an odd place in sociology” and observing that “few contemporary empirical studies that use the concept of class find their way into academic journals”; calling this “inconsistent with the ‘pride of place’ that class occupies in sociology’s theoretical traditions”).

46 BELL HOOKS, *WHERE WE STAND: CLASS MATTERS* 6 (2000).

speak in code,⁴⁷ advocating redistributive tax policies and “progressive property,”⁴⁸ and using terms like “labor” to refer to the (white) working class⁴⁹ and “first generation” to refer to their offspring when they have the grit to get to college.⁵⁰

Probably the most prominent context in which legal scholars have discussed (or at least acknowledged) class has been the decades-long debate whether the disadvantages experienced by nonwhites are attributable to race or to class along with the related question whether rich blacks or poor whites have a worse lot in life.⁵¹ Many engaged in this debate—

47 Of the link between inequality and class, June Carbone writes:

Little of this discourse [about increasing inequality and stalled upward mobility], however, takes place under the “class” label, and even that label has no consistent framework for analysis. . . .

I argue that the renewed attention to class, whether “class conscious” or not, is warranted. The idea of class, however, is due for redefinition. The word “class” refers to categories of social construction more fluid than race, ethnicity, or caste, yet less permeable than voluntary units such as professions, sports teams, or church groups.

Carbone, *supra* note 43, at 528–29.

48 See, e.g., Ezra Rosser, *The Ambition and Transformative Potential of Progressive Property*, 101 CALIF. L. REV. 107, 109–11 (2013) (describing and critiquing “progressive property” movement, collecting citations) [hereinafter Rosser, *Progressive Property*].

49 See *supra* note 42 (sharing anecdote about professor who saw class as relevant only to the labor movement and collective action). See also Charlotte Garden & Nancy Leong, “So Closely Intertwined”: Labor and Racial Solidarity, 81 GEO. WASH. L. REV. 1135, 1176–77 (2013) (discussing shared interests of labor unions and people of color, even though the two groups have historically been thought of as adversaries).

50 See Tomiko Brown-Nagin, *Rethinking Diversity and Proxies for Economic Disadvantage in Higher Education: A First Generation Students’ Project*, 2014 U. CHI. L. F. (forthcoming 2015); Dagmar Rita Myslinksa, *Contemporary First-Generation European-Americans: The Unbearable Whiteness of Being*, 88 TUL. L. REV. 559, 562–63 (2014); Jennifer Guerra, *Fitting in on Campus: Challenges for First-Generation Students*, NPR (Feb. 16, 2015), <http://www.npr.org/blogs/ed/2015/02/16/385470288/fitting-in-on-campus-challenges-for-first-generation-students> [<http://perma.cc/J89U-YJ23>]; Scott, *When You’re the First*, *supra* note 31. See also Amy Scott, *First Generation College Students Go Viral*, MARKETPLACE (Nov. 21, 2013, 6:25 AM), <http://www.marketplace.org/topics/wealth-poverty/first-family/first-generation-college-students-go-viral> [<http://perma.cc/C8UA-9YUM>] [hereinafter Scott, *First Generation College Students Go Viral*]; Amy Scott, *Separate Housing for First-Generation Students*, MARKETPLACE (Dec. 13, 2013, 2:25 PM), <http://www.marketplace.org/topics/economy/first-family/separate-housing-first-generation-students> [<http://perma.cc/F43P-98JN>] [hereinafter Scott, *Separate Housing for First-Generation Students*]. The upside to the use of terms such as “first generation” is that they are more precise than “class.”

51 See Frances Ansley, *Stirring the Ashes: Race, Class and the Future of Civil Rights Scholarship*, 74

which seems to have been “won” by the race camp,⁵² judging by the nature and proliferation of critical race scholarship and the dearth of class scholarship—cling to what I see as a false choice between race and class. Critical Race Theory (“CRT”), by definition, emphasizes the role of race in shaping lives. Placing race at the center of any analysis is critically important and highly appropriate, but we should be aware that it may implicitly diminish the role of class, when in fact two are inextricably intertwined.⁵³ Alternatively, a focus on race may conflate racial (skin color) or ethnic (cultural) disadvantage with socioeconomic disadvantage, even for those individuals for whom the two are not paired.⁵⁴

When whiteness becomes essentially a theoretical abstraction, whites get depicted monolithically and as holding all the cards—culturally, socially, economically.⁵⁵ To the extent that the existence of socioeconomically disadvantaged whites is acknowledged, the potency of their economic disadvantage is downplayed by inevitable comparisons with

CORNELL L. REV. 993, 1050–53 (1989). Ansley remarks that scholars have come to different conclusions about the intersection of class and race or they “float in a confusing kind of pluralist sea of no conclusions,” *id.* at 1050 n.215; John Calmore, *Exploring the Significance of Race and Class in Representing the Black Poor*, 61 OR. L. REV. 201, 217, 219–20 (1982); Charles R. Lawrence III, *The Id, the Ego and Equal Protection: Reckoning with Unconscious Racism*, 39 STAN. L. REV. 317, 365 n.227 (1987) (“I am attempting to limit the merging of economic and racial discrimination by distinguishing direct racial insult from the indirect stigma of economic discrimination.”); Mahoney, *Class and Status in American Law*, *supra* note 43, at 799, 804.

52 See Rosser, *Progressive Property*, *supra* note 48, at 112–13. Rosser observes, “Critical race scholars essentially have claimed the day, partly as a result of” CRT’s effective criticism of critical legal studies (“CLS”) “that CLS failed to adequately account for race.” *Id.* at 112. Rosser quips, “after all, who wants to be accused of being insensitive to race issues?” *Id.*

53 See William Aal, *Moving from Guilt to Action: Antiracist Organizing and the Concept of “Whiteness” for Activism and the Academy*, in THE MAKING AND UNMAKING OF WHITENESS 294, 306 (2001) (observing that race is relational and that “looking at the way that class and race intersect” is a necessary step in anti-discrimination work because doing so permits us to “begin to see the way in which these dynamics hold each other in place”) (emphasis added).

54 See Pruitt, *False Choice*, *supra* note 6 (detailing the stances of Richard Kahlenberg and Richard Sander regarding race-based affirmative action, which suggest we must choose between race-based and class-based affirmative action). See also Matthew N. Gaertner & Melissa Hart, *Considering Class: College Access and Diversity*, 7 HARV. L. & POL’Y REV. 367, 378 (2013); Deborah Malamud, *Affirmative Action, Diversity, and the Black Middle Class*, 68 U. COLO. L. REV. 939, 950–51 (1997).

55 See Lisa R. Pruitt, *Acting White? Or Acting Affluent? A Review of Carbado & Gulati’s Rethinking Race in “Post-Racial” America*, 18 J. GENDER, RACE & JUST. 159 (2015) [hereinafter Pruitt, *Acting White?*] (reviewing DEVON W. CARBADO & MITU GULATI, *ACTING WHITE?: RETHINKING RACE IN “POST-RACIAL” AMERICA* (2013)); but see Camille Gear Rich, *Marginal Whiteness*, 98 CALIF. L. REV. 1497 (2010) (recognizing variations in whiteness and in the experience of white privilege).

the potency of racial disadvantage.⁵⁶ This race-vs.-class framing thus tends to diminish or obscure the burden of being working-class or poor white. A scholar's choice to call attention to the issue of class—let alone give it primacy in her analysis—might thus be seen as a denial of race-based disadvantage. At a minimum it might be seen as an implicit assertion that we are living in a “post-racial” America.⁵⁷

Yet we should be capable of acknowledging and grappling with different types of disadvantage without insisting on a ranking of oppressions that, in turn, leads us to overlook some very serious injustices that impact a wide segment of our populace. A stance of openness, concern, and even empathy are especially important for purposes of coalition building.⁵⁸ Acknowledging the existence of low-SES whites who struggle for access to quality education⁵⁹—or decent housing, food justice, health care or any among myriad issues that impact low-SES populations generally⁶⁰—need not preclude attention to racial

56 See Devon W. Carbado, *Critical What What?*, 43 CONN. L. REV. 1593, 1614 n.95 (2011) (acknowledging that whiteness is not monolithic but stating that “whites across differences can nevertheless trade on whiteness, if only psychologically”; “notwithstanding the material deprivations that working-class whites historically have experienced, they were able to draw on the psychological wages of whiteness, which they treated as a material resource against the background of presumptions of black inferiority”) (citing W.E.B. Du Bois, *BLACK RECONSTRUCTION IN AMERICA*, *supra* note 18, at 700); Cheryl I. Harris, *Whiteness as Property*, 106 HARV. L. REV. 1709, 1741 (2003); Osamudia James, *White Like Me: The Negative Impact of the Diversity Rationale on White Identity Formation*, 89 N.Y.U. L. REV. 425, 474 (2014); Trina Jones, *Race, Economic Class and Employment Opportunity*, 72 L. & CONTEMP. PROBS. 57, 65 (2009) (suggesting that poor whites can still access portions of white privilege, while poor blacks are additionally harmed by their race).

57 See Mario L. Barnes & Erwin Chemerinsky, *The Once and Future Equal Protection Doctrine?*, 43 CONN. L. REV. 1059, 1062–63 (2011); James, *supra* note 56, at 457–58 & n.167; Pruitt, *Acting White?*, *supra* note 55.

58 I am reminded of Angela Harris's exhortation in the context of critical race feminism: “[W]holeness and commonality are acts of will and creativity, rather than passive discovery.” Angela P. Harris, *Race and Essentialism in Feminist Legal Theory*, 42 STAN. L. REV. 581, 608 (1990).

59 I refer here not only to higher education, but also K-12 education.

60 To be clear, blacks experience disproportionately the impact of all of these deficits. See Jeff Strohl & Anthony P. Carnevale, *White Flight Goes to College*, 22 POVERTY & RACE 1 (2013), http://www.prrac.org/pdf/SeptOct2013Carnevale_Strohl.pdf [<http://perma.cc/5JUR-2W55>] (reporting that between “1995 and 2009, more than 8 in 10 of net new white students have gone to the country's 468 most selective colleges, while more than 7 in 10 of net new African American and Hispanic students have gone to the 3,250 two- and four-year open-access colleges”); Eileen Patten & Jens Manuel Krogstad, *Black Child Poverty Rate Holds Steady, Even as Other Groups See Declines*, PEW RES. CTR. (July 14, 2015), <http://www.pewresearch.org/fact-tank/2015/07/14/black-child-poverty-rate-holds-steady-even-as-other-groups-see-declines> [<http://perma.cc/6GAK-8M8P>] (noting that the number of black children in poverty may have eclipsed the number of white children for the first time in history, which is extraordinary given the proportion of blacks and whites respectively in the wider population); Tanzina Vega, *Minorities Fall Further Behind Whites in Wealth During Economic Recovery*,

profiling, the disproportionate number of blacks who are incarcerated, other manifestations of explicit or implicit racial bias, and the wide range of gravely important and pressing issues that are more squarely about race.⁶¹ In other words, there surely must be some space in the (legal) academy for talking about poor whites, for theorizing their situation and advocating amelioration of the disadvantages they experience.

What is lost in our “no class, please, we’re American”⁶² stance is a nuanced discussion of the intersections of race and class, of how these and other axes of (dis)advantage combine in varied and potent ways, including for whites who are socioeconomically disadvantaged. Also lost, then, is any effort to capture or value the perspectives of those living at that particular intersection, or who once lived there but have migrated up and out. Finally, and perhaps most importantly, we miss out on an opportunity for coalition building by identifying shared struggles and a shared need for reform.⁶³ In short, we miss out on an

N.Y. TIMES (Dec. 12, 2014), <http://www.nytimes.com/2014/12/13/us/pew-research-finds-growing-net-worth-gap.html?module=Search&mabReward=relbias%3Ar%2C%7B%221%22%3A%22RI%3A6%22%7D> [http://perma.cc/5DDN-XXN7] (reporting that median net worth of white households in 2013 was \$141,900, about thirteen times that of black households at \$11,000); cf. Paul Krugman, Opinion, *Race, Class and Neglect*, N.Y. TIMES (May 4, 2015), http://www.nytimes.com/2015/05/04/opinion/paul-krugman-race-class-and-neglect.html?nlid=9163028&src=recpb&_r=1 [http://perma.cc/H3HN-6NGL] (reporting that, nationally, “class disparities in death rates have been soaring even among whites”; “mortality among white women has increased sharply since the 1990s”); Sabrina Tavernise, *Racial Disparities in Life Spans Narrow, but Persist*, N.Y. TIMES (July 18, 2013), <http://www.nytimes.com/2013/07/18/health/racial-disparities-in-life-spans-narrow-but-persist.html?hp> [http://perma.cc/7Q8G-H3VV] (reporting that “gap in life expectancy between black and white Americans is at its narrowest since the federal government started systematically tracking it in the 1930s, but a difference of nearly four years remains”).

61 See Justin Wolfers, David Leonhardt & Kevin Quealy, *1.5 Million Missing Black Men*, N.Y. TIMES (Apr. 20, 2015), http://www.nytimes.com/interactive/2015/04/20/upshot/missing-black-men.html?_r=0&abt=0002&abg=1 [http://perma.cc/F7LW-HG5C] (explaining that the men are “missing, largely because of early deaths or because they are behind bars”).

62 My play here is on the expression, “No sex, please. We’re British.” It also refers to the widespread assertion that America is classless in the sense that upward mobility is on offer to all and that we do not make judgments based on class because we are essentially all the “same class.”

63 See LANI GUINIER & GERALD TORRES, *THE MINER’S CANARY: ENLISTING RACE, RESISTING POWER, TRANSFORMING DEMOCRACY* (2002); Garden & Leong, *supra* note 49. Derrick Bell’s idea of interest convergence also seems helpful here, though it is very discouraging to think that only when a problem is experienced by whites, will that problem be taken seriously and solutions perhaps also sought for blacks. See Derrick A. Bell, Jr., *Brown v. Board of Education and the Interest-Convergence Dilemma*, 93 HARV. L. REV. 518, 523 (1980) (writing that “[t]he interest of blacks in achieving racial equality will be accommodated only when it converges with the interests of whites.”); Sheryll D. Cashin, *Shall We Overcome? Transcending Race, Class, and Ideology Through Interest Convergence*, 79 ST. JOHN’S L. REV. 253, 287–289 (2005).

opportunity for racial conciliation and racial progress, which I cannot imagine happening without the input of low-SES whites, without inclusion of their perspectives among policy makers and the public interest more broadly.

B. Institutional Erasure of Class

I have just described how an apparent “class” taboo in scholarship effectively denies SES disadvantage by driving and keeping it underground, especially in relation to whites. But more formal institutional forces also expunge class. Class is denied, for example, by diminishing its value as “diversity,” the concept invoked by Justice Powell in *Bakke v. University of California Regents* to justify affirmative action in higher education admissions.⁶⁴ Justice Powell defined diversity as encompassing a “far broader array of qualifications and characteristics of which racial or ethnic origin is but a single though important element.”⁶⁵ Indeed, Justice Powell’s opinion specifically recognized the value of socioeconomic diversity.⁶⁶ He wrote:

The diversity that furthers a compelling state interest encompasses a far broader array of qualifications and characteristics of which racial or ethnic origin is but a single though important element. Petitioner’s special admissions program, focused *solely* on ethnic diversity, would hinder rather than further attainment of genuine diversity. . . .

In recent years Harvard College has expanded the concept of diversity to include students from disadvantaged economic, racial and ethnic groups.⁶⁷

Calling the Harvard plan an “illuminating example,”⁶⁸ Powell endorsed the scheme’s capacious definition of diversity. Many have since criticized the concept of “diversity,”

64 *Regents of the Univ. of Cal. v. Bakke*, 438 U.S. 265, 315 (1978).

65 *Id.* Scholars have recognized that the definition of this concept is up for grabs. See Katharine T. Bartlett, *Showcasing: The Positive Spin*, 89 N.C. L. REV. 1055, 1058 (2011) (noting that diversity is “indeterminate, contextual, and subjective”) (citing Patrick S. Shin & Mitu Gulati, *Showcasing Diversity*, 89 N.C. L. REV. 1017, 1027–31 (2011)); Sanford Levinson, *Diversity*, 2 U. PA. J. CONST. L. 573, 578 (2000) (observing that diversity is not a “self-interpreting word”).

66 See *Bakke*, 438 U.S. at 316 (regarding diversity, endorsing the preferable Harvard program that specifically included “disadvantaged economic . . . groups” among its diversity considerations).

67 *Id.* at 315–16.

68 *Id.* at 316.

among other reasons for its failure to acknowledge racial disadvantage and our nation's ugly racial history.⁶⁹ Nevertheless, the concept has shown real staying power in affirmative action litigation, while also permeating the aspirations of other powerful and influential sectors, e.g., corporate America, large law firms, and the professoriate.⁷⁰

Nearly forty years on, however, many colleges and universities do not consider low-income and first-generation college students in their diversity quotient.⁷¹ Instead, many institutions focus strictly on optical, visual,⁷² or "aesthetic" diversity.⁷³ Among those higher

69 See WALTER BENN MICHAELS, *THE TROUBLE WITH DIVERSITY: HOW WE LEARNED TO LOVE IDENTITY AND IGNORE INEQUALITY* (2006); Derrick Bell, *Diversity's Distractions*, 103 COLUM. L. REV. 1622 (2003); Brown-Nagin, *supra* note 50; Meera E. Deo, *Empirically Derived Compelling State Interests in Affirmative Action Jurisprudence*, 65 HASTINGS L.J. 661 (2014); James, *supra* note 56, at 430–31. Nancy Leong and Charlotte Garden have called diversity a "flimsy" concept. Garden & Leong, *supra* note 49, at 1182. More recently, Richard Lempert has noted that "diversity" diverts our attention from the benefits of the racial integration that is promoted by race-based affirmative action. Richard Lempert, *Affirmative Action in the United States: A Brief Summary of the Law and Social Science*, Dec. 2014, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2541899 [<http://perma.cc/7GGG-A5MZ>] (last visited May 23, 2015). See also Stephen M. Rich, *What Diversity Contributes to Equal Opportunity*, S. CAL. L. REV. (forthcoming 2016), http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2620545 (theorizing and critiquing the many roles and meanings of "diversity," both within higher education and in wider society).

70 See Rich, *What Diversity Contributes to Equal Opportunity*, *supra* note 69; Shin & Gulati, *supra* note 65; David B. Wilkins, *From "Separate is Inherently Unequal" to "Diversity is Good for Business": The Rise of Market-Based Diversity Arguments and the Fate of the Black Corporate Bar*, 117 HARV. L. REV. 1548 (2004); David B. Wilkins & Young Kyu Kim, *The Action after the Call: What General Counsels Say About the Value of Diversity in Legal Purchasing Decisions in the Years Following the 'Call to Action'*, May 1, 2015, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2609103 [<http://perma.cc/4DB6-KXKL>] (analyzing the extent to which a Call to Action regarding diversity by corporations changed those corporations hiring decisions with respect to outside counsel); Liptak, *infra* note 144; Deborah L. Rhode, *Law is the least diverse profession in the nation. And lawyers aren't doing enough to change that*, Opinion, WASH. POST (May 27, 2015), <http://www.washingtonpost.com/posteverything/wp/2015/05/27/law-is-the-least-diverse-profession-in-the-nation-and-lawyers-arent-doing-enough-to-change-that> [<http://perma.cc/4PQN-GDAT>] (reporting that virtually all participants in study of managing partners at large law firms and general counsel of Fortune 100 companies said "diversity was a high priority"). See also *infra* note 90 and accompanying text (describing the University of California's attention to promotion of diversity by its professoriate).

71 See Pruitt, *False Choice*, *supra* note 6.

72 SHERYLL CASHIN, *PLACE, NOT RACE: A NEW VISION OF OPPORTUNITY IN AMERICA* 50 (2014). *But see* David Leonhardt, *New Prize Rewards Economic Diversity at Colleges*, N.Y. TIMES (Apr. 7, 2015), http://www.nytimes.com/2015/04/07/upshot/07up-leonhardt.html?_r=0&abt=0002&abg=0 [<http://perma.cc/UD9Y-RMSM>].

73 *Grutter v. Bollinger*, 539 U.S. 306, 355 (Thomas, J., dissenting) (explaining that he uses the term "aesthetic" because "it underlines the ineffectiveness of racially discriminatory admissions in actually helping those who are truly underprivileged").

education institutions that do seek economically disadvantaged whites, many do not put their money where their mouth is in terms of financial aid, thereby effectively excluding the low-income students they say they seek.⁷⁴

Implicit in this failure by many universities to earnestly seek low-income whites is the flawed presumption that whites who are already present in these institutions—socioeconomically privileged whites almost by definition, especially in elite colleges and universities⁷⁵—represent the interests and perspectives of low-income whites. Yet a great deal of evidence rebuts this presumption, not least the burgeoning wealth and income stratification that has become undeniable in recent years. This economic inequality phenomenon transcends race and ethnicity, even as it continues to have a disproportionate impact on nonwhites.⁷⁶ Meanwhile, the perspectives of low-SES whites are discounted because they are not seen as representing the highly-coveted “diversity,” a concept (ironically) defined narrowly to ignore SES diversity and SES disadvantage among whites.⁷⁷

It is not surprising that this failure to value low-SES white students would extend to a failure to value formerly low-SES whites—that is, white class migrants—in the professoriate. Indeed, as the Call for Papers with which I opened this Article suggests, professors—as such—presumably “have arrived” socioeconomically, whatever the status

74 Pruitt, *False Choice*, *supra* note 6, at Part III.C.1.

75 See Kahlenberg, *Elite Colleges or Colleges for the Elite?*, *supra* note 9 (querying whether the colleges are elite because of the elite students they enroll, or whether they are elite colleges in the sense of wielding power to convey that status on those they educate). The same point is made by the chapter title, “The ‘Elite’ Schools: Engines of Opportunity or Bastions of Privilege,” in WILLIAM G. BOWEN ET AL., *EQUITY AND EXCELLENCE IN AMERICAN HIGHER EDUCATION* 95 (2006).

76 Pruitt, *False Choice*, *supra* note 6. To be clear, blacks experience all of these deficits disproportionately. See Vega, *Minorities Fall Further Behind Whites in Wealth During Recovery*, *supra* note 60.

77 See Meera E. Deo, *The Ugly Truth about Legal Academia*, 80 *BROOK. L. REV.* 943, 949 (2015) (applying an “intersectional lens to specifically consider how race and gender combine to affect the experiences of legal academics at various stages of their careers,” while not addressing class); Meera E. Deo, *Looking Forward to Diversity in Legal Academia*, 29 *BERKELEY J. GENDER L. & JUST.* 352, 352 (2014) (proposing a “new direction” for future research into the diversity of law faculty by applying an “interdisciplinary lens” focused on women of color, but not mentioning class); James Lindgren, *Measuring Diversity: Law Faculties in 1997 and 2013*, <http://ssrn.com/abstract=2581675> (assessing faculty diversity based on race, gender, religion and political affiliation, but not socioeconomic status or class of one’s family of origin). An edited collection called *Presumed Incompetent: The Intersection of Race and Class for Women in Academia* was published in 2012. Despite its title, only nine authors of 30 total chapters explicitly identified as “working class,” “low SES,” or “economically disadvantaged,” and only one of those, Constance G. Anthony, identified as white. See *PRESUMED INCOMPETENT*, *supra* note 20.

of their family of origin. Thus white class migrants look even less like valuable and interesting “diversity” candidates or hires than do low-income white students who aspire to class migrate. This is a presumption I return to rebut in Part IV.

Meanwhile, we not only value other types of diversity, we go to great lengths to document and raise the visibility of those deemed embodiments of that diversity.⁷⁸ That effort is no longer limited to racial and ethnic diversity. For example, the University of California, Davis keeps an “Out List” of “LGBTQIA+ professionals . . . including faculty, staff, administrators, and graduate students at all levels.”⁷⁹ The University explains the reason for the list:

The Out List is a valuable resource for the campus community. Having examples of out professionals in such a wide range of fields is incredibly significant to LGBTQIA+ students, not only because it offers positive role models for students and encourages students to pursue networking/mentoring opportunities without fearing discrimination, but also because awareness of out professionals creates a climate of tolerance for all students, LGBT+ and non-LGBT+ alike.⁸⁰

Such list keeping makes sense, of course, because it helps chip away and guard against resurgence of the shame that was so associated with being a sexual minority just a decade or two ago.⁸¹

It is somewhat ironic that we credit the desire of nonwhites and members of other outgroups to be seen and appreciated in higher education,⁸² while we have the opposite instinct regarding class. That latter instinct is no doubt related to the taboo associated with social

78 See Nancy Leong, *Racial Capitalism*, 126 HARV. L. REV. 2151 (2013).

79 Email from Provost Ralph J. Hexter to UC Davis Faculty and Staff (Apr. 21, 2015, 09:05 AM). The list can be found at *Out List*, UC DAVIS LGBTQIA RESOURCE CENTER, <http://lgbtqia.ucdavis.edu/resources/list> [<http://perma.cc/4AKZ-7SAF>].

80 Email from Provost Ralph J. Hexter, *supra* note 79.

81 See YOSHINO, *COVERING*, *supra* note 16 (explaining how shame associated with same-sex attraction compels covering); Rose Cuison Villazor, *The Undocumented Closet*, 92 N.C. L. REV. 1 (2013) (analogizing the metaphorical closet that LGBTQ folks traditionally “come out” from to the situation of undocumented immigrants, who also face stigmas and prejudices).

82 See William C. Kidder, *Misshaping the River: Proposition 209 and Lessons for the Fisher Case*, 39 J.C. & U.L. 53 (2013).

class. We presumably wish not to embarrass the class migrant, especially one working hard at class passing. And, of course, we may avoid these discussions because of the guilt we feel over our own class privilege.

Yet we have at least anecdotal evidence that class migrants, too, prefer to have their distinctive backgrounds credited and addressed, that they see the upsides to such openness outweighing the stigma of the low-SES association. A first-generation college student at the University of Michigan expressed his desire this way: "Just to have someone from the university come up and say, 'You belong here' and 'We're so excited to have you here,' . . . that would have changed everything for me."⁸³ Even as he credited the university for taking care of his financial needs, the student also wanted them to explicitly communicate his value and their confidence in him as a low-income striver. In fact, first-generation students are increasingly broadcasting their status,⁸⁴ and some universities are at least implicitly acknowledging that the upsides to being identified as low-income or first-generation (e.g., better networking and support opportunities) are now greater than the stigma long associated with that status.⁸⁵ It is not unreasonable to think that a class migrant in the professoriate might similarly desire and benefit from such recognition, which is to say nothing of the benefits that could accrue to the institution in terms of facilitating mentoring for both junior professors and students of similar backgrounds.

Professor Katharine Bartlett has discussed the benefits that may flow from the appointment of women and minorities to corporate boards, a setting somewhat analogous to the professoriate.⁸⁶ Bartlett takes seriously the expressive function of such appointments, arguing that they convey "an important social ideal"—diversity,⁸⁷ which she recognizes is "indeterminate, contextual, and subjective."⁸⁸ That subjectivity, she observes, accommodates the "potential for the continual redefinition and evolution that the elasticity of diversity

83 See Guerra, *supra* note 50.

84 See Scott, *First-Generation College Students Go Viral*, *supra* note 50.

85 See, e.g., Scott, *Separate Housing for First-Generation Students*, *supra* note 50.

86 Katharine T. Bartlett, *Showcasing: The Positive Spin*, 89 N.C. L. REV. 1055 (2011) [hereinafter Bartlett, *Showcasing*]; see also Rich, *What Diversity Contributes to Equal Opportunity*, *supra* note 70, at 25 (acknowledging, for example, the claim that diverse managerial staff can better serve the needs of diverse customers).

87 Bartlett, *Showcasing*, *supra* note 86, at 1057.

88 Bartlett, *Showcasing*, *supra* note 86, at 1058 (citing Shin & Gulati, *Showcasing Diversity*, *supra* note 65, at 1027–31).

allows. Elasticity means opportunity. Those who engage in efforts to achieve diversity, or to advertise those efforts, shape the meaning of diversity and the attitudes others should have toward it.”⁸⁹ From this reasoning it follows that if we treat the appointments of white class migrants as diversity appointments, we are signaling the value of these candidates and thus shaping attitudes toward them.

Some of my experiences illustrate the contrary—how institutions erase or level class among the professoriate, which effectively devalues class migrants and can foster negative attitudes toward them. My attempt to designate my working-class upbringing as a feature of diversity was thwarted by my own institution in 2012. In response to a U.C. Davis central administration instruction to faculty applying for promotion to include a statement regarding the faculty member’s “[t]eaching, research, professional and public service contributions that promote diversity and equal opportunity,”⁹⁰ I included the fact that I was “out” in the academy about my “working class family.”⁹¹ I also wrote:

One thread of [my] scholarship seeks to raise the visibility of the growing barriers to upward mobility among the white working class and to counter the erasure of class issues in the academy and in wider society, e.g., by not tracking the number of socioeconomically disadvantaged students admitted.

In addition, I mentioned my scholarship on rural poverty and other aspects of rural disadvantage.

The final version of my dossier, as revised by the law school administration, retained much of my original language regarding my writing and speaking about rural poverty and rural disadvantage. Gone, however, was any mention of class—either my own class migration, my scholarship about class, or any acknowledgement of the diversity represented by the perspectives of (previously) poor and working-class whites. My effort to make class visible, to elevate class consciousness within my corner of the academy, was thus countered, trumped by an apparent preference for class-blindness.⁹²

89 Bartlett, *Showcasing*, *supra* note 86, at 1059.

90 UNIV. OF CAL., ACADEMIC PERSONNEL MANUAL 210 (2005), <http://senate.universityofcalifornia.edu/committees/ucaad/apm210.pdf> [<http://perma.cc/K7G9-5TRX>].

91 See Pruitt, *How You Gonna Keep Her*, *supra* note 21, at 1092 (telling the story of my One-L year through the lens of my working-class upbringing).

92 The deans may have seen “rural poverty” as code for “white working class” or “white poverty,” but

As with my One L essay, articulating for these purposes my status as a white class migrant had felt risky and uncomfortable, but also authentic, even a personal imperative.⁹³ I need not have worried about repercussions from my colleagues, however, because the revelation never made it out of the Dean's Suite, expunged as it was from the record. To be clear, the instruction was to include information about "*contributions that promote diversity and equal opportunity*," not about one's own race, ethnicity, or other identity categories. This is consistent with California's Prop. 209, which prohibits racial preferences in the public university system. Yet some of my colleagues were and are able to signal in their dossiers their minority race, ethnicity, sexuality, or religion—and therefore the diversity they represent as individuals, and not only via their scholarly contributions—by describing how they advise a student group or mentor faculty of the same identity group. This is perfectly appropriate. But so, too, should scholarship explicitly about class and the mentorship of first-generation students qualify as contributions that promote "diversity."

Institutions have other ways of signaling the sorts of diversity they value, including through the public face they present.⁹⁴ Again, two U.C. Davis anecdotes are illustrative. When the U.C. Davis Law Review hosted a symposium called *The Asian Century?* in 2010, Dean Kevin Johnson in his opening remarks noted that our law school has more Asian

"rural" and "white" are hardly synonymous. In fact, the most entrenched pockets of persistent poverty in the United States are in four regions associated with four different racial/ethnic groups: American Indians in the Great Plains, West, and Southwest; Latina/os in the Rio Grande Valley; blacks in the Mississippi Delta and Black Belt; and whites in Appalachia and the Ozarks Highlands. USDA ERS, RURAL POVERTY & WELL-BEING, <http://www.ers.usda.gov/topics/rural-economy-population/rural-poverty-well-being.aspx> [<http://perma.cc/JZ8L-A4GY>] (last updated May 18, 2015). Further, as I have already suggested, serious downsides exist to speaking of class issues in these coded ways.

93 See ELIZABETH A. FAY & MICHELLE M. TOKARCZYK, *WORKING-CLASS WOMEN IN THE ACADEMY: LABORERS IN THE KNOWLEDGE FACTORY* (1993). See also Policar, *supra* note 39, at 19 (noting the "cultural taboos against discussing class identity"); Rachel Godsil, *Hey, Media: White People are Poor, Too*, ROOT (Dec. 2, 2013, 12:30 AM), http://www.theroot.com/articles/culture/2013/12/most_poor_people_in_america_are_white.html [<http://perma.cc/BNB9-PKHF>].

94 See Leong, *Racial Capitalism*, *supra* note 78. She writes:

[N]onwhiteness is a recruitment tool, a way of marketing the school to both white and nonwhite students who care about racial diversity. Signaling the presence of nonwhiteness at a school is a way for the school to signal its commitment to creating a safe environment for students of color.

See *supra* note 78, at 2192. Leong notes that nonwhite students are overrepresented in photos, with blacks and Asians portrayed in photos at a rate fifty percent higher than those enrolled.

American faculty members than any other law school in the country.⁹⁵ This accomplishment is noteworthy, of course, but consider the class analogy. It is difficult to imagine a law school or other institution of higher education making similar boasts regarding class. Who would tout the greatest number of faculty members who were previously poor?

Because law schools are so caught up in the prestige race—of which racial/ethnic diversity is an aspect⁹⁶—they may (wittingly or unwittingly) erase class in the interests of enhancing prestige. Elite educational credentials have become the coin of the realm in law faculty hiring. Yet few appointments committees seem to realize—or perhaps even to care—that non-elite credentials are often a reflection of class disadvantage.⁹⁷ Many poor and working-class high school graduates do not know of the value or even the very possibility of elite education. Shockingly, this lack of information may not be cured as they work their way through graduate and professional schools because they may not get plugged into the right networks or receive good counseling on this issue,⁹⁸ the latter perhaps a consequence of their not being identified as candidates of value.⁹⁹ When low-SES whites do apply to these elite institutions, they may be denied admission because their less-conventional credentials are under-valued.¹⁰⁰ Finally, poor and working class students of all races may be deterred from pursuing an elite education because of the high sticker price, coupled with a lack of information and counseling about financial aid options.¹⁰¹

95 Kevin R. Johnson, Welcoming Remarks, *The Asian Century?*, 44 U.C. DAVIS L. REV. 715, 715 (2011).

96 See Karen Dybis, *Most Diverse Faculty*, NAT'L JURIST (May 27, 2009), <http://www.nationaljurist.com/content/most-diverse-faculty-0> [<http://perma.cc/8GFG-FCZ8>] (noting that rankings are based on the percentage of minority faculty members and student assessments as to whether the faculty makes up “a broadly diverse group of individuals”).

97 See Higdon, *supra* note 9.

98 See Hoxby & Avery, *supra* note 9. See also Pruitt, *False Choice*, *supra* note 6 (describing Barbara Grutter's lack of information about how to optimize likelihood of her acceptance to law school, in part because she was the product of a working-class family); Watkins, *supra* note 20. In her autobiography, Justice Sotomayor refers to this lack of knowledge when she writes of affirmative action as “students from disadvantaged backgrounds [being] brought to the starting line of a race many were unaware was even being run.” SOTOMAYOR, *supra* note 28, at 191.

99 See also *infra* Part IV (discussing the author's experience with failure of mentoring).

100 See Pruitt, *False Choice*, *supra* note 6 (discussing, for example, Barbara Grutter's failed application to the University of Michigan Law School, although she represented diversity in several regards, including as a mother and in her extensive work experience).

101 See Ron Lieber, *Student Loan Facts They Wish They Had Known*, N.Y. TIMES (May 1, 2015), <http://www.nytimes.com/2015/05/02/your-money/things-they-wish-theyd-known-about-student-loans.html> [<http://www.nytimes.com/2015/05/02/your-money/things-they-wish-theyd-known-about-student-loans.html>]

Again, as a class migrant with a decidedly non-elite (Arkansas, Arkansas) educational pedigree, I have some experience with this issue. At the outset let me say that it is a small miracle that I ever got a tenure track job—especially one at a school ranked as high as U.C. Davis. The market seemed schizophrenic about my unusual credentials, not least because my public university B.A. and J.D. were capped by a Ph.D. earned as a British Marshall Scholar, a good clerkship, a stint at a white-shoe law firm, and a decade living and working in Europe and Africa. But I did get a good job. In the intervening years, as I have occasionally advocated for other non-elite law grads, colleagues have explained to me that we do not hire such candidate because their legal education has not exposed them (and, by extension, me) to “all the right big ideas.” In snubbing stellar graduates from non-elite law schools, however, we may sacrifice socioeconomic diversity, thereby depriving the legal academy of valuable perspectives that are extremely rare in that prestigious sector.

The link between non-elite education and class migration was implicated by a discussion of merit in a very public forum during my first year on the tenure track at U.C. Davis. In 1999, U.C. Regent Velma Montoya suggested in an Op-Ed in the *Wall Street Journal* that a proposed fifth U.C. law school, perhaps at Riverside, was a bad idea because the University of California, Davis, School of Law, the system’s youngest, had attracted only mediocre faculty. The dean defended the school’s faculty appointments record by invoking a prevailing metric of faculty quality: the elite-ness of faculty education credentials. He noted that eight of the last nine faculty hires had been graduates of Harvard, Yale, Stanford, Berkeley, or Northwestern. Omitted was the one faculty hire from a run-of-the-mill school—me. Because elite educational credentials are often a proxy for middle and upper-middle class,¹⁰² the dean’s defense had clear class implications. He was effectively compelled to

perma.cc/FJM6-NAS6]. See also Jonathan Glater, *Student Debt and Higher Education Risk*, 103 CALIF. L. REV. 101 (2015) (discussing the increase in student borrowing that creates more risk when investing in higher education; suggesting an insurance model to mitigate the risk of borrowing for college to “preserve access to higher education”); Katie Porter, *The Damage of Debt*, 69 WASH. & LEE L. REV. 984, 979 (2012) (critiquing the current research on excessive debt and suggesting a “multidimensional framework” that takes social harms into account—including reluctance to borrow, which has the negative consequence of impeding the realization of potential). This lack of information is a big part of what economists Hoxby and Avery are seeking to respond to in designing an intervention to inform low-income strivers of their best higher education options. Hoxby & Avery, *supra* note 9.

102 See *supra* note 9. Again, this neither was nor is always the case. Elite educational institutions are, by some indications, more attuned to socioeconomic diversity than they were fifty or a hundred years ago. Note that the Harvard admissions plan that Justice Stevens endorsed in *Bakke* was then relatively new. That plan valued socioeconomic diversity at least nominally. See *supra* notes 66–68 and accompanying text; Pruitt, *False Choice*, *supra* note 6. See also Guerra, *supra* note 50 (discussing first-generation experiences at the University of Michigan); Leonhardt, *supra* note 9.

deny the presence of a class migrant on the faculty—and therefore the existence of even a smidgen of faculty socioeconomic diversity—in order to boost the school’s prestige.¹⁰³ In the academy, the white working class have become pariahs—those (we) who must not be named, a situation exacerbated by the ratings race.¹⁰⁴

C. Hiding Our Class Immobility and Inequality Problem Beneath Our Racism Problem

The tendency to ignore or discount the significance of white socioeconomic disadvantage is not limited to the academy, and it is often associated with or a consequence of the conflation of socioeconomic disadvantage with racial disadvantage—in particular, black poverty. Indeed, these are widespread cultural and media phenomena that have occasionally drawn scholarly commentary.¹⁰⁵ In her 2009 article, *Race, Economic Class and Employment Opportunity*, Trina Jones explained:

Somehow. . . race and class become mutually reinforcing. Blacks are poor because they are Black and Blackness gets constructed as poor. That is, poverty becomes a constitutive element of Blackness. Blacks are not only lazy, intellectually and morally inferior, they are also poor.¹⁰⁶

Even mainstream academic thinking about poverty—including the “culture of poverty”

103 Rex R. Perschbacher, Letter to the Editor, “. . . *But Don't Bash UC Davis*,” WALL STREET J. (Oct. 20, 1999), <http://www.wsj.com/articles/SB940415448472628421> [<http://perma.cc/B8TT-4N9S>]. This episode is particularly ironic in that I strongly believe that the Dean did see me as representing diversity based on my class background and, in fact, had strongly supported my hiring for that reason. Yet he was unable to showcase me in the way he could my colleagues because of my non-elite education, which was, in turn, a function of my class of origin. This anecdote thus illustrates the considerable complexity associated with this issue.

104 My word play here is on the oft-repeated moniker for Lord Voldemort in the *Harry Potter* series.

105 See, e.g., HOOKS, *supra* note 46, at 116–17; Pruitt, *Welfare Queens and White Trash*, *supra* note 23 (detailing this phenomenon, collecting sources). The problem is not only with the media. Well-meaning, progressive organizations may also contribute to the problem. The Center for American Progress, for example, published a 2012 report about racial stereotypes in relation to poverty. But the report itself arguably perpetuated the stereotypes that nonwhites are poor, but whites are not. The cover photo showed no person who was obviously non-Hispanic, but it pictured six apparently nonwhite children. Joy Moses, *Moving Away from Racial Stereotypes in Poverty Policy*, CTR. AM. PROGRESS (Feb. 23, 2012), <https://www.americanprogress.org/issues/poverty/report/2012/02/23/11130/moving-away-from-racial-stereotypes-in-poverty-policy/> [<https://perma.cc/Y2TL-RDWU>].

106 Jones, *supra* note 56, at 65.

associated with Daniel Patrick Moynihan¹⁰⁷—has often conflated our nation’s poverty problem with our racism problem by focusing on African American poverty.¹⁰⁸

In fact, two-thirds of those living below the poverty line in 2013 self-identified as white.¹⁰⁹ Yet consistent with media depictions of poverty as black, academics seem to look past white poverty. Recent years have seen this denial of white poverty evolve into a distancing of those who are but a fuzzy step away from it, the increasingly precarious “middle” and working classes.¹¹⁰ One reason for the expansion of this universe of white “others” is that elites—removed as they are from how the majority of white people live—are increasingly unable to differentiate among the wide spectrum of non-elite whites. They are not able to identify the strivers, those with the drive and raw potential to make a significant class migration leap—those who, in other words, can survive and perhaps even flourish in the professional/managerial class.¹¹¹ Elites may thus presume that all non-elite

107 DANIEL PATRICK MOYNIHAN, U.S. DEPT. OF LABOR, *THE NEGRO FAMILY: THE CASE FOR NATIONAL ACTION* (Mar. 1965), discussed in Patricia Cohen, “*Culture of Poverty*” Makes a Comeback, N.Y. TIMES (Oct. 17, 2010), <http://www.nytimes.com/2010/10/18/us/18poverty.html?pagewanted=all> [<http://perma.cc/H5YV-DXJY>]. That front-page story treated black, urban poverty as the default or norm.

108 *But see* Sheryl Gay Stolberg, *On the Edge of Poverty, at the Center of a Debate on Food Stamps*, N.Y. TIMES (Sept. 4, 2013), http://www.nytimes.com/2013/09/05/us/as-debate-reopens-food-stamp-recipients-continue-to-squeeze.html?hp&_r=0 [<http://perma.cc/4BJ6-XD5A>], discussed in Lisa R. Pruitt, *Hunger in (Rural) America: Both black and white, young and old*, LEGAL RURALISM (Sept. 5, 2013), <http://legalruralism.blogspot.com/2013/09/hunger-in-america-both-black-and-white.html> [<http://perma.cc/6RYD-HLGC>].

109 Mark R. Rank, *Poverty in America is Mainstream*, N.Y. TIMES: OPINIONATOR (Nov. 2, 2013, 2:30 PM), <http://opinionator.blogs.nytimes.com/2013/11/02/poverty-in-america-is-mainstream> [<http://perma.cc/7NH2-UQME>].

110 *See* GUY STANDING, *THE PRECARIAT: THE NEW DANGEROUS CLASS* 8 (2011). Standing defines a new global “precariat” as having “class characteristics,” consisting of people

who have minimal trust relationships with capital or the state . . . [and] is distinctive in class terms. It also has a peculiar *status* position, in not mapping neatly onto high-status professional or middle-status craft occupations. One way of putting it is that the precariat has ‘truncated status’. . . . [I]ts structure of ‘social income’ does not map neatly onto old notions of class or occupation. . . .

Id. *See also* David Brooks, Opinion, *The American Precariat*, N.Y. TIMES (Feb. 10, 2014), http://www.nytimes.com/2014/02/11/opinion/brooks-the-american-precariat.html?_r=0 [<http://perma.cc/P6MV-LUCX>]; Amy Chozick, *supra* note 43 (discussing politicians’ avoidance of the now unstable middle class).

111 Of course, even if elites were better able to identify white strivers, this is no guarantee they would support those strivers’ migration. Further, I wish to be clear that I am not endorsing the concept of “white trash” or the idea that some whites are wholly unworthy any more than I endorse the notion that any human being is

whites—all whites not adequately like them—are undeserving, essentially some variety of *hoi polloi*, perhaps even “white trash.”

This presumption is not only about class, however; it is also (and as much) about race.¹¹² Recall Jones’s assertion that Blacks and Blackness get conflated with poverty and SES disadvantage. This is insidious indeed, but we should not forget the flip side of the coin: whites and whiteness get constructed as affluent; affluence becomes a constitutive element of whiteness.¹¹³ This may at first blush seem flattering and even beneficial to whites, but in fact it grossly disserves low-SES whites. At a minimum, it diminishes the complexity of their lived experiences. Worse still, it suggests that their low-SES status is their own fault, really just a matter of choice. White folks have to be serious losers to wind up poor.

But conflating whiteness with affluence also panders to our desire to pretend that low-SES whites do not exist, or at least that they are very rare. It thus contributes to or justifies their erasure. We effectively use our racism problem to conceal a different but related problem: low-SES people of all colors face mounting structural obstacles to overall well-being and to upward mobility, including access to a good education, from pre-K through professional and graduate school.¹¹⁴ This denial of white poverty and shushing of those who have experienced it nips in the bud any move toward phenomenological or other investigation of the intersection of whiteness with socioeconomic disadvantage.

unworthy or beyond redemption. I am simply acknowledging that elite education—indeed, higher education of any sort—is not for everyone. Some sorting is inevitable, and I am suggesting different criteria for that sorting.

112 This is an illustration of the principle that all race is relational. See generally Aal, *supra* note 53.

113 See McDERMOTT, WORKING-CLASS WHITE, *supra* note 36, at 67. This phenomenon is well illustrated in Carbadó and Gulati’s 2013 book *Acting White? Rethinking Race in “Post-Racial” America*, reviewed in Pruitt, *Acting White?*, *supra* note 55. “White” and “working class”—generally merged in rhetoric to describe a particular demographic group with both race and socioeconomic dimensions—are actually at odds with each other. That is, if we don’t specify “working class” in relation to “white,” whiteness is presumed to connote affluence. The ivory tower makes “others” of those at the race-class intersection specified by “white working class.”

114 See generally ROBERT D. PUTNAM, OUR KIDS: THE AMERICAN DREAM IN CRISIS (2015) (showing how the growing inequality gap makes upward mobility nearly impossible); MARK ROBERT RANK, THOMAS A. HIRSCHL & KIRK A FOSTER, CHASING THE AMERICAN DREAM: UNDERSTANDING WHAT SHAPES OUR FORTUNES (2014) (showing that economic hardship is an almost universal underlying truth in pursuit of the American Dream). Lest we doubt that “American Dream” rhetoric and mindset is alive and well, especially among younger generations, note that in the summer of 2015, *The Atlantic* magazine announced a Call for Submissions, “What’s Your Picture of the American Dream?” (July 20, 2015), http://www.theatlantic.com/national/archive/2015/07/call-for-submissions-a-picture-of-the-american-dream/398882/?utm_source=SFTwitter [<http://perma.cc/54L7-96XX>].

Just as the naturalization of black poverty has serious adverse consequences, so then does the conflation of well-being or affluence with whiteness. Among other things, the latter suggests that poor whites have only themselves to blame for their circumstances. Because poverty is anathema to whiteness, it must be whites' own fault if they are of low-SES status.¹¹⁵ Per Jones's reasoning, whites—unlike blacks—can't blame their race nor (the story goes) structural or institutional biases for any failings.¹¹⁶ Poor whites' shortcomings are rendered all the more glaring because juxtaposed against the advantage of white skin.¹¹⁷ Our discomfort with whites who do not live up to the ideals of whiteness¹¹⁸ elicits our disdain. If we must acknowledge them, we hold them at best at arm's length (for example, supporting them as "labor"), at worst in contempt, disgusted by this embarrassing defilement of whiteness. This hostility—often thinly disguised at best—is the topic of Part

115 Noah D. Zatz, *Poverty Unmodified?: Critical Reflections on the Deserving/Undeserving Distinction*, 59 UCLA L. REV. 550, 556 (2012) (asserting that in order to qualify as "in need," members of the poor must meet conditions which "restrict assistance to those among the poor who are deemed morally deserving"); Timothy Egan, Opinion, *Good Poor, Bad Poor*, N.Y. TIMES (Dec. 19, 2013), <http://www.nytimes.com/2013/12/20/opinion/egan-good-poor-bad-poor.html> [<http://perma.cc/S62X-ABR8>] (discussing political views on whether the poor "deserve" welfare, and how differing circumstances can make poor people appear more or less deserving of assistance). Martha Mahoney articulates a related phenomenon: the twisted rationale that leaves elite whites unsullied by their own racism, instead projecting it onto poor whites.

[B]laming less elite whites for racism protects elite whites in class terms as well: racism becomes evidence against the potential for working-class solidarity, and therefore class privilege exists not because of a system that produces and distributes wealth to the advantage of elite whites, but because of failures of white working-class people themselves.

Mahoney, *supra* note 3, at 1668.

116 See CASHIN, *supra* note 72 (advocating affirmative action based on geographical factors recognizes disadvantages of some poor whites); DARIA ROITHMAYR, *REPRODUCING RACISM: HOW EVERYDAY CHOICES LOCK IN WHITE ADVANTAGE* (2014) (showing that white privilege is a self-reinforcing system, while ignoring the structural disadvantages facing poor whites). Of course, individual biases may also be at play. See Lauren A. Rivera, Opinion, *Guess Who Doesn't Fit in at Work?*, N.Y. TIMES (May 30, 2015), <http://www.nytimes.com/2015/05/31/opinion/sunday/guess-who-doesnt-fit-in-at-work.html> [<http://perma.cc/5QZB-QHS6>] (reporting that people in elite jobs like to hire people who are "like" them, and that "fit" may come down to shared interests in or experiences such as "rowing college crew, getting certified in scuba, sipping single-malt Scotches in the Highlands or dining at Michelin-starred restaurants").

117 See BAGEANT, *supra* note 41, at 9 ("[T]he myth of the power of white skin endures, and so does the unspoken belief that if a white person does not succeed, his or her lack of success can be due only to laziness.").

118 See MATT WRAY, *NOT QUITE WHITE: WHITE TRASH AND THE BOUNDARIES OF WHITENESS* 7–15, 139 (2006); John Hartigan, Jr., *Unpopular Culture: The Case of "White Trash,"* 11 CULTURAL STUD. 316, 316, 320 (1997) (describing aspects of poor white culture as "unpopular," but also repulsive).

II. Before turning to that issue, however, I discuss another consequence of our use of race as a proxy for socioeconomic status: the dwindling number of *nonwhite* class migrants in the professoriate.

D. Collateral Damage: The Shrinking Stream of Nonwhite Class Migrants

Another highly problematic consequence of conflating nonwhiteness and socioeconomic disadvantage is that this leads us to presume we are achieving socioeconomic diversity when we hire or otherwise include nonwhites in prestigious sectors such as higher education. Yet the fact that affluent nonwhites are now the primary beneficiaries of race-based affirmative action is well documented.¹¹⁹ This is consistent with Ian Haney-López's observation that "well-off whites" have "managed interactions" with nonwhites "on their own terms—

119 See CARBADO & GULATI, *supra* note 56, at 118 (noting that Lani Guinier was perhaps the first to observe that "many top universities were pursuing black racial diversity primarily by admitting first-generation immigrants of African and Caribbean descent") (citing Lani Guinier, Opinion, *Our Preference for the Privileged*, BOSTON GLOBE, July 9, 2004); SHERYLL D. CASHIN, PLACE, NOT RACE 78 (2014) ("[I]t would make sense to tailor affirmative action to those who are actually disadvantaged by structural barriers, rather than continue with a race-based affirmative action that enables high-income, advantaged blacks to claim the legacy of American apartheid."); LANI GUINIER, THE TYRANNY OF THE MERITOCRACY: DEMOCRATIZING HIGHER EDUCATION IN AMERICA 23 (2015) (observing that "[s]tudents at elite colleges . . . who are the beneficiaries of affirmative action tend to either be either the children of immigrants or the children of upper-middle-class parents of color who have been sent to fine prep schools just like the upper-middle-class white students"); Kevin Brown & Tom I. Romero II, *The Social Reconstruction of Race & Ethnicity of the Nation's Law Students: A Request to the ABA, AALS, and LSAC for Changes in Reporting Requirements*, 2011 MICH. ST. L. REV. 1133, 1182. Cf. THOMAS J. ESPENSHADE & ALEXANDRIA WALTON RADFORD, NO LONGER SEPARATE, NOT YET EQUAL: RACE AND CLASS IN ELITE COLLEGE ADMISSION AND CAMPUS LIFE 97, Figure 3.9, 98 (2009) (finding, based on a comprehensive set of 1997 data, that among minority applicants to elite public universities, SES-advantaged applicants who were Hispanic or Asian were more likely to be admitted than those in other SES bands, while for blacks, SES had little impact on admissions, though upper middle class blacks were slightly less likely to be admitted than blacks in lower SES bands; for elite private schools, the lower a family's economic position, the more likely the student was to be admitted). Espenshade and Radford also found that among white applicants to selective public institutions, "[u]pper-middle class [white] students have the highest expected probability of being accepted," and in private institutions, "[w]hite middle- and upper- class applicants to private schools have a substantially greater advantage over students from either end of the socioeconomic spectrum [i.e., lower-class whites and upper-class whites]." *Id.* at 98–99. Private institutions gave applicants from lower-class families a preference equal to 130 SAT points, though they weighted it disproportionately towards minorities. This meant lower-class blacks had an 87% likelihood of being admitted, while the likelihood was 65% for lower-class Hispanics, and just 8% for lower-class whites. *Id.* at 92, 98. Private institutions gave working-class whites a 70 point SAT bump. *Id.* at 92. This translated to an 18% likelihood of admission, while middle and upper-income whites had a 28% likelihood of admission. *Id.* at 92, 98.

in controlled settings, such as elite colleges and universities, and with only token numbers of non-whites."¹²⁰

While I highly support the presence of middle-class and affluent nonwhites in elite higher education, especially because the overall numbers of nonwhites are still so low in proportion to their share of the population, we also badly need class migrants of all colors in the academy.¹²¹ Collapsing our class bias and class immobility problems into our racism problem creates the illusion that we are achieving robust and meaningful socioeconomic diversity simply by having blacks and Latina/os in the academy. In fact, this is not necessarily the case.

When admitting nonwhites to elite colleges or hiring them into the professoriate does enhance socioeconomic diversity, that is good news indeed because it contributes to both overall socioeconomic diversity and overall racial and ethnic diversity. Yet, nonwhite class migrants and white class migrants are not interchangeable, for the reasons explained below.¹²² Further, when the few nonwhites in elite settings are relatively affluent—when few low-income strivers, aspiring class migrants are among them—we must face the fact that our aversion to grappling with class disadvantage in a meaningful way disserves low-income nonwhites as well as low-income whites. To satisfy ourselves with only elite and or

120 IAN HANEY-LÓPEZ, *DOG WHISTLE POLITICS: HOW CODED RACIAL APPEALS HAVE REINVENTED RACISM AND WRECKED THE MIDDLE CLASS* 172 (2014).

121 In this sense, I strongly disagree with Deborah Malamud, who asserts that affirmative action has never really been about helping those in poverty and that it makes sense for middle-class blacks to be the ones to integrate institutions dominated by middle-class whites. Malamud, *Affirmative Action, Diversity, and the Black Middle Class*, *supra* note 54, at 950–51. I am not alone in my concern about upward mobility across race/ethnicity lines. Lani Guinier argues that the mission of higher education is to “develop a new cohort of potential leaders, and it’s very important that they be diverse, not just in terms of who can afford SAT prep but working class and poor, black and white.” Anya Kamenetz, *Q & A with Lani Guinier, Redefining the ‘Merit’ in Meritocracy*, NPR (Feb. 20, 2015, 7:03 AM), <http://www.npr.org/blogs/ed/2015/02/20/386120632/q-a-with-lani-guinier-redefining-the-merit-in-meritocracy> [<http://perma.cc/72PJ-LZMR>]. Guinier observes that “[o]ur nation’s colleges, universities, and graduate schools use affirmative-action-based practices to admit students who test well. . . . Thus affirmative action has evolved in many colleges to merely mimic elite-sponsored admissions practices that transform wealth into merit.” GUINIER, *THE TYRANNY OF MERITOCRACY*, *supra* note 119, at 23. See also Bell, *Diversity’s Distractions*, *supra* note 69, at 1622 (observing that diversity “enables courts and policy makers to avoid addressing directly the barriers of race and class that adversely affect so many applicants” and that diversity programs divert “concern and resources from the serious barriers of poverty that exclude far more students from entering college than are likely to gain admission under an affirmative action program”).

122 See *infra* notes in Part IV (explaining why the views of white class migrants are distinctly valuable, in part because they are at the intersection of white-skin privilege and socioeconomic disadvantage).

wealthy blacks (or only elite Latina/os, elite Asians, or other nonwhite elites)—those who pass and cover more effectively and thus soothe our discomfort with racial difference—is to deny ourselves the broad-based diversity we purport to value. In particular, it deprives us of the socioeconomic diversity we desperately need.

II. Disdain: The “Ick” Factor (or, the Unbearable Whiteness of Being Low-Income)¹²³

Working-class academics who have written about their experiences as such have observed the paradox that bridges Part I on denial and this one on disdain. On the one hand, the academy “barely acknowledges working-class existence,”¹²⁴ and on the other, reviles it: “faculty who would never utter a racial slur will casually refer to ‘trailer trash’ or ‘white trash.’”¹²⁵ Another wrote: “Where I live and work, white, Southern working-class culture is known as a caricature.”¹²⁶

Such denigration of lower-SES whites on the basis of their class and related aspects of culture goes largely unsanctioned. That the upper (including professional/managerial) class view themselves (and their cultural practices and folkways, which they do not recognize as such, dominant and normalized as they are) as “objectively superior” to those of the white poor and working class is evidenced by casual insults such as “trailer trash” and “white trash.”¹²⁷ In short, rednecks, hillbillies, and other working-class white stiffes are fair game for elite insults. I specify “white” here because, in the context of the academy, nonwhites and other out-groups are at least in theory insulated by their race or ethnicity from barbs

123 I borrow this heading in part from Myslinksa, *supra* note 50.

124 Elizabeth A. Fay & Michelle E. Tokarczyk, *Introduction*, in *WORKING CLASS WOMEN IN THE ACADEMY*, *supra* note 20, at 3, 4.

125 Michelle M. Tokarczyk, *Promises to Keep: Working Class Students and Higher Education*, in *WHAT'S CLASS GOT TO DO WITH IT? AMERICAN SOCIETY IN THE TWENTY-FIRST CENTURY* 161, 166 (Michael Zweig ed., 2004). *See also* Fraley, *supra* note 20, at 95–97 (sharing anecdotes regarding how professors have responded to her and other examples of how poor whites are maligned in the media).

126 George T. Martin, Jr., *In the Shadow of My Old Kentucky Home*, in *THIS FINE PLACE SO FAR FROM HOME: VOICES OF ACADEMICS FROM THE WORKING CLASS* 75, 85 (C.L. Barney Dews & Carolyn Leste Law eds., 1995).

127 Lisa Pruitt, *Geography of Class Culture Wars*, *supra* note 43 (citing WILLIAMS, *supra* note 4, at 154).

and micro-aggressions that might be equally or more directed toward their class.¹²⁸ Only “lower class” whites are openly maligned with impunity.¹²⁹

This denigration of lower-class whites is at least in part a function of affluent whites’ inability to rely on skin color to differentiate themselves from low-SES whites and white class migrants. Elite whites may thus be particularly vigilant in policing that class boundary, lest they be mistaken for their low-rent cousins.¹³⁰ As Pierre Bourdieu explained, “Social identity lies in difference, and the difference is asserted against what is closest, which represents the greatest threat.”¹³¹ This intense desire to differentiate may lead more privileged whites to exclude wholesale white class migrants or, failing that, discredit them as unworthy imposters.

Matt Wray, who has written or contributed to three scholarly books about low-status whiteness, has theorized the peculiar status of low-income whites:

The idea that *whiteness* is ‘about race’ is simply not adequate to account for the case of *poor white trash*, a boundary term that speaks equivocally and ambivalently to the question of belonging and membership in the category *white*, and one that mobilizes a wide array of social differences to do so.¹³²

In *Not Quite White: White Trash and the Boundaries of Whiteness*, Wray traces the history of the term and concept “white trash” to their early 19th century origins. He notes the historical consistency of “strong claims . . . about the moral unworthiness of poor whites,”¹³³ listing the emotions this group elicited as including “moral outrage, disgust,

128 *But see* Tanzina Vega, *Students See Many Sights as Racial ‘Microaggressions,’* N.Y. TIMES (Mar. 21, 2014), <http://www.nytimes.com/2014/03/22/us/as-diversity-increases-slights-get-subtler-but-still-sting.html> [<http://perma.cc/Z5HM-J5P8>].

129 Progressive expression of disdain for the white working class reminds me of Edward Morris’s finding that black teachers in a mixed-race urban school were less judgmental of low-income white students than were white teachers. *See supra* note 32.

130 *See generally* JENNIFER SHERMAN, *THOSE WHO WORK, THOSE WHO DON’T: POVERTY, FAMILY AND MORALITY IN RURAL AMERICA* (2009) (describing the social divisions between groups of rural, low-income whites based on whether or not they worked); WRAY, *supra* note 118.

131 PIERRE BOURDIEU, *DISTINCTION: A SOCIAL CRITIQUE OF THE JUDGEMENT OF TASTE* 479 (Richard Nice trans., 1984), *quoted in* WRAY, *supra* note 118, at 133.

132 WRAY, *supra* note 118, at 139.

133 WRAY, *supra* note 118, at 8.

anger, contempt, and fear.”¹³⁴ Although the term was coined by blacks, Wray observed how “upper-class whites found the term exceedingly useful and well worth repeating,” appropriating it for “wider circulation.”¹³⁵ In short, “[i]t was the literate, middle-class and elite whites who invested [the term’s] meaning with social power, granting it the powers of social stigma and prejudice and enforcing its discriminatory effects.”¹³⁶ While “white trash” and similarly pejorative terms that referred to poor whites were initially limited to regional use, Wray found that by the end of the Civil War, “poor white trash” had “morphed” into “a general, non-localized term . . . in every part of the nation.”¹³⁷

This 200-year history complicates efforts to value working class whites in academia and other high-brow settings. Doing so is awkward given that at least a segment of low-SES whites were historically seen as immoral and lazy. This surely helps explain why low-SES whites are now viewed as uncouth, illiberal and—worst of all—racist.¹³⁸ *New York Times* columnist Charles Blow has summed up the left’s view of the white working class as “hollow, dim and mean.”¹³⁹ In the collective imagination of the professional/managerial class, low-SES whites bear a disproportionate share of what McDermott and Samson have called the “social culpability of white identity.”¹⁴⁰ To bring them into the academy, then—even when they begin to assimilate into the middle class—is to associate ourselves with these we hold in disdain, those (presumptively) embodying so many characteristics and attitudes that we reject, even revile. We rationalize our rejection of low-SES whites based on their perceived lack of merit or ambition,¹⁴¹ but

134 WRAY, *supra* note 118, at 8.

135 WRAY, *supra* note 118, at 42–43.

136 WRAY, *supra* note 118, at 42.

137 WRAY, *supra* note 118, at 46.

138 Pruitt, *Geography of Class Culture Wars*, *supra* note 43, at 771; Mahoney, *supra* note 3, at 1667.

139 Charles M. Blow, *She Who Must Not Be Named*, Opinion, N.Y. TIMES, Dec. 4, 2010, <http://www.nytimes.com/2010/12/04/opinion/04blow.html?src=me&ref=general> [<http://perma.cc/UU6T-HWL3>].

140 Monica McDermott & Frank L. Samson, *White Racial and Ethnic Identity in the United States*, 31 ANN. REV. SOC. 245, 249 (2007) (citing K.A. APPIAH & AMY GUTMANN, *COLOR CONSCIOUS: THE POLITICAL MORALITY OF RACE* (1996)) (noting also that this culpability is “reflected in the tendency of semiautobiographical narratives on whiteness to catalog the advantages of being white (e.g., McIntosh 1988) rather than to describe specific cultural practices, as is more common in narratives about the formation of other racial or ethnic identities”). See also *supra* text accompanying note 29 (quoting Mahoney on upper class projection of racism onto lower-class whites).

141 See ESPENSHADE & RADFORD, *supra* note 119, at 124, 126–27, 129 (documenting the reasons low-income

also—at least implicitly—on their unsavory-ness. They remain firmly “othered,” clearly an out-group.¹⁴²

The few white class migrants who do slip into the academy have undoubtedly “cleaned up well” (enough), to use a Southern expression. That is, they class pass in an adroit enough fashion not to ruffle elite feathers. Indeed, they do so with sufficient (apparent) ease (at least to the eyes of the elite, who mostly wish to turn a blind eye to class)¹⁴³ that their status as class migrants can be effectively ignored or denied, as discussed in the Part I.

This desire not to be associated with low-SES whites leaves that constituency with few advocates in the academy. An academic can be an advocate for a racial, sexual, or religious minority without being seen as taking on any negative stereotypes associated with that minority group. Indeed, in progressive circles, considerable benefits are gained from associating with these categories of minorities.¹⁴⁴ The same benefits appear not to accrue from association with poor and working-class whites.¹⁴⁵ Advocacy for the poor generally

high school students involved in certain extracurricular activities are more likely than others to be rejected by elite colleges; noting that elite schools may see students who are leaders of organizations such as Junior ROTC, Future Farmers of America, and 4-H as poor fits for their institutions because the students are “career-oriented”), *discussed extensively in Pruitt, False Choice, supra note 6 at Part III.C.*

142 Here I use Nancy Leong’s terminology. *See, e.g.,* Nancy Leong, *Identity Entrepreneurs*, 104 CALIF. L. REV. (forthcoming 2015) (referring to “in-group” and “out-group” individuals and institutions). To be clear, low-SES whites are an out-group in this and other elite settings, even as they are very much the in-group in other sectors. *See* DEIRDRE ROYSTER, *RACE AND THE INVISIBLE HAND: HOW WHITE NETWORKS EXCLUDE BLACK MEN FROM BLUE-COLLAR JOBS* (2003) (describing how subtleties and discrepancies of blue-collar workplaces favor white job-seekers over their black counterparts, in part because whites tend to have better access to networks that give them a start in the trade). Context is enormously important in ways that are rarely recognized in legal scholarship.

143 I say “apparent” ease because as I discuss elsewhere, such passing and covering is costly to the class migrant. *See infra* Part IV.

144 *See generally* Leong, *Racial Capitalism, supra note 78*; Leong, *Identity Entrepreneurs, supra note 142*. *See also* Adam Liptak, *The Case Against Gay Marriage: Top Law Firms Won’t Touch It*, N.Y. TIMES, Apr. 11, 2015, <http://www.nytimes.com/2015/04/12/us/the-case-against-gay-marriage-top-law-firms-wont-touch-it.html> [<http://perma.cc/JK75-REL4>] (discussing the importance of “diversity” in the eyes of the current generation of law students and young lawyers). Making a similar point, bell hooks writes tongue in cheek of social liberals’ “recognizing multiculturalism and celebrating diversity (our neighborhood is full of white gay men and straight white people who have at least one black, Asian or Hispanic friend),” even as they wish to protect and enhance their wealth. HOOKS, *supra note 46*, at 3. *See also infra* Part III.A.

145 This was arguably not always so. There was a time when we valorized the working class, at least in theory. *See* WILLIAMS, *supra note 4*, at 153–54. I believe that the working class is still valorized by some, in

may be seen as laudable in some circles, but one would be reluctant to specify whites for some of the reasons noted above.¹⁴⁶ Leaving whiteness unspecified, however, contributes to the erasure of white poverty.¹⁴⁷

Worse still, advocates or apologists for the white working class may be presumed to share the (presumed) racist views of that group.¹⁴⁸ To advocate for this group is to risk being tainted with those same negative stereotypes that seem to adhere indelibly to working-class whites. That fear of associating with these uncouth whites is perhaps greatest for white class migrants, those who socially, culturally and even economically are barely removed from their past as such. After all, white class migrants are the group for whom the boundary of respectability is fuzziest of all. But they are also the group we would expect to have the greatest capacity to empathize with the struggles and barriers to success facing low-income whites.

The incentives for scholars to distance themselves from the white working class are thus clear. As McDermott and Samson have observed,

some settings, such as during national elections. Certainly many in the working class take great pride in their own status, in their own way of life. See Pruitt, *Geography of Class Culture Wars*, *supra* note 43, at 772. On the other hand, there are some indications that the working class may wear that identity as a badge of virtue because they have no choice—because they are psychologically beaten down and do not see upward mobility within their reach. See JONATHAN COBB & RICHARD SENNETT, *THE HIDDEN INJURIES OF CLASS* (1993).

Further, I do not suggest that no benefit ever accrues to the white class migrant based on her status as such. Certainly, politicians may derive some benefit from being class migrants, as illustrated by the trajectories of Bill Clinton and John Edwards. See Gwen Ifill, *The Party's Over—Bill Clinton; Democratic Team Opens by Appealing to Middle Class*, N.Y. TIMES (July 17, 1992), <http://www.nytimes.com/1992/07/17/news/the-party-s-over-bill-clinton-democratic-team-opens-by-appealing-to-middle-class.html?pagewanted=1> [<http://perma.cc/6RFG-3295>] (reporting on Clinton's opening general election campaign speech in which he focused on his rural Arkansas roots and emphasized his connection to the working class); Mike Sager, *John Edwards, American Gothic*, ESQUIRE (Jan. 21, 2010, 5:15 AM), <http://www.esquire.com/features/edwardsgothic0807-5> [<http://perma.cc/K4LS-5XMT>] (describing economic hardship of Edwards's childhood).

146 See *supra* Part I.

147 See Pruitt, *Welfare Queens and White Trash*, *supra* note 23; *supra* Part I.C.

148 See TEIXEIRA & ROGERS, *supra* note 11, at ix (commenting that titling their book *America's Forgotten Majority: Why the White Working Class Still Matters* could cause their project to be viewed as “reactionary or racist in intent”). To be clear, some of the white working class are no doubt racist—as are members of all races and classes, see BONILLA-SILVA, *supra* note 12—but the presumption of racism appears to dog the white working class like few others. See also Pruitt, *Geography of Class Culture Wars*, *supra* note 43.

If whiteness is explicitly associated with racism and discrimination yet otherwise relatively bereft of content, there is a tendency to create distance between oneself and whiteness; what is marked as white is not a rich and varied set of cultural practices but socially destructive practices.¹⁴⁹

Low-income whites are in a sense the “whitest” whites, the subgroup of whites for whom whiteness is least transparent. This is a paradox given that these whites defy the white norm¹⁵⁰ of power and affluence and, in the words of Matt Wray, are “not quite white,” but are liminal or marginal whites.¹⁵¹ Progressive disdain for the white working class—a visceral reaction that may rise to the level of outright disgust at poor whites—is thus a (mostly) unarticulated justification for their exclusion.

III. What’s Gender Got to Do with Class Bias?

I have, up to this point, focused on class as identity and (dis)advantage in relation to the law professoriate, theorizing how and why class shapes career trajectories and research agendas. But I can also see—or at least speculate about—some ways in which class migration is mediated by gender.¹⁵² I offer three illustrations of this potent and shifting intersection, two of which draw on personal experiences. These three moments or sites, if you will, are mentoring, physical appearance, and marriage.

A. Mentoring

The intersection of class and gender—like many other characteristics and intersections of characteristics—can profoundly influence the mentors we attract and the advice those mentors give. My best illustration of this point goes back a long way, to my earliest encounter with the ivory tower, as an undergraduate student at the University of Arkansas.

149 McDermott & Samson, *supra* note 140, at 249.

150 *See supra* Part I.C.

151 WRAY, *supra* note 118, at 2, 23 (describing whites of a low class as examples of the “liminal identity” or “marginal whites”).

152 *See generally* Kimberlé Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, 43 STAN. L. REV. 1241 (1991) (arguing for an “intersectional” approach to identity that recognizes both the similarities and differences of intragroup experiences); Harris, *Race and Essentialism*, *supra* note 58, at 584–85 (calling for a feminist theory that is not limited to a “unitary voice” that represents only a portion of the female population, but one based on the idea of “multiple consciousness,” which includes many voices that are not static, but able to change).

I studied journalism at the J. William Fulbright College of Arts & Sciences, where I was in the then-nascent honors program and a standout student who graduated with a 4.0 GPA, one of three university valedictorians in 1986. As student-government vice-president and editor-in-chief of the university yearbook, I was a very high-profile student. I recite these credentials to establish what appears to be the extraordinariness of my having been overlooked in terms of undergraduate advising, a phenomenon I have come to link to the particular intersection of gender and class that I embodied.

It was only after I graduated from law school and began to grasp the elitism in the legal academy I aspired to join that I could see the ways in which my University of Arkansas law degree would impede my quest for an academic career. That recognition, along with increasing awareness of what optimal—or even good—student advising might look like, brought on a realization that I had somehow slipped through the mentoring cracks as an undergraduate. No advisor or professor in my undergraduate college at the University of Arkansas talked to me about law school choice—that is, no one suggested I apply to any law school other than the University of Arkansas. Given my grades and campus-wide leadership, I have puzzled at how I must have appeared to the advisors and professors such that no one gravitated to me as a protégé.¹⁵³

As an ill-informed class migrant in the making, my calculation about where to go to law school was all about cost, convenience, and (relative) comfort. Law school tuition at the University of Arkansas was low, and I was awarded a generous scholarship to study there. But a college advisor might have taken me aside and encouraged me to apply to more selective law schools. That self-appointed mentor might have explained to me what was at stake with respect to my future career options in choosing one school over another.¹⁵⁴

The oversight may well have been a coincidence, but I cannot help speculate in retrospect whether those who *might* have mentored me were making certain assumptions about my likely future based on my class of origin and my gender. Though I thought I was class passing fairly effectively (of course, I would not have called it “passing” back then), I

153 I note that quite the opposite happened in law school, where several professors initiated mentoring relationships with me. One of them told me of the British Marshall Scholarship and encouraged me to apply. Perhaps this mentorship was fostered by the law school's smaller, more cohesive environment. Perhaps liberal arts professors at large Southern public universities are more likely than those in other, more practical disciplines, to discount the potential of their Southern charges.

154 If I seem to give undue attention to the issue of law school prestige, it is only because the hierarchy of law schools has loomed so large in my career, my non-elite J.D. seeming to create at times a presumption of my incompetence.

can see now that I was transparently a rube, not least because of the very rural county from whence I came (which, within the state, is openly referred to as “booger county”). Further, I was relatively transparent then about my family of origin in some ways I now realize were revealing.¹⁵⁵

Being a smart and ambitious rube might have caused me to be seen as highly worthy—a truly self-made person with a wicked work ethic, someone who was going places in spite of the rough edges. But apparently it did not. Perhaps would-be advisors assumed I was simply working on my “Mrs. Degree” (and, to be fair, my class passing was manifest in a very feminine form during this period), obviously a gendered phenomenon. In some senses, I was showcased locally (though this presumably would not have occurred had I not been doing such a good job of class covering and gender conforming, Southern-style).¹⁵⁶ But no one encouraged me to reach for any brass ring.

A professor who opposed the co-education of Yale in 1971 stated: “I feel a greater sense of accomplishment when I direct my efforts toward those who will one day have a greater role than women in society.”¹⁵⁷ The University of Arkansas is not Yale, and 1986 was not 1971, but I suspect that the combination of my gender and my working-class background caused me to be seen as likely to pay low returns for any investment of mentoring energy. Would-be class migrants who are male might have been better mentored, their gender alone adequate to make them worthy of investment.¹⁵⁸

155 When I had an assignment in my magazine journalism class to re-design a magazine, for example, my two obvious choices were the *Arkansas Baptist* and a trucker magazine my family received. These were the two magazines I had most regularly seen.

156 For example, I flew around the state of Arkansas with the President of the University of Arkansas system on a development trip the summer I finished my bachelor’s degree.

157 J. LEVER & P. SCHWARTZ, *WOMEN AT YALE: LIBERATING A COLLEGE CAMPUS* 35 (1971), quoted in Deborah Rhode, *The “No-Problem” Problem: Feminist Challenges and Cultural Change*, 100 *YALE L.J.* 1731, 1750 (1991).

158 A few years later, a male undergraduate at the University of Arkansas—also from a working-class background—applied for and received a British Marshall Scholarship, as I had in 1989. He had been groomed for this from the earliest days of his undergraduate career. Indeed, I had been on the selection committee who chose him for the first class of Sturgis Fellows at the University of Arkansas. How much did gender have to do with his mentoring and grooming, compared to lack of such encouragement or preparation for me? It is impossible to say, of course. Certainly, other factors were in play, including an evolving and increasingly sophisticated honors program and, following my successful application as the institution’s first Marshall Scholar in decades, knowledge that these prestigious scholarships were not out of reach for University of Arkansas students.

Further—and this is a critical point—the affluent of either gender are far less likely to need mentoring from an educational institution because their parents presumptively provide it directly or otherwise ensure they get it. In my experience, this reality is extremely difficult for the class privileged to grasp because in their world, access to information about how to map a career trajectory, the best building blocks degree-wise to get where you want to go, even excessive, navel-gazing discussions about these matters, are so naturalized.¹⁵⁹ But would-be or in-progress class migrants often do not know what they do not know. They may therefore miss out on the mentoring they need without even being cognizant of the loss—or of the slight.¹⁶⁰

B. Physical Appearance and Attire

Although class is a highly amorphous concept, richer conceptions of class—especially as contrasted with more straightforward metrics such as income, wealth, or education level—are almost invariably linked to consumption.¹⁶¹ For class migrants, this can mean that attire or other aspects of physical presentation are the proverbial dead giveaway of one's class of origin. Yet male attire is invariably less complicated than female attire.¹⁶² Indeed, a certain carelessness with sartorial matters is nearly expected of male professors. Not so for women because class is peculiarly written on the female body in ways that are distinct from the male experience.¹⁶³

159 A great example of this is Frank Bruni's 2015 book, *Where You Go Is Not Who You'll Be: An Antidote to the College Admissions Mania*. This book is so obviously written for a privileged, upscale audience who fret about getting their children into just the right college or university. As Bruni attempts to provide an "antidote" to the navel-gazing about elite college admissions, he confirms the phenomenon of navel-gazing.

160 See Hoxby & Avery, *supra* note 9; Pruitt, *False Choice*, *supra* note 6 (discussing Barbara Grutter's presumptive lack of knowledge regarding how to make her law school application more attractive to the University of Michigan).

161 See PAUL FUSSELL, *CLASS: A GUIDE THROUGH THE AMERICAN STATUS SYSTEM* (1983); Harris, *Theorizing Class, Gender*, *supra* note 5, at 43; Pruitt, *Acting White?*, *supra* note 55, at 161 n.15.

162 See Matilda Kahl, *Why I Wear the Exact Same Thing to Work Every Day*, HARPER'S BAZAAR (Apr. 3, 2015, 11:30 AM), <http://www.harpersbazaar.com/culture/features/a10441/why-i-wear-the-same-thing-to-work-everyday/> [<http://perma.cc/LAY3-R66C>] (writing that the author, a female art director, spent so much time anguishing over what to wear to work that she ultimately decided to wear the exact same thing every day, as a sort of uniform; commenting that she "knew [her] male colleagues were taken seriously no matter what they wore—and [she] highly doubted they put in as much sartorial time and effort as [she] had").

163 See BONNIE BERRY, *THE POWER OF LOOKS: SOCIAL STRATIFICATION OF PHYSICAL APPEARANCE* 42 (2008) (noting that women are doubly discriminated against if their appearance is "not what a patriarchal system demands"); GERHARD FALK, *STIGMA: HOW WE TREAT OUTSIDERS* 89–90 (2001) (observing that "women are judged on their

A recent study of student teaching evaluations supports the point. The study found that male professors are more likely to be referred to by words such as “genius” and to have reviewers focus on their skills and intelligence. Meanwhile, student reviews of women were more likely to refer to their personality or appearance, including more common use of descriptors such as “frumpy,” “stylish,” or “ugly.”¹⁶⁴ A female class migrant may thus find sartorial and other personal presentation expectations much trickier to negotiate than will her male counterpart. A female class migrant’s status as class misfit may thus be highlighted visually—even effectively broadcast—by her self-presentation.

C. Marriage

Lastly, there is the matter of marriage—in my case, a heterosexual marriage to a high-status, high-earning man. Just as women were historically seen as the property of their fathers and later their husbands,¹⁶⁵ some have documented the lingering consequences of this thinking for women’s careers.¹⁶⁶ For three quarters of my professorial career—more than a decade now—I have been married, although most of my pre-tenure period was spent single. This marriage, to a physician, may lead colleagues to more readily see me as the

appearance much more than is true of men,” and low-socioeconomic women who have higher rates of obesity therefore face “the stigma of obesity much more severely than men”); BEVERLEY SKEGGS, FORMATIONS OF CLASS AND GENDER 74 (2002) (writing that “label working class, when applied to women, has been used to signify all that is dirty, dangerous and without value”).

164 BEN SCHMIDT, GENDERED LANGUAGE IN TEACHER REVIEWS (Feb. 2015), [http://benschmidt.org/profGender/#\[http://perma.cc/QS4T-W5B4\]](http://benschmidt.org/profGender/#[http://perma.cc/QS4T-W5B4]), discussed in Claire Cain Miller, *Is the Professor Bossy or Brilliant? Much Depends on Gender*, N.Y. TIMES (Feb. 6, 2015), <http://www.nytimes.com/2015/02/07/upshot/is-the-professor-bossy-or-brilliant-much-depends-on-gender.html?abt=0002&abg=1> [<http://perma.cc/TL9V-ZSJT>] (discussing unconscious gender bias in student teacher evaluations).

165 See *Bradwell v. Illinois*, 83 U.S. (16 Wall.) 130, 141 (1872) (Bradley, J., concurring) (writing that married women did not have the right to practice law, in part because a wife did not have a “legal existence separate from her husband” and women should instead “fulfill the noble and benign offices of wife and mother”); MARTHA CHAMALLAS, INTRODUCTION TO FEMINIST LEGAL THEORY 220 (2003) (discussing the traditional notion of women as property; for example, the “disregard of the sexual autonomy of married women underscored that the law was primarily interested in regulating ‘property’ interests among men . . .”).

166 See KAREN STRUENING, NEW FAMILY VALUES: LIBERTY, EQUALITY, DIVERSITY 110 (2002) (arguing against the idea that men should be the primary breadwinners, as this view “perpetuate[s] women’s disadvantaged position in the paid labor market”); Anna North, *Who Gets a Raise?*, N.Y. TIMES (Jan. 26, 2015), http://op-talk.blogs.nytimes.com/2015/01/26/who-gets-a-raise/?_r=0 [<http://perma.cc/8253-TYXK>] (finding that when women do ask for raises, because they are not seen as the “family breadwinners,” they “tend to be disliked, and often end up making lower starting salaries”) (quoting Joan Williams, author of *What Works for Women at Work* (2014)).

wife of a doctor than as the daughter of a teacher's aide and a truck driver—at least for some purposes. In another manifestation of a gender double standard, it seems highly unlikely that a male class migrant would have his up-by-the-bootstraps biography eclipsed by marriage, even to a high-earning woman.¹⁶⁷

The overarching narrative may thus be that I married money, even if I did not inherit it. So what's to complain about? What gets lost in that mental shortcut is the fact that I “married money” only after accumulating three degrees and forging my own career for more than a decade following law school. In short, I spent as many years as an unmarried professional as I have since spent married. My pre-marriage career had by no means made me wealthy, but I had secured for myself a middle-class livelihood with a lot more economic stability than my parents ever knew, or perhaps could even have imagined. In short, the bulk of my class migration was not attributable to marriage. That part of my biography gets obscured, however, by a marriage that has endowed me with considerable socioeconomic privilege. I am not the primary breadwinner in my family, let alone the sole one. For me to claim a working-class consciousness, then, may look disingenuous. It may appear to be an act of identity entrepreneurship,¹⁶⁸ intended to detract attention from my current class privilege and to assuage the guilt associated with it.

There is surely a grain of truth in such criticisms, of course, but that should not obscure my larger point: foregrounding my husband's status—which I undoubtedly share in some measure—denies the challenge and complexity of my class migration experience. My marriage was simply the most recent stage of that migration. Indeed, it is the stage that has permitted me to see what it means to pay off student debt and no longer live on a month-to-month budget. It is also the stage that has shown me what it is like to raise a child with resources that permit endowment of all sorts of structural benefits.

Focusing on my husband's status obscures my identity as a class migrant and discounts what I learned and what I still know by virtue of having grown up in a highly precarious economic situation, in the midst of a pocket of deep, all-white, rural poverty. In short, my

167 While not a perfect analogue, consider that Bill Clinton's marriage “up” to Hillary Rodham, the daughter of a college graduate and herself by then having earned elite degrees from Wellesley and Yale, has never obscured Clinton's own self-made, “boy from Hope” narrative.

168 Leong, *Identity Entrepreneurs*, *supra* note 142. Leong coins the phrase “identity entrepreneurs” to refer to the ways in which in-group members and in-group institutions (e.g., white, male, straight, wealthy) “can and do derive value from out-group identities.” Interestingly, Leong provides only one illustration that relates to class, one example of wealth as “in group”: “[a] wealthy politician asserts his humble roots in order to connect with socioeconomically disadvantaged voters.” Leong, *Identity Entrepreneurs*, *supra* note 142.

current socioeconomic perch makes it easier to forget—and, when convenient, to deny—the starting point of my socioeconomic trajectory. Further, this elision of past into present makes my class migration seem irrelevant and denies a distinct perspective: knowledge acquired by the very act of class migration, a topic I take up in the next Part.

IV. How SES Disadvantage Endures Class Migration and Why White Class Migrants Represent “Diversity”

The Call for Papers with which I opened this Article suggests that class migrants in the academy are not seen as representing diversity—and perhaps that they are not even interesting—because they are “now middle class.” The presumption is that, once you get a graduate degree and a gig as a professor, you’ve arrived socioeconomically and should forget—or at least not talk about—your impoverished or working-class roots. The past is the past.

This shushing regarding class implicates the oft-heard proposition that class is not an aspect of identity because no one wants to remain working class or poor, and class categories are inherently vague.¹⁶⁹ In the case of class migrants, the working-class stiff has not even remained “working class” but is at least somewhat socioeconomically empowered, thus strengthening the argument that class is not fixed and therefore not an identity category. The class mobility demonstrated by the class migrant appears to prove that “economic position does not necessarily harden into a fixed group of identity.”¹⁷⁰

But an alternative view is that the exceptionalism of significant class leaps proves the rule that they are all too rare—especially when that migration leap is great, as from being first-generation college into the professoriate. Alternatively, we might think of class migrants as sharing or constituting their own classed identity—as class migrants. That identity category would focus on the *migration*, on the movement from one class to another, with all of the cognitive and emotional dissonance and socioeconomic complications that accompany it.

While the idea of class migrants as a particular identity category is an important

169 See Harris, *Theorizing Class, Gender*, *supra* note 5, at 44 n.28 (quoting JOHN GUILLORY, *CULTURAL CAPITAL: THE PROBLEM OF LITERARY CANON FORMATION* 13 (1993) (“Acknowledging the existence of admirable and even heroic elements of working-class culture, the affirmation of lower-class identity is hardly compatible with a program for the abolition of want.”)).

170 Carbone, *supra* note 43, at 537 (noting that among persons doing low-wage work, “economic position does not necessarily harden into a fixed group identity”).

theoretical contribution, the Call speaks more transparently to another hurdle facing the class migrant: money. By implicitly highlighting the distinction between income and wealth, the Call for Papers challenges the notion that migration solves economic woes. A professor may have a decent income, but that is not the same as having the wealth to buffer what might essentially be a hand-to-mouth budget. After all, most academics are not particularly well compensated in the greater context of professional/managerial employment, although law professors typically fall at the better-paid end of the continuum of disciplines. Then, of course, there is the fact that student debt burdens have escalated dramatically in the last decade.¹⁷¹ As higher education costs skyrocket, class migrants' claims on middle-class economic stability will surely be further undermined.

This critical distinction between income and wealth for class migrants in the professoriate is illustrated poignantly and brilliantly in Rachel Wagner's 2011 essay, *Bootstrapping My Way into the Ivory Tower*¹⁷²:

Tenure won't protect you from heating bills, car repairs, or the fact that you can't buy milk until tomorrow when you get paid. It won't protect you from bill collectors who don't give a damn that you can't pay them now because you haven't yet received your first royalty check.

Wagner makes clear the emotional exhaustion of living paycheck to paycheck, as well as the shame associated with being unable to afford the professional amenities most academics take for granted.

Implicit in Wagner's tale is the fact that class migrants enjoy no margin of error. Like nonwhites, they have to be better, more disciplined, and exhibit greater fortitude than the trust-fund babies who enjoy a financial cushion if they falter—or if they just need to take a breather, a month (or a year) of rest and relaxation (perhaps abroad), a spell to clear the cobwebs of the mind, to gather one's thoughts. (Lest I sound unbearably bitter, remember that I am now raising a highly privileged child. In a sense, then, I have experienced both ends of the spectrum from disadvantage to privilege, though not either polar extreme. My child will presumably have the option of a gap year or other such break if needed or desired; he will be one who can change career paths without the threat of financial disaster. This is what money buys.) Not so for the class migrant, for whom the fiscal and psychological pressures are unrelenting.

¹⁷¹ See Glater, *supra* note 101, at 121 (collecting data on the rise in college tuition between 2009–2010 and 2014–2015 and also on the prior five-year period).

¹⁷² Wagner, *supra* note 20.

Wagner also writes of the various public benefits programs that supported her as she worked her way into the professoriate, lamenting the likely consequences of these programs further demise:

the only people able to make it into academe will be those with a privileged financial background, whose families can step in when life challenges them. But even existing social supports will not allow full entry into the ivory tower. If you start behind, you'll stay behind, no matter how hard you work.¹⁷³

The sad truth is that, even with existing governmental social supports, class migrants like Wagner are extremely rare in academe. It is as much a bastion of the privileged as it has always been, if not more so in this era of burgeoning inequality and declining upward mobility. As Wagner conveys so effectively, a career as a professor is a luxury that few class migrants can afford.

But the challenges facing class migrants in the ivory tower are not strictly economic; they are also social, psychological, and even cultural. Even if professors are paid well enough not to struggle financially, they are likely to struggle with self-doubt, stigma, and the shame associated with their families of origin. This is a particular handicap for a scholar, whose stock-in-trade is the confidence to articulate novel ideas and then do everything she can to attract attention to those ideas.

As Alfred Lubano wrote in *Limbo: Blue-Collar Roots, White-Collar Dreams* (2004), class migrants—whom he referred to as straddlers—are “aware of their otherness throughout their lives” and remain “perpetual outsiders.”¹⁷⁴ Indeed, it is in that status as “straddlers” or “limbo folk” that part of these professors’ value lies for diversity purposes. Their double consciousness, the day-to-day balancing act of having a foot in each world, endows them with a distinctive and valuable perspective. This limbo they inhabit both personally and professionally,¹⁷⁵ not entirely at home in either world, is surely not without similarities to

173 Wagner, *supra* note 20. See also Redmon Wright, *Accidental Academic*, *supra* note 20, at 10.

174 See ALFRED LUBRANO, *BLUE-COLLAR ROOTS, WHITE-COLLAR DREAMS* 225 (2003). See also Timothy J. Haney, *Factory to Faculty: Socioeconomic Difference and the Educational Experiences of University Professors*, 52 CAN. REV. SOC. 160 (2015) (reporting analysis of faculty at ninety-five Canadian universities to determine how socioeconomic background influences graduate school experiences and experiences as faculty; describing the ways in which social class exerts an influence on academic careers).

175 See David Vigliano, *Limbo: Blue-Collar Roots, White-Collar Dreams*, PUBLISHERS WEEKLY, <http://www.publishersweekly.com/978-0-471-26376-0> [<http://perma.cc/QDH5-JRE3>] (reviewing ALFRED LUBRANO, *LIMBO*:

the experiences of nonwhites, sexual minorities, and members of other out-groups who work their way into in the academy or other prestigious institutions.

Further, having class migrants around—like having racial and sexual minorities around—is likely to have an impact on what gets undertaken as scholarship. Among the law professoriate, it is likely to influence what the wider law- and policy-making world attend to.¹⁷⁶ It is thus ironic (if sadly predictable) that, as class mobility declines, we have fewer of the very products of such mobility in the academy to research the causes and consequences of the stickiness of one's class situation. We also have fewer advocates for would-be class migrants, and we presumably have fewer advocates for the poor.¹⁷⁷

For better or worse, class migrants may get re-programmed and re-socialized, but like all humans, they (we) never entirely outgrow the culture of their (our) childhoods. Among other things, the straightforwardness—even bluntness¹⁷⁸—associated with the

BLUE-COLLAR ROOTS, WHITE-COLLAR DREAMS (2003)) (discussing the “ambivalence and unexpected culture shock” associated with being an ambitious “straddler” between blue-collar and white-collar worlds).

176 See NICHOLAS CARNES, WHITE-COLLAR GOVERNMENT: THE HIDDEN ROLE OF CLASS IN ECONOMIC POLICY MAKING 12 (2013) (arguing that “the shortage of people from the working class in American legislatures skews the policy-making process toward outcomes that are more in line with the upper class’s economic interests”).

177 A recent study suggests that elites—in particular those who are Yale Law students or undergraduates at UC Berkeley, whatever their political party—are less likely than the average American to favor redistribution and equality and more likely to value efficiency. R. Fisman et al., *The distributional preferences of an elite*, 349 SCIENCE aab0096 (2015). To be clear, I am under no delusion that being a class migrant guarantees that one will be interested in a class-related research agenda. Nor is it any guarantee s/he will have a class consciousness or desire to support would-be class migrants. High-profile class migrants whose political positions suggest they see their migrations as attributable strictly to their hard work and sheer native ability include Justice Clarence Thomas and John Boehner.

178 See Lareau, *supra* note 45, at 311 (recognizing that “social class origins have effects that are powerful and long-lasting,” and children of working-class parents reflect these values and attitudes of their upbringing). Two examples of this, I would argue, are Senator Harry Reid and Ursula Burns, CEO of Xerox. Both are products of poor families and both are well known for the bluntness of their communication styles. See, e.g., Amita Kelly, *6 Things You Might Not Have Known About Harry Reid*, NPR (Mar. 27, 2015), <http://www.npr.org/blogs/itsallpolitics/2015/03/27/395777411/harry-reid-the-senator-who-never-forgot-the-path-he-took> [<http://perma.cc/6Q45-D45C>] (reporting Reid’s “hardscrabble childhood” in rural Nevada and his reputation for straight talk; “he’s called Federal Reserve chairman Alan Greenspan a ‘political hack,’ Clarence Thomas an ‘embarrassment’ and George W. Bush a ‘liar’ and a ‘loser,’”; reporting that the late Senator Ted Kennedy once said that Reid “often says what we’re all thinking but perhaps are afraid to say”); Lorena O’Neil, *Ursula Burns is Taking Xerox from Copies to Client Services*, OZY.COM (Mar. 24, 2014), <http://www.ozy.com/rising-stars-and-provocateurs/ursula-burns-is-taking-xerox-from-copies-to-client-services/30486> [<http://perma.cc/NP3Y-QL28>] (describing Burns’s upbringing by a poor mother and referring to Burns’s “famously blunt way of speaking”).

working-class culture dies hard. The fight-or-flight survival instincts cultivated by rough-and-tumble childhoods are unlikely ever to be completely suppressed. Indeed, scientists have found that the neural pathways of children living in poverty are re-programmed by that experience, with life-long effects.¹⁷⁹

Because the folkways of the working class persist just as the folkways of the professional/managerial class do, class migrants may find that the dance associated with their migration can be emotionally costly—so dear in fact that it must be abandoned.¹⁸⁰ This may be a particular struggle later in life as the class migrant tires of playing both sides against the middle, of being a double agent. After all, as the adage goes, “we grow neither better nor worse as we get old, but more like ourselves.”¹⁸¹ Like any other type of passing or covering,¹⁸² then, class passing may grow so difficult over time that it ceases to be worth the effort.

White class migrants—perhaps like racial, ethnic, sexual, and religious minorities—may be hyper-aware of their vulnerability and outsider status. After all, they have previously lived that economic vulnerability and may still be living it to one degree or another. Further, they probably have relatives who are still mired in it.¹⁸³ We should thus give them credit

179 See Andrew S. Garner, et al., *Early Childhood Adversity, Toxic Stress, and the Role of the Pediatrician: Translating Developmental Science into Lifelong Health*, 129 *PEDIATRICS* e224 (2012) (advocating for more informed and involved pediatricians and communities to address the effects of poverty on childhood development, especially the adverse effects of toxic stress on brain development), *discussed in* Perri Klass, M.D., *Poverty as a Childhood Disease*, *N.Y. TIMES* (May 13, 2013), http://well.blogs.nytimes.com/2013/05/13/poverty-as-a-childhood-disease/?_r=0 [<http://perma.cc/MMC7-GXEE>] (discussing how growing up in poverty is damaging for children’s health and the “toxic stress” of living in such environments can effect neurological and hormonal systems, which can lead to long-lasting damage to children’s brain development); Sendhil Mullainathan, *The Mental Strain of Making Do with Less*, *N.Y. TIMES* (Sept. 21, 2013), <http://www.nytimes.com/2013/09/22/business/the-mental-strain-of-making-do-with-less.html> [<http://perma.cc/X9EW-HZY4>].

180 See CARBADO & GULATI, *supra* note 55, at 42. Carbado and Gulati describe “shadow work” as the pressure on people in the workforce to “work their identities.” For blacks, this means avoiding acting “too black” or being sure to act “white” for fear of not being hired or promoted. These inherent racial stereotypes, Carbado and Gulati maintain, create “an institutional imbalance in terms of how much identity work racial Outsiders have to perform.” I maintain that white class migrants experience similar pressures to fit in, and the work of doing so is costly from a psychological standpoint.

181 WISDOM FOR THE SOUL: FIVE MILLENNIA OF PRESCRIPTIONS FOR SPIRITUAL HEALING 45 (Larry Chang ed., 2006) (quoting May Lamberton Becker).

182 See generally KENJI YOSHINO, *COVERING*, *supra* note 16 (calling out the social pressure to “cover,” or downplay a disfavored trait to blend in, as a substantial threat to American civil rights).

183 See Peyton M. Craighill, et al., *D.C. Residents See Class, not Race, as City’s Great Divider*, *WASH.*

for knowing something the typical academic does not know. We should value them in our search for knowledge.

Taking white class migrants seriously—hearing and valuing the perspectives and experiences that they bring to the table—would in turn help us to see that the interests of poor and working-class whites are not represented by the whites who are already present in large numbers in the academy, the latter representing relative (and sometimes extraordinary) economic privilege. Class migrants know something the collective academy does not know. They (we) help achieve what the academy purports to seek in aspiring to diversity in educational settings.¹⁸⁴ In short, class migrants are important pieces—though now largely missing ones—of the overlapping socioeconomic *and* racial puzzles of our nation.

Last but not least, the presence of white class migrants and greater attention to class generally could be beneficial to nonwhites, who now carry the burden of poverty in our national imaginary. This is a particular burden for blacks. Recall Trina Jones's observation that "poverty becomes a constitutive element of Blackness," naturalized for that

POST (June 19, 2011), http://www.washingtonpost.com/local/dc-residents-see-class-not-race-as-citys-great-divider/2011/06/17/AGZdU9bH_story.html [<http://perma.cc/WS6L-7QAG>] (finding that "even as African-Americans attain a higher economic status, their perspectives remain shaped by decades of economic difficulty and a sense that many blacks, including some in their own families, are still struggling"); Stacey Patton, *Here's Smarty Pants, Home for the Holidays*, CHRON. HIGH. EDUC. (Dec. 3, 2012), <http://chronicle.com/article/Heres-Smarty-Pants-Home-for/136069> [<http://perma.cc/GAB4-W594>] (describing the disconnect that graduate students from working-class families experience when they visit or try to participate in the lives of their families of origin).

184 See *supra* notes 64–68 and accompanying text (discussing Justice Powell's definition of "diversity" in *Bakke*). Note that Justice Powell saw diversity as an aspect of freedom of speech. *Regents of the Univ. of Cal. v. Bakke*, 438 U.S. 265, 316 (1978) (referencing the "educational diversity valued by the First Amendment"). This free speech concern was also noted in *Grutter*:

We have long recognized that given the important purpose of public education and the expansive freedoms of speech and thought associated with the university environment, universities occupy a special niche in our constitutional tradition. . . . In addition to the expert studies and reports entered into evidence at trial, numerous studies show that student body diversity promotes learning outcomes, and 'better prepares students for an increasingly diverse workforce and society, and better prepares them as professionals.' . . . These benefits are not theoretical but real, as major American businesses have made clear that the skills needed in today's increasingly global marketplace can only be developed through exposure to widely diverse people, cultures, ideas, and viewpoints.

Grutter v. Bollinger, 539 U.S. 306, 329–30 (2003). Similarly, we need the voices of white class migrants—and, indeed, class migrants of all colors—in the marketplace of ideas that is the academy.

community.¹⁸⁵ If we can begin to see the reality of white poverty and just how common it is, we can start to break up the monopoly that nonwhites have on socioeconomic disadvantage in our political and social imagination.¹⁸⁶

CONCLUSION

The legal academy—like most other elite institutions—tends to view with disdain, and therefore distance itself from, working-class and other low-income whites. When those low-SES whites class migrate into the legal professoriate—an increasingly rare occasion, indeed—that distancing and disdain often evolve into denial and discrediting. One aspect of that denial is a failure to see such professors as representing the much-touted “diversity,” which—for better or worse—has become a coin of the academic realm.¹⁸⁷ This denial of the presence of working-class whites or the value of their viewpoints for purposes of the diversity we champion injures them almost as surely as when we openly malign them or the families that produced them.¹⁸⁸

Several factors explain the legal academy’s prevailing responses to white class migrants. First, the progressives who dominate the academy often view working-class whites as uncouth and undesirable. Such intra-racial disdain has a long history, going back at least two centuries in the United States. Indeed, low-SES whites are widely presumed to be racist or, at a minimum, conservative. Consorting with them is seen as both unpalatable and highly risky. We thus forgo the opportunity to engage them on any meaningful level, or to have the most talented strivers from their ranks amidst us. On the rare occasion when they migrate into the academy we perpetuate the shame associated with lower-SES stations by encouraging them to class pass and by shushing them if they talk about class. Class has therefore become and remains a great unspoken,¹⁸⁹ its nature, salience, and consequences largely ignored in the legal academy.

Second, a great deal of critical race scholarship conflates whiteness with affluence, while “black” or “Latino” implicitly connotes socioeconomic disadvantage. Yet plenty of evidence suggests that the nonwhites sought by elite educational institutions are now also

185 See *supra* note 106 and accompanying text.

186 See *supra* Part I.C. See also Pruitt, *Welfare Queens and White Trash*, *supra* note 23.

187 See *supra* note 71 and accompanying text; Leong, *Racial Capitalism*, *supra* note 78; Rich, *supra* note 69.

188 See Guerra, *supra* note 50.

189 See PAUL HORWITZ, UNSPOKEN: SOCIAL CLASS AND THE AMERICAN LEGAL ACADEMY (forthcoming 2016).

more likely to hail from relatively affluent families. In short, class mobility has taken a hit across races/ethnicities. One consequence of this is that too few class migrants—whatever their color or their culture—are in the academy, and the stream appears to dwindle to a trickle.

This diminished upward mobility and the increased precariousness of the “middle class” that is associated with it have only aggravated our collective fears, driving us to guard our fiefdoms and admit only those of like mind and life experience.¹⁹⁰ We do so even as we cling to an ideal¹⁹¹ of diversity, albeit one that features little, if any, of the socioeconomic variety. We largely avoid engaging class issues head on, letting race and ethnicity labels talk for us, however imprecise the signals they send and however disappointing the results in terms of fostering upward mobility and giving voice to significant numbers of low-income and first-generation strivers.

Finally, while cultural denigration of the white working class appears inconsistent with denial of the white class migration experience, this denigration is simply an alternative means of—and justification for—distancing these hoi polloi from the exclusive world of higher education, particularly the elite echelon of the professoriate. Admitting that previously poor and working-class whites represent the much-vaunted diversity would suggest that we need them among us,¹⁹² a prospect that makes us very uncomfortable. White elites’ long-tortured relationship with poor whites haunts the American dream ideal, undermining our commitment to it and rendering our attachment to it nominal and superficial. We must get past this instinct to distance low-SES whites—we must overcome this disdain for them—if we are serious about enhancing opportunity and about authentic diversity.

The legal profession and broader society stand to benefit from a wider array of perspectives in the law professoriate. We have the potential, for example, to endow our

190 See Rivera, *supra* note 116.

191 This idealization of a certain type of diversity is also reflected, for example, in a statement about why large, elite law firms will not represent foes of same-sex marriage in litigation before the United States Supreme Court: “Firms are trying to recruit the best talent from the best law schools . . . and the overwhelming majority of them want to work in a community of respect and diversity.” Liptak, *supra* note 144 (quoting Professor Dale Carpenter of the University of Minnesota School of Law). See also Rich, *supra* note 69.

192 See PROMISE AND DILEMMA: PERSPECTIVES ON RACIAL DIVERSITY AND HIGHER EDUCATION 3 (Eugene Y. Lowe, Jr. ed., 1999) (observing that “Celebrating the value of racial and ethnic diversity has become routine in educational circles”); Leong, *Racial Capitalism*, *supra* note 78, at 2191–92.

graduates with an enhanced class-consciousness.¹⁹³ The lawyers we produce, in turn, can take a heightened appreciation for the difference socioeconomic disadvantage makes into the many settings where they work, shaping the law,¹⁹⁴ public policy, and the private sector in ways that would ameliorate our inequality problem.

Indeed, with our burgeoning awareness of first-generation students on college campuses, an important role for class migrant professors is to be role models for those students.¹⁹⁵ This, of course, will require the class migrants to be transparent about their own biographies, and some may choose not to do so. Still a role exists for institutions in this regard—a role in valuing and *expressing* the value of professors who are class migrants, as by assigning them to mentor first-generation students.¹⁹⁶ At a minimum, professors who are class migrants should be permitted to claim the mantle of “diversity” when they are courageous enough to confess their class roots. As it is, the diminishing presence of class migrants in the legal academy has become part of an unfortunate feedback loop that

193 On the very possibility that legal education could be so influential, see DUNCAN KENNEDY, *LEGAL EDUCATION AND THE REPRODUCTION OF HIERARCHY: A POLEMIC AGAINST THE SYSTEM* (2004). *See also* Fisman et al., *supra* note 246, at aab0096-1 (addressing the elite nature of Yale Law School’s student body in particular and noting that pipeline from such elite higher education institutions to the presidency and other powerful positions in government and the private sector).

194 Regarding the judiciary in particular, Judge Alex Kozinski of the U.S. Court of Appeals for the Ninth Circuit lamented in a 2010 opinion the lack of socioeconomic diversity in that sector, as well as the consequent judicial blind spot:

There’s been much talk about diversity on the bench, but there’s one kind of diversity that doesn’t exist: No truly poor people are appointed as federal judges, or as state judges for that matter. Judges, regardless of race, ethnicity or sex, are selected from the class of people who don’t live in trailers or urban ghettos. The everyday problems of people who live in poverty are not close to our hearts and minds because that’s not how we and our friends live.

United States v. Pineda-Moreno, 617 F.3d 1120, 1123 (9th Cir. 2010) (Kozinski, J., dissenting). Having class migrants in the professoriate would not necessarily solve this problem, although professors have the potential to endow their students with greater class consciousness. Further, having more “out” class migrants in the law professoriate has the potential to engender the same among the judiciary.

195 *See generally* Chris Chambers Goodman & Sarah E. Redfield, *A Teacher Who Looks Like Me*, 27 J. C.R. & ECON. DEV. 105 (2013).

196 U.C. Berkeley Law School has just such a “first generation professional” mentoring program. *See* Andrew Cohen, *Student Group Mentors and Guides First Generation Professionals*, NEWS ARCHIVE (Oct. 15, 2014), <https://www.law.berkeley.edu/article/student-group-mentors-and-guides-first-generation-professionals/> [<https://perma.cc/4CUF-MXUQ>].

nearly guarantees their representation—and therefore the prospect of low-income white perspectives in that milieu—will continue to decline.

Meanwhile, we fail to see that more is at stake here than identity politics—such as the economic implications of failing to optimize our nation's raw human capital. Nevertheless, identity politics alone would justify the socioeconomic diversity I advocate. For identity politics, for better or worse, seems indelibly linked to racial progress, and I cannot imagine that racial progress is going to be achieved without having poor and working class whites at the table, participating in some meaningful way in an ongoing dialogue about race. Important conversations about race occur on an ongoing basis in the legal academy and in institutions populated by law graduates. We do not have poor and working-class people running these institutions, for obvious reasons, so we should work to have the next best thing in terms of relating to and including their perspectives: class migrants. Indeed, we should aspire to have class migrants of every color in the law professoriate, to keep bringing in fresh, first-hand insights into what it means to be low income and the complex ways in which low-SES status intersects with a range of racial and ethnic identities. Getting past our disdain for poor whites and seeking their perspectives, too, is thus a necessary step toward racial conciliation and therefore racial progress.

As a related matter, enhanced socioeconomic diversity in the professorate would push academic recognition that many shades of whiteness exist in broader society. Whiteness is mediated by class up and down the socioeconomic continuum, a continuum where whites—like other races and ethnicities—are present at every step. This should, in turn, lead us to draw more of those from the wider palette of whiteness *and* from other colors into the academy.

More than a decade ago, Guinier and Torres pointed out the possibility and promise of “mov[ing] the political debate and the grounds for political action from race to class without pretending that race does not have a role.”¹⁹⁷ Indeed, exclusion from the professoriate is an issue where low-income black interests and low-income white interests increasingly converge because too few class migrants of any color are breaking through the glass ceiling at the gateway to this competitive sector. Yet we seem to ignore sage observations like those of Guinier and Torres, perhaps because we cannot envision cooperation between nonwhites and low-income whites. We can see only the competition between these two groups in particular, as reflected, for example, in the the race-vs.-class debate. We can only see the long-standing rift between them.

197 GUINIER & TORRES, *supra* note 63, at 251.

By implying that the white experience is monolithic—that white is white is white—the professoriate justifies not grappling with the potency of class disadvantage, even (or especially!) for those privileged on the basis of race. This is just one way in which the legal academy rationalizes its failure to explore or invite revelation of the low-income white experience, let alone value that experience. Within the ivory tower, the world of the white class migrant thus remains unseen, unheard, unknown. Law schools cannot expect to be part of the solution to any of a number of aspects of our nation's inequality problem—or to optimize their contribution to racial progress—until we change that.

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