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Washington University Journal of Law & Policy

Privilege Revealed: Past, Present, & Future

Revisiting *Privilege Revealed* and Reflecting on
Teaching and Learning Together

Stephanie M. Wildman*

The authorship of *Privilege Revealed: How Invisible Preference Undermines America*¹ represents a story about women fighting about power: “Here you take it, no you take it.” I had said to Margalynne,² Adrienne,³ and Trina⁴ that we all really should be co-authors. The

* John A. and Elizabeth H. Sutro Professor of Law and Director, Center for Social Justice and Public Service, Santa Clara University School of Law. Thanks to Ellen Platt, research librarian extraordinaire, for superb library support; Elizabeth Hollis, graduate fellow at the Center for Social Justice, for excellent research assistance and editorial support; and Margalynne Armstrong, Adrienne Davis, Barbara Flagg, and Becky Wildman-Tobriner for insightful comments. Special thanks to Danielle Hart, for helpful comments and encouragement; the participants at the Law and Society Roundtable, “Stephanie Wildman’s *Privilege Revealed: Past, Present, and Future*,” Honolulu, Hawai’i, June 8, 2012; Danielle Hart, Barbara Flagg, Adrienne Davis, and the *Washington University Journal of Law & Policy* editorial staff for their work in organizing this symposium. © Copyright 2013 Stephanie M. Wildman.

1. STEPHANIE M. WILDMAN, *PRIVILEGE REVEALED: HOW INVISIBLE PREFERENCE UNDERMINES AMERICA* (1996) [hereinafter *PRIVILEGE REVEALED*] (with contributions by Margalynne Armstrong, Adrienne D. Davis, and Trina Grillo).

2. Margalynne Armstrong is an Associate Professor of Law at Santa Clara University, School of Law.

3. Adrienne D. Davis is Vice Provost and William M. Van Cleve Professor of Law at Washington University School of Law.

4. Trina Grillo (1948–96) taught at the University of San Francisco School of Law. Sadly she died shortly after the publication of the book. She did live to see its turquoise cover; turquoise was her favorite color. Two law review symposia honor her work and her legacy: Symposium, *In Honor of Professor Trina Grillo: Legal Education for a Diverse World*, 31

four authors aligned along a spectrum with Trina Grillo at one end saying, “This is your book Stephanie, you just don’t want the limelight,” and me at the other extreme saying, “No book would exist if it were not for the work we all did together. We really should be coauthors.” And Trina replied, “So do you win because you’re white?”

This argument presented an “aha experience”⁵ for me because I (a white woman) was trying to insist on my point of view to three women of color. We were friends; we had worked together in many contexts; we trusted each other; and we talked about race all the time. As the only white member of this group, did I forget about the white privilege I held, as Trina reminded me? Probably. Did my forgetting mean that I was not really listening to their wishes and points of view? Was I just used to having my point of view define reality? As a holder of white racial privilege, I needed to ask myself these questions.⁶

While I did write a significant portion of the text, it is clear to me that the perspective I brought to the work could not have been possible without the conversations the four of us had, both together and in different groupings, concerning the topics of privilege and power. Each of us wrote portions of the book as indicated in the table of contents. But the classic model of authorship simply did not describe the working relation between us, hence the birth of the

U.S.F. L. REV. 733 (1997); Symposium, *Dismantling the Master’s House: Essays in Memory of Trina Grillo*, 81 MINN. L. REV. 1381 (1997). The Society of American Law Teachers (SALT) created the Trina Grillo Public Interest and Social Justice Law Retreat, an annual retreat that is co-sponsored by a consortium of western law schools, to honor her memory. For more information on the Grillo Retreat, see *Social Justice Retreats*, SALT, <http://www.saltlaw.org/sections/view/publicinterest> (last visited Mar. 22, 2013). Trina, Margalynne, *supra* note 2, and Adrienne, *supra* note 3, have all played the role of change agents in the legal academy.

5. PRIVILEGE REVEALED, *supra* note 1, at 168–70 (describing an “aha experience” in teaching about privilege involving tenants, differentially situated based on race, in a dispute that led to eviction).

6. For a further exploration of friendship and collaboration beyond racial difference, as described by Teresa Vallerio whose hiring into law teaching was the subject of PRIVILEGE REVEALED, *supra* note 1, at 103–37, see Margalynne J. Armstrong & Stephanie M. Wildman, *Working Across Racial Lines in a Not-So-Racial World*, in PRESUMED INCOMPETENT: THE INTERSECTIONS OF RACE AND CLASS FOR WOMEN IN ACADEMIA 224, 224 (Gabriella Gutiérrez y Muhs, Yolanda Flores Niemann, Carmen G. González & Angela P. Harris eds., 2012).

phrase “with contributions by” more correctly to describe the book’s origin.

This phrase seems to have given law review editors fits through the years, since this attribution does not neatly comport with any *Bluebook* citation categorization. Yet “with contributions by” was an idea that we could all live with that reflected the reality of the creative project and an articulation that honored our friendships. It is fair to say that I learned much about friendship and community, even from the process of deciding authorship, as well as from working on the project with Margalynne, Adrienne, and Trina. And that process is what the book is really about, ultimately—teaching, learning, and building community to strengthen the potential for practicing democracy.⁷

The western notion of authorship highlights individualism and individual effort. Perhaps it is not too strong to say the western model “privileges individualism” in lieu of collective, collaborative effort. Yet authorship of a book like this one, just like the issues facing American democracy, can only be created (in the case of authorship) or solved (in the case of public issues) by cooperation and a greater sensitivity to “other sides.” Each individual possesses the potential to see “other sides.” The book’s overriding metaphor, the “Koosh ball,”⁸ reminds each of us that we are both privileged and not privileged in our daily societal interactions, giving each of us access to recognizing both sides, and even multiple sides in disagreements, if we choose to see them.

The genesis for this symposium and opportunity to revisit teaching and learning from *Privilege Revealed* was a conversation at

7. For greater discussion on the idea of democratic practice, see MARTHA R. MAHONEY, JOHN O. CALMORE & STEPHANIE M. WILDMAN, *SOCIAL JUSTICE: PROFESSIONALS, COMMUNITIES AND LAW, CASES AND MATERIALS* (2d ed. 2013) (Chapter 9); Stephanie M. Wildman, *Teaching and Learning Toward Transformation: The Role of the Classroom in Noticing Privilege*, in *PRIVILEGE REVEALED*, *supra* note 1, at 161; Stephanie M. Wildman, *Democratic Community and Privilege: The Mandate for Education*, 81 *MINN. L. REV.* 1429 (1997). See also Lani Guinier, *More Democracy*, 1995 *U. CHI. LEGAL F.* 1 (considering the collaborative meaning of democracy); Mari J. Matsuda, *What Would It Take To Feel Safe?*, 27 *N.Y.U. REV. L. & SOC. CHANGE* 78–81 (2002) (observing that democracy commands asking hard questions and considering all voices).

8. Koosh ball is a registered trademark of ODDzon Products, Inc., Campbell, California. See *infra* text accompanying notes 22–23 for a discussion of the Koosh ball.

a Law and Society annual meeting⁹ with Danielle Hart.¹⁰ I had expressed concern whether I should still be assigning the book to my students. I mused aloud about the most effective way to teach about privilege and to enlarge the societal concept of antidiscrimination. More students now in law school, in contrast to 1996 when New York University Press published the book, have studied systemic privilege, and society has become somewhat more aware of its operation. Professor Hart urged that privilege study remained relevant and essential, and she urged me to keep assigning the book.¹¹ She organized this symposium, originally presented at the Law and Society Association annual meeting, to highlight the usefulness of a privilege analysis across a wide spectrum of issues. As my own concern remains teaching privilege to the next generation, I decided to reexamine the last eight years of student reflections on the study of privilege to see what light these reflections shed on teaching and student learning.

That examination led to this Essay, which begins with a consideration, in Part I, of Why Teach About Privilege? Part II introduces the notion of mindfulness and its value in learning about systemic privilege. This Part includes an observation exercise and student responses. Part III, Teaching and Learning About Privilege, features student reflections upon studying privilege. These student reflections mirror themes from *Privilege Revealed* about the complex interconnection of identity categories with privilege and subordination and the difficulties in articulating privilege and challenging it. Part IV, Color Insight: Deepening Understanding, and

9. The Law and Society Association, founded in 1964, is a group of scholars from many fields and countries, interested in the place of law in social, political, economic, and cultural life. THE LAW AND SOCIETY ASSOCIATION, <http://www.lawandsociety.org/> (last visited Dec. 14, 2012).

10. Danielle Kie Hart is a Professor of Law at Southwestern Law School. See Danielle Kie Hart, *Revealing Privilege—Why Bother?*, 42 WASH. U. J.L. & POL'Y 131 (2013).

11. Other publishers support the relevance of privilege studies. See, e.g., FRANCES E. KENDALL, UNDERSTANDING WHITE PRIVILEGE: CREATING PATHWAYS TO AUTHENTIC RELATIONSHIPS ACROSS RACE (2006); TIM WISE, DEAR WHITE AMERICA: LETTER TO A NEW MINORITY (2012); Margalynne J. Armstrong & Stephanie M. Wildman, *Colorblindness Is the New Racism: Raising Awareness about Privilege Using Color Insight*, in DECONSTRUCTING PRIVILEGE: TEACHING AND LEARNING AS ALLIES IN THE CLASSROOM (Kim Case ed., forthcoming 2013) [hereinafter *Colorblindness Is the New Racism*].

Part V, Race and Sexuality: Strands of the Koosh Ball, report on my own collaborative and independent work since the publication of *Privilege Revealed* to continue making privilege visible. These Parts pose questions for self-reflection about privilege and for interacting with friends and acquaintances to gain deeper knowledge. The conclusion, “Practice on Other People’s Oppression,” offers a concrete suggestion for using privilege for a more just society.

I. WHY TEACH ABOUT PRIVILEGE?

American culture suffers from huge confusion and schizophrenia about the meaning and experience of discrimination. Discrimination is bad; no one wants to discriminate; everyone wants to be treated fairly. Discrimination does exist: a family member may not want to include the gay partner of a deceased sister at a funeral; a client may prefer a male lawyer; a landlord might not rent to an African-American family. Discriminatory attitudes may come to light or remain voiced in private. The legal system may or may not intervene against discrimination.

When we, as individuals, can assure ourselves we are “not discriminating” on the basis of culturally significant identity categories like race, gender, sexual orientation, economic wealth, or physical ability, we rest assured that we are good people. Legal systemic norms contribute to the societal vision of “bad” or “discriminatory” behavior.

The study of privilege posits that most of us are good people who do not seek to discriminate. But each of us often ignores the systemic privileges that each of us has. Ignoring the existence of these privileges allows disadvantaging treatment to flourish and to go unrecognized, both in law and in daily life. Privilege recognizes the systems of oppression that antidiscrimination law does not see or even acknowledge.¹²

Antidiscrimination law targets hostile or disadvantaging treatment directed at individuals when done on the basis of protected

12. Academic discourse began to recognize privilege and systems of privilege in the last two decades. Before that time, searches of the word “privilege” in law reviews brought up “evidentiary privileges” and the “privilege against self-incrimination.”

categories. Title VII of the 1964 civil rights law, for example, names sex, race, national origin, color, and religion.¹³ But even though antidiscrimination law utilizes these group-based categories, the law's schizophrenia becomes apparent on the subject of group membership.¹⁴ These protected categories in antidiscrimination law arguably include everyone, since everyone has the relevant and socially significant identity-based categories such as a race, a gender, a sexual orientation (which category is not protected enough, thus far, under federal law). So whites sue when they feel discriminated against; men sue. Yet black women and men were enslaved (a far worse category than being the object of discrimination), and women still are paid less than men for comparable work. Blacks and whites and men and women are not situated equivalently in society.¹⁵

The language that antidiscrimination law gives us limits the language about unequal treatment to disadvantaging acts against individuals. What this language of discrimination law veils is the systemic benefits that one receives from group membership on the up side of the power line.¹⁶ I credit Fran Ansley with introducing me to the power line concept. Picture a horizontal line, and think now of these socially significant identity categories, like race, sex, sexual orientation, economic wealth, and physical ability. This horizontal power line runs through each category, designating some as more privileged than others, in respect to the group identity. For those in the category who are "above the line," passing through life is just easier.¹⁷

13. 42 U.S.C.A. §§ 2000e *et seq.*

14. See Stephanie M. Wildman, *Privilege, Gender, and the Fourteenth Amendment: Reclaiming Equal Protection of the Laws*, 13 TEMP. POL. & CIV. RTS. L. REV. 707 (1994) (for a fuller discussion of the inadequacy of antidiscrimination law to mediate between the individual and the group).

15. PRIVILEGE REVEALED, *supra* note 1, at 11.

16. *Id.* at 29, 171, 173, 175.

17. See Armstrong & Wildman, *Colorblindness Is the New Racism*, *supra* note 11 (for an example of a classroom exercise utilizing the power line).

II. MINDFUL OBSERVATION AND STUDENT REACTION

Part of the systemic privilege is in not having to notice the benefit that privilege brings, not having to notice that a power line even exists. Privilege is hard to talk about because talking about it means noticing; it means being mindful. Recent scholarship has addressed this notion of a mindful lawyer.¹⁸ Leonard Riskin explains, “The term ‘mindfulness’ carries many meanings.”¹⁹ In joining mindfulness and law, the *Journal of Legal Education* symposium emphasized “a deliberate, present-moment non-judgmental awareness of whatever passes through the five conventional senses and the mind.”²⁰ Thus, practicing mindfulness carries the potential for noticing privilege and the lack of privilege in daily interactions.

It is intriguing to reflect on how the existence of privilege connects to mindfulness or rather, most usually, to the lack of mindfulness. In my classes, students often ask me, “How can you stand to teach about these systems of oppression?” They say that they cannot look at the world the same way again once they begin to see the operation of privilege. By these comments, they are bemoaning the loss of innocence that the lack of mindfulness permitted them. I have compared the experience of becoming more aware of systemic privilege to pulling back a shower curtain. The tiles have always been present; one just cannot see them when the curtain covers the opening to the shower or tub. After the initial shock of bemoaning their loss of obliviousness, students generally appreciate practicing looking at the world through the lens of privilege; they appreciate the insight they gain.

To assist students in practicing this aspect of mindfulness, Margalynne Armstrong and I assign a Racial Observation exercise to students in our race and the law and law and social justice classes.²¹

18. See, e.g., Symposium, *Awareness and the Legal Profession: An Introduction to the Mindful Lawyer Symposium*, 61 J. LEGAL EDUC. 634–82 (2012).

19. Leonard L. Riskin, *Awareness and the Legal Profession: An Introduction to the Mindful Lawyer Symposium*, 61 J. LEGAL EDUC. 634, 635 (2012).

20. *Id.*

21. See Armstrong & Wildman, *Colorblindness Is the New Racism*, *supra* note 11 (for a more extended discussion of this exercise).

This exercise asks students to pay attention to their surroundings, with respect to race, for twenty-four hours. We tell them in the instructions:

Society sends many messages favoring colorblindness; do these messages further social justice? This assignment asks you to notice the racial composition of your environment for a 24 hour period and to record your observations.

What are the apparent races of the people you view? How do you know? Note their jobs and/or the activities in which they are engaged. Note the kinds of interactions you observe and your position. Are you privileged in the interaction? Where are you in relation to the “power line”?

Observation is only a first step toward mindfulness. And even that first step seems to take a lot of practice, especially for those of us with privilege, because part of the privilege is not seeing it.

Here are portions of two observations written by students in response to the exercise:²²

As we went from stall to stall [at the farmer’s market] gathering all the ingredients, I observed that all the vendors were either Hispanic or Asian. Once I made that observation, I could not stop noticing this contrasting difference against the majority of White consumers. Once again, it is either the Hispanic or Asian who is providing our community with the food that we are consuming. The fact that not one White person owned or operated a stall shocked me. The racial segregation was more prominent than I had imagined. [From an Asian Woman]

At the end of the day I cannot help but notice that many of the privileges that I experience every day are things that I often overlook. As a white woman I am simultaneously in the racial majority on campus and the minority in regards to gender.

22. Throughout this Essay, anonymous student reflections appear in italic type, followed by a bracketed, brief descriptor of socially relevant identity categories as named by the students themselves.

While I do not feel that being a woman has ever put me at a disadvantage, I believe that being in the racial majority may make my status as a woman easier. When I began this project I did not expect that the impact would be as great as it was. As someone who has grown up in the Bay Area, I know how diverse the area is in most places. It seems that most people are accepting of the diversity, but it seems that this acceptance may be conditional on people sticking to their traditional “roles” in society and often involves separation of races.
[From a white woman]

III. TEACHING AND LEARNING ABOUT PRIVILEGE

Thinking about mindfulness and these student reactions to their own concentration on observation encouraged me to be more mindful myself in teaching about privilege. Surveying student reflections over the past decade of teaching showed reactions that connected to and highlighted three main themes of *Privilege Revealed*: (1) the idea of privileged and subordinated identities within one individual, represented by the Koosh ball; (2) the challenge each of us faces in making privilege visible, first to ourselves and then more widely; and (3) the next steps for each of us as we determine what to do with the newfound knowledge or awareness of privileges that we gain as the Koosh ball strands become more consistently visible. Throughout these themes the students emphasized the idea of needing each other, friends and community, to teach, to learn, and to create societal change.

First, students appreciated the notion that all of us possess identity aspects that are privileged as well as identity strands that remain subordinated. More complexly, the predominance of these privileged and subordinated identity categories shifts, depending on the context or situation. *Privilege Revealed* introduced the metaphor of the Koosh ball to explain the movement of these strands.

The Koosh ball is a popular children’s toy. Although it is called a ball and that category leads one to imagine a firm, round object used for catching and throwing, the Koosh ball is neither hard nor firm. Picture hundreds of rubber bands, tied in the center. Mentally cut the end of each band. The wriggling,

unfirm mass in your hand is a Koosh ball, still usable for throwing and catching, but changing shape as it sails through the air or as the wind blows through its rubbery limbs when it is at rest. It is a dynamic ball.

The Koosh ball is the perfect postmodern ball. Its image “highlights that each person is embedded in a matrix of . . . [categories] that interact in different contexts” taking different shapes. In some contexts we are privileged and in some subordinated, and these contexts interact.²³

Here are some student responses to the Koosh ball and the discovery of privilege and subordination within each of us:

I appreciated the image of the Koosh ball as a representative of the unified theory of subordination. . . . The Koosh ball allows me to understand how one can have both privilege and subordination simultaneously. When I consider these dichotomies through visualization of the Koosh ball, I can more easily challenge and resist categories and labels and recognize the many roles of the individual. [From a white woman]

“Most of us are privileged in some ways and not in others.”²⁴

This passage was a light bulb moment for me. It seems so simple a proposition that one can be privileged in one area of life and subordinated in another, yet for me to consider that possibility, I needed to have it explicitly stated. So I thought about a moment where I am privileged and where I might be oppressed or subordinated. I am a white, heterosexual on the verge of obtaining a JD. Because I experience privilege in these areas, I don’t consider them much, if at all. However, when I enter a courtroom, I am often one of the few women in that room. My gender was not something I previously thought about when I entered a room. [From a white, heterosexual woman]

23. PRIVILEGE REVEALED, *supra* note 1, at 22–23.

24. *Id.* at 21–22.

As a heterosexual, I never considered my sexuality a privilege, but rather a simple fact of my being. However, categorizing heterosexuality as a privilege brought to light the fact that heterosexuals in our society are not subject to the negative assumptions about our sexuality. Instead of seeing a gay man or lesbian as a person who loves and feels all the pain, joy, sadness, and excitement that heterosexuals experience, I believe people have a tendency to be preoccupied with the sexual aspects of being a gay man or lesbian. [From an Asian-American woman]

Students grapple with the effect of recognizing privilege and subordination in the identity categories that remain socially significant in American culture.

The concept of privilege described in the Privilege Revealed reading has opened my mind to understanding the broader problem with “discrimination” in today’s world. Prior to being introduced to this concept, I viewed discrimination as something blatantly obvious. I thought when someone is discriminated against (particularly a member of a minority group), the individual person knows it, the people around them know it, and the actors who chose to act in such a manner are aware of their actions. From the reading in Privilege, however, I have begun to see a much bigger issue than can be encompassed in the word “discrimination.” In the past I saw the world of “privileges” simply as the way the world works without even knowing it. It was right in front of me yet I had no idea it was there.

Now that this invisible concept of privilege has been revealed I have taken notice on the impact of it in my daily life. In fact looking back I see that privilege played a part in a multitude of my life experiences. The quote “our world is also raced, and it is hard for us to avoid taking mental notes as to race” rings quite true. Being half Mexican-American and half Caucasian, sometimes I have been thought to have privilege when I technically “shouldn’t have” and vice versa. People are not quite sure what to make of my ethnic background[s] and I have come to realize why should it matter? The number

one question a stranger will ask me is “So what nationality are you?” And though I have never thought of it this way, I now see that they were asking this question because they didn’t know what category to put me in. (Of course most of the time this happens subconsciously on the other person’s part.) Once I answered their question, they were able to place me in a category in their mind. They were able to label me one way or another. Their curiosity to figure out exactly “what I was” has been engrained in the way our society thinks.

Now that I have this new outlook on the way privileges work in our society, I am going to attempt to analyze the manner in which I approach situations which involve new people. When the inevitable question comes regarding what exactly I am, what group I fit into, I am going to try to take notice of the other person’s reaction to my answer. Whether they think I qualify for the “privilege that comes with whiteness” or whether I fall short. Without thinking, I myself am guilty of categorizing people as I have learned from society. Though I would never have labeled myself someone who would discriminate against another, I have to admit I have acquiesced to a world of privileges. It will be a good challenge for me to recognize when my mind is going there and attempt to think differently. [From a Mexican-American, white woman]

On the challenge of making privilege visible, student reflections were particularly thoughtful, such as this example:

In an exercise I used to do with my high school students, the class was divided into two groups. The first group was shown a drawing of a young woman. The second group was shown a drawing of an old woman. Then the entire class was shown a picture that had both the young woman and old woman imbedded into one picture. When asked what the class saw, the “young woman” group would always respond that they saw a young woman and vice versa with the “old woman” group. What happened next was always interesting to observe. Some students completely denied the possibility that the other image existed, arguing, “That’s not an old woman; she is young.”

Some students would say, “Where?—I don’t see it—show me.” Others started trying to explain how to see the drawing from their perspective by pointing out, “Here—this is the chin, these are ears.” The students had to become teachers as they had to help someone else to see what could not be seen before and students as they had to listen to someone who could see what they could. Both groups needed each other. For some students grasping both images was done with ease, but for others the struggle lasted for an entire class hour. Most students, even though they could eventually see both images, always seemed to have a much easier time seeing the initial vision that they had been conditioned to see.

*Although of course the difficulties of making the invisibility of privilege visible are infinitely more complex, I am reminded of this simple yet very effective classroom exercise because it underscores for me that we **need each other** to tackle these complex issues and we need to **talk**. . . . Those of us concerned about issues of privilege can make a difference by helping others to understand **why** they should care about these issues in the first place and by actively living in both roles as teacher and student. [From a white mother of a child with a disability]*

What to do with the knowledge that mindfulness about privilege brings remains a task for each of us. Again, student reactions showed attention to the need to act:

Regarding silence and privilege, Wildman wrote: “Silence in the face of privilege sustains its invisibility.” This section of the reading led me to understand that striving to see people in their entire social context also requires me no longer to be silent regarding privilege and the lack of it. . . . I feel similar to the worries expressed by Professor Wildman in that I am afraid that I will make things worse. I am afraid to speak for fear of saying the wrong thing, or take action for fear of doing the wrong thing. . . . I think that by not confronting privilege, not speaking out, and not trying to uncover the supportive forces, these non-actions amount to actions of promoting racism and other forms of oppression. [From a white woman]

It was particularly eye-opening for me to read about how one could subordinate another through silence. . . I immediately began to think about situations when I have been silent and the impact that my silence could have had upon the situation. It was slightly unsettling to me to realize that I could be perpetuating forms of subordination that I had always frowned upon and assumed that I did not contribute to because I was not consciously intending such a result. Now I think in terms of how my actions, verbal and nonverbal, have an impact on other people. [From an African-American, white female]

Another reflection concerning the normalization of privilege²⁵ highlights the dilemma facing one who has become more mindful about privilege but who is also trying to consider “what to do about it”:

The idea of the normalization of privilege struck a chord with me. It became immediately clear to me how this normalization can so easily happen and how people in our society become used to it. Thinking of males playing baseball in the Major Leagues as a normalization of male privilege and a girl dreaming of doing so as an “alternative” was a fresh, interesting way to look at such an idea.

The normalization of that privilege has been so ingrained in my mind that if I normally were to hear the recommendation for women to play major league baseball, immediately the problems with such an idea would pop into my head, such as women are not physically capable to play with the men, different locker rooms, even possibly more sexual harassment suits. After understanding the idea of privilege and observing how it affects my own thinking, I think these “problems” that come to my mind might actually be rationalizations for the system of privilege that is in place. In addition to hearing reasons for why women could not play major league baseball, my mind, in order to be consistent with the current system of privilege and so as not to think of baseball and the system

25. *Id.* at 14–17.

being sexist, immediately conjures up sensible reasons for why that privilege is in place. Because of that immediate reaction, I never actually step back and truly evaluate the issue at hand of why women cannot play major league baseball.

I usually think of myself as a thoughtful person who will hear both sides to almost any argument, so I was surprised to see how much the normalization of privilege affects my ability to even think clearly on a lighter subject such as baseball. I do not believe I am alone in this way of thinking. It makes more sense why some people will sound so “thick-headed” when discussing some more complex issues. . . . Questioning first the possibility of privilege helps me to not fall into the trap of thinking that this is the norm and then justifying it; I will think with a more open mind of true justifications for the policy in place. This is important for everyone to do so that privilege does not obscure our minds from finding the truth. And who knows, maybe one day in the major leagues we will have a woman walking into the ballpark, not to a seat, but to the mound. [From a white man]

In addition to wrestling with the concept of the normalization of privilege, students also grappled with their own choices about privilege when they recognized its operation in their own lives.

*Another reading summoned a strong and very different emotion for me, guilt. In *Privilege Revealed*, chapter one, I had just read about male privilege and white privilege, and being a multiracial woman, I had just settled comfortably into my chair to point the finger at all my oppressors when I came across the example of the female federal district court judge who said women should use sexuality strategically. Suddenly the finger was pointing back at me as I recalled the times I had played the weak or dumb role when I didn't want to do something for myself. I never thought about those actions as reflections on my gender as a whole, or reaffirming stereotypes. [From a multiracial woman]*

Privilege needs to be recognized as a fact to have an honest discussion about sexism or racism and to better try to address

these problems. I am ashamed to say that as a woman of color, I never recognized my own privilege. Within my own community I am privileged, even if such privilege does not exist for me in the legal community.

I should be able to call a friend privileged without qualms. That statement is not lined with any hostility or even envy. It is a fact, and in recognizing it, I hope to have a more honest discussion about some of the more subtle, and sometimes subconscious, discrimination that still exists. However, being privileged is still often seen as negative—as accusing the person of acting with mal intent. The only way to get past this misunderstanding is to further discuss this concept with friends. [From an East-Asian American woman]

The student reflections highlight that each of us needs knowledge to make privilege visible and to take steps to combat its operation. Furthermore, we need each other to gain that knowledge. Margalynne Armstrong and I have continued to work together, evolving the idea of color insight as a counter to colorblindness to highlight education about race.²⁶ While the color insight methodology emphasizes the Koosh ball strand of race, the same components for learning greater insight could be applied to any form of oppression. The next Part offers questions for self-reflection and collaborative exercises for use with friends or acquaintances to continue making privilege visible.

IV. COLOR INSIGHT: DEEPENING UNDERSTANDING

In the context of race, we live in a society that urges colorblindness as a racial ideal. But in this society, where all of us are racialized and inhabit these systems of privilege, the notion of colorblindness is counter to the idea of mindfulness. “Color insight” offers the mindful alternative to color blindness and better serves the

26. Margalynne J. Armstrong & Stephanie M. Wildman, *Teaching Race/Teaching Whiteness: Transforming Colorblindness to Color Insight*, 86 N.C. L. REV. 635 (2008); Armstrong & Wildman, *Working Across Racial Lines in a Not-So-Racial World*, *supra* note 6; Armstrong & Wildman, *Colorblindness Is the New Racism*, *supra* note 11; Stephanie M. Wildman, Margalynne Armstrong & Beverly Moran, *Revisiting the Work We Know So Little About: Race, Wealth, Privilege, and Social Justice*, 2 U.C. IRVINE L. REV. 1011 (2012).

goals of racial equality and justice. Color insight recognizes that a racial status quo exists in which society attributes race to each member. While colorblindness urges us not to notice, color insight says, “don’t be afraid—notice your race and the race of others around you.” Consider and learn about what race means. Color insight admits that most of us do see race, especially when that race is one other than our own, yet all the while pretending not to notice because society imbues us with this “colorblind” ideal.

Rather than aspiring to colorblindness we need to understand the role race plays in society. Most people don’t realize that the federal government built an interstate highway system that enabled roads to cut swaths through urban areas, dividing black neighborhoods from white ones.²⁷ Most people don’t realize that the federal government offered home loans during the post-war development boom, excluding blacks from those loan opportunities.²⁸ Much of the urban infrastructure and wealth distribution in place today stem from those and other interactions like them.

Color insight provides a lens with which to examine societal interactions and to initiate conversations. Applying color insight utilizes four steps: “(1) considering context for any discussion about race; (2) examining systems of privilege; (3) unmasking perspectivelessness and white normativeness; and (4) combating stereotyping and looking for the ‘me’ in each individual.”²⁹ At its outset, color insight requires an examination of context. What is at

27. Raymond A. Mohl, *Planned Destruction: The Interstates and Central City Housing in FROM TENEMENTS TO THE TAYLOR HOMES: IN SEARCH OF AN URBAN HOUSING POLICY IN TWENTIETH-CENTURY AMERICA* 226 (John F. Bauman et al. eds., 2000).

28. For more on the private and public practices that operated to deny Black Americans home ownership, see generally SHERYLL CASHIN, *THE FAILURES OF INTEGRATION: HOW RACE AND CLASS ARE UNDERMINING THE AMERICAN DREAM* (2004); DOUGLAS S. MASSEY & NANCY A. DENTON, *AMERICAN APARTHEID: SEGREGATION AND THE MAKING OF THE UNDERCLASS* (1993); MELVIN L. OLIVER & THOMAS M. SHAPIRO, *BLACK WEALTH/WHITE WEALTH: A NEW PERSPECTIVE ON RACIAL INEQUALITY* (1995); Margalynne Armstrong, *Race and Property Values in Entrenched Segregation*, 52 U. MIAMI L. REV. 1051 (1998); Martha R. Mahoney, *Segregation, Whiteness, and Transformation*, 143 U. PA. L. REV. 1659 (1995); Florence Wagman Roisman, *Teaching about Inequality, Race, and Property*, 46 ST. LOUIS U. L.J. 665 (2002).

29. See Armstrong & Wildman, *Colorblindness Is the New Racism*, *supra* note 11, for an extended discussion of each of these steps toward color insight.

stake for the racialized actors? How frank a conversation can be had? Examining privilege is another key aspect of color insight.

Two exercises can facilitate thinking about the role of privilege in one's life, as a person strives to practice color insight or insight toward any other identity category. These exercises would work best in conversation with others, both friends and people you don't know well. Dare to make privilege visible by bringing the subject up in conversation.

Reflect on places or times when you saw systems of privilege operating in your life. Consider when you saw privilege in operation, whether you intervened or did not intervene. Also consider the effect of that intervention or non-intervention on community and the power of ideas.

Mindfulness of one's internal state is connected to mindfulness of one's external environment, which includes relationships of injustice.

How might we best interact with the privilege in our lives? Should we reject it, use it, or undermine it? What other options are possible? This next exercise is well suited to engaging someone you don't know well.³⁰

Think of a time you were in a dominant/privileged situation and share briefly about that experience. How did it feel? Each person should tell their reaction.

Then, think of a time when you were in a situation in which you were marginalized or targeted and share briefly about that experience. How did it feel? Again, each person should tell their reaction.

Thinking about that last experience of marginalization, did you have an ally who stepped forward on your behalf? If so, share what action they took or what they said. If no ally appeared,

30. Thank you to Angela Harris, Victor Goode, and Larry Yang, my co-panelists at the session "Mindfulness and Inequality: Making Privilege Visible" at The Mindful Lawyer Conference (Berkeley, CA) (Oct. 31, 2010) where we did another version of this exercise. For more information about the conference, see PROCEEDINGS OF THE MINDFUL LAWYER CONFERENCE, <http://mindfullawyerconference.org/scheduleDescriptions.htm#31b2> (last visited Mar. 22, 2013).

please share how someone could have supported you in that instance or been an ally to you.

Everyone has been in situations of holding privilege and of not holding privilege. How does the direct experience of privilege feel? What is the essence of privilege and what does that experience trigger in ourselves? Is there an inherent rightness or wrongness to privilege?

V. RACE AND SEXUALITY: STRANDS OF THE KOOSH BALL

This final Part turns to my own recent focus on two Koosh ball strands. I have begun examining with greater emphasis the intersection of race and sexuality with social justice. This work has expanded the concept of color insight toward color and sexual orientation insight. For me, personally seeing race, remembering my whiteness and white privilege, and not sliding into coasting with white privileges has been a major challenge in my life. I also possess heterosexual privilege in this phase of my life, yet I do not worry as much about keeping it front and center. I do not always remember, waking up each day, to prod myself to remember my heterosexual privilege. And I wondered why that emphasis might be the case, why I lead with race and emphasize its centrality.

I have a friend who is a young black man in his late thirties. He has a military background; the Navy was his ticket out of the segregated south. He recently lost his older sister to cancer, and he was telling me about the family dysfunction that was playing out in his extended family about this loss. His sister was a lesbian, and her partner was being rendered invisible in the mourning process as some family members sought to have a memorial in a church that preached that being gay or lesbian was a sin. He is dealing with the pain and the overlap of race and sexuality on a personal level; a privilege analysis tries to think about whether law should play a role in these issues, whether law can make a difference, and what difference law should make.

So I have been thinking about my own daily reaction, reminding myself to keep race in the forefront in the context of this conversation. And I remembered that Trina Grillo once came back

from an early critical race scholars' conference and told me that Mari Matsuda³¹ had said that the "key to ending all forms of oppression is ending subordination based on sexual orientation." I have always wondered what Mari must have meant when she made that statement because she too appreciates the importance of race and combating racial subordination. She also knows that avoiding an oppression contest or "pain sweepstakes"³² continues to be central to any solution to fighting discrimination, subordination, and oppression. So as I was musing about writing this passage I decided to contact Mari and ask her what she meant.

Mari Matsuda is a warrior for justice who has written extensively about the interconnection of all the forms of oppression. In my favorite passage from her work she tells us to always "ask the other question"³³ when faced with a particular form of subordination. She writes:

When I see something that looks racist, I ask, "Where is the patriarchy in this?" When I see something that looks sexist, I ask, "Where is the heterosexism in this?" When I see something that looks homophobic, I ask, "Where are the class interests in this?" Working in coalition forces us to look for both the obvious and non-obvious relationships of domination, helping us to realize that no form of subordination ever stands alone.³⁴

Her approach acknowledges the importance of each form of oppression without creating a pain sweepstakes or co-opting the emotional force that drives the movement against each oppression. As she believes, "Opposing hierarchy would be a central [. . .] tenet in

31. Mari J. Matsuda is a Professor of Law, University of Hawai'i at Mānoa, William S. Richardson School of Law. Some of her notable works include *WHERE IS YOUR BODY?: ESSAYS ON RACE, GENDER AND THE LAW* (1996), Mari J. Matsuda, *Looking to the Bottom: Critical Legal Studies and Reparations*, 22 *HARV. C.R.-C.L. L. REV.* 323 (1987); Mari J. Matsuda, *Public Response to Racist Speech: Considering the Victim's Story*, 87 *MICH. L. REV.* 2320 (1989); Mari J. Matsuda, *Voices of America: Accent, Antidiscrimination Law, and A Jurisprudence for the Last Reconstruction*, 100 *YALE L.J.* 1329 (1991).

32. *PRIVILEGE REVEALED*, *supra* note 1, at 98.

33. Mari J. Matsuda, *Beside My Sister, Facing the Enemy: Legal Theory Out of Coalition*, 43 *STAN. L. REV.* 1183, 1189 (1991).

34. *Id.*

fighting oppression], except that there is no central tenet in anti-hierarchical analysis.”³⁵ She continued, “At some point, however, it is useful to posit the existence of a major fulcrum for injustice. I believe the closet and its mechanisms of enforcement are that fulcrum.”³⁶

Matsuda’s work has led her to write about hate speech and peace studies. She considers: “What does it take to overcome the natural inhibition against hurting another human being?” And her answer takes her to homophobia, which she describes as “the semiotic motherload, the paradigm binary, the place we learn about hate, disgust, fear, inside, outside, and retribution.”³⁷ She brings this analysis back to the schoolyard, back to childhood where people learn about othering and difference as a negative. She also describes the closet as “the major enforcer of subordination of all kinds . . . through the inscription of the public-private split. Out of the closet is where we conduct business, law, war, work, politics—the public. Inside the closet is where we love and make love, bond and grieve.”³⁸

Consider this role of the closet in enforcing hate, both self-hate and hate among people. As my friend who lost his sister said: “I’m tired of people who have nothing better to do than hate other people. I hate the haters,” he said and smiled. Mari Matsuda’s emphasis on the role of love in the LGBT liberation and equality movement is a significant insight.³⁹ Spirituality was a driving force in the 60s civil rights movement. Maybe it is not too trite to think about love and spirituality as connected to an end to all forms of oppression.

CONCLUSION: “PRACTICE ON OTHER PEOPLE’S OPPRESSION”

In seeking an end to oppression, Sheila O’Rourke offered practical advice for those with privilege. She suggested giving up a little bit of it by speaking out against oppression and thus, by being an ally to a person on the down side of the power line. She describes

35. Mari J. Matsuda, *Is Peacemaking Unpatriotic*, J. PEACE STUD. (forthcoming) (on file with author).

36. *Id.*

37. *Id.*

38. *Id.*

39. See Mari Matsuda, *Love, Change*, 17 YALE J.L. & FEMINISM 185 (2005).

this approach as “practicing on other people’s oppression.”⁴⁰ O’Rourke, a white lesbian, tries to intervene when she sees a racist interaction. She hopes someone else will speak out when a sexist or homophobic interchange occurs, so she will not have to take that lead. Challenging oppression and giving up one’s piece of privileged status is difficult but worthwhile. One must be mindful to notice the opportunity and potential for positive, caring intervention. Practicing on other people’s oppression offers a positive response to privilege, enabling the holder to use that privilege as a step toward social justice.

40. Sheila O’Rourke, speaking at *Mini-Workshop on Sexism, Racism, Classism and Heterosexism: A Close Look at our Biases in the Law School Classroom*, December, 1985 in New Orleans, sponsored by the Society of American Law Teachers and the Association of American Law Schools Sections on Gay and Lesbian Legal Issues, Minority Groups, and Women in Legal Education. *See also* Stephanie M. Wildman, *The Classroom Climate: Encouraging Student Involvement*, 4 BERKELEY WOMEN’S L.J. 326, 334 (1988–90) (describing O’Rourke’s contribution to the workshop).