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Sameness and Difference in a Law School Classroom: Working at the Crossroads[†]

Judy Scales-Trent^{††}

INTRODUCTION

I was recently invited to be on a panel which would discuss teaching about difference in law school. How we deal with people we consider “different” is an important issue, and I was pleased to participate. But something about the formulation of the issue troubled me. For it seems to me that “difference” is all that our students know, all that most of us know. If we only teach about difference, we teach nothing new: we only reinforce the categories that separate us. One member of the audience suggested that one might teach about difference in the classroom by inviting black students to the front of the room to give a presentation to the white students on “what it is like to be black.” Perhaps there might be some value in this: some white students might learn something new. But much of it would be wrong. The physical separation itself speaks powerfully. I imagine that the black students would express rage and sadness, and that the white students would feel guilt, anxiety, and pity. This way of teaching would only solidify the categories “black” and “white.” The wall separating the students would grow higher and higher.

After struggling with this formulation for some time, I have concluded that it is only valuable to teach about difference if we teach about sameness at the same time. It is only valuable if we teach the students to see the connectedness between people where they formerly saw only dis-connectedness. And only if they see the difference as important and valuable will they want to connect themselves with that difference and become a part of it. We must teach them to see difference with respect, thus encouraging them to find the sameness. We must help them blur the categories, turn concrete walls to powder.

In order to achieve this, I encourage them to enter a world they see as different. I try to show them that world in a way that is compelling and enticing. I try to show the richness and value of that world, its entitlement to respect, in order to encourage them to enter it in a positive way. I try not to add feelings of guilt or alienation, but rather to engender feelings of community.

[†] An earlier version of this paper was presented at a workshop on law school curriculum organized by the Women and the Law Project, American University, Washington College of Law, on January 5, 1991. My thanks to Anne Shalleck for encouraging me to develop my ideas on teaching for that program.

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This is what I call "working at the crossroads." It is a concept that is familiar to me, because I live at the crossroads, and living there has enlarged my vision. I have written about my struggle to come to terms with being a white black woman, my struggle to live at this particular crossroads.¹ I have come to see that it is a struggle which can be seen in revolutionary terms, a struggle which can create a new way to embrace the world. In her book *Borderlands/La Frontera*, Gloria Anzaldúa describes the result of her struggle to put together the Indian, Mexican and Anglo cultures which have formed her. She describes the creation of a new consciousness, "a mestiza consciousness," in this way:

The new mestiza copes by developing a tolerance for contradictions, a tolerance for ambiguity. She learns to be an Indian in Mexican culture, to be Mexican from an Anglo point of view. She learns to juggle cultures. She has a plural personality, she operates in a pluralistic mode—nothing is thrust out . . . nothing rejected, nothing abandoned. Not only does she sustain contradictions, she turns the ambivalence into something else. . . .

That focal point or fulcrum, that juncture where the mestiza stands, is where phenomena tend to collide. It is where the possibility of uniting all that is separate occurs. This assembly is not one where severed or separated pieces merely come together. Nor is it a balancing of opposing powers. In attempting to work out a synthesis, the self has added a third element which is greater than the sum of its severed parts. That third element is a new consciousness—a mestiza consciousness—and though it is a source of intense pain, its energy comes from continual creative motion that keeps breaking down the unitary aspect of each new paradigm

Su cuerpo es una bocacalle. La mestiza has gone from being the sacrificial goat to becoming the officiating priestess at the crossroads.²

I replace the term "officiating priestess" with the word "teacher," and get to work.

Teaching from the perspective of a civil rights lawyer, I ask myself how much of that work I can do in the classroom. For I want the students to learn much more than how to analyze cases and read statutes; I want them to learn much more than how to read and write and think carefully. I want them to understand how the law is implicated in what they see around them everyday:

1. Judy Scales-Trent, *Commonalities: On Being Black and White, Different, and the Same*, 2 YALE J. L. & FEMINISM. 305 (1990).

2. GLORIA ANZALDÚA, *BORDERLANDS/LA FRONTERA: THE NEW MESTIZA* 79-80 (1987) (translation of sentence in Spanish: "Her body is an intersection.").

whom does the law favor? Who is disfavored? Are there similarities, differences between themselves and those who are favored? Disfavored? To the extent that students who are not Asian-American can see this society through the eyes of an Asian-American . . . to the extent that a student who is not gay can see the world through the eyes of a gay person . . . to this extent will they be less able to engage in the oppression that harms so many.

In order to get to this point, the students have to see themselves at the crossroads. They have to see not only the differences between themselves and others, but they have to see the sameness also. Anzaldúa describes this doubled vision as a healing one: "At some point, on our way to a new consciousness, we will have to leave the opposite bank, the split between two mortal combatants somehow healed so that we are on both shores at once and, at once, see through serpent and eagle eyes."³ In the classroom I try to create a situation that encourages the students to stand "on both shores at once," to "see through serpent and eagle eyes." I encourage them to see that they, like I, live and work at the crossroads. They can see sameness with, be part of, the black experience and the white experience, the Latino experience and the Anglo experience, the insider experience and the outsider experience. And they can do it all at the same time.

I use many teaching devices to entice them into worlds they consider "different." I try to have them confront what they are studying directly, personally, either through interviews or fieldwork. If this is not possible, I use proxies for the direct experience—poems, short stories, films, essays, social science material. When I select the material, I ask myself what will engage them so profoundly that they won't be able to escape it. And if they are able to escape from the power of a poem, perhaps they will be unable to escape from the pictures in a film, or the eyes, tone of voice, in an interview. I try to make it difficult for them to hide, to evade—to not see, not understand, not care.

This article will show how I have used these various techniques in the law school classroom to teach about difference and sameness. First, I will describe a seminar that I co-taught on law and social change, for it was during this project that I re-learned the importance of these devices to good teaching. Next, I will show how I applied the lessons I learned in this seminar to other law school courses—Constitutional Law, Employment Discrimination Law,

3. *Id.* at 78-79. Anzaldúa uses these two metaphors interchangeably. The first is the image of a crossroad, a point "where phenomena tend to collide." It suggests multiple roads converging and diverging through one central point. The second image is more clearly dualistic—healing "the split between two mortal combatants," being "on both shores at once," seeing "through serpent and eagle eyes." Although Anzaldúa does not say whether she sees a distinction between the two, I find it helpful to use them to express different ideas. This dualistic image portrays the first step—the hardest step, I think—in which one breaks through old patterns of thought to discover that one can indeed "be" in two places at once. The internal ear begins to hear in stereophonic sound. Once this breakthrough is accomplished, the move to the crossroads, to many diverging paths, is easy. Stereophonic sound easily becomes quadrophonic. Although my ultimate teaching goal is to move the students to "the crossroads," I know that that is not the first step.

and a seminar on legal and policy issues affecting women of color. Finally, I will assess the value of this teaching method, and describe some of the difficulties we all face while working at the crossroads.

I. RE-LEARNING ABOUT LEARNING: A JOINT SEMINAR ON LAW AND SOCIAL CHANGE

In the spring of 1987 and 1988, I taught a seminar on law and social change as seen through the process of school desegregation in Buffalo, with Dr. Adeline Levine, a professor of Sociology. We had used the Buffalo desegregation case separately in our respective classes, and decided that bringing our two disciplines to bear on the issue of law and social change in Buffalo would lead to a rich discussion. The focus of the course would be the effect of the judge's school desegregation order on social change in Buffalo: was the judge successful? why? why not? and what does "success" mean in this context?⁴ In our work together to address these questions, we emphasized the importance of direct student involvement, varied teaching material, joint projects, and community within the classroom.

The students in the course were law students and graduate students in the social sciences. Most were white, some were black. We knew that they would be unable to understand the current situation in Buffalo without a solid historical grounding. We also knew that many of the white students would be struggling with their negative stereotypes of blacks, and that many of the black students could see only the cruelty of whites. Thus, the first classes would be crucial. We had to pull the students into the history in a compelling way, one that would force white students to see the passion and struggle of black Americans for an education, and the human consequences of that struggle—one that would push black students to see the powerful support of some white Americans.

For the first class, we had them read slave narratives:

Jenny Proctor: Alabama

I's hear tell of them good slave days, but I ain't never seen no good times then. My mother's name was Lisa, and when I was a very small child I hear that driver going from cabin to cabin as early as 3 o'clock in the morning, and when he comes to our cabin he say, "Lisa, Lisa, git up from there and git that breakfast." My mother, she was cook, and I don't recollect nothing 'bout my father. If I had any brothers and

4. For tentative answers to these questions, see Judy Scales-Trent, *A Judge Shapes and Manages Institutional Reform: School Desegregation in Buffalo*, 17 N.Y.U. REV. L. & SOC. CHANGE 119 (1990) (hereinafter, *Institutional Reform*); and Judy Scales-Trent, *School Desegregation in Buffalo: The Hold of History*, 7 HARV. BLACKLETTER J. 115 (1990).

sisters I didn't know it. We had old ragged huts made out of poles and some of the cracks chinked up with mud and moss and some of them wasn't. We didn't have no good beds, just scaffolds nailed up to the wall out of poles and the old ragged bedding thrown on them. That sure was hard sleeping, but even that feel good to our weary bones after them long hard days' work in the field. I 'tended to the children when I was a little gal and tried to clean the house just like Old Miss tells me to. Then soon as I was ten years old, Old Master, he say, "Git this here nigger to that cotton patch"

None of us was 'lowed to see a book or try to learn. They say we git smarter than they was if we learn anything, but we slips around and gits hold of that Webster's old blue-back speller and we hides it till 'way in the night and then we lights a little pine torch, and studies that spelling book. We learn it too. I can read some now and write a little too.

*Jenny Proctor, 87, San Angelo, Texas; born 1850, in Alabama; slave in Alabama*⁵

If You Do, They Will Kill Me

There was an old white man used to come out and teach Papa to read the Bible.

Papa said, "Ain't you 'fraid they'll kill you if they see you?"

The old man said, "No, they don't know what I'm doing, and don't you tell 'em. If you do, they will kill me."

*Ellen Cragin, about 80, Little Rock, Arkansas; slave in Mississippi*⁶

5. LAY MY BURDEN DOWN: A FOLK HISTORY OF SLAVERY 89, 91, 276 (Benjamin A. Botkin ed., 1945).

6. *Id.* at 50, 275.

They also read Alice Walker's poem *Women*:

Women

They were women then
 My mamma's generation
 Husky of voice—Stout of
 Step
 With fists as well as
 Hands
 How they battered down
 Doors
 And ironed
 Starched white
 Shirts
 How they led
 Armies
 Headragged Generals
 Across mined
 Fields
 Booby-trapped
 Ditches
 To discover books
 Desks
 A place for us
 How they knew what we
Must know
 Without knowing a page
 Of it
 Themselves.⁷

It was important that the white students see the fierce and ancient hunger of black Americans for learning. I also wanted them to see how we love and honor those black Americans who came before us and paved our way. For why would one want to find common ground with a people who did not love and respect itself? I wanted them to see our strengths from the first. I also thought it important that the black students know early on that there have always been white Americans who supported the black struggle for freedom from oppression: the old white man truly risked his life to teach Ellen Cragin's

7. Alice Walker, *Women*, in *THE THIRD WOMAN: MINORITY WOMEN WRITERS OF THE UNITED STATES* 297 (Dexter Fisher ed., 1980).

father to read. This was not a class in which black would be re-cast as supreme goodness and white as supreme evil, for re-formulating the categories merely reinforces the notion of barriers: it does not help us be “on both shores at once.”

Finally, for this first class, the students read the first six chapters of Richard Kluger’s book *Simple Justice*, in which he tells the history of the Supreme Court’s decision in *Brown v. Board of Education*⁸ through the eyes of the parties involved—the black children and their parents, the lawyers, the judges. The first chapter is about Rev. Joseph Albert DeLaine, a black South Carolina minister and school teacher, who sued the white school officials because black children had to walk long, dusty miles to school, while white children rode past them in school buses. The first chapter, “Together Let Us Sweetly Live,” begins:

Before it was over, they fired him from the little schoolhouse at which he had taught devotedly for ten years. And they fired his wife and two of his sisters and a niece. And they threatened him with bodily harm. And they sued him on trumped-up charges and convicted him in a kangaroo court and left him with a judgment that denied him credit from any bank. And they burned his house to the ground while the fire department stood around watching the flames consume the night. And they stoned the church at which he pastored. And fired shotguns at him out of the dark. But he was not Job, and so he fired back and called the police, who did not come and kept not coming. Then he fled, driving north at eighty-five miles an hour over country roads, until he was across the state line. Soon after, they burned his church to the ground and charged him, for having shot back that night, with felonious assault with a deadly weapon, and so he became an official fugitive from justice. In time, the governor of his state announced they would not pursue this minister who had caused all the trouble, and said of him: Good riddance.

All of this happened because he was black and brave. And because others followed when he decided the time had come to lead.⁹

I am quoting extensively from the material assigned for that first class because I hope that you, the reader, are engaged, that you are feeling the power of the story of these lives and that you are thinking that there might be dignity and honor on both shores. For this is the beginning of the work at the crossroads.

8. *Brown v. Board of Education* 349 U.S. 294 (1955) (landmark case in which the U.S. Supreme Court struck down laws segregating public schools).

9. RICHARD KLUGER, *SIMPLE JUSTICE* 3 (1975).

In the class for which this reading was assigned, the first substantive class of the semester, we showed *Awakenings: 1954-56*, the first segment of the film series *Eyes on the Prize*.¹⁰ This film portrayed southern race relations at the time of the 1954 *Brown* decision—through pictures of black children in dilapidated black schools; the trial of the white men accused of murdering fourteen-year old Emmett Till for whistling at a white woman; and the development of the Montgomery bus boycott.

The first three weeks thus provided historical background. We discussed the *Brown* decisions and the post-*Brown* South, then the move of school desegregation West and North. In order to enable the students to understand the fierce resistance to integration in America, and as a framework for thinking about how residents in Buffalo might view the impending court order to desegregate, we presented the Little Rock story, both through film and through primary material such as excerpts from courts orders, proclamations by Governor Faubus and President Eisenhower, and news stories.¹¹ Thus, the students not only read about the events at Central High School on September 23, 1957, “A howling, shrieking crowd of men and women outside Central High School, and disorderly students inside, forced the authorities to withdraw eight Negro students from the school today, three and one-half hours after they entered it . . . ,”¹² they also could see the mob, and the terror of the black students that day. They watched fifteen-year old Elizabeth Eckford walk alone through the mob to the bus stop, school books in her arms; and they saw a white woman whom she didn’t know come out of the mob and stand next to her until she was safely on the bus.

They also read an essay by James Baldwin, *A Fly in Buttermilk*, in which he relates his visit to a boy who was the only black student in a newly integrated southern high school, as well as his meeting with the white principal of that school.¹³ With the honesty and clarity of thought for which he is so famous, Baldwin shows us the pain they both confront. Also, because the desegregation struggle in Boston took place immediately before the Buffalo struggle, and because Boston is in so many ways similar to Buffalo,¹⁴ we

10. *Eyes on the Prize*, Pts. 1 & 2 (PBS Video, 1986).

11. The Little Rock story is a story of massive state resistance to public school desegregation pursuant to a federal court order. The focus of the struggle was the initial step of integration—the enrollment of 8 black students in all-white Central High School in September 1957. Because the state refused to enforce the order of the federal court, President Eisenhower federalized the state National Guard, and sent that body as well as the 101st Airborne Division of Marines, into Little Rock to insure that federal laws were obeyed. See generally DAISY BATES, *THE LONG SHADOW OF LITTLE ROCK, A MEMOIR* (1962); VIRGIL T. BLOSSOM, *IT HAS HAPPENED HERE* (1959). *Fighting Back: 1957-62*, the second film in the series *Eyes on the Prize*, *supra* note 10, tells the story of the integration of Central High School in Little Rock.

12. Relman Morin, *Black Monday*, in Wilson and Jane Cassels Record, *LITTLE ROCK, U.S.A.* 59 (1960).

13. JAMES BALDWIN, *A Fly in Buttermilk*, in *NOBODY KNOWS MY NAME* 83-97 (1961).

14. Boston, like Buffalo, is a largely working class Catholic town with sizeable Irish, Italian, and Black populations. In both cities, the Irish-Americans are in a separate community cut off from the rest of the city by a river, thus enhancing its sense of separation from the larger community.

assigned the first four chapters of *Common Ground* by Anthony Lukas.¹⁵ In this selection, Lukas introduces the reader to the three families through whose lives he tells the story of the Boston struggle — a black family in Roxbury, a white student at Harvard Law School, and an Irish Catholic family in the projects. Like Baldwin, Lukas presents the lives and concerns of these three families with understanding and respect. Finally, we reached Buffalo's story. The students read how, as long ago as 1840, black parents in Buffalo engaged in non-violent protest and legal action in an effort to get their children admitted to the white city schools.¹⁶

For the first part of the course, then, we taught the historical background through film, poetry, news clippings, court documents, essays, and personalized historical text. We used this material as proxies for personal involvement.

For the second part of the course, we involved them directly in the process of school desegregation in Buffalo: no proxy was needed. Instead, we supplemented the court documents and social science literature with class interviews and field-trips.

During this part of the semester major actors in the desegregation case came to our seminar to discuss the litigation and the desegregation of the schools, as well as their role in that process. Thus, the students were able to interview Judge John Curtin, who ordered the desegregation of the Buffalo schools in 1976, and who still had jurisdiction over the case; Eugene Reville, Superintendent of the Buffalo Public School System during the entire implementation period; Frank Mesiah, a named plaintiff and co-chair of one of the organizational plaintiffs in the case; David Jay, one of plaintiffs' attorneys; and Marilyn Hochfield, an early community activist involved in the litigation, and later, one of plaintiffs' attorneys. The students asked them about this process of social change in Buffalo: what really went on? How did the various communities in Buffalo respond to the court order? What was the personal involvement of these major actors in the process? What was it in their background that made them respond the way they did? What was really going on in the Buffalo schools today? Did the lawsuit really make a difference? What kind of difference? Was it a success? What did they consider "success?"

At the same time that the students were interviewing these community actors in the classroom, they were studying school desegregation first-hand outside the classroom. Each student was required to spend several hours visiting at least one of the public schools in Buffalo to see what they could learn about the process of integration. They also had to write a report about their visit: where did they go? what did they see? with whom did they speak? what did they learn? This project particularly engaged the students. Moving

15. J. ANTHONY LUKAS *COMMON GROUND*, 3-44 (1985).

16. See, e.g., Arthur O. White, *The Black Movement Against Jim Crow Education in Buffalo, New York, 1800-1900*, 30 *PHYLON* 375 (1969).

out of the classroom into the community gave them a direct and personal involvement with the issues we had been grappling with in class. It also gave them a sense of control over their own research: they would decide which school (or schools) to visit, the time of their visit, and how they would shape the questions they asked. They would decide whether to go alone or with a classmate. Some decided to visit schools they had attended as a child, or schools their children were attending; some visited two schools in order to compare, for example, a magnet school and a non-magnet school.¹⁷ We provided them with a list of questions to think about during their visits.¹⁸ But it was they who would come back to the classroom with the raw information we needed so badly if we were to understand the real situation in the Buffalo school system some twelve years after the court order to desegregate.

The students' contribution to education of the group was valuable, and truly needed: the different interviewing perspectives, their field-work, their seminar papers would all help us understand better the connection between law and social change in Buffalo.¹⁹ It was also valuable for them to be in a class where some boundaries were blurred—law and social science, teacher and student, black and white professors, black and white students.²⁰

My hope is that our ability to work comfortably at the crossroads helped them see this as a possibility for themselves.²¹ I hope that they were able to

17. "Magnet schools" are schools with attractive enrichment programs designed to attract white students to the formerly segregated and disadvantaged black schools. Rolf K. Blank, *Marketing and Recruiting in Urban Magnet Schools: Implications for Change in School-Community Relations*, 21 URB. EDUC. 263, 264 (1986).

18. Those guidelines stated:

(1) *Is the school integrated?* How is it integrated? Note the racial configuration of classroom, school; note extent of integration in non-structured settings, such as halls, library, lunchroom; (2) *What is going on in the integrated setting?* Does it foster positive relations between majority and minority students? Does it create a good learning situation for minority students? (3) *How does the teacher relate to majority and minority students?* (a) Note, for example, who gets called on more in class, who gets called on for the easy and the hard question; note whether the teacher stands near some students—in a controlling way or in a supportive way; does the teacher wait longer for an answer from some students? (b) Note also the textbooks: are different kinds of people portrayed in the textbooks? How are minorities portrayed? and (4) *Does the physical setting foster a good learning situation for minority students?* Note material on bulletin boards, walls; note magazines and books on display in library and classrooms.

For her help in designing these guidelines, I express my thanks to Julie Keefer, an educator who is currently a member of the Department of Quality Integrated Education, Montgomery County, Md.

19. Indeed, I cited to the students' research in my own work. See Scales-Trent, *supra* note 4, 17 *Institutional Reform* at notes 49, 153-162, 166, 169, 229, 231-32, and text at notes 228-232. The questions they asked during the interviews also led me to explore issues I had not previously considered. In particular, it was only after Dragic Stevanovic asked the interviewees time after time what they meant by "success" that I finally understood the importance of that question. See *id.* at 147-55. My thanks to Mr. Stevanovic for his insight and his persistence.

20. Because this seminar format was so successful, Prof. Levine has used it for a seminar on law and social change as seen through the process of the abortion struggle in Buffalo. She developed and taught this joint seminar with law professor Lucinda Finley.

21. I also hope that they learned from our struggle and our failures. During one class, I was particularly aggravated by what I considered racist comments by a white student, and responded sharply to her. After class, I discussed the incident with Professor Levine. I thought that I should have been more patient with the student's comments: indeed, she was in class precisely because there were things she did not know. What should I do to address the incident? Professor Levine suggested that I think of a way to

be engaged in the school desegregation struggle in a positive way, and to see the important roles played by both black and white Americans in that struggle. I hope that the white students learned to view black culture and history as rich and compelling, worthy of respect, a shore on which it might be possible to stand. And I hope that the black students were able to see the very real anguish and courage of some white Americans with respect to racial issues in this country. If the students were not yet comfortable on both shores at once, perhaps they had stood there for an instant. And perhaps they at least knew this was possible.

II. APPLYING THE LESSONS LEARNED

During this joint teaching project, I re-learned the importance of direct student involvement, varied teaching material, and community within the classroom. I discovered how to use diverse forms of written material to teach about the richness and value of other cultures; and how to use interviews and field work to engage them more fully in the lives and issues of others. I also learned to weave these lessons on sameness and difference into a law school course which addressed substantive sociological, historical and legal issues. Since that time, I have tried to apply some of these techniques to my other law school classes. In the next section I will discuss the application of these methods to three courses—Constitutional Law II (First Amendment), Employment Discrimination Law, and a seminar on legal and policy issues affecting women of color.

A. *Course: First Amendment*

In this course, we study issues involving freedom of speech and freedom of religion. I will give an example from both areas to show how I use these

use the incident as part of the work of the seminar. Therefore, at the beginning of the next class, after apologizing to the student, I pointed out to them all how difficult it was to address the issues of race even in that classroom, where black and white chose to come together in a protected environment to discuss these troubling matters. How much harder must it have been, then, for white and black parents in Buffalo to change their ways of thinking and acting not because they chose to, but because one judge had told them to do it. Hopefully, exploring my struggle helped them understand the struggle of others with more generosity.

We also used the classroom dynamics in another way, for even as the students were studying integration and self-segregation within the Buffalo public schools, they were seating themselves by race within our classroom. We decided not to comment on this in class, but to change our seats each class session to see if this would disrupt the pattern of self-segregation. After about five class sessions, the students felt safe enough to notice and comment on the self-segregation, which was perceived by the white students as "the black students sitting together," instead of "the white students sitting together." The black students maintained that they sat together because they had known each other a long time and pointed out that the law students also sat together. After this discussion, there was more self-integration within the classroom, in part because they were more self-conscious about the issue, and partly because the white and black students began to know each other better, and to have more things to say to each other.

techniques to engage the students directly with the issue, and to push them towards recognizing and valuing sameness and difference.

1. *Speech*

We work with cases such as *Cox v. Louisiana*²² and *Chicago v. Gregory*²³ to address the issue of when the actions of demonstrators will be protected under the First Amendment, and when the state interest in, for example, noise abatement or crowd control, will prevail. I learned early on that this would be an important area for developing ideas of sameness and difference.

The first year I taught this course, as we were discussing *Cox*, I asked the students whether Rev. Cox's exhortation to the black demonstrators to sit in at the 5 & 10 store lunch counter was protected under the First Amendment.²⁴ Cox was, I reminded them, urging the demonstrators to violate a state law which required that eating establishments segregate diners by race. I asked the class whether the Constitution protects speech which urges others to violate state statutes. After a long silence, one student said: "You mean, there used to be laws like that?" I was aghast. Could it really be that although I had lived more than half my life under those laws, society was now pretending that they had never existed? As a result of this new understanding of what they had not been taught, I modified the course syllabus: during the next class we read and discussed the black laws of Virginia between 1866 and 1922.²⁵ What did they tell us about American history? How had they shaped us all? What would be the likely impact of those laws generations later? But this presentation was too abstract to reflect the harsh impact of those laws on my life and on the lives of others. I needed something stronger.

Therefore, the next year, after we discussed the civil rights demonstration cases, I showed the film *Ain't Scared of Your Jails: 1960-61* from the series *Eyes on the Prize*.²⁶ This film portrays the initial training in non-violence of black college students who would participate in a sit-in at a segregated luncheonette counter. The law school students also experienced the power of non-violence protest, as they watched white hoodlums pull the students from the counter stools, and beat and kick them as the police watched. They also watched the planning for the Freedom Rides, which would protest continued segregation at interstate bus terminals. They saw both white and black college students getting ready for the trip, talking about their commitment and their

22. 379 U.S. 536 (1965). In *Cox*, 2,000 black students demonstrated in front of a courthouse to protest the jailing of fellow students who had been arrested for picketing stores with segregated lunch counters.

23. 394 U.S. 111 (1969). In *Gregory*, a small group of protesters marched from City Hall to the Mayor's home to urge the desegregation of the Chicago public schools.

24. *Cox*, 379 U.S. at 542-43.

25. See generally JUNE P. GUILD, BLACK LAWS OF VIRGINIA (1936).

26. *Supra* note 10.

fears. And finally, they watched as the buses were fire-bombed, and as the riders were pulled off the bus, beaten, and jailed.

I chose this film in large part because it showed the courage of both black and white college students as well as their ability to work together. I was hopeful that the students in the class would be able to identify with the demonstrators in part because they were also students, and in part because these students were presented as heroes. Their response was as powerful as the film itself: a stunned silence . . . a few red eyes . . . some students leaving the room halfway through the film . . . a few halting words: "I didn't know"

Although this film met my goals of engaging the students in a thoughtful way and of getting them to look in a positive way at the roles of both blacks and whites, the last time I taught this course I added field work to the unit on demonstrations. Several of my colleagues have been actively engaged in a Pro-Choice network in Buffalo; some serve as escorts at a local abortion clinic, where they help prospective clients walk through pro-life demonstrations and into the clinic. After listening to their discussions, I realized that it made little sense to simply read or view a film about demonstrations, when the students could go and see one for themselves.

One goal of the field visits was to flesh out the written class material, so that the students could witness for themselves the power of the First Amendment's guarantee. Another goal was to give them the opportunity to do the kind of work lawyers do when they advise their clients at a demonstration.²⁷ Which of these protest activities would be protected under the First Amendment? Which would not?

I gave them guidelines for their fieldwork. Because abortions are performed at this particular clinic early Saturday mornings, the students were to spend at least one hour observing between 8 and 10 a.m. I gave them a map of that location, and asked them to stand across the street from the pro-life demonstration, which was near the entrance to the clinic. Each was to stand with another student; they were to observe, not participate. If a demonstrator tried to engage them in conversation, they were to move silently to another area, or leave. Because the clinic is located on a much travelled city street, and right next to a post office, I asked them to think about whether the free speech rights of the demonstrators would vary depending on the where they were standing—on the post office steps, the sidewalk, the street, the clinic parking lot, the adjacent parking lot of a private business which had granted them access. We discussed the local ordinances which would be involved, ordinances regarding loud noises, harassment, and obstruction of public walkways. I also contacted the director of the clinic before the student visit

27. The students had read an excerpt from *Gregory v. Chicago*, which noted that the demonstrators were accompanied on their march by their attorney and an assistant city counsel, and that the police were also accompanied by an assistant city counsel. *Supra* note 23 at 116, 119.

to explain our project, and to advise her when the students would be coming.²⁸ We would meet immediately after their observation for a class discussion.

The students were engaged, and excited about exploring how they would advise the demonstrators, their clients. They raised several other issues after this fieldwork. One was the courage of the demonstrators to take such a visible stand for their beliefs. Another was the role of the police at the demonstration: were they as vigilant as they might have been about the constitutional rights of clinic patients to a legal abortion? I pointed out that the police are there with the same demonstrators day after day, and that much like the relationship that grows between police, criminals and criminal law attorneys,²⁹ the police and the demonstrators come to know one another. How might this affect the legal rights of those who are outside this relationship?

One of the most important issues that we addressed came through a comparison of the demonstrators in the film they had seen earlier in the week—civil rights activists of the 1960's—and the demonstrators they had personally observed—pro-life activists to whom they were less sympathetic. How might this affect the legal representation they would offer? Could an attorney truly represent a client whose views he opposed? Could they? Yet wasn't there really a profound sameness between the demonstrators against segregation in the South and the pro-life demonstrators in Buffalo? Could they see and respect the sameness as well as the difference? This theme engaged them deeply. Some were startled at the suggestion; others, irate. The pro-life activists were unsympathetic, "different," one student argued, because they brought their children to the demonstration, thus subjecting them to physical danger. "But didn't Martin Luther King, Jr. sometimes take his children on marches with him, to teach them the importance of standing up for their rights?" I asked in return: "How is that different?" They returned to this issue in their written reports. One student pointed out that some of the pro-life picketers were singing a civil rights protest song, "Keep your Eyes on the Prize," during their demonstration.³⁰ Another, a student who had been both a pro-choice escort and a demonstrator for animal rights, made the following comment: "As I observed all this, two general thoughts ran through my head. The first, in a nutshell, was 'Why don't these lunatics mind their own business?', and the second, which was very disturbing, was 'Good grief, these people remind me of myself!'"³¹

28. My thanks to Professors Adeline Levine and Isabel Marcus for their suggestions on how to set up this fieldwork.

29. See, e.g., JEROME H. SKOLNICK, *JUSTICE WITHOUT TRIAL: LAW ENFORCEMENT IN A DEMOCRATIC SOCIETY* 108, 130-33 (2d ed. 1975).

30. Marysue Visser (Nov. 5, 1989) (untitled, unpublished class report, on file with the author).

31. Michael D. Gurwitz (Nov. 7, 1989) (untitled, unpublished class report, on file with the author).

2. Religion

The Free Exercise Clause of the First Amendment, like the Free Speech Clause, often addresses issues of outsiders trying to be heard, issues of inclusion and exclusion. At its most basic level, it asks whether the state will be able to understand and respect religious beliefs which are not those of the majority. In the casebook, the stories of inclusion and exclusion are disconnected one from the other, disconnected from real lives. I decided, therefore, to teach the Free Exercise Clause by focusing on one group. I would try to make that group visible, try to show how the constitutional issue being addressed mattered to them. I chose to focus on Indian religion.³²

For this class discussion, there were two sets of readings. The first set was excerpts from Paula Gunn Allen's book *The Sacred Hoop*, which discusses Indian literature within the context of Indian culture and religion.³³ She points out the different concepts which underly Indian and Western religion. What differences might flow from the fact that Indians tend to view space as spherical, not linear, and view time as cyclical, not sequential?³⁴ From the fact that Indians do not see nature as separate from humanity and do not separate the material from the spiritual or the natural from the super-natural? In American Indian thought, the natural state of existence is wholeness, and the purpose of religious ceremony is to reinforce and restore that wholeness.³⁵ They learned that it is this "essential sense of unity" that underlies all of traditional American Indian culture, including literature and religion.

Once the students are immersed in the richness and complexity of this culture, they read two cases, *Lyng v. Northwest Indian Cemetery Prospective Association*³⁶ and *Employment Division v. Smith*³⁷, to see whether the complexities they had just discovered were addressed in a respectful and understanding way by the courts. In a further attempt to help us all see the real impact of these decisions on Indians, I invited Professor John Mohawk of the American Studies Department to come to class and present his perspective on those cases.

This gave the students an opportunity to understand in a rich way the impact of the Supreme Court decisions on the lives of Indians. Several students

32. I chose this group in large part because Buffalo is located in the middle of the Iroquois Confederacy. Thus, it is not uncommon to hear students at this law school identify themselves as, for example, Tuscarora or Cayuga.

33. PAULA GUNN ALLEN, *THE SACRED HOOP: RECOVERING THE FEMININE IN AMERICAN INDIAN TRADITIONS* 54-75, 147-154 (1986).

34. *Id.* at 59.

35. *Id.* at 59-62.

36. 485 U.S. 439 (1988). In *Lyng*, the Court found no injury to the right of the Yurok, Karok, and Tolowa Indians to hold religious ceremonies in their sacred land, where a government decision to allow road-building and timber-harvesting on that land would destroy the privacy and silence needed for these ceremonies. *Id.* at 451-453.

37. 110 S.Ct. 1595 (1990). There, the Court upheld the State's right to deny unemployment benefits to an Indian worker who was fired for using peyote at a religious ceremony, where use of peyote was illegal in that state because that prohibition was constitutional. *Id.* at 1606.

noted that they read the cases very differently after reading the excerpts from *The Sacred Hoop*. They had been pulled into that culture in a way which let them read the cases as an "insider," a participant in Indian culture.³⁸ Thus, they were able to respond to the sameness within the difference. Also, it is very likely that they, like I, had never before read material by an Indian scholar on Indian literature; nor discussed the legal and cultural complexities of court rulings involving Indian rights with an Indian scholar. Who among us had an Indian university professor? And how might that have affected our ability to understand and respect that culture, our willingness to see the sameness as well as the difference?

B. *Course: Employment Discrimination Law*

One would think that working at the crossroads would be easier in this class than in others, as these students are already open to the idea that discrimination against people who appear "different" exists and is unfair. What I have found, however, is that these students, like the rest of us, are often able to see only their issue, and not the issues of others. They see the difference, not the sameness. For example, black students are often hostile to women's issues, failing to note that many black people are women and must also face gender issues; white women students often want to focus on gender issues alone, failing to note that some women are Asian and must also address issues of ethnicity. The law, hence the casebooks, also falls into this trap, by separating out issues, for example, by sex or by age, and by failing to point out that black people can be old, that old people can suffer gender discrimination and that women can be discriminated against because they are Latinas. I attempt to address the concept of sameness and difference in class by pointing out these convergences as often as possible. For example, when we read the sexual harassment material in the casebook, I provide supplementary information on racial harassment.³⁹ When we read about pay equity as a theory for attacking gender-based wage discrimination, I provide the research on pay equity as a remedy for race/ethnicity-based wage discrimination.⁴⁰ Seeing how the issues of "different" people are the same is an important legal tool, for our legal system is based on the notion that one uses the same analytic framework in situations that are factually different, yet

38. Indeed, one student later asked if I had deliberately had them read the *Sacred Hoop* selection before the cases: she intuitively understood the difference it made to read the assignment in this order.

39. See, e.g., Judy Trent Ellis (Judy Scales-Trent), *Sexual Harassment and Race: A Legal Analysis of Discrimination*, 8 J. Legis. 30 (1980); Philip Shenon, *Black FBI Agent's Ordeal: Meanness that Never Lets Up*, N.Y. TIMES, Jan. 25, 1988, at A1.

40. See, e.g., Judy Scales-Trent, *Comparable Worth: Is this a Theory for Black Workers?*, 8 WOMEN'S RTS. L. RPTR. 51 (1984); NATIONAL COMMITTEE ON PAY EQUITY, *PAY EQUITY: AN ISSUE OF RACE, ETHNICITY AND SEX* (1987). I also point out the convergence of sex and race discrimination in these issues, since those who suffer from the lowest wages and the most severe sexual harassment are women of color. See Judy Scales-Trent, *Black Women and the Constitution: Finding Our Place, Asserting Our Rights*, 24 HARV. C.R.-C.L. L. REV. 9, 14, 27-30 (1989).

theoretically the same. An attorney who cannot make this kind of “leap,” an attorney who cannot see this sameness and difference at the same time and make use of it, puts his client at a disadvantage.⁴¹

I have not yet figured out how to have the students in this course do “field work” on the subject of employment discrimination. Could they spend a day observing a workplace to see whether they can spot discrimination? It is often not so easily visible.⁴² Nonetheless, fieldwork in such an important tool to get them to see and think about what they might not have seen and thought about before, that on the first day of class I ask them to work “in the field” by writing a report describing two examples of employment discrimination they have witnessed in some way. I offer several suggestions: (1) interview a family member or friend; was your father forced to retire? Has your sister ever been harassed on the job? (2) Have you yourself seen discrimination in the workplace? Have you personally suffered from discrimination? Have you seen discrimination against your co-workers? (3) Look around you now, today. When you are in the check-out line at the grocery store, eating at a restaurant, look to see who has which jobs, and which of those are the higher-paying jobs. How likely is it that this is a random occurrence? I explain that I am not asking them to describe what is legally cognizable as employment discrimination, but what seems so unfair that it should be against the law.⁴³

Another technique for getting them to look around—and at—themselves with fresh eyes is to use a pay equity chart. At the end of our work on the Equal Pay Act, I provide an introduction to pay equity by giving them a list of jobs connected to three workplaces: restaurant/hotel, airport, and college/university. For example, this is the restaurant/hotel list:

41. Several students dramatically portrayed this in a class assignment. I had given them an article from the local newspaper which told the story of Nadine Wilson, a black woman police officer who has been denied transfer to detective over the past several years. Juan Forero, *Push Builds for Women, Minorities in Homicide Jobs*, BUFFALO NEWS, Mar. 21, 1992, at C1. The reporter presented the employment profile of the Buffalo Police department broken out by race and ethnicity. It showed that while there was a large number of black police officers at the patrol level, Blacks were significantly underrepresented at the detective level. The reporter also explained how detectives were selected, discussed the problem of low turnover at the detective level, and interviewed several black officers. I asked the students how they would advise Ms. Wilson if she asked them for legal advice: did she have a strong Title VII claim? Under what theory(ies)? Did they have enough information to make a sound assessment? What else did they need to know?

Upon review of their papers, I was stunned to notice that several of the students had seen this as a gender claim only, despite the fact that the only evidence relating to gender discrimination in this two-page report was the statement that all the homicide detectives were white men. The students simply were unable to see that, as a black woman, Ms. Wilson had to confront race discrimination as well as gender discrimination. As a result, they ignored all the evidence relating to race discrimination, despite the fact that this may well have been Ms. Wilson's strongest claim.

42. I have considered assigning Terry MacMillan's novel *DISAPPEARING ACTS* (1989) as a proxy for this fieldwork. Through the lives of the male and female protagonists in this story, one can see how the employment discrimination one man experiences harms his life chances, and consequently, his relationships.

43. I also ask them to note on the report whether I may use the example in class, with identifying data removed. I then distribute these stories at the appropriate time during the semester either to illustrate a particular legal issue or to use as hypotheticals.

manager
desk clerk
pool attendant
coat check person
shoe shiner
restaurant host/hostess
maintenance crew worker
room cleaner

assuming hotel has two dining rooms, who serves food in:

- 1) breakfast/lunch restaurant
- 2) dinner restaurant

I then ask students to note the race/ethnicity and sex of the person who is likely to hold these jobs. After they mark their chart, one by one the students identify who most likely holds a specific job. Generally there is consensus: they know that the lifeguard in the hotel pool is young and white, that the shoeshine 'boy' is old and black. And if there is any debate at all, it is whether the young white lifeguard is male or female, or whether the old shoeshine 'boy' is black or Latino. We then talk about the other workplaces. Why it is that the airport attendants who use a computer to check your bag outside are all black men, while those who use a computer inside to check your bags are generally white men and women. How likely is it that these are random employment decisions? What does this say about our society and our places within it? And what are the implications for the lives of these workers?

Finally, I have found it helpful to show the film *Pregnant But Equal*⁴⁴ after we discuss the written material on pregnancy discrimination. This is a film about women factory workers who are trying to get management to obey the mandate of the Pregnancy Discrimination Act. The women talk about how they learned of the existence of the statute, and how they worked to educate each other about their rights with respect to pregnancy. They talk about their difficulties getting help from the union or from management, and note that they had to use various self-help techniques, including contacting the local television station when management tried to deny benefits to a pregnant woman after the law was enacted.

This film provides many important topics for discussion, including the disjunction between the passage of a civil rights statute and its enforcement. Seeing how hard some working women struggle for the right to not be fired when they are pregnant makes the issue real and important to the students. This film is also helpful because the women who are working together and taking care of each other are both black and white, women who have not only

44. PREGNANT BUT EQUAL (Women's Film Project 1982).

seen the sameness in difference, but who use that sameness as an organizing tool.

C. Seminar: Legal and Policy Issues Affecting Women of Color

The aim of this seminar is to identify and explore those legal and policy issues which affect women of color, that is, African-American women, Latinas, Indian women, and Asian-American women. Thus, as conceptualized, the entire course revolves around an exploration of sameness and difference. Is there a way in which the issues confronting the various women of color groups are the same? different? And how are they the same or different from the issues facing white women, men of color, white men? The work of the course was thus centered on the crossroad. I soon discovered that one of my main tasks during the semester would be to keep them there, to encourage them not to run back one of the roads to a safer place, to what they call "home." For the major issue here, as in the employment discrimination class, is developing the ability to see the issues of others as one's own.

We focused on several substantive issues: employment, citizenship, reproduction and family issues. For most of these issues, thus for most class sessions, there were readings written by or about women of all four groups. One of the introductory classes, "Who Are the Different Women of Color? Listening to Our Voices," consisted entirely of literature written by the different women of color authors.⁴⁵ My hope was that by reading poetry, essays, and short stories by these women whose lives seemed so different, the students would learn to see the similarities. In fact, that was the result. When they read Mitsuye Yamada's poem "Masks of Woman,"

This is my daily mask
 daughter, sister
 wife, mother
 poet, teacher
 grandmother.
 My mask is control
 concealment
 endurance
 my mask is escape
 from my
 self . . .⁴⁶

45. A wonderful source for such material is Fisher's anthology *THE THIRD WOMAN*, *supra* note 7.

46. MITSUYE YAMADA, *DESERT RUN: POEMS AND STORIES* 89 (1988).

black, white and latina women all marvelled: "She could have been writing about me!"⁴⁷ In the section on employment, they noted the many similar kinds of work these groups of women have performed over the years in order to support themselves and their families: factory work, prostitution, farm work, domestic service.⁴⁸ It was helpful when a white student told us that she had supported herself for many years doing domestic work: this was not only a woman of color issue. An African-American student whose mother had immigrated from South Africa and worked in a family-owned restaurant in New York City saw her mother in a new light after reading a Chinese woman's account of working in the family restaurant in Chinatown.⁴⁹ And when the students struggled to read the essays by Anzaldúa in which she moves with ease from English to Spanish,⁵⁰ "outsider" was redefined as everyone who was not bi-lingual: the Latinas and Latinos in the class became the ones with privileged knowledge.

This was also a class in which white students became the minority, and students of color, the majority. This became a fruitful area for discussing issues of sameness and difference: how long did it take before the "majority" students began to abuse their power? before the "minority" students felt silenced? As one might expect, it did not take long. About half-way through the semester, I decided to force this issue, and asked the "majority" students to not speak for twenty minutes, in order to encourage the "minority" students to speak out. Most of the "majority" students accepted this with good grace, laughing as they recognized the newly inverted power structure within the classroom. However, one woman of color was enraged at being silenced, yet again, in a law school classroom. Although I still think it was a good idea to call for this break, if only to open a discussion of what was going on in the classroom, her comment reminded me once again that the struggle to create a new kind of community without replicating the faults of the old is not an easy one.

In the last readings for the course, I focused even more directly on the issue of sameness and difference. The introductory material for that class assignment asked: "Who are the different women of color groups? How helpful are those categories? how are we the same? how are we different? are we too much the same? too different? can we transcend our "sameness" and work

47. For a discussion of how literature transformed this seminar, see Judy Scales-Trent, *Using Literature in Law School: The Importance of Reading and Telling Stories*, 7 BERKELEY WOMEN'S L. J. 90 (1992).

48. See, e.g., Evelyn N. Glenn, *The Dialectics of Wage Work: Japanese American Women and Domestic Service, 1905-1940*, in LABOR IMMIGRATION UNDER CAPITALISM: ASIAN WORKERS IN THE UNITED STATES BEFORE WORLD WAR II, (Lucie Cheng and Edna Bonavich, eds. 1980); Vicki L. Ruiz, *By the Day or the Week: Mexicana Domestic Workers in El Paso*, in WOMEN ON THE U.S.-MEXICO BORDER: RESPONSES TO CHANGE (Vicki L. Ruiz, and Susan Tiano, eds., 1987); Dorothy C. Yancy, *Dorothy Bolden, Organizer of Domestic Workers: She Was Born Poor But She Would Not Bow Down*, 3 SAGE 53 (1986) (about black women domestics).

49. Crystal Burden (1991) (untitled, unpublished seminar paper, on file with the author).

50. See, e.g. *supra* text accompanying note 2.

together? can we transcend our “difference” in order to work together?” For this assignment, they read, among other things, Audre Lorde’s troubling essay on anger and hatred between black women,⁵¹ an article comparing Chicana and Anglo feminism,⁵² and my essay on the difficulties of defining and maintaining categories when one is black and is constantly mistaken for white.⁵³ I also included a picture from the book *Black Indians*—a 19th century photograph of an Indian woman in buckskins and long braids, a woman with dark skin and African features.⁵⁴ This was the class that provoked the richest and most powerful reflections from the students, as they noted similarities and differences between groups, as they grappled with their own memories of rejecting and being rejected within their own communities, their rejection of women in other groups, and their confusion as definitions and categories change from time to time and from place to place. Because of these constantly shifting identities, our notions of sameness and difference are always in flux.

CONCLUSION

The only helpful way to teach about difference is to teach about sameness at the same time. Only if our students are able to see others as they see themselves, able to care about the issues of others as they care about their own issues, will they then be able to answer in a generous way: “Why does it matter? why should I care?” Only if we teach sameness at the same time will they see themselves implicated in the answer. They must learn that they can stand—indeed, are standing, on both shores of the river at the same time.

To do this, I try to bring them into worlds that they consider “different” —first, by making them feel safe enough in the classroom to take this step, and second, by presenting the new world as a place of dignity and respect. My aim is to give them a sense, if only for a fleeting moment, of being on two shores at once.⁵⁵ For this is the first, and hardest step. Once they know that they can be at more than one place at the same time, then it is easier to conceptualize being at three, or four, or five places at the same time. For there are many roads that come together at the crossroads—the roads of ethnicity and color and religion and sex and class and (dis)ability, and many, many more.

51. *Eye to Eye: Black Women, Hatred, and Anger*, in AUDRE LORDE, *SISTER OUTSIDER* 145 (1984).

52. Marta Cotera, *Feminism: The Chicana and Anglo Versions*, in *TWICE A MINORITY: MEXICAN AMERICAN WOMEN* 217 (Margarita B. Melville, ed., 1980).

53. See Scales-Trent, *supra* note 1.

54. WILLIAM L. KATZ, *BLACK INDIANS*, frontpiece (1986).

55. I have been more satisfied with this approach in the seminars, where I have been engaged with the students in a joint exploration, and where I have created all the course material. In the seminars, the work at the crossroads is completely integrated with the substantive material. I am less satisfied with the level of integration in classes where the work at the crossroads is more disjointed — a film here, a speaker there.

This approach to teaching should yield positive results for both the study and the practice of law. First, making the students active participants in the study of law—either through film or interview or fieldwork, validates them as having a place in the “law,” and as important in creating and enforcing the “law.” This increased sense of their own possibilities as lawyers should inspire greater motivation to learn. For example, when students view the film “Pregnant But Equal,” they hear and see women they might want to represent one day: this, it seems to me, might lend some urgency to their study of the Pregnancy Discrimination Act. Second, it is simply more fun to learn through active participation and with different kinds of material. Also, the use of varied media for teaching might also say to the students that breaking out of a familiar (teaching) mode, trying something “different,” is an attribute to be valued, and one which can yield unexpected insights and pleasures. And finally, my guess is that students who find it hard to concentrate in the law school classroom because they feel excluded (“different”), will learn better if their value, and the contributions of their culture, are included in the learning experience.

This teaching approach should also improve the way they practice law. For example, this work at the crossroads might lead them to represent clients whom they might have earlier considered unsympathetic (“too different”), because they will be more able to see the sameness. Indeed, because they might have more respect for these clients, they should be better able to hear, understand, and believe their stories; they might be more willing to enter their clients’ worlds in order to better develop their cases. Finally, they should be better lawyers as they will be able to spot issues others miss. For example, an attorney for Equal Rights Advocates, a public interest law firm that focuses on issues affecting women of color, explained that in order to protect the rights of undocumented Asian and Latino women workers who are in abusive relationships, they have given workshops on family law to immigration lawyers, and on immigration law, to family lawyers. Thus, because these lawyers understand how Asian and Latina immigrant women are like all women (family violence) and also how they are different from women who are citizens, but like men who are not citizens (immigration issue); and because they understand how these two issues intersect in the lives of undocumented women, they were able to act in a way to protect their clients.⁵⁶

It is difficult to assess the success of this teaching approach for the results will not show up on an exam grade or through the financial rewards of a law career. Success will come only if, at some later time, a flash of memory about something that went on in the classroom illuminates something in the lives of one of these students, and leads her to a broad and generous understanding.

It is also difficult to achieve success. There are powerful limits on what a teacher can do in one semester, meeting once or twice a week, especially

56. Interview with Maria Blanco, attorney with Equal Rights Advocates, in San Francisco, Calif. (July 15, 1991).

since everything else in our society reifies these categories, tells us to stand in one place, and stay there. And there is resistance from the students. Those with privilege don't want to see sameness with those who are denied privilege: why forge an alliance with those who have less than you? why weaken and demean yourself in this way? For how can you retain privilege once you truly understand that you are also on the other shore of the river? As the novelist Chinua Achebe explains, "[p]rivilege . . . spreads a thick layer of adipose tissue over our sensitivity."⁵⁷ Also, those who are denied privilege often do not want to see sameness with those who have privilege. Why should black students see that there can be honor and dignity in the white world when they know that they will be rejected by it as soon as they try to enter? Indeed, I have my own problem with this. I wonder if it isn't counter-productive for me to encourage black students to temper their rage at white America: don't they need this rage in order to survive?

It is also difficult to achieve success because the crossroads is a difficult place to be. It is difficult, first of all, because decision-making from that vantage point is very troublesome. One can't make decisions based on the categories of the parties, on the notion that you are female and the "other side" is male, once you recognize that you are standing on the "other side" too. Standing at the crossroads means, for example, that in a case of court-ordered promotions for black workers formerly excluded from upper-level jobs, one will not only understand the anger of the black workers, their hunger to show what they can do, their desire to provide more security for their families, one will also understand the concerns of the white workers who fear uncertainty, change, displacement. It means that one will not only appreciate the claims of the Indians who want to maintain their sacred land for religious purposes, but will also appreciate the concerns of the loggers who fear that the lumber mill will close down if they can't cut timber, who fear that they may lose their livelihood, have to uproot their family, lose their home. Thus, if I am "successful" at my work at the crossroads, this does not mean that the students will make the decision I might desire. It only means that the decision-making process will be more thoughtful, more inclusive, more problematic.

The crossroads is also a difficult place to be in a society like ours which is defined by internecine warfare. We pit women against men, the able-bodied against the disabled; we create ethnic, racial, religious groups, and set them

57. CHINUA ACHEBE, HOPES AND IMPEDIMENTS: SELECTED ESSAYS 102 (1988). In his essay *The Truth of Fiction*, Achebe correlates indifference to others with a lack of imagination:

[S]elf-centeredness is . . . an indication that we lack enough imagination to recreate in ourselves the thoughts that must go on in the minds of others, especially those we dispossess. A person who is insensitive to the suffering of his fellows is that way because he lacks the imaginative power to get under the skin of another human being and see the world through eyes other than his own. . . .

Privilege, you see, is one of the great adversaries of the imagination; it spreads a thick layer of adipose tissue over our sensitivity.

Id.

to fight. Because we are in a constant state of war, there is enormous pressure to choose up sides, to pledge allegiance to one side or the other. It is politically unpopular to be on both shores at once when there are opposing armies on each shore. It is also disorienting. A white student with close ties to the black community explained in a compelling way the dislocation that takes place when one stands on two shores at once:

I always challenge white people when they make racist comments in my presence. I cannot be an accomplice to their racism by being silent. This makes me uncomfortable with certain groups of people because I know it is only a matter of time before an offensive remark will be made, and that marks the end of the possibility of an amicable relationship. In this way I feel like an inside outsider . . . or an outside insider.⁵⁸

The work at the crossroads is hard work. As Gloria Anzaldúa reminds us, this “new consciousness—a mestiza consciousness—” although a source of energy and creativity, is also “a source of intense pain . . .”⁵⁹

It is abundantly clear, therefore, why so few people work at the crossroads, or even acknowledge that they are standing there: it is unpopular, it is disorienting, it makes decision-making even more troublesome. Nonetheless, for better or worse, since I live at the crossroads, this is the only way that I can teach. I don't always meet my own goals. I have my own problems with sameness and difference. The best I can do is show the students that it can be done, and that it can open up the world.

58. Samuel R. Miserendino, Jr. (Apr. 5, 1991) (untitled, unpublished seminar paper, on file with the author).

59. Anzaldúa, *supra* note 2 at 80.