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## Guilty Displeasures: White Resistance in the Social Justice Classroom

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*In this article, the author reflects on the challenges of teaching white law students about racism and white privilege as a racialized professor. To situate her experiences and to better understand the obstacles that professors who teach critically about race and racism confront, she draws from theories of racial identity development and research on student evaluations to contextualize student responses to anti-racist pedagogy. Grappling with racism in a meaningful way leaves many white students feeling distraught, angry and guilty, among other unpleasant emotions. Professors who initiate these discussions become the natural targets of criticism and blame as students struggle with their discomfort. The hostility of resistant white students can be interpreted as racial microaggressions that compromise the psychological well-being and deplete the emotional and physical resources of racialized professors. However, understanding negative student reactions in the context of structural racism and embracing students' sense of disequilibrium as a necessary part of social transformation enable professors to reconceptualize personal attacks as something more constructive. The author concludes that teaching about racism and white privilege in a critical way, an obligation shared by all educators, offers personal and collective rewards that outweigh any costs.*

*Dans cet article, l'auteure parle des défis, pour une professeure racialisée, de parler de racisme et des privilèges accordés aux blancs à des étudiants en droit blancs. Pour situer son expérience et faire comprendre les obstacles que doivent surmonter les professeurs qui offrent un enseignement critique sur les races et le racisme, elle s'inspire de théories sur le développement du sentiment d'identité raciale et de recherches sur les évaluations des étudiants pour contextualiser les réactions de ces derniers à la pédagogie antiraciste. De nombreux étudiants blancs qui tentent de composer et de faire la paix avec le racisme de manière satisfaisante éprouvent souvent des émotions désagréables, notamment des sentiments de détresse, de colère et de culpabilité. Les professeurs qui amorcent ces discussions deviennent des cibles naturelles pour les critiques et les blâmes alors que les étudiants sont aux prises avec leurs malaises. L'hostilité des étudiants blancs récalcitrants peut être interprétée comme constituant des microagressions raciales qui compromettent le bien-être psychologique et épuisent les ressources émotionnelles et physiques des professeurs racialisés. Cependant, le fait de comprendre les réactions négatives des étudiants dans le contexte du racisme structurel et d'accepter le sentiment de déséquilibre qu'ils éprouvent comme étant un élément essentiel de la transformation sociale aide les professeurs à voir les attaques personnelles autrement et à les transformer en commentaires constructifs. L'auteure conclut que l'enseignement traitant du racisme et des privilèges accordés aux blancs de manière critique, obligation que partagent tous les éducateurs, offre des bénéfices personnels et collectifs qui dépassent les coûts.*

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\* Faculty of Law, University of Ottawa. I am indebted, as always, to Liz Sheehy for her valuable feedback and her friendship. I am also grateful to the many students whose enthusiasm, openness and unwavering commitment to social justice inspire and sustain me.

- I. *Theory and practice of social justice law*
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*To educate as the practice of freedom is a way of teaching that anyone can learn. That learning process comes easiest to those of us who teach who also believe that there is an aspect of our vocation that is sacred; who believe that our work is not merely to share information but to share in the intellectual and spiritual growth of our students.<sup>1</sup>*

*Oppressed groups have known instinctively that stories are an essential tool to their own survival and liberation.<sup>2</sup>*

The last student left at 7 p.m., a full three hours after office hours were supposed to end. The afternoon was a rotating door of student crises: crushing family obligations; racialized students confused and harmed by racism in their classrooms; routine, but overwhelming, disappointment with final grades, and the list goes on. Endless tears shed and tissues offered. Our students, I was reminded as I sank under the weight of their problems, lead such complicated lives. Law school does not displace these students' non-law school realities; rather, the two become inextricable.

My final appointment gave me a throbbing headache, made worse by my empty stomach; the unusually crisis-ridden afternoon left me no time to eat lunch. The last student came to review her final paper for the social justice class I taught the term before, a course that attracts a broad range of students with divergent interests and experiences. From my previous

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1. bell hooks, *Teaching to Transgress: Education as the Practice of Freedom* (New York, NY: Routledge, 1994) at 13.

2. Richard Delgado, “Storytelling for Oppositionists and Others: A Plea for Narrative” (1989) 87:8 Michigan L Rev 2411 at 2436. Delgado notes that members of oppressed groups “can use stories in two basic ways: first, as means of psychic self-preservation; and, second, as means of lessening their own subordination.” *Ibid.* I embrace both objectives in my narrative.

encounters with this student, however, I suspected there was more to her visit.

We spent close to forty-five minutes poring over her paper, during which time she became remarkably distraught. As we were wrapping up our discussion, she paused and then revealed what was really bothering her: she found the course upsetting, negative and imbalanced. More specifically, my teaching on racism was too distressing. When prodded, she explained that she had never before been made to feel so guilty about being white, even when working with racialized communities. Her comments did not surprise me, as she had expressed similar sentiments during the term.

Our meeting in my office, though agonizing for us both, afforded an opportunity to continue an important discussion that had begun months earlier. In this piece, I explore the conversation that ensued in my office as well as reactions to the course from other students to reflect on the challenges of teaching white students about racism and white privilege as a racialized professor in the law school context. To situate my experiences and to better understand the obstacles that professors who teach critically about race and racism confront, I draw from theories of racial identity development and research on student evaluations to contextualize student responses to anti-racist pedagogy. Grappling with racism in a meaningful way leaves many white students feeling anxious, confused, ashamed, angry, guilty and many other unpleasant emotions. Professors who initiate these discussions become the natural targets of criticism and blame as students struggle with their discomfort. I interpret the hostility of resistant (even if well-intentioned) white students as racial microaggressions that compromise the psychological well-being and deplete the emotional and physical resources of racialized professors; in short, these interactions can be harmful and exhausting to me as a racialized woman. However, understanding negative student reactions in the context of structural racism and embracing our students' sense of disequilibrium as a necessary part of social transformation enable us as professors to reconceptualize what we experience as personal attacks into something more constructive. I am committed to teaching about racism and white privilege in a critical way—indeed I strongly believe it is an obligation that we all share as educators—and I remain hopeful that the rewards, both personal and collective, ultimately outweigh any injury.

#### *I. Theory and practice of social justice law*

As a professor, it is easy to be lulled into a false sense of security about the receptiveness of students to engage with racism in a social justice course.

One may expect resistance to such discussions in a first-year contracts class, but it seems less likely in an optional course entitled “Theory and Practice of Social Justice Law,” particularly at a law school that prides itself on its social justice strengths. Every year, the class attracts around thirty-five students with varying reasons for pursuing the course. Some of these students intend to complete the social justice option offered by the University of Ottawa English Common Law Program (for which my course is required).<sup>3</sup> Others take the course because of a general interest in social justice or a curiosity about what it entails, or simply because they had me as a professor in first year.

That said, I find that white liberal students are especially drawn to this course. Interestingly, in my experience, they also tend to be the students who become most unnerved by discussions on racism, though only a few will vocalize their discomfort in class. Other topics that we cover—including class, feminist legal theory, heterosexism and ableism—rarely elicit the level of distress caused by an analysis of white privilege.

One of my objectives in teaching the course is to push students to consider their own privileges, racial or otherwise, and to consider how these privileges will affect their work with clients and communities. Because this introspection is critical in preparing students to practise law responsibly and ethically, I devote an entire class to privilege. When I begin the class, I remind students that confronting privilege (or the lack thereof) can be unsettling and even painful. I ask students to keep an open mind and to reflect on any discomfort they may experience during the class. I begin with a modified version of Peggy McIntosh’s well-known white privilege list<sup>4</sup> from which I read aloud a series of statements signifying white privilege and ask students to identify which ones apply to them personally.<sup>5</sup> After we debrief the exercise, students work in small groups to list privileges enjoyed in a number of other contexts (for example, class privilege). This class, which takes place early in the term, becomes a frequent point of reference in later discussions, as students begin to make

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3. Another section of the social justice course is offered to students in the French Common Law Program.

4. Peggy McIntosh, “White Privilege and Male Privilege: A Personal Account of Coming to See Correspondences through Work in Women’s Studies” in Richard Delgado & Jean Stefancic, eds, *Critical White Studies: Looking Behind the Mirror* (Philadelphia: Temple University Press, 1997) 291 at 293-294.

5. For example, some of the statements that I read aloud are: “If you are stopped or questioned by the police, you can be sure it is not because of your ‘race’”; “You can take a job or enroll in an educational program with an equal opportunity policy without having your co-workers or peers assume you are there because of your ‘race’”; “You do not have to think about racism every day. You can choose when and where you want to respond to it.”

connections between law (both substantive and practical aspects) and power and privilege.

Following the class on privilege, I spend one class each on critical race theory and feminist legal theory. The week on models of social justice lawyering focusses mostly on poverty. I then introduce a number of specific legal issues that show how theory can be applied in particular contexts. For example, we discuss prisons, residential schools, violence against women, and the capacity of torts to respond to social justice claims (environmental injury, disability and racism), among other topics. I attempt to include readings for each topic that expose the intersectional and interlocking dimensions of the issue (for example, pieces that engage with colonialism, heterosexism and sexism). I conclude the course with a unit on ethics and strategizing in the practice of social justice.

Students are evaluated on the basis of attendance, a group presentation and a short paper outlining how they would identify and respond to a social justice issue of their own choosing, and a final research essay. The group work is intended to give students an opportunity to reflect on how they can translate their learning from class into action in the context of a small and discrete project. Given time constraints, students do not actually carry out the project, but rather consider the steps they would take in pursuing the plan if they had another term to do so. Many students identify the group project as the highlight of their term and invest an impressive amount of time and effort into it.

I offer this somewhat detailed overview of my course and evaluation methods to set the context in which my meeting with the student took place.

## II. *Judgment day: Meeting with the student*

As I mentioned previously, the student who came to see me in my office became increasingly agitated during our meeting. When she was ready to talk about her reactions to the course, our conversation proceeded in the way that is described below. Obviously, the representation below is not an exact transcript. Nor is it complete, given the length of our discussion and the omission of some of the repetition that is common in conversations with students in crisis. Moreover, the discussion reflects the general substance of our exchange to the best of my recollection,<sup>6</sup> but has not been independently verified by the student. To protect her identity, I have attempted to remove any information that could identify her.

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6. I made detailed notes of our exchange immediately following our meeting.

*Student:* (In tears) I think what's bothering me is that I found the class too upsetting. I felt paralyzed—I would go home and I couldn't do anything. I would just sit there.

*Me:* Why do you think that was the case? What did you find so upsetting about the course?

*Student:* I spent the whole term feeling guilty. I have never been made to feel so guilty about being a white person in my life. I think the course needs to have more balance.

*Me:* What do you mean by more "balance?"

*Student:* Well everything in the course was so negative. It was depressing. I think you should balance all the negative stuff with some positive things. You could talk more about the good work that is being done rather than how bad everything is. It was too heavy. You should include lighter materials as well. When you don't have balance and you only talk about the bad things, students get their guards up and shut down.

*Me:* I think we may have different ideas about "balance." What about all the social justice lawyering models that we looked at in class or the video on successful organizing projects? Or the time that we spent talking about effective strategizing in social justice work? And, of course, you also had the opportunity to work on a concrete project in your groups, a chance to apply the theory we were discussing in class. I see all of those aspects of the course as very "positive."

As I said to you during the term, I think you need to give thought to why this class hit such a nerve with you. Why, for example, did you feel that there was too much emphasis on racism and why was this so upsetting to you? Why did you perceive content on racism as "negative?"

*Student:* Because the materials were too heavy and depressing.

*Me:* As I mentioned to you before, I think you need to examine your own privilege as a white woman. For all of us, coming to terms with privilege is difficult and sometimes painful. But this is the only way you will grow. I think perhaps this course made you uncomfortable (which you have framed as guilt) because it forced you to consider your privilege as a white woman.

*Student:* No—I don't think so. It's not about white privilege. In my legal work with [racialized] communities, I never feel like this. Only your course made me this upset.

*Me:* Why?

*Student:* Because the course itself was too upsetting. It paralyzed me. I would go home after class and just sit there. I couldn't do anything. The course was too emotional. I actually found it traumatizing.

*Me:* You may feel like you hated the course now, but hopefully in the future you will look back and remember some useful skills in critical thinking that you had the opportunity to develop.

*Student:* I don't think so.

*Me:* If I may be perfectly frank with you (she nods)... If you want to work with [racialized] clients, you will constantly need to reflect on your role as a white woman working with these communities. You have to consider systems of domination, how colonialism has situated you in relation to these communities, the power differences in your relationships, etc. This kind of thoughtful reflection is tiring. In fact, it's exhausting. But if you want to do social justice work properly, this examination is critical. It's not the same as advocating for a corporate client. If you found my class unusually difficult, I suspect it's because you haven't really grappled with these issues in your work before.

*Student:* It could be, but I don't think so. To be honest, I wouldn't recommend this course to any other student (through more tears), even though I think it's important for everyone to learn about social justice. The course was too difficult and depressing. I had to stop doing the readings partway through the course because they were too depressing.

*Me:* It disappoints me to hear that you wouldn't recommend the class to others, but as I said, perhaps you will see the course differently in the future. You mentioned that I should consider talking about racism in a way that is more fun—perhaps even joke around a bit as you say other professors do when talking about such issues. I'm curious as to why you think conversations about racism need to be light and entertaining before you are willing to engage in them.



*Student:* I know they're difficult issues. I just think you could balance the heavier stuff with lighter things.

*Me:* You mentioned to me before that you couldn't bring yourself to read "yet another piece" on racism. What privilege do you enjoy as a white person that permits you to choose when, or even if, you want to engage with racism? This is not a privilege that racialized people enjoy. We have to deal with it whether or not we want to. And frankly, it's really not that fun.

*Student:* Well it wasn't just the stuff on racism. I thought the class was too hard. There was too much work—readings, a group project and a paper. None of my other classes had this much work. Plus, it was too emotional. I took your other [first-year] course and really liked it. I thought you were fair.

*Me:* By emotional, you are again suggesting that it was too upsetting?

*Student:* Well it was depressing. The course still upsets me even though it's over (through more tears). I couldn't even bring myself to look at my paper until now.

*Me:* I think this is a good opportunity to consider why you have had such an extreme reaction to the course, and one that obviously continues well after it has ended. I think these are issues that you need to sort out if you ever want to work with vulnerable communities. I want to be direct again, even though it may be difficult to hear. If you are not willing to do this work, you really have no business working with [racialized] communities. It would be irresponsible and harmful.

I suspect that your reaction to the course has less to do with me or the way that the class was taught, as you suggest. Rather you have been forced to reflect on issues, like privilege, that most of us would prefer to ignore. Guilt or shame is not an unusual response. But framing it as guilt may not be that useful. What if we thought about your reaction as discomfort instead? I think the key then is what you do with it. The course obviously was unsettling to you. I suggest you figure out why and ask yourself what you can do to move forward in a way that is constructive, not destructive.

*Student:* (Long pause) I will think about what you said. (Another pause.) Really. Obviously, I did have an unusually strong reaction to the

course and I need to figure out why. And I need to think about what you said about white privilege.

I also want you to know that I value you as a teacher and I appreciate the time that you have spent with me talking about this.

### III. *Making sense of the conversation and other student reactions*

By the time the student left my office, I was drained physically and emotionally. Part of my energy was expended not only in trying to engage the student intellectually in a discussion that she was not emotionally prepared to have, but also in managing my own sense of anger, exhaustion and resentment at having to manage her distress from being required to think about racism as a white woman. Racialized professors who choose to teach white students about race and racism risk eliciting similar reactions, both inside and outside the classroom. The question that plagues any professor committed to teaching law from an “outsider”<sup>7</sup> perspective such as critical race theory is whether the additional investment required to do so is worth it. Is it possible for racialized professors to successfully (and constantly) battle “racial fatigue”?<sup>8</sup>

Understanding this student’s somewhat typical reaction is necessary to evaluate the benefits and costs, personally and professionally, of challenging students to grapple with racism. Most of us who undertake the weighty responsibility of teaching law students about social justice recognize our critical role in building students’ capacities to work effectively and responsibly with marginalized communities.<sup>9</sup> Encouraging self-reflection

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7. LatCrit theorist Francisco Valdes describes the primary objectives of “critical outsider jurisprudence” as:

- (1) the production of knowledge;
- (2) the advancement of social transformation;
- (3) the expansion and connection of antistatist struggles; and
- (4) the cultivation of community and coalition, both within and beyond the confines of legal academia.

Francisco Valdes, “Outsider Jurisprudence, Critical Pedagogy and Social Justice Activism: Marking the Stirrings of Critical Legal Education” (2003) 10 *Asian LJ* 65 at 66. See also Mari J Matsuda, “Public Response to Racist Speech: Considering the Victim’s Story” (1989) 87:8 *Mich L Rev* 2320 at 2323-2326.

8. William A Smith, Tara J Yosso & Daniel G Solórzano, “Challenging Racial Battle Fatigue on Historically White Campuses: A Critical Race Examination of Race-Related Stress” in Rodney D Coates, ed, *Covert Racism: Theories, Institutions, and Experiences* (Boston: Brill, 2011) 211. For an excellent exploration of the costly impact of racism on physical and psychological health, see Joe R Feagin & Karyn D McKinney, *The Many Costs of Racism* (Lanham, Md: Rowman & Littlefield, 2003).

9. For an insightful discussion on developing law student capacities in a social justice course, see John O Calmore, “Chasing the Wind: Pursuing Social Justice, Overcoming Legal Mis-Education, and Engaging in Professional Re-Socialization” (2004) 37 *Loy LA L Rev* 1167.

is a crucial part of enabling students to develop these capacities. As Paulo Freire suggests, “reflection—true reflection—leads to action.”<sup>10</sup>

Unfortunately, critical self-reflection is not a typical component of law school pedagogy. In legal education, the lecture method of transmitting information about doctrinal rules with little or no social context, common in so-called “black-letter” law courses, is the norm. Law is taught and learned from a distance as objective and neutral.<sup>11</sup> Courses that require students to incorporate a critical analysis into their evaluation of law and to situate themselves within this analysis are unsettling to many students. For some, their sense of unease translates into artificial distinctions between courses that are “real law” and “soft law,” or in other words, the useful courses in which they learn “the law” from “experts” who know the answers<sup>12</sup> and the ones that waste their time focussing on “feelings.”

This false dichotomy was evidenced in my student’s response to the course, particularly when she suggested the class was too “emotional” and “heavy.” In some ways, this assessment is understandable given that the vast majority of her courses are likely lecture classes that do not challenge notions of objectivity or attempt to expose the invisibility of whiteness. My course *is* heavy in comparison because it requires an intellectual and emotional investment and vulnerability that is discouraged in the standard law school classroom. That she preferred my large first-year torts class—a course she found enjoyable and “fair”—to the social justice course likely reflects my adherence to more traditional teaching methods in torts, such as lectures and PowerPoint slides. Class discussions in torts also tend to be far less threatening than in social justice, notwithstanding the inclusion of some critical course content.

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10. Paulo Freire, *Pedagogy of the Oppressed* (New York: Continuum, 1989) at 52.

11. See Kimberlé Williams Crenshaw, “Foreword: Toward a Race-Conscious Pedagogy in Legal Education” (1988–1990) 11 *Nat’l Black LJ* 1; Wendy Leo Moore, *Reproducing Racism: White Space, Elite Law Schools, and Racial Inequality* (Lanham, Md: Rowman & Littlefield, 2008); Brenna Bhandar, “Always on the Defence: The Myth of Universality and the Persistence of Privilege in Legal Education” (2002) 14 *CJWL* 341; Duncan Kennedy, “Legal Education as Training for Hierarchy” in David Kairys, ed, *The Politics of Law: A Progressive Critique*, 3rd ed (New York: Basic Books, 1998) 54; Margaret Thornton, “Technocentrism in the Law School: Why the Gender and Colour of Law Remain the Same” (1998) 36:2 *Osgoode Hall LJ* 369.

12. In William Perry’s scheme of intellectual development, these students are referred to as “dualistic.” Dualistic students view professors as experts and “knowledge as received truth,” as “facts, correct theories, and right answers....Learning thus is simply taking notes, memorizing the revelations, and recapitulating them on demand, by way of tests or papers.” Students are uncomfortable grappling with conflicting theories or thinking independently. Robert J Kloss, “A Nudge Is Best: Helping Students through the Perry Scheme of Intellectual Development” (1994) 42 *College Teaching* 151 at 151-152.

Her sentiments about the course being too “emotional,” which according to Kimberlé Crenshaw translates as too “racial” and “experiential”<sup>13</sup> (and to which I would add “female”), and thus presumably not “legal” enough (i.e. “objective” or “rational” or “male”), were echoed in the anonymous written evaluations of a few other students. One student claimed that the course focussed too much “on the emotional side of lawyering and not enough on the practical side of coming to solutions.” This student, as well as two others, suggested that more information should be relayed to the students through lectures. For example, one student suggested that I present material at the beginning of each class and outlined the following concern: “A firmer link to law and the actual practice of law would be much appreciated. That is, we were learning about social issues and various critiques, but the link to law itself often seemed tenuous or non-existent.” Interestingly, most of the secondary source materials that I assigned were taken from law journals and included theoretical inquiries that were firmly grounded in practical legal examples. Along the same lines, another student felt that “we never covered anything substantive.” On the other end of the spectrum, some students thought that we tried to cover too much material.

More troubling than the implication that a course on social justice should be taught in the same traditional manner as a doctrinal law course was the perception by some students that I placed too much emphasis on racism and that my “obvious” bias barred opposing points of view in class discussions. As Kelly-Woessner and Woessner suggest, students tend to be more critical of a course when it is taught by an instructor they view as partisan and ideologically different.<sup>14</sup> Moreover, racialized professors (and white women) are more likely to be viewed as “ideological partisans when they are teaching controversial subject matter.”<sup>15</sup> Some of the evaluations in my course expressed these concerns in more neutral terms, stating that

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13. Crenshaw, *supra* note 11 at 5.

14. April Kelly-Woessner & Matthew C Woessner, “My Professor is a Partisan Hack: How Perceptions of a Professor’s Political Views Affect Student Course Evaluations” (2006) 39 PS: Political Science and Politics 495.

15. Sylvia R Lazos, “Are Student Teaching Evaluations Holding Back Women and Minorities? The Perils of ‘Doing’ Gender and Race in the Classroom” in Gabriella Gutiérrez y Muhs et al, eds, *Presumed Incompetent: The Intersections of Race and Class for Women in Academia* (Boulder: University Press of Colorado, 2012) 164 at 182 (reviewing a number of studies). See also Enakshi Dua & Bonita Lawrence, “Challenging White Hegemony in University Classrooms: Whose Canada Is It?” (2000) 24:2 *Atlantis* 105 at 108. In their qualitative study exploring the experiences of Aboriginal and other racialized women professors in Canada, they explain: “[M]any of the women reported that when they devote any class time or course readings to non-Eurocentric perspectives—or indeed, simply use too many readings written by people of colour or Aboriginal people—they face constant insinuations that they are presenting a biased curriculum.”

the scope of my course was too “narrow” or that there was “a heavy bias evident” that indicated “there is a ‘right’ answer that the professor wants.” Another student was more direct:

I was very disappointed in this course, because I feel that for a course entitled “Social Justice Law” the material was extremely narrow—the material and discussion was almost exclusively about racism—Prof Ruparelia’s very extreme left views on racism. I think that, because it was very obvious what her views were, student[s] who felt differently were intimidated to speak their views. I feel she implied many time[s] throughout the course that people who don’t hold her views with regard to racism don’t because they don’t know any better/are ignorant, and this was very frustrating.

This student prefaced his or her criticism by stating that “[t]he Professor is very well spoken (speaks very clearly) [read: is “articulate”] and is very pleasant.” Referring to me as “very pleasant” appears somewhat inconsistent with the portrayal of me as dogmatic and intimidating, possibly revealing the student’s assumption that any racialized professor who speaks about racism must be “extreme” and biased. The seemingly contradictory assessment also could reflect the student’s disorientation as she or he processes the course or the student’s attempt to seem rational and balanced in contrast to my perceived intolerance and narrow-mindedness.

It is worth noting that the written evaluation by the student who came to meet with me was less overtly hostile.<sup>16</sup> Hers focussed mostly on the depressing way in which I delivered the materials, which I explore in more detail below. In contrast to those students who complained that my overpowering bias prevented them from voicing their disagreement, other students suggested that I should have been more critical of their classmates’ offensive remarks, “instead of just accepting everyone’s opinions.” One student suggested that I did an “excellent job” of “validating” everyone’s views, but that this validation was both good and bad given that I did not “expose” discriminatory or insensitive comments, a role that was important for me to undertake given that marginalized members of the class may have felt uncomfortable speaking up. In other words, some students (presumably white) felt that I censored their participation through my biased perspectives on racism; others (presumably racialized) felt that I was too tolerant and did not censure discussion enough.

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16. Her written evaluation was identifiable to me given that it contained personal information that she repeated to me during our meeting, the details of which I have excluded from the conversation reproduced above.

The students' various reactions to the content and delivery of my course were inevitably shaped by a number of personal and structural influences in their experience of the classroom. For some, the appearance of a racialized professor at the podium immediately signals a lack of credibility concerning issues of race and racism. Racialized professors, and racialized women in particular, are presumed to be biased regardless of what they teach, a presumption sustained by institutional practices that devalue and marginalize the "knowledges" and scholarship of racialized professors.<sup>17</sup> For example, I used a fairly standard, doctrinally-based syllabus (shared by most of my colleagues) for a torts class I taught early in my career. Despite the fact that the course included very little critical content, one student in the evaluation accused me of abusing my platform as a teacher to indoctrinate students with my radical left-wing propaganda. While no professor can legitimately claim a neutral standpoint, many (white) students perceive white men and women as having no investment in racism and therefore no skewed, self-serving perspective. This perception is hardly surprising given that many professors teach the "rules" of law as though such an impartial point of view were not only possible but desirable. As Crenshaw argues, students see the

absence of an explicitly racial referent as evidence that the doctrinal or substantive framework being discussed is objective and race-neutral. However, majority as well as minority students view the world through a consciousness constructed in part through race.<sup>18</sup>

The normative culture of objectivity in legal education enables students and professors alike to perpetuate the myth of what Crenshaw calls "perspectivelessness."<sup>19</sup> If students are being taught through a lens of "perspectivelessness" in the majority of their courses, it is no surprise that my social justice class may seem biased and overly consumed with racial perspectives, especially when taught by a race-conscious, racialized professor.

For many racialized students who find their own experiences and perspectives omitted or marginalized in the majority of law school classes, a racialized professor may be expected to attend to all of their unfulfilled

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17. Dolores Delgado Bernal & Octavio Villalpando, "An Apartheid of Knowledge in Academia: The Struggle Over the 'Legitimate' Knowledge of Faculty of Color" (2002) 35 *Equity & Excellence in Education* 169 at 177. The authors argue that "higher education has created an apartheid of knowledge where the dominant Eurocentric epistemology is believed to produce 'legitimate' knowledge, in contrast to the 'illegitimate' knowledge that is created by all other epistemological perspectives."

18. Crenshaw, *supra* note 11 at 6.

19. *Ibid.*

pedagogical and ideological needs. As scholars have frequently commented, many racialized law students must survive a law school environment they find to be oppressive.<sup>20</sup> These students may pose substantial demands on the few racialized professors on law school faculties that while understandable, are sometimes unrealistic and even undesirable from the perspective of an educator. For example, one racialized student upset by some of her white classmates in the social justice course suggested that I force students to communicate in a particular way about racism in class discussions (i.e. that I provide a script of sorts). Racialized students often hold racialized professors to a higher standard than their white counterparts, calling on them to “fix” racism in legal education and to transform the environment.

#### IV. *White privilege*

Professors, racialized and non-racialized,<sup>21</sup> who have attempted to meaningfully incorporate race and racism into their curriculum, appreciate that they will likely encounter the type of anxiety, resistance and even hostility that I describe above. To some extent, these reactions are inevitable, particularly while deep engagement with racism continues to be rare in legal education. However, examining why white students respond so strongly to these discussions may provide insight into how best to manage the resulting tensions. White privilege is a helpful starting point in this exploration.

White privilege describes the unearned advantages that white people enjoy as a consequence of racism. We often recognize how racialized people are disadvantaged by racist and colonialist systems, but we rarely acknowledge the corollary benefits to whites. Indeed, we are taught not to see or interrogate whiteness at all; whiteness is the norm, rendered invisible by its dominance. As Martha Mahoney notes: “Whites have difficulty perceiving whiteness, both because of its cultural prevalence and because of its cultural dominance.”<sup>22</sup> This “transparency phenomenon,” Barbara Flagg explains, is “the tendency of whites not to think about whiteness,

20. See Elizabeth Adjin-Tettey & Maneesha Deckha, “Promises and Challenges of Achieving Racial Equality in Legal Education in Canada” (2010) 4 CLEAR 171; Patricia A Monture, “Now that the Door is Open: First Nations and the Law School Experience” (1990) 15 Queen’s LJ 179; A T Panter et al, “Everyday Discrimination in a National Sample of Incoming Law Students” (2008) 1 Journal of Diversity in Higher Education 67; Crenshaw, *supra* note 11; Moore, *supra* note 11; Bhandar, *supra* note 11.

21. Although white professors may also face resistance when discussing racism, it is to a much lesser extent and qualitatively different.

22. Martha R Mahoney, “Segregation, Whiteness, and Transformation” (1995) 143 U Pa L Rev 1659 at 1664.

or about norms, behavior[s], experiences, or perspectives that are white-specific.”<sup>23</sup>

Being confronted with one’s privilege is a disquieting experience. Most white law students, even those with social justice inclinations, have never had to grapple with whiteness before or during law school.<sup>24</sup> These students—often well-meaning liberals who decry overt expressions of racism—have not interrogated their own complicity with systems of domination. However, these reflections are vital to the personal and professional journey towards social justice. For this reason, I include readings and exercises in my course that challenge students to think beyond their cursory and comfortable understandings of race and racism and other oppressions, and to consider their roles as future lawyers who will occupy many locations of domination and subordination simultaneously when working with clients. Although we discuss various kinds of privilege as they relate to legal rules, policies and the practice of law, white privilege consistently proves to be the most difficult for students to navigate.

Because I anticipate discomfort during discussions on racism, I proceed gently on the day that I introduce critical race theory. I begin with a few short clips from an episode of the situational comedy *Seinfeld* to initiate a dialogue on why we find it so challenging to talk about race and racism. In the episode, one of the main characters, a white woman named Elaine, begins to date a man, Darryl, whose racial identity is unclear to her and her white friends. Awkward conversations about Darryl’s race ensue as the group questions the appropriateness of discussing his race at all, particularly in his absence. Elaine, who becomes increasingly unnerved by Darryl’s racial ambiguity, takes a variety of indirect measures to determine whether he is Black, including buying him a gift that includes a warranty form that requests his racial identity. Based in part on a number of stereotypical assumptions, she concludes that he is in fact Black (which he is not), and as his girlfriend claims solidarity with an African-American woman restaurant server (addressing her as “Sister”). Ultimately, we learn that Elaine and Darryl both identify as white, to their great disappointment, as each had assumed the other was racialized and presumably exotic (he thought Elaine was “Hispanic”).

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23. Barbara J Flagg, “‘Was Blind, But Now I See’: White Race Consciousness and the Requirement of Discriminatory Intent” (1993) 91 Mich L Rev 953 at 957.

24. For a general discussion on how legal educators have evaded the study of whiteness in their classrooms, see Margalynne J Armstrong & Stephanie M Wildman, “Teaching Race/Teaching Whiteness: Transforming Colorblindness to Color Insight” (2008) 86 NCL Rev 635. See also Kim Forde-Mazrui, “Learning Law Through the Lens of Race” (2005) 21 JL & Pol 1 for a discussion on the importance of race-consciousness in legal education.



This video stimulates a conversation about social norms of colour-blindness and the fear we have in recognizing “race.” We also touch on guilt (the characters leave a large tip for their African-American server after their unsettling exchange on race) as well as the character’s assumptions about one another. Students appear comfortable and participate thoughtfully. The dynamic begins to change when I raise the notion of whiteness. When I describe a study in which white people on the street were baffled and annoyed when asked what it meant to be white, many students become defensive.<sup>25</sup> Some suggest that it was unfair to approach white people out of the blue and “push them into a corner” with such a hostile question. Our earlier discussion is soon forgotten and connections are not made between race-consciousness, privilege and whiteness. This class, which takes place the week after we study privilege, is the point that some students begin to disengage.

Whiteness and white privilege are inextricably linked; it is impossible to interrogate whiteness without exposing white privilege. However, some white students are protective of their racial privilege, which enables them not to see racism and to view their achievements as a product of merit rather than unearned advantages. For example, white law students may have benefitted from access to reputable private schools in their childhood where they enjoyed preferential treatment, family connections that allowed them to gain valuable work experiences, economic advantages that enabled them to pursue unpaid internships, police practices that either left them alone or discounted criminal conduct, and so on. Grappling with privilege is dangerous to one’s sense of self; it is destabilizing.<sup>26</sup> Thus, it is not surprising that some white law students show resistance to acknowledging the salience of race and racism in their own personal and professional lives.

What is stunning, however, is the level of resistance in a class devoted to social justice issues. As Armstrong and Wildman note, racism is rarely addressed in the law school curriculum outside of “special interest” courses on race and the law or social justice.<sup>27</sup> Thus, one would reasonably expect that students registered for a course on the Theory and Practice of Social Justice Law come prepared to discuss race and racism, along with other sites of oppression, even if such discussions are unpleasant.

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25. Derald Wing Sue, *Overcoming Our Racism: The Journey to Liberation* (San Francisco: Jossey-Bass, 2003) at 115-120.

26. Miguel M Unzueta & Brian S Lowery, “Defining racism safely: The role of self-image maintenance on white Americans’ conceptions of racism” (2008) 44 *Journal of Experimental Social Psychology* 1491 at 1492.

27. Armstrong & Wildman, *supra* note 24 at 652.

Intellectually, it seems bizarre to accuse a social justice course of having too much content on racial oppression; why would a heavy emphasis on racism, even if accurate, be viewed as improper? To some extent, any open and direct conversation about racism may seem illegitimate, threatening or even traumatizing (as my student experienced it) in its deviance from more socially acceptable norms of colour-blindness. Race-consciousness—which requires speaking the unspeakable—is not part of the white liberal imagination.<sup>28</sup>

Although I assumed students would anticipate, and indeed welcome, challenging discussions in a course on social justice, according to the evaluations, several students desired something very different: a “feel good” celebration of social justice achievements (leading one to wonder if they misinterpreted the “social” in social justice).<sup>29</sup> This sentiment was reflected in the student’s comment in my office that I should try to make conversations about racism lighter and more fun. What she and some of her classmates wanted was for me to teach about racism in an easy, non-threatening, non-confrontational way—the *Seinfeld* approach. In other words, they wanted to talk about racism in a way that made them feel positive about being a white liberal with good intentions. However, as bell hooks remarks, “[w]e often cause ourselves suffering, by wanting only to live in a world of valleys, a world without struggle and difficulty, a world that is flat, plain, consistent.”<sup>30</sup>

V. *Feeling bad before we can feel good: The emotional work of anti-racism pedagogy*

The sense of disequilibrium that inhabits many white students, including the one who met with me after the course, results in a range of complex emotions and other reactions including defensiveness, anger, sadness and guilt. These responses can be understood as part of the psychological process of anti-racist white identity development. According to Janet Helms, white people progress through a series of stages or statuses that are dynamic and mutually interactive (i.e. the progression is not necessarily

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28. Flagg, *supra* note 23 at 953. (“Advocating race consciousness is unthinkable for most white liberals. We define our position on the continuum of racism by the degree of our commitment to colorblindness; the more certain we are that race is never relevant to any assessment of an individual’s abilities or achievements, the more certain we are that we have overcome racism as we conceive of it.”)

29. For example, one student wrote: “I care about social justice, but I found this course focused too much on social injustice. I was hoping it would contain empowering and inspiring stories on how to achieve social justice.”

30. bell hooks, *Belonging: A Culture of Place* (New York: Routledge, 2009) at 25.

linear or exclusive).<sup>31</sup> In her well-regarded model, which she describes as “sociopolitical,” white people are oblivious to racism and rarely see race or racism as relevant during the first status (“Contact”). In the second status, labelled “Disintegration,” whites experience anxiety, discomfort, shame, guilt and other unpleasant emotions as they become more aware of racism and their own advantages as a white person in a racist society. For students whose worldview and psychological integrity are challenged by such exposure, avoiding these issues altogether by denying their relevance or withdrawing from the source of anxiety through “passive resistance”<sup>32</sup> (in my student’s case, by refusing to do the readings) may become a means to resolve a growing cognitive dissonance.<sup>33</sup>

For example, a white male student expressed frustration and denial when a white woman in my social justice class began to cry after a guest speaker’s presentation on residential school abuses. She stated that she felt ashamed and guilty. The male student dismissed her reactions and said that she had nothing to feel guilty about since she had not committed the abuses. A lively and heated debate followed in which the male student was pushed by his classmates to reflect on his own privileges, but he angrily replied that he had not personally benefitted from residential schools. As I often do, I asked the class to reflect on whether there was a more constructive way of describing what they were experiencing as guilt and to contemplate how they could translate their discomfort into action. I then asked the male student to consider whether he believes he benefits from colonialism, to which he responded with a reluctant, “I suppose.” I also identified myself as someone who is advantaged by colonialism as a non-Aboriginal racialized person. When I gently suggested that residential schools were one manifestation of colonialism, however, he still could not make a connection to himself. Given that he was defensive and clearly agitated by the class discussion, I approached him after class to see if he wanted to continue the conversation in my office. He declined, although he appeared to appreciate this gesture at the time. However, the evaluation that I am confident was his indicated his dissatisfaction with my “bias” and the way I handled that particular class. After stating that I was “well-

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31. Janet E Helms, “An Update of Helms’s White and People of Color Racial Identity Models” in Joseph G Ponterotto et al, eds, *Handbook of Multicultural Counseling* (Thousand Oaks, Cal: Sage Publications, 1995) 181 at 182-183 [Helms, “An Update”]. In this more recent articulation of her model, Helms replaces the term “stage” with “status” to emphasize the fluid nature of this development.

32. Connie S Chan & Mary Jane Treacy, “Resistance in Multicultural Courses: Student, Faculty, and Classroom Dynamics” (1996) 40 *American Behavioral Scientist* 212 at 216.

33. Beverly Daniel Tatum, “Talking about Race, Learning about Racism: The Application of Racial Identity Development Theory in the Classroom” (1992) 62 *Harvard Educational Review* 1 at 14.

organized” and that there was “some good class discussion,” he noted the following:

The course materials reflected an overall HEAVY left-wing political bias....The professor did not appropriately deal with a student’s statement that the student felt “collective guilt” in class. The professor should have explained why there is no reason one should feel “collective guilt” for events that were never under one’s control. Instead, the professor implied that this “collective guilt” was okay. That was an outrageous response.

Guilt, in particular, is an especially tricky emotion to work through in an educational setting. White liberal guilt can be overwhelming and paralyzing, as the distraught student in my office encountered. For white students in my class, guilt and shame may be even more acutely sensed given my identity as a racialized woman.<sup>34</sup> However, as Alexis Shotwell notes, “feeling bad might be important to shifting our common-sense assumptions”<sup>35</sup> and “negative affects...should be understood as both epistemically and politically salient.”<sup>36</sup> White guilt encompasses feelings of remorse about unearned privileges, which “may in turn be linked to a sense of personal responsibility.”<sup>37</sup> Moreover, collective guilt may inspire members of the oppressor group to remedy the harm caused by their identified group, even where these individuals were not personally responsible for the actions that caused injury.<sup>38</sup> I encourage students to view their discomfort as an important opportunity for growth and for action, as a “beginning of knowledge.”<sup>39</sup> Without action, white guilt individualizes racism and recentres white experience and interests<sup>40</sup>: “[i]t is not a substitute for activism.”<sup>41</sup> Guilt “becomes a device to protect ignorance and the continuation of things the way they are, the ultimate protection

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34. As Alexis Shotwell remarks: “Significantly, white people’s racism is often experienced as a source of shame only in relation to others identified by a white eye as objects of racism.” Alexis Shotwell, *Knowing Otherwise: Race, Gender, and Implicit Understanding* (University Park, Pa: Pennsylvania State University, 2011) at 76.

35. *Ibid* at 73.

36. *Ibid* at 74.

37. Kathleen S Kordesh, Lisa B Spanierman & Helen A Neville, “White University Students’ Racial Affect: Understanding the Antiracist Type” (2013) 6 *Journal of Diversity in Higher Education* 33 at 34.

38. Bertjan Doojse et al, “Guilty by Association: When One’s Group Has a Negative History” (1998) 75 *Journal of Personality & Social Psychology* 872.

39. As Audre Lorde remarks: “Guilt is not a response to anger; it is a response to one’s own actions or lack of action. If it leads to change then it can be useful, since it is then no longer guilt but the beginning of knowledge.” Audre Lorde, “The Uses of Anger: Women Responding to Racism” in Audre Lorde, *Sister Outsider*, revised ed (Berkeley: Crossing Press, 2007) 124 at 130.

40. Dua & Lawrence, *supra* note 15 at 112.

41. Audrey Kobayashi, “Now You See Them, How You See Them: Women of Colour in Canadian Academia” in Frances Henry & Carol Tator, eds, *Racism in the Canadian University: Demanding Social Justice, Inclusion, and Equity* (Toronto: University of Toronto Press, 2009) 60 at 72.

for changelessness,<sup>42</sup> doing nothing but allowing the white person to feel better.<sup>43</sup> White students can reduce the cognitive dissonance typical of the second stage of Helms's racial identity development by conceptualizing racism as the individual acts of bigots, thus preserving a sense of oneself as not implicated in the oppression of others. Psychological studies in the U.S. have shown that whites tend to conceptualize racism in terms of individual prejudice rather than institutional practices,<sup>44</sup> a conceptualization that permits them to be wilfully ignorant of white privilege.<sup>45</sup>

The white male student's assertion that he was not responsible for the harms of residential schools also signals "Reintegration," the third status in Helms's model. In this status, whites may regress by adopting a belief system in which they identify with dominant racial ideology. According to Helms, responses to racism during this status may include disassociation from past harms to racialized communities ("Why should I feel bad that my ancestors stole land from Aboriginal peoples? I didn't steal it") and identification with white victimization ("I can't get a job because of reverse racism").<sup>46</sup>

As Tatum explains, white persons at this stage may project fear and anger towards racialized people who are criticized for being the source of their distress.<sup>47</sup> Thus, students like the one who came to my office blame me—the racialized professor who forced her to confront issues of racism—for her emotional crisis (I "made" her feel guilty). Others may use their evaluations to vent their frustrations anonymously. The defensiveness and hostility of some white students to the study on whiteness discussed in class also could be indicative of this phase of development. If avoidance of race and racism is possible, students may get trapped in this status, a real risk in larger classes (like mine) that permit students to disappear into the background.<sup>48</sup>

In the "Pseudo-Independent" status, whites become more intellectually committed to the abandonment of white dominance, but may still act in ways that perpetuate racism.<sup>49</sup> Helms notes that some whites undertake to "help" other racial groups during this status,<sup>50</sup> which may provide insight

42. Lorde, *supra* note 39 at 130.

43. Kobayashi, *supra* note 41 at 72.

44. See, e.g., Laurie T O'Brien et al, "Understanding White Americans' Perceptions of Racism in Hurricane Katrina-Related Events" (2009) 12:4 Group Processes & Intergroup Relations 431.

45. Unzueta & Lowery, *supra* note 26.

46. Helms, "An Update," *supra* note 31 at 185.

47. Tatum, *supra* note 33 at 15.

48. *Ibid* at 15.

49. *Ibid* at 16.

50. Helms, "An Update," *supra* note 31 at 185.

into the decisions of many ambivalent white students, like the one who met with me, to work with racialized communities. However, without properly contemplating their role and actions, whites may do harm in their efforts to assist. As Freire argues: “Attempting to liberate the oppressed without their reflective participation in the act of liberation is to treat them as objects which must be saved from a burning building....”<sup>51</sup>

In Immersion/Emersion, whites seek out more accurate information about racism and begin to reflect on the meaning of racism to them personally, which may lead them to act in anti-racist ways. Finally, in Autonomy, whites reconceptualize their whiteness in a positive manner that allows them “to relinquish the privileges of racism”<sup>52</sup> and “to confront racism and oppression in [their] daily life.”<sup>53</sup> As Tatum notes, anti-racist behaviour is more reliably conveyed at this stage.<sup>54</sup> Part of the stress experienced by white people in relation to racism is caused by their inability “to consistently follow through with...anti-racist aspirations.”<sup>55</sup> Moreover, some studies indicate a reduction in collective guilt when action is taken to remedy past harms.<sup>56</sup> Thus, cognitive dissonance is likely to be reduced or eliminated when white people are able to behave in a way that is congruous with their professed social and moral inclinations.

At any given time, students in a law school classroom may be situated in, or shifting between, one or more of these statuses. The resulting “chaos in the classroom” must be embraced as part of the learning process.<sup>57</sup> Students enter the classroom at different points in their own sociopolitical identity development and it is unlikely that the turmoil they experience in discussing race and racism will be resolved over the course of one semester. Moreover, as professors we need to recognize that growth, while thrilling and exhilarating, also “creates a sense of loss in students, the loss of a certainty that has sustained them and been a refuge in an increasingly complex and confusing world.”<sup>58</sup> Thus, we must accept this grief, as well as the sorrow that comes from becoming aware of the pain of others, as part of the process and encourage students like the ones who found my course too “depressing” to work through their distress. As Helms notes,

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51. Freire, *supra* note 10 at 52.

52. Helms, “An Update,” *supra* note 31 at 185.

53. Tatum, *supra* note 33 at 17.

54. *Ibid.*

55. Shotwell, *supra* note 34 at 76.

56. See, e.g., Angela T Maitner, Diane M Mackie & Eliot R Smith, “Evidence for the regulatory function of intergroup emotion: Emotional consequences of implemented or impeded intergroup action tendencies” (2006) 42 *Journal of Experimental Social Psychology* 720.

57. Chan & Treacy, *supra* note 32 at 215.

58. Kloss, *supra* note 12 at 154-155.

“racial self-actualization” is an ongoing process and attitudes may change more quickly than behaviours.<sup>59</sup> We should work with our students to develop their anti-racist capacities, even though this commitment places a tremendous burden on us to absorb some of the inevitable upset and resistance.

The challenge for professors is working constructively with resistant white students while not centring their experiences. White students, through overt and covert expressions of their anger, frustration, shame, defensiveness, guilt and grief, may succeed in shifting the focus of our teaching onto white students. However, our primary responsibility in discussions of race and racism should be to racialized students who already experience harm in law school. Our classes, however well-intentioned, should not become a site of further oppression for these students. We must be cognizant of the different positioning of our students and how they experience the environment in which we teach sensitive issues. Racialized students also will encounter anguish in learning about racism, particularly as they recognize the ways in which they have been disadvantaged by systems of domination and negotiate the defensiveness of some of their white classmates. As they become more aware of intersecting and interlocking oppressions, they may also become distraught at their own complicity in the subordination of others in areas where they occupy dominant positions. In preparing intellectually and emotionally for our teaching, we need to ensure that our courses reach all students, not only those from the dominant majority whose distress may be more evident and disruptive.

#### VI. *Personal and professional costs to racialized professors*

Classroom dynamics surrounding discussions of racism are mostly addressed in the literature in relation to students. However, professors also are deeply affected by such exchanges. Racialized professors take enormous personal and professional risks when they decide to teach from a critical race perspective.

Being held responsible for students’ moral and emotional crises, and constantly having to manage their reactions, takes a significant psychological toll on racialized professors. Even when we understand why it is happening, it is demoralizing and painful to be constantly accused, challenged and blamed while we attempt to educate our students to be effective lawyers and responsible citizens. I consider challenges like the one

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59. Janet E Helms, *Black and White Racial Identity: Theory, Research and Practice* (Westport, CT: Greenwood Press, 1990) at 66.

from the student in my office to be racial microaggressions—the “brief and commonplace daily verbal, behavio[u]ral, and environmental indignities, whether intentional or unintentional, that communicate hostile, derogatory, or negative racial slights and insults to the target person or group.”<sup>60</sup> In the university context, racial microaggressions include questioning the credibility, credentials or judgment of racialized professors. For example, even the more subtle suggestion that I was “fair” in my torts course (and by implication, unreasonable or unjust in my social justice class, where I was “unbalanced” in my teaching and course materials) may at first sound like the typical grumblings of a disgruntled student. However, it is a form of racial microaggression in its challenge to my competence and integrity as a racialized professor. Racial microaggressions by white students deplete the psychic resources of racialized professors (and students) in any circumstance, but racialized professors are especially vulnerable in the context of race-conscious course content. These additional burdens are borne almost exclusively by racialized professors; white faculty members are not challenged in the same way, even when they raise racial issues.

Racialized professors tend to fare better in courses that are more “technical” (i.e. black-letter law) and less critical,<sup>61</sup> which helps to explain why I receive strong evaluations more consistently in my first-year torts course, a class that is perceived as less political. However, regardless of the subject matter, racialized professors, and racialized women professors in particular, are “presumed incompetent.”<sup>62</sup> Generally, racialized faculty are viewed as underqualified or lacking desirable credentials to teach.<sup>63</sup> As many scholars have explained, racialized men and women have to expend more energy over a longer period of time than their white male and female counterparts to gain the credibility that will lead to good evaluations from their students.<sup>64</sup> As a result, racialized professors must manage not

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60. Derald Wing Sue et al, “Racial Microaggressions in Everyday Life: Implications for Clinical Practice” (2007) 62:4 *American Psychologist* 271 at 273.

61. Richard Delgado & Derrick Bell, “Minority Law Professors’ Lives: The Bell-Delgado Survey” (1989) 24 *Harv CR-CLL Rev* 349 at 361.

62. Roxanna Harlow, “‘Race Doesn’t Matter, But...’: The Effect of Race on Professors’ Experiences and Emotion Management in the Undergraduate College Classroom” (2003) 66 *Social Psychology Quarterly* 348. Harlow’s findings were based on interviews with African-American and white professors at a large, predominantly white university in the U.S. See also generally Gutiérrez y Muhs et al, *supra* note 15.

63. See Harlow, *ibid*; JoAnn Miller & Marilyn Chamberlin, “Women Are Teachers, Men Are Professors: A Study of Student Perceptions” (2000) 28 *Teaching Sociology* 283 at 295; Dalia Rodriguez, “The Usual Suspect: Negotiating White Student Resistance and Teacher Authority in a Predominantly White Classroom” (2009) 9 *Cultural Studies-Critical Methodologies* 483.

64. See Angela Onwuachi-Willig, “Silence of the Lambs” in Gutiérrez y Muhs et al, *supra* note 15, 142; Katherine Grace Hendrix, “Student Perceptions of the Influence of Race on Professor Credibility” 28 *Journal of Black Studies* 738 at 750.



only their students' emotions, but also their own in constantly having their intellectual capacities questioned, a reality which creates "more and different work" compared with white colleagues.<sup>65</sup> Moreover, studies have shown that women generally are more likely to be confronted with disrespectful students or to have their authority challenged.<sup>66</sup> Compared with their male colleagues, women also are expected to be more available to their students, both emotionally (as nurturers) and physically outside of class.<sup>67</sup> Put differently, women assume more emotional labour than their male counterparts, an invisible, time-intensive role that requires responsiveness and support to individual students.<sup>68</sup> Furthermore, students are more likely to provide positive evaluations to women professors when they teach in a highly organized and methodical manner and assign a less demanding workload.<sup>69</sup> These studies may offer insight into why some students desired more structure (through more lectures) in my social justice course and why they perceived the workload, which demanded a type of intellectual rigour and emotional work not required in most other courses, to be onerous.<sup>70</sup>

Consequently, given the realities of systemic discrimination, "it may be true that some teachers never will receive consistently high evaluations in certain environments, irrespective of anything they do or possibly could do."<sup>71</sup> For professors who believe that the education of law students should entail more than the recitation of legal rules, some students may react even more strongly to their attempts to teach critical thinking skills. A recent

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65. Harlow, *supra* note 62 at 349-350; Jerome McCristal Culp, Jr, "Autobiography and Legal Scholarship and Teaching: Finding the Me in the Legal Academy" (1991) 77 Va L Rev 539.

66. See, e.g., Valerie Ann Moore, "Inappropriate Challenges to Professorial Authority" (1996) 24 Teaching Sociology 202. She notes that students may launch inappropriate challenges based on a professor's gender and racial location that "demand that 'certain kinds' of professors justify their teaching methods, defend their knowledge, and prove their grasp of the material. As a result of these challenges, such professors must prove themselves each time they walk into their classrooms" (at 202).

67. See Alyson L Burns-Glover & Dale J Veith, "Revisiting Gender and Teaching Evaluations: Sex Still Makes a Difference" (1995) 10:4 Journal of Social Behavior & Personality 69 at 77; Joey Sprague & Kelley Massoni, "Student Evaluations And Gendered Expectations: What We Can't Count Can Hurt Us" (2005) 53 Sex Roles 779 at 790-791.

68. Sprague & Massoni, *ibid* at 791.

69. Sheila Kishler Bennett, "Student Perceptions of and Expectations for Male and Female Instructors: Evidence Relating to the Question of Gender Bias in Teaching Evaluation" (1982) 74 Journal of Educational Psychology 170 at 176. Despite its age, Bennett's study continues to be relied upon in the literature as a seminal piece of work.

70. I expect that some students also mistakenly assume that "softer" law courses, particularly ones without a final exam, will be less rigorous than their black-letter counterparts.

71. Dennis E Clayson & Mary Jane Sheffet, "Personality and the Student Evaluation of Teaching" (2006) 28 Journal of Marketing Education 149 at 158. Although Clayson and Sheffet's statement relates to the impact of a professor's personality on student evaluations without regard to gender or race, it is equally relevant to the context of discrimination against racialized women professors.

study in the U.S. reviewing evaluations concluded that students penalized those professors who attempted to promote deep learning.<sup>72</sup> As Lazos notes, some students respond negatively to professors whose divergent feminist or critical race viewpoints challenge their own ideological beliefs and use the evaluation form to complain about these professors and their teaching.<sup>73</sup> The same students also are less likely to recommend the course to peers.<sup>74</sup> Indeed, and especially relevant to this discussion, students may use their evaluations to punish professors who teach about white privilege.<sup>75</sup> Thus, it is not surprising that some white students respond negatively to my social justice course, a class in which a racialized professor encourages them to confront their own white privilege.

The literature consistently demonstrates that student evaluations rarely reflect the actual teaching competence of professors; rather, factors such as the social location of the professor including race and sex, the professor's charisma<sup>76</sup> and physical attractiveness,<sup>77</sup> the nature of the material being taught,<sup>78</sup> whether the professor's teaching style conforms to gendered norms,<sup>79</sup> grade inflation,<sup>80</sup> and even the scheduling of the class—

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72. Scott E Carrell & James E West, "Does Professor Quality Matter? Evidence from Random Assignment of Students to Professors" (2010) 118:3 *Journal of Political Economy* 409 at 430.

73. Lazos, *supra* note 15 at 182.

74. Kelly-Woessner & Woessner, *supra* note 14 at 499.

75. Su L Boatright-Horowitz & Sojattra Soeung, "Teaching White Privilege to White Students Can Mean Saying Good-bye to Positive Student Evaluations" (2009) 64:6 *American Psychologist* 574.

76. Wendy M Williams & Stephen J Ceci, "'How'm I Doing?' Problems with Student Ratings of Instructors and Courses" (1997) 29:5 *Change* 12; Mark Shevlin et al. "The Validity of Student Evaluation of Teaching in Higher Education: love me, love my lectures?" (2000) 25:4 *Assessment & Evaluation in Higher Education* 397.

77. Daniel S Hamermesh & Amy Parker, "Beauty in the classroom: instructors' pulchritude and putative pedagogical productivity" (2005) 24 *Economics of Education Review* 369. The authors found that perception of beauty had an even greater impact on the evaluation of racialized professors.

78. See Melanie Moore & Richard Trahan, "Biased and political: Student perceptions of females teaching about gender" (1997) 31:4 *College Student Journal* 434; Delgado & Bell, *supra* note 61; Heidi J Nast, "Sex, Race, and Multiculturalism: Critical Consumption and the Politics of Course Evaluations" (1999) 23:1 *Journal of Geography in Higher Education* 102 at 105 (noting that incorporating critical content is "a kind of kiss of death for any instructor," with "students invariably complaining on course evaluations").

79. See Phyllis Baker & Martha Copp, "Gender Matters Most: The Interaction of Gendered Expectations, Feminist Course Content, and Pregnancy in Student Course Evaluations" (1997) 25 *Teaching Sociology* 29; Sprague & Massoni, *supra* note 67; Christine M Bachen, Moira M McLoughlin & Sara S Garcia, "Assessing the Role of Gender in College Students' Evaluations of Faculty" (1999) 48:3 *Communication Education* 193.

80. See Valen E Johnson, *Grade Inflation: A Crisis in College Education* (New York: Springer-Verlag, 2003) at 48-73; Anthony G Greenwald & Gerald M Gillmore, "Grading Leniency is a Removable Contaminant of Student Ratings" (1997) 52 *American Psychologist* 1209; Lisa Sinclair & Ziva Kunda, "Motivated Stereotyping of Women: She's Fine if She Praised Me but Incompetent if She Criticized Me" (2000) 26 *Pers Soc Psychol Bull* 1329 (finding that grades had a stronger effect on how female professors were evaluated—i.e. the higher the grade, the more positive the evaluation).

one study found that three-hour weekly theory-based courses like my social justice class received lower evaluations<sup>81</sup>—are better predictors of how positively a course will be assessed. Although student evaluations are an unreliable measure of teaching ability and likely perpetuate systemic discrimination, they are nonetheless consistently taken into account in tenure and promotion assessments, as well as for other purposes. The persistent gap in evaluations between racialized and white professors even when other variables are controlled and the potentially devastating career consequences have led some researchers to conclude that scores should be adjusted for factors that have nothing to do with teaching competence.<sup>82</sup>

VII. *“The road to hell is paved with good intentions”*: Is anti-racism teaching worth the cost?

Given the personal and professional costs to racialized professors, the question remains: why would any professor choose to teach about race and racism to law students? Admittedly, I ask myself this question somewhat regularly. Expending vast resources of energy to teach critically only to encounter resistance, discontent and anger from some students makes any sane professor wonder whether it is worth it. In those moments of disillusionment, I vow to teach an upper level, “substantive” law course in a traditional way, which I have no doubt would be less onerous emotionally, substantively and professionally. I daydream about teaching law “objectively”—without context, from a distance, without emotion. Just rules. Glorious decontextualized rules.

But then, like every other critical law professor who indulges in this fantasy from time to time, I remember my commitment to education and to social justice, and why I teach critically. As professors, we have a responsibility to educate in a way that challenges, stimulates and maximizes learning, even when some of our students would rather coast through law school learning only what will help them pass the bar. However, our duty is not only to the individual students that we teach, but also to the communities that our students will serve or—perhaps more importantly—oppose. It is our obligation to ensure that they are properly equipped to do so. In the same way that I must feel satisfied my torts students leave with at least a rudimentary understanding of the law of torts (broadly defined), I also must be confident that students complete a course on social justice with some fundamental knowledge, insights and skills, which in my view includes an appreciation of race, racism and white privilege.

81. Michael A McPherson & R Todd Jewell, “Leveling the Playing Field: Should Student Evaluation Scores be Adjusted?” (2007) 88:3 Social Science Quarterly 868 at 879.

82. *Ibid.*

This responsibility is heightened when students take my course to satisfy the requirements for our social justice option. It would be unethical and unprincipled for a law school to recognize a specialization in social justice for graduates who have not developed even a basic racial literacy.

A few isolated social justice professors cannot fulfill our collective obligation to promote antisubordination, nor should they be expected to. Law schools, largely silent on issues of race and racism, must foster a climate, inside and outside the classroom, that challenges institutional norms of whiteness and views race-conscious teaching and learning as necessary and important. As Moore notes, “law and education are key social institutions through which social reproduction takes place. And because these institutions are fundamentally racialized, they function to reproduce racist social relations and ideologies that support these relations as institutions.”<sup>83</sup> An institutional commitment to anti-subordination will require a critical mass of professors dedicated to teaching about racism and white privilege in a meaningful way, and for these professors and this pedagogy to be supported and valued by the law school. This support must recognize that teaching anti-racism courses as a racialized professor is resource-intensive and places an enormous burden on these professors,<sup>84</sup> particularly when this work is diminished by law schools. Race, racism and white privilege will only be perceived as legitimate topics in legal education—as “real” law—when their discussion becomes routine in law school and dominant narratives regarding legal education and the practice of law are transformed. Despite their professed commitment, the majority of faculty do little in their classrooms to support anti-racism, either because they believe they lack the competence to address such issues or because they worry about conflict or emotional responses,<sup>85</sup> or simply as a result of their own investment in the status quo. Many professors, seeking a classroom environment that is “emotionally comfortable,”<sup>86</sup> may project their own unease with racism into their teaching and avoid dealing with feelings they personally find hard to endure.

While often unpleasant and countercultural in the law school environment, we must, as discussed above, blur the lines between what is “emotional” and what is “rational” in law school teaching, and embrace the turmoil that is necessary for the growth of our students rather than evade it. To do so, we must first disabuse ourselves of the notion that law

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83. Moore, *supra* note 11 at 25.

84. Dua & Lawrence, *supra* note 15 at 115.

85. Penny A Pasque et al, “Pedagogical Approaches to Student Racial Conflict in the Classroom” (2013) 6 *Journal of Diversity in Higher Education* 1.

86. Chan & Treacy, *supra* note 32 at 215.

school classrooms can be “safe spaces.” They are never safe, for students or professors, especially surrounding discussions of race and racism. Concerns about safety, often expressed in relation to whether white students feel comfortable and free to speak openly in such spaces, may deter (and excuse) both white and racialized professors from engaging in discussions on racism and other difficult issues in their classes. Instead of speaking about safe spaces, we should aspire to create an environment that minimizes the risks (i.e. “safer” spaces), especially for racialized students and professors who are most vulnerable in discussions that are not carefully facilitated. We can mitigate some of these risks by constantly asking students about their reactions, encouraging analytic reflexivity and preparing them (and ourselves) for the inevitable emotional responses. As Sue and others observed in their study on the impact of classroom discussions about racism on racialized students: “When the instructor seemed comfortable with addressing race issues, validated different feelings experienced by students of colo[u]r, legitimized a different racial reality, and exhibited good communication and facilitation skills, difficult dialogues proved a valuable learning experience.”<sup>87</sup> For racialized students, this process may also assist them to navigate the pain of racial subordination and to develop and practice effective ways of responding to colleagues who deny white privilege or discount experiences of racism.

White professors have a critical role to play in this project. First and foremost, they also must interrogate their whiteness. Racialized professors encounter negative reactions to conversations on race and racism not only from white students, but also from white colleagues and administrators. Yet, white colleagues enjoy heightened credibility when discussing racism and have a moral and educational obligation to use their white privilege not only to guide distraught students, but also to deflect some of the backlash targeted at racialized professors.<sup>88</sup> A personal, professional and institutional commitment to social justice means that we *all* share this burden and may at times have to reconcile ourselves to being unpopular and receiving unfair teaching evaluations.

As professors, we often become fixated on the few negative evaluations we receive, as indeed I am guilty of in this reflection, even when the vast majority of comments we read are positive. These positive evaluations should provide impetus for teaching critically; many of our students not

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87. Derald Wing Sue et al, “Racial Microaggressions and Difficult Dialogues on Race in the Classroom” (2009) 15:2 Cultural Diversity & Ethnic Minority Psychology 183 at 188.

88. For a helpful example of how a white male professor uses his classroom to challenge privilege and institutional bias, see Michael A Messner, “White Guy Habitus in the Classroom: Challenging the Reproduction of Privilege” (2000) 2:4 Men and Masculinities 457.

only appreciate our efforts, but are exceedingly grateful to have a course that stimulates and challenges them to see the law and themselves in a new way. For example, one of my social justice students indicated on the evaluation: “I like that it challenges students to think about their approach to issues and to realize that we all see things through a lens that influences how we view them.” Another wrote: “Overall, I found the course very refreshing as a break from the traditional law school curriculum. I learned a lot about social justice theory and about myself as a person.” Similar sentiments were expressed by other students as well: “Awesome course! Makes you challenge the way you think and the assumptions most people don’t realize they make. Great course for identifying key issues that transcend all of our day-to-day realities,” and “Unlike other courses, I feel like I actually learned something since I could reflect on the material!!” For students who find law school marginalizing and disorienting, social justice courses may be one of the few places they feel centred, where their experiences and worldviews are reflected in the curriculum. A number of students indicated on their evaluations that the social justice course was one of their favourite classes in law school, that it was inspiring, that it gave them tools to analyze the law in any context—in other words, the polar opposite reaction of the students who found the course depressing, too theoretical and lacking substance. These are the students who sustain us and push us to do our best as educators, to approach our work with purpose and integrity despite the animosity that we may encounter and the possible personal and professional consequences.

For those students who oppose our efforts, it is important to remember that their resistance may be more complex than we first realize and should not be pathologized as an individual student problem. Students may require more time and more opportunities to intellectually and emotionally process the ideas that we plant over the short time we have together before they appreciate that systems of domination harm us all. Our students are complicated; they enter law school with a set of experiences and preconceptions about themselves and others that shape the way they view the law and their work. Fortunately, most also embark on this adventure with a sense of curiosity and eagerness to learn and evolve. We must meet them where they are in their own development and guide them forward to the best of our abilities, confident in their capacity to reach their anti-racist aspirations.

To do so effectively, we must be open to engaging in difficult conversations with our students. These dialogues require patience, particularly since they may need to take place repeatedly before ideas start to sink in. The substance of the exchange that took place in my office was

by no means unique. However, what was unusual was the willingness of a professor and student to participate in a candid discussion that neither was keen to have and that both experienced as emotionally and intellectually taxing. I have no idea whether this student will reach a point where she is able to reflect meaningfully on her intense reactions to me and the course, or if she will appreciate the ways in which the course may enrich her capacities as a lawyer working with vulnerable communities. However, I am certain that as a result of our dialogue, these outcomes are more likely than if we had taken the more comfortable route of circumventing the conversation. It would be naive to expect this student to experience an immediate attitudinal shift; however, I am hopeful that when discussions about racism trigger distress in the future, as they inevitably will, she will be better prepared to interrogate her reactions.

Like other racialized academics concerned with emotional self-preservation, I am tempted to avoid or withdraw from discussions in which white students (or colleagues) deny the existence, relevance or extent of racism, or challenge my credibility as a racialized woman professor. However, I am more willing to endure such interactions if I believe they may lead to something positive. Of course, we all need to choose our battles, and some battles we can predict are not worth fighting; we have to be strategic in the way we use our limited energy. But where we have an opportunity to educate about white privilege and racism, we should accept the challenge as part of our professional responsibility and assume that it will make a difference. As professors, we fundamentally trust in our students' capacities to grow, or we would have little reason to teach. In any event, we also invigorate our own capabilities through demanding exchanges with students, however exhausting they may be. Having had the opportunity to reflect on my frustrations with the student who met with me and others like her, I now have deeper insights into how I can more effectively work with students on unsettling issues in the future.

One way that I will adjust my social justice class moving forward relates to its size. In my ambitious attempt to adopt a seminar approach in a larger class, I realized that I could not advance my pedagogical objectives without having the chance to interact meaningfully with every student present. The intense intellectual, political and emotional struggle towards the eradication of racism demands that students be engaged and accountable in ways that are not required in a larger group. I am hopeful that teaching my course as a seminar will help foster a community amongst students who have been immersed in a law school culture of competitive, individual liberalism, and to solidify a shared vision of social justice that recognizes the interconnectedness of all systems of domination as well

as a commitment to dismantling them. A more intimate classroom will facilitate the kind of profound reflections and challenging dialogues that can transpire into personal and social transformation.<sup>89</sup> As Freire notes of the teacher-student interaction: “Only dialogue, which requires critical thinking, is also capable of generating critical thinking. Without dialogue, there is no communication, and without communication there can be no true education.”<sup>90</sup>

Teaching law students about race, racism and white privilege can be a thankless, frustrating, demoralizing and exhausting endeavour. But it also can be immensely satisfying and rewarding. The emotions that we encounter in our classrooms are not all negative; “engaged pedagogy,” according to bell hooks, can also inspire excitement, passion and enthusiasm in our students, emotions that are empowering and exhilarating to us as educators.<sup>91</sup> Moreover, teaching about these issues enables us as academics to stay true to our own social justice aspirations, not only in thoughtfully educating the next generation of lawyers, but also in connecting theory and practice in our own work and in reflecting on the integrity of our own practices. We have tremendous power and opportunity as law professors to facilitate liberation through education, not only for our students but also for ourselves.<sup>92</sup>

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89. I recognize that teaching smaller classes has become a luxury at a time where budgetary constraints and the increasing corporatization of law schools have meant that professors are expected to teach more with fewer resources. I would not be surprised if I am asked to return to my previous enrolment at a future date.

90. Freire, *supra* note 10 at 81.

91. bell hooks, *Teaching to Transgress: Education as the Practice of Freedom*, *supra* note 1 at 13-22, 204.

92. Many scholars have been inspired by the work of Paulo Freire in their explorations of education as a practice of liberation. Freire, *supra* note 10. See hooks, *ibid*; Daniel G Solórzano & Tara J Yosso, “Maintaining Social Justice Hopes Within Academic Realities: A Freirean Approach to Critical Race/LatCrit Pedagogy” (2001) 78 *Deny UL Rev* 595; Mohsen al Attar & Vernon Tava, “TWAIL Pedagogy: Legal Education for Emancipation” (2009) 15 *Palestine YB Int’l L* 7; Michael W Apple, “Freire and the politics of race in education” (2003) 6 *International Journal of Leadership in Education* 107.



