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INSIDE THE MASTER’S GATES: RESOURCES AND TOOLS TO DISMANTLE RACISM AND SEXISM IN HIGHER EDUCATION

SUSAN AYRES[†]

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The spring of 2020 saw waves of protest as police killed people of color. After George Floyd’s death, protests erupted in over 140 cities. The systemic racism exhibited by these killings has been uncontrollable, hopeless, and endless. Our country is facing a national crisis. In response to the police killings, businesses, schools, and communities held diversity workshops across the nation, and businesses and organizations posted antiracism statements. Legislators and City Councils introduced bills and orders to defund police and to limit qualified immunity. As schools prepared for the fall semester, teachers considered ways to incorporate antiracism materials into the curriculum. Drawing on the storytelling movement of Critical Race Theory, this Article discusses tools law professors can use to explore these issues in a safer and more egalitarian classroom setting, including counter-stories, such as those compiled in Claire Millikin’s “Substance of Fire: Gender and Race in the College Classroom.” Using an intersectional approach, this Article argues that important questions we should be asking our students and each other are

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(1) *How does a particular area of law have racist and sexist effects and what can law do to remedy those effects?* and (2) *How do racism and sexism within the institution affect students and professors?*

INTRODUCTION

The spring of 2020 saw waves of protest as police killed people of color. Louisville police shot Breonna Taylor, a Black EMT technician, five times in her apartment in mid-March during a no-knock police search warrant.¹ Protests over Taylor's killing continued up to the time of the Kentucky Derby in early September,² and through the time the grand jury failed to indict the police officers responsible for her death.³ After George Floyd's death on May 25, 2020 in Minneapolis, protests erupted in over 140 cities.⁴

Police shot or killed eighty-three Black people from the time of Taylor's death in March through August.⁵ The police shootings included Jacob Blake in Kenosha, Wisconsin on August 23,⁶ Dijon Kizzee in Los

1. Darcy Costello & Tessa Duvall, *Minute-by-Minute: What Happened the Night ...*, COURIER J (Aug. 31, 2020), <https://www.courier-journal.com/story/news/2020/05/14/minute-minute-account-breonna-taylor-fatal-shooting-louisville-police/5182824002/>. The police were not wearing body cameras, but in attempting to piece together the events that night, CNN reporters have called the "police operation ... tragically flawed," and the FBI has stepped in to investigate. <https://www.cnn.com/2020/07/23/us/breonna-taylor-police-shooting-invs/index.html>. See also <https://www.nytimes.com/article/breonna-taylor-police.html>.

2. *Thousands Protest Outside Kentucky Derby over Killing of Breonna Taylor*, ASSOC. PRESS (Sept. 5, 2020, 11:20 PM), <https://www.cbsnews.com/news/thousands-protest-the-police-killing-of-breonna-taylor-outside-kentucky-derby/>.

3. Alisha Haridasani Gupta, *Since 2015: 48 Black Women Killed by the Police. And Only 1 Charge*, N.Y. TIMES (Sept. 24, 2020), <https://www.nytimes.com/2020/09/24/us/breonna-taylor-grand-jury-black-women.html?action=click&module=News&pgtype=Homepage>; Dylan Lovan, Piper Hudspeth Blackburn, & John Minchillo, *Two Louisville Officers Shot Amid Breonna Taylor Protests*, ASSOC. PRESS, (Sept. 24, 2020) <https://apnews.com/article/shootings-frankfort-kentucky-louisville-breonna-taylor-28a283922de8784ff6fca5c42fe8e5bca>.

4. Derrick Bryson Taylor, *George Floyd Protests: A Timeline*, N.Y. TIMES (July 10, 2020), <https://www.nytimes.com/article/george-floyd-protests-timeline.html>.

5. Riley Beggin, *Jacob Blake Speaks Out About Being Shot by a Police Officer: "It's Nothing but Pain"*, VOX (Sept. 6, 2020, 2:05 PM) <https://www.vox.com/2020/9/6/21425025/jacob-blake-speaks-out-shot-seven-times-protests>.

6. Ray Sanchez, *Jacob Blake's Shooting Shows America Has a Long Way to Go in Its Journey toward a Racial Reckoning*, CNN (Sept. 4, 2020, 1:20 PM), <https://www.cnn.com/2020/08/30/us/jacob-blake-shooting-one-week-later/index.html>.

Angeles on August 31,⁷ Daniel Prude in Rochester on March 30,⁸ and Deon Kay in Washington, D.C., on September 2.⁹ In addition, there has been an increase in the number of counter-protests confronting Black Lives Matter demonstrators,¹⁰ such as the shooting in Kenosha, Wisconsin, where two Black Lives Matter demonstrators were killed.¹¹

The systemic racism exhibited has been uncontrollable, hopeless, and endless.¹² Our country faces a national crisis: “[t]here is a new acknowledgment that this country has a serious systemic racism problem—from the cradle to the grave—from police brutality to education to health disparities to employment.”¹³ Former President Obama said, “for millions of Americans, being treated differently on account of race is tragically, painfully, maddeningly ‘normal.’”¹⁴

7. Sarah Moon & Alexandra Meeks, *Investigators Say Los Angeles Deputies Fired 19 Times at Dijon Kizzee after He Tried to Pick up a Gun*, CNN (Sept. 18, 2020, 9:54 AM), <https://www.cnn.com/2020/09/18/us/dijon-kizzee-los-angeles-shooting-investigation/index.html>.

8. Troy Closson et al., *What to Know About Daniel Prude’s Death*, N.Y. TIMES (Sept. 4, 2020), <https://www.nytimes.com/2020/09/04/nyregion/rochester-daniel-prude.html>.

9. Mark Segraves et. al., *Black Lives Matter Organizer Criticizes DC Police Tactics in Shooting of Deon Kay*, NBC WASH. (Sept. 7, 2020, 8:15 PM), <https://www.nbcwashington.com/news/local/black-lives-matter-organizer-criticizes-dc-police-tactics-in-shooting-of-deon-kay/2412454/>. These police shootings continued to occur as this Article was going to press, such as the killing of Jonathan Price, a Black man who was shot by a Texas Ranger in October of 2020. Jolie McCullough, *Texas Police Officer Arrested on Suspicion of Murder in a Fatal Shooting of Jonathan Price*, TEX. TRIB. (Oct. 6, 2020), <https://www.texastribune.org/2020/10/06/jonathan-price-texas-police-killing/>.

10. Roudabeh Kishu & Sam Jones, *Demonstrations & Political Violence in America: New Data for Summer 2020*, ARMED CONFLICT LOCATION & EVENT DATA PROJECT, (Sept. 3, 2020), <https://acleddata.com/2020/09/03/demonstrations-political-violence-in-america-new-data-for-summer-2020/>.

11. Braktkton Booker & Mark Katkov, *Illinois Teen Arrested After Fatal Shootings of 2 Kenosha, Wis., Protesters*, NPR (Aug. 26, 2020, 5:42 AM), <https://www.npr.org/sections/live-updates-protests-for-racial-justice/2020/08/26/906145086/3-shot-1-fatally-in-kenosha-wis-as-protests-continue-over-police-shooting>.

12. See Margalynne J. Armstrong, *Are We Nearing the End of Impunity for Taking Black Lives?*, 56 SANTA CLARA L. REV. 721, 753 (2016) (Part IV, “Demanding an End to Law Enforcement Impunity”); see Gabriel J. Chin, *The Jena Six and the History of Racially Compromised Justice in Louisiana*, 44 HARV. CIV. RTS. CIV. LIBERTIES. L. REV. 361 (2009) (examining history of Louisiana to suggest that the state may very well selectively prosecute African Americans).

13. Liane Jackson, *America’s Tipping Point*, 106-SEP A.B.A. J. 9 (2020).

14. Maggie Astor, *What Trump, Biden and Obama Said About the Death of George Floyd*, N.Y. TIMES (May 29, 2020), <https://www.nytimes.com/2020/05/29/us/politics/george-floyd-trump-biden-obama.html>.

In the midst of this, beloved civil rights Leader and U.S. Representative John Lewis died.¹⁵ During his funeral in Atlanta, countless speakers echoed his words urging Americans not only to vote, but to get into “good trouble.”¹⁶ We were reminded of Representative Lewis’s tweet in June of 2018: “Do not get lost in a sea of despair. Be hopeful, be optimistic. Our struggle is not the struggle of a day, a week, a month, or a year, it is the struggle of a lifetime. Never, ever be afraid to make some noise and get in good trouble, necessary trouble.”¹⁷

In response to police killings, businesses, schools, and communities held diversity workshops across the nation,¹⁸ and businesses and organizations posted antiracism statements.¹⁹ Legislators and city councils introduced bills and orders to defund the police, to lower the criminal intent standard to convict a law enforcement officer for misconduct in a federal prosecution, to limit qualified immunity, and to authorize the Department of Justice to issue subpoenas for a pattern or practice of discrimination when investigating police departments.²⁰ After Breonna

15. Katharine Q. Seelye, *John Lewis, Towering Figure of Civil Rights Era, Dies at 80*, N.Y. TIMES (July 17, 2020), <https://www.nytimes.com/2020/07/17/us/john-lewis-dead.html>.

16. Grace Segers & Melissa Quinn, *Congressman John Lewis Remembered at Funeral Service*, CBS NEWS (July 30, 2020, 9:24 PM), <https://www.cbsnews.com/live-updates/john-lewis-funeral-congressman-live-stream-today-2020-07-30/>.

17. Joshua Bote, ‘*Get in Good Trouble, Necessary Trouble*’: Rep. John Lewis in His Own Words, USA TODAY (July 18, 2020, 12:46 PM), <https://www.usatoday.com/story/news/politics/2020/07/18/rep-john-lewis-most-memorable-quotes-get-good-trouble/5464148002/>.

18. See materials provided by *Cultural Competence Training Program*, NAT’L EDUC. ASSOC., <https://www.nea.org/professional-excellence/professional-learning/just-equitable-schools/cultural-competence>; Ilana Redstone, *This is a Chance to Fix Diversity Training*, FORBES (June 11, 2020, 11:57 AM), <https://www.forbes.com/sites/ilanaredstone/2020/06/11/this-is-a-chance-to-fix-diversity-training/#9c4519482010> (addressing problems with previous diversity training, and possible solutions); Pippa Stevens, *Companies are Making Bold Promises About Greater Diversity, But There’s a Long Way to Go*, CNBC (June 11, 2020, 5:16 AM), <https://www.cnbc.com/2020/06/11/companies-are-making-bold-promises-about-greater-diversity-theres-a-long-way-to-go.html> (businesses providing more diversity and inclusion training, but author questions whether real change will occur).

19. *Anti-Racist Statements*, CHIEF EXECS. FOR CORP. PURPOSE (last visited Nov. 29, 2020), <https://cecp.co/cecp-anti-discrimination-statement/>.

20. George Floyd Justice in Policing Act of 2020, H.R. 7120, 116th Cong.; see *Police Reform*, THE MARSHALL PROJECT, (last updated Nov. 27, 2020 12:47 PM), <https://www.themarshallproject.org/records/110-police-reform> (the Marshall Project contains links to police reforms in the following cities: Baltimore, Boston, Buffalo, Camden, Chicago, Cincinnati, Dallas, Denver, Ferguson, Georgetown, Honolulu, Houston, Kenosha, Los Angeles, Louisville, Loveland, Miami-Dade, Milwaukee, Minneapolis, Newark, New York, Omaha, Philadelphia, Portland, Portsmouth, Sacramento, Santa Clara, Seattle, Tacoma, Washington D.C.).

Taylor's death, the mayor of Louisville signed "Breonna's Law," which prohibits no-knock warrants.²¹ Ironically, during the same period, the White House ordered an end to racial sensitivity training across federal agencies.²² According to the White House memo by the Office of Management and Budget, training on "critical race theory," or "white privilege," constitutes "divisive, anti-American propaganda."²³ This White House directive came across as a blatant effort to uphold white privilege and white supremacy, and was a further indication of the crisis facing our country.²⁴

As schools prepared for the fall semester, teachers considered how to incorporate antiracism materials into the class curriculum. This was true for elementary, high school, college, and post-graduate educators.²⁵ For example, the Modern Language Association curated a commons website of "Antiracist Resources for Your 2020-2021 Teaching."²⁶ Law schools also considered ways to incorporate issues surrounding racial inequality into the law school curriculum. For instance, the AALS listserv for Family Law Professors circulated a list of readings on race for family law courses.²⁷ The AALS Section on Leadership co-sponsored a symposium on 2020 Vision for Leadership Conference,²⁸ and many other resources

21. See Gupta, *supra* note 3.

22. Matthew S. Schwartz, *Trump Tells Agencies to End Trainings on "White Privilege" and "Critical Race Theory,"* NPR (Sept. 5, 2020, 4:31 PM) <https://www.npr.org/2020/09/05/910053496/trump-tells-agencies-to-end-trainings-on-white-privilege-and-critical-race-theory/>.

23. *Id.*

24. Shani Saxon, *Trump Writes Racist Memo Telling Federal Agencies to End Racial Sensitivity Trainings,* COLORLINES (Sept. 8, 2020, 4:00 PM), <https://www.colorlines.com/articles/trump-writes-racist-memo-telling-federal-agencies-end-racial-sensitivity-trainings>.

25. See, e.g., Desmond Tutu Peace Foundation, *Southern Poverty Law Center – Teaching Tolerance,* TEACHING TOLERANCE (Oct. 5, 2020), <https://www.tolerance.org/magazine/the-southern-poverty-law-center-teaching-tolerance>; *Inclusive Teaching Strategies,* CORNELL U., <https://teaching.cornell.edu/teaching-resources/building-inclusive-classrooms/inclusive-teaching-strategies>; *Inclusive Teaching Strategies,* YALE U., <https://poorvucenter.yale.edu/InclusiveTeachingStrategies>.

26. *Antiracist Resources for Your 2020-2021 Teaching,* HUMANS. COMMONS (June 2020), <https://antiracistresources.hcommons.org/>.

27. Posting of Clare Huntington, chuntington@law.fordham.edu, to SECTFJ.aals@lists.aals.org (June 28, 2020 4:46 PM) (on file with author). Law school libraries have also created online materials. See, e.g., Tarlton Law Library, *Race and Anti-Racism,* TEX. L. JAMAIL CTR. FOR LEGAL RSCH., <https://tarlton.law.utexas.edu/race-anti-racism/compilations-miscellaneous-resources>.

28. 2020 Vision for Leadership Conference, AALS Section on Leadership & Baylor L. Rev., at Baylor Law School, <https://www.baylor.edu/law/index.php?id=966106>.

circulated, such as teaching guidebooks and websites created by law libraries.²⁹

As my law school prepared for the fall, our dean invited faculty to join in a virtual community discussion to share teaching ideas and practices for incorporating race issues in the classroom. Dean Robert Ahdieh referenced the “inexplicable killing of George Floyd,” and our nation’s failure to live up to the promised equality upon which our nation was founded.³⁰ Dean Ahdieh tasked the faculty with doing its part to effectuate change:

Any effort to change those stubborn facts must include law and lawyers at its core. It is high time, as such, for our community of current and future lawyers to step up – and to step into – the conversation about how we can *do* better, and *be* better. I hope all of you will join in that conversation. Some of the topics may be difficult, but it is an essential discussion – if we wish to improve ourselves, our law school, and the legal profession.³¹

Conversations such as these burgeoned across the nation, yet race talk is one of the most difficult conversations to have.³² Fears about addressing race and gender in the classroom are not unfounded. Several of my colleagues voiced hesitation about bringing race issues into the classroom.

29. See *supra* note 27, Email from Professor Clare Huntington; see also *Confronting Structural Violence: Law Teaching Guides*, CARDOZO L. INST. IN HOLOCAUST & HUMAN RTS., <https://go.yu.edu/cardozo/lawteachingguides>; *Stanford Law School Clearinghouse on Diversity, Equity, and Inclusion Research*, STANFORD L. SCH. (last visited Nov. 29, 2020), <https://sites.google.com/stanford.edu/deiclearinghouse/>; TEXAS A&M U. SCH. L., Dee J. Kelly Law Library, Antiracism Resources, <https://law.tamu.libguides.com/c.php?g=1054092>.

30. Email from Robert Ahdieh, Dean, to faculty of Texas A&M University (June 10, 2020, 1:11 PM), <https://www.aals.org/wp-content/uploads/2020/06/Texas-AM-University-School-of-Law-Community-Forum.pdf>.

31. *Id.* Dean Ahdieh and other legal educators gathered for a symposium on 2020 Vision for Leadership Conference, co-sponsored by the AALS Section on Leadership. See *supra* note 28, 2020 Vision for Leadership Conference.

32. DERALD WING SUE, RACE TALK AND THE CONSPIRACY OF SILENCE: UNDERSTANDING AND FACILITATING DIFFICULT DIALOGUES ON RACE, 22-23 (2016); IJEOMA OLUO, SO YOU WANT TO TALK ABOUT RACE 6 42-45 (2018); Erin C. Lain, *Racialized Interactions in the Law School Classroom: Pedagogical Approaches to Creating a Safe Learning Environment*, 67 J. LEGAL EDUC. 780, 781 (2018) (observing that “navigating [racial issues in the classroom] can seem like a minefield for most”); Eduardo R.C. Capulong, Andrew King-Ries, & Monte Mills, “Race, Racism, and American Law”: A Seminar from the Indigenous, Black, and Immigrant Legal Perspectives, 21 SCHOLAR: ST. MARY’S L. REV. RACE & SOC. JUST. 1, 37-38 (2019) (in describing a seminar taught by three professors, the authors conclude, “thinking, learning, and talking about race, racism, and American law is hard. The issues are real, the emotions are raw and intense, and the discussions are difficult, sometimes impossible”).

Professors of color, women professors, and untenured or adjunct professors might worry that student evaluations would suffer,³³ or that the professors of color themselves would not be able to remain objective.³⁴ Professors of color might also worry that they were expected to be experts in leading discussions, and viewed as incompetent if they lost control of the discussion.³⁵ Many worried about effectively leading class discussions.³⁶ During our faculty discussion, as a white female professor, I silently worried about being able to facilitate these discussions, and also wondered how I would both tackle the material for a new course on family law, and also find a way (and time) to raise and discuss race issues.³⁷ Other professors might have worried about the anxiety they would feel in leading such discussions, or their confusion and anxiety in not recognizing microaggressions.³⁸ Additionally, although the faculty talked about the

33. See CLAIRE MILLIKIN, *SUBSTANCE OF FIRE: GENDER AND RACE IN THE COLLEGE CLASSROOM 9-10* (2018) (expressing concerns especially for non-tenured adjunct faculty “hired semester-by-semester based solely on positive course evaluations by students may lack the institutional stability to risk emphasizing or even introducing material that might challenge student assumptions and demand critical thinking”).

34. See Derald Wing Sue et al., *Racial Dialogues: Challenges Faculty of Color Face in the Classroom*, 17 *CULTURAL DIVERSITY & ETHNIC MINORITY PSYCH.* 331, 335-336 (2011); Kimberle Williams Crenshaw, *Forward: Toward a Race-Conscious Pedagogy in Legal Education*, 4 *S. CAL. REV. L & WOMEN’S STUD.* 33, 35-36 (1994) (observing that the dominant classroom mode is generally “the embodiment of a white middle-class world view,” which Crenshaw labels as “perspectivelessness”).

35. Sue et al., *supra* note 34 at 335, referring to this situation as “The ‘Expert Syndrome.’”

36. See Anastasia M. Boles, *The Culturally Proficient Law Professor: Beginning the Journey*, 48 *N.M. L. REV.* 145, 146 (2018) (observing that many law professors are viewed as “discussing race incompetently or insensitively, or omitting and avoiding discussions of race altogether”); Erin C. Lain, *supra* note 32, at 790 (noting that law professors often “avoid[] and minimiz[e] racialized interaction within the classroom” because they feel “anxiety about losing control and feeling uncomfortable”); Sue et al., *supra* note 34, at 336 (study indicated professors of color worried that “the traditional educational emphasis on acquisition of knowledge and course content were seen as being at odds with emotive discussions on race” and that “time constraints” hindered discussions, as well).

37. See Lain, *supra* note 32, at 790 (citing study which found that “professors recognized when race was playing a role in an interaction [in the classroom], but they reported not wanting to spend time on arguments when it did not pertain to the class topic, not knowing how to navigate the experience, or not feeling comfortable with the emotions that would result in trying to deconstruct the interaction”).

38. Derald Wing Sue et al., *How White Faculty Perceive and React to Difficult Dialogues on Race: Implications for Education and Training*, 37 *THE COUNSELING PSYCHOLOGIST* 1090, 1106-07 (2009). *Id.* at 1091 (pointing out that “honest discussions about race and racism have proved to be a major challenge for most White educators who appear reluctant or ambivalent in addressing these topics ...”).

need for these conversations, the faculty did not receive training to facilitate conversations on difficult topics of race or gender.³⁹

Despite the obstacles, many believe that educators have a social duty at this moment in our country's history to incorporate discussions about race in the law school classroom.⁴⁰ Additionally, many agree that issues of race and gender are intertwined.⁴¹ As Kimberlé Williams Crenshaw wrote, "the intersectional experience is greater than the sum of racism and sexism, any analysis that does not take intersectionality into account cannot sufficiently address the particular manner in which Black women are subordinated."⁴² In addition to race and gender, class is also intertwined,⁴³ and an intersectionality analysis applies not only to Black women, but to LGBTQ+ individuals as well.⁴⁴

Important questions we should be asking our students and each other are (1) How does a particular area of law have racist and sexist effects and

39. *Id.* at 1101; *see also id.* at 1111 ("it is imperative that education and training programs systematically prepare educators and psychologists at all levels of education in the science, practice, and art of facilitating difficult dialogues").

40. *See, e.g.,* Capulong et al., *supra* note 32, at 4-5 (describing the impetus to create a seminar on Race, Racism, and American Law); *see generally* Teaching Tolerance, *Let's Talk! Discussing Race, Racism and Other Difficult Topics with Students*, SOUTHERN POVERTY L. CTR. (Last Visited July 30, 2020), <https://www.tolerance.org/sites/default/files/2019-12/TT-Lets-Talk-December-2019.pdf>; Amy L. Eva, *Three SEL Skills You Need to Discuss Race in Classrooms*, GREATER GOOD SCIENCE CTR. (Oct. 31, 2017), https://greatergood.berkeley.edu/article/item/threeselsskills_you_need_to_discuss_race_in_classrooms.

41. *See* MILLIKIN, *supra* note 33, at 112-13 ("Only the combination of critical race theory with feminist theory will be able to turn the tide for deeper thinking and societal change").

42. Kimberlé Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics*, 1989 U. CHI. LEGAL. F. 139, 140 (1989); *see generally*, Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, 43 STAN. L. REV. 1241 (1991).

43. *See* Capulong et al., *supra* note 32, at 33 (commenting that "[r]ace and racism were the justification for economic plunder—conquest, slavery, and immigrant exploitation. Race and class are, therefore, inextricably linked").

44. *See, e.g.,* Ryan Sasse, *The Case for Intersectionality: Supporting LGBTQ Youth Against COVID-19*, UNICEF USA, (June 25, 2020), <https://www.unicefusa.org/stories/case-intersectionality-commemorating-pride-amidst-covid-19/37418>; *See What Does Intersectional Feminism Actually Mean?*, IWDA (May 11, 2018), https://iwda.org.au/what-does-intersectional-feminism-actually-mean/?gclid=EA1aIQobChMI2eGYlab26wIVj4bACh3ROQEeEAMYASAAEgLb3_D_BwE; Kittu Pannu, *Privilege, Power, and Pride: Intersectionality Within the LGBT Community*, IMPAKTER MAG. (Aug. 14, 2017), <https://impakter.com/privilege-power-and-pride-intersectionality-within-the-lgbt-community/>.

what can law do to remedy those effects? And (2) How do racism and sexism within the institution affect students and professors?⁴⁵

In what follows, Part One considers resources to navigate both questions. Parts Two and Three focus on the question of racism and sexism within institutions of higher learning, which presuppose a predominant narrative of equality and objectivity. Specifically, Part Two draws on the narrative or storytelling movement and gives an overview and backstory for *Substance of Fire: Gender and Race in the College Classroom*.⁴⁶ Part Three analyzes the narratives and poems in *Substance of Fire* as models for reflecting upon race and gender bias in law school. Part Four concludes with a brief overview of tools professors could use to tease out these issues in a safer and more egalitarian classroom setting. Although talking about racism and sexism in higher education is difficult, we must try, otherwise we will perpetuate Master narratives; as Audre Lorde writes in her famous essay, “The Master’s Tools Will Never Dismantle the Master’s House.”⁴⁷

I. DISMANTLING THE MASTER’S HOUSE: RESOURCES

Resources to help navigate the first question—how law has racist and sexist effects and how law can ameliorate those effects—are readily available, as mentioned above.⁴⁸ Additional resources include books such as *Race Talk and the Conspiracy of Silence* by Derald Wing Sue, which delves into causes for the conspiracy of silence around race talk and which provides tools to facilitate classroom discussion; there are also many other Latcrit, outcrit, critical race theory, and feminist articles that provide both theoretical and pedagogical perspectives on this issue.⁴⁹

Nonetheless, some argue that effectuating social change to ameliorate racism and other social inequities is difficult, if not impossible, to accomplish in the law school (or any school) setting because, as critical race scholars such as Richard Delgado have argued, “those with the

45. As pointed out above, these questions could include the factor of class.

46. MILLIKIN, *supra* note 33, at 1-3.

47. Audre Lorde, *The Master’s Tools Will Never Dismantle the Master’s House*, *Sister Outsider: Essays and Speeches*, 110 (1984), available at https://collectiveliberation.org/wp-content/uploads/2013/01/Lorde_The_Masters_Tools.pdf; see also Teri A. McMurtry-Chubb, *Writing at the Master’s Table: Reflections on Theft, Criminality, and Otherness in the Legal Writing Profession*, 2 DREXEL L. REV. 41, 54 (2009) (arguing that teaching law students to “think like lawyers” typically results in perpetuating “white power and privilege”).

48. See *supra* notes 26-29 and accompanying text.

49. SUE, *supra* note 32; See *Teaching Tolerance*, *supra* note 40; See *Eva*, *supra* note 40.

power” stifle institutions of learning to effectuate change.⁵⁰ In other words, schools (including law schools) mirror society’s power and hierarchy, and strive to preserve the status quo.⁵¹ In law school, students learn to perpetuate white power and privilege, argues Wendy Leo Moore.⁵² Delgado outlines four ways that those in power suppress the possibility for reform in education:

- (i) they examine the content of education, particularly that of schools in working class communities, with an eagle eye, suppressing any course of instruction that threatens the status quo;
- (ii) they heighten vigilance at times of special danger to the establishment and its way of doing business;
- (iii) mainstream scholars exclude insurgent minorities from their citations and footnotes, especially in the law; and
- (iv) legal educators, operating in a field close to the heart of social power, are especially careful not to educate minorities who might turn the status quo upside down.⁵³

With regard to the fourth point, Delgado claims that writings, memoirs, and other documents demonstrate that prominent university leaders expected that the new wave of minority students would simply integrate easily and then graduate into positions of leadership.⁵⁴

In the Afterword to *Substance of Fire*, Delgado makes a similar argument, noting that college campuses “continue to be sites of racial and sexual oppression,” and that social change has typically *not* been spearheaded by “highly educated people, including minorities.”⁵⁵ This trend, Delgado observes, continues in law school where “the stakes are

50. Richard Delgado, *Waiting for a Second Cargo Shipment: Public Education as a Great Equalizer*, 50 WAKE FOREST L. REV. 219, 221 (2015).

51. See Sheila I. Vélez Martínez, *Towards an Outcrit Pedagogy of Anti-Subordination in the Classroom*, 90 CHI.-KENT L. REV. 585, 586 (2015).

52. WENDY LEO MOORE, REPRODUCING RACISM: WHITE SPACE, ELITE LAW SCHOOLS, AND RACIAL INEQUALITY 54 (2008) (Moore stresses the argument that “*Thinking like a lawyer* requires a manner of thinking that acquiesces to a white normative framework and simultaneously facilitates the invisibility of whiteness by precluding forms of argumentation that seek to identify the power and privilege that mark it”).

53. Delgado, *supra* note 50, at 221 (Delgado points out that each of these obstacles “occurs time and again.”); see also MILLIKIN, *supra* note 33, at 149-50, 159-60 (“if, as I have argued, corporate capitalism will not yield readily to legal reform, education is no magic talisman either [T]he establishment prefers education that trains students for slots in the current system rather than as reformers transforming that system into a different one”).

54. Delgado, *supra* note 50, at 227.

55. MILLIKIN, *supra* note 33, at 150.

even higher,” because lawyers hold positions of power in “the worlds of business, corporate finance, investment, banking, government, and criminal enforcement;” and as a result, in law school, “power replicates itself even more surely than it does when the students are younger.”⁵⁶ Delgado gives several examples of important social justice cases in which lawyers were not instrumental, and surmises the reason is that “[w]e simply taught them white people’s—that is, Western or Euro-American law ... quietly cheered when one of them made partner in a firm or secured a position on an important state or federal commission ... [and] did not teach them to use their legal skills imaginatively and in the cause of social reform.”⁵⁷

While Delgado’s observations sound pessimistic,⁵⁸ he surmises that schools can possibly effectuate reform on an individual basis, if teachers and students become willing to learn something other than “white people’s law and ways,” and if “teachers and professors [are] willing to depart from the prescribed text and take real chances with their careers.”⁵⁹ While I hope that schools can effectuate change by focusing on the first question—by bringing aspects of race and gender into class discussions and projects—in this Article, I propose ways to bring the second question – how students and faculty experience racism and sexism within the institution – into the classroom. Today, we need models for new and inspiring approaches, such as the interdisciplinary approach found in *Substance of Fire: Gender and Race in the College Classroom* by Claire Millikin.⁶⁰

Substance of Fire brings together reflective essays and poems by Professor Claire Millikin and three of her students who graduated from the University of Virginia (Riley Blanks, Blake Calhoun, and Rox Trujillo), along with a foreword by R. Joseph Rodriguez and an afterword by Richard Delgado.⁶¹ Below, Parts Two and Three describe how the book’s essays provide stories, or narratives, that “show,” rather than “tell” of the authors’ experiences, and how they depict a myriad of race and gender issues that faced these college students and professor. I correlate these stories with issues that continue to face law students and law professors. Part Four offers ideas for approaches and tools that professors can use with

56. *Id.* at 156.

57. Delgado, *supra* note 50, at 231.

58. Richard Delgado, *Nonconformity in American Law and Life: How Much Do We Really Value Diversity?* 68 ALA. L. REV. 901, 921 (2017) (Delgado asks, “Why don’t we straightforwardly acknowledge that we like everyone to be pretty much the same and that we coerce and sometimes punish those who love, speak, walk, or want to learn and study in unconventional ways?”).

59. MILLIKIN, *supra* note 33, at 159-60.

60. See generally MILLIKIN, *supra* note 33.

61. *Id.*

students in the law school classroom to explore and critique institutional racism and sexism.

II. *SUBSTANCE OF FIRE* AND THE STORYTELLING MOVEMENT

A. *The Backstory*

In terms of backstory, after the authors of *Substance of Fire* had written their preliminary essays for the collection, a tragic event in Charlottesville drove home the urgency of addressing these unspoken forces of gender and race bias. On August 11 and August 12 of 2017, a “Unite the Right” rally of white nationalists descended on Charlottesville to protest the removal of a Robert E. Lee statue, and “take our country back”.⁶² Although the rally started peacefully, violent skirmishes erupted between counter-protestors and white nationalists, ending with thirty-four people injured and one woman dead, after a white nationalist drove his car into the crowd before speeding off.⁶³ Virginia’s governor declared a state of emergency and called in the Virginia National Guard to control the violence.⁶⁴ Ironically, two of the rally’s organizers, Jason Kessler and Richard Spencer, had both graduated from the University of Virginia.⁶⁵ Through an online video after the rally, Spencer stated, “[y]ou think that we’re going to back down to this kind of behavior to you and your little provincial town? No ... We are going to make Charlottesville the center of the universe.”⁶⁶

Although the authors of *Substance of Fire* began compiling the book before these events occurred, afterwards they were compelled to extend and revise their original essays in response to the events of August 11 and 12. As Millikin observes, “in the end, one is always at a loss for words in the face of violence.”⁶⁷ Nonetheless, the authors reflected on these events “in hindsight, in aftermath, seeking understanding.”⁶⁸ It is worth noting that the authors rarely explain what events occurred on those days, but rather, the event itself is not mentioned – it is veiled with silence.⁶⁹ For instance, in reflecting on the deadly protests, Blakely Calhoun writes:

62. Sheryl Gay Stolberg & Brian M. Rosenthal, *Man Charged After White Nationalist Rally in Charlottesville Ends in Deadly Violence*, N.Y. TIMES (Aug. 12, 2017), <https://www.nytimes.com/2017/08/12/us/charlottesville-protest-white-nationalist.html>.

63. *Id.*

64. *Id.*

65. *Id.*

66. *Id.*

67. MILLIKIN, *supra* note 33, at 113.

68. *Id.*

69. It is up to the reader to understand the context.

We treated the past as something that was overcome, not something that was still taking place. Now after August 11 and August 12, maybe we all understand. The discourse around race, gender, and sexuality in the classroom should be taken more seriously now, both by those who engage in the discourse and those who facilitate such conversations.⁷⁰

Another contributor to the volume, Riley Blanks, also responds to the events of August 11 and 12, 2017. Blanks, who is interracial, explains her white mother's hysterical response that Blanks (who had graduated four years earlier), along with her younger sister who was then a student at UVA, not march with the counter-protestors.⁷¹ Blanks describes the numbness she felt upon reading her mother's plea:

My mom just sent me a plea because she fears for my safety. Not because of the car I drive every day or the fact that the people I walk amongst are bearing arms. Not because of the risk of a natural catastrophe or the vulnerability of my human body. Not because I'm mortal, but because Nazis and white supremacists are trudging through the streets of our country, threatening to kill and demanding a homeland with ethnic cleansing at the top of their priority list.⁷²

The fear Blanks' mother expressed is a fear held by many parents of black children. For example, during the Freddie Gray riots in Baltimore, a mother made national news when she dragged her teenage son away from the protests.⁷³ Later she told reporters, "That's my only son and at the end of the day I don't want him to be a Freddie Gray."⁷⁴ Ta-Nehisi Coates writes eloquently of a parent's fears in *Between the World and Me*, an extended letter to his fifteen-year-old son.⁷⁵ Coates writes, "I am afraid. I feel the fear most acutely whenever you leave me."⁷⁶ Similarly, in the

70. MILLIKIN, *supra* note 33, at 94.

71. *Id.* at 47-49.

72. *Id.* at 47. (Blanks also posted her essay, Riley Blanks, *A Plea from My Mother, Who is White*, YOUTUBE (Aug. 17, 2017), <https://www.youtube.com/watch?v=1FZsM9N8uWE>).

73. Lisa Robinson, *Mom Seen Disciplining Son During Freddie Gray Riots: Where Are They Now?*, WBALTV (Apr. 27, 2020 5:00PM EST), <https://www.wbal.tv.com/article/mom-seen-disciplining-son-freddie-gray-riots-5-year-update/32288899#>.

74. Josh Levs et al., *Baltimore Mom Who Smacked Son at Riot: I Don't Play*, CNN (Apr. 29, 2015, 5:54 PM), <https://www.cnn.com/2015/04/28/us/baltimore-riot-mom-smacks-son/index.html>.

75. TA-NEHISI COATES, *BETWEEN THE WORLD AND ME* (2015).

76. *Id.* at 14.

book, *The Toni Morrison Bookclub*, four academics respond to Toni Morrison's novels as a way to discuss "the current state of America."⁷⁷ Professor Cassandra Jackson's narrative about the Morrison novel, *Beloved*—a novel in which a runaway slave tries to kill her children, rather than have them enslaved again—describes Jackson's own fears about the safety of her brown babies:

I am as worried about my child being mistaken for someone who does drugs as I am about my child doing drugs. I am far more afraid of my child being mistaken for a criminal, a menace, a threat, than I am of my child actually becoming any of those things Every time a cop turns the corner with his eyes hidden behind mirrored shades, every time I have to give side-eye to a store clerk who is following a little too close, every time a white person asks us where we live when we are clearly standing in front of our house, I hear it loud ringing from my head to my feet, like thunder in the dead of night: "Not today, mother#@\$.⁷⁸"

Now, three years after the tragic Charlottesville white nationalists rally, and in light of current protests sweeping the nation, and almost daily news of acts of racism, the essays in *Substance of Fire* provide an inroad to dismantle the Master's House by discussing racism and sexism within our institutions of higher learning. The pressing question Millikin asks is even more pressing today: "How to teach when the world is on fire: tell them in this room we are breathing clean light."⁷⁹

B. Overview of *Substance of Fire*

The central goal of *Substance of Fire* is to discover the impacts of gender and race in the college classroom, a space that is assumed to be egalitarian, yet, as the collection shows, is instead heterotropic, which Michel Foucault defines as "a society presenting a surface semblance of equality, covering up a deeply hierarchical structure."⁸⁰ The institution is the Master's House. The writers of *Substance of Fire* are "essay[ing]"—

77. JUDA BENNETT ET AL., *THE TONI MORRISON BOOK CLUB 6* (2020).

78. *Id.* at 25-26. Jackson adds, "I have heard many white parents joke about children not coming with instructions, and I always think to myself that my brown babies may as well have come with a warning label, Warning: Blackness May Cause Sudden Death by Gunshot Wound."

79. MILLIKIN, *supra* note 33, at 144.

80. *Id.* at 16.

or writing to discover⁸¹—through personal essays, reflection pieces, poems, and photographs, the forces that generally remain under the surface, but can flare up. Thus, the title --"substance of fire" -- is a metaphor for the gender and race issues sizzling under the surface of what appears egalitarian. While it may be easier and safer to avoid these issues, Millikin believes they should be addressed head-on, as she writes in the first stanza of the poem, "Fire":

To walk away from a fire, turn toward it first,

recognize the story.

Sometimes a fire has to be put out.⁸²

There are many benefits to addressing issues of race and gender in the classroom. "Educators and social scientists believe that one of the best opportunities to ameliorate aversive forms of racism is through constructive dialogues that bridge racial and ethnic divides."⁸³

Two of the contributors, alumnae Riley Blanks and Rox Trujillo, connect interpretations of their studio art projects (photography) with their reflections about the race and gender bias they experienced in college. Alumna Blakely Calhoun contrasts her undergraduate experience as a gay black student at an elite, predominantly white university with her graduate experience at a predominantly black university. The importance of these projects lies in depicting the "transformation, a state of becoming, of vulnerability and its promise" that individuals experience in higher education.⁸⁴ As R. Joseph Rodríguez writes in the Foreword, "This is an essential book to decipher, name, and understand the emotions and journeys in gaining an education and in the effort of becoming more

81. See William Zeiger, *The Exploratory Essay: Enfranchising the Spirit of Inquiry in College Composition*, 47 *COLLEGE ENGLISH* 454 (1985).

82. MILLIKIN, *supra* note 33, at 121. Millikin's poem alludes to the famous poem by Emily Dickinson, which has the lines:

You cannot put a Fire out;
A Thing that can ignite
Can go itself, without a Fan
Upon the slowest Night.

Emily Dickinson, *THE COMPLETE POEMS OF EMILY DICKINSON* 259 (Thomas H. Johnson, ed. 1960).

83. Sue et al., *supra* note 38, at 1091; see also SUE, *supra* note 32, at 12 ("racial dialogues among students are a necessity for developing critical racial consciousness and improving race relations"); *Id.* at 17 (listing benefits on a cognitive level, and emotive level).

84. MILLIKIN, *supra* note 33, at 21-22.

humane through higher learning with understanding.”⁸⁵ Claire Millikin contributes parables, a lyrical essay, and poems about the sexism she experienced both as a student and as an adjunct professor. In all, *Substance of Fire* provides a range of viewpoints that navigate the heterotopic space of higher education.

C. The Case for Storytelling

Substance of Fire unmasks racism and sexism primarily by offering personal narratives and poems⁸⁶ to counter the master narrative of white supremacy in sites of higher learning.⁸⁷ Storytelling shows what it is like to be of mixed race, Black, LGBTQ+, or other identities that straight white people may find hard to imagine: “One premise of legal storytellers is that members of this country’s dominant racial group cannot easily grasp what it is like to be nonwhite.”⁸⁸ Storytelling by outsiders “is about *bearing witness* to their lived realities, their personal and collective experiences of subordination, and their stories of racism.”⁸⁹

The storytelling movement of critical race theory has its roots in slave narratives, myths of Native Americans, and the picaresque novels of Latino society that poked fun at “social convention, puffed-up nobility, and illegitimate authority.”⁹⁰ It also has roots in feminist consciousness raising, which “creates knowledge by exploring common experiences and patterns that emerge from shared tellings of events.”⁹¹ Richard Delgado and Jean Stefancic use the term “counter-storytelling” for legal stories that “challenge, displace, or mock ... pernicious narratives and beliefs.”⁹²

85. *Id.* at Foreword xxi.

86. Although this Article focuses more on the personal narratives in *SUBSTANCE OF FIRE*, the poems are also referenced. For a discussion of poetry as a vehicle for showing trauma, see Susan Ayres, *Trauma Informed Advocacy: Learning to Empathize with Unspeakable Horrors*, 26 WM & MARY J. RACE, GENDER, & SOC. JUST. 225 (2020).

87. See Richard Delgado, *Storytelling for Oppositionists and Others: A Plea for Narrative*, 87 MICH. L. REV. 2411, 2412-14 (1988) (Delgado contrasts the stories told by “outgroups” with those told by “dominant groups.” Stories by “outgroups” can “shatter complacency and challenge the status quo”).

88. RICHARD DELGADO & JEAN STEFANCIC, *CRITICAL RACE THEORY* 46 (3d ed. 2017); see also Richard Delgado, *Nonconformity in American Law and Life: How Much Do We Really Value Diversity?*, *supra* note 56, at 919 (discussing history of critical race theory, and describing how “one of [its] signature innovations is legal storytelling and narrative analysis”).

89. SUE, *supra* note 32, at 26.

90. DELGADO & STEFANCIC, *supra* note 88, at 45.

91. Ann E. Freedman, *Feminist Legal Method in Action: Challenging Racism, Sexism and Homophobia in Law School*, 24 GA. L. REV. 849, 859 (1990) (quoting Bender, *A Lawyer’s Primer on Feminist Theory and Tort*, 38 J. LEGAL EDUC. 3, 9 (1988)).

92. DELGADO & STEFANCIC, *supra* note 88, at 49-50.

Derald Wing Sue further explains the importance of counter-storytelling, which he calls “back talk”:

[S]tories contain themes of past and continuing discrimination, the pain of oppression from well-intentioned Whites, power and privilege of the dominant group, and the myth of meritocracy ... The counter-narratives ... are extremely threatening to Whites and to our society because they may unmask the secrets of power and privilege, and how the public transcript of a master narrative justifies the continue subordination of people of color.⁹³

Thus, storytelling is also important to give voice to those who have been silenced.⁹⁴

Personal narratives such as those in *Substance of Fire* allow the dominant group to imagine the experiences of outsiders.⁹⁵ The counter-stories challenge Master narratives, such as the myth of the egalitarian university.⁹⁶ The authors have composed these personal narratives largely without judgment, and often without labeling the race, sex, and/or gender biases they experienced. In other words, their writing “shows,” rather than “tells” that the egalitarian university is not what it seems. Their writing

93. SUE, *supra* note 32, at 23, 24.

94. See DELGADO & STEFANCIC, *supra* note 88, at 50-51; Ayres, *supra* note 84; Susan Ayres, *Teaching Empathy: Using Dramatic Narrative to Understand Domestic Violence*, 7 FAM. & INTIMATE PARTNER VIOLENCE Q. 331 (2015); Susan Ayres, *Who Is to Shame? Narratives of Neonaticide*, 14 WM. & MARY J. WOMEN & L. 55 (2007); James Boyd White, HERACLES' BOW: ESSAYS ON THE RHETORIC AND POETICS OF THE LAW 42 (1985) (White argues that “[y]ou are entitled to have your story told in your language ... or the law is failing”).

95. “Outsiders” is the term originally used by scholar Mari Matsuda in her work on critical race theory; the term refers to those who are “other,” not white male. Mari J. Matsuda, *Public Response to Racist Speech: Considering the Victim's Story*, 87 MICH. L. REV. 2320, 2323 (1989); see also Elizabeth B. Cooper, *The Appearance of Professionalism*, 71 FLA. L. REV. 1, 3 n. 4 (2019). Grover and Womack provide a comprehensive definition of “outsider” as “all students whose status or experience renders them atypical. They include underrepresented racial groups, women, students with disabilities, students who are economically or educationally disadvantaged, students whose first language is not English or whose culture is not of the United States, older students, students who are parents, first-generation college graduates, and undocumented aliens.” Susan Grover & Nikeshia Womack, *Stories at the Edge of Class – Marginalization in the Law School Experience*, 16 SEATTLE J. SOC. JUST. 41, 42 n.5 (2017). Critical theory and feminist studies sometimes uses the term the “Other” to capture this concept. See, e.g., Susan Ayres, *Coming Out: Decision-Making in State and Federal Sodomy Cases*, 62 ALB. L. REV. 355 (1998); Susan Ayres, *Hélène Cixous's “The Perjured City”: Nonprosecution Alternatives to Collective Violence*, 9 N.Y.C. L. REV. 1 (2005).

96. See *supra* text accompanying note 80 (discussing the concept of heterotropic university).

allows readers to come to their own conclusions. In these ways, their narratives follow the tradition of exploratory essays, which are very different from the persuasive or critical writing we generally expect of law students.

Exploratory essays go about “experimenting, [or] trying something out”; like the essays of Michel de Montaigne, who “did not argue or try to persuade,” but “‘prove[d]’ his ideas” “in the sense of ‘testing’ rather than of ‘demonstrating validity.’”⁹⁷ In contrast, persuasive essays and critical essays “employ the basic pattern of thesis and support. They . . . move the reader to one and only one conclusion.”⁹⁸ The personal narrative and exploratory essay “refrains from concluding, not so much because its goal is out of reach as because the best resolution of its issue is multiple: any reduction to a definitive conclusion would distort the truer complexity of the vision.”⁹⁹ The essays in *Substance of Fire* are seemingly simple stories that contain the richness and “complexity of the vision” of exploratory essays.¹⁰⁰ As Millikin says in the “Introduction,” the “book offers a few angles of vision,” it offers “perspective” and “urgent questions,”¹⁰¹ rather than solutions.¹⁰²

III. *SUBSTANCE OF FIRE*: NARRATIVES AND COUNTER-STORYTELLING

The personal narratives by the three alumnae and by Claire Millikin explore problems of race and gender in the college classroom. Below, I discuss some major themes in these counter-stories¹⁰³ that transcend the college classroom, and I discuss how these problems are experienced by outsider law students and professors, as well.

97. Zeiger, *supra* note 81, at 455.

98. *Id.* at 456.

99. *Id.* at 463.

100. *Id.*

101. MILLIKIN, *supra* note 33, at 2-3.

102. *Id.* at 15.

103. This article cannot possibly analyze and describe the richness of *Substance of Fire*, but I highly recommend reading it. For example, this article does not fully discuss Millikin’s series of poems or her moving and lyrical piece, *Teaching about Lynching Photographs in Charlottesville, Virginia, circa 2010-2014*. *Id.* at 138. In this lyrical essay, Millikin discusses teaching various classes, and struggles to find answers to the question of “How do we teach after white supremacists have formed a small army and invaded the university grounds?” *Id.* at 144.

A. Lack of Mentors, Microaggressions

In the essay, "On Gazing and Identity," Riley Blanks describes various disappointments she faced in college at UVA, which she nevertheless reminds us is "the school I love so much ... UVA, my place of growth, love, and learning."¹⁰⁴ In reflecting on her experience, Blanks finds disappointment in having faced aggressive racist comments and microaggressions; in having had no female, black professors; and in feeling that as an interracial individual, she did not fit in with either white or black students.¹⁰⁵ Her art project, a series of portraits included in *Substance of Fire*, attempts to turn the gaze to others with empathy. As Blanks explains, "I myself have dealt with staring all my life,"¹⁰⁶ "I took a construct [of the gaze] and flipped it on its head."¹⁰⁷ What she means by this is that she took the sexist and racist stare or gaze upon the outsider, and used her camera as a means of connection: "I discovered that dialogue was possible with the camera as the vessel ... There was a pivotal shift in the subject's gaze and it was reflective of my very own ... [T]hey could reciprocate my empathy. My gaze was validation and theirs was gratitude."¹⁰⁸

The gaze Blanks discovered through photography is in stark contrast to gazes she experienced in college. Blanks does not label the incidents she tells us about as microassaults or microaggressions, but that is what they were. For instance, Blanks describes this encounter:

I'll never forget walking down 14th Street with a group of my guy friends. As we passed an apartment complex, a group of four or five white college kids yelled down with a southern accent, "Y'all look like a bunch of fags! Except for you, Beyoncé. You come up here." It was atrocious ... Our eyes stung with hurt. The scene after those comments was not pretty. More obscenities were shouted and one of my friends acted out physically.¹⁰⁹

104. *Id.* at 49. Another contributor, Blakely Calhoun also expresses love for her *alma mater*: "For all its flaws, Charlottesville and the University of Virginia gave me everything I have in this world. All my confidence is derived from the people and opportunities I had while I was there." *Id.* at 94.

105. *Id.* at 39-42. Millikin and Calhoun also comment on the lack of diverse faculty during their college experiences. *Id.* at 4, 91.

106. *Id.* at 26, Riley Blanks, *Stare: Artistic Statement*.

107. *Id.* at 43, Riley Blanks, *On Gazing and Identity*.

108. *Id.*

109. *Id.* at 42.

This scene describes what researcher Derald Wing Sue has labeled as a “microassault”: “conscious, deliberate, and either subtle or explicit racial, gender, or sexual-orientation biased attitudes, beliefs, or behaviors that are communicated to marginalized groups through environmental cues, verbalizations or behaviors.”¹¹⁰ Some refer to these incidents as “macroaggressions.”¹¹¹ These acts are what we consider “‘old fashioned’ racism, sexism, or heterosexism ... [that] are likely to be conscious and deliberate acts.”¹¹² A microassault is one category of “microaggression,” which is “the brief and commonplace daily verbal, behavioral, and environmental indignities, whether intentional or unintentional, that communicate hostile, derogatory, or negative racial, gender, sexual-orientation, and religious slights and insults to the target person or group.”¹¹³

Blanks also describes an interaction with an advisor in which she felt the sting of another category of microaggression, a “microinsult,” although, again, she does not so label the interaction. In contrast to “microassaults,” “microinsults” are often unconscious “interpersonal or environmental communications that convey stereotypes, rudeness, and insensitivity that demean a person’s racial, gender, or sexual orientation, heritage, or identity.”¹¹⁴ Blanks describes a conversation in which her advisor made stereotyped racist comments about the lack of “good” black sororities and the difficulty “for black kids to integrate into fraternity culture,” going so far as to say that the only time he observed a “black kid enjoying a fraternity was in the front yard where he’d seen a young black man throwing a football.”¹¹⁵ While her advisor may not have intended to insult her, his description of the exclusion of Blacks from Greek life was a microinsult because it reflects race prejudicing and stereotyping, i.e., that Blacks are not good enough for white fraternities and sororities, and that Blacks are natural athletes.¹¹⁶

Finally, Blanks describes a time when she attended her first frat party, and “a white woman [told] me I’m a pretty biracial person because I have

110. DERALD WING SUE, *MICROAGGRESSIONS IN EVERYDAY LIFE: RACE, GENDER, AND SEXUAL ORIENTATION* 28 (2010).

111. See Boles, *supra* note 36, at 168 (“Macroaggressions are ‘obviously wrong and offensive’ behaviors and practices”).

112. SUE, *supra* note 110, at 29.

113. *Id.* at 5. The other two categories of microaggression are “microinsults” and “microinvalidations,” discussed below.

114. *Id.* at 31. Microinsults are what many consider generally as “microaggressions.” See, e.g., DELGADO & STEFANCIC, *supra* note 88, at 179 (“Microaggressions: Stunning small encounter with racism, usually unnoticed by members of the majority race”).

115. MILLIKIN, *supra* note 33, at 42-43.

116. See SUE, *supra* note 110, at 32-34.

white features. A friend tells me to get over it.”¹¹⁷ In this incident she is describing both a microinsult and a microinvalidation. Microinvalidations are a third category of microaggressions.¹¹⁸ These “may potentially represent the most damaging form of the three microaggressions because they directly and insidiously deny the racial, gender, or sexual-orientation reality” of outsiders.¹¹⁹ Microinvalidations “exclude, negate, or nullify the psychological thoughts, feelings, or experiential reality of certain groups.”¹²⁰ In the above example, the initial statement implying whiteness is the standard of beauty was a microinsult, and the statement to “get over it,” which dismisses and silences Blanks’ feelings, was a microinvalidation.¹²¹

In the “Introduction” to *Substance of Fire*, Millikin likewise describes microaggressions she faced as an undergraduate student who, as she says, gained admission to Yale based on her ability to score well on standardized tests and to perform well as a middle-distance runner.¹²² Once there, she felt “overwhelmingly unprepared” for both the academic challenges and the social class challenges.¹²³ She also experienced sexism and microassaults, such as another student’s claim that “the prettier a girl is, the less intelligent she was because true beauty, in his estimation, depended upon a certain emptiness.”¹²⁴ Similarly, when Millikin asked a professor to be the advisor for her senior thesis, he responded, “I don’t remember that paper [she had written in his class the previous year], but I could never forget a face like yours.”¹²⁵ In both cases, the speakers sexually objectified Millikin, just as Blanks was sexually (and racially) objectified in the example above.¹²⁶

The problems Blanks and Millikin describe are experiences faced by law students, as well. Just as Millikin describes college as being the site of a heterotropic space, i.e., having “a surface semblance of equality, [but] covering up a deeply hierarchical structure,”¹²⁷ law schools are similarly

117. MILLIKIN, *supra* note 33, at 48.

118. SUE, *supra* note 110, at 28.

119. *Id.* at 37.

120. *Id.*

121. See also Susan Ayres, *Claudia Rankine’s Citizen: Documenting and Protesting America’s Halting March Toward Racial Justice and Equality*, 9 ALA. C.R. & C.L.L. REV. 213 (2018) (analyzing microaggressions in Claudia Rankine’s *Citizen*).

122. MILLIKIN, *supra* note 33, at 3.

123. *Id.*

124. *Id.* at 4.

125. *Id.*

126. See SUE, *supra* note 110, at 169 (“Gender microassaults are most similar to individual manifestations of old-fashioned sexism”).

127. MILLIKIN, *supra* note 33, at 16.

heterotropic spaces. Law schools are spaces of white privilege.¹²⁸ Traditionally, “pedagogical techniques that are utilized in the law school classroom, which is designed architectonically and epistemologically to be hierarchical, have been repeatedly shown to alienate and silence students, especially students of color and women from different backgrounds.”¹²⁹ Moreover, with the growing number of international students enrolled in J.D. programs for the purpose of obtaining a Master of Laws Degree or a Doctor of Juridical Science Degree, studies have demonstrated that international students have also felt alienated and silenced by law schools, which are basically “inherently white spaces that have indoctrinated rationalized ideas of dominant narrative and privilege.”¹³⁰

Just as in the college classroom, students in law school also experience microaggressions. For example, in a national survey conducted by Susan Grover and Nikeshia Womack, law students told of their negative experiences and encounters.¹³¹ Some examples include that of “a first generation born Mexican American” who was told by her moot court coach (a professor) that she was “not a real Mexican” because she was not fluent in Spanish.¹³² Even after the student said that the “comments were rude and offensive,” the professor continued to make rude comments.¹³³ Another faculty member “mocked a Chinese LLM student, who was still in the process of mastering English, by asking whether the student understood odd American words.”¹³⁴ There are examples of professors calling on Asian students to discuss cases such as the Japanese internment case, *Korematsu v. U.S.*,¹³⁵ or calling on Black students to

128. MOORE, *supra* note 52, at 27-28 (Moore calls this a “white frame,” after Joe Feagin, who defines it as “an organized set of racialized ideas, emotions, and inclinations, as well as recurring or habitual discriminatory actions, that are consciously or unconsciously expressed in, and constitutive of, the routine operation and racist institutions of U.S. society”) (quoting JOE FEAGIN, SYSTEMIC RACISM 23 (2006)).

129. Martínez, *supra* note 51, at 596-97. See also MOORE, *supra* note 52, at 127 (discussing the hesitation that students of color experience when race is discussed in the law classroom); YUNG-YI DIANA PAN, INCIDENTAL RACIALIZATION: PERFORMATIVE ASSIMILATION IN LAW SCHOOL 172 (2017) (describing the experience of Asian American and Latino law students as “foreign outsiders”).

130. Swethaa S. Ballakrishnen & Carole Silver, *A New Minority? International JD Students in US Law Schools*, 44 LAW & SOC. INQUIRY 647, 650 (2019).

131. Grover & Womack, *supra* note 95, at 48-49.

132. *Id.* at 50.

133. *Id.*

134. *Id.* at 49.

135. *Korematsu v. U.S.*, 323 U.S. 214 (1944).

discuss police brutality or racial profiling.¹³⁶ Erin Lain gives other examples, such as “students snickering when a student of color speaks.”¹³⁷ Similarly, Moore describes the feeling of hyperinvisibility that students of color experience when they speak in class, especially about race issues.¹³⁸ Based on research by Sue and his colleagues, white students and professors are often unaware of microaggressions that occur in the class, or are the ones who deliver unintentional microaggressions.¹³⁹

Additionally, just as Blanks describes a lack of female, Black mentors in college, law students also suffer from the absence of a diverse faculty that could provide “outsider perspectives.”¹⁴⁰ A diverse faculty is important because “[d]iversity on the faculty makes access for diverse students meaningful. Diverse faculty may share their experiences and recognize the challenges faced by outsider students.”¹⁴¹ This lack of mentoring and diverse faculty can result in the silencing of students of color and women, as studies have found. For instance, one study reported that the students of color and women “fe[lt] less visible, isolated, and alienated ... and [reported] a lower frequency of volunteering in class.”¹⁴²

B. Performing Gender, Safe Spaces, and the Myth of Meritocracy

Rox Trujillo, a 2014 graduate, contributed an artist statement and an essay entitled “Reflections on ‘Revision’ Four Years Later.”¹⁴³ One of Trujillo’s primary explorations is the question of gender. For instance, Trujillo asks the viewer of photographs to consider what makes something masculine or feminine.¹⁴⁴ Indeed, Trujillo’s photography project arose

136. Grover & Womack, *supra* note 95, at 49; Lain, *supra* note 32, at 783-84 (explaining the example of sole Black student in criminal law class having to become “the voice for African Americans everywhere”).

137. Lain, *supra* note 32, at 784.

138. MOORE, *supra* note 52, at 128 (students feel that they are hypervisible because their comments are seen as biased, and as one student explained, “you will notice that as soon as a minority raises their hand, everybody turns around. They’re just lookin’ a littler harder, like ‘they’re not gonna get [the right answer]”).

139. Sue et al., *supra* note 38, at 1091-92.

140. Martinez, *supra* note 51, at 599.

141. Grover & Womack, *supra* note 95, at 56.

142. Bonita London et. al., *Studying Institutional Engagement: Utilizing Social Psychology Research Methodologies to Study Law Student Engagement*, HARV. J. L. & GENDER 389, 401 (2007); see Grover & Womack, *supra* note 95, at 60.

143. MILLIKIN, *supra* note 33, at 50, 67. “Revision” is the title of Trujillo’s artist statement, which is premised on a revision or use of “a critical ‘pair of spectacles’” in how we view gender. *Id.* at 52.

144. *Id.* at 51. The photographs include people and objects, such as a gym bag, a public fountain, a motorbike. *Id.* at 54-65.

from questions and struggles with gender identity, questions that arose during undergraduate years at UVA.¹⁴⁵

In childhood, Trujillo had been raised to be a “lady,” and had “not [been] allowed to do the same things boys could do.”¹⁴⁶ College became a time of intense questioning of gender identity; yet unfortunately, the campus was predominantly heterosexual and white.¹⁴⁷ In reflecting on those years, Trujillo, whose origins lie in Europe and South America, found no gay professors or professors of color to act as a mentor.¹⁴⁸ Trujillo writes, “I had no professors of color. None”; however, “I found out very late during my time at UVA that one of the Deans was openly gay. I’m disappointed I did not know this sooner as this knowledge would have created a more welcoming and positive attitude towards the gay community.”¹⁴⁹ As Sue indicates, “[I]ow numerical minority representation among teachers and administrators may act as a symbolic cue signaling a threat to a group’s social identity.”¹⁵⁰ Trujillo attended UVA before the Supreme Court’s 2015 ruling on same-sex marriage in *Obergefell v. Hodges*.¹⁵¹ Yet, as Trujillo cautions, “LGBTQI still face real struggles in the college setting.”¹⁵²

Trujillo remained closeted at a campus where “the queer population was not very visible” because “queer people wanted to feel comfortable and physically safe in public, but they also wanted to feel socially safe.”¹⁵³ In short, the UVA campus during those years was not welcoming of LGBTQI students, as Trujillo describes it:

[E]ven if, on paper and in the media, ... UVA ... [was] accepting of LGBTQI individuals, in real life it was more on a case by case basis and definitely *not* the general vibe at UVA. Personally, I only felt safe if I either knew a professor’s values or if they had a rainbow triangle ‘safe space’ sticker on their office door. Sad, but true.¹⁵⁴

145. *Id.* at 71.

146. *Id.* at 78.

147. *Id.* at 72.

148. *Id.* at 71-72.

149. *Id.* at 71.

150. SUE, *supra* note 110, at 240.

151. *Obergefell v. Hodges*, 576 U.S. 644 (2015).

152. MILLIKIN., *supra* note 33, at 74.

153. *Id.* at 71. Although Trujillo does not include instances of homophobic insults at UVA, recall that Blanks does describe one such instance when she was out walking with international students. *See id.* at 39-45. Trujillo discusses the “rape victim-blaming culture” of the university and the dangers women faced in attending frat parties. *Id.* at 73.

154. *Id.* at 72.

Students had not felt entirely safe in general in Charlottesville for many years before the white nationalist rally, as Jia Tolentino reports on her experience as a student there.¹⁵⁵ Tolentino states, “There were blatantly racist incidents ... two of the richest frats had ‘blackface incidents’ ... [A] local establishment instituted a dress code with the intended effect of keeping black people out of the bar.”¹⁵⁶ Reflecting on this time during college, Trujillo realized that the “internal struggle” over sexual orientation and gender identity, along with the academic stresses of college, resulted in a time of being “truly depressed.”¹⁵⁷

The questions about sexual identity, gender, and race raised by Trujillo also inform the photography project, which includes photographs of both people and objects.¹⁵⁸ For example, in the discussion of a photograph of a “rigid, geometric” drinking fountain, Trujillo relates questions of gender and race to our nation’s history of discrimination. Just as drinking fountains were segregated for blacks and whites before the 1960s, bathrooms and locker rooms are segregated today for males and females. Trujillo observes that “bathroom gender segregation impacts people who are between genders or non-gender conforming in the same way fountain segregation affected African Americans.”¹⁵⁹

After college, Trujillo was “[n]o longer closeted,” but “continue[d] to question ... gender identity daily. It’s exhausting.”¹⁶⁰ And yet, Trujillo has crafted a new identity in a change of first name from Roxanna (given name) to Toni to Rox.¹⁶¹ Trujillo has learned “to be less self-conscious” about others, and has found in the name Rox, “a new chapter for me: it signifies an open space, a place where I am not required to be feminine or masculine.”¹⁶²

Like Trujillo as an undergraduate, law students struggle with sexual orientation and gender identity. They wonder whether the law school is a safe environment. This may have been truer before the *Obergefell* decision, but nonetheless, depending on the geographical region and

155. Jia Tolentino, *Charlottesville and the Effort to Downplay Racism in America*, NEW YORKER (Aug. 13, 2017), <https://www.newyorker.com/culture/jia-tolentino/charlottesville-and-the-effort-to-downplay-racism-in-america>; Sha-Shana Crichton, *Incorporating Social Justice into the 1L Legal Writing Course: A Tool for Empowering Students of Color and of Historically Marginalized Groups and Improving Learning*, 24 MICH. J. RACE & L. 251, 262-63 nn.59-60 (2019).

156. Tolentino, *supra* note 155.

157. MILLIKIN, *supra* note 33, at 76.

158. *Id.* at 50-65.

159. *Id.* at 69.

160. *Id.* at 74, 76.

161. *Id.* at 75.

162. *Id.* at 79.

culture of the law school, LGBTQ+ students may feel unsafe, as do students of color, women, and other outsiders.¹⁶³ As Meera Deo explains:

many ... students of color feel unwelcome on the law school campus the majority of the time. The low numbers of students of color can be blamed for some of the alienation; yet, women—who are increasingly in the numerical majority on law school campuses—report similar feelings of marginalization on campus. When we consider the interplay of privilege—how the white male focus of law school penalizes those who may be different from the “norm”—the dynamic becomes clearer. We see how women and people of color, as well as other non-traditional achievers including older law students and those in the LGBTQ community, lack the privilege that their classmates enjoy.¹⁶⁴

Sadly, “[l]aw students are the most anxious and stressed of all graduate students.”¹⁶⁵ When students enter law school, they have rates of depression similar to that of the general population (“about 8 percent”), but after a semester of law school, rates of depressions rise to 27%, and to 34% after a year of law school.¹⁶⁶ By the time they graduate, rates of depression are 40%, and practicing lawyers’ rates of clinical depression are 3.6 times higher than other professions.¹⁶⁷ Furthermore, “[l]aw students of color and of historically marginalized groups are at risk for greater stress ... when they listen to news reports of police shootings of unarmed persons of color and to pervasive racist, homophobic, xenophobic, and Islamophobic rhetoric.”¹⁶⁸

163. Meera E. Deo, *Two Sides of a Coin: Safe Space & Segregation in Race/Ethnic-Specific Law Student Organizations*, 42 WASH. U. J.L. & POL’Y 83, 125-126 (2013). See also Kelly Strader et. al., *An Assessment of the Law School Climate for GLBT Students*, 58 J. LEGAL EDUC. 214 (2008).

164. Deo, *supra* note 163, at 1125. See also MAKING A SHORT STORY LONGER: STRATEGIES FOR BUILDING LONG LASTING CAREERS FOR WOMEN SLIDES, NALP FOUND. FOR L. CAREER RSCH. & EDUC. & CTR. FOR WOMEN L. 1; WOMEN OF COLOR—A STUDY OF LAW SCHOOL EXPERIENCES, NALP FOUND. FOR L. CAREER RSCH. & EDUC. & CTR. FOR WOMEN L. 61, chart 6: Primary Reasons Students Consider Leaving Law School (June 18, 2020) (study indicating students consider leaving law school for various reasons, including not fitting in socially or the negative impact it had on mental health).

165. Crichton, *supra* note 155, at 259. Reasons for anxiety include rival and competition, the Socratic method, heavy workload, stress about debt, lack of feedback, job uncertainty. *Id.* at 259-60.

166. Maryt L. Fredrickson, *Wellness at the Law School: A Foundation for the Future of the Profession*, 43 WYO. LAW., Aug. 2020, at 56 (2020).

167. *Id.*

168. Crichton, *supra* note 155, at 261-62.

Studies indicate that when students do not feel safe in the classroom, learning suffers because students' energy and focus become expended on coping strategies.¹⁶⁹ Moreover, LGBTQ+ students who are closeted suffer additional psychological consequences, especially in terms of feeling isolated and emotionally exhausted.¹⁷⁰ They may also suffer, as did Trujillo, from depression or other psychological disorders.¹⁷¹ And to make matters worse, in movements and conversations about racism and sexism, LGBTQ+ individuals are sometimes excluded. As Linda Greene comments, "transgender women may be overlooked by both movements [Black Lives Matter and #MeToo]."¹⁷²

Microaggressions and other stressors can have not just psychological consequences, but can also impact a person's physical health, increasing the risk of cardiovascular disease, diabetes, and other diseases.¹⁷³ Additionally, stress and trauma can interfere with learning, as mentioned above, and can also impact memory.¹⁷⁴ Moreover, "[n]avigating daily situations and the everyday discrimination students of color and of historically marginalized groups face or expect to face can also cause chronic stress."¹⁷⁵ And a person undergoing chronic stress suffers greater memory loss.¹⁷⁶ For example, Blakeley Calhoun's narrative begins by admitting that she can "hardly remember anything about college," and describes her disappointment and confusion about this loss: "I am not sure why I'm missing pieces of what I know to have been the best four years of my life. It feels like waking up and trying to explain a dream from the night before: the memory is vivid at first, then fuzzy. By the time I find

169. Lain, *supra* note 32, at 785-86; *see also* Crichton, *supra* note 155, at 267.

170. SUE, *supra* note 110, at 197-98. Sue quotes the statement of a young person: "Hiding was exhausting. I always had to watch myself. I always had to make sure that I was not acting too butch, or dressing too much like a dyke. I always felt like I was trying to be someone who I wasn't, always trying to fit in where I knew I didn't fit. I really felt all alone, I thought I was the only person in the world who felt this way." *Id.* at 197.

171. *Id.* at 203.

172. Linda S. Greene et al., *Talking About Black Lives Matter and #MeToo*, 34 *Wis. J.L. GENDER & SOC'Y* 109, 174 (2019).

173. SUE, *supra* note 110, at 97-98; *id.* at 98 ("Exposure to chronic stress like microaggressions may make the person more susceptible to diseases and also affects the speed of their progression."). RESMAA MENAKEM, *MY GRANDMOTHER'S HANDS: RACIALIZED TRAUMA AND THE PATHWAYS TO MENDING OUR HEARTS AND BODIES* 45 (2017) ("trauma is a major contributor to many of our bodily, mental, and social ills"). *See also* Susan Ayres, *Trauma Informed Advocacy*, *supra* note 84 (describing effects of trauma on the body).

174. Crichton, *supra* note 155, at 279-80 (discussing how stress impacts brain functioning).

175. *Id.* at 265.

176. *Id.* at 279-281 (detailing impact of stress on different parts of the brain).

someone to tell, the memory is nearly gone."¹⁷⁷ One reason she could be missing pieces is memory loss due to chronic stress.¹⁷⁸

Another topic Trujillo discusses in *Substance of Fire* is the consequences of majoring in fine arts and philosophy. In reflecting on college, Trujillo describes feelings of resentment and regret at being sheltered from the real world and enclosed in a college bubble in which very few other students of color majored in philosophy and fine arts.¹⁷⁹ After college, Trujillo held minimum wage jobs, and believed it would have been better to have delayed college until spending some time "experiencing the harshness and difficulties of the real world."¹⁸⁰ Trujillo felt frustration for not majoring in art and engineering, thinking that perhaps it was due to not being exposed to engineering or not realizing an aptitude for engineering at the time.¹⁸¹ Looking back, Trujillo states, "I wasn't aware of my own aptitude and interest in this field at the time. I would have been a good engineer and still consider studying this."¹⁸²

In the "Introduction" to *Substance of Fire*, Claire Millikin offers another reason, which is that perhaps Trujillo was steered away from science classes due to racial and gender bias, a practice that likely explains why "only six percent of college engineering majors are African American. Only three percent of biological engineering majors are African American. Only eight percent of STEM field Bachelor's degrees are awarded to Latino/Latina students."¹⁸³ Millikin concludes that "these statistics suggest that once students are enrolled in the four-year-college system, racial bias plays a role in the earning potential they have once they graduate."¹⁸⁴ Millikin also acknowledges that undergraduates may make uninformed choices about majors and careers because they are "young, inexperienced, and profoundly vulnerable to social pressures."¹⁸⁵ Millikin

177. MILLIKIN, *supra* note 33, at 81.

178. See, e.g., Ayres, *Trauma-Informed Advocacy*, *supra* note 84 (discussing trauma and memory loss).

179. MILLIKIN, *supra* note 33, at 76.

180. *Id.*

181. *Id.* at 75.

182. *Id.*

183. *Id.* at 7. See also Sue, *supra* note 110, at 235 (discussing "The underrepresentation of women in science and engineering, ... and in professional positions in colleges / universities may speak to possible discrimination Microaggressions can affect the student body composition through recruitment ... , retention ... , and promotion Women, for example, have been found to experience stereotype threat because of gender microaggressions, may underperform in math and sciences despite having high abilities, and/or may become segregated in their career paths or vocational selections by well-intentioned educators").

184. *Id.* at 7.

185. *Id.* at 8.

tells of her own decision to switch majors from math to philosophy because she had another woman friend majoring in philosophy, and it was socially more comfortable not to be the only female in the math classroom.¹⁸⁶ Millikin writes of this in one of the poems included in the collection, “Principia Mathematica,” part of which reads:

[I] sat in the small autumn classroom
before the chair of the department, my hands shaking.
He looked straight at me: “*No one with that face
will ever be a mathematician.*” Everyone in the room laughed.
It was not a compliment. I was the only girl.¹⁸⁷

Gender and race discrimination also exist in law schools and the legal profession, which “is one of the whitest, most male-dominated in existence.”¹⁸⁸ ABA statistics from 2019 reveal that “85% of lawyers are white; 80% of federal judges are white; 5% of lawyers are African Americans.”¹⁸⁹ These statistics also show that 5% of lawyers are Hispanic, and 2% are Asian.¹⁹⁰ These statistics have not significantly changed in the past ten years.¹⁹¹ In 2016, “women occupied only 18 percent of equity partnership positions in law firms nationwide,”¹⁹² and a disproportionately higher number of women than men work in the public interest sector.¹⁹³ While the ABA does not report on public interest practice, this lack of reporting indicates how the profession devalues public interest work.¹⁹⁴ Sandra Simkins argues that “the existing hierarchy and gender segregation in law schools cue women to remain at the lower rungs of the profession by normalizing women in ‘caregiving’ roles.”¹⁹⁵

186. *Id.*

187. *Id.* at 130.

188. Jackson, *supra* note 13, at 10.

189. *Id.* See also *Women of Color—A Study of Law School Experiences*, *supra* note 164, at 15 (“Women of color are significantly underrepresented in legal organizations and law-related positions and leave these legal roles—especially at law firms—in alarming numbers One theory attributes this divergence to imbalances in resources and opportunities in law schools—specifically, that female law students of color lack access to the same level of resources and prospects as their male and white female counterparts—leaving women of color at a particularly pronounced disadvantage as they begin their legal careers”).

190. Deseriee A. Kennedy, *Access to Law School & Diversifying the Profession*, 92 TEMP. L. REV. 799, 802 (2020).

191. *Id.*

192. Grover & Womack, *supra* note 95, at 44.

193. Sandra Simkins, *The “Pink Ghettos” of Public Interest Law: An Open Secret*, 68 BUFF. L. REV. 857, 861-63 (2020).

194. *Id.* at 888.

195. *Id.* at 861, 871.

What these numbers demonstrate is that the myth of meritocracy continues to thrive in law schools and the legal profession.¹⁹⁶ The myth of meritocracy is the assumption “that all groups have an equal opportunity to succeed, and that we operate on a level playing field ... there is little recognition that higher unemployment rates, lower educational achievement, and poverty may be the result of systemic forces ... Blaming the victim is the outcome of the myth of meritocracy.”¹⁹⁷ The idea that we all have equal opportunity is part of our culture’s “master narrative.”¹⁹⁸ This myth operates in law schools which have “produced a profession that is mostly white and mostly privileges whites ... who are middle to upper class, male, and cis-gendered as opposed to those who may be poor and trans-gendered.”¹⁹⁹

C. Performing an Identity, Feeling Used Up

In the essay, “Remembering and Revising,” Blakeley Calhoun, a 2015 graduate, describes performing a gay black, or unicorn, identity during college.²⁰⁰ When she turned in her freshman composition paper about her “black, female, gay experience,” her professor “tore [her] paper apart” because “[i]t wasn’t cited [and] wasn’t backed up with evidence.”²⁰¹ As a result, Calhoun quit writing about her black identity in college, until she found her tribe in the sociology department. Before then, she believed she was “still not credible enough to tell [her] story,” and maybe not “black enough.”²⁰² Was it a microinvalidation when her professor disregarded Calhoun’s personal experience as not being properly cited? Recall that racial microinvalidations are “[c]ommunications that exclude, negate, or nullify the psychological thoughts, feelings, or experiential reality of a person of color.”²⁰³ The professor did not intend to negate and nullify Calhoun’s experience, and yet, the professor’s marks could be experienced as a microinvalidation.²⁰⁴ And while “racial microaggressions may seem

196. See Christopher Williams, *Gatekeeping the Profession*, 26 CARDOZO J. EQUAL RTS. & SOC. JUST. 171, 172 (2020) (“Despite the myth of meritocracy within legal education, the U.S. model has never actually been a ‘fair’ meritocracy where all students are given equal opportunity to succeed”).

197. SUE, *supra* note 110, at 38-39.

198. SUE, *supra* note 32, at 38.

199. Williams, *supra*, note 196, at 172.

200. MILLIKIN, *supra* note 33, at 86, 88-89.

201. *Id.* at 87.

202. *Id.*

203. SUE, *supra* note 110, at 29.

204. Calhoun writes that by the time she entered graduate school she appreciated the scholarly practice of proper attribution and citation: “As a graduate student, I understand

trivial, harmless, and innocent enough ... their impact may create maximum harm to the individual."²⁰⁵ Additionally, this experience demonstrates one of the risks of counter-storytelling in the academy, which values "objectivity, detachment, and rational discourse" and values "empirical reality ... over experiential reality."²⁰⁶

When she became a sociology major, Calhoun's experiences of race and gender were "affirmed from all sides," because as one of her professors said, "Social science is the attempt to make an objective truth out of a subjective reality."²⁰⁷ When Calhoun eventually found her place in college, she admits she used race and gender to her advantage.²⁰⁸ She writes, "I was a seasoned entertainer in the classroom. I knew how to please a crowd of white people."²⁰⁹ She "became a star" who was invited to sit on many committees, but by the time she entered graduate school, she felt taken advantage of and "used up."²¹⁰ Calhoun reflects on her college leadership with the observation, "I was black, female, and gay—quite the trio at a predominantly white institution in the South. Why have three students representing three communities on a five-person committee when you can just invite me to sit in?"²¹¹ Calhoun had been called on to explain black experience, and yet, she had had been taught that as "a privileged black person ... I should hush about the problems I faced as a result of my race."²¹²

Moreover, her experience as a graduate student in student affairs administration at Michigan State was very different from her undergraduate experience. For one thing, she was no longer at a predominantly white institution, and as a result, the majority of her professors were black women, whereas she had had only one black professor in college.²¹³ For another thing, in graduate school her perspective about sharing her experience shifted. As Calhoun explains, "I began to get tired of sharing my experiences and with that came a new perspective. My cohorts, who are predominantly people of color, took the stance that people of color should not have to explain themselves in the

the importance of engaging with the literature to make any point. After all, a citation is all that separates academic writing from a conspiracy theory." MILLIKIN, *supra* note 33, at 87.

205. SUE, *supra* note 110, at 139.

206. SUE, *supra* note 32, at 25.

207. *Id.* at 91, 90.

208. *Id.* at 82.

209. *Id.*

210. *Id.* at 88-89, 93.

211. *Id.* at 89.

212. *Id.* at 91, 88.

213. *Id.* at 91.

classroom.”²¹⁴ Furthermore, Calhoun felt burnt out by being called on in the classroom to speak for all Blacks, and also by committee work:

We had been looked at too often to respond to the public execution of another black person by the police. We were collectively grieving from being bled out for far too long on public display. In short, we were done with doing favors for the academy. Our professors understood these realizations, and I am sure many of them felt the same way.²¹⁵

Calhoun realized that it was time to “stop[] performing my identities,” because “[t]oo much has transpired for me to just share like I did in my undergraduate sociology classes. I am not sure where even I can find value in my experiences ... I wouldn’t go as far to say I feel used by academia, but I do feel used up.”²¹⁶

In reflecting on her future as a “Student Affairs Professional,” Calhoun shares her feelings of vulnerability and uncertainty: “Is it okay to ever stop sharing? I will never stop having feelings about race, gender, and sexuality in academia. However, I don’t know where I fit in the conversation anymore. These days I prefer to moderate conversations on race and gender rather than offer myself up as a topic of conversation.”²¹⁷

In law school, outsider students, as well as diverse faculty, face similar challenges of not being “used up” by the institution. Professors may call on outsider students to discuss certain topics and to serve as an expert for their race, gender, or sexual-orientation group, as noted in the microaggression example in Part III B, above.²¹⁸ Crenshaw describes this as “subjectification,” which occurs when a minority student is called on to provide “minority ‘testimony.’”²¹⁹ As Margalynne Armstrong and Stephanie Wildman caution, “[a]ny discussion of race, particularly when instituted by a white professor, highlights the presence of students of color

214. *Id.*

215. *Id.* at 92.

216. *Id.* at 92-93.

217. *Id.* at 93.

218. See discussion of microaggressions above; SUE, *supra* note 110.

219. Crenshaw, *supra* note 34, at 40-41. This subjective testimony is generally not solicited to challenge racist norms, such as profiling by police; moreover, Crenshaw observes that when a student of color does challenge racist norms, the student is seen as biased. *Id.* at 41. Moore likewise gives examples of this, *supra* note 52, at 95-96 (discussing the tension between an objectified law school classroom, and the “subjectification” of students of color who are called on to be “expert ... [on an issue] they may know very little about”).

in the room. Yet, presumably, students of color attend class for their own legal education and not as fodder for white students to learn about race.”²²⁰

Likewise, in *Unequal Profession*, Meera Deo describes the greater institutional service assignments that women professors of color take on in comparison to their colleagues.²²¹ Like Calhoun, outsider students may resent being called on to represent their race or gender, and diverse professors may resent the extra service requirements they are asked to carry. Additionally, one effect of microaggressions is that repeated microaggressions cumulatively result in significant problems. As Sue explains of research findings:

Although minor life changes and daily hassles were not sufficient alone to constitute a serious stressor, the cumulative impact of many events could be considered a crisis. As race-related, gender-related, and sexual-orientation-related microaggressions have been shown to be lifelong and continuing experience of marginalized groups, a strong case can be made that microaggressions are anything but insignificant: they are extremely harmful and detrimental to people of color, women, and LGBTs.²²²

One effect of these cumulative stresses is hopelessness and fatigue: “Many people of color, women, and LGBTs report exhaustion and fatigue from the constant petty humiliations, insults, and demeaning situations they must face in their lives.”²²³

D. Parables of Unseen Hierarchies, An Unequal Profession

Substance of Fire contains parables by Millikin that describe some of the obstacles and microaggressions she faced as an adjunct professor at UVA, which hires over half of its faculty as adjuncts, i.e., as professors

220. Margalynne J. Armstrong & Stephanie M. Wildman, *Teaching Race/Teaching Whiteness: Transforming Colorblindness to Color Insight*, 86 N.C. L. REV. 635, 660 (2008).

221. MEERA E DEO, *UNEQUAL PROFESSION: RACE AND GENDER IN LEGAL ACADEMIA* 58, 120 (2019).

222. SUE, *supra* note 110, at 93; Menakem, *supra* note 173, at 14 (“trauma can also be the body’s response to a long sequence of smaller wounds”).

223. SUE, *supra* note 110, at 105. See also Ayres, *supra* note 121 (examples of fatigue caused by constant microaggressions); DEO, *supra* note 221, at 47-48 (explaining the “Clyde Ferguson syndrome,” in which “[t]he emotional challenges facing traditional outsiders in legal academia have been tied to ill health and even untimely death,” as happened to the Black Harvard professor Clyde Ferguson). See also MOORE, *supra* note 52, at 142-43 (describing the “emotional labor” students of color experience).

who receive significantly less pay and benefits than tenured or tenure-track professors.²²⁴ Moreover, adjuncts at the undergraduate level typically receive little institutional support “if students behave inappropriately,” and make retention decisions based upon positive teaching evaluations.²²⁵ A university’s treatment of adjunct professors is another example of the hierarchical structure that underlies the surface of seemingly egalitarian treatment. Adjuncts have been compared to indentured servants:

the academic equivalent of the indentured servant is the adjunct faculty member in higher education. Adjuncts cannot say or do much about their plight. If they try to seek redress, they will simply not be rehired. They rarely have an office, and even if there is one, it must be shared. They lack appeal rights ... A contract may exist but purely at the discretion of the university. There is little individual contract bargaining power. The full-time professors, and often the students, view the adjunct faculty as second-class teachers. The adjuncts lack benefits and the pay is nominal.²²⁶

Millikin wryly observes, “[t]he assumption that professors are unilaterally in a position of power with regards to college students is increasingly incorrect.”²²⁷ As both a woman and an adjunct, she faced inequalities and microaggressions. For example, her office was a supply closet.²²⁸ Additionally, Millikin tells that when she began as a non-tenure-track lecturer, some students saw her not as a professor, but either as a sex object (by male students who flirted with her), or as mother (by female students who wanted to confess their problems).²²⁹ When she approached

224. MILLIKIN, *supra* note 33, at 9 (“Typically, they are paid less than a manager at a fast-food restaurant”). See also John C. Duncan, Jr., *The Indentured Servants of Academia: The Adjunct Faculty Dilemma and Their Limited Legal Remedies*, 74 IND. L.J. 513, 516 (1999) (part-time instructors at universities and colleges “constitute approximately one-third of the teaching population”). Duncan points out that non-tenured instructors go by many titles and may work either part-time or full-time (“They are called ‘adjuncts,’ ‘special lecturers,’ ‘acting faculty,’ ‘wage-section faculty,’ ‘hourly,’ ‘short-term,’ ‘emergency’ and ‘temporary’ employees.”) *Id.* at 516.

225. MILLIKIN, *supra* note 33 at 9-10.

226. Duncan, *supra* note 224, at 514. As Duncan notes, adjuncts in law schools hold a different status than adjuncts in undergraduate institutions. In law schools, adjuncts are generally judges or practitioners hired to teach a particular area of expertise. *Id.* at 523-24.

227. MILLIKIN, *supra* note 33, at 9.

228. *Id.* at 11.

229. *Id.* at 106. See Renee Nicole Allen, Alicia Jackson, & DeShun Harris, *The “Pink Ghetto” Pipeline: Challenges and Opportunities for Women in Legal Education*, 96 U. DET. MERCY L. REV. 525, 542 (2019) (“women encounter gender expectations such as doing emotional labor to shepherd, comfort, and listen to students”).

the department about these inappropriate behaviors, she was told “that [her] attitude was the problem.”²³⁰

Furthermore, Millikin’s parable of a “chilling classroom situation”²³¹ demonstrates the lack of university support to address inequities, and was an experience that left her “less willing to teach material that pushes students to re-think their social world” because “[i]t is too exhausting and it is not the job of a babysitter to challenge the children who inhabit the master’s house.”²³² In this parable she relates how a few white women students in her Feminist Theory Course loudly complained to the administration that Millikin “did not allow discussion of the rape of white women to be part of that particular semester’s class.”²³³ Millikin had organized her syllabus around the work of a Black feminist, bell hooks (*Feminist Theory: Margin to Center*), and an Asian feminist, Mel Y. Chen (*Biopolitics, Racial Mattering, and Queer Affect*)—two widely read and respected authors of feminist theory.²³⁴ The white women who complained did not believe Millikin was teaching feminist theory properly, and their anger rose over the course of the semester. Millikin sums up her perception of the power imbalance that occurred: “By eschewing ... the well-trodden path of white, wealthy, enshrined-by-the-academy feminists, I was upsetting a small number of white women students’ sense of entitlement and ownership of feminism.”²³⁵

230. MILLIKIN, *supra* note 33 at 107. This response could also be seen as a microaggression (microinvalidation).

231. *Id.* at 15.

232. *Id.* at 14-15. Millikin further explains, “When I began teaching ... a friend ... suggested—not unkindly—that my job was essentially that of babysitting the upper middle-class until they become old enough ... to move into the business sector and/or inherit money and positions from their families and social worlds. I resisted that description of my job for many years. I resist it still. And yet, by and large he was right.” *Id.* at 14.

233. *Id.* at 110. In the lyrical prose-poem, *Mary Wollstonecraft Died for My Sins*, Millikin writes about that Feminist Theory class: “I did not want to talk about rape in the classroom; they asked why I did not want to talk about rape during my office hours. I have my reasons for not wanting to hear about rape. My reasons are personal.” *Id.* at 141. Millikin had just finished a long study on the effects of rape on students and wanted to take a break from that topic. *Id.* at 114, n. 6. See Claire Raymond & Sarah Corse, *A Distorting Mirror: Educational Trajectory After College Sexual Assault*, 44 FEMINIST STUDIES 464 (2018).

234. MILLIKIN, *supra* note 33 at 108-09. Millikin explains that she had created the syllabus before students enrolled, but the class composition ended up being very diverse, with a nonwhite majority. *Id.* at 108.

235. *Id.* at 109. Millikin also observes, “[t]his small group of white women, it seems, had expected that I would put them at the center of the class, not the non-white people who made up a significant part of the class. As white women of a certain income bracket, they felt sufficiently entitled, by dint of their race, to complain about my ‘harsh tone’ [by veering from the script of race].” *Id.* at 110. See also Sue et al, *supra* note 34, at 335 (observing

Millikin does not tell us exactly what resulted from the students' complaints, but characterizes the experience as "traumatic," and surmises that "a male professor would almost certainly not have faced the situation described above."²³⁶ Millikin concludes the parable by summarizing the lesson she learned about white privilege that semester:

I tell the parable not to indict specific actors (we are all human and we do the best we can moment to moment), but instead to point out and make clear that whiteness is preserved as a privileged rhetoric and a rhetoric of privilege, a claiming of center stage and central ground, even in the minds of young, apparently liberal, white women students. I learned from these students the most important lesson that I could have learned, as a teacher.²³⁷

Millikin's parable resonates in the law school environment. As discussed above, white privilege pervades law schools and the legal profession.²³⁸ It is not merely "white privilege [used] to discriminate against people of color," however, but also "male privilege to discriminate against women ... [and] multipriveleged status to discriminate against women of color."²³⁹ If the law school is a white space, it is "white students and faculty [who] get to define the boundaries" of that space.²⁴⁰ Furthermore, law schools have their own hierarchical ranks of adjuncts, contract professors, visiting professors, tenure-track, and tenured-professors, as well as a hierarchy of doctrinal professors, legal writing professors, clinical professors, academic support and library staff (which might or might not be tenured or tenure-track professors).²⁴¹ While faculty might appear egalitarian to law students, it is not an egalitarian system.

that "[m]any White students ... acted in ways indicating that they had a right to control the classroom interactions" based on White privilege).

236. MILLIKIN, *supra* note 33 at 111-12. See also DEO, *supra* note 221, at 72-75 (2019) (comparing the student confrontations experience by women of color and white women to men). The result was that "students respect white men and men of color alike." *Id.* at 73

237. MILLIKIN, *supra* note 33 at 112.

238. See *id.* and accompanying text.

239. DEO, *supra* note 221, at 8.

240. MOORE, *supra* note 52, at 112. Moore's research also found that when racist incidents came to the attention of the law school administrators, they were often dismissive or treated it as merely a joke. *Id.* at 139.

241. See Nantiya Ruan, *Papercuts: Hierarchical Microaggressions in Law Schools*, 31 HASTINGS WOMEN'S L.J. 3, 10 (2020) (referring to law school ranking as "status hierarchy" after Kathryn Stanchi); Amy H. Soled, *Legal Writing Professors, Salary Disparities, and the Impossibility of "Improved Status,"* 24 LEGAL WRITING: J. LEGAL WRITING INST. 47 (2020) (describing gender and pay disparities in legal writing); Allen et al., *supra* note 229, at 534-538 (outlining various "non-traditional teaching pipelines" as clinical positions, legal writing positions, academic support and bar preparation positions, and law librarians).

Almost all women and outsider law professors may have stories of microaggressions and unequal treatment in the academy.²⁴² Although I am now a tenured white female professor, I began teaching law school over twenty years ago as a visiting professor hired to teach legal writing. It was a position I fell into since I had both a JD and PhD. A friend recommended that I apply for the position—"you'd be perfect," my friend said. I can still remember painful microaggressions from that time. It began on the first evening of faculty orientation, when a Black woman professor leaned over and said, in a very unfriendly whisper, "Visiting *from where?*". I whispered back, "*Nowhere.*" At the moment, I was confused and could not figure out her unfriendly tone—why did she dislike me? In hindsight and based on her subsequent friendliness as a colleague, I believe she was condemning the law school for hiring me as a visitor instead of a tenure-track professor.²⁴³ After all, I was visiting from nowhere. It is the same way I feel when I see a former student, who is now a practicing attorney, hired as an adjunct to teach two courses (in legal writing and skills). Adjuncts are given no office, and probably receive a salary far below what tenure-track or tenured professors make for a similar (or lesser) course-load.²⁴⁴

My second example of experiencing a microaggression as a law professor 'visiting from nowhere' was when one of the young, male tenure-track professors stopped in the school hallway to invite some professors over to his house for cocktails. I was present in the small hall group, but he did not invite me or even acknowledge my existence.²⁴⁵ I was devastated and furious, and subsequently wrote a poem, "Pink Ghetto," inspired by that microinsult in which legal writing professors were treated as second-class citizens. The poem begins:

I teach legal writing.
That says it all
for about 80% of the faculty

242. See DEO, *supra* note 221, at 24, 35-54, 68-72, 90-94; Ruan, *supra* note 241, at 21-29.

243. The legal writing professors were tenure-track, but when I asked the Dean whether I should apply for a tenure-track position, he said that since I was a young mother of two small children (one of which was an infant), I should not.

244. Of course, perhaps the former student wishes to keep practicing law full-time and is happy with the arrangement, but I cannot ask this adjunct because the law school's website does not include adjuncts in the list of faculty or staff emails. In terms of discrimination regarding office space in law schools and other microaggressions, see Ruan, *supra* note 241 at 3-4, 22.

245. See *id.*, at 20 (describing microaggressions "such as ignoring, excluding, surprising, or interrupting").

nothing more to ask.²⁴⁶

Similarly, Millikin's poem, "Red Sweater" is also about the experience and pain of teaching.²⁴⁷ In it, the speaker loses her favorite red sweater when she leaves it behind in the classroom. Hoping to recover her sweater, the speaker describes the color of its wool to the security guard who "searched the entire building":

deepest red, not burgundy, not the color of blood or poinsettias.
The color, maybe, of an apple on a cold day when the tree
stands almost emptied because it is already winter.²⁴⁸

The red sweater function as a metaphor for the parts of herself she gave away for her job, and for "the last winter I wore / my heart on my sleeve, Corazon, Corazon, / gather me now, skin and bones."²⁴⁹ The "last winter" may well have been the traumatic classroom experience Millikin describes.

Later, as a tenure-track professor, I had my share of obstacles, such as the time I taught property as whiteness, based on Dorothy Brown's chapter in *Critical Race Theory*.²⁵⁰ Students complained to the Academic Dean and objected on evaluations. When I taught family law for the first time during a different semester, I assigned essays from Monique Wittig's *The Straight Mind*²⁵¹ to challenge notions of the heterosexual family. Students complained to the Academic Dean that I was not properly teaching family law; there was too much theory and not enough rules. Professors who teach outside the norms are often viewed as incompetent. Nonetheless, as Millikin writes at the end of *Substance of Fire*: "In a classroom, you must tell the truth, but some don't want to hear it; in a classroom you must listen, but many don't want to speak of it ... Language is a thread pulled in a raveling cloth."²⁵² That raveling cloth is the heart we wear on our sleeves, especially in tumultuous times when we hope that what we teach can guide the way to a better future.

246. Susan Ayres, *Pink Ghetto*, 11 YALE J.L. & FEMINISM 1 (1999).

247. MILLIKIN, *supra* note 33, at 131.

248. *Id.*

249. *Id.*

250. See DOROTHY A. BROWN, *CRITICAL RACE THEORY: CASES, MATERIALS, AND PROBLEMS* (3d ed. 2014).

251. Monique Wittig, *THE STRAIGHT MIND AND OTHER ESSAYS* (1992).

252. MILLIKIN, *supra* note 33, at 146-47 (writing "teacher from cotton country, translator of pain").

IV. DISMANTLING THE MASTER'S HOUSE: CONCLUSION

While I admit that it is unlikely we can totally dismantle the master's house, *Substance of Fire* shows us that we can shake it up a bit by telling and reading counter-stories that document race and gender bias. In the Foreword to *Substance of Fire*, R. Joseph Rodriguez writes that "classroom teaching is a political act that requires engagement with students to communicate evidence, facts, and narratives that challenge the status quo and acts of injustice directly connected to gender, ethnicity and race."²⁵³

What tools are available for law professors who wish to provide students with an environment "that enable[s] people of all groups to take advantage of educational opportunities and realize their capabilities"?²⁵⁴ The teaching models range from Derrick Bell's non-hierarchical classroom approach²⁵⁵ to implementing collaborative learning and other tools into more traditional classrooms. The debate continues to be robust over the degree to which "through traditional pedagogy, law professors contribute to the continued legal consolidation of power and legal knowledge in preservation of the status quo."²⁵⁶ Some argue for the usefulness of the Socratic Method,²⁵⁷ while other vigorously argue for its rejection and the adoption of a more horizontal, nonhierarchical and collaborative classroom.²⁵⁸

Aside from creating a more horizontal class, in an attempt to raise questions about racism and sexism in our legal system and within our legal institutions, a professor might consider using reflection papers. Professors ask students to reflect on their own experience or respond to a reading, because writing has been shown to help heal emotional stress.²⁵⁹ Students might also reveal more in writing than in speaking.²⁶⁰ Other tools suggested by Armstrong and Wildman include discussion of films or

253. *Id.* at xix.

254. Grover & Womack, *supra* note 95, at 58.

255. See Derrick Bell, *Constitutional Conflicts: The Perils and Rewards of Pioneering in the Law School Classroom*, 21 SEATTLE U.L. REV. 1039, 1049-1050 (1998).

256. Martínez, *supra* note 51, at 586.

257. See Jeannie Suk Gersen, *The Socratic Method in the Age of Trauma*, 130 HARV. L. REV. 2320, 2341-46 (2017).

258. See Martínez, *supra* note 51, at 602-611 (describing Derrick Bell's approach, and other collaborative learning approaches such as that of Clifford Zimmerman and Judith Fischer's "Portia Method"); Morrison Torrey, *You Call That Education?* 19 WIS. WOMEN'S L.J. 93 (2004) (discussing problems with, and alternatives to, the Socratic Method).

259. Lain, *supra* note 32, at 799-800. See also Capulong et. al, *supra* note 32 at 12 (describing use of reflective pieces in a collaborative seminar on Race, Racism, and American Law).

260. Sue et al, *supra* note 34, at 337.

books outside of the classroom, or regular institutionalized forums to talk about social justice or other topics.²⁶¹ They also propose assigning theoretical perspectives on race, gender, and sexual orientation in doctrinal classes and seminars.²⁶² Two exercises that Armstrong and Wildman use in seminar classes are as follows:

Color Insight Exercise One (Thinking About Race):

What is your Race? How do you know? What is your first memory of race?

Color Insight Exercise Two (Observation Project):

Notice the racial composition of your environment for a twenty-four-hour period and record your observations. What are the apparent races of the people you view? Note their jobs and/or the activities in which they are engaged. Note the kinds of interactions you observe and your position. Are you privileged in the interaction? Where are you in relation to Professor Fran Ansley's "power line?" Make sure that you are in several different localities during the day (not just at home or the law library ...). Conclude by sharing your reactions about that which you have observed.²⁶³

261. Armstrong & Wildman, *supra* note 220, at 662-63, 665-66. The authors also give examples of writing reflection prompts. *Id.* at 670.

262. For example, Wildman discusses the theoretical perspectives she assigned in a torts class in which she assigned many different perspectives, including pragmatism, critical race theory, feminist theory, and law and economics. This approach allowed her to ask students questions such as "Do you have a perspective in making that argument that you are assuming as a universal? Does everyone agree it is universal?" *Id.* at 668. A reading I have assigned in my Criminal Law class is Michelle Alexander, *The New Jim Crow*, 9 OHIO ST. J. CRIM. L. 7 (2011). Alexander's short article provides an overview of the arguments in her books and is a great framework to begin discussion about race issues in criminal law. In evaluations and orally, students responded positively to this framework. Likewise, I used the framework of critical race theory in my Law and Literature Seminar, assigning DELGADO & STEFANCIC, *CRITICAL RACE THEORY: AN INTRODUCTION* (3d ed. 2017). Recently, I received an email from a student in that 2019 seminar, writing that the approach was helping the student in this time of crisis: "It opened my eyes to a system of injustice and shifted my entire way of thinking. The last few months have been so hard for America and I'm so thankful I can use what I've learned in your class (and what I continue to learn) to try and help this country become better."

263. Armstrong & Wildman, *supra* note 220, at 670. The reference to the "Power Line" comes from the description by Stephanie Wildman, with contributions by Margalynne Armstrong, Adrienne D. Davis, and Trina Grillo. STEPHANIE M. WILDMAN, *PRIVILEGE REVEALED: HOW INVISIBLE PREFERENCE UNDERMINES AMERICA* 29 (1996): "At a recent conference, Professor Frances Ansley drew a horizontal line, labeled the power line, and

As Sue explains in *Race Talk*, one must do his or her own work before trying to facilitate race talk or other difficult dialogues in the classroom: “[The] suggestions and strategies, however, are based on the assumption that facilitators are enlightened individuals who have done the necessary personal work to develop nonracist and antiracist identities.”²⁶⁴ Sue gives a list of eleven successful strategies in *Race Talk*.²⁶⁵ This is also known as gaining cultural proficiency,²⁶⁶ or as developing a “Color Insight” or “Gender In/Sight” approach to teaching.²⁶⁷

Some of the strategies Sue and his colleagues found that were effectively employed by faculty of color included: “self-disclosing and sharing one’s own racial biases and beliefs about other racial groups with their students when appropriate” (for example admitting that one is human and not an expert); “being aware of how their race impacted students” (for example, how it might silence students due to “the power imbalance”); “using their race as a tool to enhance racial dialogues” (such as by playing the devil’s advocate or by telling stories); checking in with students (for example, with students who seemed withdrawn, or by starting the next class with observations of the previous discussion to give it closure).²⁶⁸

Strategies that Sue and his colleagues found that were effectively employed by white faculty included acknowledging emotions and feelings in difficult talks (for example, “This is emotional, let’s sit with that for a minute”); acknowledging personal challenges and fears (for example,

asked participants to imagine where they were situated in terms of race, gender, sexual orientation, and other categories. Everyone knew what she meant by the power line, which divided those attributes that are privileged from those that are not. Those above the power line shared privileged characteristics.” I have used a similar exercise regarding gender and sexual orientation in my Gender, Sexual Orientation and the Law Seminar, presenting it as an “experiential paper” for students to write about their observations about the construction of gender in a film, magazine, reading, or other experience.

264. SUE, *supra* note 32, at 230. See also Sue et al., *supra* note 38, at 1091.

265. SUE, *supra* note 32, at 234-44.

266. See Boles, *supra* note 36, at 148 (describing teaching methods using the paradigm of cultural proficiency developed by Dr. Kikanza Nuri-Robins and colleagues in CULTURALLY PROFICIENT INSTRUCTION: A GUIDE FOR PEOPLE WHO TEACH (3d ed. 2012)).

267. Armstrong & Wildman, *supra* note 220, at 662-71; Adam R. Chang & Stephanie M. Wildman, *Gender In/Sight: Examining Culture and Constructions of Gender*, 18 GEO. J. GENDER & L. 43 (2017). Both of these articles give specific examples of classroom exercises and approaches. For additional exercises developed for the undergraduate classroom, see Margalynne J. Armstrong & Stephanie M. Wildman, “Colorblindness is the New Racism”: *Privilege Using Color Insight*, reprinted in DECONSTRUCTING PRIVILEGE: TEACHING AND LEARNING AS ALLIES IN THE CLASSROOM, KIM CASE ED. (2013).

268. Sue et al., *supra* note 34, at 337-38. See also SUE, *supra* note 32, at 234-44 (discussing eleven successful strategies for all facilitators); SUE, *supra* note 110, at 250-54 (discussing eight strategies for facilitators).

admitting white privilege or admitting that one is learning); “actively engag[ing] the dialogue” (for example, when a professor feels like he/she has lost control of the class, the following strategies may help: tabling the conversation until the next class, “encourage students to listen, observe, and reflect with one another,” or ask other students to make observations).²⁶⁹

Most importantly, perhaps, is fostering a safe learning environment because “[s]tudents need to feel safe and free from fear of in-class humiliation.”²⁷⁰ As Millikin lyrically describes the characteristics of a safe classroom:

A classroom should be a space where we can be calm, and safe, and think about the world, whatever aspect of the world we are studying, and most importantly where everyone is welcomed to listen and speak and analyze what we see ... There should be some natural light in a classroom. Maybe a tree nearby, or at least always a visible sky.²⁷¹

Legal educators such as Erin Lain have discussed the need for a safe law school classroom; Lain states that “[w]hile professors are negotiating racialized interactions within the law school setting, psychological safety of students should be their ultimate goal.”²⁷² Lain offers additional suggestions for facilitating effective classroom dialogues about race,²⁷³ which is vitally important in this time of a national crisis.²⁷⁴

Race and gender talk “is about *bearing witness* to ... lived realities,”²⁷⁵ and involves telling counter-stories against the Master narrative, such as the narratives found in *Substance of Fire*.²⁷⁶ These narratives are about recognizing the story, whether it is the story of race discrimination Blanks and Calhoun describe, or the story of gender discrimination, described by all four authors. The volume has added depth because it includes the perspectives of both students and professor, and because it is an

269. Sue et al., *supra* note 38, at 1104-06, 1108-10; see also SUE, *supra* note 32, at 234-44 (discussing eleven successful strategies for all facilitators); SUE, *supra* note 110, at 250-54 (discussing eight strategies for facilitators).

270. Grover & Womack, *supra* note 95, at 67.

271. MILLIKIN, *supra* note 33, at 144.

272. Lain, *supra* note 32, at 787.

273. *Id.* at 792-800 (describing the attributes of attunement, authenticity, and power-sharing).

274. See SUE, *supra* note 32, at 16-17 (“encountering diverse racial points of view, being able to engage in racial conversations, and successfully acknowledging and integrating differing perspectives lead to an expansion of critical consciousness”).

275. *Id.* at 26.

276. See MILLIKIN, *supra* note 33.

interdisciplinary approach which (incorporates art and poetry), and a nonhierarchical approach (through a collaboration between students and professor). While Millikin cautions that the collection is not meant to solve problems, she acknowledges that sometimes "a fire has to be put out."²⁷⁷ However, these fires cannot be "put out" unless they are exposed, or as James Baldwin states, "Ignorance, allied with power, is the most ferocious enemy justice can have."²⁷⁸

277. MILLIKIN, *supra* note 33, at 121.

278. *Id.* at v.