

12-10-2022

## **Exploring Anti-racism in the First Year Legal Writing Classroom**

Amanda K. Maus Stephen

Follow this and additional works at: <https://digitalcommons.law.uw.edu/faculty-presentations>



Part of the [Law and Society Commons](#), and the [Legal Education Commons](#)

---

# Exploring Anti-racism in the First Year Legal Writing Classroom

---

**Amanda Stephen**  
akmaus@uw.edu



## How Do You Teach Anti-racism as a Value?

---

- > **Prime students to engage in difficult conversations**
- > **Talk about anti-racism early and often**
- > **Give students the opportunity to educate themselves on anti-racism and bias**
- > **Demonstrate why antiracism is important in practice**



# Prime Students to Engage in Difficult Conversations

---

## Drafting Classroom Norms

---

- > **Sets the stage for future discussions by getting student buy-in about how to talk and listen to one another**
- > **Also known as Community Agreements**
- > **First day activity**
  - **Students draft norms in small groups**
  - **I summarize and compile the norms and we ratify them in the next class**



## Classroom Norms Instructions

---

- > Take 5 minutes and free write on the following topics:
  - Think about the best group discussions you have participated in and what made those discussions satisfying. Brainstorm three things we could do to make sure our discussions are also satisfying.
  - Think about the worst group discussions they have participated in and reflect on what made those discussions so unsatisfactory. Brainstorm three things we could do to make sure our discussions are not similarly unsatisfactory.
- > In groups of 3 or 4, introduce yourselves and briefly share the ideas that you came up with. Choose 1 to 3 ways to both make our discussions satisfying and keep them from being unsatisfying. Have one group member email me your ideas at [akmaus@uw.edu](mailto:akmaus@uw.edu).
- > I will compile all ideas into one document and post it on our Canvas Page. On Friday, we will vote on the set of collective norms.

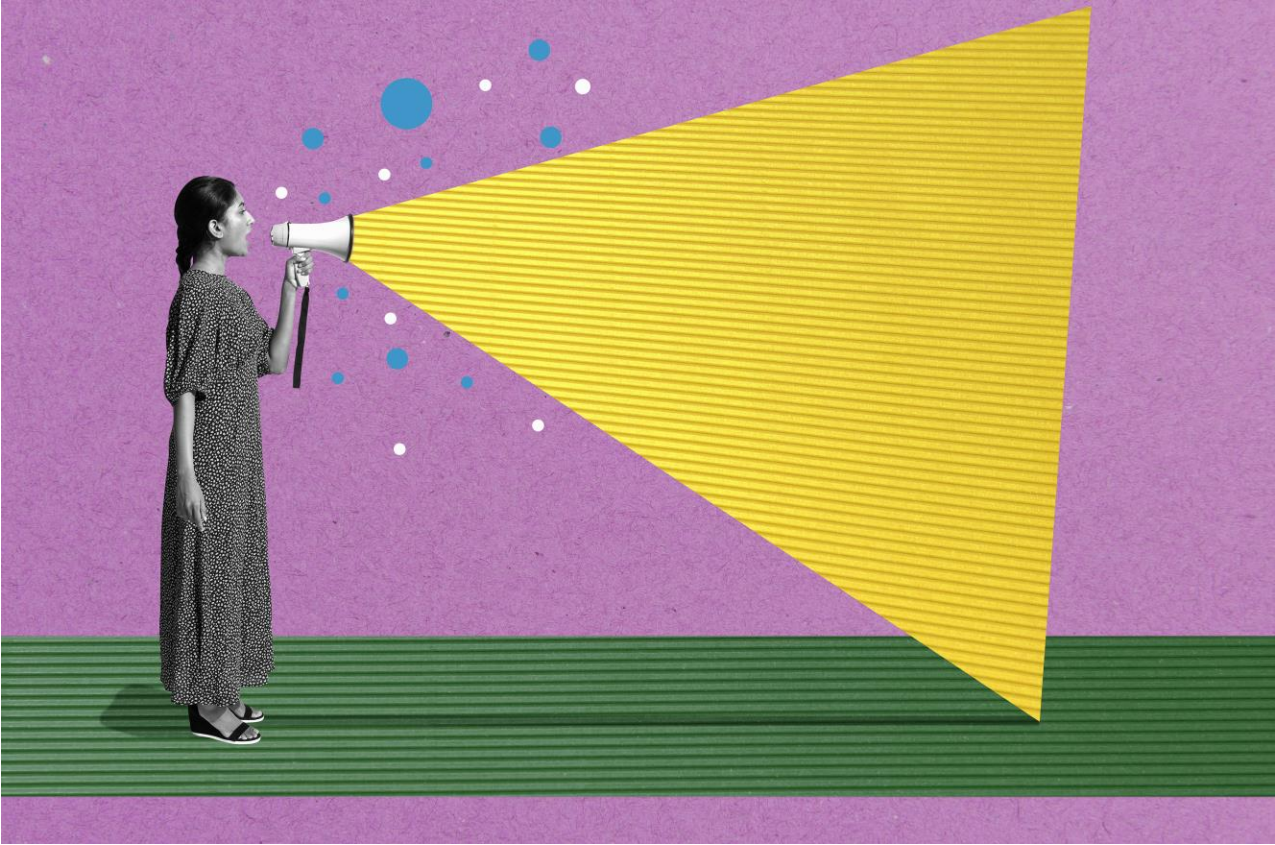


# Talk About Anti-racism as a Value

---

# Be Loud and Proud about Anti-racism

---



W



# Provide Opportunities for Students to Educate Themselves on Anti-racism and Bias

---

## Reflection on Antiracism

---

In our class Policies and Procedures, I explain that this class will “explore the ways in which the legal doctrine, institutions, and practices we discuss are beset and complicit in racism and other forms of structural and systemic inequity.” Doing so will require you to approach legal research and writing as an antiracist. Read this article ([https://nmaahc.si.edu/sites/default/files/downloads/resources/racialhealinghandbook\\_p87to94.pdf](https://nmaahc.si.edu/sites/default/files/downloads/resources/racialhealinghandbook_p87to94.pdf)) on what it means to be antiracist (the article is part of a larger set of materials on the Smithsonian National Museum of African American History and Culture’s website on Being Antiracist: <https://nmaahc.si.edu/learn/talking-about-race/topics/being-antiracist>). Then, answer the following questions:

- > Have you already begun your personal journey toward being antiracist? Why or why not?
- > Which of Tema Oken’s six responsibilities (six R’s) do you currently practice? How so?
- > Are there any responsibilities that you think you will have the opportunity to strengthen during your time in law school? Which ones and why?



# Korematsu Materials on Bias in Legal Research, Writing and Analysis

---

## > Korematsu v. United States

Seattle University School of Law

Seattle University School of Law Digital Commons

---

Using Korematsu to Teach Across the Law  
School Curriculum

Faculty Books

---

2022

### Using *Korematsu* in Courses That Teach Legal Research, Writing, And Analysis

Lorraine Bannai

Seattle University School of Law, bannail@seattleu.edu

Stephanie Wilson

Seattle University School of Law

> [https://digitalcommons.law.seattleu.edu/cgi/viewcontent.cgi?article=1003&context=using\\_korematsu\\_book](https://digitalcommons.law.seattleu.edu/cgi/viewcontent.cgi?article=1003&context=using_korematsu_book)



# Demonstrate Why Anti-racism Is Important in Practice

---

## Henderson v. Thompson, No. 97672-4 (Wash. Oct. 20, 2022)

---

- > Henderson, a Black woman, sued Thompson, a white woman, for injuries caused by Thompson in a car accident.
- > "During the trial, Thompson's defense team attacked the credibility of Henderson and her counsel—also a Black woman—in language that called on racist tropes and suggested impropriety between Henderson and her Black witnesses."
- > The jury awarded Henderson damages, but in an amount far lower than requested and lower than argued for by defense counsel.
- > Henderson moved for a new trial, arguing that racial bias affected the jury verdict. Trial court denied the motion without an evidentiary hearing.
- > The Washington Supreme Court held that the trial court must hold a hearing on Henderson's motion for a new trial motion because Henderson made a prima facie showing that an objective observer could view race as a factor in the verdict.



## Thompson's Closing Argument

---

- > "characterized Henderson as 'confrontational' and 'combative' in her manner of testimony."
- > "suggested that the only reason for the trial was Henderson's desire for a financial windfall."
- > "described the testimony of Henderson's friends and family as 'inherently biased' . . . [and] suggested the Black lay witnesses' shared use of ['life of the party'] to describe Henderson was a sign of collusion."



## Thompson: Grave Harm from Implicit Bias

---

"Not all appeals to racial prejudice are blatant. Perhaps more effective but just as insidious are subtle references.' *Monday*, 171 Wn.2d at 678. Coded 'dog whistle' language impermissibly allows the speaker to appeal to racial bias and then excuse that behavior by arguing they did not intend to say anything racist. *See id.* at 678-79 ("Like wolves in sheep's clothing, a careful word here and there can trigger racial bias." (citing studies)). Moreover, racial bias 'can influence our decisions without our awareness,' making it uniquely pernicious because 'people will act on . . . bias far more often if reasons exist giving plausible deniability.'"



## Common Phrases with Racist Origins

---

- > **Source:** [https://www.huffpost.com/entry/common-words-phrases-racist-origins-connnotations\\_l\\_5efcfb63c5b6ca9709188c83](https://www.huffpost.com/entry/common-words-phrases-racist-origins-connnotations_l_5efcfb63c5b6ca9709188c83)
- > **Words and Phrases**
  - Peanut Gallery
  - Grandfathered In
  - Gypped
  - Uppity
  - Articulate
  - Spirit Animal
  - Paddy Wagon
  - Long Time No See
  - Sold Down the River
  - Blacklist
  - Off the Reservation
  - Eeny, Meeny, Miney, Moe





## Additional Ideas for Addressing Anti-Racism

---

### > **Critical Case Briefing**

- Hoang Pham, *The Critical Case Brief: A Practical Approach to Integrating Critical Perspectives in the 1L Curriculum*, in *Integrating Doctrine and Diversity: Inclusion and Equity in the Law School Classroom* 51 (Nicole P. Dyszlewski, Raquel J. Gabriel, Suzanne Harrington-Steppen, Anna Russell, & Genevieve B Tung eds. 2021).

### > **Using the Underground Scholar's Language Guide to Address Bias in Criminal Law and Beyond**

- Amanda Stephen, *Using the Underground Scholars Language Guide to Help Eliminate Bias in Legal Writing*, 35:1 *The Second Draft* (May 2022), available at <https://www.lwionline.org/sites/default/files/2022-05/Stephen%20LWI%20Version.pdf>.

### > **Introducing Students to a Privilege Wheel**

- Example: <https://ydrf.org.uk/2021/09/19/privilege-wheel/>

### > **Update to Bluebook Rule 10.7.1 based on Citing Slavery Project**

- <https://wisblawg.law.wisc.edu/2021/07/26/bluebook-revises-rule-for-citing-cases-involving-enslaved-persons/>



# Other Ideas for Teaching Anti-racism as a Value?

---