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## Decolonizing Colorblind Asylum Narratives

Karla Mari McKanders  
*Vanderbilt University*, [karla.mckanders@vanderbilt.edu](mailto:karla.mckanders@vanderbilt.edu)

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## DECOLONIZING COLORBLIND ASYLUM NARRATIVES

KARLA MARI MCKANDERS\*

### ABSTRACT

*The essay addresses how law professors can engage critical and decolonial theories to teach students how to deconstruct the marginalizing narratives required in asylum advocacy. These theories provide the theoretical and praxis-oriented frameworks for professors seeking to liberate their pedagogy. The goal is for law students to begin their legal work knowledgeable of the law and skilled at advocacy, while also cognizant of how the law reifies existing hierarchies. To achieve this goal, professors must begin to ask different questions in partnership with their clients and students that are historically informed and aimed at dismantling structures and systems that maintain hierarchies. To this end, this essay proceeds in three parts. The first part discusses how *In re Kasinga*—a seminal gender-based asylum case—helps law students engage with critical, intersectional, and decolonial theories. While *Kassindja*'s case resulted in thousands of women and girls being granted asylum, it enshrined a baseline of objectivity that centers on the intersection of Westernized gender norms and racialized narratives that center whiteness. This section focuses on how decolonial theory highlights the invisible norms that have led to the disproportionate denial of asylum for Black and brown asylum seekers. The second part highlights how teaching the colonial history of the Refugee Convention permits students to understand the historical roots of the gender and racialized norms that pervade how we determine who qualifies as a refugee. The third part discusses how *Kassindja*'s case can be instructive for highlighting the tensions that arise in attempting to conform the client's story to norms that often reinforce stereotypes. In conclusion, the essay starts to engage with pedagogical strategies for teaching clinic students to move from theory to praxis to generate alternative strategies for engaging in critical lawyering.*

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\* Clinical Professor of Law, Vanderbilt University Law School; J.D., Duke University School of Law; B.A., Spelman College. Thank you to the *Saint Louis University Law Journal* for organizing the *Teaching Immigration Law* series. Thank you to my research assistant Jacqui Pittman. Thank you to Professors Ragini Shah, Lindsay M. Harris, Valeria Gomez, and Janel George for their insightful feedback.

## INTRODUCTION

*This was supposed to have been my day in court. I'd tried to tell my story. [Judge] Ferlise hadn't let me explain things clearly. He hadn't believed me. I couldn't go through this torture again. My story wasn't going to change.*

Fauziya Kassindja<sup>1</sup>

Fauziya Kassindja's ("Kassindja") case established the precedent for women fleeing gender-based persecution in *In re Kasinga*.<sup>2</sup> While this case resulted in many women and girls being granted asylum, the case normalized a narrative that is now essential to gender-related asylum claims. In the court's narrative, Kassindja is a member of Tchamba-Kunsuntu Tribe of northern Togo.<sup>3</sup> She left Togo when she was seventeen years old to escape female genital cutting ("FGC") and a forced polygamous marriage.<sup>4</sup> After the death of Kassindja's "influential"<sup>5</sup> father, Kassindja's paternal aunt took over their household.<sup>6</sup> Her aunt forced her into marriage with a much older man who already had several wives and told her she would soon be forced to undergo female genital cutting.<sup>7</sup>

During her asylum hearing, Kassindja testified that the Togolese police and the Government of Togo were aware of FGC and that they would not protect her.<sup>8</sup> She indicated that her aunt reported her to the police.<sup>9</sup> Upon her return to Togo, she would be taken back to her husband by the police and forced to undergo FGC by her father's family.<sup>10</sup> Kassindja arrived in the United States in 1994, and requested asylum upon arrival in Newark, where she was detained and remained for over a year during her asylum proceedings.<sup>11</sup>

Kassindja's case provides the seemingly objective facts to which attorneys attempt to analogize and distinguish their clients' gender-based asylum claims.<sup>12</sup>

1. FAUZIYA KASSINDJA & BASHIR LAYLI MILLER, *DO THEY HEAR YOU WHEN YOU CRY* 376 (Delacorte Press 1998).

2. 21 I. & N. Dec. 357, 357 (B.I.A. 1996); *See also Matter of Kasinga*, CTR. FOR GENDER & REFUGEE STUD., <https://cgrs.uchastings.edu/our-work/matter-kasinga-1996> [<https://perma.cc/3V3F-ZUCZ>] (last visited Sept. 19, 2022). In the precedent decision, Kassindja's name is incorrectly spelled "Kasinga."

3. *Kasinga*, 21 I. & N. Dec. at 358.

4. *Id.*

5. *Id.* *See also* Celia W. Dugger, *The Roots of Exile: A Special Report. A Refugee's Body Is Intact But Her Family Is Torn*, N.Y. TIMES (Sept. 11, 1996), <https://www.nytimes.com/1996/09/11/nyregion/a-refugee-s-body-is-intact-but-her-family-is-torn.html> [<https://perma.cc/V6MU-3ERY>].

6. *Kasinga*, 21 I. & N. Dec. at 358.

7. *Id.*

8. *Id.* at 359.

9. *Id.*

10. *Id.*

11. *Id.*

12. *See* *Matter of Mogharrabi*, 19 I. & N. Dec. 439, 445 (B.I.A. 1987) ("[A]n applicant for asylum has established a well-founded fear if he shows that a reasonable person in his

The baseline for objectivity centers on the intersection of Westernized gender norms and racialized narratives that center whiteness. The gender norms highlight a woman's fragility and need for protection over her bodily autonomy from her tribe, her family, the police, and the government. The narrative reinforces a single story where her Westernized Togolese father protects her, but after his death the U.S. government—emulating another male figure—saves her from returning to an African Muslim-majority country where she will be harmed. The colonial origins of the Refugee Convention and Western norms of victimology and vulnerability heavily influence the court's narrative. The narrative does not consider her overlapping experiences and identities as a Muslim teenage girl from a well-off Togolese family<sup>13</sup> to understand why she fled Togo. The narrative also excludes the socio-political factors that contributed to her need to leave Togo. The court's narrative diminishes Kassindja's agency and reinforces gender and racialized stereotypes of asylum seekers from African Muslim-majority countries.

In teaching clinic students how to litigate asylum cases, clinical professors may not interrogate the norms underlying the narratives we must present to adjudicators to win asylum. We are often litigating with our clients when they are in moments of crisis. They have experienced trauma in their home countries, trauma in migrating, and are in the U.S. attempting to find community and build their lives.<sup>14</sup> In this context, the norms underlying the legal elements for asylum take a backseat to case management tasks, connecting clients with resources and moving students to learn the skills of interviewing, case planning/fact-finding, and constructing legal arguments.

Currently, clinical law professors are reflecting on how to teach clinical students critical lawyering skills in instances where *winning* asylum claims require formulaic, narrow narratives that reinforce the hierarchies we desire to teach them to deconstruct. In 2020, Dean Onwuachi-Willig and Professor Anthony V. Alfieri critiqued clinical legal education's pedagogy.<sup>15</sup> They stated:

Consider the canonic texts of clinical education and their reproduction of a sociological vision of inner-city populations of color in ways that individualize the trauma of poverty; decontextualize the cultural, socioeconomic, and political determinants of collective action; and ignore the centrality of historical pain. As one of us has previously argued, for decades, those foundational texts overlooked the client marginalizing narratives of culture and society, 'isolat[ed]

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circumstances would fear persecution.”). Under U.S. asylum law, an asylum seeker must demonstrate that his or her fear is both subjectively and objectively reasonable. *Id.*

13. See Dugger, *supra* note 5.

14. See Lindsay M. Harris, *From Surviving to Thriving? An Investigation of Asylee Integration in the United States*, 40 N.Y.U. REV. L. & SOC. CHANGE 29, 39 (2016).

15. See Angela Onwuachi-Willig & Anthony V. Alfieri, *(Re)Framing Race in Civil Rights Lawyering*, 130 YALE L.J. 2052, 2052 (2021) (reviewing HENRY LOUIS GATES, JR., *STONY THE ROAD: RECONSTRUCTION, WHITE SUPREMACY, AND THE RISE OF JIM CROW* (2019)).

clients from others [of differing identity backgrounds] laboring in similar situations of vulnerability,' and 'overlook[ed]' opportunities 'for client resistance and collective mobilization' around class-wide experiences of discrimination. Those same texts imposed contested categories of race-infected behavioral analysis to evaluate client character and credibility and disregarded the impact of structural racism and inequality in assessing community capacity for legal-political action. And yet in legal education, the bleached-out, perspectiveless stance of colorblind lawyering and ethics persists.<sup>16</sup>

In exposing the contradictions in clinical pedagogy, Onwuachi-Willig and Alfieri interrogate the ways in which clinical pedagogy, coupled with the underlying norms in the law, constructs the very inequality that we purport to be interested in training our students to understand, critique, and remedy.<sup>17</sup> In developing narratives of the perfect asylee, clinicians and law students often replicate the very kind of harm that they purport to work to eliminate in their practice.

This essay addresses how clinical professors teach our students to engage in client-centered lawyering when they must replicate this narrative to win asylum claims. The essay discusses how clinical professors can engage critical and decolonial theories to teach students how to deconstruct the marginalizing narratives required in asylum advocacy. These theories provide the theoretical and praxis-oriented frameworks for clinicians seeking to liberate their clinical pedagogy. The opposite of perspectivelessness and objective neutrality is looking to the bottom<sup>18</sup> when judging the impact of the arguments we are

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16. *Id.* at 2088–89.

17. *Id.* at 2089. See also Laila L. Hlass & Lindsay M. Harris, *Critical Interviewing*, 21 UTAH L. REV. 683, 710 (2021) (proposing moving beyond client-centeredness to think critically about the systems of bias, oppression, and racism in which the lawyer unconsciously perpetuates bias through lawyering).

18. See DERRICK BELL, *FACES AT THE BOTTOM OF THE WELL: THE PERMANENCE OF RACISM*, at epigraph (1992):

Black people are the magical faces at the bottom of society's well. Even the poorest whites, those who must live their lives only a few levels above, gain their self-esteem by gazing down on us. Surely, they must know that their deliverance depends on letting down their ropes. Only by working together is escape possible. Over time, many reach out, but most simply watch, mesmerized into maintaining their unspoken commitment to keeping us where we are, at whatever cost to them or to us.

*Id.*; See also Derrick Bell, *The Racism Is Permanent Thesis: Courageous Revelation or Unconscious Denial of Racial Genocide*, 22 CAP. U.L. REV. 571, 578 (1993); RICHARD DELGADO & JEAN STEFANCIC, *CRITICAL RACE THEORY: AN INTRODUCTION* 27–28 (3d ed. 2017) (citing Bell, who advises to look to the bottom of the well to center and ground our praxis. Bell proposes that society must "'look to the bottom' in judging new laws. If they would not relieve the distress of the most marginalized groups—or, worse, if they compound it—we should reject them. Although color blindness seems firmly entrenched in the judiciary, a few judges have made exceptions in unusual circumstances.").

presenting for asylum seekers to be granted relief.<sup>19</sup> “If [the narratives] would not relieve the distress of the poorest group—or, worse, if they compound it—we should reject them.”<sup>20</sup> The issue is how to teach interrogating objectivity in asylum law through our pedagogy so that students learn to sit with both insider and outsider perspectives as they work with clients. This perspective requires advocating *with* and standing alongside our clients while seeking other means—maybe even outside the law—to work towards an intersectional anti-racist praxis.

The goal is for law students to begin their legal work knowledgeable of the law and skilled at advocacy skills, while also cognizant of how the law reifies existing hierarchies. To achieve this goal, clinical professors must begin to ask different questions in partnership with their clients and students that are historically informed and aimed at dismantling structures and systems that maintain hierarchies.

To this end, this essay proceeds in three parts. The first part discusses how Kassindja’s case helps students to understand critical, intersectional, and decolonial theories. This part focuses on how colorblind and gender-blind intersectionality and decolonial theory highlight the invisible norms that have led to the disproportionate denial of asylum for Black and brown asylum seekers. The second part highlights how teaching the colonial history of the Refugee Convention permits students to understand the historical roots of the gender and racialized norms that pervade how we determine who meets the legal requirements to obtain refugee status. The third part discusses how Kassindja’s case can be instructive for highlighting the tensions that arise in attempting to conform the client’s story to norms that often reinforce stereotypes. Engaging with this issue adds another layer to the learning goal of developing students’ cultural humility and reframes client-centered lawyering. In conclusion, the essay engages with pedagogical strategies for teaching clinic students to move from theory to praxis and generate alternative strategies for addressing the issues in the asylum system in partnership with their clients.

#### I. MOVING CRITICAL, INTERSECTIONAL, AND DECOLONIAL THEORIES INTO PRAXIS

During my first year of clinical teaching, my students and I represented an asylum seeker from the West Coast of Africa. She was fleeing persecution on similar grounds as Kassindja. Over the course of the semester, the student attorneys struggled to develop the client’s narrative to fit the textbook gender-based FGC asylum claim. From a Muslim-majority African country, their client was a devout Christian. She was married and had children. In clinical supervision meetings, the students indicated that their client was stoic. They

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19. See Bell, *supra* note 18, at 578.

20. See DELGADO & STEFANCIC, *supra* note 18, at 27–28.

could not understand why their client was not emotive over the possibility that she may be returned to her home country and subject to FGC. For the student attorneys, their client's inability to emote around them placed the veracity of her asylum claim in question. She was a strong married woman who worked. She did not conform to the single story they wished to construct for the asylum adjudicator in order to win her case. She was not a victim, nor did she express the vulnerability that—in their eyes—was typical of a female asylum seeker. As a Christian, she did not fit the stereotype associated with African women from Muslim-majority countries needing to be saved by Christian Western countries. The issues the students faced were ripe for engagement with critical theories to teach the limits of the law and how to empower the students to develop different ways to engage in the attorney-client relationship.

Examining the Kassindja case and the asylum system through critical theories, law students can begin to interrogate how asylum claims rely upon racialized and gender essentialized narratives to secure asylum. When students engage with critical theories, while working with their clients, they begin to interrogate and analyze how legal objectivity and the power dynamics within the legal system can replicate essentialized gender and racialized narratives in their work with their clients. Scholar Francisco Valdes defines critical theories as:

the effort to pierce conventional wisdom through an interrogation of normalized notions, and to arrive at a transcendental understanding of social constructions and realities—a more accurate understanding of how and why something is the way it is in ways that transcend the premises, imperatives and limitations of conventional explanations about dominant social arrangements. Critical theory is the project that enables substantive analysis of the personal and particular at structural and systemic levels. It is the process that makes patterns out of particularities.<sup>21</sup>

Critical theory is essential in clinical pedagogy as it teaches our students how to move social action from an abstract concept to concretize ways to engage with our clients and how to address the ways in which the legal system can contribute to marginalization.<sup>22</sup>

Intersectionality theory also helps to understand the norms underlying how winning asylum narratives are constructed in Kassindja's case. Kimberlé Crenshaw's intersectionality theory posits, "Because of their intersectional identity as both women *and* of color within discourses that are shaped to respond to one *or* the other, women of color are marginalized within both."<sup>23</sup> Scholar

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21. Francisco Valdes, *Insisting on Critical Theory in Legal Education: Making Do While Making Waves*, 12 BERKELEY LA RAZA L.J. 137, 139 (2001).

22. *Id.* at 139–40. See also Alina S. Ball, *Disruptive Pedagogy: Incorporating Critical Theory in Business Law Clinics*, 22 CLINICAL L. REV. 1, 3–5 (2015).

23. Kimberlé Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, 43 STANFORD L. REV. 1241, 1244 (1991).

Devon Carbado further develops intersectionality through engaging how the law operates through invisible norms at the intersection of a legal subject's race and gender.<sup>24</sup> For Carbado, colorblind intersectionality “refers to instances in which whiteness helps to produce and is part of a cognizable social category but is invisible or unarticulated as an intersectional subject position.”<sup>25</sup> Gender-blind intersectionality refers to instances where normative gender identities produce a part of social category but is invisible or unarticulated.<sup>26</sup>

While the Immigration and Nationality Act (“INA”)’s refugee definition,<sup>27</sup> which adopts in part the definition set out in the 1951 Refugee Convention,<sup>28</sup> does not explicitly discriminate on the basis of race or national origin, Black and brown asylum seekers have been disproportionately denied asylum or access to apply for asylum in the United States.<sup>29</sup> The INA requires asylum seekers to prove they are a refugee to be granted relief. A refugee:

is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.<sup>30</sup>

The U.S. refugee definition is based upon the 1951 Refugee Convention.<sup>31</sup> The definition is colorblind—it contains certain unspoken racialized and gender norms that determine who is afforded protection.

Colorblind and gender-blind intersectionality are demonstrated at the intersection of an asylum seeker's multiple identities—race, national origin, class, religion, and gender. Both whiteness and gender normativity are unarticulated norms that define which asylum seekers are prioritized for asylum grants and the narratives they must construct to receive asylum.<sup>32</sup> At this intersection, the dichotomy between the deserving and undeserving immigrant

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24. Devin W. Carbado, *Colorblind Intersectionality*, 38 SIGNS: J. WOMEN CULTURE & SOC'Y 811, 817 (2013).

25. *Id.*

26. *Id.*

27. INA § 101(a)(42), 8 U.S.C. § 1101(a)(42).

28. Convention Relating to the Status of Refugees, July 28, 1951, 189 U.N.T.S. 137 [herein after *1951 Refugee Convention*].

29. See *Mexico: Asylum Seekers Face Abuses at Southern Border*, HUM. RTS. WATCH (June 6, 2022), <https://www.hrw.org/news/2022/06/06/mexico-asylum-seekers-face-abuses-southern-border> [https://perma.cc/EF76-CUM3].

30. INA § 101(a)(42), 8 U.S.C. § 1101(a)(42).

31. *1951 Refugee Convention*, *supra* note 28, at art. 1, ¶ A(2).

32. See Karla M. McKanders, *Gender, Islamophobia and Refugee Exceptionalism*, in *ARABS AT HOME AND IN THE WORLD: HUMAN RIGHTS, GENDER POLITICS, AND IDENTITY* 126, 127–28 (Karla M. McKanders ed., 2019).



is constructed which influences the depiction of refugees and who is entitled to relief.<sup>33</sup>

Currently, this phenomenon can be observed at the U.S. Southern Border with Ukrainians and other asylum seekers.<sup>34</sup> In March of 2022, “[g]roups of Ukrainian families at the US-Mexico border [were given] the chance to do something most asylum-seeking migrants [had not] been allowed to do for years: cross legally into the United States.”<sup>35</sup> In reference to the Ukrainians being allowed to enter at the Southern border, the Department of Homeland Security asserted that this humanitarian exemption is granted “to particularly vulnerable individuals of all nationalities for humanitarian reasons.”<sup>36</sup>

Contrastingly, at the same border, Haitians and Cameroonians remained in Mexico for almost a year attempting to seek asylum while others are subject to immediate deportation.<sup>37</sup> Similarly, Afghans approaching the Southern border after the U.S. military’s withdrawal were blanketly labeled as terrorists without screening.<sup>38</sup>

This demonstrates how whiteness operates as an unarticulated factor that produces the groups that are afforded humanitarian protection and designated as

33. See Elizabeth Keyes, *Beyond Saints and Sinners: Discretion and the Need for New Narratives in the U.S. Immigration System*, 26 GEO. IMMIGR. L.J. 207, 226 (2012).

34. In April of 2022, “President Joe Biden said Ukrainians fleeing violence don’t need to try and enter the United States through the southern border because they now have access to a special visa system.” Kevin Liptak, *Biden says Ukrainians shouldn’t enter the US through southern border*, CNN (Apr. 28, 2022), <https://www.cnn.com/2022/04/28/politics/ukraine-refugees-southern-border/index.html> [https://perma.cc/W66Q-562Y]. See also *Uniting for Ukraine*, U.S. DEP’T HOMELAND SEC., <https://www.dhs.gov/ukraine> [https://perma.cc/8ZXJ-8UQR] (last updated Sept. 16, 2022).

35. Catherine E. Shoichet, *As the US Rolls Out the Welcome Mat for Ukrainian Refugees, Some See a Double Standard at the Border*, CNN (Mar. 29, 2022), <https://www.cnn.com/2022/03/29/us/ukrainians-us-mexico-border-cec/index.html> [https://perma.cc/WCP6-5254]. See also Lindsay M. Harris, *Afghan Allies in Limbo, The U.S. Immigration Response*, 66 HOW. L.J. 1, 1, 25 (forthcoming 2023) (contrasting the treatment of Afghan and Ukrainian refugees).

36. Shoichet, *supra* note 35.

37. *Id.* Guerline Jozef, Executive Director of the Haitian Bridge Alliance, reflected on these disparities:

She thought of the many Haitians she says have been stuck in Tijuana—some for months, some for years—facing discrimination and dangerous living conditions but blocked from crossing the border and getting help. She thought of the many thousands of other Haitians who’ve been sent back on deportation and expulsion flights since President Biden took office. And she thought of Cameroonians, their country also devastated by war, who’ve been pushing for the same humanitarian deportation protections for more than a year.

*Id.*

38. See Press Release, Lindsey Graham, Senators Send Letter to Secretary Mayorkas Expressing Concern about Afghanistan, Terrorist Infiltration at Southern Border (Aug. 3, 2022), <https://www.lgraham.senate.gov/public/index.cfm/2022/8/graham-senators-send-letter-to-secretary-mayorkas-expressing-concern-about-afghanistan-terrorist-infiltration-at-southern-border> [https://perma.cc/U6V7-665P].

refugees. This colorblind standard undermines the international principle of seeking refuge as a human right.<sup>39</sup> Within this construct, assumptions about who is perceived as vulnerable “determine[ ] the choice of charity afforded to individuals” within a country’s refugee and immigration systems.<sup>40</sup> The deserving immigrant is understood as a victim of his circumstances, whereas the undeserving immigrant is perceived as actively transgressing societal norms and thus unworthy of Convention protection.<sup>41</sup> This designation is rife with invisible racialized norms.

Critical theories coupled with decolonial pedagogies allow law students to begin to question the very foundations of social hierarchy and to challenge laws and systems that perpetuate hierarchies. In order to train law students to engage in movement and social justice lawyering they must examine how racism is sewn into the legal system and the histories behind the law. Scholar Chaumtoli Huq argues that decolonial pedagogies must be coupled with critical pedagogies when we teach law students.<sup>42</sup> She posits:

Like critical race theory, decoloniality seeks to untangle the production of knowledge from a primarily Eurocentric and white framework. Decoloniality is at its heart a liberatory project to dismantle structures of oppression that subjugate communities. It is invested in the production of counter-discourses to open up emancipatory potential for all. In this political moment, as social movements are demanding racial and other forms of justice to dismantle structures of oppression, it is imperative for us as legal educators to acknowledge how legal education supports white supremacy, neocolonialism, and other forms of oppressions. We must develop critical pedagogies, so our students gain a full and complete picture of the legal system and are equipped to make sense of the events unfolding around them.<sup>43</sup>

Teaching *In re Kasinga* through decolonial and critical theories allows students to deconstruct the mainstream<sup>44</sup> narrative for gender-based asylum

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39. McKanders, *supra* note 32, at 128–29 (citing International Covenant on Civil and Political Rights, Dec. 19, 1966, 999 U.N.T.S. 171):

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights.

*Id.*

40. Karla McKanders, *America’s Disposable Youth: Undocumented Delinquent Juveniles*, 59 *HOW. L.J.* 197, 212 (2015).

41. *Id.*

42. See Chaumtoli Huq, *Teaching Contracts through a Critical Race & Decolonial Framework*, *CONTS. PROF. BLOG* (July 13, 2020), [https://lawprofessors.typepad.com/contractsprof\\_blog/2020/07/guest-post-by-chaumtoli-huq-part-i-the-decolonial-framework.html](https://lawprofessors.typepad.com/contractsprof_blog/2020/07/guest-post-by-chaumtoli-huq-part-i-the-decolonial-framework.html) [<https://perma.cc/48Y7-DGMB>].

43. *Id.*

44. See Carbado, *supra* note 24, at 817–18.

claims. When clinicians teach client-centered lawyering, we often do not examine the distinctive baseline—or underlying norms—that pervade legal analysis. The norm for asylum seekers is based upon the 1951 Refugee Convention framework that constructed the prototype asylum seeker. This legal framework requires adherence to racialized templates of gender normativity for asylum seekers to be granted relief.<sup>45</sup> Employing intersectionality and decolonial theories helps students understand the power dynamics embedded in the ratification of the Convention. These theories allow students to grapple with the essentialist and racialized paradigms through which they must construct their clients to win asylum. These theories must be coupled with understanding the underlying history of the Refugee Convention and the underlying power dynamics that existed globally in 1951.

## II. TEACHING THE “COLONIAL” ROOTS AND POWER DYNAMICS OF THE 1951 REFUGEE CONVENTION

Advocates are constrained in constructing their client’s narrative through the 1951 Refugee Convention.<sup>46</sup> The narrow narratives are a product of the 1951 Refugee Convention (“Convention”). The Convention simply formalized the racialized and gender norms of the time.<sup>47</sup> It is important for students to understand the Convention’s historical foundations in order to grapple with how they engage with their clients’ narratives.

The Refugee Convention was the first international document to create a uniform definition of a refugee.<sup>48</sup> In 1951, the definition of a refugee was limited, as it only applied to refugees displaced *in Europe* before 1951.<sup>49</sup> These

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45. *Id.* at 819.

46. *See 1951 Refugee Convention*, *supra* note 28.

47. *See* Edwin O. Abuya, Ulrike Krause & Lucy Mayblin, *The Neglected Colonial Legacy of the 1951 Refugee Convention*, 59 INT’L MIGRATION 265, 265 (2021).

48. *See 1951 Refugee Convention*, *supra* note 28, at art. 1; Abuya et al., *supra* note 47, at 265: That is because, until this point, rights, where people had them, were tied to citizenship, making the uprooted and stateless effectively without recourse to rights or justice. The Convention Relating to the Status of Refugees (1951 Convention) was meant to rectify this. It enshrined the right to seek asylum in international law for those displaced in Europe prior to 1951. It was adopted at the United Nations (UN) Conference of Plenipotentiaries on 25 July 1951 following UN-internal discussions. Though the 1951 Convention is remembered by some as a key moment for refugees globally, and it was agreed at the UN, which is an international body, it was in fact limited in scope, only applying to those displaced *in Europe before 1951*.

Abuya et al., *supra* note 47, at 265 (emphasis in original).

49. *See 1951 Refugee Convention*, *supra* note 28, at art. 1, ¶ A:

For the purposes of the present Convention, the term “refugee” shall apply to any person who: (1) Has been considered a refugee under the Arrangements of 12 May 1926 and 30 June 1928 or under the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 or the Constitution of the International Refugee Organization; Decisions of non-eligibility taken by the International Refugee Organization during the

restrictions allowed only World War II migrants from Europe to qualify for asylum.<sup>50</sup> The 1967 Protocol removed the geographic (Europe) and temporal (1951) limitations from the Convention, allowing more migrants to be classified as refugees.<sup>51</sup>

The power dynamics around the 1951 Convention influenced who would be considered a refugee:

In the late 1940s and early 1950s, when human rights were first being enshrined as principles in international law, the most powerful states at the UN were colonial empires (e.g. France, Britain) and settler-colonial states (e.g. the USA, Australia) who organized their territories and political communities along with principles of racial hierarchy, which ran contra to the whole idea of human rights. These states were therefore highly resistant in private, if not in public, to the institutionalization of a regime, which might extend rights to all human beings, irrespective of their country of origin or the colour of their skin.<sup>52</sup>

Western countries dominated United Nation's ("UN") negotiations on the refugee definition, while non-Western countries' opinion on the definition were diminished.<sup>53</sup> Even after the 1967 amendments, decolonized states "remained critical of the European bias."<sup>54</sup> Most decolonized states are not signatories to the Convention.<sup>55</sup> This disjuncture resulted in countries outside the Western Hemisphere developing their own frameworks to define refugees:

- African states adopted the Organisation of the African Union Convention Governing the Specific Aspects of Refugee Problems in Africa in 1969;
- Asian and North African states adopted the Bangkok Principles on Status and Treatment of Refugees in 1966 (revised in 2001); and
- Central American states, Mexico, and Panama adopted the Cartagena Declaration in 1984.<sup>56</sup>

"While some of these draw on the 1951 Convention, all focus on creating regional systems that meet the specific needs, and some explicitly lean against the colonial legacy that gave rise to the 1951 Convention."<sup>57</sup>

The 1951 definition demonstrates how both color-blind and gender-blind intersectionality constructs invisible norms that permeate the social construct of refugee. The Convention definition constructed the refugee as "white, male,

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period of its activities shall not prevent the status of refugee being accorded to persons who fulfil the conditions of paragraph 2 of this section.

50. Abuya et al., *supra* note 47, at 265.

51. *Id.* at 266.

52. *Id.* at 265.

53. *Id.* at 266.

54. *Id.*

55. *Id.*

56. *Id.*

57. *Id.*

European, and fleeing so-called socialist countries.”<sup>58</sup> Some scholars argue that global resistance to influxes of refugees from Black and brown countries can be traced to an underlying norm of whiteness that the original Convention conceptualized.<sup>59</sup> Absent an embodiment of this white normativity, acquiring asylum proved difficult:

“Third world refugees” clashed sharply with the image of the “normal” refugee, and this difference was seen by Western states as diminishing their claims for asylum. This difference has led to a range of measures that some have conceptualized as an erosion of the right to seek asylum.<sup>60</sup>

Scholars argue that “underpinning the exclusionary agenda” is something “distinctly colonial” that can be traced back to the original Refugee Convention.<sup>61</sup> The treatment of Ukrainian refugees in Europe highlights this principle.<sup>62</sup> In 2015 in Europe, 1.4 million Syrian refugees fleeing the war were called a “migrant crisis” whereas the two million Ukrainians were welcomed in Europe and seen as individualized refugees.<sup>63</sup> Scholar Jaya Ramji-Nogales underscores, “flight from generalized violence is not a basis for refugee status under international law” and so nations, including the United States, can make “invidious race-based distinctions, often purportedly based on nationality, when deciding whom to protect.”<sup>64</sup>

### III. DECONSTRUCTING WINNING ASYLUM NARRATIVES

#### A. *The Objectively Neutral Asylum Seeker*

The strengths of Kassindja’s asylum narrative when examined through color-blind and gender-blind intersectional lens allows students to understand the underlying norms that are invisible but play a prominent role throughout her judicial process of obtaining asylum. At the intersection of her national origin, gender, class, and religion, she becomes the ideal candidate for asylum. In appellate court’s narrative, Kassindja, a young Togolese girl, is the victim, and the United States is the savior. From a Muslim-majority country, she is presumed to be Muslim which contributes to her vulnerability. Like all asylum seekers,

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58. *Id.*

59. *Id.* at 267. See also E. Tendayi Achiume, *Racial Borders*, 110 GEO. L.J. 445, 449 (2022) (“[B]orders structurally exclude and discriminate on a racial basis as a matter of course often through facially race-neutral law and policy.”).

60. Abuya et al., *supra* note 47, at 267.

61. *Id.*

62. See generally Harris, *supra* note 35.

63. See Marie-Luise Goldmann, *Ukrainians In 2022 vs. Syrians In 2015, Why Some Refugees Get A Warmer Welcome*, WORLD CRUNCH (Apr. 8, 2022), <https://worldcrunch.com/migrant-lives-1/ukrainian-refugees-racism> [<https://perma.cc/AHS5-U5RS>].

64. Jaya Ramji-Nogales, *Ukrainians in Flight: Politics, Race, and Regional Solutions*, 116 AM. J. INT’L L. UNBOUND 150, 154 (2022).

Kassindja had the burden of proof to demonstrate her worthiness to stay in the United States through her asylum application.<sup>65</sup>

Theoretically, the INA's definition of an asylum seeker is neutral and generally applicable to all asylum seekers. In determining that FGC constitutes persecution, Kassindja's race, presumed religion, and gender are all invisibly operating to construct vulnerability and victimhood as a refugee. In Kassindja's case, the Board of Immigration Appeals for the first time recognized that female genital cutting involved suffering and bodily threat that far exceeded that necessary to constitute "persecution" on the basis of gender under U.S. asylum requirements.<sup>66</sup> One can speculate that FGC was easily perceived as persecution when it is associated with African and Muslim communities. At the intersection of these identities, Kassindja is the "victim" personified to fit this stereotype. Similarly, advocates have criticized the gender norms that underly the refugee definition as: "painting a monolithic picture of women as passive, dependent, vulnerable victims and thus peripheral to international politics and without agency."<sup>67</sup>

The procedural history of Kassindja's case reflects the inherent tensions in the Convention's ability to provide protections for gender-related asylum claims. Kassindja was initially denied at the Immigration Court level and ultimately granted at the Board of Immigration Appeals level. Both decisions are problematic in that they reify race, gender, and perspectivelessness, creating one-dimensional versions of asylum seekers—with the Westernized norm of victimology as a requisite to protection that dominates the narrative. "While determinations of vulnerability are typically presented as objective and neutral, they are in fact deeply subjective and political."<sup>68</sup>

Presently, asylum seekers appearing before adjudicators are placed in a bind. They must check their *full* selves at the U.S. border in order to be considered for relief. Attorneys are taught to engage in an objective construction of their clients. Attorneys are caught in a bind. They become complicit in constructing a narrative that fits into the racialized "victim" and the "traditional" standard.

The Kassindja case helps students understand what Kimberlé Crenshaw calls "perspectivelessness."<sup>69</sup> Perspectivelessness is a false sense of objectivity

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65. See INA § 208(b)(1)(B), 8 U.S.C. § 1158(b)(1)(B).

66. See *In re Kasinga*, 21 I. & N. Dec. 357, 365 (B.I.A. 1996) (stating that FGC qualifies as "persecution" and defining persecution as "the infliction of harm or suffering by a government, or persons a government is unwilling or unable to control, to overcome a characteristic of the victim.").

67. Megan Denise Smith, *Rethinking Gender in the International Refugee Regime*, 53 FORCED MIGRATION REV. 65, 65 (2016).

68. Lewis Turner, *Who Will Resettle Single Syrian Men?*, 54 FORCED MIGRATION REV. 29, 30 (2017).

69. Kimberlé W. Crenshaw, *Toward a Race-Conscious Pedagogy in Legal Education*, 11 NAT'L BLACK L.J. 1, 2 (1988).

in the law.<sup>70</sup> It is “the illusion by which the dominant perspective is made to appear neutral, ordinary, and beyond question.”<sup>71</sup> This “analytical stance” is devoid of any “specific cultural, political, or class characteristics.”<sup>72</sup>

Teaching Kassindja and perspectivelessness exemplifies, what Crenshaw calls, a Race-Conscious Pedagogy.<sup>73</sup> This helps law students examine (1) who the baseline is for the narratives they construct, and (2) whose perspective controls, or influences, the stories they offer. Crenshaw’s desire to reform perspectivelessness is at the core of problematizing winning asylum narratives, given that “expand[ing] the Convention definition for gender-related persecution ha[s] tended to portray ‘essential’ refugee women’s identities that are constructed by UNHCR, the media and governments but not by refugee women themselves.”<sup>74</sup> Kassindja’s gender-based asylum claim exemplifies perspectivelessness. In her case, whiteness operates invisibly as the default while her identities as an immigrant woman of African descent are erased.

Having law students read Kassindja’s book *Do They Hear When You Cry*,<sup>75</sup> students begin to understand how the client conceptualizes the abstract theories of legal objectivity and perspectiveless during her asylum process. Kassindja observed that her judge was “white, middled-aged, maybe in his fifties, with white hair.”<sup>76</sup> Her reflection highlights how whiteness invisibly operated in the courtroom and was the lens through which the judge evaluated her claim. In her own words she explains perspectivelessness, stating, “He [the judge] went on and on, retelling my story as he’d heard it, making it sound totally implausible . . . .”<sup>77</sup>

While the underlying race and gender norms are not explicitly expressed in Kassindja’s appellate opinion, they implicitly anchor the analysis and forge the template for how asylum lawyers develop gender-based asylum claims. Devon Carbado explains this as “colorblind intersectionality: whiteness is doing racially constitutive work in the case but is unarticulated and racially invisible as an intersectional subject position.”<sup>78</sup> In constructing Kassindja’s narrative, law students are taught to adhere to the objective standards of asylum law which naturally suppress alternative values by “discounting the relevance of any particular perspective in legal analysis and by positing an analytical stance that has no specific cultural, political, or class characteristics.”<sup>79</sup>

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70. *Id.*

71. *Id.* at 6.

72. *Id.* at 2.

73. *Id.* at 6.

74. Smith, *supra* note 67, at 65.

75. KASSINDJA & MILLER, *supra* note 1.

76. *Id.* at 358.

77. *Id.* at 373.

78. Carbado, *supra* note 24, at 823.

79. Crenshaw, *supra* note 69, at 2.

### B. *The Unbiased Asylum Adjudicator*

In addition to the perspectivelessness asylum framework, the heightened evidentiary and credibility standards<sup>80</sup> do not account for trauma in migrating and the persecution clients experience, diverse cultural norms, and language differences which impact the asylum seeker's ability to perform the constructed narrative for the adjudicator. In this narrative, the adjudicator's own bias plays a significant role in determining whether the asylum seeker's plea for safety is sufficient to warrant protection.

In developing advocacy strategies, law students are taught to remain cognizant of the adjudicator before whom they appear. These strategies involve analyzing how the cultural bias, practice backgrounds, gender, and socialization into American norms impact the adjudicator's decision making and their client's likelihood of success.<sup>81</sup> Students learn how to draft affidavits, compose briefs, and direct examinations in a manner that reduces their client's narrative into Westernized norms of vulnerability and victimology in order to secure for their client the ability to stay in the United States.<sup>82</sup>

At the individual hearing stage, Kassindja appeared before Immigration Judge Donald Ferlise.<sup>83</sup> Ferlise was removed from the bench in May 2006 for his hostile conduct towards immigrants appearing in his court.<sup>84</sup> Prior to his removal, the U.S. Court of Appeals for the Third Circuit repeatedly reprimanded Ferlise.<sup>85</sup> The Court admonished him for being intemperate and bias laden, brow beating, bullying, abusive, and hostile towards distraught asylum seekers.<sup>86</sup>

80. INA § 208(b)(1)(B)(iii), 8 U.S.C. § 1158(b)(1)(B)(iii).

81. See Jaya Ramji-Nogales, Andrew I. Schoenholtz & Philip G. Schrag, *Refugee Roulette: Disparities in Asylum Adjudication*, 60 STAN. L. REV. 295, 296 (2007) (revealing "amazing disparities in grant rates, even when different adjudicators in the same office each considered large numbers of applications from nationals of the same country" and identifying "the instant in which a clerk randomly assigns an application to a particular asylum officer or immigration judge" as, in many instances, being "the most important moment in an asylum case").

82. See Muneer I. Ahmad, *The Ethics of Narrative*, 11 AM. U. J. GENDER SOC. POL'Y & L. 117, 122 (2002).

83. See Dugger, *supra* note 5. See also, Third Circuit cases cited *infra* note 86.

84. See Ashwin Sharma, *Immigration Judge Off Bench While Broader U.S. Review Continues*, U.S. IMMIGR. L. BLOG BY ASHWIN SHARMA (June 9, 2006), <https://ashwinsharma.com/2006/06/09/immigration-judge-off-bench-while-broader-u-s-review-continues/> [<https://perma.cc/V6MY-RGFK>].

85. *Id.*

86. See Sukwanputra v. Gonzales, 434 F.3d 627, 637–38 (3d Cir. 2006) (describing "intemperate and bias-laden remarks" interjected by the immigration judge, "none of which had any basis in the facts introduced, or the arguments made, at the hearing"); Fiadjoe v. Att'y Gen., 411 F.3d 135, 143, 145–46, 154–55 (3d Cir. 2005) (describing "bullying" and "brow beating" by the immigration judge; "continuing hostility towards the obviously distraught [petitioner] and his abusive treatment of her throughout the hearing," reducing her "to an inability to respond;" and an oral decision, later "sanitized," which was "crude (and cruel)"). See also Sharma, *supra* note 84 (Immigration Attorney William Stock, who appeared before Judge Ferlise, stated, "Ferlise was



From 2000 to 2005, Ferlise heard 906 asylum cases and had an 86.3% denial rate.<sup>87</sup> The disparate asylum grant rates and bias continue today with Immigration Judge Stuart Couch, who has repeatedly rejected asylum claims of Central American women who had been violently beaten, raped, and physically and emotionally abused by their husbands and domestic partners, spearheading the 2018 *Matter of A-B*-<sup>88</sup> case overturning domestic violence asylum claims under the Trump administration.<sup>89</sup>

After hearing Kassindja's testimony Ferlise found her incredible, citing "the lack of rationality, the lack of internal consistency and the lack of inherent persuasiveness in her testimony[,] and . . . determined that the alien is not credible."<sup>90</sup> His finding was based upon the applicant's failure to know the present whereabouts of her mother; her claim to have avoided FGC through her father's efforts, the incident involving the German woman, or the incident with the Nigerian man were irrational, unpersuasive, or inconsistent.<sup>91</sup> In making his decision, Ferlise relied upon his personal knowledge stating that "it appears that 'all tribal women from certain Northern tribes allow Themselves to be circumcised.' This wasn't persecution—just part of tribal culture."<sup>92</sup>

While Ferlise's comments are an explicit expression of bias, many immigration judges are likely to hold similar unconscious biases. There is an inherent tension here. Judge Ferlise exhibited bias in denying Kassindja's asylum while the Board of Immigration Appeals exhibited bias in the opposite direction. The appellate court constructed the opposite narrative that women from Muslim-majority African countries are victims because it is easy to believe that the societies they come from are perpetrators.

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'deeply untrusting' of testimony from asylum-seekers. 'He had a very hard time finding a lot of people credible,' Stock said. 'I think, too, a lot of his decisions seemed to reflect that he had a very limited experience of the world.'")

87. *Asylum Denial Rates by Immigration Judge: FY 2000 - FY 2005- 2006*, TRANSACTIONAL RECS. ACCESS CLEARINGHOUSE, [https://trac.syr.edu/immigration/reports/160/include/judge\\_0005\\_name-r.html](https://trac.syr.edu/immigration/reports/160/include/judge_0005_name-r.html) [<https://perma.cc/64M6-D4D2>] (last visited Sept. 28, 2022).

88. 27 I. & N. Dec. 316 (A.G. 2018) (Immigration Judge Couch presided over this case).

89. Tal Kopan, *Judge in Case Sessions Picked for Immigrant Domestic Violence Asylum Review Issued 'Clearly Erroneous' Decisions, Says Appellate Court*, CNN (Apr. 28, 2018), <https://www.cnn.com/2018/04/28/politics/jeff-sessions-immigration-courts-domestic-violence-asylum/> [<https://perma.cc/S82T-C43V>].

90. KASSINDJA & MILLER, *supra* note 1, at 373–74.

91. *Id.* at 374.

92. *Id.* at 375.

## CONCLUSION

Clinical law students are taught to construct a single story in persecution. Single stories win asylum claims. Single stories adhere to the schemas to which students, the public, law professors, and asylum adjudicators expect to grant asylum. The asylum narrative positions lawyers as experts at telling stories that are not their own. The current structure makes the client dependent on their attorneys to understand and authentically relay their stories.

Examining history and context triggers the complexities of reframing the asylum narrative. The client's story is often told through an interpreter,<sup>93</sup> while the student attorney synthesizes the information relevant to establish eligibility for a form of immigration relief and attempts to understand and conform to the schemas to which immigration judges are accustomed.

Tensions arise in attempting to conform the client's story to norms that reinforce stereotypes which deprives the client of agency and voice. Engaging with this issue furthers the goals of the American Bar Association's revisions to Standard 303(c) and adds another layer to the learning goal of developing students' cultural humility and ability to engage in client-centered lawyering. The American Bar Association's revisions to Standard 303(c) require the following:

[a] law school shall provide education to law students on bias, cross-cultural competency, and racism: (1) at the start of the program of legal education, and (2) at least once again before graduation.<sup>94</sup>

In addition, critical and decolonial pedagogies help clinical professors to struggle with their law students in engaging with client narratives on multiple levels. These pedagogies move beyond the banking system of education where law professors pour the legal elements of the law into students with the goal of blindly routinizing their application of the law in their work with clients.<sup>95</sup>

There is pedagogical value in teaching law students the limits of attempting to decolonize the asylum seeker's narrative that occurs within a larger immigration system that disproportionately disadvantages Black and brown asylum seekers. The larger political and social context in which the individual asylum advocacy occurs must always remain at the forefront of clinical teaching.

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93. See Muneer I. Ahmad, *Interpreting Communities: Lawyering Across Language Difference*, 54 UCLA L. REV. 999, 1002 (2007).

94. AM. BAR ASS'N SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, REVISIONS TO THE 2021-2022 ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2-3 (2022), [https://www.americanbar.org/content/dam/aba/administrative/legal\\_education\\_and\\_admissions\\_to\\_the\\_bar/standards/2021-2022/21-22-standards-book-revisions-since-printed.pdf](https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/standards/2021-2022/21-22-standards-book-revisions-since-printed.pdf) [<https://perma.cc/92F4-QVVS>].

95. BELL HOOKS, *TEACHING TO TRANSGRESS: EDUCATION AS THE PRACTICE OF FREEDOM*, 14-15 (1994).

Decolonizing clinical pedagogy requires clinical professors to teach law and advocacy from both an insider and outsider perspective. This requires recognizing both the promises and limits of the law and legal education in liberating and eradicating gender-based bias and racialized hierarchies. Through engaging with the multiple facets of the asylum narrative, students learn how asylum advocacy can reinforce the hierarchies that critical lawyers seek to dismantle.

The critiques of the storytelling required within the immigration context are recent and require further development.<sup>96</sup> Some immediate pedagogical interventions may be:

- having students re-write *Matter of Kassindja* addressing the essentialized, racialized, and perspectivelessness narrative;
- diversifying immigration clinic dockets to include individual representation, legislative lawyering, and community engagement outside of administrative hearings; and
- allowing former clients to provide their perspectives on the impact of adhering to the asylum narratives when presenting their case.

These are a few starting points where presenting counter-narratives before asylum adjudicators would result in a denial of asylum. It is my goal that this essay will start conversation and engagement in service of our students and clients. The goal of engaging critical and decolonial pedagogies can be understood as a spectrum. On this spectrum is a range of goals to illuminate and problematize:

- the norms and internalized stories law students bring to representing their clients;
- the traditional norms that underlie client-centered lawyering (to construct non-hierarchical ways for law students to relate and engage with their clients); and
- different ways to empower clients to tell counter-narratives *both* inside and outside the law (engaging with community-based organizations; connecting clients to allow them to decide which parts of their story to include in their narratives).

The goal of liberatory pedagogy is to teach students alternatives to the status quo in order to bring about an ultimate radical re-ordering of society. This involves understanding how the historical context, power dynamics, and legitimacy of legal doctrines result in invisible racialized and essentialized client

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96. In their article, Willig and Alfieri provide examples of transformative appellate advocacy as one model for deconstructing what they call colorblind legal advocacy and ethics. This model may not be replicable in an immigration system that is highly deferential to the lower court's judgments. See Willig & Alfieri, *supra* note 15, at 2099–100. See also Ahmad, *supra* note 82.

narratives. It also involves engaging our students and clients holistically. Clinical legal education has prided itself on the experiential nature of its pedagogy that engages holistically with our students. bell hooks lauds Thich Nhat Hanh's holistic pedagogy as:

offer[ing] a way of thinking about pedagogy which emphasized wholeness, a union of mind, body, and spirit. His focus on a holistic approach to learning and spiritual practice enabled [hooks] to overcome years of socialization that had taught [her] to believe a classroom was diminished if students and professors regarded one another as 'whole' human beings, striving not just for knowledge in books, but knowledge about how to live in the world.<sup>97</sup>

So too as clinical educators, we must begin to engage with the wholeness of our clients and students, the impact of winning their cases through limited narratives, and what we are teaching our students through this type of advocacy.

Engaging with an asylum seeker's narrative in an individual case will not, unaccompanied, initially or radically alter the asylum system. But this engagement will allow law students to critically analyze how movement and critical lawyering may be constructed to eradicate the hierarchies that sometimes motivate them pursuing a career in public interest law. Teaching alternative critical and decolonial pedagogies that center the client's voice can be "paradigm shifting, rupturing, revelatory, jarring, displacing, destroying, shatter complacency, and challenge the status quo."<sup>98</sup> Law students may leave the clinic, contemplating whether winning an asylum claim is actually winning, after evaluating the origins of the paradigmatic asylum-seeker.<sup>99</sup> This pedagogy has the potential to move Critical Race Theory, Intersectionality, and decolonial pedagogies from abstract concepts vulnerable to regulation, to the footnotes of law review articles, to our clients' lived problems that transcend disembodied intellectual discourse.

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97. HOOKS, *supra* note 95, at 14–15.

98. Adrien K. Wing, *Space Traders for the Twenty-First Century*, 11 BERKELEY J. AFR.-AM. L. & POL. 49, 54 (2009).

99. See Jawziya F. Zaman, *Why I Left Immigration Law*, DISSENT MAG. (July 12, 2017), [https://www.dissentmagazine.org/online\\_articles/left-immigration-law](https://www.dissentmagazine.org/online_articles/left-immigration-law) [https://perma.cc/8U8X-YM94].

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