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Essay

1311 SILENT SCREAMS FROM WITHIN THE ACADEMY: LET MY PEOPLE GROW*Peter C. Alexander [FNa1]**Copyright (c) 1998 **Ohio State** University; Peter C. Alexander

There is an ominous silence in America's law schools. Minority law professors have too often been quieted-feeling a sense of aloneness, lack of support, and fear-by a dug-in majority that often view minorities as necessary affirmative-action hires or diversity or token appointments. While the silence among the minority community is not absolute, the minority voices that are often heard by the majority legal community are reactionary-lashing out at an institution that refuses to accept their uniqueness as individuals. It is essential that law school administrators and faculty come to recognize the problems that are unique to minorities within the law school community-problems that are often difficult for administrators to recognize due to a refusal to admit that their own hiring patterns and perceptions of race have created the very problems that they must now work to solve. Without dialogue among law school administrators and faculty regarding these issues, the status quo will be perpetuated-a situation wholly irreconcilable with respecting the importance of every individual's voice among the legal community.

I had a good teacher,
He taught me everything I know;
how to lie,
cheat,
and how to strike the softest blow.
My teacher thought himself to be wise and right
He taught me things most people consider nice;
such as to pray,
smile,
and how not to fight.
My teacher taught me other things too,
Things that I will be forever looking at;
***1312** how to berate,
segregate,
and how to be inferior without hate.
My teacher's wisdom forever grows,
He taught me things every child will know;
how to steal,
appeal,
and accept most things against my will.
All these acts take as facts,

The mistake was made in teaching me
How not to be BLACK. [FN1]

I. Introduction

I just returned from the sixth annual Central States People of Color Legal Scholarship Conference [FN2] where I listened to dozens of law professors of color sharing rich and important ideas over a three-day period. The theme of the conference was “Celebrating Community,” with each speaker weaving his or her scholarly interest into that theme. By the end of the conference, what stuck with me, was not only what had occurred during the formal scholarship sessions, but also what had happened during our meals and other informal sessions. Many people, mostly, but not exclusively, junior faculty, shared similar stories, pointing to a sense of aloneness within their particular schools, a lack of support, and fear. Others corroborated these stories, raising my level of frustration about these recurrent themes. [FN3]

On the airplane home, I decided that I needed to speak out about the extreme discomfort that my colleagues of color had expressed. As a newly-tenured professor of color, I feel an obligation to tell the stories and to challenge the notions that women professors and professors of color are token appointments, [FN4] affirmative *1313 action appointments, or diversity appointments (all codes for “not qualified”). [FN5] Retelling their accounts, however, is only part of the story. It is perhaps more important to juxtapose the tales of terrorism by abandonment against the wonderful examples of rich and enriching scholarship that these valuable colleagues shared during the conference.

As a consequence, this Essay is intended to educate by blending two very different teaching methods: (1) by retelling the stories shared by my friends within the academy, in the tradition of many communities of color; [FN6] and (2) by citing to sources of legal scholarship that support the stories in the tradition of the legal academy.

II. The Presentations

A. Race Matters: Changing the Law School Canon and Classroom

The first session was presented by Professor Angela Lopez-White, a Latina in her second year of teaching at a major, Midwestern university. Professor Lopez-White said she is generally regarded by her colleagues as “uncollegial,” which she believes is merely a pretext for discriminating against her because of her ethnicity. [FN7] Professor Lopez-White's paper celebrated the community of scholars of color emerging within the academy [FN8] and recognized how the symphony of new voices is changing the fundamental curriculum and how our core courses are taught. [FN9] Her *1314 article challenged those colleagues who disagree with the movement away from the Langdellian paradigm. [FN10] Professor Lopez-White believes that a shift is required for law schools to educate students in this age.

Professor Lopez-White's paper was actually a thinly-disguised Brandeis brief [FN11] in which she argued to her colleagues that the academy must change to reach a new generation of students in the classroom. [FN12] She asserted that the classroom is not the *1315 only place where change has taken place; the face of the faculty is also changing. [FN13] She believes that new teachers, particularly women and people of color, must assert themselves more than their white male colleagues just to be recognized at the table of ideas.

Professor Lopez-White, a parent of a four-year-old child, has child-care problems. She must occasionally bring her daughter to work, and, when she does, her colleagues are not pleased. Several have expressed “concern” that her need to bring her daughter into work takes away from the time she has available to meet with students or to work on her scholarship. Professor Lopez-White finds this concern interesting because many of these same colleagues leave their doors open but are not in their offices and available to students, and a couple of them have never published anything.

Responding to Professor Lopez-White, at the conference, was Thomas Whitman Johnson, a self-described militant black man in his fourth year of teaching. In his talk, Professor Johnson deconstructed [FN14] Langdell's theory of education. [FN15] He contrasted it with earlier notions of teaching within social science departments and medical schools. He challenged minority faculty to think about *1316 how we teach, [FN16] suggesting that most of us just teach as we were taught, and asked if we are bringing “us” into the classroom. At one point he exclaimed, “If you aren't bringing your perspective into your classroom and your class prep[aration] doesn't require you to unpack and examine who you are, then you'd better step aside because diversity is more than just adding a black, brown, red, or yellow face, or a Spanish surname to the faculty picture book. Your burden is greater than just showing up for class, leading students through case briefs, and applying law to facts on the chalkboard.” [FN17]

Professors Lopez-White and Johnson were the perfect team to open the conference. They set the tone for the weekend; it was evident that this was not going to be a typical gathering of scholars. The pair refused to take questions from the audience. Instead, they challenged us to find for ourselves the answers to the questions we would have posed. As soon as their presentation was finished, the conference room erupted with conversation and debate about how we teach, who taught us and how they did it, and what we would do to improve upon the model.

B. I Ain't Gonna Put No Colon in the Title of My Article!

Professor Shakila Matumba (formerly known as “Sheila Brown”) is a new professor at a small, private law school. She is a “Generation X” foot soldier searching for her scholarly voice. Professor Matumba noticed that most law review articles contain a title, followed by a colon, followed by a sub-title. She suggests-somewhat whimsically-that her generation of law teachers look at the world differently. After all, she said, “The new crop of professors were born after Robert Kennedy's and Martin Luther King, Jr.'s deaths. The Civil Rights movement is just another history lesson, just like the Holocaust, World War II, and the Depression.” Today's junior colleagues do not feel the same passion as the Sixties crusaders; they do not know the same in-your-face racism and hatred that the generation before had confronted, and they are light years away from the Depression-era concerns faced by our most senior colleagues.

The scholarship of Professor Matumba's generation is more likely to defy categorization-narrative mixed with empirical study [FN18] or feminist theory applied *1317 to a study of transgendered adoptive parents, [FN19] with footnotes to law and economics, literature, or the internet. [FN20]

One unique characteristic of Professor Matumba's scholarship is in the way she titles her articles. She calls them ‘bold statements with no subtext.’ Professor Matumba claims that she is one of a number of young scholars using ‘in your face’ writing to wake up a sleeping academy. [FN21] Consequently, she refuses to use sub-titles and colons as she names her pieces.[FN22]

Responding to Professor Matumba's piece was Raymond Allison, a recently-tenured black law professor from a major, research university. Professor Allison is in his fifth year of teaching and has spent most of his career just trying to get tenure. Professor Allison thinks there is room in the academy for all voices; however, he cautions Professor Matumba and her 'new generation of teacher/scholars' not to ignore the other voices within the academy. He believes that scholars from both the minority and majority communities have paved the way for younger voices. [FN23] He argues that a cooperative spirit is important to the growth of all legal scholars and *1318 reminds us of the need to 'learn history, lest we repeat it.' [FN24]

Professor Matumba brings a lot of bitterness to the conference. She feels isolated from the members of her faculty, citing class, race, gender, and age barriers. She writes off her colleagues as unhelpful and unable to change (she refers to them as 'unenlightened'). She has neither the patience nor the motivation to try to warm up to them. Professor Allison, on the other hand, has earned the reputation on his faculty of being a 'get along guy.' In actuality, his reputation is due to the fact that he was silent for the first four-and-a-half years he was in law teaching—all in an effort to go through the tenure brought about an epiphany of sorts for Professor Allison. Because of his interaction with the other scholars, he is afraid that his silence translates into a perception that he is the 'model nigger' for some of his white colleagues, the 'house nigger' to the largely minority law school staff, and a 'Tom' [FN25] to the rest of the African-American community. Professor Allison was so effective at self-silencing [FN26] that he has lost 'his voice.' His current status weighs heavily on his mind. Professor Allison silenced himself because he wanted to help support his family and feared losing his job if he spoke up.

Professors Matumba and Allison had a rather lively exchange at the end of the formal presentations. All of the anger Professor Matumba carried just beneath the surface splattered the room during the question-and-answer session. Professor Matumba accused Professor Allison of 'selling out' and allowing the establishment and 'good ol' boy' rewards to whitewash his voice and—much worse—his spirit. [FN27] *1319 Professor Allison was visibly disturbed by the personal attack leveled by Professor Matumba; he accuses her of judging him and his work without having read any of his articles and without having walked in his shoes. Professor Matumba countered that she did not need to read any of his articles because she has read 'a hundred other generic, doctrinal pieces just like them.' She appealed to him as a fellow professor of color and asked him not to continue down the path he had chosen until he reexamined his goals and reasons for entering law teaching in the first place. Professor Allison assured her, and the entire audience, that the reexamination takes place 'every single day.' [FN28]

C. Gay Marriage, Gay Adoption, Gay Estate Planning: More than Just Sex and AIDS

Frank Barton is a "closeted" gay professor, who describes himself as "quietly gay," asserting that his sexual orientation is a private issue. He believes that each one of us has the right to keep quiet about or disclose our sexual status. When confronted, he does not deny his gay status. However, Professor Barton gives no indication of his orientation in the normal course of his professional life. He compares asking him if he is gay to what it means to ask a couple in a heterosexual relationship what their favorite sexual position is. Professor Barton believes that people tend to focus on sex when thinking of homosexuality and do not give credence to the notion that a successful gay relationship can be about loving, caring, nurturing, and supporting. Professor Claudia Montaine, on the other hand, wears her lesbianism on her sleeve. She regards her "sexual status" as political as much as it is personal. To her, her sexual status is representative of a people within a world culture who are denied entry by just about every class of people already categorized: men, women, and racial and ethnic groups. She uses her lesbianism to challenge others to respect her *1320 and to recognize her as a fully-participating

player within the academy and society.

Barton and Montaine co-presented a paper examining what it means to be gay or lesbian in America. Their piece is not quite a deconstruction of the terms; it is, however, a wholesale unpacking of traditional societal definitions. In their paper, the two challenge the audience to look beyond popular culture's portrayal of gays and lesbians (focusing on sex and AIDS) and see this population as it does any other population. They surveyed the law of marriage, helping us understand *Baehr v. Miike*. [FN29] They challenged us to rethink what constitutes a family [FN30] and encouraged us to recognize the legal status that is lacking in all areas of the law for "families of choice or need," [FN31] and they reminded us that property redistribution after death for gays and lesbians is more complicated than we might think. [FN32] Traditional estate planning law, including the new Uniform Probate Code, [FN33] is unresponsive to the needs and unique status of this community.

This session provoked the greatest reaction from the audience. Most people felt the professors' combined effort had the potential of receiving placement offers from very strong journals, [FN34] and everyone agreed that their work could generate a lot of *1321 responsive pieces, benefiting not only the academy but also the legal community in general. [FN35]

D. Sisters Without Voices: Silenced by Men, Law, and Ourselves

Professor Mi-an Yu presented the last work-in-progress of the conference. The piece was rich in feminist theory-exposing the myths behind why women still encounter a corporate glass ceiling, [FN36] why a pay differential between men and women still exists, [FN37] and why housework is often still not given economic status in divorce and personal injury compensation analyses. [FN38] Professor Yu used the language of cultural feminists [FN39] to make her case but contrasted the Gilligan-esque theory with that of more radical feminists. [FN40]

In response, Professor Carla Wilson-Reynolds, a soft-spoken, African-American legal historian in her fourth year of teaching, added another dimension to the discussion-race. She cited Kimberle Crenshaw's work to suggest that the intersection of race and gender puts women of color at an even greater disadvantage. [FN41] Professor Wilson-Reynolds pointed out that the explosion of scholarship in the race-conscious feminist area is in response to feminist literature *1322 that does not adequately take into account the needs of women of color. [FN42] She suggested that being a woman and a minority is a blessing and a curse. The combination of characteristics provide one with rich experiences upon which to draw; however, female professors of color struggle with how much of "themselves" they will be allowed to bring into the classroom. [FN43]

Professor Wilson-Reynolds, like other females in the American workplace, knows about barriers to women's professional mobility. [FN44] She is uncertain of her colleagues' motives, so she has distanced herself from them. She eats in her office, visits the faculty lounge only to pick up her mail, and always politely declines those rare invitations to social events. [FN45] She is concerned about her upcoming tenure vote because a couple of senior colleagues have shared with her their perception that she has not been very collegial-although collegiality is not a written tenure standard at Professor Wilson-Reynolds's law school. [FN46]

At their respective schools, both women are silenced. Professor Yu is silenced because she is Asian-American, untalkative, and obese. Professor Wilson-Reynolds is silenced because she insists on raising her colleagues' collective consciousness about race. Professor Yu's student evaluations were brutal ("send the elephant [sic] back to China"), [FN47] and her colleagues do not offer much support or encouragement. *1323 They criti-

cize her for failing to control the class—a group of approximately eighty first-year Contracts students. She asked her associate dean to assign her a small section of the course, but she was told an older, white colleague would be teaching the small section as an add-on because “he doesn’t write, and never will, and thinks the school doesn’t utilize his talents enough.” Professor Yu is certain that the dean’s unwillingness to accommodate her request will have a negative impact on future evaluations—both from her students and from her tenure team. [FN48]

Professor Wilson-Reynolds’s student evaluations were not as harsh as Professor Yu’s. Her students most frequently accused her of being “too militant” or turning every issue in class into a “race issue.” [FN49] The larger threat to Professor Wilson-Reynolds, however, is from the tenured, white women on her faculty. In supporting the decision to hire Professor Wilson-Reynolds, these six women believed that they were gaining another sister. They feel betrayed by Professor Wilson-Reynolds because she sees herself as “more Black than female.” [FN50]

This session ended in near silence after some initial applause, partly because it was the end of a very tiring and exciting conference but partly because these two scholars were preaching to the choir. Everyone in the room recognized the difficult road women, and women of color in particular, face within the academy. *1324 Nonetheless, everyone encouraged these two women in their effort to continue to educate others about these very important issues facing women in the workplace.

III. Related Issues

Dinner conversation with these professors and the others gathered at the conference was a tremendous experience. Many of us did not know each other when we arrived, but by the end of the weekend, we were like long-lost kin who had come together for a most unlikely reunion. Some of us, however, did know each other. We had been battle-tested and had come through the tenure process with varying wounds. However, we shared many similar stories, notwithstanding our comfort level with one another, or lack thereof, or the stage of the promotion and tenure process at which each person was presently situated.

There was a collective cry that faculty of color bear an added burden of educating not only our students and ourselves but also our colleagues. Too often within the academy, we become “the minority voice” to be consulted before any decision is made affecting students, faculty, or staff of color. We are included on every committee [FN51] “because the institution wants the ‘minority point of view’ represented on as many committees as possible.” [FN52] We are not, however, given lighter teaching loads or additional research and writing support to offset this important work that we must perform on behalf of our institutions. Additionally, faculty of color are the de facto advisors to most, if not all, students of color, [FN53] but when we reach out to them, we are criticized for paying too much attention to them. [FN54]

*1325 Many professors also suggested that our law schools do not really appreciate the true extent of our time commitment to our institutions. [FN55] They also do not understand the emotional upheaval that we experience when we try to operate-as minorities within the majority culture—in our classrooms, in our institutions, and, for some, in our communities. [FN56] A couple of professors suggested that many law schools do not appreciate us as individuals; they shared stories of being asked in law teaching interviews, although they had prior law teaching experience, “Could you please tell us your GPA, class rank, and LSAT score?” Of course, they were all assured that every candidate for lateral hire was being asked the same questions. [FN57]

Beyond the surface issues of getting hired and defining our jobs, [FN58] there are other issues that faculty of color must confront daily. First, there is the expectation that we will teach one or more of the following courses:

Criminal Law, Race and the Law, Gender and the Law, or Immigration. [FN59] This may seem like an over-
*1326 generalization, but it is amazing how many professors were asked by their deans if they wanted to teach one or more of those courses. Also there are issues relating to scholarship, i.e., “Can this professor use any style other than narrative and must she use critical race theory or feminist legal theory all of the time?” [FN60] Finally, there is the issue of building a critical mass. Often, once a faculty has one or two professors of color, there no longer is a pressing need to hire additional minority faculty. Sometimes, colleagues are frank about the reason and explain that, because they cannot find any qualified women or minorities to interview, they do not plan on restricting their search to just women and minorities that year. [FN61] Other times, our colleagues speak in code by mentioning something about not being in the position to do any diversity hiring that year. [FN62]

*1327 The conference theme was “Celebrating Community,” and I believe the scholarly presentations and the informal sharing did just that. We were a collection of teacher/scholars-most, but not all, of whom were people of color-who came together to celebrate our sameness as well as our diversity. Many, like me, arrived at the conference planning to learn more about critical race scholarship or feminist theory but not intending to become emotionally invested in the lives and careers of the participants. Others attended the conference because of a fierce need for community and for the opportunity to connect with people who looked like them, thought like them, traveled a professional path that was similar to theirs, and understood them. Everyone at the conference connected with one another, and we celebrated the recognition of our “family” within the legal academy. It was a memorable weekend, filled with shared experiences and a true sense of solidarity.

IV. Admonition

If you come as softly
As wind within the trees
You may hear what I hear
See what sorrow sees.
If you come as lightly
As threading dew
I will take you gladly
Nor ask more of you.
You may sit beside me
Silent as a breath
Only those who stay dead
*1328 Shall remember death.
And if you come I will be silent
Nor speak harsh words to you.
I will not ask you why now.
Or how, or what you do.
We shall sit here, softly
Beneath two different years
And the rich earth between us
Shall drink our tears. [FN63]

Prior to attending the conference, I wondered whether I, a non-critical race scholar, would be comfortable there. [FN64] Moreover, my own professional development has been relatively lacking in controversy and hardship, and, while I am familiar with many horror stories from within the academy, I was concerned that I would

not fit in with the people assembled. Although I have had limited experience with the situations described herein, I found that they were more widely experienced than I had ever imagined. The stories that were shared still resonate within me. The People of Color Conference brought me closer than I had expected to the professors in attendance.

A year later, I am now an associate dean at my law school and have responsibility for faculty recruitment, hiring, and development. I have found the personal and institutional concerns addressed in this Essay to raise many complicated questions, and, as an administrator, I must continually ask myself what obligation does my institution have to address these issues, as well as what personal obligations do I have.

Likewise, deans at every law school have an obligation to address the issues raised herein. If you are a dean or have decanal responsibilities for faculty hiring and development, do not conclude that this Essay is about another school. It is about your school. [FN65] Do not be comforted by the fact that your minority faculty members are quiet, for it does not necessarily mean all is well on your watch. You have the greatest responsibility to ensure that your entire faculty is educated about the needs of and issues facing the populations of color within your law schools [FN66]-and please do not rely on the minorities at your schools to do all of this educating! Your office should set the tone to recognize colleagues of color as fully-franchised members of *1329 the academy and not as outsiders to be tolerated by the academy. [FN67]

There is no reason that a sense of “connectedness” could not be achieved at each law school campus. It would require, however, four things: (1) a base level of understanding about the problems minority faculty face; (2) adequate time set aside for discussion of the issues in question; (3) a safe, supportive environment in which to have the discussions; and (4) a safe, supportive environment in which to work following these discussions. [FN68]

A shared, satisfactory level of understanding about minority issues and concerns could be achieved by providing faculty members with a suggested set of readings to acquaint them with the themes echoed by many faculty of color. Encourage your colleagues to read the supplied material in anticipation of a series of discussion sessions, or faculty colloquia, about “underrepresented voices in the academy.” [FN69] Once the reading has been shared, you should lead a series of discussions, help to set a tone that allows faculty members to examine their beliefs and biases, and sensitize them to issues about which they may not have been aware. [FN70] The final requirement, the creation of a more supportive environment, is a more complex task. Nonetheless, there are concrete ways to improve the environment. There must first be a recognition that the people who are the subject of this Essay are not paranoid whiners. They are real people reacting to real problems and real situations. Every law school should discuss the issues raised in this Essay, and every member of the academy must strive to discover practical ways of accommodating disenfranchised colleagues.

More women and faculty of color should be recruited [FN71] and nurtured. [FN72] As an *1330 academy, we owe it to our colleagues of color to support their work and to recognize that different people will approach teaching, writing, and serving differently. [FN73] As a preparatory institution, we owe it to our students to supplement their exposure to “black letter law” with an understanding of how history, politics, religion, economics, race, gender, and sexual orientation all play a role in shaping an attorney's understanding of the law and how it is to be interpreted and applied. [FN74] Finally, as an independent think-tank, we owe it to our profession to challenge the stereotypical notions of what an attorney looks like, thinks like, and acts like, in order to provide top quality legal representation to populations that have always needed us-but who are now just beginning to find us as voices. [FN75] It is, admittedly, a lot to ask from the academy, but it is a challenge from which we

cannot shrink. Our continued relevance in a changing world demands that we pay attention to these important issues of inclusion.

V. Final Thought

Your world is as big as you make it.
I know, for I used to abide
In the narrowest nest in a corner,
My wings pressing close to my side.
But I sighted the distant horizon
Where the sky line encircled the sea
And I throbbed with a burning desire
To travel this immensity.
I battered the cordons around me
And cradled my wings on the breeze
Then soared to the uttermost reaches

***1331** With rapture, with power, with ease! [\[FN76\]](#)

I am looking forward to the next Central States People of Color Legal Scholarship Conference. I cannot wait to be reunited with my family of teacher/scholars, to share more stories, to laugh together, and to support one another. I cannot wait to have my mind challenged by intelligent, creative people, who find the exploration of law-on their own terms-to be exciting and worth sharing. I also cannot wait to share this Essay with them and to thank them for their nourishment and inspiration and for reminding me that we are all on this professional journey together.

[\[FN1\]](#). Professor of Law and Associate Dean for Research and Faculty Development, The Dickinson School of Law of the Pennsylvania State University. B.A., Southern Illinois University; J.D., Northeastern University School of Law. This Essay is written for my colleagues of color throughout the academy who struggle silently. Know that some of us hear your cries and be assured that we will make noise on your behalf. I thank all of the professors who assisted by sharing their stories but, for obvious reasons, cannot lend their names to this effort. I also thank Professors Marina Angel, Elvia Arriola, Martha Chamallas, Bryan Fair, Susan Beth Farmer, Stephanie Farrior, Harvey Feldman, Linda Fisher, Karen Gross, Cynthia Hawkins-Leon, Katherine Pearson, Mary Kay Polacheck, Nancy Rapoport, and Victor Romero, who commented on earlier drafts of this piece, and I thank my Research Assistant, Daniel Asmus, for his invaluable research and editing assistance.

[\[FN1\]](#). Don L. Lee, Education, in *American Negro Poetry* 201 (Arna Bontemps ed., 1974).

[\[FN2\]](#). The name of the conference is fictional, as are the names of all of the professors and the titles of all of the scholarly papers described herein. The subject matter of some of the scholarly papers discussed herein is a synthesis of ideas and papers actually presented at several of the People of Color Scholarship Conferences I have attended. Many of the reported personal and professional experiences of the participants are fictionalized accounts of actual experiences of professors of color at various law schools. Whenever possible, I cite to the actual experiences of professors of color who have shared their experiences.

[\[FN3\]](#). See, e.g., Okianer Christian Dark, *Just My 'Magination*, 10 *Harv. BlackLetter J.* 21 (1993); Jennifer M.

Russell, On [Being a Gorilla in Your Midst, or, the Life of One Blackwoman in the Legal Academy](#), 28 Harv. C.R.-C.L. L. Rev. 259 (1993).

[FN4]. See generally Linda S. Greene, Tokens, Role Models, and Pedagogical Politics: Lamentations of an African American Female Law Professor, 6 Berkeley Women's L.J. 81 (1990 1991) (discussing “tokenism” and the often uncomfortable position African-American female law professors occupy at American law schools).

[FN5]. See generally Deborah Waire Post, Reflections on Identity, Diversity, and Morality, 6 Berkeley Women's L.J. 136, 148 (1990 1991) (discussing racism and its effect of producing skepticism about the abilities of African-American law professors).

[FN6]. See [Emma Coleman Jordan, Images of Black Women in the Legal Academy: An Introduction](#), 6 Berkeley Women's L.J. 1, 1 n.1 (1990 1991) (“Storytelling, the use of narrative and personal account, offers a powerful alternative vision to the traditional forms of legal persuasion.”).

[FN7]. See Rachel F. Moran, Commentary: The Implications of Being a Society of One, 20 U.S.F. L. Rev. 503 (1986). Professor Moran speaks of the problems faced by minority and women faculty members working within the homogenous culture of white male law professors. See also [Richard Delgado & Derrick Bell, Minority Professor's Lives: The Bell-Delgado Survey](#), 24 Harv. C.R.-C.L. L. Rev. 349, 352 n.10 (1989).

[FN8]. See [Richard H. Chused, The Hiring and Retention of Minorities and Women on American Law School Faculties](#), 137 U. Pa. L. Rev. 537 (1988); see also [Angela P. Harris, Race and Essentialism in Feminist Legal Theory](#), 42 Stan. L. Rev. 581 (1990) (arguing that the experience of black women often remains ignored in both feminist theory and legal theory).

[FN9]. See Derrick Bell, [Confronting Authority: Reflections of an Ardent Protester](#) 39 n.10, 103 (1994) (discussing critical race theory as a method of teaching and outlining Duncan Kennedy and Critical Legal Studies); Patricia A. Cain, [Feminist Jurisprudence: Grounding the Theories](#), 4 Berkeley Women's L.J. 191 (1989 1990) (discussing the importance of the lesbian experience to feminist legal theory); Mari Matsuda, [Affirmative Action and Legal Knowledge: Planting Seeds in Plowed-Up Ground](#), 11 Harv. Women's L.J. 1 (1988) (encouraging minority voice as a perspective on legal issues); see also Morrison Torrey et al., [Teaching Law in a Feminist Manner: A Commentary from Experience](#), 13 Harv. Women's L.J. 87 (1990) (describing multiple perspectives on feminist teaching methodologies).

[FN10]. See, e.g., [Thomas C. Grey, Langdell's Orthodoxy](#), 45 U. Pitt. L. Rev. 1 (1983). Christopher Columbus Langdell, Dean of Harvard Law School from 1870 1895, championed the theory that the study of law should be made a scientific discipline. Grey does not agree with the movement away from Langdell, but describes the paradigm, “classical orthodoxy,” in some detail. See [id.](#) at 2 n.6. He postulates that Langdell's orthodoxy has merely turned into a hybrid called “legal process,” [id.](#) at 52, and that efforts to replace the paradigm with “Benthamite policy science” have had, at best, a small influence on legal discourse, [id.](#) at 50. Grey also cites Ronald Dworkin's work in an attempt to formulate a new legal theory that is consistent with Langdell's paradigm and that escapes modern critiques of it. He cites Richard Posner and the law and economics point of view, which Grey sees as neo-orthodox. See [id.](#) at 51; see also Christopher Columbus Langdell, [A Selection of Cases on the Law of Contracts](#) (1871). Others might see these efforts as movement away from the paradigm. See, e.g., Cynthia G. Hawkins-Leon, [The Socratic Method-Problem Method Dichotomy: The Debate Over Teaching Method Continues](#), 7 BYU Educ. & L.J. 1 (1998) (discussing the positive and negative attributes of both the Socratic Method and the Problem Method of teaching); Russell L. Weaver, [Langdell's Legacy: Living with the Case](#)

[Method](#), 36 *Vill. L. Rev.* 517, 525 n.19 (1991) (discussing critical race theory).

[FN11]. It is interesting to note, however, that the Brandeis brief was originally used by attorney Louis Brandeis, in an early “protective legislation for women” case, to try to show that women were weak and inferior and, therefore, needed protection. See [Muller v. Oregon](#), 208 U.S. 412, 419 (1908) (Brandeis used excerpts from over ninety reports of committees, bureaus of statistics, and others to argue that “long hours of labor are dangerous for women, primarily because of their special physical organization.”). Additionally, while Justice Brandeis has been praised for his reliance on social science sources, Thurgood Marshall was criticized for relying on the research of Kenneth Clark, Gunnar Myrdal, and others in the Brandeis brief he submitted in [Brown v. Board of Education](#), 347 U.S. 483 (1954). See, e.g., [Richard Cummings, All-Male Black Schools: Equal Protection, the New Separatism and Brown v. Board of Education](#), 20 *Hastings Const. L.Q.* 725, 775 (1993); Wallace D. Loh, *In Quest of Brown's Promise: Social Research and Social Values in School Desegregation*, 58 *Wash. L. Rev.* 129 (1982) (reviewing Eleanor Wolf, *Trial and Error: The Detroit School Segregation Case* (1981)) (both noting Edmond Cahn's criticism of Marshall's reliance on the Brandeis brief).

[FN12]. See, e.g., Suzanne Homer & Lois Schwartz, *Admitted but Not Accepted: Outsiders Take an Inside Look at Law School*, 5 *Berkeley Women's L.J.* 1 (1989 1990) (a social science survey focusing on the experiences of women law students at Boalt Hall School of Law, University of California, Berkeley).

[FN13]. See [Derrick Bell, Strangers in Academic Paradise: Law Teachers of Color in Still White Schools](#), 20 *U.S.F. L. Rev.* 385 (1986) (article based upon a presentation given at the 1985 Teachers' Minority Law Conference).

[FN14]. In searching for a definition of “deconstruction,” I have observed that the term is often not defined in law review articles purporting to “deconstruct” a concept or law. More often than not, deconstructionists go to great lengths not to provide dictionary-type definitions of deconstruction. On the lighter side, see, for example, [Sidney W. DeLong, Jacques of All Trades: Derrida, Lacan, and the Commercial Lawyer](#), 45 *J. Legal Educ.* 131, 131 (1995) (“Consider Pierre Schlag's stinging observation that to ask ‘What is deconstruction?’ is to reveal that one does not understand deconstruction.” (quoting Pierre Schlag, “Le Hors De Texte, C'est Moi”: The Politics of Form and the Domestication of Deconstruction, 11 *Cardozo L. Rev.* 1631, 1631 33 (1990))). For a more formal discussion, see *Derrida and Deconstruction* (Hugh J. Silverman ed., 1989). However, a most interesting definition, and perhaps a more accurate one, has been provided by Professor Arthur Austin, who writes:

Deconstruction is more than a buzzword. Its impact exceeds the yuppie dedication to “greed.” Decon beats paradigm and oxymoron with an eclecticism that other buzzi lack. This accounts for its success—it can be used in any context because no one knows what it means. “Deconstruction is at once the most skeptical of critical methods and the one least well understood by lawyers”

Arthur Austin, Essay, [A Primer on Deconstruction's “Rhapsody of Word-Plays”](#), 71 *N.C. L. Rev.* 201, 201 02 (1992) (citations omitted) (quoting Richard Posner, *Law and Literature: A Misunderstood Relation* 211 (1988)).

[FN15]. See Grey, *supra* note 10.

[FN16]. For an example of one teaching style not in conformity with Langdell's paradigm, see Patricia J. Williams, *The Alchemy of Race and Rights* 28 32 (1991).

[FN17]. See generally Robin D. Barnes, *Black Women Law Professors and Critical Self-Consciousness: A Tribute to Professor Denise S. Carty-Bennia*, 6 *Berkeley Women's L.J.* 57 (1990 1991) (Professor Barnes speaks generally about the special burdens of being a minority law professor).

[FN18]. See Jody Armour, [Stereotypes and Prejudice: Helping Legal Decisionmakers Break the Prejudice Habit](#), 83 Cal. L. Rev. 733 (1995); Victoria Nourse, [Passion's Progress: Modern Law Reform and the Provocation Defense](#), 106 Yale L.J. 1331 (1997).

[FN19]. See, e.g., Lisa C. Ikemoto, [The In/Fertile, the too Fertile, and the Dysfertile](#), 47 Hastings L.J. 1007 (1996).

[FN20]. See Margaret Chon, [Radical Plural Democracy and the Internet](#), 33 Cal. W. L. Rev. 143 (1997).

[FN21]. Radical scholars who are proponents of critical race theory are among those trying to wake up the establishment. A relatively brief description of critical race theory may be found in Mari J. Matsuda, [Introduction](#), in [Words That Wound: Critical Race Theory, Assaultive Speech, and the First Amendment](#) (1993). See also Anthony D. Taibi, [Racial Justice in the Age of the Global Economy: Community Empowerment and Global Strategy](#), 44 Duke L.J. 928, 929 (1995) (stating that the very definition of the term “racism” depends on the social and economic relations of society).

[FN22]. See Sidney W. DeLong, : [An Appraisal](#), 41 J. Legal Educ. 483 (1991). DeLong stated:

Like an overdrawn, self-referential metaphor in the first sentence of an article that you already know is going to be a dud, the colon in the title of a law review article confirms the author's insecurity with himself and his subject. Because the colonized titled is a well-nigh ubiquitous characteristic of the genre, the theoretical and practical implications of this phenomenon bode not well for modern legal scholarship.

Id. The convention of declining to use sub-titles is not terribly new or radical; however, query whether it might be different enough to provide a traditionalist with yet another basis on which to criticize Professor Matumba's scholarship.

[FN23]. From the legal education minority community see, for example, James E. Jones, Jr., [The Affirmative Action/Quota Issue: Back to the Future in the Year 2000?](#), 15 U. Ark. Little Rock L.J. 361 (1993); James E. Jones, Jr., [The Genesis and Present Status of Affirmative Action in Employment: Economic, Legal, and Political Realities](#), 70 Iowa L. Rev. 901 (1985). From the legal education majority community see, for example, Paul Brest, [The Responsibility of Law Schools: Educating Lawyers as Counselors and Problem Solvers](#), Law & Contemp. Probs., Summer/Autumn 1995, at 5; Paul Brest & Miranda Oshige, [Affirmative Action for Whom?](#), 47 Stan. L. Rev. 855 (1995).

[FN24]. As the Honorable Sylvia R. Cooks, Appellate Judge of the Louisiana Court of Appeals for the Third Circuit, so eloquently reminded us:

We have come a long way children; it is a little too soon to celebrate though; we still have a long way to go; the struggle is never easy and I know it is painful; but remember, do not forget those who have sacrificed their lives for you; contribute you must to their efforts and you will save the dream for all Americans to share.

Hon. Sylvia R. Cooks, [Creating Alliances and Community: It's too Soon to Celebrate](#), 31 New Eng. L. Rev. 727, 737 (1997).

[FN25]. “Tom” is short for “Uncle Tom,” which is a reference to Harriet Beecher Stowe's famous novel, [Uncle Tom's Cabin](#) (1852), and which is defined by Professor Margaret Russell as “a traitor used by the [white] [m]an.” Margaret M. Russell, [Beyond “Sellouts” and “Race Cards”: Black Attorneys and the Straitjacket of Legal Practice](#), 95 Mich. L. Rev. 766, 780 (1997); see also Jane Mayer & Jill Abramson, [Strange Justice The Selling of Clarence Thomas](#) 175 (1994) (reporting that 30% of African-American survey respondents labeled Justice Thomas an “Uncle Tom”).

[FN26]. “Self-silencing” is a tool many faculty of color use to avoid confrontation with our white colleagues, lest we give them another reason to vote against us at promotion and tenure time. See Angela D. Gilmore, *It Is Better to Speak*, 6 *Berkeley Women's L.J.* 74 (1990 1991).

[FN27]. As Carlos Cuevas so eloquently writes:

The reason I have become an academic is that I am able to have academic freedom to engage in serious intellectual discussion. I think that we, as people of color, are in a bind at times because we are told that we cannot take a certain position because it may not be the “liberal” position. The real question is, what is the intellectually correct position? The same issue arises with respect to academic support of people of color on law school faculties. Sometimes you are the “Lone Ranger,” but the question is whether you want to be the “Lone Ranger” or sacrifice your soul?

Symposium, *Split Personalities: Teaching and Scholarship in Nonstereotypical Areas of the Law*, 19 *W. New Eng. L. Rev.* 98, 100 01 (1997).

[FN28]. See generally Reginald Leamon Robinson, *Teaching from the Margins: Race as a Pedagogical Sub-Text*, 19 *W. New Eng. L. Rev.* 151, 161 67 (1997) (discussing the common problem of black law professors being asked to play a role assigned to them because of their race and, then, asked to remove their blackness when they play that role).

[FN29]. 910 P.2d 112 (Haw. 1996) (the same-sex marriage case recently litigated in Hawaii); see also *Baehr v. Lewin*, 852 P.2d 44 (Haw. 1993) (*Baehr v. Miike's* predecessor); *Dean v. District of Columbia*, 653 A.2d 307 (D.C. App. 1995) (holding that same-sex marriage was not a fundamental right protected by the due process clause).

[FN30]. See, e.g., *Moore v. City of East Cleveland*, 431 U.S. 494 (1977); see also Nancy E. Dowd, *Stigmatizing Single Parents*, 18 *Harv. Women's L.J.* 19 (1995) (discussing how the nuclear family is elevated in our society while we devalue other family structures); Sharon E. Rush, “If Black is so Special, Then Why Isn't It in the Rainbow?”, 26 *Conn. L. Rev.* 1195 (1994) (stating that defining “family” becomes less of a debate when one's own family is not nuclear and that a broader definition of family may actually enable people to create families).

[FN31]. Elvia Arriola, *Law and the Family of Choice and Need*, 35 *J. Fam. L.* 691, 694 (1997) (suggesting “families of choice and need” as a replacement for the term “nontraditional families”).

[FN32]. See generally Nicole Berner, *Child Custody Disputes Between Lesbians: Legal Strategies and Their Limitations*, 10 *Berkeley Women's L.J.* 31 (1995) (discussing lesbian strategies and their ability to succeed in custody disputes); Denise Pino Erwin, *Recent Development, Survivor Benefits Denied to Lesbian Life Partner: Rovira v. AT&T*, 9 *Berkeley Women's L.J.* 209 (1994) (commenting on a recent Southern District of New York case which held that a surviving lesbian life-partner of a deceased AT&T employee was not entitled to death benefits under employer's employee benefit plan).

[FN33]. Unif. Probate Code (1994).

[FN34]. See Donald J. Weidner, *A Dean's Letter to New Law Faculty About Scholarship*, 44 *J. Legal Educ.* 440, 441 (1994) (“Being a scholar is part of the job. You will not be a complete person as an academic unless you produce, on a regular basis, scholarship that is read and relied on by people who work in your area.”). But see Abner Mikva, *Mikva: Too Many Writers, Too Many Journals*, *ISBA Bar News*, Sept. 2, 1997, at 12-13 (contribution to a “point/counterpoint” in the Illinois State Bar Association newspaper in which Mikva questions the proliferation of law journals and criticizes the legal academy for placing a premium on scholarship that no

one reads).

[FN35]. The article by Professors Barton and Montaine will hopefully be counted among the thoughtful articles of Patricia Cain, Rhonda Rivera, and others (discussing the current state of gay and lesbian scholarship). See Martha Chamallas, *Introduction to Feminist Legal Theory* ch. 6 (forthcoming Jan. 1999).

[FN36]. See, e.g., Diane L. Bridge, *The Glass Ceiling and Sexual Stereotyping: Historical and Legal Perspectives of Women in the Workplace*, 4 Va. J. Soc. Pol'y & L. 581 (1997) (focusing on the challenges that the corporate glass ceiling raises for women in the workplace); David B. Oppenheimer, *Understanding Affirmative Action*, 23 Hastings Const. L.Q. 921, 966 67 (1996) (stating that women occupied only 3% of top management positions in America's 1500 largest companies (citing Affirmative Action Review: Report to the President 23 (1995))).

[FN37]. See Robert Nelson, *Law, Markets, and Inequality in Pay*, 10 Berkeley Women's L.J. 61 (1995); Diane Stone, *Comparable Worth in the Wake of AFSCME v. State of Washington*, 1 Berkeley Women's L.J. 78 (1985); see also Martha Chamallas, *Women and Part-Time Work: The Case for Pay Equity and Equal Access*, 64 N.C. L. Rev. 709 (1986) (discussing the inferior status of part-time work for women and men in the United States and arguing that sex discrimination is a factor contributing to that phenomenon).

[FN38]. See Katharine Silbaugh, *Turning Labor into Love: Housework and the Law*, 91 Nw. U. L. Rev. 1 (1996).

[FN39]. See, e.g., Carol Gilligan, *In a Different Voice* (1982).

[FN40]. See, e.g., Catherine A. MacKinnon, *Feminism Unmodified* (1987).

[FN41]. See Kimberle Williams 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 (1989).

[FN42]. See, e.g., Patricia H. Collins, *Black Feminist Thought* (1990); Ruth Colker, *Anti-Subordination Above All: Sex, Race and Equal Protection*, 61 N.Y.U. L. Rev. 1003 (1986); Twila L. Perry, *Alimony: Race, Privilege, and Dependency in the Search for Theory*, 82 Geo. L.J. 2481 (1994).

[FN43]. See, e.g., Angela Mae Kupenda, *Making Traditional Courses More Inclusive: Confessions of an African American Female Professor Who Attempted to Crash All the Barriers at Once*, 31 U.S.F. L. Rev. 975, 985 (1997). She wrote:

As I faced my fears, I knew that, arguably, a way out was for me to just teach traditional Contracts, and not add any race or gender insights. That option was not a real option, though. First, race and gender are always with us. For me to put forth a traditional "neutralized" perspective of Contracts would mean I would be urging a view that continues to promote only the dominant race and gender groups. Second, as a black female law professor, it is my duty to use my own special viewpoints in my teaching.

Id. (citations omitted).

[FN44]. See, e.g., Kathryn Abrams, *Gender Discrimination and the Transformation of Workplace Norms*, 42 Vand. L. Rev. 1183 (1989); Martha Chamallas, *Feminist Constructions of Objectivity: Multiple Perspectives in Sexual and Racial Harassment Litigation*, 1 Tex. J. Women & Law 95 (1992); Jane L. Dolkart, *Hostile Environment Harassment: Equality, Objectivity, and the Shaping of Legal Standards*, 43 Emory L.J. 151 (1994).

[FN45]. Professor Wilson-Reynolds is not alone in such feelings and actions. See, e.g., Williams, *supra* note 16, at 129.

[FN46]. See, e.g., Delgado & Bell, *supra* note 7, at 389.

[FN47]. Student evaluations have a particular impact upon both the tenure aspirations and the self-images of professors of color. See Williams, *supra* note 16, at 95 97; Delgado & Bell, *supra* note 7, at 357 61.

[FN48]. See Delgado & Bell, *supra* note 7, at 365, 368.

[FN49]. See Robinson, *supra* note 28, at 152. In sharing one of his student evaluations, Professor Robinson quoted a student:

Professor Robinson uses a book that spells “Black” with a capital “B” and “white” with a small “w,” which is indicative of his general attitude of reverse discrimination. White students in this class are made to feel guilty for the injustices suffered by blacks, while black students seem to be receiving preferential treatment both inside and outside class.

Id. (citation omitted).

[FN50]. For a fascinating historical discussion of the tension that exists between black and white women over the intersection of race and gender, see Nell Irvin Painter, *Sojourner Truth: A Life, A Symbol* (1996). In the biography of Sojourner Truth, Professor Painter gives an account of Pittsburgh's Saturday Visiter [sic] editor Jane Swisshelm's criticism of an 1850 women's rights meeting where Frederick Douglass and Sojourner Truth had spoken for their “introduction of the color question.” *Id.* at 123.

She [Swisshelm] saw the women's rights movement as a small boat in choppy waters that “may carry women into a safe harbor, but it is not strong enough to bear the additional weight of all colored men in creation” “As for colored women, . . . all the interest they have in this reform is as women. All it can do for them is to raise them to the level of men of their own class.”

Id.

[FN51]. See Delgado & Bell, *supra* note 7, at 363; see also Vincene Verdun & Vernellia Randall, *The Hollow Piercing Scream An Ode for Black Faculty in the Tenure Canal*, 7 *Hastings Women's L.J.* 133, 139 (1996). Professors Verdun and Randall share their common experiences as black women in the tenure stream:

Service.

We wear many service hats . . . more than most
counselor, role model, token black committee member, committee member,
committee member,
committee member, committee member, committee member, ad infinitum.

Id. at 139 (emphasis added).

[FN52]. Delgado & Bell, *supra* note 7, at 364.

[FN53]. See *id.* at 360; see also Bell, *supra* note 9, at 34 36 (discussing how the first African-American professor at Harvard was required to play the role of mentor and role model for all minority students).

[FN54]. See Robinson, *supra* note 28, at 152 (recalling how one of his student evaluations complained that “[w]hite students in [his] class are made to feel guilty for the injustices suffered by blacks, while black students seem to be receiving preferential treatment both inside and outside class.”). Apparently members of the majority culture do not understand that sometimes we just need to share an anecdote with someone who shares a common cultural upbringing or tell students of color where to get a haircut-from someone who has experience cutting our

type of hair-or where to buy plantains.

[FN55]. See Delgado & Bell, *supra* note 7, at 355 56.

[FN56]. See, e.g., Linda S. Greene, *Serving the Community: Aspiration and Abyss for the Law Professor of Color*, 10 St. Louis U. Pub. L. Rev. 297, 297 (1991) (explaining how community service obligations of minority professors create a “catch 22” in that “the professor of color must do disproportionate service and the service interferes with the professor's ability to perform the other obligations upon which professional advancement truly depends-teaching and, more importantly, scholarship”); Andrew Wm. Haines, *Reflections on Minority Law Professors Balancing Their Duties and Their Personal Commitments to Community Service and Academic Duties*, 10 St. Louis U. Pub. L. Rev. 305, 307 (1991) (“To avoid being outcasts of the legal academy, minority law professors must undertake a balancing of academic duties with the insight and courage of Martin Luther King, the wisdom of Solomon, the patience of Job, the tenacity and perseverance of Sisyphus, the dexterity of the medieval juggler, and the sense of humor of Richard Pryor.”).

[FN57]. One description of such an interview is found in Deborah Waire Post, *Reflections on Identity, Diversity, and Morality*, 6 Berkeley Women's L.J. 136, 147 (1990 1991). Another even more startling rendition on this theme is described by Derrick Bell when he tells of Robert L. Carter, an attorney with the NAACP, who had won more than two dozen cases before the United States Supreme Court, including [NAACP v. Alabama](#), 377 U.S. 288 (1964), [NAACP v. Button](#), 371 U.S. 415 (1963), [Brown v. Board of Education](#), 349 U.S. 294 (1955), and [Brown v. Board of Education](#), 347 U.S. 483 (1954). See Bell, *supra* note 9, at 31. Even with credentials such as these, Carter was actually asked in a phone interview for a law faculty position if it would be possible to review his grades from his LL.M. degree from Columbia. See *id.*

[FN58]. See generally [Symposium, Diversity and Damnation](#), 43 UCLA L. Rev. 1839, 1904 (1996) (“Rightly or wrongly, students and professors of color are perceived to have won their seats through affirmative action.”).

[FN59]. Cf. [Deborah Jones Merritt & Barbara F. Reskin, Sex, Race, and Credentials: The Truth About Affirmative Action in Law Faculty Hiring](#), 97 Colum. L. Rev. 199, 258 73 (1997) (discussing the impact of sex or race on the likelihood of receiving what professors consider prestigious teaching assignments); Donna E. Young, [Two Steps Removed: The Paradox of Diversity Discourse for Women of Color in Law Teaching](#), 11 Berkeley Women's L.J. 270 (1996) (discussing the treatment of black, women faculty at America's law schools).

[FN60]. See, e.g., Leslie Espinoza, *Labeling Scholarship: Recognition or Barrier to Legitimacy*, 10 St. Louis U. Pub. L. Rev. 197 (1991) (emphasizing the importance of scholarship analyzing law from a race or gender viewpoint); see also [Richard Delgado, Storytelling for Oppositionists and Others: A Plea for Narrative](#), 87 Mich. L. Rev. 2411, 2413 (1988) (discussing how the legal stories and narratives of outgroups are “powerful means for destroying mindset-the bundle of presuppositions, received wisdoms, and shared understandings against a background of which legal and political discourse takes place”). As Professors Verdun and Randall have written:

Not all of us write about race
but many do
And when we do
we are told
“save that piece until after tenure” or
“after you receive full professor” or <p.“do you have to use the word racist?”
Verdun & Randall, *supra* note 51, at 140 (citation omitted).

[FN61]. Cf. Williams, *supra* note 16, at 5 (1991). In her book, Patricia Williams writes:

I don't know how to find something to write about in the panic of this deadly world. There is more in the news than even my depression can consume.

Then I see it. A concise, modular, yet totally engaging item on the "MacNeil/Lehrer News Hour": Harvard Law School cannot find one black woman on the entire planet who is good enough to teach there, because we're all too stupid. (Well, that's not precisely what was said. It was more like they couldn't find anyone smart enough. To be fair, what Associate Dean Louis Kaplow actually said was that Harvard would have to "lower its standards," which of course Harvard simply cannot do).

Id. (citation omitted).

[FN62]. Even after a "critical mass" has been achieved, minority faculty often feel threatened as a result of "bait 'n switch" tactics that are employed by some colleges and universities:

Just at the time that most law schools have become most vocal about their commitment to diversity (voluntarily, or under the sanction of desegregation orders), financial uncertainty looms large for public and private institutions. It appears that many law schools are restricting the numbers of hires they make in light of such uncertainty; and some are making hires with no promise of tenure or job permanency Seldom underscored is the fact that these changes come at a time when more women and people of color are poised to obtain tenure and seek its protections in order to do critical work. One young faculty member at a school that will remain nameless, recently told me that her faculty (largely white, male, and unproductive in terms of writing) had moved to a three-article-before-tenure rule after the university had pressured the law school into hiring several people of color. Is this racially hostile action? At the very least this kind of action seems designed to allay the concerns of majority faculty about the competency of these young hirees.

Phoebe A. Haddon, [Keynote Address: Redefining Our Roles in the Battle for Inclusion of People of Color in Legal Education](#), 31 *New Eng. L. Rev.* 709, 713-14 (1997) (citations omitted).

[FN63]. Audre Lorde, *If You Come Softly*, in *American Negro Poetry*, *supra* note 1, at 192.

[FN64]. In actuality, I have attended three such conferences and have found each one to be extremely rewarding, not only as a person of color, but as a law teacher and as a legal scholar.

[FN65]. See, e.g., [Alice Gresham Bullock, A Dean's Role in Supporting Recruitment of Minority Faculty](#), 10 *St. Louis U. Pub. L. Rev.* 347 (1991).

[FN66]. See Albert T. Quick & Kent D. Lollis, *Retention of Minority Professors: Dealing With the Failure to Presume Competence*, 10 *St. Louis U. Pub. L. Rev.* 361 (1991).

[FN67]. See [Rodney K. Smith, A Dean's Role in Supporting Minority Faculty Members](#), 10 *St. Louis U. Pub. L. Rev.* 373 (1991).

[FN68]. In drafting this Essay, I struggled to identify methods of facilitating campus discussions of the issues surrounding women, minorities, and gays and lesbians in law teaching. Through the various incarnations of this piece, I proposed many radical ideas. However, upon reflection, I decided that I could offer only a starting point—a set of preliminary principles that most people would agree constitute an appropriate launch pad—to address the problems discussed herein. The suggestions that follow are clearly not the end of the discussion.

[FN69]. See, e.g., [Judy Scales-Trent, Using Literature in Law School: The Importance of Reading and Telling Stories](#), 7 *Berkeley Women's L.J.* 90, 100 (1992) (discussing how narratives of minorities and women enable the majority to hear the "chorus of missing voices").

[FN70]. In discussions I have had after sharing drafts of this Essay with people and after presenting it as a work-in-progress to the students in the Fall 1997 Race, Racism, and the Law class at my law school, several people have shared with me that they were unaware of how serious these problems were prior to reading my Essay and some of the articles cited in this paper.

[FN71]. See, e.g., Valerie Fontaine, [Progress Report: Women and People of Color in Legal Education and the Legal Profession](#), 6 *Hastings Women's L.J.* 27 (1995) (reporting on the serious underrepresentation of women and people of color in the academy).

[FN72]. See, e.g., Robinson, *supra* note 28, at 173 81 (explaining that the author was so marginalized by his white colleagues that he had to turn to his mentors of color around the country to help him escape his law school and flee to another).

[FN73]. See, e.g., Beverly J. Ross, [Does Diversity in Legal Scholarship Make a Difference?: A Look at the Law of Rape](#), 100 *Dick. L. Rev.* 795 (1996) (celebrating diversity in legal scholarship); see also Taunya Lovell Banks, *Two Life Stories: Reflections of One Black Woman Law Professor*, 6 *Berkeley Women's L.J.* 46 (1990 1991) (sharing the unique life experiences that have influenced her perspective and classroom style).

[FN74]. See, e.g., Lisa Chiyemi Ikemoto, [Some Tips on How to Endanger the White Male Privilege in Law Teaching](#), 19 *W. New Eng. L. Rev.* 79, 83 (1997) (asserting that to incorporate race, gender, and other “social norms” into the classroom makes teaching more accurate).

[FN75]. See, e.g., David Hall, [Legal Education and the Twenty-First Century: Our Calling to Fulfill](#), 19 *W. New Eng. L. Rev.* 139 (1997) (exhorting the participants of the first Northeastern People of Color Legal Scholarship Conference to draw from their collective experiences and to work in tandem with their colleagues from the majority culture to help chart a new direction for legal education in the twenty-first century).

[FN76]. Georgia Douglas Johnson, *Your World*, in *American Negro Poetry*, *supra* note 1, at 23.
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