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STARTING WITH THE STUDENTS: LESSONS FROM POPULAR EDUCATION

FRANCES ANSLEY*

Some preliminaries. First, my thanks go to Catharine Wells for conceiving of this panel¹ and putting it together so thoughtfully. Throughout the planning process, she has raised fine and sophisticated questions that have advanced my thinking about teaching at every step.

Second, I want to invite some skepticism about one feature of the title of our symposium, "Bringing Values and Perspectives Back into the Law School Curriculum." The phrase "bringing back" suggests that we are talking about something that *used* to be in the classroom (in some grand old days gone by?) but that has only recently been *absent*. Such a suggestion just won't hold up. Whether or not they are introduced, discussed or labeled in class discussion, on the syllabus or in the catalog, values and perspectives are irreducibly present in everything we do. Those of us left of center cannot, therefore, allege any superior claim to "values," or to the sort of toney whiff of professionalism that the term sometimes carries in these conversations. On the other hand, those who purport to have eschewed teaching "values and perspectives" for just teaching "law" are equally off the mark.

Perhaps I am particularly sensitive on this point because of some recent experiences. Not long ago, I floated some general suggestions at my school about the possible creation of a center (with teaching, scholarship and service components) that would dedicate itself to

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1. This paper is an expanded and reworked version of a talk given at the January 1994 annual meeting of the Association of American Law Schools in Orlando, Florida. The panel was sponsored by the Section on Teaching Methods, and was organized by Professor Catharine Wells, of the University of Southern California Law Center. It was entitled, "Bringing Values and Perspectives Back into the Law School Curriculum: Practical Ideas for Teachers." The editors of this journal were kind enough to grant me editorial license in cleaning up the text of this highly informal talk, a dispensation for which I am grateful.

serving groups that have traditionally lacked access both to the legal profession and to the resources of the legal academy. A friend and colleague protested on the ground that my proposal was "political." He said that in many ways, the questions at stake reminded him of recent discourse about the importance of teaching "values" in legal education,² conversations he finds maddening. "*Whose values?*" he pointedly queries.

I am bemused by this interchange. On the one hand, I admire my colleague for his insight and skepticism. Of course, the word "values" does not denote an inherent, undisputed, value-free content, any more than the term "perspective" can remain perspectiveless. Like so many terms presently wielded in political struggles on campuses and elsewhere, the word "values" is often deployed in ways that implicitly claim a universality that at least deserves critical examination. Think about terms such as "quality," "diversity," "rigor," "public interest" and "equality."

I admire my friend's question, and I feel that he and I have much in common in our sense of the contestedness of meaning embedded in some of our most well-worn usages.³ On the other hand, I profoundly

2. One well-known source of such discourse is referred to as "the MacCrate Report." AMERICAN BAR ASSOCIATION, REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM 135 (1992) (quoting Dean Robert B. McKay) ("'[T]raining in professional responsibility' should involve more than 'just the specifics of the Code of Professional Responsibility and the Model Rules of Professional Conduct'; it should encompass 'the values of the profession.' . . .").

3. I am trying to find productive ways of engaging in contests of meaning rather than suppressing them. This is not always easy. The following excerpt shares one recent attempt. Last year the University of Tennessee's campus-wide administration was working to develop an aspirational definition of "diversity." One suggestion defined the term "diversity" to include many parameters, including ethnicity, age, race, social background, culture, gender, religion, education, personality, lifestyle, sexual orientation, etc. The following excerpt from my memo was, in part, a response to that suggestion:

An institution seeking to equip itself for a future of unexpected developments and not entirely predictable challenges would be wise to seek diversity along multiple axes. Such an institution would be interested in attending to all kinds of differences among people

[However,] [n]ot all differences are of equal significance. Whether a difference is worth seriously attending to or adjusting behavior for, depends hugely on questions of context. Perhaps a few examples will suffice. In our country at the present time, I would argue that institutions of higher learning should not devote any serious resources to an attempt to assure diversity in eye color in their faculty and student body. Ditto for an attempt to assure that, say, the college of liberal arts had at least one member that went to a middle school whose name began with each (diverse) letter of the alphabet. Some differences *matter* and some don't. Whether they do or not or how much they do, depends on many things, including history and the particular mission of the institution involved

disagree with one implicit corollary that frequently accompanies the otherwise unexceptional observation that a particular proposal is "political" or that "values" is not a self-defining term. From the insight that a choice to represent the poor is political, some people appear to conclude that a choice *not* to represent them (or perhaps to let the market "decide" who is to be represented) is *not* political. From the insight that values are contested, and are necessarily *some-one's* values, some people appear to conclude that they can choose *not* to teach values, and thereby escape the choice and the dilemma. I am convinced that this is a hopeless dream. Choices about the people and entities we represent and the people and entities we prepare our students to represent are always political, whether the choice we make is for the poor or the powerful. As for values, we inescapably must and do teach them in our classrooms, our hallways and our offices. Sometimes we teach them by what we say and other times by what we don't say. And we always and most effectively teach them by the ways in which we behave.⁴

If some kinds of diversity don't matter, I would argue there are other kinds of diversity that, depending on history and context, an institution should positively seek to *avoid*. A university should not, for instance, try to be certain that it hires both rapists and non-rapists onto its security force. It should not recruit plagiarists and non-plagiarists alike onto its research faculty. Nor should a university spend resources seeking to make certain that it has creationists on its biology faculty or anti-Semites in its history department (although it should, of course, work diligently to introduce its students to sharply clashing ideas and controversies about evolution and creationism and about the role of Jews and of anti-Semitism in world history). . . . A university should not seek out people who are in a vegetative coma for each year's freshman class in order to be certain that its student body contains people in both non-vegetative and vegetative states.

Perhaps some of these examples seem silly. But I think they underscore the point that even the kind of broad and eclectic diversity principle which I believe we should embrace at UTK is not a neutral or unproblematically all-inclusive concept. Putting meaning into the slogan of diversity involves the intervention of values and judgment.

In higher education today, I would argue that the more a type of "difference" is rooted in past and present social inequality or social exclusion, the more it will need and deserve serious attention, resources, and careful planning. Examined in this light, I would also argue that race is among the most difficult, highly-charged, resistant and important categories of difference confronting us at UTK today. I would argue further that improving the racial climate is more important and will require a deeper investment than improving the climate around many other kinds of difference. Examined in light of this principle, other categories of difference would also, of course, fall somewhere on a continuum, and people of intelligence and good faith might argue about precisely where and in which order each fell. Answers might vary with the context and purpose of the inquiry. Lively conversation about all this might well prove rewarding. But whatever the disagreements about the principle in application, I hope its reasoning is fairly clear, and believe it should prove persuasive to most people. In my view this principle should be adopted and reflected in the institution's over-all diversity effort.

4. True, it is difficult for any of us to see or hear the messages transmitted by the society in which we have been and are being acculturated. Predominant norms often seem "natural" and "neutral," uncontroversial and non-partisan; they may even seem non-existent.

So I am a little testy about the first part of the title of today's panel. The values and perspectives are in our classrooms and have been all along. If they have remained unrecognized, denied or unexamined, we may have a serious problem. But the problem does not lie in a need to reimport them after absence.

On the other hand, I am quite enthusiastic about the second part of our title, "Practical Ideas for Teachers." Many of us are interested in openly engaging our students in dialogue and controversy about values that we believe to be important for the understanding and practice of law toward a just and democratic society. To do this work, we need concrete ideas for initiating discussion with our students and in our courses.

I hasten to say that I feel my own practice in this regard is still in a primitive state. For every good idea that I'm excited to share, I recall another memory of things gone wrong, opportunities missed and resolutions broken. Perhaps one day we should sponsor a panel on "rotten teaching moments I have known." We can write them all down on little pieces of paper, draw them out of a hat and read them to each other—anonymously and with feeling.

This morning, however, I will try to talk about some ideas that have worked for me with reasonable success (some of the time, with

For a lively and notorious attempt to present the normalcy of post-World War II law schools as a contingent human artifact, see DUNCAN KENNEDY, *LEGAL EDUCATION AND THE REPRODUCTION OF HIERARCHY: A POLEMIC AGAINST THE SYSTEM* (1983) [hereinafter KENNEDY, *LEGAL EDUCATION*]; Duncan Kennedy, *Legal Education as Training for Hierarchy, in THE POLITICS OF LAW: A PROGRESSIVE CRITIQUE* (David Kairys ed., 1982). For a thoughtful examination of the "transparency" of dominant values and perspectives for white people in the context of race, see Barbara Flagg, "*Was Blind, but Now I See*": *White Race Consciousness and the Requirement of Discriminatory Intent*, 91 MICH. L. REV. 953 (1993).

Myles Horton, a popular educator who will soon figure in the discussion below, observed in conversation with Brazilian educator, Paulo Freire:

[T]he people who claim to be neutral, and call us propagandists because we are not neutral, are not neutral either. They're just ignorant. They don't know that they're supporters of the status quo. They don't know that that's their job. They don't know that the institution is dedicated to perpetuating a system and they're serving an institution. They have influence nevertheless.

Paulo [responds:] Many times, Myles, they know really that they are not neutral, but it is necessary for them to insist on neutrality.

MYLES HORTON & PAULO FREIRE, *WE MAKE THE ROAD BY WALKING: CONVERSATIONS ON EDUCATION AND SOCIAL CHANGE* 186 (Brenda Bell et al. eds., 1990). The two sound sure of themselves in this interchange, but it is worth noting that it erupts in the context of a very tough and nuanced attempt to get at the problem of the democratic teacher's authority. How can teachers exercise the "responsibility" and "initiative" that is their duty, without becoming authoritarian? These are not easy questions. Understanding the impossibility of neutrality is no more than a puny threshold to answering it. *Id.* at 180-97.

some students and in some classes). Underlying these suggestions will be a couple of important assumptions about how people best learn. I will say a few words about those assumptions before going further.

Bob Granfield spoke with some of us last night and made reference to some of the literature of critical pedagogy, to the works of theoreticians and practitioners like Henry Giroux⁵ and Paulo Freire.⁶ All of us in legal education should be more familiar with pedagogical theory. In particular, those of us who seek to unite our professional lives with a belief in the importance of social change should become more familiar with the theory and practice of "popular education." My own exposure to this strand of pedagogical theory has come primarily through collaborations with a long-time center for popular education near my home, the Highlander Research and Education Center in New Market, Tennessee. Highlander was founded in the 1930s as a "folk school" on the Scandinavian model. Since that time, the center has been intimately involved with most of the major popular, progressive movements that have arisen in the Southeast.⁷

So, with an eye toward sharing with this national audience some of the riches of my region, but more importantly, in the belief that you will find this educational theory to be of value, I would like to set the stage for the rest of my remarks by reading from a series of informal conversations between Paulo Freire and Myles Horton. Horton was one of the founders of Highlander⁸ and for many years its director. These conversations are memorialized in the book, *We Make the Road by Walking*.⁹

5. HENRY A. GIROUX, *BORDER CROSSINGS: CULTURAL WORKERS AND THE POLITICS OF EDUCATION* (1992); HENRY A. GIROUX, *TEACHERS AS INTELLECTUALS: TOWARD A CRITICAL PEDAGOGY OF LEARNING* (1988); HENRY A. GIROUX, *SCHOOLING AND THE STRUGGLE FOR PUBLIC LIFE: CRITICAL PEDAGOGY IN THE MODERN AGE* (1988).

6. For representative works by this "popular educator," see PAULO FREIRE, *THE POLITICS OF EDUCATION: CULTURE, POWER & LIBERATION* (1985); see also PAULO FREIRE, *PEDAGOGY OF THE OPPRESSED* (1970) [hereinafter FREIRE, *PEDAGOGY*]. For a fuller, selected bibliography of works by and about Paulo Freire and for a basic biographical sketch, see HORTON & FREIRE, *supra* note 4.

7. See, e.g., FRANK ADAMS & MYLES HORTON, *UNEARTHING SEEDS OF FIRE: THE IDEA OF HIGHLANDER* (1975); SEPTIMA CLARK, *READY FROM WITHIN: SEPTIMA CLARK AND THE CIVIL RIGHTS MOVEMENT* (Cynthia Brown ed., 1986); JOHN M. GLEN, *HIGHLANDER: NO ORDINARY SCHOOL 1932-1962* (1988); MYLES HORTON ET AL., *THE LONG HAUL* (1990); *Bill Moyers Journal: The Adventures of a Radical Hillbilly*, (WNET, N.Y. television broadcast, June 5, 1981) (interviewing Miles Horton about his life, Highlander, and his philosophy of education) (copy available from the Highlander Research and Education Center).

8. The other founders were Jim Dombrowski and Don West.

9. HORTON & FREIRE, *supra* note 4. The title of the book is translated from Antonio Machado's rendering of a traditional proverb. Machado's line reads, "se hace camino al andar."

Both Paulo and Myles expressed the conviction that education must start with and build on the strength, skills and knowledge that students already possess. Two observations by Paulo will give some sense of this conviction. He observes about students:

When the students come, of course, they bring with them, inside of them, in their bodies, in their lives, they bring their hopes, despair, expectations, knowledge, which they got by living, by fighting, by becoming frustrated. Undoubtedly, they don't come here empty. They arrive here full of things. In most of the cases, they bring with them opinions about the world, about life. They bring with them their knowledge at the level of common sense. . . .¹⁰

He also asks about the implications of this observation for the enterprise of teaching:

Who says that A, B, and C must be known? Who declares that the students know nothing? Who says that the teachers do not have the duty to know what the students already know when they come to the classroom? All these things in my point of view must be answered.¹¹

At another point, Myles talks about the role of the educator with regard to this knowledge of the students:

You stay within the experience of the people, and the experience is growing right there, in what I call a circle of learners, in a workshop situation. They're growing because they've learned from

Id. at 6. See ANTONIO MACHADO, *SELECTED POEMS* 143 (Alan S. Trueblood trans., 1982). Paulo invoked the phrase when he suggested that in the process of "talking their book," he and Myles didn't need to map out their conversations too carefully in advance, because they would basically make the road of the book by walking it together. HORTON & FREIRE, *supra* note 4, at 6. But the words obviously have broader implication as well. They convey the sense of ever-unfolding invention, playfulness, mutual interdependence and courage that both men suggest is necessary for those who want to push for egalitarian changes in a future that is "always out there." See *YOU GOT TO MOVE: STORIES OF CHANGE IN THE SOUTH* (First Run/Icarus Films 1985) (capturing Horton's description of the future in a talk at Highlander's fiftieth anniversary celebration).

10. HORTON & FREIRE, *supra* note 4, at 156-57. Freire is quite aware that the analysis cannot stop with the observation quoted in the text. In fact, the last sentence is longer than what I quote above. In the original it reads: "They bring with them their knowledge at the level of common sense, and they have the right to go beyond this level of knowledge." *Id.* at 157. He goes on to say:

This is a right that the people have, and I call it the right to know better what they already know . . . [The question is] how, starting from where people are, to go with them beyond these levels of knowledge without just *transferring* the knowledge. The question is not to come to the classroom and to make beautiful speeches analyzing, for example, the political authority of the country, but the question is how to take advantage of the reading of reality, which the people are doing, in order to make it possible for students to make a different and much *deeper* reading of reality.

Id.

11. *Id.* at 108.

their peers They learned something from the questions you've raised. You've got them to thinking, so right there before your eyes their experience is changing. You're not talking about the experience they brought with them. You're talking about the experience that is given them in the workshop, and in a few days time that experience can expand tremendously. But if you break the connection between the starting point, their experience, and what they know themselves, if you get to the place where what they know can't help them understand what you're talking about, then you lose them. Then you reach the outside limits of the possibility of having any relationship to those people's learning

Now, my experience has been, that if you do this thing right, carefully, and don't get beyond participants at any one step, you can move very fast to expand their experience very wide in a very short time. But you have to always remember, if you break that connection, it's no longer available to their experience, then they don't understand it, and it won't be useful to them. Then it becomes listening to the expert tell them what to do. . . .¹²

Myles was well-known for his warnings about the potential deadly effects of "experts" on the process of educating for social change. He saw experts as highly dangerous to the learning process because of their tendency to dominate and disempower, and he sometimes went to extraordinary lengths to exclude or contain such tendencies.¹³

Myles told a story about an experience he had as a union organizer in a Southern textile town in the 1930s. He recalled being in a hotel room one night, meeting with the strike committee of a local union:

They kept throwing out ideas, and I'd raise questions to get them to think a little more about it. Finally they said they couldn't come up with anything, any strategy, or anything to do. They were getting desperate. They said: "Well, now you've had more experience than we have. You've got to tell us what to do. You're the expert." I said: "No, let's talk about it a little bit more. In the first place I don't know what to do, and if I did know what to do I wouldn't tell you, because if I had to tell you today then I'd have to tell you tomorrow, and when I'm gone you'd have to get somebody else to tell you." One guy reached in his pocket and pulled out a pistol and

12. *Id.* at 151-52.

13. Conversations between Myles Horton and Frances Ansley (1967-1990) (discussing educating for social change); see also HORTON & FREIRE, *supra* note 4, at 129-130.

says, "goddamn you, if you don't tell us I'm going to kill you." I was tempted then to become an instant expert, right on the spot!¹⁴

Well, I'm sure you anticipate the denouement. Myles still refused. He had his principles, after all. This was a make or break point with him. And the strikers went on to make their plans out of their own experiences and best instincts.¹⁵

When Myles recounts this tale to him, Paulo is delighted. He refers to this refusal by Myles, this stubborn silence, as his "intervening."¹⁶ How's that for the Zen of teaching? In that context, he sees Myles' refusal to answer as an educator's *intervention*.

I believe that the premise of starting with the students' own experiences and building from there is a powerful concept. I hope to support (and pressure) students to stretch to new locations,¹⁷ but not at the cost of breaking their connections to their own story line, their own integrity. Such an extension should not produce an unreadable rupture between the educational stretch and a student's previous life experience.

I want to remember always that the outcome I most desire is a person still linked to her beginnings and able to integrate with her law schooling the different experiences and wisdom she has acquired in the various times and parts of her life. I hope that my students will be able to appropriate the new ideas and experiences that I, their fellow students and the course materials have helped to provide. I anticipate

14. HORTON & FREIRE, *supra* note 4, at 126.

15. These are not simple matters, of course. At one juncture in his conversation with Paulo, Myles makes the paradoxical claim, "If I'm the expert, my expertise is in knowing *not* to be an expert or in knowing how I feel experts should be used." *Id.* at 131. (Anyone who has ever tried to maintain teacherly restraint during a conversation close to her heart surely knows the discipline and expertise required in that situation.) At another point, Paulo observes:

[T]he educator does not have the right to be silent just because he or she has to respect the culture. If he or she does not have the right to impose his or her voice on the people, he does not have the right to be silent. It has to do precisely with the duty of intervening, which the educator has to assume without becoming afraid. There is no reason for an educator to be ashamed of this.

Id. at 138.

16. *Id.* at 127.

17. By "location," I mean here something purposefully ambiguous. It might be that the student learns things about people and issues far removed from his or her own "location" in space and time. It might be that a leap of (always imperfect) empathy affords the student a look at the world through different eyes, from a different perspective. It might entail a sudden realization of sameness or of difference where neither was recognized before. It might be mastery of a theory or doctrinal topic that looked impenetrable and alien, but that was manageable when approached out of lived experience.

that they will then be able to wield their new knowledge in new settings for their own ends.

How does this model compare to most law school practice? Pretty abysmally, I submit, and especially so for those who are members of "outsider" groups.

In his book, Bob Granfield gives us a closely-textured and anti-reductionist description of how life connections break for many Harvard law students.¹⁸ As a result of their legal educations, these students feel disoriented and disempowered. I can offer some voices from my own school in Tennessee that echo similar themes. Some are quotes from an anonymous survey we conducted a couple of years ago; others are taken from reflection papers given to me by students. One student says:

After my first year of law school I had little if any confidence in my abilities. My grades were disappointing and I felt that my knowledge was insufficient and inadequate. Luckily, I was able to get a job clerking during the summer. It was my working experience that restored my confidence in my goals and my ability to achieve them. I've come to the conclusion that law school is nothing more than a hurdle.

Another person says:

I feel completely beaten down, overwhelmed, demoralized, panicked and every other negative adjective you can think of.

(This, of course, is a first-year student. He or she will probably feel better later if he or she survives the first onslaught. But is that much of a comfort? This time period is the entryway, the boot camp and the memorable, irrevocable, imprinting time when the students receive an orientation and learn "what it's all about.") The student goes on:

I walk around in a daze, usually with a lead pipe in my gut, also on the verge of total panic. Sometimes I have to make the decision hour-by-hour whether to attend the next class. I am not the only one who feels this way. But why should this be? Why do they accept people who they claim are competent, bright, motivated achievers and proceed to reduce you to some quivering mass? I thought this couldn't happen to me because I'm so highly motivated. This so far is an ordeal I would not wish on my worst enemy.

Another student, this one from a coal-mining family in Appalachia:

18. ROBERT GRANFIELD, *MAKING ELITE LAWYERS: VISIONS OF LAW AT HARVARD AND BEYOND* (1992).

Law school has not been a good experience for me. Before I read today's assignment, I believed it was completely personal. One of my friends here at the law school is in the top of the class and really enjoys the experience. So, naturally, I believe I must be stupid or have just made a bad choice. My grades have been a disappointment. I study hard and long and it is not reflected in my grades. I have lost the self-confidence I had before law school. Some days continue to be a struggle. I looked at an entry from my journal last year, and it said "at least I no longer fear I'm going insane, and the thoughts of suicide are lessening." This was written by a woman, who only one year earlier was a private program and counseling consultant. I was completely self-motivated, energetic and implementing what I thought was an innovative program to move foster children (18 years old) out on their own—in communities all over [my state].

What happened to my energy, enthusiasm and the confidence? I am not sure. I don't know if it is connected with the set-up of the law school. I do wish I had never made this decision, but since I made it through the first year, I have decided to try to stick it out and get the degree. Most of the bias I have experienced personally in the classroom has to do with the way I have looked at problems. I have never learned to be "lawyerly." I have been told that I am too emotional about issues. I hope to become more analytical, so my grades will be better.

Another:

I cannot say with words the pain in my heart, mind, body and soul because of law school. I am almost struck numb with grief over the insensitivity and rudeness of the instructors, the cruelty of some classmates and an overall sense of powerlessness. Am I being trained in the legal field or am I being trained to run away and let somebody else fight the legal dreams I used to have? . . . I have seen friendships end because one made law review and the other didn't. The one who did became smug and overbearing. The one who didn't felt anger and helplessness, hopeless rage.

Another:

The first week of class in criminal law we had a case where there was a dead baby found somewhere in the hall. And the professor was just standing up there like ice. When I said something that showed I was upset about the baby, he told me in no uncertain terms that sympathy was not the point. I felt like everyone else had their eyes on their books and were trying to sort of move subtly away from me so they wouldn't be tainted too. I felt there was

something wrong with me. My sister used to be a protective services worker. I know a lot about infants in troubled families in the abuse and neglect system, but I wouldn't have dreamed of trying to bring any of that information into the class after the way he reacted the first time. I started thinking maybe I didn't belong in law school.

If we want our students to feel that they *do* belong in law school, and if we want to prevent them from sealing off their previous lives in an inaccessible box, what might we do in the classroom that could support that end? Here are a few ideas.

First, I suggest that we introduce our students to the rich and growing literature about legal education. I stumbled onto this idea by accident. A student of mine was writing a paper about minority scholarships in higher education. I loaned her a random file I had been collecting on "Minorities in Legal Education." Soon I began to get a little stream of notes: "Professor Ansley, would it be OK with you if I took your file home for a few days after so-and-so gets through with it?" The file circulated like mad.

I received a similar response after assigning readings on legal education in my class, *Women & the Law*. This is the class where one student, already quoted above, wrote, "Before I read today's assignment, I believed it was completely personal." It is funny how much this surprised me. I don't know why I needed to be reminded that most law students have no idea that a literature about legal education exists. I certainly didn't know about it when I was in law school. At that time, I thought all professors simply taught the material without much soul-searching, and certainly without arguing among themselves about it. I was not stupid or hopelessly naive in law school, only ignorant about legal education and insanely busy. I took what I was given and absorbed it as best I could.

So try assigning these readings. A wonderful body of work, some venerable and some recent, now exists.¹⁹ It ranges from very

19. For a recent bibliography with many helpful citations (and some painful holes, especially in its lack of reference to many of the best contributions by critical race theorists), see Arturo L. Torres & Karen E. Harwood, *Moving Beyond Langdell: An Annotated Bibliography of Current Methods for Law Teaching*, 1994 GONZ. L. REV. 1 (spec. ed.); see also Paul Wangerin, *Teaching and Learning in Law School: An "Alternative" Bookshelf for Law School Teachers*, 1994 GONZ. L. REV. 49 (spec. ed.). For an article that proposes a dazzlingly high standard for student-teacher relations while simultaneously promoting optimism about the rewards of meeting such a standard, see Kent D. Syverud, *Taking Students Seriously: A Guide for New Law Teachers*, 43 J. LEGAL EDUC. 247 (1993).

traditional (and often quite helpful) advice on conventional methods,²⁰ to critical appraisals by "outsider" scholars of various types²¹ and past presidents of the American Bar Association.²² Empirical studies such as Richard Chused's look at faculty hiring²³ and various quantitative surveys of and qualitative narratives about student attitudes and experiences have been conducted.²⁴ Also, videotapes that incorporate student critiques of legal education are available.²⁵

20. See, e.g., Howard Oleck, *Adversary Method of Law Teaching, Summarized*, 27 J. LEGAL EDUC. 86 (1975). An article often cited as an early classic is William L. Prosser, *Lighthouse No Good*, 1 J. LEGAL EDUC. 257 (1948). Cf. John E. Murray, Jr., *From the Editor: A Reflection on the Lighthouse*, 27 J. LEGAL EDUC. 377 (1976) (commenting that the concerns of Prosser might then be outdated). At my own AALS new law teachers' conference in 1988, we were given copies of the Prosser article, along with acknowledgements from the podium that readers would find in it some assumptions about ethnicity and gender that might distract and trouble them. I was grateful for both the article and the acknowledgement.

21. See, e.g., KENNEDY, LEGAL EDUCATION, *supra* note 4; Marina Angel, *Women in Legal Education: What It's Like to Be Part of a Perpetual First Wave or the Case of the Disappearing Woman*, 61 TEMP. L.Q. 799 (1988); Taunya Lovell Banks, *Gender Bias in the Classroom*, 14 S. ILL. U. L.J. 527 (1990); Kathleen Bean, *The Gender Gap in the Law School Classroom—Beyond Survival*, 14 VT. L. REV. 23 (1989); Derrick Bell, *Strangers in Academic Paradise: Law Teachers of Color in Still White Schools*, 20 U. S.F. L. REV. 385 (1986); Mary Irene Coombs, *Non-Sexist Teaching Techniques in Substantive Law Courses*, 14 S. ILL. U. L.J. 507 (1990); Kimberlé Williams Crenshaw, *Foreword: Toward a Race-Conscious Pedagogy in Legal Education*, 11 NAT'L BLACK L.J. 1 (1989), reprinted in 4 S. CAL. REV. L. & WOMEN'S STUD. 33 (1994); Jerome McCristal Culp, Jr., *Autobiography and Legal Scholarship and Teaching: Finding the Me in the Legal Academy*, 77 VA. L. REV. 539 (1991); Cheryl I. Harris, *Law Professors of Color and the Academy: Of Poets and Kings*, 68 CHI.-KENT L. REV. 331 (1993); Melissa Harrison, *A Time of "Passionate Learning": Using Feminism, Law and Literature to Create a Learning Community*, 60 TENN. L. REV. 393 (1993); Leigh Megan Leonard, *A Missing Voice in Feminist Legal Theory: The Heterosexual Presumption*, 12 WOMEN'S RTS. L. REP. 39 (1990); Mari J. Matsuda, *When the First Quail Calls: Multiple Consciousness as Jurisprudential Method*, 11 WOMEN'S RTS. L. REP. 7 (1989); Rachel F. Moran, *Commentary: The Implications of Being a Society of One*, 20 U.S.F. L. REV. 503 (1986); Ann C. Scales, *Surviving Legal De-Education: An Outsider's Guide*, 15 VT. L. REV. 139 (1990); Symposium, *Pedagogy, Law, Theory, and Practice*, 38 J. LEGAL EDUC. 1 (1988) (containing articles by Taunya Lovell Banks, Leslie Bender, Patricia Cain, Mary Irene Coombs, Nancy Erickson, Mary Jo Eyster, Catharine Hantzis, Carrie Menkel-Meadow, Martha Minow, Deborah Rhode, Elizabeth Schneider, Ann Shalleck, and Stephanie Wildman).

22. Talbot d'Alembert, *Teaching About Justice and Social Contributions*, 40 CLEV. ST. L. REV. 363 (1992).

23. Richard H. Chused, *The Hiring and Retention of Minorities and Women on American Law School Faculties*, 137 U. PA. L. REV. 537 (1988).

24. 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 (1989-90); Arthur Rothman & Herbert Marx, *Expectations Versus Perceptions of a First Year Law Class*, 26 J. LEGAL EDUC. 349 (1974); Janet Taber et al., *Gender, Legal Education and the Legal Profession: An Empirical Study of Stanford Law Students and Graduates*, 40 STAN. L. REV. 1209 (1988); Catherine Wiess & Louise Melling, *The Legal Education of Twenty Women*, 40 STAN. L. REV. 1299 (1988).

25. See, e.g., Tape of Conference on Frontiers of Legal Thought: Gender, Race and Culture in the Law, held at Duke Law School (January 26, 1991) (on file with Duke Law School) (discussing racism and sexism in the classroom and uncovering hidden biases in education); Tape of

Additionally, I use student "reflection papers," personal, experience-based reflections by students on the readings and sometimes on classroom discussions. I've written elsewhere about using this tool.²⁶ Such assignments, especially when coupled with insistence that they be based on personal experience (an insistence that law students often receive with initial confusion and incredulity) have several advantages. First, they validate and honor student experience in a way that I believe is all too rare in law school. They can also be a real aid in the pedagogical project I have just identified: helping us to anchor our teaching approaches in our students' own varied experiences while making it more possible for them to similarly anchor their own approaches to learning.

I have assigned these exercises in various different ways. In a large class like property, I may do only one such assignment per semester, whereas in a small seminar, each student may write weekly. In a mid-sized class, I may stagger due dates so that only a fourth, third, or half of the class writes at a time.

Here are a few examples of student reflections from a property class. Neither the class nor the topic has particular substantive relevance for our present purposes. I share them because I think they may best convey why I find this form of communication helpful. During the class period, the students had discussed public accommodations law. They had also watched "Ain't Scared of Your Jails," a video about the Nashville sit-ins.²⁷ I asked class members to write about some event they recalled from their own or friends' lives which involved "exclusion from a valued resource." Perhaps they were excluded; perhaps they were doing the excluding themselves. They may have been simply observers. The only requirement was that they base their stories on real experience. Many students responded with stories about fraternities and sororities.

Presentation to Harvard Law School Faculty: Silencing in the Classroom (on file with the Harvard Law School Audio-Visual Department) (discussing hidden biases).

26. Frances Lee Ansley, *Race and the Core Curriculum in Legal Education*, 79 CAL. L. REV. 1511, 1546 n.103 (1991). I will not reproduce them here again, but in that article, I quoted directly from a number of student reflection papers on the subject of race. I believe these papers added to the depth and subtlety of our examination of American race relations in that class. See *id.* at 1564-70. I repeat here my gratitude to Patricia Cain, Derrick Bell and Chuck Lawrence for pioneering and sharing the methodology.

27. *Eyes on the Prize* (PBS television broadcast, 1987) (highlighting important events in the civil rights movement from 1954-1965).

[Once I decided to go through rush] I was thrilled to be chosen to be in a sorority which, for anonymity's sake, I will call Alpha Alpha. I thought that I was so special for those girls to have chosen me.

The next fall, I was on the other side of rush. I got to help choose which lucky girls would be Alpha Alphas. I thought that rush was going great until a particularly disturbing incident changed my mind. After the rushees leave, each sorority [meets] to discuss the girls we saw that night and decide if we want to ask them back. When someone disapproves of a rushee, it is courteous to say, "I just don't think she is Alpha Alpha material," and based on one person's disapproval, a rushee will not be asked back.

One particular night, a girl came up to be voted on who was of Philippine national origin. The girl was bright, bubbly, and everyone in the sorority had seemed to really like her. Her brother was a friend of several members. When her name came up, our advisor said, "I just don't think she's Alpha Alpha material." An older girl who liked her and apparently knew what was transpiring stood up and said, "She's a Filipina, she's not black."

Needless to say, the rushee was not asked back to our sorority the next night. I went on with rush, but I couldn't get this out of my mind . . .

Another student reflected on his fraternity experience this way:

As a member of [a fraternity], I helped to exclude others from the primary source of social life on campus. Greek life offered major outlets for leadership and philanthropic service on campus, but that was only open to the select few of us who had been accepted . . .

When I first entered the fraternity, I was disgusted with the system and almost quit. As I grew in age and experience, I began to realize how wonderful the system was and how it was changing me as a person. The people I was with became my best friends in the entire world. In a strange way, our exclusionary practices contributed largely to our strong friendships. We felt a sort of unity, patriotism and security that allowed us to be open with one another. It meant a lot that we were complete masters of our social group within the fraternity, it created a freedom to act as we pleased and take chances.

As much as I hate denying others, I honestly believe that the fraternity would have been less than it was had it not been exclusionary. Open acceptance would have destroyed its mystique. Maybe that is the way it should be. I still struggle with the question

of whether or not it was worth it, and I still pray that I did the right thing.

There were other topics as well. One student reflected on his summer in a strange town in a law-related job:

I normally go [to lunch] by myself. Occasionally, I will go with other [people in my job category], but it seems some of them have disdain for me because of my rural accent and values. Having been raised in a poor, rural, agricultural environment, I learned that honor, duty and loyalty were more important than pleasure-seeking. I never had much money or drove a nice car. I do not know how to behave like the high-born Vanderbilt crowd. Substance has always been more important to me than form. I am very proud of my family background and our rural, agrarian heritage. I grew up raising plants and animals and respecting nature. My ancestors on my father's side have been . . . farmers since the Revolutionary War . . . I have never lived in a city before and find it quite hostile and less comfortable than my rural home. People are mean and unfriendly here. They are generally inhospitable. Yet I enjoy the easy access to many different kinds of shopping, food, movies, theaters, etc. . . . I just wish people would be a little more kind to each other here . . . Sometimes I think people I meet believe I am dumb because of my accent . . . Others may just be very materialistic and look down on me because I don't have much money. I can deal with all of these people on business terms. I can employ the tactics and strategy of Machiavelli, Sun Tzu and Miyamoto Musashi, conducting every personal interaction as a war game to be won or lost. But sometimes I get tired of that.

Another student chose this experience to share:

I grew up in a small Southern town. A few years ago, a home was established in our area for mentally retarded adults. The director of the home went to each of the three churches in town on behalf of the residents. Several residents wanted to attend church, but the director did not want them put in a situation where they or any church member would feel uncomfortable. She was turned down by the Presbyterian and Baptist churches. After a heated debate, the church I attend decided to welcome them.

Things really changed. My family and I looked forward to church each Sunday. The five visitors would sit on the front row, smiling from ear to ear. They clapped and sang along when music was played and never failed to have a prayer request. Our solemn little church had been transformed into a happy place filled with love and laughter.

From the beginning I had noticed that three elderly men had walked out whenever the visitors walked in. I assumed they were still angry about the vote, until it all stopped.

When two Sundays had gone by without the visitors in attendance, I called the director to find out why. She informed me that the three men had contacted her and, on behalf of the church, requested the visits to stop. They lied and said the church members had changed their minds and taken another vote since two of the visitors were black. After contacting all of the other members, I found out the majority agreed with what the three men had done. I am still amazed that I didn't see this side of my fellow members.

My family now drives thirty miles to a church that welcomes everyone. This happened in 1988.

These kinds of papers offer "evidence of the world," information conveyed with a kind of arresting narrative detail and immediacy that makes it hard to dismiss. In this sense, the papers serve as curriculum enrichment provided from within the class itself, and they can be very effective for this purpose. To best achieve this function, of course, they need to be shared with the other students and not restricted to a private dialogue between the teacher and individual class members. I have tried several approaches to this challenge. Some years I have failed altogether due to the press of time and competing priorities. The cadillac version of sharing the papers is to edit and retype the submissions and then give copies to every member of the class (with permission; needless to say—offers of partial or complete confidentiality are a must). I believe this is the best method, but it is also, by far, the most expensive in terms of time and duplication costs. Another method is to ask those students who are not requesting confidentiality to turn in two copies of their papers, one in "ready-to-share" form. A teacher can then return one copy with comments while placing the other copy on reserve for students to read.

In small classes, students may read their own or another's paper aloud as part of class discussion. This requires lead time: students must turn in their papers sufficiently in advance of the scheduled discussion on a particular set of readings so that the professor can read the papers and make selections. (This method raises questions about perceived favoritism. Does it hurt classroom dynamics if every student doesn't get a chance to read?) Weekly seminars are probably the most likely settings for successful use of this approach.

Even if students do not *directly* share reflection papers, either because confidentiality requests are too numerous or because the administrative effort required is too great, a teacher's personal exposure to the reflection papers can still help to achieve the curriculum-enrichment goals I have posited here. The professor will be in a better position to decide which students to call on for discussion of a particular case or issue. He or she can decide in a more intentional and educated way how to frame a hypothetical. Various decisions can result in very different in-class discussions than might otherwise have occurred.

No one else may ever know that one woman in the class recalls waking at age eleven to hear another fight going on downstairs between her parents, and that she then had to figure out what to do when she heard the kitchen door slam. No one will know she then crept downstairs to find her mother bleeding and close to unconsciousness with a broken jaw. A teacher would not dream of asking her to share that experience or calling on her in a pointed way. However, the teacher may discuss domestic violence differently because of such information. A professor may also then offer certain kinds of beyond-class support to that student and plan indirect ways of having her inform and enrich the class.

My success (not uniform) in soliciting good reflection papers has often affected the way I plan classes. Knowing that a student's parents paid for college with the rents they acquired as struggling small-landlords influenced the way I discussed landlord-tenant law. My class planning for a discussion of public accommodations law was affected by the fact that I knew that members of a country club had excluded one of my African American students from a key tennis tournament in high school. The knowledge that one of my students had been excoriated while working in the pro shop of another country club for allowing a member's African American guest to play on the golf course one day also affected my class preparation. I didn't elicit those stories in class, but I was aware of their presence nonetheless.

The papers have also helped me by allowing me to learn more than I can from class discussion about how students react both to the assignments I give and to the discussions in class. In an earlier article, I quoted the following reflection papers,²⁸ but I will quote them again here because I believe they vividly illustrate the radically different

28. Ansley, *supra* note 26, at 1548-49.

reception that students give to certain readings because of the various life experiences and different perspectives they bring to the course.

The reading at issue was a chapter from Derrick Bell's *And We Are Not Saved: The Elusive Quest for Racial Justice*,²⁹ in which a time-traveling, black, civil rights advocate is transplanted into the Constitutional Convention, armed with amazonian eloquence and grace. (She is even protected by a bulletproof shield.) The advocate is unable to persuade the framers to abandon the slavery compromises they are about to adopt. At one point in the narrative, one of the founders actually fires a gun at Geneva Crenshaw, the heroine of Bell's fantasy.³⁰ Here are the reactions of two of my students, as reported in their reflection papers the next week. A white student of Irish descent said:

This was an excellent choice for the first few weeks of class; as a white male it certainly provided me with a "baptism of fire" concerning the real sense of betrayal by America's founders many *modern* blacks feel. I am not accustomed to witnessing the founders dealt with in so indelicate a manner. I was initially somewhat shocked by "Geneva's" visceral contempt for the founders; I found the shooting incident, for instance, to border on hysteria, a gratuitous "cheap shot," by a civil rights radical designed simply to evoke high emotion. On reflection, however, I realized that my assessment of the . . . dialogue simply revealed my own prejudices. My first reaction to the scene was "How dare she treat the founders so" rather than "How dare they treat *her* so," in the sense that she served to represent the people who the founders were in a deliberate, calculated fashion choosing to leave in subjugation.

Meanwhile, an African American student saw and heard Geneva's actions and situation from a very different vantage point:

The strength with which I was able to identify with Geneva Crenshaw's futile words was tremendous. I felt almost as though it was I standing behind the—absolutely necessary—protective shield speaking words of compassion and reason to the Framers and being rebuked with words of cold and calculating self-interest . . .

Receiving these "weather reports" from students in the class as one is working one's way through a syllabus can be very helpful to a teacher, for reasons that I hope are obvious.

29. DERRICK BELL, *AND WE ARE NOT SAVED: THE ELUSIVE QUEST FOR RACIAL JUSTICE* 26-50 (1987). The chapter discussed is entitled "The Chronicle of the Constitutional Contradiction."

30. *Id.* at 27.

Beyond serving as direct curriculum enrichment for the class as a whole, or as a course-planning aid through the provision of information and feedback, the use of reflection papers can also function as an important source of information about individual students. I have recently begun striking up informal correspondence with some of my students based on interests I learned about through their reflection papers. I don't have time for much, but what I have begun to do is forward to them items of possible interest: a clipping from an ABA Journal, a citation to a law review article, book or case, or an announcement of a speaker or meeting.

I already routinely provide such information to students who are writing papers for me in small and mid-sized classes. This assuages some of my habitual frustration at going through my mail and feeling that I am unable to act on so much of the information there. Further, it serves as a way of pushing interested students out beyond the standard fare, introducing them to exciting theoretical work or practical applications.

This year, I have begun sending this kind of correspondence to some of the students in my large classes as well, and I am pleased with the results. The process is necessarily hit or miss, and it is skewed in favor of students who express interests likely to overlap in some way with my range of involvements and reading habits. But I have found that this correspondence has sparked a set of connections and conversations that otherwise would have never happened. It serves my inveterate pack-rat instincts while also telling my students that I value their non-exam-related intellectual development and share some of their interests and concerns.

Having talked about the value of reflection papers based on personal experience, let me now voice two caveats. First, such papers should not serve as a substitute for the performance of standard legal analysis. Some of the students whose experiences are the most important to validate, those who are members of "newcomer" groups, are not well-served if professors fall into a pattern of allowing them to tell their personal narratives yet neglecting the difficult work of helping and pushing them to achieve competence at the tools of the trade. I often tell my students that in their expository papers they should be like top figure skaters in the old days: they should take pains to show off both their compulsory figures and their free style.

The second caveat is that professors must be prepared for the obvious but sometimes painful fact that not everyone in a class will

react to the reflection papers of others in the same way the teacher does. Students will receive evidence of each others' experience with quite different degrees of empathy or disbelief. Some will be epistemologically arrogant in just startlingly naive ways. For instance, one anonymous student responded to an attitudinal survey conducted at my school with the following observation:

Has this law school succumbed so much to the propaganda that law school is harder for minorities and women than it is for majorities and males? This is absolute nonsense. My experiences, good and bad, are the same as those of anybody else here.

Some students will simply reject and devalue personal narratives elicited from other students although one would think a rock, a hitching post or a nincompoop would *have* to be profoundly moved by those self-same narratives. After watching all six episodes of "Eyes on the Prize"³¹ in my discrimination course a number of years ago, a white woman once asked, "Well, Professor Ansley, I just don't quite get the point here. I mean, it's interesting and all. But really, to me, it is just so much *history*, you know? What are we expected to know for the exam?" Some male students of both races react to narratives, statistics and analyses of domestic violence with a similarly belligerent "I-don't-get-it-and-I-don't-think-I-should-be-bugged-about-it" attitude, or even with a conscious goading and baiting tone aimed at other students in the class who are perceived as having a reform agenda on the issue.

Teachers should accept the fact that such moments will come and should give thought to the amount of vulnerability they ask students to risk in class. They must also avoid being personally wiped out by such dynamics.

What to *do* in response is problematic, and I don't pretend to have simple answers. Obviously, there is no correct gospel response that each student should have, and good teachers let the students know that. Obviously, a professor's own perspective is not the only acceptable one. Certainly, law professors have teacherly obligations to both the loquacious and the silent students, the reformers and the resisters. Though it will not yield a blueprint, the process of anticipating possibly unwelcome responses, trying to understand them and contemplating their likely effects on various segments of the class as a

31. *Eyes on the Prize*, *supra* note 27.

whole, including the professor, may help teachers keep their bearings and, therefore, acquit their obligations more satisfactorily.

My observations point out a serious complication in the model I have been advancing here. I have spoken of the teacher's role thus far in ways that seem to come "naturally" for me. My inclinations are toward a sort of nurturing and fiduciary stance. My imagery of students includes some sense that they might be "breakable" in my hands, that I have the kind of duty toward them that the strong owe the weak or that the powerful owe the powerless.

My imagery in this regard tends to cast students as a group in a position at the *bottom* of important law school hierarchies. The invocation of Paulo Freire at the beginning of my talk certainly underscores and further evokes this mood. He is, after all, an educator who is famous for his work with impoverished Brazilians and whose best known book is entitled *Pedagogy of the Oppressed*.³² Law school appears in this vision as a sort of free-floating microcosm, with faculty reigning over a wretched and largely undifferentiated student mass.

Well, I embrace that orientation in many ways. There is a lot of truth to it. But surely it is not the whole story. Our law school classes are actually very heterogeneous and internally divided. Students come from a wide array of backgrounds and have inherited wildly different kinds and amounts of material and educational resources from their families. They are destined to fill a variety of roles and wield vastly disparate degrees of power.

Similarly, some law teachers come from poor or working class backgrounds. Some are women, persons of color and/or gay men or lesbians. They may be untenured or outsiders to the community. Even during law school, a teacher's students may be more socially powerful than the teacher in some important ways, *despite* the authority of the podium or the power of the grade.³³

32. FREIRE, *PEDAGOGY*, *supra* note 6.

33. African American law teacher Derrick Bell's memorable decision to "go public" about an experience he had while visiting at Stanford Law School exposed one set of power dynamics of this kind. Some white students were concerned that Bell was delivering an inferior brand of constitutional law. They were able to mobilize significant law school resources to remedy the "problem" as they defined it until dissenters provoked a more searching look at what was taking place. See *Minority Faculty Suffer Indignities*, SALT EQUALIZER (Soc'y of Am. L. Teachers), Nov. 1986, at 1-4; *Derrick Bell's Experience Sparks Change at Stanford: Statement of Paul Brest*, SALT EQUALIZER (Soc'y of Am. L. Teachers), Apr. 1988, at 1-6.

And beyond the teacher-student relationship, disparities among and between class members are realities in every classroom. It would be foolhardy to build a pedagogical approach on an image of law students as some sort of decontextualized homogeneous and subordinated mass, with no significant differences among themselves. To do so would invite the suppression or erasure of the less powerful members of the class. Respecting the "privacy of the family" or the "sovereignty of the nation state" can sometimes serve to reinforce hierarchies within those protected entities. Characterizing "the students" as a single mass may, in some instances, produce similar consequences.

But perhaps law professors are not so unusual in facing these disparities. We labor under no different dilemmas than popular educators like Freire and Horton after all. We fall into romantic error or worse if we believe that "the oppressed" of any context are a homogeneous group without significant differences among themselves in terms of social power. Tennessee blue collar workers, for instance, have cleavages along lines of gender, race, national origin, sexual orientation and the like that may well be crucial to their ability to handle a problem confronting them. Those cleavages must be acknowledged in any educational process that hopes to serve the group, much less aspires to play some role, however humble, in bringing about social change.

Let me recapitulate. What I have said thus far is that we should teach our law school classes in a way that builds on, rather than denies, our students' own experiences, and that recognizes the different kinds of valuable knowledge these students bring with them to law school. We should encourage them to engage in "anchored stretching," a process of moving beyond their previous experiences, without severing themselves from past sources of wisdom. I have offered experience-based reflection papers as a type of assignment that can help teachers and students to do this. I have also warned that, as law teachers, we should be aware of differences within that heterogeneous group of people known as "Law Students," and should also be prepared in some cases to confront the complexities of the fact that we, ourselves, may be simultaneously more and less socially powerful than the students entrusted to our care.

Now I want to raise one further suggestion. If our students are in some sense stretching *from* their previous experiences and their former lives, they are also and importantly stretching *toward* their

futures. Our teaching should better support them in this endeavor. The students who earn top grades and who want to pursue traditional practice with prestigious firms are probably aided well in their stretch toward the future. Our grading system functions to identify them for prospective employers. Our placement offices devote a great deal of time and energy to attract large firms for interviews and to smooth the path for a select number of our graduates into slots in those firms.

But for other students, the system is less serviceable. The situation is greatly complicated, of course, by the fact that, except in exceedingly rare circumstances, we are not teaching our students to enter the same profession that we ourselves have chosen. Only a tiny fraction of our students will become law teachers. We are, in some sense, trying to advise them about a vocation *different* from our own.

If we care about the futures toward which our students are moving, we need to make it our business to learn about the possible routes to economic survival in the actual practice of law in the 1990s. This is not an idle question for our students. Professor Milner Ball from the University of Georgia recently reported to me that he is teaching his students how to write grant proposals, so they will learn something about the process of raising money from the government and from the foundation world, sometimes the only way of supporting certain kinds of law practice. I think that is a great idea.

Professor Marnie Mahoney has been teaching a class at the University of Miami for over two years now that examines different models for small, independent law practices committed to the promotion of social change. She invites practitioners who have created different kinds of successful models to share their experiences with the class.

Some teachers are already much better informed than others about the present realities of the market for lawyers. I, myself, in any event, need to know more. Those of us interested in encouraging our students to represent the underserved have a special obligation to find out about the real world possibilities and constraints today's law graduates will face in trying to do so.

In conclusion, I need to say that if we want to help our students stretch whole and strong from the past and with energy toward the future, or even if we want simply to help them live and learn well in the stressful present, we should recall the scary thought that the most powerful lessons they learn from professors, they learn by watching

and absorbing our behavior. What we *do* is more important in a million ways than what we say.

When Milner Ball came and spoke last year at the University of Tennessee, he posed to the faculty a haunting question. "What is it," he asked, "that we are teaching our students by what we do with our bodies?"³⁴ What does it say to students if what they know of a professor is that she leaves her office and walks down the hall, enters a classroom for an hour, and then makes her exit again back into the scholarly recesses of her faculty suite? Through what landscapes does she travel in her daily life? Where does she stop to work or play? How do her students know? Milner offered no answers, although he did report to us about a couple of actions he has begun taking himself: he and the members of his jurisprudence classes now take their bodies together to homeless shelters in Athens, Georgia.

How is it that we law professors spend our time? How is it that our institutions spend their resources? What are our priorities in action? Since I began with some references to Highlander, perhaps this would be a good point at which to circle back. One of the main things that made Highlander different from most other institutions in the South in the thirties, forties, and fifties was its approach to racial segregation. In the book I quoted earlier, *We Make the Road by Walking*,³⁵ Myles Horton explains this part of Highlander's history to Paulo Freire in the following way:

One of the real problems in the South in the early days of Highlander was segregation, discrimination against people of color, legally and traditionally. One of our principles is that we believe in social equality for all people and no discrimination for any reason—religious, race, sex, or anything else. The social customs were to have segregation. Now how did we deal with that social custom? The way that was used by most people working in what then was called race relations was to talk about it and pray over it and wait for magic changes, I suppose. Some dealt with segregation by having segregated programs, and educating Blacks here and whites there, like it was traditional to do. We chose to deal with it directly, knowing that a discussion and analysis wouldn't change their minds.

34. I think here also of another master teacher, Howard Lesnick. He once said, "[W]hat I want to say is that our teaching should be *informed* by our own ongoing engagement with the questions: 'Who am I? What am I doing here? What should I do with my life?'" Howard Lesnick, *Being a Teacher, of Lawyers: Discerning the Theory of My Practice*, 43 HASTINGS L.J. 1095, 1099 (1992).

35. HORTON & FREIRE, *supra* note 4.

We decided to hold integrated workshops [of rank-and-file Southern workers] and say nothing about it. We found that if you didn't talk about it, if you didn't force people to admit that they were wrong—that's what you do when you debate and argue with people—you can do it. People didn't quite understand how it was happening. They just suddenly realized they were eating together and sleeping in the same rooms, and since they were used to doing what they were *supposed* to do in society, the status quo, they didn't know how to react negatively to *our* status quo. We had another status quo at Highlander, so as long as we didn't talk about it, it was very little problem. Then later on, participants started talking about it from another point of view, a point of view of experience. They had *experienced* something new, so they had something positive to build on. When we started talking about it, it wasn't to say: "Now, look you've changed. We were right and you were wrong." We said: "Now you've had an experience here. When you get back you'll be dealing with people in your unions who haven't had this experience, and they're going to know you've been to an integrated school. How are you going to explain it to them?" So they started, not ever talking about how they had changed or how they had faced this problem, but with how they could explain it to their people. We just skipped the stage of discussion. Of course, it was going on inside all the time, but we didn't want to put it in terms of an argument or a debate.³⁶

At another point in the book, Myles is reflecting about someone who is arguably Highlander's most famous "alumna." Rosa Parks attended Highlander workshops on several occasions not long before she decided, in consultation with her fellow activists in Montgomery, Alabama, that she would take the fateful step of refusing to move to the back of the bus that day. Ms. Parks' decision was profoundly and most fundamentally her own. But she has always been gracious in crediting others, including Highlander, with playing a role in her journey to it.³⁷ Myles reports the following to Paulo:

Rosa Parks talks about her experience at Highlander, and she doesn't say a thing about anything *factually* that she learned. She doesn't say a thing about any subject that was discussed. She

36. *Id.* at 134-35.

37. I was at Highlander in May of 1990 when Rosa Parks came to the Research and Education Center for a memorial service for Myles Horton, who had died at the age of 85 in January of that year. She spoke to the assembled crowd, and granted an interview to a circle of children who were given the opportunity to ask her about her life and her experiences. Memorable, practical, visionary questions posed to her by the children that day included, "What was the food like in jail?" and "Were you afraid?"

doesn't say a thing about integration. She says the reason Highlander meant something to her . . . was that at Highlander she found *respect* as a black person and found white people she could *trust*. So you speak not just by words and discussion, but you speak by the way your programs are run. If you believe in something then you have to practice it.³⁸

38. HORTON & FREIRE, *supra* note 4, at 153.