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Walk the Talk: Creating Learning Communities to Promote a Pedagogy of Justice

Paula Lustbader¹

Law and justice are not always the same. Gloria Steinem²

*If we are to keep our democracy, there must be one
commandment: Thou shalt not ration justice.* Learned Hand³

I. INTRODUCTION

The term “justice” can be elusive and subjective; consequently, it is prone to a range of interpretation. What do you think about when you think about justice? When I think about justice, I think about fairness. I think about having informal and formal processes where the means justify the ends, not the reverse. I think about equity. I think about having two children share the last chocolate chip cookie so one does not have to go without. I also think about proportionality. I think about considering whether one child did more to merit a larger share of the cookie. On a larger scale, I think about human rights, political freedom, and the absence of oppression. Whether justice is discussed on the large scale of human suffering, or the small scale of how to divide the last cookie—justice is justice. Justice is relevant in all contexts, especially in the context of training the guardians of our legal system. Therefore, the same underlying principles of justice that exist in the world need to exist in law schools which are the very environment that professes to teach about it.

Like many students, I came to law school in the pursuit and service of justice. I was very idealistic. Although it is true that our legal system is our formal mechanism to ensure that justice is served, from the first day of law school, I was discouraged from thinking about justice or fairness. Whenever I raised questions of justice, I was treated as naïve and unsophisticated. In fact, early on in my first semester of law school, a

caring professor suggested that to survive law school in one piece, I had to leave my politics and notions of justice at the door. Even if I would have somehow been able to eviscerate these fundamental aspects of my being from my consciousness, I did not want to and felt that I should not have to disconnect from my values to get a law degree. Our legal system is about justice. I thought that to squelch dialogue about it perpetuates injustice. Therefore, I refused to leave my politics, my notions of justice, and my soul at the door. As a result, although at times I was ostracized, I remained whole.

When I entered the teaching academe, I continued my pursuit and service of justice. My professional mission has been explicitly to strengthen the connection between law and justice, as well as expand, not ration, the discourse about justice. Teaching and learning is a transformative process for both professor and student. As a teacher of future lawyers, I feel both privileged and burdened because I realize that what I teach, and how I teach, impacts students and their attitudes, values, and behavior far into the future. It influences how future lawyers will use their power and status to serve their clients and promote justice.

For these reasons, not only do I consciously and explicitly teach about justice, but, overall, I strive to create a learning environment that embodies principles of justice. The dominant pedagogy in most law schools do not embody these principles. Although it is true that this pedagogy is a positive learning experience for many law students, numerous studies suggest that it not only hinders learning for some students, but actually has a detrimental psychological impact on some students.⁴ Many law professors recognize that something needs to change, and a significant number of them are creating an Association of American Law Schools (AALS) section called Humanizing Legal Education.⁵ In addition, there is a day-long session devoted to this topic at the 2006 AALS Annual Meeting.⁶ To help create this change, law schools need to create a learning environment that embodies principles of justice, which requires a diverse student body,

comprised of all types of learners. Moreover, it requires an equitable and fair learning environment, where students are assessed in a multitude of ways on their performance of a multitude of skills.

In this article, I argue that the law school environment does not embody principles of justice. I propose that the development of learning communities and the implementation of an inclusive pedagogy can create a learning environment that not only enhances learning but also promotes discussions and experiences about justice. I then summarize my experience in creating such a learning environment in an alternative admissions academic support course. Finally, I extract pedagogical factors that contribute to the success of the program and make recommendations on how professors can use these factors to create learning environments that are conducive to teaching justice in classrooms.

II. A LEARNING ENVIRONMENT THAT EMBODIES PRINCIPLES OF JUSTICE?

Promoting justice in legal education is more than a lofty and idealistic dream; in fact, there are practical and methodological ways in which to reach this goal. For purposes of this essay, I will define justice by exploring three of its dimensions: distributive, commutative, and social.⁷ We in the legal academe need to examine the extent to which these dimensions are present, or are not present, within our law schools. Although these dimensions of justice could be used to examine many aspects of the law school environment such as academic politics, status of staff and faculty, hiring, promotion, and tenure, the focus of this essay is the promotion of justice for law students.

A. *Distributive Justice*

It is less important to redistribute wealth than it is to redistribute opportunity. Arthur Vandenberg⁸

Distributive justice “requires that the allocation of income, wealth, and power in society be evaluated in light of its effects on persons whose basic material needs are unmet.”⁹ Where is distributive justice when the narrow measurement of success in law school leads to inequitable distribution of rewards? The reliance on statistical indicators and undergraduate grades for admissions and scholarships, as well as the reliance on class rank for on-campus job interviews fail to account for the broad range of skills and experiences that are equally important for success in the profession.

The majority of law schools continue to use LSAT scores as a primary indicator in admissions decisions despite the fact that it was never intended to predict success in law school or the profession,¹⁰ despite evidence that this is an unreliable predictor of graduation from law school,¹¹ and despite indications that over reliance on it may result in discriminatory practices¹² and that it is culturally biased.¹³ This overreliance on the LSAT unfairly privileges those with economic resources because they can afford to pay the fees for a preparation course. Further, the LSAT score only measures an applicant’s current skill level for analytical reasoning and critical reading, not the applicant’s potential to learn those skills within the right type of pedagogy and learning environment.¹⁴ Moreover, even if the LSAT is a more reliable indicator of performance in law school for certain applicants, their scores may not be all that relevant to success in practice, because success in practice requires a broader range of skills.¹⁵ To this end, a team of professors at the University of California, Berkeley Boalt Hall School of Law are currently developing a test to determine a student’s propensity to succeed in practice. Among the skills measured are creativity and innovation, passion and engagement, strategic planning, practical judgment, and building client relationships.¹⁶

Although many law schools have created special admissions and academic support to increase minority applicants’ access to law schools, there has been a gradual conservatism and reluctance from many schools to expand admission criteria.¹⁷ This reluctance has led to a decline in minority

admissions to law schools. According to American Bar Association (ABA) 1995-2005 statistics, while the number of enrollment for white law students increased by 6 percent, the number of enrollment for black students decreased by 2 percent.¹⁸

Many factors have contributed to this decline. First, the pressure to keep entering statistical indicators high for national rankings has caused some schools to raise admissions criteria. *The U.S. News and World Report* factors schools' median LSAT scores in their rankings.¹⁹ Second, high profile challenges to special admissions practices²⁰ may have caused some schools to shy away from these programs. Third, state legislation has been enacted to eliminate them.²¹ Following the 2003 victory for the University of Michigan's School of Law in *Grutter v. Bollinger*,²² where the United States Supreme Court upheld the school's race-conscious affirmative action admission program, many expected an increase in broadening admissions criteria. However, this has not happened.²³ Currently, the ABA is considering changing one of its accreditation requirements from measuring schools' efforts at recruiting minority students to measuring their success in enrolling minority students.²⁴

In addition to expanding admissions criteria, schools should award scholarships with an awareness of their effects on persons whose basic material needs are unmet. When scholarships are solely merit-based, not need-based, distributive injustice is perpetuated. Merit is typically determined by high undergraduate grade point averages and high LSAT scores. This compounds the inequity. Economically disadvantaged applicants can't afford the fees for an LSAT preparation course, which may result in lower LSAT scores. Lower LSAT scores disqualify students from merit-based scholarship. As a result, students in the higher need category, who do not receive scholarship aid, often have to work to supplement their income. In addition to affecting the amount of time they initially have to prepare for the LSAT itself, this overextension continues to create unequal effects once these students are competing with their more

privileged peers in law school. Their need to earn extra income impacts the amount of time they can devote to their studies, which impacts their performance, impacts their grades, and ultimately impacts their career options. I am not suggesting an abolishment of merit-based scholarships, but I am advocating equal funding for need-based scholarships.

In addition to inequity at the admissions level and scholarship level, the selection criteria for the preferred jobs is also inequitable because it is heavily dependant upon a pedagogy and grading system that is inherently unjust. The more traditional pedagogy, with its emphasis on Socratic dialogue, one exam, and limited feedback, privileges one type of learner and personality over others.²⁵ As a result, grades are distributed in such a way that one type of learner is privileged over others because grades are typically based on one exam at the end of the semester, usually an in-class, timed, written exam. Mandatory grading curves ensure there will always be a group at the bottom. The impact of this narrow measurement of success extends beyond the individual student. Arguably, it keeps certain groups of people from the higher-status positions within the legal profession because entry into these positions is dependant upon grade point averages. As such, it perpetuates an injustice within the legal profession because it keeps the power vested in a select few.

B. Commutative Justice

Fairness is what justice really is. Potter Stewart²⁶

Justice cannot be for one side alone, but must be for both. Eleanor Roosevelt²⁷

Commutative justice “calls for fundamental fairness in all agreements and exchanges between individuals or private social groups.”²⁸ One might argue that given the power disparity between professor and student, the entire exchange is fundamentally unfair. This unfairness is especially present in most first year law school programs, where students are placed in a section and have no voice in what they learn, how they learn, or how often

and in what way they will be evaluated. In a number of law schools, the first year curriculum is pre-set with no electives. In addition, students are enrolled into a first year section, assigned professors, and assigned schedules, without having any say in the matter. The lack of ability to take courses that are of interest to them can erode students' sense of autonomy, motivation, and engagement.²⁹ This is especially true when the subjects do not reflect the students' interest or reason for coming to law school. It is important for students in the first year to have at least one elective of their choice and some decision-making power over their schedules.

Furthermore, it is fundamentally unfair for students to be in courses where the pedagogy is inharmonious with their learning styles.³⁰ Notwithstanding the increase in interest in teaching methods, most law school courses (with the exception of legal writing, seminars, and clinical courses) support a narrow type of Socratic dialogue with students in large class settings. This pedagogy is effective for the student who is an extrovert and auditory/verbal learner, but it is not effective for the student who is an introvert and reflective/observer learner. When professors accommodate different students' learning styles, the students learn more and obtain a higher mastery of the course material and improved analytical skills.³¹ Further, this narrow Socratic pedagogy only teaches one type of intelligence—mathematical-logical—and ignores other, arguably equally important, types of intelligence such as inter- and intra-personal.³² The pressure to teach in this way often times comes from the institution itself. Untenured faculty members are under great pressure to be “rigorous and demanding,” which creates a fear of being viewed as “spoon feeding” the students. This, in turn, discourages innovation in teaching. I have heard numerous conversations, not limited to my own institution, where a “popular” faculty member with high teaching evaluations is suspected of being somehow less rigorous.

Moreover, as is the practice in the majority of law schools, it is fundamentally unfair for students to get no feedback during the semester

and only one exam at the end of the course. To be fair, the exam process must be meaningful. Without meaningful feedback during the semester, students have no method of determining whether they understand the material or know how to apply it.³³ This unfairness is exacerbated when the grade they receive on that exam will ultimately determine whether some career options will be available to them.

Finally, it is fundamentally unfair and antithetical to good learning when the content of the discourse is narrow and does not include the particulars of students' lives, values, and interests.³⁴ This can result in having a negative impact on students' motivation to learn and motivation to work in the pursuit of justice.³⁵

C. *Social Justice*

The challenge of social justice is to evoke a sense of community that we need to make our nation a better place, just as we make it a safer place. Marian Wright Edelman³⁶

Social justice “implies that persons have an obligation to be active and productive participants in the life of society and that society has a duty to enable them to participate in this way.”³⁷ There is no social justice when the law school environment and pedagogy do not support different learning styles; do not value, respect, and support diversity; and do not ensure that all students participate. Although the current law school pedagogy is effective for some students, it is not effective for others. This pedagogy creates barriers to social justice because it does not accommodate different learning styles,³⁸ values, and motivations. It also does not allow for varying forms of evaluating performance.³⁹ It also creates barriers when it does not include the experience, values, and voices of all students.⁴⁰ It not only creates barriers for those students who are excluded, but equally important, it creates barriers for all students who miss an opportunity to learn from those with more diverse experiences and ideas.⁴¹

Pedagogy also creates barriers to social justice when it silences students.⁴² Students can be silenced when they perceive that the learning environment is hostile,⁴³ when they feel that how they respond will impact impressions and reinforce stereotypes of their entire ethnic or racial group,⁴⁴ and when they fear that they will be ridiculed. In institutions that are supposed to be teaching its students about justice, classrooms should be a place where students are free from such constraints.

These barriers make it difficult for some students to be active and productive participants in the law school community.⁴⁵ If social justice means we have an obligation to ensure all members of the community have an opportunity to make a contribution, how can we expect students to do that for their clients and their communities when they do not learn how to do so with their classmates?

A pedagogy that embodies social justice supports an environment that promotes robust, honest, and transformative dialogue. Students need to feel free to express their ideas and opinions, and they need to be able to challenge themselves and each other without fear of ridicule, disrespect, or disenfranchisement. They need to value their classmates and learn from them. They need to ensure that each of their classmates has the opportunity to make a contribution. When the law school environment does not require civility, or instill a value of mutual respect among the students, justice is not served. Two memorable incidents occurred during my law school experience, which exemplify the lack of civility and mutual respect typical at many law schools.

The first incident occurred during the middle of spring semester of my first year of law school. A group of students began to play a “bingo game” where they took bets as to which classmate would say something off-point or “stupid.” When one of those students spoke, you could hear a whispered wave of “bingo, bingo, bingo . . .” throughout the class. It took me about a week to figure out that this was in fact what they were doing. After I figured it out, I asked one group member what they were doing and

suggested this was uncompassionate and mean spirited. He responded, “Oh, lighten up, don’t be so serious and intense. We are just trying to break up the monotony of the day-to-day grind.” He went on to explain that it was a harmless way to stay engaged in class because it required them to listen to the comments of their classmates. I agreed that staying engaged in class was a good goal, but I disagreed that it was harmless. Having fun at the expense of others is never harmless. Fortunately, after our conversation I no longer heard the whispered wave of “bingo, bingo, bingo.” I learned later that the group continued to play the game; they just compared score cards after class. I suspect that my name appeared on the bingo cards after that.

The second incident occurred during the first semester in my second year, while I was taking Professional Responsibility. There were seventy-five students in the class. When asked what I thought about the rule that allows a lawyer to represent a new client in an action against a former client, I responded that even though it was permissible, I would not do it because the former client would feel betrayed. A student on law review, who was seated across the room and several rows in front of me, turned his seat to face me directly. As he glared at me, he shouted, “Well, if you think that, you shouldn’t be a member of the profession!” The class fell silent. I was stunned that the comment was directed so personally against me. This student and I were often on opposing sides of the issues raised in class, but I never expected, what felt like, a personal attack. I was even more stunned that the professor did nothing to check this student’s behavior.

After an awkward pause, the professor called upon another student to elicit his opinion. I remained silent for the duration of the period. I disengaged from the discussion and seriously pondered whether to quit law school. I did not want to enter a profession where this lack of compassion and professionalism was allowed to proliferate. Granted the statement itself was not a big deal. However, the statement did not occur in a vacuum. It occurred amongst an intimidating classroom environment, where only a

small percentage of people had the courage to volunteer their opinions. In the end, I felt betrayed by the professor and my fellow students.

A handful of classmates came up to me after class to whisper that they agreed with my opinion, but none of them had the courage to speak up in class. “Where were you when I needed you?” I asked. Never being one to quit without letting my thoughts be known, I went to speak to the professor the next day. He was taken aback. He had wondered why I had not said any more in class. From his perspective, he was watching a lively debate. From my perspective, I explained, he failed in his duty to ensure the classroom was safe. More importantly, by allowing the uncivil behavior to go unchecked, he tacitly approved of it. Moreover, I argued, allowing such behavior to go unchecked directly contributed to the lack of civility in practice. If students do not learn appropriate standards of conduct in law school, where will they learn it?

Sadly, examples such as these are not purely historical. They continue to occur daily in our law schools.⁴⁶ Faculty and students witness uncivil and disrespectful conduct such as the bingo game over and over again—the smirks and rolled eyes when a student speaks, the personal slights, the hiding of resources, the unprofessional behavior, and the instant messaging during class making fun of other classmates.⁴⁷ To a much lesser degree, we have also witnessed many uncivil, disrespectful, and unprofessional personal attacks between students.⁴⁸ And we have witnessed the impact of this type of conduct. We have seen the silencing of certain students,⁴⁹ the reluctance of many students to volunteer an original opinion, the alienation of those students who sit alone at the snack bar, and the psychological distress of many students that can lead to clinical depression and anxiety disorders.⁵⁰ When students are silenced and alienated by an atmosphere of judgment and hostility, productive learning communities cannot be built, and justice cannot be served.

There is nothing inherent about the study of law that merits such an uncivil, disrespectful, and often hostile environment. True, law school is

competitive in that students compete for grades that will get them the top jobs. With the continued increase in tuition and cost of living, the economic pressure on students is greater than ever before. Law firms continue to select students using the narrow criteria of class rank and grades, thus exacerbating the pressure for students to get in the top ten percent of their class. Making a student's grade depend on only one exam grade, and only evaluating a narrow range of skills, implicitly devalues and ignores the array of skills that are actually necessary for success in practice. Further, the lack of feedback from the professor puts untenable amounts of pressure on students and inhibits their ability to form learning communities with one another. When they feel unsure of how they are doing, it is more difficult for them to engage in helping others learn.

The current teaching methods in law school, though evolving, still foster fear and disengagement. The vast power disparity between the professor and students results in students competing for the few crumbs of accolades that professors hand out. Large class size, especially in most first year programs, results in a lack of meaningful dialogue among students. Year after year, I have observed that groups of students who are in the same section for nine months do not know the names of more than a handful of their peers. I am continually struck by the fact that nine months is a sufficient gestation period for the development of human life, yet within that same time period, the majority of law students do not have adequate time to develop human relationships with more than a few other students. This is especially troubling when one realizes the vital role that networking plays in ensuring success within the legal profession. The professors' reluctance to use active learning and cooperative learning techniques deprives students of the opportunity to learn from the vast and diverse experience of their colleagues. Moreover, the lack of interactive learning does not teach and reinforce interpersonal skills, compassion, and mutual respect.

The scope of distributive, commutative, and social injustice is broad in legal academe; the ramifications reach far into the profession and our justice system. Many of the issues involving justice require major paradigm shifts at the institutional level. The level of change necessary to truly effectuate justice is daunting and seems impossible; it is easy to feel powerless and disheartened. Nevertheless, numerous faculty members have marched on in the cause of justice. They work within their institutions, committees, professional organizations, and classrooms to ensure that, wherever possible, justice and community building are present. A handful of shifts are taking place to address distributive injustice, such as expanding admission criteria, developing academic support programs, revising curriculum, and granting need-based scholarships. In addition, behind the doors of many classrooms, some professors address commutative injustice by employing methods to empower students. For example, in some classes professors give students a menu of possible topics, and the class selects the topics. Others allow students to select two out of three exam questions to answer, select the method of evaluation, or even determine the weight of each assignment.

Finally, some professors are making strides to promote social justice by creating learning communities and employing an inclusive pedagogy. Learning communities are intentional groupings of students for the purpose of creating positive learning environments that support learning and encourage a sense of belonging among the group members.⁵¹ The pedagogy of learning communities includes particulars of each student's life and methods that value all the learning styles of all the members.⁵² These professors realize that students need an environment that promotes robust, honest, and transformative dialogue. Students need to feel free to express their ideas and opinions, and they need to be able to challenge themselves and each other without fear of ridicule, disrespect, or disenfranchisement. They need to value their classmates and learn from them. I believe that the

greatest hope for creating a more just learning environment lies in the awareness of the importance of creating community.

III. LEARNING COMMUNITIES THAT PROMOTE PRINCIPLES OF JUSTICE:

Ubuntu is the essence of being human. It speaks of compassion and generosity, of gentleness and hospitality and sharing because it says my humanity is caught up in your humanity. I am because you are. A person is a person through other persons. An offence breaks a relationship, ruptures an interconnectedness, a harmony so essential for a full human existence. Desmond Tutu⁵³

The term learning community has varying definitions and has been applied to different learning environments. At the undergraduate level, a learning community often refers to the creation of cohorts of students, who take a grouping of two or more courses organized around an interdisciplinary curriculum. Sometimes, there is also an intentional building of community through extracurricular activities as well. The purpose of these learning communities is to enhance learning and foster connections of disciplines, students, and faculty. The pedagogy employed in these communities is active and promotes reflection.⁵⁴ Further, it is intentional. Merely putting students together in a group does not in itself ensure a positive learning experience. An effective learning community respects and values diversity, includes an integration of knowledge and learning, practices active learning, provides assessment and reflection, and supports community.⁵⁵

A learning community respects and values diversity when it provides for inclusion and achievement of underrepresented groups.⁵⁶ As such, criteria for access and admission into the community might include factors other than statistical indicators. Additionally, in learning communities there is an institutional commitment to maintain diversity programs where the climate is inclusive and supports inter-group relations; the curriculum includes diverse scholarship and content, and the pedagogy employs a variety of

teaching methods.⁵⁷ In an effective, harmonious, and inclusive learning environment, students who previously remained silent will voice their ideas.⁵⁸

Integration is another key principle of a learning community. Learning in this context is both integrated and integrative. The content of the curriculum is integrated: it is designed to provide students with “a unified view of knowledge.”⁵⁹ Also, the process of learning is integrative: it motivates students to deepen cognition by giving their own meaning to what they are learning.⁶⁰ Integration is facilitated by active learning.

Active learning is an essential principle to good teaching practices⁶¹ as well as to forming learning communities.⁶² Active learning exercises support the development of community and help students appreciate their interdependence. These exercises also provide a meaningful context for the learning enterprise and promote interactive learning by increasing the students’ role in their own learning.⁶³ Lessons learned through active learning can strengthen community, especially when assessment and reflection are built into the learning enterprise.

Assessment and reflection are part of the core principles of learning communities because they increase students’ awareness of how they learn and how their peers learn.⁶⁴ Assessment requires professors to provide clear objectives and evaluation criteria. By doing so, professors provide feedback that facilitates students’ meta-cognitive process. In this way, assessment is part of the learning process and not just evaluative at the end of the course.⁶⁵ Reflection is also integral to the learning process. It involves critical thinking about what was learned, what strategies worked best, and ways in which learning approaches may be changed for the next task. Students who develop these self-awareness and reflection skills deepen their learning. Finally, through reflection of collaborative exercises, students can assess and reflect on their own individual role within the group and on how others contributed to the group process,⁶⁶ all of which facilitates community building.

The final principle for an effective learning community is the community itself. An effective learning community is interdependent and collaborative.⁶⁷ Thus, an inclusive community is a key factor in student engagement. The significance of a student's feeling of belonging and the importance of the relationship to one's peers and faculty has consistently been validated in numerous studies of undergraduate students. Moreover, research on retention rates of students show the importance of establishing meaningful relationships within the first six weeks of college.⁶⁸ For students of color and those who are the first generation in their families to attend college, the need to be included and valued as part of the community is even more necessary.⁶⁹ It is also essential for these students to be able to retain their own heritage and values and feel part of the new community without feeling that they have sold out.⁷⁰

Imagine how learning in law school might be transformed with the conscious development of learning communities. Imagine how the bingo game would be played if students were part of a learning community where they each felt responsible to ensure that each member participated. It is possible that they would still play bingo, but it might be from a positive angle. I once suggested that a colleague play a different type of "bingo" with her students. Her students were having trouble identifying policy arguments. She had the students shout "bingo!" when they thought they heard a policy argument. She would then ask that student to articulate the policy. If the student was correct, the professor tossed the student a piece of candy. By the end of the term, the students were amazingly fluent with the policies. Imagine how the class, where I was verbally chastised by another student, would have been different if we were part of a learning community. The student may not have phrased his opinion in such a disrespectful manner, or, even if he did, the other students might have intervened, and certainly the professor would have used the moment as a teaching opportunity to discuss the value of diverse ideas and the importance of civility.

In my own teaching, I have seen the positive impact of creating learning communities and using pedagogy within the law school setting. I developed a learning community in the small arena of the Academic Support Program at Seattle University School of Law.

IV. CREATING LEARNING COMMUNITIES WITHIN THE ACADEMIC SUPPORT SUMMER COURSE

The Academic Support Program at Seattle University School of Law⁷¹ is called the Academic Resource Center (ARC). This consists of a seven-week summer course and a tutorial program during the academic year. This Program is for students admitted into the school through our alternative admission program. These are applicants who do not meet the statistical requirements of the LSAT and undergraduate GPA for regular admission; who have been culturally, economically, or historically disadvantaged; who have not been in an academic setting for a number of years; or who have learning or physical disabilities, but possess certain indicators that show they can successfully compete in law school. Such indicators include relevant work experience or relevant course work at the undergraduate level.

By creating an access point for non-traditional students, ARC promotes distributive justice. The primary purpose of the Program is to diversify the student body and the legal profession by providing diverse persons access to legal education and helping these students succeed and excel. At the same time, the Program also promotes social justice because creating diversity within the legal profession increases the representation for traditionally underrepresented communities. Furthermore, the Program promotes commutative justice because it enriches the learning experience of all students by offering everyone a support program on academic and non-academic issues as well as by empowering diverse students to fully participate in the school.

The ARC program is extremely successful. In its nineteen years, although traditional entry indicators predicted that these students would not succeed, over 650 students matriculated through the program and are now practicing law. Many excelled in law school. Two ARC students have been named faculty scholars, one graduated number one in his class, and several ended up in the top 20 percent of their class. In addition, ARC students have made significant contributions to the law school community by participating on student committees and in student government. ARC students have consistently participated in the school community, serving on the boards of moot court, alternative dispute resolution, as well as serving in the Student Bar Association (SBA) and other student groups. Seven of the recent SBA presidents were ARC students. Alums from this program are practicing as partners in large firms, mid-size firms, small firms, and solo practices. Some alumni are judges, while others are in the public sector, as assistant attorneys general, prosecutors, and defense attorneys.

When ARC was first developed, it was one of a handful of programs in the country. The school has continued to devote resources to the program and withstood the periodic challenges of non-minority students to its existence. The program has a \$3.5 million endowment for scholarships for students in the program. These scholarships are both merit and need-based, thus furthering the program's objective of achieving distributive justice. Additionally, the program's director has tenured faculty status. Such status is important as it speaks to the value the institution places on the program and its students.

This program embodies distributive justice and promotes diversity because its purpose is to provide access to law school for underrepresented groups and to provide support for these students to excel. The program has achieved its goal of increasing access to legal education for minorities. Between 1995 and 2005, there was an average of 25.4 percent minorities in the first-year class.⁷² Without the ARC program, there would have been an average of only 16.0 percent minority enrollment.⁷³ ARC students

represented an average of 37.1 percent of the total minority enrollment.⁷⁴ Over the years, the ARC class has represented as low as 28.6 percent of the total minority enrollment in the in-coming class and as high a 55.7 percent.⁷⁵ As previously indicated the majority of the students in the summer program are even more diverse. Between 1995 and 2005, 83.7 percent of the summer program students were minorities.⁷⁶

The Academic Resource Center summer course is the foundation of the program. This course practices core principles of learning communities: diversity, integration, active learning, reflection/assessment, and community development.⁷⁷

To help students value the diversity that their colleagues bring to this learning endeavor, ARC teachers also use a variety of active and collaborative learning exercises. This not only promotes community building but also promotes substantive comprehension. Students collaborate on art projects, skits, peer-critiquing, oral-arguments, outlining, and analyzing problems. These learning activities provide opportunities for students to blossom through their own learning strengths, to stretch their learning styles, and to develop new learning strategies. In most law school classrooms, there is a premium on the extroverted verbal learners. These types of learners shine in the Socratic dialogue and gain respect from their peers by their performance. However, the more reflective-observer learner does not flourish or get a chance to shine in class. But, with the small-group-learning exercises, such as the art projects, this type of learner has the opportunity to gain respect from his or her peers. These activities also promote trust and confidence within the group. Peer-critique exercises⁷⁸ also allow students to learn to rely on each other for feedback.

The course consists of integrated components that develop a core understanding of criminal law, legal writing, and analytical skills and how each of these components interrelates with the others. Faculty members frequently meet with each other and plan integrated sessions. Each week the professors integrate and build upon the learning skills, developmental

stages, and substantive law covered in the previous week. Moreover, the curriculum is also integrative in that much of the class time is devoted to having students complete learning exercises that deepen their cognitive structures and give meaning to the substantive information they are learning.

Assessment of learning and reflection are built into the course. ARC students receive a sample exam each week, followed by an exam debrief that is team-taught by two faculty members. Students are given a grading checklist and analysis sheets, designed to help them learn what is expected in an exam answer. They also receive individual critiques by teaching assistants or peers. In addition, students are regularly asked to reflect on their learning process, to evaluate strategies that work for them, and to modify strategies that do not work. Students discuss their insights in large group discussions so others can benefit from insights gleaned by their peers.

Although the students gain much from the explicit instruction and analytical skills development, an equally important factor in the success of the program is the sense of community the students develop during the summer.⁷⁹ We intentionally create this community through the ARC pedagogy, curriculum, and extracurricular activities. The Program occurs in an atmosphere of mutual respect with a high emphasis on the whole person and the value of diversity. ARC teachers deliberately encourage students to learn about each other so they develop appreciation and compassion for one another. The goal is to help students realize from their first day of law school that they are entering a respectable profession, that their individual goals matter, and that they are more than just what they do in the law school.

To foster community, we create opportunities within the classroom and out of the classroom for students to interact. To help students learn each other's names, a priority of the very first session is to have the professors introduce themselves to the class, and in turn, to have the students introduce

themselves. There are name cards for students to place in front of their seats and name tags are provided for the first few days.

To help students learn more about each other, there are “talking surveys” throughout the semester. Questions are posed to the class, and students raise their hands if they agree with a statement. They then look around the room to see who else has their hand up. This enables the students to identify other students who have intersecting interests, ideas, and values. For example, in the first week, the survey questions are non-threatening, such as who is married or in a serious relationship, who is from Seattle, who has children still at home, who likes to hike, and who likes a certain type of movie. As the environment becomes safe, by virtue of the core principles of establishing a learning community, the questions are directed more towards the students’ values and attitudes. In addition, to help students learn about each other’s goals, a few weeks into the semester they are asked to write about their purpose in becoming a lawyer and share their writing with the class.

ARC creates opportunities for students to share more about themselves and learn more about each other through a variety of learning exercises. For example, three weeks into the course, students engage in a networking exercise where they practice introducing themselves to each other. This is constructed similar to speed dating. Before the exercise, each student writes out two interesting things about him or herself and gives that information to the professor for use later in the exercise. Students are then put into four groups. Each group forms a circle. Two circles then combine into one circle, with one inside the other. The students in the inner circles face outward; the students in the outer circles face inward. They greet the person whom they are facing. They have five minutes to interact and then they rotate; the inner circle stays put, and the outer circle moves clockwise. This way, the students have five minutes to meet everyone in the other circle. The circles then rotate and go through the same process until each circle has interacted with the other circles. The students have fun together

while they learn more about each other. At the end of this exercise, students are given a form with a list of students' names and a second list of all of the interesting things they have done. Students then try matching the interesting things with the students who did them. The answers are reviewed with the whole class. The result is a fun way for students to learn more about each other and to value and respect what each of them brings to the law school environment.

Finally, to fortify the community, we have weekly social functions. These social functions help students interact in a nonacademic setting, help them relate to each other more holistically, and help to reinforce that they are part of a larger community. They begin during the first week of classes with a reception at the Dean of the Law School's house, and they end with an after-exam celebration at the ARC Program Director's house. In between, ARC hosts functions with upper-level students and alumni of the program, mock job interviews with alumni, and a reception at the Washington State Bar Association. At this reception, the students are welcomed into the legal profession, helping them believe that there is actually a place for them.

The community formed by ARC demonstrates how the program embodies principles of social justice. There is little trace of hostile or unhealthy competition among the students. They are assured that they can ask questions without feeling "stupid"; they can express opinions without having eyes rolled or being personally attacked for their views; and, as a result, they can be open to learn from one another. Consequently, this program is highly successful. Students whose quantitative entry indicators predicted they would not succeed in law school not only succeed, but many do extremely well, both by traditional and non-traditional standards. A high proportion of students from this program take leadership positions in student government, moot court, and pro bono activities.⁸⁰ Over the years, any potential stigma that some students may feel for starting law school in the ARC program transforms into pride. Students seek opportunities to

promote the program and to help incoming classes. For example, this year a group of first-year students organized a “book drive.” They plan to collect students’ first year books and give them to incoming ARC students as a way to welcome them. This ARC community these students establish sustains throughout law school. The bonds they develop within the academic setting often extend beyond the borders of the school. Students develop deep, meaningful, and lasting relationships with one another. They attend each other’s weddings, help each other through divorces, hold each other’s baby showers, and visit classmates in the hospital; in short, they always feel that their community “has their back.”

Moreover, once they enter the profession, the ARC students embody the principles of justice they learned and experienced. They promote distributive, commutative, and social justice in their work settings. For example, many alumni return to their communities to provide pro bono legal representation. Many take leadership roles within their minority bar associations and their local communities. Furthermore, they continue to value their colleagues and treat them with high regard. They report that relationships they formed during that first summer continue into their professional lives. The ARC program creates an extended “family”; when students are in practice, they have an automatic kinship with others who were in the program, even if they were in different years. When they are on hiring committees and learn that the applicant is from ARC, there is an instant bond. When they are on opposing sides, there is mutual respect and trust. When they can assist each other, they do so.

This summer program demonstrates how the building of community not only enhances learning, but also enhances professional development. Granted, not every class has the luxury of time, resources of a collaborative team of professors, teaching assistants, and small class sizes that foster a deeper connection among students. Still, promoting a more just community for learning can happen in larger classes.

V. CREATING LEARNING COMMUNITIES IN LARGE CLASSES

The hallmark of the community of truth is in its claim that reality is a web of communal relationships, and we can know reality only by being in community with it. Parker Palmer⁸¹

If we have no peace, it is because we have forgotten that we belong to each other. Mother Teresa⁸²

A pedagogy that embodies principles of justice and promotes community begins when professors realize the value of establishing a learning community within their classes. Even in larger classes, professors can create learning communities by respecting diversity, by incorporating curriculum that is integrated and integrative, by using active learning exercises, by providing assessment and reflection, and by fostering community.

Respect for Diversity

Professors demonstrate respect for diversity when they use a variety of teaching and evaluative methods, when they correctly pronounce students' names, and when they recognize the students' range of diverse values, perspectives, and motivations.

Using a variety of teaching and evaluation methods demonstrates respect for diversity. A variety of learning styles and intelligences are represented in any given class.⁸³ In addition, teaching methods must match the skills we are teaching.⁸⁴ The challenge for professors is to build upon the natural strengths of each student and help him or her expand his or her repertoire of learning styles. For example, a student who has strong interpersonal skills and intelligence will more effectively learn the logical mathematical intelligence when the inter-personal skills are also engaged and rewarded.⁸⁵ To meet this challenge, professors employ a combination of methods such as problem solving, experiential, collaborative, writing, active, and role-playing exercises.⁸⁶

In addition, professors respect diversity when they provide a variety of evaluation methods so students can demonstrate what they have learned.⁸⁷ As previously mentioned, there is distributive unfairness when grades are based on one type of exam that favors one type of intelligence and learning style. Professors can broaden the basis for assigning grades by having a combination of types of exam questions, such as an exam with three components: a take-home portion, multiple-choice portion, and an in-class essay portion. Another option is to have a mid-term exam or paper or presentation that counts for part of the grade. Some professors give a grade boost for class participation. While this rewards the verbal learner, it disadvantages the reflective learner. To remedy this disparity, some professors give a grade boost for participation in class and/or participation on an on-line threaded discussion. Finally, whatever measurement of performance professors decide to employ, it is important that they make their expectations explicit and clear. This will promote commutative justice because the process will be more fundamentally fair. The more professors can provide sample questions and examples of good answers, the more they will help all their students perform well.

In addition to providing students with the opportunity to learn in their preferred learning style and to have their performance based on more than one type of exam, it is a long standing principle that learning students' names helps establish a mutually respectful learning environment.⁸⁸ There are a variety of ways in which professors can make an effort to learn students' names.⁸⁹ They can put students' pictures on the seating chart, have students place name cards in front of them, put students' pictures and names on index cards and then review them, or have students step before a video camera and say their names and then review the video. Even if professors do not memorize all their students' names in the large classes, they can call on students from a seating chart or roster. Names are important ways in which people distinguish and define themselves. When professors are not comfortable with pronouncing names, they might avoid

calling on that student. This results in social injustice because it prevents that student from fully participating in class. One minority student commented that when professors do not know how to pronounce her name they treat her as if she does not have a name.⁹⁰

Additionally, if professors cannot pronounce a student's name, they cannot help other students learn how to pronounce the names of their colleagues, which may create barriers to interacting with them. Moreover, if professors do not try to correctly pronounce names, it signals to other students that it is not necessary for them to try to correctly pronounce them either. Finally, it does not prepare students to work with clients who have diverse surnames. To learn the correct pronunciation of names, professors can write out the name phonetically on a card. They can also ask the student for help in learning the correct pronunciation. For instance, I usually ask the student to repeat his or her name and then say it back to the student three times. In my experience, students are not offended when I ask them for help in pronouncing their name because in asking, I tell them that it is important to me that I learn the correct way to say their name.

Varying teaching styles, providing different forms to evaluate student performance, and learning students' names are significant ways professors can respect diversity, but these are not sufficient. Professors must also include diverse perspectives and content that is relevant and representative of students' lives.⁹¹ Again, inclusion such as this promotes social justice in the class by exposing all students to the wider range of experiences and values, not only within their class, but within the larger community. Professors can provide more inclusive content by having supplemental readings; by bringing in guest presenters, either in person, by video, or teleconferencing; by showing films; and by assigning groups to present arguments or different perspectives about a subject. It is useful to assign group presentations involving outside perspectives, rather than their own perspectives. This requires the students to consider a different viewpoint. In this way, students will be encouraged to develop empathy and compassion

for diverse cultures and peoples. Closely related to inclusion of viewpoints is the concept of integration.

Incorporate an integrated and integrative curriculum

Another core principle of learning communities is integration. Some schools have elected to have integrated aspects to their curriculum, often integrating lawyering skills such as writing, advocacy, and clinical components into other courses.⁹² Others have integrated professional responsibility across the curriculum.⁹³ Some have courses that integrate all of these skills classes and professional responsibility into one course.⁹⁴ Professors can incorporate integrated curriculum concepts into their own classrooms even if their school does not have a more formal integrated curriculum. The point of integration is to help students understand the sum of the parts of their education. Therefore, one easy way to fulfill the objectives of integration is for professors to know what students are learning in their other courses so they can refer to them when relevant and help students make the connection. After all, in real life, there is much interconnection among doctrinal areas and skills. Moreover, professors can integrate skills, concepts, policies, perspectives, and doctrinal areas that are related to the subject they teach. They do not necessarily have to digress and teach all of this, but they can simply mention those related areas when they logically arise. They can also integrate content through supplemental materials, guest presenters, including other faculty members, collaborative teaching, and by asking students how the subject connects to their other courses.

In addition to helping students integrate content, professors can help students develop an integrative process for learning. To help students deepen their cognitive structures and increase the meaningfulness of the materials, professors can encourage students to represent what they are learning in different mediums. Having students make presentations, visual representations, digital movies, or even linear outlines enables them to

connect what they are learning to their own experience and reference points.⁹⁵ When the students present these, the professor can easily determine whether the student understands the material. Professors can facilitate integrative learning by employing active learning and reflective exercises.

Employ active learning techniques

Active learning helps build learning communities because it enables students to engage more fully with the material and to reflect on their learning. Thus, students who are active learners can be more involved in the learning endeavor and have more to contribute. These exercises also help students' integrative processes. There are a multitude of active learning exercises that are collaborative, such as "pair and share", peer critique, role-playing, group writing, group presentations, and simulations. These types of exercises can further principles of social justice because they increase students' tolerance of diversity.⁹⁶ Active learning exercises that require no interaction with peers include minute papers, free-writing, and focus writing. While there are many types of active learning exercises, the important point is that whatever the form of the exercise, active learning is learner-centered and results in students taking more responsibility for their own learning.⁹⁷ These types of exercises not only facilitate integrative processes, but are also useful for assessment and reflection.⁹⁸

Provide assessment and reflection

Assessment and reflection are integral to the learning process. Learning assessments provide clear and explicit learning objectives and criteria for performance evaluation. They also provide valuable feedback for both students and professors. Historically, professors viewed assessment for the sole purpose of grading and ranking students. However, more and more professors are realizing the value of formative assessment to evaluate the effectiveness of study strategies employed by the student as well as the

effectiveness of the teaching strategies employed by the professor.⁹⁹

Although there is a rich and developing body of literature regarding formal learning assessment and outcomes, there are many things professors can do that are less formal. For example, the first part of assessment is for professors to clearly articulate their objectives and expectations.¹⁰⁰ Professors can articulate their expectations by including them in their syllabi or, less formally, they can give focus questions with their assignments, sample questions with grading rubrics and sample answers, or they can model modes of analysis in the classroom. In addition, professors can provide students feedback by giving them quizzes.¹⁰¹ Some professors use the electronic quiz function on the classroom website or response systems and other polling devices.

Professors can also use self-critique and peer-critique exercises.¹⁰² It is essential for professors to have very specific and clear guidelines for these exercises to be most effective. In my experience with peer-critique exercises for practice essay exam questions, I provide a grading rubric and a sample exam. I have the students turn in their papers with a code instead of their name to protect those who worry about appearing less smart than others. I also have the students who are giving the critique write their name on the paper. This increases accountability for their critique and also provides an opportunity for the student to contact the student who gave them the critique if they want additional feedback. In response to my survey of whether the peer critique exercises helped their learning, the majority of students usually indicate that they learn as much from critiquing their peers as they do from receiving their peer's critique.

Reflection of the learning process is central to learning communities in any educational environment. In learning communities, students are provided opportunities and tools to think about their own learning and how they might modify strategies to improve. Teaching reflective practice to future lawyers is arguably even more important because developing habits of self-reflection and awareness in law students can result in more satisfied

lawyers and clients.¹⁰³ Moreover, it is important to incorporate exercises for students to not only reflect on their own values and motivations, but also to reflect on principles of justice and how they can work toward promoting justice in their legal practices. To be effective in teaching reflection, professors should model reflection themselves.¹⁰⁴ Reflection exercises include reflective writing and journaling.¹⁰⁵ They also include collaborative reflections in pairs, small groups, or large group discussion debriefings. The effectiveness of collaborative reflections depends in part on how well the sense of trust in the community is established. Thus, the professor who fosters community will better be able to encourage reflection.

Foster community

Professors foster community by learning more about their students' experiences, by helping students learn and respect more about each other, and by providing a variety of exercises that encourage students to interact with each other.

Many professors have incorporated practices to help them learn about their students' backgrounds, experiences, and goals. These practices can easily be modified to help students learn more about each other. For example, professors ask their students to complete a short, one-page questionnaire, and they might even attach students' pictures to each page. To help students learn about each other, professors could copy and distribute this page or post it on the class website. They can also have students create a profile of themselves and have those posted. Some professors meet with small groups of students for brown bag lunch or coffee or tea and have informal chats. To do this, they either create a sign up sheet or assign groups to a specific time. These meetings allow the students in the smaller group to learn something about each other.

In addition, professors can promote community by helping students learn each others' names. While it is not practical to have a class of ninety students introduce themselves at once to the class, it is practical to take ten

minutes in each class to have ten students introduce themselves. At the end of nine or ten weeks, each student will have stood up and said their name and offered other personal details, such as where they went to undergraduate school. This will not only introduce students to each other, but it will also give each student the opportunity to speak in front of the class before they are called on to answer difficult questions. Another option is to copy and distribute the class seating chart with student pictures for each student. Also, another option is to post a chart or a video with students' names and pictures on a class website. Still, another option is to have students design their own webpage or post a photograph with relevant information about them.

To help students learn more about common areas of interests, attitudes, and experiences, professors can use the talking survey (described at p. 12, *supra*). To help students mix and network, professors can use pair and share exercises, where they ask a question and have students discuss it with the person next to them for two minutes. They also use small group exercises and can reassign the groups periodically to give students an opportunity to work with different students. Moreover, professors can occasionally change the seating chart. To help students learn from each other and deepen their listening skills, they can require students to paraphrase the preceding student's comments. In addition, they can use email lists and websites to organize smaller learning cohorts and discussion groups within the larger class.

When professors help students learn more about each other through such practices, principles of justice are served because as students' awareness of and appreciation for their interconnectivity, the more they will be able engage in dialogues about justice in meaningful and transformative ways. In addition, they will be more vigilant about promoting justice and less tolerant of injustices when they occur.

As more professors embrace the notion that they can enhance the learning environment and promote principles of justice within their classrooms

through the development of learning communities, the atmosphere in the larger school will also begin to embody principles of justice.

In addition to transforming the classroom dynamic, institutions can create learning communities for the purpose of promoting social justice within the law school's larger environment. For example institutions can explicitly teach and encourage community development in their orientation programs, and reinforce these communities through on-going lecture series. Institutions can develop leadership and collaborative training for students involved in extracurricular activities such as the Student Bar Association, Law Review, Moot Court, Alternative Dispute Resolution. Finally, institutions can facilitate the bridging of law school communities and the professional communities through an active career/professional development programs.

VI. Conclusion: Walking the Talk

In every community, there is work to be done. In every nation, there are wounds to heal. In every heart, there is the power to do it. Marianne Williamson¹⁰⁶

We teach who we are. Parker Palmer¹⁰⁷

In most law schools, the curriculum and pedagogy do not embody principles of justice. This, in part, is the result of distributive injustice because of the increased competition for grades, jobs, recognition, scholarships, and many other potential rewards. It is also the result of commutative injustice because it is difficult for students to interact with each other when they feel powerless over their destinies. Moreover, it is the result of social injustice because some students are continually excluded from the dialogue. A viable learning community would work to help students embrace their interconnectedness and, consequently, promote social justice. Such learning communities reinforce the importance of full

participation and the obligation of each member of the learning community to ensure that each has an opportunity to participate.

Professors help students build viable learning communities by valuing and respecting diversity; by creating a curriculum that is both integrated and integrative; by employing various teaching methods, especially active learning; by providing opportunities for assessment and reflection; and by promoting community development. In establishing these learning communities, professors can model and promote social justice within their classrooms.

Authenticity in all interactions is another way to teach justice. Whether in the classroom, the office, the hallway, the internet, or at a social event, students learn by watching how professors conduct themselves. The professor who professes about justice in the classroom, but treats students as peons, limits discussion of ideas and/or gives an exam that is not reflective of what was taught is not modeling justice. On the other hand, the professor who does not mention the word justice in class but who treats students with respect, encourages a wide range of ideas and gives fair exams is modeling justice. Imagine the powerful experience for students when the professor both professes and models justice.

A first step in teaching justice is to be aware of the injustices that occur. Even if teachers have little or no power to influence, they can be vocal witnesses and name the injustices around them. Where they have power and influence, they can work towards eradicating or mitigating injustices. Within the confines of the classroom, teachers have the most power and influence. It is true that not every teacher has the ability to teach a special class like the ARC summer course, or to develop a larger scale orientation program for the entire school, but all teachers can walk the talk of justice by exemplifying it. Even those teachers who are constrained by grade curves, pedagogical conventions within their institutions, the threat of tenure, class size, or time famine, can model justice in their classes. Teachers who embody justice treat students with respect. They use the power of the

podium to ensure students treat each other with respect; they make room for all voices to be heard; they consider the whole student; they learn students' names; they take five minutes after class to chat with students; they are accessible; they validate when possible and never humiliate; they allow students to see behind the curtain; they genuinely care about students; and they have faith in their students. These teachers influence their students long after those students finish their class or graduate.

How we treat our students will largely influence how our students treat their colleagues and their clients. Let us leave a powerful legacy for future lawyers, our students, by providing them with first-hand experience of authenticity and justice.

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² Justice Quotes, http://www.wisdomquotes.com/cat_justice.html (last visited Mar. 15, 2006).

³ Learned Hand, *Thou Shalt Not Ration Justice*, Address before the Legal Aid Society of New York (Feb. 16, 1951).

⁴ See, e.g., Kennon M. Sheldon & Lawrence S. Krieger, *Does Legal Education Have Undermining Effects on Law Students? Evaluating Changes in Motivation, Values and Well-Being*, 22 BEHAV. SCI. L. 261 (2004); Mary E. Pritchard & Daniel N. McIntosh,

What Predicts Adjustment Among Law Students? A Longitudinal Panel Study, 143 J. SOC. PSYCHOL. 727 (2003); Lawrence S. Krieger, *Institutional Denial About the Dark Side of Law School, and Fresh Empirical Guidance for Constructively Breaking the Silence*, 52 J. LEGAL EDUC. 112, 113 (2002); Gerald F. Hess, *Heads and Hearts: The Teaching and Learning Environment in Law School*, 52 J. LEGAL EDUC. 75, 77 (2002) [hereinafter *Heads and Hearts*].

⁵ Posting of Larry Krieger, LKrieger@law.fsu.edu, to Humanizing Legal Education ListServ (Feb. 10, 2006) (noting that 155 law teachers representing 52 law schools signed the petition to form a section with the AALS) (copy on file with author).

⁶ See Program, Association of American Law Schools Annual Meeting (Jan. 3-7, 2006), available at <http://www.aals.org/am2006/program/balance/index.html>.

⁷ National Conference of Catholic Bishops, *Economic Justice For All: Pastoral Letter on Catholic Social Teaching and the U.S. Economy*, Ch. 1 ¶ 68 (1986), available at <http://www.osjspm.org/cst/eja.htm>.

⁸ Institute for Liberal Values of New Zealand, http://liberalvalues.org.nz/index.php?action=view_article&article_id=228.

⁹ National Conference of Catholic Bishops, *supra* note 7, at Ch. 1 ¶ 70.

¹⁰ Sarah B. Bowman, et al., *Racial Integration and the Legacy of Brown at Seattle University School of Law*, 3 SEATTLE J. SOC. JUST. 143, 158 (2004); Linda F. Wightman, *The Threat to Diversity in Legal Education: An Empirical Analysis of the Consequences of Abandoning Race as a Factor in Law School Admission Decisions*, 72 N.Y.U. L. REV. 1, 35 (1997).

¹¹ Paula Lustbader, *Principle 7: Good Practice Respects Diverse Talents and Ways of Learning*, 49 J. LEGAL EDUC. 448, 450 (1999) (citing Wightman, *supra* note 10) [hereinafter *Principle 7*].

¹² Wightman, *supra* note 10, at 53. See also Linda F. Wightman, *The Consequences of Race-Blindness: Revisiting Prediction Models with Current Law School Data*, 53 J. LEGAL EDUC. 229, 233-34 (2003). Wightman's studies support the validity of these traditional indicators for the purposes for which they were intended (i.e., as indicators of acquired academic skill), but cautions us that admissions decisions made solely on these two criteria will result in a discriminatory selection process.

¹³ See, Bowman et al., *supra* note 10, at 158.

¹⁴ See *Principle 7*, *supra* note 11, at 450.

¹⁵ See generally Michael Jordan, *Law Teachers and the Educational Continuum*, 5 S. CAL. INTERDISC. L.J. 41 (1996).

¹⁶ Linley Erin Hall, *What Makes for Good Lawyering? A Multi-Year Study Looks Beyond the LSAT*, TRANSCRIPT, 2005, at 22, 24.

¹⁷ See Nathan Koppel, *Fewer Blacks Enter Law School, Prompting Plan for Monitoring*, WALL ST. J., Feb. 14, 2006, at B6.

¹⁸ *Id.*

¹⁹ “The basis on which *U.S. News* ranks 179 of the ABA-accredited laws schools consists of a weighted average of 12 measures under four categories—Quality Assessment (peer assessment; assessment by lawyers/judges); Selectivity (median LSAT scores; median UPGA; acceptance rate); Placement Success (employment rates for graduates; bar passage rate); and Faculty Resources (expenditures per student;

student/faculty ratio; library resources). To get the tiers and overall rankings, data “were standardized about their means, and standardized scores were weighted, totaled, and rescaled so that the top school received 100; others received their percentage of the top score.” See U.S. News & World Report, Law Methodology, http://www.usnews.com/usnews/edu/grad/rankings/about/07law_meth_brief.php (last visited Apr. 4, 2006).

²⁰ See, e.g., *Hopwood v. Texas*, 236 F.3d 256 (5th Cir. 2000); Bowman et al., *supra* note 10, at 152.

²¹ Bowman et al., *supra* note 10, at 155. Washington State’s Initiative 200 approved by voters in 1998, banned all “preferential treatment” based on race and other similar characteristics. *Id.* Additionally, similar legislation was passed in California in 1996. See Roopali Mukherjee, *Regulating Race in the California Civil Rights Initiative: Enemies, Allies, and Alibis*, 50 J. COMM. 27 (2000).

²² *Grutter v. Bollinger*, 539 U.S. 306 (2003).

²³ Koppel, *supra* note 17.

²⁴ *Id.*

²⁵ See *Principle 7*, *supra* note 11, at 448.

²⁶ Brainy Quote, Potter Stewart Quotes,

<http://www.brainyquote.com/quotes/quotes/p/potterstew114112.html> (last visited Apr. 4, 2006).

²⁷ The Quotations Page, <http://www.quotationspage.com/quote/4977.html> (last visited Mar. 15, 2006).

²⁸ National Conference of Catholic Bishops, *supra* note 7, at Ch. 1 ¶ 69.

²⁹ See generally Sheldon & Krieger, *supra* note 4.

³⁰ Paula Lustbader, *Teach in Context: Responding to Diverse Student Voices Helps All Students Learn*, 48 J. LEGAL EDUC. 402, 404 (1998) [hereinafter *Teach in Context*]. See also Videotape: *Teach to the Whole Class* (Institute for Law School Learning 1997) (copy on file with author) [hereinafter “Teach to the Whole Class”].

³¹ M.H. Sam Jacobson, *A Primer on Learning Styles: Reaching Every Student*, 25 SEATTLE U. L. REV. 139, 142 (2001).

³² Jordan, *supra* note 15, at 64. See generally HOWARD GARDNER, *FRAMES OF MIND: THE THEORY OF MULTIPLE INTELLIGENCES* (1983); DANIEL GOLEMAN, *EMOTIONAL INTELLIGENCE* (1995).

³³ Terri LeClercq, *Principle 4: Good Practice Gives Prompt Feedback*, 49 J. LEGAL EDUC. 418, 418 (1999).

³⁴ See Claude M. Steele, *Race and the Schooling of Black Americans*, THE ATLANTIC MONTHLY, Apr. 1992, at 68, available at http://all.successcenter.ohio-state.edu/epl259-su2001/readings/steele_article.htm. See also *Teach to the Whole Class*, *supra* note 30.

³⁵ Laurie A. Morin, *Reflections on Teaching Law as Right Livelihood: Cultivating Ethics, Professionalism, and Commitment to Public Service from the Inside Out*, 35 TULSA L.J. 227, 249 (2000).

³⁶ Marian Wright Edelman, *The Call to Serve: Renewing the University’s Commitment to Social Justice*, Address delivered at Georgetown University (Oct. 12, 2001), summary available at <http://www.georgetown.edu/publications/bluegray/2001/1022/features/A061022B.htm>.

- ³⁷ National Conference of Catholic Bishops, *supra* note 7, at Ch. 1 ¶ 71.
- ³⁸ See generally Kirsten A. Dauphinais, *Valuing and Nurturing Multiple Intelligences in Legal Education: A Paradigm Shift*, 11 WASH. & LEE RACE & ETHNIC ANC. L.J. 1 (2005).
- ³⁹ See Principle 7, *supra* note 11, at 452.
- ⁴⁰ Teach to the Whole Class, *supra* note 30.
- ⁴¹ See Charles R. Calleros, *Training a Diverse Student Body for a Multicultural Society*, 8 LA RAZA L.J. 140 (1995).
- ⁴² See BELL HOOKS, *TEACHING TO TRANSGRESS: EDUCATION AS THE PRACTICE OF FREEDOM* (1994). See also Teach to the Whole Class, *supra* note 30.
- ⁴³ See *Heads and Hearts*, *supra* note 4.
- ⁴⁴ Steele, *supra* note 34, at 78.
- ⁴⁵ Teach to the Whole Class, *supra* note 30.
- ⁴⁶ Numerous articles discuss the negative dynamics in the law school environment. See the articles cited in footnote 4, *supra*. See also G. Andrew H. Benjamin et al., *The Role of Legal Education in Producing Psychological Distress Among Law Students and Lawyers*, 11 AM. B. FOUND. RES. J. 225 (1986); Michael E. Carney, *Narcissistic Concerns in the Educational Experience of Law Students*, 18 J. PSYCHIATRY & L. 9 (1990); Thomas A. Dye, *Law School's Contribution to Civility and Character*, 22 LAW PRAC. MGMT. 40, 42 (1996); James B. Taylor, *Law School Stress and the "Déformation Professionnelle"*, 27 J. LEGAL EDUC. 251 (1975); Cathaleen A. Roach, *A River Runs Through It: Tapping into the Informational Stream to Move Students from Isolation to Autonomy*, 36 ARIZ. L. REV. 667 (1994); B. A. Glesner, *Fear and Loathing in the Law Schools*, 23 CONN. L. REV. 627, 631 (1991); Peter Kutulakis, *Stress and Competence: From Law Student to Professional*, 21 CAP. U. L. REV. 835, 836 (1992).
- ⁴⁷ Many students have complained to me about the annoyance caused by peers using instant messaging (IM) programs on their computers during class to gossip about their classmates. As the use of computers by students during class time increases, so does the disruption caused by instant messaging programs. Not only does it cause a sense of insecurity for students who sense that they may be the subject of IM gossip, it also contributes to a "cliquey" atmosphere in the school environment: students who wonder if they are being gossiped about may also be wondering why they have not been "invited" to join an IM circle.
- ⁴⁸ Several postings on the Humanizing Legal Education ListServ have discussed these types of incidents.
- ⁴⁹ Teach to the Whole Class, *supra* note 30.
- ⁵⁰ In my nineteen years of teaching, I have dealt with three students with suicidal ideation. Two of them were hospitalized. See Benjamin, *supra* note 46; Carney, *supra* note 46. See also Susan Daicoff, *Lawyer Know Thyself: A Review of Empirical Research on Attorney Attributes Bearing on Professionalism*, 46 AM. U. L. REV. 1337, 1375-80 (1997).
- ⁵¹ See BARBARA LEIGH SMITH ET AL., *LEARNING COMMUNITIES: REFORMING UNDERGRADUATE EDUCATION* 97 (2004).
- ⁵² Teach to the Whole Class, *supra* note 30.

⁵³ Desmond Tutu, Address at Sydney University upon receiving the Sydney Peace Prize (Nov. 26, 1999).

⁵⁴ SMITH ET AL., *supra* note 51, at 20.

⁵⁵ *Id.* at 97.

⁵⁶ *Id.* at 107.

⁵⁷ *Id.*

⁵⁸ “Power relations between and among learners are also likely to change as the environment becomes more inclusive. Groups of learners or individuals who may have felt silenced previously will feel freer to become part of the discussions and to challenge existing truths and biases.” Susan Imel, *Inclusive Adult Learning Environments*, ERIC DIGESTS, <http://www.ericdigests.org/1996-2/adult.html> (last visited Mar. 21, 2006) (citing HOOKS, *supra* note 42, at 20).

⁵⁹ SMITH ET AL., *supra* note 51, at 112.

⁶⁰ *Id.*

⁶¹ See generally Gerald F. Hess, *Principle 3: Good Practice Encourages Active Learning*, 49 J. LEGAL EDUC. 401 (1999) [hereinafter *Principle 3*].

⁶² SMITH ET AL., *supra* note 51, at 117.

⁶³ *Id.* at 119-22.

⁶⁴ *Id.* at 123-26.

⁶⁵ See *Id.* at 124.

⁶⁶ *Id.* at 126-27.

⁶⁷ *Id.* at 100.

⁶⁸ *Id.* at 99.

⁶⁹ *Id.*

⁷⁰ *Id.* See also Steele, *supra* note 34.

⁷¹ PAULA LUSTBADER, PROGRAM DESCRIPTION OF THE ACADEMIC RESOURCE CENTER AT SEATTLE UNIVERSITY SCHOOL OF LAW 10 (2004), available at <http://www.law.seattleu.edu/academicresourcecenter/programdescription.pdf> [hereinafter PROGRAM DESCRIPTION].

⁷² WHITNEY EARLES & REBECCA CHARLES, SEATTLE UNIVERSITY SCHOOL OF LAW OFFICE OF ADMISSION 2005 ANNUAL REPORT (copy on file with author).

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ SMITH ET AL., *supra* note 51, at 97.

⁷⁸ In order to ensure that the peer-critique exercises are successful, it is useful for the professor to provide a grading rubric and to teach students how to give constructive critiques. Often students learn as much from giving the critique as they do from the critique they receive.

⁷⁹ On program evaluations, students consistently list the relationships they form and feeling of belonging as significant benefits of participating in the summer course.

⁸⁰ PROGRAM DESCRIPTION, *supra* note 71, at 2.

⁸¹ PARKER J. PALMER, THE COURAGE TO TEACH 95 (1998).

- ⁸² Brainy Quote, Mother Teresa Quotes, <http://www.brainyquote.com/quotes/quotes/m/mothertere107032.html> (last visited Mar. 21, 2006).
- ⁸³ Robin A. Boyle & Rita Dunn, *Teaching Law Students Through Individual Learning Styles*, 62 ALB. L. REV. 213, 216 (1998). See also Jacobson, *supra* note 31, at 141-142.
- ⁸⁴ James Eagar, Comment, *The Right Tool for the Job: The Effective Use of Pedagogical Methods in Legal Education*, 32 GONZ. L. REV. 389, 396 (1996-1997).
- ⁸⁵ *Principle 7*, *supra* note 11, at 454.
- ⁸⁶ There are a plethora of examples of various teaching methods that are effective in law school teaching; to provide an exhaustive list of the number of articles, books, and conferences is impossible; however, a good place to start is with Gerry Hess' and Steven Friedland's book, *TECHNIQUES FOR TEACHING LAW* (1999); for a good discussion and example of collaborative learning, see Elizabeth A. Reilly, *Deposing the "Tyranny of Extroverts": Collaborative Learning in the Traditional Classroom Format*, 50 J. LEGAL EDUC. 593 (2000).
- ⁸⁷ *Principle 7*, *supra* note 11, at 454.
- ⁸⁸ Gerald F. Hess, *Listening to Our Students: Obstructing and Enhancing Learning in Law School*, 31 U.S.F. L. REV. 941, 953 (1997).
- ⁸⁹ For a list of great suggestions on ways to learn student names, see Joan Middendorf, *Learning Student Names*, 7 TRC NEWSLETTER (1995), available at <http://www.iub.edu/~teaching/names.shtml>.
- ⁹⁰ Teach to the Whole Class, *supra* note 30.
- ⁹¹ *Teach in Context*, *supra* note 30, at 405; Steele, *supra* note 34, at 72-75.
- ⁹² Stephen J. Friedman, *Why Can't Law Students Be More Like Lawyers?*, 37 U. TOL. L. REV. 81, 87-88 (2005).
- ⁹³ Deborah L. Rhode, *Legal Education: Professional Interests and Public Values*, 34 IND. L. REV. 23, 42 (2000).
- ⁹⁴ James E. Moliterno, *On the Future of Integration Between Skills and Ethics Teaching: Clinical Legal Education in the Year 2010*, 46 J. LEGAL EDUC. 67, 70 (1996); Pamela Lysaght & Cristina D. Lockwood, *Writing Across-The-Law-School Curriculum: Theoretical Justifications, Curricular Implications*, 2 J. ASS'N LEGAL WRITING DIRECTORS 73, 104-06 (2004).
- ⁹⁵ *Teach in Context*, *supra* note 30, at 405.
- ⁹⁶ *Id.* at 403 (citing ERNEST T. PASCARELLA & PATRICK T. TERENCE, HOW COLLEGE AFFECTS STUDENTS 651 (1991)).
- ⁹⁷ *Principle 3*, *supra* note 61, at 402.
- ⁹⁸ For some good examples of active learning and reflection exercises, see Laurie Morin's article, *supra* note 35.
- ⁹⁹ Michael Hunter Schwartz, *Teaching Law By Design: How Learning Theory and Instructional Design Can Inform and Reform Law Teaching*, 38 SAN DIEGO L. REV. 347, n.256 (2001) (citing GREGORY S. MUNRO, OUTCOMES ASSESSMENT FOR LAW SCHOOLS (2000)).
- ¹⁰⁰ Okainer Christian Dark, *Principle 6: Good Practice Communicates High Expectations*, 49 J. LEGAL EDUC. 441, 442 (1999).

¹⁰¹ For a discussion of ways to improve multiple choice questions, as well as a critique and some solutions of traditional essay exams, see Greg Sergienko, *New Modes of Assessment*, 38 SAN DIEGO L. REV. 463 (2001).

¹⁰² For a discussion of ways to make self and peer assessment techniques most effective, see *id.*

¹⁰³ STEVEN KEEVA, *TRANSFORMING PRACTICES: FINDING JOY AND SATISFACTION IN THE LEGAL LIFE* (1999).

¹⁰⁴ Filippa Marullo Anzalone, *It All Begins With You: Improving Law School Learning Through Professional Self-Awareness and Critical Reflection*, 24 HAMLINE L. REV. 324, 343 (2001).

¹⁰⁵ See generally J.P. Ogilvy, *The Use of Journals in Legal Education: A Tool for Reflection*, 3 CLINICAL L. REV. 55 (1996); William P. Quigley, *Introduction to Clinical Teaching for the New Clinical Law Professor: A View From the First Floor*, 28 AKRON L. REV. 463 (1995); Michael Meltsner, *Writing, Reflecting and Professionalism*, 5 CLINICAL L. REV. 455 (1999).

¹⁰⁶ Wisdom Quotes, Marianne Williamson, <http://www.wisdomquotes.com/001416.html> (last visited Apr. 4, 2006).

¹⁰⁷ PALMER, *supra* note 104, at 1.