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Ceci Lopez

Dolores Calderón

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Pedagogies of Refusal as Racial Realist Praxis

Ceci Lopez, JD, LL.M. *
Dolores Calderón, JD, PhD **

I. INTRODUCTION

As educators in an undergraduate legal program with a social justice mission, we understand our pedagogical practice and responsibility as one that reflects Derrick Bell's Racial Realism.¹ In our classrooms, we acknowledge the inherently racist, sexist, gendered, and colonialist formations of law. We do not teach the study of law as a neutral endeavor, but in the spirit of Critical Race Theory, as a project of racial capitalism and settler colonialism.² Doing so prepares undergraduates from underrepresented communities for the realities of law school and the legal practice beyond. It also offers students who are not interested in a legal career a concrete understanding of how racial capitalism and settler

* Assistant Professor and Director for the Law, Diversity & Justice Center ("LDJ") at Fairhaven College, Western Washington University. She teaches the law classes in the LDJ, preparing students for law school and careers in the law.

** Associate Professor of Youth, Society, and Justice in Education & Social Justice Minor; Law, Diversity and Justice Center; and Fairhaven College of Interdisciplinary Studies. Affiliated Faculty in American Cultural Studies; Border Policy Institute; College of the Environment; & the Salish Sea Institute Western Washington University.

¹ See generally Derrick A. Bell, *Racial Realism*, 24 CONN. L. REV. 363 (1992). Bell illuminates that racism is as permanent as white supremacy is foundational and core to the United States. Attorney, Professor, and Civil Rights Activist, Derrick Bell is known for his scholarship and contributions to Critical Race Theory.

² Critical Race Theory ("CRT") began as a reaction to the slow movement towards the goals of the 1964 Civil Rights Act. Led by Derrick Bell, *supra* note 1, and Alan Freeman. The theory proposes that racism is embedded in society and has been normalized and institutionalized. Critical race theorists then propose multiple perspectives, theories, and approaches to promote racial reform and challenge racial oppression. JEAN STEFANCIC, *CRITICAL RACE THEORY: THE CUTTING EDGE* 1, 1-5 (Richard Delgado & Jean Stefancic eds., 3rd ed., 2013).

colonialism function in everyday politics, teaching, and non-profit work, to name a few.

Our teaching is informed by who we are—our “outsider status.”³ Both of us come from communities targeted by the “destructive environmental changes wrought by the ‘Great Acceleration’ of industrial and postindustrial pollution that continues to impinge upon peoples in the Global South.”⁴ At the same time, these are the same communities with a rich and strong sense of collective life from which we derive our resiliency. Like Mary Matsuda describes, we bring “multiple consciousness” to the legal classroom through our ancestral knowledge and cultures to further support students’ understanding inside and outside the classroom.⁵ This consciousness is a realist practice that also engenders practices of refusal.⁶ Indeed, our places of origin demand such positions. One of us is from the El Paso/Juárez border region and the other is from Guatemala. Our families and communities have been targets of “the obviously extractive and exploitative capitalism of plantations, colonies, and empires,” and now as faculty in a

³ See generally Margaret Montoya, *Mascaras, Trenzas, y Greñas: Un/Masking The Self While Un/Braiding Latina Stories And Legal Discourse*, 15 CHICANO-LATINO L. REV. 1 (1994). Outsider status refers to those historically and currently excluded from power in society due to exclusionary practices of white supremacy.

⁴ *Call for Papers: LatCrit 2021 The Biennial Conference*, LATCRIT (June 1, 2021), <https://latcrit.org/call-for-papers-laterit-2021-biennial-conference/> [<https://perma.cc/FPB5-8XYV>] [hereinafter *Call for Papers*].

⁵ Mari J. Matsuda, *When the First Quail Calls. Multiple Consciousness as Jurisprudential Method*, in CRITICAL RACE THEORY: THE CUTTING EDGE 31 (Richard Delgado & Jean Stefancic eds., 3rd ed., 2013). By “consciousness,” Matsuda refers to levels of an individual’s awareness. This article highlights how our ancestral knowledge and cultural upbringing helps us understand the realities of the oppressed as we study and try to understand the laws of the oppressor.

⁶ See generally AUDRA SIMPSON, *MOHAWK INTERRUPTUS: POLITICAL LIFE ACROSS THE BORDERS OF SETTLER STATES* (2014). Mohawk scholar Audra Simpson explores the Mohawk refusal of settler state definitions of what it means to be Mohawk. Relatedly, refusal in this article, means making pedagogical choices that recognize us as wholly human and through that recognition, we invite students to be present in their whole humanity, rejecting colonial and capitalist impositions of self-dehumanization and normative individualism at the expense of the self and the community.

Primarily White Institution (PWI) we work against the “less obvious persistence of neo-imperialist economic frameworks” and the institutional attempts at erasure.⁷ We temper this violence with the deep ways of knowing, our upbringing in collaborative and community-based culture, and the wisdom of our ancestors.

These realities inform our pedagogical practice teaching law, which we name here as **pedagogies of refusal**.⁸ Such an understanding generates working towards praxis informed by a refusal that avoids recognition by the university,⁹ much like we learned the intimate ways our caretakers resist sovereign state power.¹⁰ We can share with students stories of how our families and communities both exist within, and elude, sovereign power, allowing us to open up spaces of refusal; in particular, this allows Black, Indigenous, and People of Color (BIPOC) to recognize the immense power and futurity in their own communities’ stories. It is our community and academic kin that remind us of where our hope and joy reside. It has never been in the spaces of state recognition¹¹ but in the spaces of our own

⁷ *Call for Papers*, *supra* note 4.

⁸ See generally Yanira Rodriguez, *Pedagogies of Refusal: What it Means to (Un) teach a Student Like Me*, 115 *RADICAL TCHR.* 5 (2019); see also Eve Tuck & K. Wayne Yang, *Unbecoming Claims: Pedagogies of Refusal in Qualitative Research*, 20 *QUANTITATIVE INQUIRY* 811 (2014).

⁹ See generally FRED MOTEN & STEFANO HARNEY, *THE UNDERCOMMONS: FUGITIVE PLANNING AND BLACK STUDY* (2013).

¹⁰ See generally Reece Jones, *Spaces of Refusal: Rethinking Sovereign Power and Resistance at the Border*, 102 *ANNALS ASS’N AM. GEOGRAPHERS* 685 (2012); see also Gilberto Rosas, *The Managed Violences of the Borderlands: Treacherous Geographies, Policeability, and the Politics of Race*, 4 *LATINO STUD.* 401 (2006). Both Jones’ and Rosas’ work describe how people exist within and outside state sovereign power, paying attention to how people refuse surveillance in spite of great violence.

¹¹ See generally GLEN SEAN COULHART, *RED SKIN, WHITE MASK: REJECTING THE COLONIAL POLITICS OF RECOGNITION* (2014). In this text, Coulthard argues that tribes/First Nations adopt politics of recognition when they concede to settler state norms that leave little room for Indigenous informed understandings of place and relationality; rather it is in spaces outside of state parameters that decolonization is viable. Similarly, in our own familial and community histories, we have found that it is from spaces of non-recognition, where we draw the most meaningful knowledge to base our practice on.

making.¹² Those spaces, where we were made in relation to our kin, are much more powerful and long-lasting than capitalism.¹³

Pedagogies of refusal demand a different sort of praxis than what we have been sold in the academy.¹⁴ Below, we define the interdisciplinary scope of pedagogies of refusal that draws from Critical Race Theory in the law and education, critical higher education studies, and Indigenous and critical ethnic studies approaches. Next, drawing from legal storytelling¹⁵ and cultural traditions,¹⁶ we describe how these practices of refusal are born from our community contexts and as legal educators. As we show here, these stories offer us *moralejas*, lessons learned from stories and life experiences. From this description of the deep presence of our ancestors that shapes the manner of our refusal, we offer examples of how this impacts our teaching and mentoring. Finally, we discuss how refusal also requires a type of relationality to the place we live and demands a different set of practices that are in service to local communities.¹⁷

¹² See generally EMMA PEREZ, *THE DECOLONIAL IMAGINARY: WRITING CHICANAS INTO HISTORY* (1999).

¹³ See generally VINE DELORIA, JR. & DANIEL R. WILDCAT, *POWER AND PLACE: INDIAN EDUCATION IN AMERICA* (2001).

¹⁴ Nini Hayes, Veronica Velez, & Dolores Calderon, *Fugitivity Within The University As First- Generation Faculty Of Color: Cultivating An Undercommons*, in *FUGITIVITY WITHIN THE UNIVERSITY AS BLACK-PINAY, INDIGENOUS & CHICANX FACULTY: CULTIVATING AN UNDERCOMMONS* (Tracie Buenavista et. al. eds., Rutgers University Press) (forthcoming) (In Press).

¹⁵ Leslie G. Espinoza, *Masks and Other Disguises: Exposing Legal Academia*, 103 *HARV. L. REV.* 1878 (1990); see also Montoya, *supra* note 3.

¹⁶ JUANA BORDAS, *SALSA, SOUL, AND SPIRIT: LEADERSHIP FOR A MULTICULTURAL AGE 12* (2007) (ebook).

¹⁷ Bryan M. J. Brayboy et al., *Reclaiming Scholarship: Critical Indigenous Research Methodologies*, in *QUALITATIVE RESEARCH: AN INTRODUCTION TO METHODS AND DESIGNS* 423 (Stephen Lapan, Marylynn Quartaroli, & Frances Julia Riemer eds. 2012). Brayboy et al.'s (2012) Critical Indigenous Research Methodologies framework in educational research affirms that research should be in service of Indigenous communities and determined by community needs, which is at odds with academic work.

II. PEDAGOGIES OF REFUSAL: AN INTERDISCIPLINARY CONTEXT

Pedagogies of refusal demand a realist practice where we recognize the limits of the work in the university and our capacity as faculty to affect change in a racial-capitalist, settler-colonial nation. This position allows us to clearly see the landscapes of abolition and decolonization.¹⁸ Consequently, refusal as a pedagogical method requires us to evade capture of minoritized experiences for the benefit of white settler society and the university.¹⁹ That is, we challenge pedagogical practices born from the diversity rationale first promoted by Justice Powell's opinion in *Regents of the University of California v. Bakke*,²⁰ affirmed in *Grutter*²¹ and *Gratz*,²² which stated that admitting a diverse student body serves a compelling

¹⁸ Tiffany Marie & Kenjus Watson, *Remembering an Apocalyptic Education: Revealing Life Beneath the Waves of Black Being*, 1 ROOT WORK J. 7 (2020). Abolition acknowledges the existence of domination and actively rejects systems that perpetuate them. Decolonization: While there are multiple approaches to decolonization, historically and contemporaneous, we understand it as “the project of indigenous nations and their accomplices/allies to transform settler states.” E-mail from Dr. Mary “Tuti” Baker, Assist. Prof. Fairhaven College of Interdisciplinary Studies, WWU. Personal communication (on file with author).

¹⁹ Sandy Grande, *Refusing the Settler Society of The Spectacle*, in HANDBOOK OF INDIGENOUS EDUCATION 1 (Elizabeth A. McKinley & Linda Tuhiwai Smith, eds. 2018) [hereinafter Grande (2018a)]; see also Sandy Grande, *Refusing the University*, in TOWARD WHAT JUSTICE?: DESCRIBING DIVERSE DREAMS OF JUSTICE IN EDUCATION 47 (2018) [hereinafter Grande (2018b)].

²⁰ *Regents of Univ. of California v. Bakke*, 438 U.S. 265 (1978) (holding that admission criteria relying on racial quotas only is unconstitutional as it violates white students' equal protection under the 14th Amendment of the U.S. Constitution).

²¹ *Grutter v. Bollinger et al.*, 539 U.S. 306 (2003). When recognizing a compelling state interest in diversity admissions to the law school, the court justified their decision on amici brief that highlighted the need of “skills” in the global marketplace, which could “only be developed through exposure to widely diverse people, cultures, ideas, and viewpoints.” *Id.* at 330. *Grutter*, as its predecessor *Bakke*, finds that the only valid and constitutional form of affirmative action is when diverse students are commodified in ways that benefit white individuals.

²² *Gratz et al. v. Bollinger et al.*, 539 U.S. 244 (2003) (holding that admission criteria is unconstitutional even when race is one factor if race is weighted differently. This holding re-affirms the holding in *Bakke* protecting “innocent whites” from the atrocities of the past).

educational interest.²³ Case law creates what Critical Race legal theorist Kimberlé Crenshaw refers to as doctrinal manifestations of racial and gendered legal categories in our everyday practices.²⁴ Our personal experiences lead us to believe that this is especially true in higher education. Thus, we want to draw attention to how our presence is desired within a PWI to teach white students about the other and to serve as buffers for the university's lack of desire to educate students of color. That is, our positions align with the university's goals of diversity as far as they serve the larger, predominantly white student body, faculty, and staff. Indigenous education scholar Sandy Grande argues this doctrinal manifestation of inclusion and diversity is a type of politics of recognition within university contexts where the state sets the parameters for recognizing sanctioned minoritized or Indigenous action.²⁵ This parallels Critical Race Theorists' critiques of civil rights case law and legislation integrating into white supremacist structures as long as it benefits white interests, leaving racism unchallenged.²⁶

We know the damage the university does to faculty of color. White students challenge faculty of color more often than they do white faculty.²⁷

²³ See generally Mitchell Chang, *Reconsidering the Diversity Rational*, 91 LIBERAL EDUC. 6 (2005).

²⁴ Kimberlé Crenshaw, *Demarginalizing The Intersection Of Race And Sex: A Black Feminist Critique Of Antidiscrimination Doctrine, Feminist Theory And Antiracist Politics*, 1 U. CHI. LEGAL F. 139 (1989).

²⁵ Grande (2018a), *supra* note 19 (citing COULTHARD, *supra* note 11).

²⁶ See, e.g., Derrick Bell, *Brown v. Board of Education and the Interest-Convergence Dilemma*, 93 HARV. L. REV. 518 (1980); see also DERRICK BELL, *SILENT COVENANTS: BROWN V. BOARD OF EDUCATION AND THE UNFULFILLED HOPES FOR RACIAL REFORM* (2004) (Bell traces the international political needs of the U.S. during time of war and argues that domestic racial strife detracted from the image and values the U.S. sought to convey to the rest of the world); see also Gary Peller, *Race Consciousness*, 39 DUKE L. J. 758 (1990).

²⁷ See generally Juanita McGowan, *Multicultural Teaching: African American Faculty Classroom Teaching Experiences in Predominantly White Colleges and Universities*, 82 MULTICULTURAL EDUC. 19 (2000); see also Caroline Sotiero Viernes Turner, *Women of Color in Academe: Living With Multiple Marginality*, 73 J. HIGHER EDUC. 74 (2002).

Faculty of color experience racial microaggressions from students, faculty, and staff;²⁸ their expertise is challenged by students, faculty, and staff more often than their white counterparts;²⁹ and faculty of color receive inadequate mentorship.³⁰ Yet, we are articulating refusal knowing that the different iterations of the university will never make room for us. Grande elaborates, “[w]ithin the context of the university, this means replacing calls for more inclusive and diverse, safe spaces within the university with the development of a network of sovereign, safe houses outside the university.”³¹ Thus, pedagogical practices buttressed by the concept of refusal create a separate temporal space away from the violence of academia to build up and heal; we create a little atmosphere for ourselves and our students.³² These actions inform our academic practice and remind us that research and teaching are not isolated from one another but happen relationally.³³

III. CULTURE & LEGAL TEACHING

Our cultural heritage has taught us to find joy, happiness, belonging, and meaning in social relationships and structures of gifting reciprocity. We

²⁸ See generally Madonna Constantine et al., *Racial Microaggressions Against Black Counseling and Counseling Psychology Faculty: A Central Challenge in The Multicultural Counseling Movement*, 86 J. COUNSELING & DEV. 348 (2008).

²⁹ See generally *id.*; see also Lori Patton & Christopher Catching, *Teaching While Black: Narratives of African American Student Affairs Faculty*, 22 INT’L J. QUALITATIVE STUD. 713 (2009).

³⁰ See generally GABRIELLA GUTIÉRREZ Y MUHS ET AL., *PRESUMED INCOMPETENT: THE INTERSECTIONS OF RACE AND CLASS FOR WOMEN IN ACADEMIA* (2012).

³¹ Grande (2018b), *supra* note 19, at 60.

³² See generally Judith Flores Carmona et al., *Pláticas~ Testimonios: Practicing Methodological Borderlands for Solidarity and Resilience in Academia*, 18 CHICANA/LATINA STUD. 30 (2018).

³³ See generally Menal Hamzeh & Judith Flores Carmona, *Arabyyah and Mexicana Co-Teaching-Learning Testimonios of Revolutionary Women: A Pedagogy of Solidarity*, 83 EDUC. F. 325 (2018). (This work grounds pedagogy on knowledge outside academia in ways that evade and resist colonization of our bodies, cultures, and minds. The authors use “pláticas” as a way to operate within cultural knowledge and values of relationships to claim freedom from “objectivity, competition, and individuality.”).

come from cultures of collective identity that prioritize the “we” over the “I.” We learned from our families to share time and resources. We work together. We support each other, and even as listeners, we are part of the community where we belong.³⁴ Our collectivist culture centers productivity on peoples’ well-being. This kind of productivity results in a communal understanding of what it means to “vivir bien” (live well).³⁵ In contrast, Bordas explains that western structures reward individual accomplishments and success is measured in terms of individual productivity and achievements.³⁶ In the west, “[t]o grow up means to become independent, autonomous, and responsible for one’s own life.”³⁷ When, as collectivists, we enter spaces with individualistic ways of being, we experience exclusion. Following, we share some of our ways of knowing and our cultural ways that foster and teach us how to be and who we are, offering narrative *moralejas* (the lesson in the story) that each of us brings.

Here, we combine storytelling and academic writing to center “the *how* of cultural epistemology, a fundamental belief we all feel must be prioritized back into our process **and** product of what education is for our people.”³⁸ We weave together our stories as legal educators with the deep presence of our ancestors (human and non-human) that shape who we are and describe how this impacts our teaching and research. This narrative methodology³⁹ interrupts dominant knowledge, giving stage for our

³⁴ BORDAS, *supra* note 16, at 55.

³⁵ *Vivir bien*, according to my grandparents, was to live in a way that reflected humility, service to the community, honesty, and honor. These lessons were learned through the course of daily living, with teachings such as returning something borrowed in better shape than it was received; to care for all things, regardless of who they belong; to offer water and food to anyone who comes to visit; to always share with those in need; and to uplift rather than tear down others—that is, to nurture a tender heart.

³⁶ BORDAS, *supra* note 16, at 57.

³⁷ *Id.*

³⁸ David Kekaulike Sing et al., *Native Hawaiian Education: Talking Story with Three Hawaiian Educators*, 39 J. AM. INDIAN EDUC. 4, 5 (1999).

³⁹ *See generally* CLARE HEMMINGS, WHY STORIES MATTER: THE POLITICAL GRAMMAR OF FEMINIST THEORY (2011) (speaking to the different ways to communicate

narrative not merely as nostalgic recollections but as stories, visitations with memory, and enduring relationships that announce a “something-to-be-done.”⁴⁰ The something-to-be done, or *moralejas*, connect our story to academic practice and describe what refusal might look like in the undergraduate legal classroom. The lessons are not fixed; rather, it is up to the reader to discern what they can from our shared narratives and our related experiences in academia.

A. *Moraleja*

Ceci: Growing up, I could always count on two things: I would have at least one serving of black beans that day, and the 4 p.m. “Cafecito.”⁴¹ As far as I can remember, 4 p.m. was a time when everyone in the house gathered around the table, sipped on a cup of coffee, and shared sweet bread. During Cafecito, women shared about their day; told stories to each other; and gave each other support, words of strength, or told stories with metaphors or *moralejas*. I remember my grandfather being at the table but saying nothing. It was noticeable that this was a woman’s space. Women would brainstorm solutions to their “*penas*”⁴² by bringing up stories of how things had gone right or wrong with this or that approach. As far as I can remember, this never included an articulation of a solid plan, rather it was a space to share ideas, experiences, and stories of resilience through triumph or failure. Reflecting on it, I guess it was a way for each person to feel

challenging or supporting assignment of hierarchical value depending on how one tells a story).

⁴⁰ Avery Gordon, *Some Thoughts on Haunting and Futurity*, 10 BORDERLANDS 1, 3 (2011).

⁴¹ *Cafecito* is the diminutive term for cafe, coffee. In Latin America, linguistics and intonation carry messages. “Vamos a tomar un café” (“let’s go have a coffee”) is not the same as “vamos tomar un Cafecito” (“let’s go have a small coffee”). The intonation in Cafecito on itself is spoken to mean a time for gentleness, slowing down, and connection. It is an invitation that comes from the heart, is familial. To have coffee is formal, businesslike, and a public action. On the other hand, un Cafecito is an invitation for intimate connection.

⁴² *Penas* are deep worries that hang heavy on the heart.

supported and to feel a part of each other's lives in a meaningful way. Everyone at the table belonged. The "I really enjoy your company and respect your opinion" was instead expressed as an invitation for "Cafecito." With Cafecito, there was no need for words; if you were invited to Cafecito, you knew you were needed. Therefore, you belonged.

As a child, I witnessed women networking and working during Cafecito. I saw them expanding their understanding of their world, sharing failures and frustrations. Overall, I learned the importance of elders in community. I saw how my grandma nurtured my mom in the most difficult times of her life but never told her what to do. Instead, she gave her hope and support; she had her back in success or failure. At some point in my late adulthood, I realized that Cafecito had been the way I amassed tremendous amounts of knowledge and cultural wisdom. I had learned basic tea remedies, learned that my great-great grandmother fled domestic violence by stealing a horse and walking from Mexico to Guatemala, and that after her, women in my family had "worn the pants" in the family. I also learned that most of the time we laughed, but there were times for introspection and to listen, and most importantly, I learned to be curious. Everything that was shared was shared as a story and there was always a lesson to be learned, wisdom to be gained, or a "*pena*" to be shared.

What made Cafecito successful was the willingness of participants to be vulnerable by sharing truths. Everyone was vulnerable and had to be courageous to hear difficult truths, even when painful or shameful, and most of the time, those around the table remained curious and committed to growth and community well-being. Now that I find myself in this foreign land, away from my family, I have missed these kinds of personal connections and support. However, I have experienced similar community formation as I began going for walks and socializing with two senior faculty members. The simple act of sharing my own experiences in the classroom and hearing theirs helped put my experiences in perspective. When we talk about the institution, I always learn new perspectives on how

to navigate it, how to think about it, and how I can carve a role for myself in it.

Talking with other faculty about our writing has helped me learn about the focus of other disciplines, perspectives, authors, and scholars who may also influence or help me to better understand my own research. And, of course, talking about the classroom reminds me of the difficulties and challenges we all face when teaching students with a wide variety of interests, backgrounds, and learning styles. I also learn from others' experiences and get ideas on strategies to implement in my classes. It is a way to build on each other's wisdom and experiences. I have found the joy and the feeling of living well as I share more intentionally with those who share similar cultural knowledge and have faced similar obstacles as I have.

Examining the structure of Cafecito reminded me that I belong to a "we" culture, and the pain I feel attempting to function in the "I" culture is real but not immutable. It is in these intersections and recognition that we carve spaces of respite and recharge. Places where we refuse to engage in individualism and institutional practices that separate us from our communities and our communal existences. Matsuda's work on multiple consciousness of jurisprudence can be applied to BIPOC individuals in PWIs. Our multiple consciousness allow us to teach theory, strategy, and analysis, while simultaneously and deliberately talking about, hearing, and engaging with each other's life experiences that are occasionally too painful to hear.⁴³ It is when engaging with life that academia and jurisprudence rely on abstraction and detachment as a way to deal with the discomfort of painful truths of injustice, guilt from whiteness, or just helplessness.⁴⁴ This form of academic sanitizing prevents individuals from sharing worries and problem-solving exercises to avoid the pain that comes from these realities.

⁴³ Matsuda, *supra* note 5, at 33.

⁴⁴ *Id.*

During Cafecito, people just show up with a *pena*, a hurt, an accomplishment, a dream, or whatever it is. We all show up with our experience and the willingness to share those stories to support those who may want to hear and learn from them. Cafecito creates a temporal space for peace and gentleness where we can exist free from the violence of the “I culture,” if only for a few minutes.

Dolores: For me, the stories of my grandfather remind me that we exist and have existed outside the spaces of state recognition. The border is a place where I grew up hearing lots of stories, remembrances of times not long ago when the border did not matter. People tell stories all over these borderlands of a time before. Before the fence, before the wall, before the concrete river. People cross despite the border because the necessity of their lives requires it. Visiting my mother’s family, I remember the little white ceramic cups filled with coffee that would be shared as people sat at kitchen tables late into the night to reminisce and tell stories. Sometimes people would have very serious conversations about a troubling issue. But always in these conversations, the advice would be in the form of a story. As children we got to sit around but not interrupt. We could ask questions, but we would never interrupt the narrative; rather, we filled in gaps in our own knowledge of the actors. In this way, we learned to listen, a skill that I urge students to develop. As children, we never made it past our youthful need for sleep during these long conversations, nodding off, the susurrus of the quiet conversations like white noise. Graduating from playing on the floor to bringing coffee; feeling the weight of the cup of coffee in your own hand was one of the many ways I learned to listen in complex ways, weaving together histories, characters, and the larger forces that shaped peoples’ lives.

These conversations also teach us how to relate. I have long conversations with my mom, who spends countless hours on the phone with family, where she fills me in on the goings on back in her hometown. I let my mom repeat stories to me, though she just told me about my *primo*’s

dilemmas yesterday.⁴⁵ She doesn't remember what she told me. Though sometimes I want to interrupt, the bittersweet reminder that she is older and I don't know how long I have with her pauses my tongue. Thus, these conversations have many contours, and we inhabit them relationally, intuitively, generationally, and gracefully. In these conversations, we also learn to manage conflict, and to understand and observe the reasons for conflict. My mother has made her peace with her father who was not a good man. She remembers him more fondly, though some of the stories shared at her side with her family were dark, speaking of the pain men could inflict and the tragedies that befell women and children. Stories of abandonment, of violence, and incredible sadness and loss that inevitably followed. My sisters and I question how she can now speak of him with fondness. We are now the caretakers of those stories. Our mother has passed the burden of her father on to us. I have seen the elder generation do this, pass the burdens on—the grief, the memories, to not forget, to learn, to know the lessons. Understandable. My mother is nearing her transition (I hope not for many years). Her relationship with her father has changed and her love for her mother remains unwavering and bright. What a gift I have received. These stories passed on through are the histories of the subaltern. Perhaps they are not intimacies, but just simply the matter and manner of our lives.

B. Discussion

The complexities of storytelling, like Bell's⁴⁶ use of parables, frame our (Ceci's and Dolores's) pedagogical approaches to teaching. We encourage observation, holistic listening, and sitting with uneasy feelings. In classrooms where silence is both traditionally discouraged and imposed on minoritized students, we ask students to explore it, following legal scholar

⁴⁵ *Primo* is translated as cousin. However, in Latin America, this does not necessarily mean a blood relative.

⁴⁶ Bell, *supra* note 1.

Margaret Montoya's silence as an agentic practice.⁴⁷ We are asking students to refuse speaking to assert expertise and instead, moving towards a relational humility⁴⁸ where we bring our own histories into conversation with the legal matters we are studying.

To be sure, our cultural upbringing by and on itself is a refusal of the neo-liberal, racial-capitalist spaces we occupy. Our presence is one of infiltrators as we apply racial realism in our pedagogical practices and our engagement with students. Our deeply seated forms of being serve as evidence that forces trying to erase us have failed. Everywhere we go, we bring our cultural knowledge and forms of communication, respect, focus on community, equal value, and morality. We know the risk of doing so, and we also know that compromising our cultural wisdom is not an option. In our cultures, the more we have the more we give. This aspect of our upbringing shows up in the classroom when we recognize all our students as active participants in the communal formation of wisdom, and when we open spaces for our students to belong. We create space to delve deep in conversations and examine our experiences as a collective and how those experiences become evidence of shared realities. As feminist method suggests, this process "results [in] consciousness raising" as we also engage dynamics of power.⁴⁹ We tailor our approach to difficult conversations with courage and humility; we engage with them remembering and holding true our value on human relationships of a collective nature rather than the oppositional conflict of individualist perspectives where one must prevail over the other. Purposefully, we seek communal wisdom, we seek to

⁴⁷ See generally, Margaret Montoya, *Silence and Silencing: Their Centripetal and Centrifugal Forces in Legal Communication, Pedagogy And Discourse*, 33 U. MICH. J. L. REFORM 263 (1999).

⁴⁸ Daniel Justice, *A Better World Becoming: Placing Critical Indigenous Studies*, in CRITICAL INDIGENOUS STUDIES: ENGAGEMENTS IN FIRST WORLD LOCATIONS 19, 22 (Aileen Moreton-Robinson ed., 2016).

⁴⁹ Ann C. Scales, *The Emergence of Feminist Jurisprudence: An Essay*, in FEMINIST LEGAL THEORY FOUNDATIONS 40, 53 (D. Kelly Weisberg, ed. 1993).

understand issues, and we introduce and reinforce our ancestral wisdom where fostering well-being and relationships are more valuable than proving ourselves right. We challenge masculine conceptualizations of jurisprudence and present different theories of understanding the law and society, centering marginalized voices.⁵⁰

IV. PLACE INFORMS PEDAGOGY

Narrative or storytelling for both of us resides in the deep Indigenous cosmopolitics⁵¹ of our communities of origin. It is our kin who remind us of where our hope and joy reside. The practice of storytelling is relational and demonstrates that our approach includes more than speaking, centering the idea of critical listening.⁵² Through story, we understand our role in a larger web of community relationships. Indigenous storyteller Archibald elaborates:

First Nations storytellers say that we have “three ears to listen with, two on the sides of our head and one in our heart.” Bringing heart and mind together for story listening was necessary if one was to make meaning from a story because often one was not explicitly told what the story’s meanings were.⁵³

During conversations, we learn that listening is more than hearing people talk, it is about taking those stories and observing them and interacting with them as you live and travel through time and space.

⁵⁰ See generally Lolita Buckner Inness, *Other Spaces in Legal Pedagogy*, 28 HARV. J. RACIAL & ETHNIC JUST. 67 (2012) (as she describes the creation of inquiry as “mirrors” where one can see the mirage of what is created, we can challenge masculine concepts of jurisprudence by “seeing” what is reflected).

⁵¹ See generally Marisol de la Cadena, *Indigenous Cosmopolitics in The Andes: Conceptual Reflections Beyond “Politics,”* 25 CULTURAL ANTHROPOLOGY 334 (2010).

⁵² See, e.g., Rose Carnes, *Changing Listening Frequency to Minimise White Noise and Hear Indigenous Voices*, 14 J. AUSTRALIAN INDIGENOUS ISSUES 170 (2011).

⁵³ JO-ANN ARCHIBALD, *INDIGENOUS STORYWORK: EDUCATING THE HEART, MIND, BODY, AND SPIRIT* 76 (2008).

A. Moraleja

Ceci: My most vivid memories of hope and joy always center my grandparents. Whether we visited my paternal grandparents in Mazatenango or we spent time with my maternal grandparents, sharing those spaces with them brought me hope and joy. I also had the great privilege of spending many years with my maternal great-grandparents—Olivia and Luis. Olivia and Luis had a child together, my beloved grandma Edel.

As a child, it was always a thrill to visit Olivia. Each morning began with the sounds of thousands of birds singing, firewood crackling on the open fire “stove,” and the rhythmic clapping of tortilla making. The smells of wood smoke, coffee brewing, and lard on the *comal*⁵⁴ filled the space with the business of a new productive day. Fresh tortillas with salt, scrambled eggs, black beans, fresh cheese, and coffee were served on a long rustic prep table, now covered with plastic. Magically, the mood would slow down and chit chat would erupt as we all delighted in the delicious smoky flavors of the food. Cafecito would lead to *sobremesa*⁵⁵ talk, where the day’s events were planned and organized, including trips to the market to get food for lunch and dinner. Chores were assigned and before long, another eruption of energy and activities surged through the house. Kids were a part of the day’s activities. If given the choice, I always accompanied my grandmas to the market. Because of this, I saw Olivia stopping to talk to women in the market and how they asked for her counsel with different issues during what seemed like casual conversations. These conversations transformed a short trip to the market to an endeavor that

⁵⁴ *Comal* is a traditional flat clay pan that rests on top of open fire for making corn tortillas.

⁵⁵ In Latin America, it was traditional for the whole family to have meals together and no person would leave the table until everyone had finished eating. Children and elderly were usually behind teens and young adults, so, to continue sharing the table, those who finished first would engage in conversation. It was a good time to check in on each other’s day, plans, tasks, chores, school, works, etc. *Sobremesa* is the chit-chat that happens while waiting for everyone to be done eating.

lasted several hours. I met so many wonderful women this way, and we always got snacks along the way. For every stop, we would sample, and sometimes take produce home, of whatever the person at the market was selling in exchange for grandma's time and counsel. La Abuelita Olivia was very well-regarded in her community, and it was not unusual for people to give her foods and items wherever she went. She did the same for others. During the big holidays when we would visit, it was one of our chores as kids to take tamales and plates of food to the families in her neighborhood. In a place where poverty is extreme, she was one of the most affluent persons and she knew how to share. For her, and my grandma Edel, it was important that kids and the elderly in the neighborhood always had meals appropriate for the celebration—tamales for *Navidad*⁵⁶ and *fiambre*⁵⁷ for the Day of the Dead.

At Grandma's home, there was always something going on. Chores abounded. One of them was peeling oranges. After the oranges were harvested, the family in the house would line up our chairs in the front door with *costales*⁵⁸ full of oranges and we would peel hundreds of oranges that would later be sold at the market. Before the town got electricity, we worked as long as the sun was out and during nights with a full moon.

While we peeled the oranges, women chatted about everything. As we peeled the oranges and delighted in eating quite a few of them, the conversation always included dreams for the future, and new things Olivia thought she would sell. As we peeled the oranges, neighbors walking by would stop and say hello, chit chat with Olivia, and maybe place an order for oranges. Kids would stop by and purchase a frozen *choco-banano* for a

⁵⁶ Tamales for *Navidad*: Christmas Tamales. In Guatemala, Christmas tamales are special and include additional ingredients that give them their unique flavors, which makes them more expensive to make as well.

⁵⁷ *Fiambre* is a traditional dish that is eaten during All Saints Day or Day of the Dead. It is a mixture of vegetables and cured meats that is left to ferment for a short time, giving it its special flavors.

⁵⁸ Large sacks made of jute, a type of fiber that can be spun into coarse, strong threads.

few cents. Olivia was never just sitting, she was always working. It was from her that I learned the recipe for making black soap, which she also made to sell at the market. I saw Olivia making things happen with whatever she had, without asking for permission. She did what she thought was best.

From Abuelito Luis, I learned that possessions do not determine happiness and joy. Abuelito Luis was a beekeeper in the jungles of Guatemala. He received very low wages for his labor. He lived in a *rancho* with a thatch roof and wood planks for walls. His only possessions were one pair of shoes, two pairs of pants, and two cotton shirts. He had two white t-shirts and two pairs of socks. Every day after work, he would wash his t-shirt and socks so he would always have clean clothes. I never visited his house. I would only hear from my Grandma Edel that the trip was too difficult to make. She would describe the long bus ride, followed by the trek up the mountains by foot, something that would take several hours. Then, there was the lack of accommodations. We would have to sleep on the dirt floor because there really was no other place to sleep and no covers either. Having grown up in a westernized home, I could barely imagine Abuelito Luis' home. It was hard for me to reconcile this living situation and his loving disposition. Without a doubt, he was the happiest man I have ever known. He was petite, small framed, and looked fragile. He wore a glass eye as he had lost an eye in his youth. However, he had so much physical strength from carrying hundreds of gallons of honey through the jungle to the distributor. When Abuelito Luis came to visit, he always showed up with no less than ten gallons of honey. He always left five gallons for my family and took five gallons to my aunt's house. And, of course, he always had some for my grandma. Abuelito Luis taught me how to taste flavors and to recognize the different flowers in honey.

Abuelito Luis was a soft-spoken man, and his demeanor was gentle. From Abuelito Luis, I learned a lot about bees, bee colonies, and their organization. How they impact the trees, plants, and even the soil in their

vicinity. Abuelito Luis was an expert in bees. He was the sweetest, most gentle person I have ever met, and the most “dispossessed” in Western terms I have ever met. From him I realized that ethical values, morals, and love do not translate to power or monetary fortune; in fact, as a child, I understood that most people with power and money do not deserve it.

When Abuelito Luis visited, we would spend entire afternoons talking about nature. We would always begin by talking about bees, but soon, we were talking about their enterprise, their intelligence, their sense of direction, society, and, what as a child I understood to be, their way to communicate with Abuelito Luis. He worked with the bees for so long that he did not need to use the smoke to harvest the honey. He told me that every morning he would sing to them to let them know that he was coming. By the time he reached the beehives, they were all gone and he could do his work. He never wore protective gear and did not get stung either. From Abuelito Luis I learned different ways of knowledge and wealth.

One example of how the teachings from Abuelito Luis shows up in class is through my on-going efforts to allow space for students to remember our humanness as individuals and as a community of learners. I begin each quarter by introducing myself, my academic and professional background, as well as my personal background. After we have all introduced ourselves, I ask students to consider what a courageous space means for them. Then, I ask them to explore what vulnerability means to them. We follow with a conversation about what a space that is “courageously vulnerable” would look like. This is how I introduce my own knowledge as pedagogical practice to the classroom. With this exercise, students draft strategies that will foster a space that allows discussion of difficult conversations that build our community values. This exercise requires that students listen to each other with courage, sometimes requiring silence over a reactionary response. It requires acts of vulnerability, where students will listen and hold space for those expressing themselves and ask questions. At the same time, those engaging in the conversation understand the impact of their

words and their personal responsibility for what and how they share. We then open the floor for discussion so we can better understand the new or different perspectives. This practice comes directly from my experiences during Cafecito and my conversations with Abuelito Luis.

Cafecito was sometimes a place where people's perspectives were challenged and being in that space and sitting through the uncomfortable vulnerability, paid dividends at the end. By allowing the uncomfortable moments to be, communal support, solutions, new perspectives, and new understandings developed. As part of the exercise, I share with students some of my personal experiences that inform my perspectives in life and how these inform the way I experience the world around me. I model this kind of perspective evaluation so students can evaluate the origins of their own perspectives. I seek to bring to the classroom the same experience I had during Cafecito—of being uplifted and built up, even when I needed support finding the right answers or stumbled through the wrong ones.

Several quarters ago, I taught a morning class, and I purchased a coffee maker and coffee so we could all start the morning with a good cup of coffee. I thought that the ritual of making coffee and smelling the fresh brew would bring us together as a class. I sought to create a multi-sensory space where students entering the classroom were welcomed by the smell of freshly brewed coffee. The objective was to create a space where students could feel they arrived to class, a place where they could relax and enter a familiar space for learning. I think we all looked forward to that first cup of coffee and the freshness of each day. This was a very challenging class, and it was important for me to carve a space—even if small and temporary—for us to experience a space where we could “come together.” These opportunities to share space as human beings, outside the hierarchies of academia, are places where I find myself re-charging and remembering that I can “just be.” A moment to breathe and exist without trying—without effort. These are small segments of the day where nothing is produced but a lot is gained, where time is reclaimed to our benefit away from the

transactions of work. In the classroom, I seek moments where we can engage in meaningful conversations and engage in thoughts about current issues and our daily lives. We focus on the practical implications of laws and the realities affecting students directly rather than being limited by or to the exercise of language sanitization required by academia. During conversations we become “real”—we talk “real issues” and real things that present challenges, or frustrations, or barriers. During these conversations we share hopes, dreams, and fears. We laugh. But all with a sense of responsibility for the self and each other. During these moments there is freedom and fluidity of thought, creativity, and respect. An observation I have made in class is that for some students, this space creates just enough opening for them to begin feeling comfortable speaking up in class. Students find that their voice is appreciated and begin to see how their perspectives are helpful and complementary to the discussions. With this validation of their experiences, students become more comfortable during future classes. They feel in community and a community where they belong.

Dolores: From my grandfather’s and elders’ stories that I listened to seasonally as a child, I know the old paths of the river. I can visit the old island and know that just over there, near that irrigation ditch on the way to the new cemetery is the old cemetery, totally unmarked and unseen if you are unfamiliar with where I am from. I know who is buried there. I also know where to cross the freeways and walk to find my great, great grandmother, the faded sacred heart emblazoned on her tombstone, my name from her. I used to hate my name, but as I have grown older and learned from cultural teachings, I understand my name ties me to the land, the name my Pueblo ancestors took on were given just like the Catholic names given to many Indigenous peoples in the region. I bear my humble name as a point of pride. I remember, because of it, that the academy is a job; my identity is not of it nor given to it. My name in the end will bring me home. My name always brings me home.

Likewise, I want to empower students to use the tools of the academy. Like Bell's racial realism, I acknowledge we will never decolonize law or higher education.⁵⁹ We can mediate our relationship to it. The goal of abolition is to consider a world without systemized higher education.⁶⁰ I am also clear that the academy and the university will never grant us freedom.⁶¹ If anything, the university consumes our identities.

I teach a CRT in law class in our undergraduate legal program. The recent attacks against CRT nationwide are thus central in teaching about how law is a pendulum that oscillates between accommodating minoritized groups and tribal rights to restricting them. Attacks against CRT are not new. Bell's "interest convergence," like Indigenous scholars Lomawaima and McCarty's "safety zone theory," describes the tendency of white supremacy to accommodate and constrict.⁶² Federal Indian law is referred to as the pendulum of tribal rights, swinging back and forth between self-determination and removal and termination.⁶³ Immigration law similarly swings between such poles. For Bell, this movement reflected white interests, arguing that even within this swing, legal positions that favor minoritized and tribal communities will never overcome white supremacy.⁶⁴

My family has told stories about the pendulum movements through our relationship to land and water. Recently I was rummaging through some things I had of my father, and he had saved newspapers from the 1960s highlighting land and water issues from our community and other nearby

⁵⁹ Bell, *supra* note 1.

⁶⁰ See generally Dylan Rodriguez, *Racial/Colonial Genocide and the "Neoliberal Academy"*: In *Excess of a Problematic*, 64 AM. Q. 809 (2012).

⁶¹ See generally Sharon Stein, *What Can Decolonial and Abolitionist Critiques Teach the Field of Higher Education?* 44 REV. HIGHER EDUC. 387 (2021); see also Rodriguez, *supra* note 60.

⁶² Bell, *supra* note 1; see also TZIANINA LOMAWAIMA & TERESA MCCARTY, *TO REMAIN AND INDIAN: LESSONS IN DEMOCRACY FROM A CENTURY OF NATIVE AMERICAN EDUCATION* (2006).

⁶³ Donald Fixico, *Federal and State Policies and American Indians*, in *A COMPANION TO AMERICAN INDIAN HISTORY* 379 (Phillip J. Deloria & Neal Salisbury Eds., 2002).

⁶⁴ Bell, *supra* note 1.

communities. There are later clippings from the '90s covering land and water issues and the impact of Salinas de Gortari's neoliberal privatization.⁶⁵ I remember listening to discussions of resistance, about fighting back, even with *planchas*⁶⁶ in the purses if need be. The state coming for us is a pendulum that always swings back. I am very careful to reflect on the possibilities of my role in the university. I ask, how can I best serve students? But importantly, I also ask, how can I be and live as a person in community? I don't want to simply offer students critique, though that is powerful. I want them to learn praxis, theory, and practice in action.

B. Discussion

Racial realism asks us to embrace situations as they are, always knowing and accounting for all their dimensions during our interactions.⁶⁷ Not unlike legal formalism,⁶⁸ the abstractions and rigidity in academia distorts and co-opts our collective selves away from our focus of community well-being and forces us into compliance with individualistic western views. This results in absurd and unequal outcomes that inflict harm on those that academia professes to serve. We challenge this rigidity and abstraction through the way we listen to our students' experiences, and rather than dismissing "non-conforming evidence as mistaken," we use students' experiences to galvanize their voices and validate them as truth.⁶⁹ We "steal away" moments outside the gaze of the institution to "reclaim ourselves."⁷⁰

⁶⁵ Salinas de Gortari was Mexico's president from 1988–1994. His economic policies focused on neoliberal structures at the expense of social welfare programs.

⁶⁶ Hand-held clothes irons.

⁶⁷ Bell, *supra* note 1.

⁶⁸ Legal formalism is described as the rigid application of the law at the expense of policy, social, or other interests. See *Legal formalism*, LEGAL INFO. INST., CORNELL L. SCH., https://www.law.cornell.edu/wex/legal_formalism [<https://perma.cc/WD9D-ADSS>].

⁶⁹ Scales, *supra* note 49, at 53.

⁷⁰ Monica J. Evans, *Stealing Away. Black Women, Outlaw Culture, and the Rhetoric of Rights*, in *CRITICAL RACE THEORY: THE CUTTING EDGE* 502–503 (Richard Delgado & Jean Stefancic, eds., 2013).

We create a space where students can share experiences that otherwise would be outside of the mainstream, devalued, undervalued, or disregarded as invalid; Professor Evans calls this the outlaw culture.⁷¹

Interactions in the classroom are all forged and sustained by judicial rules that frame students' rights and responsibilities and further contribute to cultural constructions in the classroom. These judicial rules are spelled out in *Bakke*,⁷² and according to legal scholar Thomas Ross, they produced a strong dichotomy where de-segregationist strategies based on reparations, such as affirmative action, were seen as discriminatory against "innocent white victims" deserving of constitutional protection from undeserving

⁷¹ *Id.* Building this culture in the class requires intention and time. Building this time and prioritizing this community formation is an act of refusal where we create a container for students to engage as human beings with emotions and life experiences. We engage with students as they are (realist practice) not as they ought to be (formalistic practice). Ceci begins the quarter by asking students to think about belonging. The first assignment asks students to evaluate (1) How do they know when they belong? and (2) How do they know when they don't belong? Students answer these two questions while considering three geographies: the classroom, community, and country. Among other things, this exercise reveals that even those born and raised in an individualistic society seek communal spaces where they can belong. It highlights how we all learn better and are more comfortable, and even live better, when we belong. Students draft a list of what belonging means; we also draft a document where we express the steps we will take as a class to support a sense of belonging in the classroom—how we will discuss difficult language in cases, different experiences, etc., without shaming or exploiting minoritized individuals. This is not a contract of rules, but rather an evolving practice based on the realities of the class as we engage with the materials we read. This document highlights the responsibilities we have towards each other in the classroom and society. When discussing cases, we discuss them in three different dimensions. First, we discuss the case as we would in a law class: procedure, facts, issues, reasoning, dissent, and rule. Then we have a critical conversation about the case. We ask questions about choice of words, the impact of the case in forming new realities for individuals in society and the culture they create. Finally, we reflect on the social values the cases hold and students are asked to reflect on the case as a *moraleja*, that is, what is the lesson learned?

⁷² In *Bakke*, the court held that racial quotas in school admissions are unconstitutional as this is a violation of the Equal Protection clause of the 14th Amend. to the U.S. Constitution. However, the court also found that race may be constitutionally used when it is only one factor of the admission's criteria. See *Regents of Univ. of California v. Bakke*, 438 U.S. 265 (1978).

Black students.⁷³ Ross points out how *Bakke* helped to obscure historical and institutional racism by creating a rhetoric of innocence of whiteness where BIPOC students admitted are unqualified, and a false narrative that discrimination is only discrimination when it was intended.⁷⁴ After *Bakke*, responsibility for past discrimination and reparations broke away from desegregation strategies and blurred the connections between systemic domination that causes institutional racism and discrimination, perpetuating spirals of social inequality. These are the realities of students in our classrooms, both whiteness and non-whiteness interacting within legally acceptable frameworks. As faculty, we break away from the mold and engage students from their own perspectives and experiences, again, to validate, to support, to lift, and to provide alternative perspectives to those internalized frameworks.

V. INTEREST CONVERGENCE IN UNIVERSITY CONTEXTS

Bell's interest convergence describes why universities hire faculty of color to teach at PWIs: we offer value for the largely white student body.⁷⁵ Similarly, our work and presence are constricted when we threaten the stability of the PWI.⁷⁶ Legal scholar Nancy Leong's incisive critique tells us because of prior jurisprudence, "nonwhiteness has acquired a new sort of value."⁷⁷ As faculty, this leads us to internalize the belief "that racial diversity is a social good."⁷⁸ While Leong agrees that diversity efforts should be celebrated, she clarifies that diversity born in a capitalist framework is simply a commodity that benefits white people.⁷⁹ Similarly, for Bell this "inclusion" reflects the permanence of white interests and does

⁷³ Thomas Ross, *Innocence and Affirmative Action*, 43 VAND. L. R. 297, 300–03 (1990).

⁷⁴ *Id.*

⁷⁵ Bell, *supra* note 1, at 523–24.

⁷⁶ *Id.* at 522

⁷⁷ Nancy Leong, *Racial Capitalism*, 126 HARV. L. REV. 2151, 2155 (2013).

⁷⁸ *Id.*

⁷⁹ *Id.* at 2171.

not do anything to change the material conditions of racism and inequity, a racial realism that aligns with abolitionist perspectives of the university.⁸⁰ Understanding this context allows us to enact a realist refusal. We look to storytelling, parables, and *moralejas* to ground our refusal.

Certainly, narrative is an integral part of who we are. No matter who those around us were, stories played a central role in getting to know each other better; modeling and learning behavior; imparting and sharing knowledge and wisdom; and most importantly, forming our value systems. The value we find in our practice is in sharing, in finding the space that is centered in the heart. A realist pedagogical practice is for us to teach students about their social responsibility, to question their roles in society, how they show up, and how they would like to show up. In the words of Monica Evans, “Lifting as they climbed . . . the struggle for rights was incoherent unless it simultaneously nurtured communal relationships that were predicated on a responsibility for uplifting the race.”⁸¹ Yet we also contend with how the university intends us to show up. Together, this informs how we cultivate pedagogy in undergraduate legal classrooms. We do not announce refusal with a capital R in our classrooms, but rather offer students multiple pathways they can journey on.

A. Moraleja

Ceci: At the end of the day, all I can do is be my best, extend grace to myself as I do to others, and be patient and embrace the fact that change is slow, that I am more useful being healthy and balanced than working myself until I am ill and burnt out. I have experienced the emotional exhaustion of always fighting against assimilation and having to adopt certain norms to be successful, to “check” the box that says that I am

⁸⁰ See generally Derrick Bell, *Diversity's Distractions*, 103 COLUM. L. REV. 1622 (2003); see also Grande (2018b), *supra* note 19; see also Rodríguez, *supra* note 60; see also Stein, *supra* note 61.

⁸¹ Evans, *supra* note 70, at 511.

capable and “good enough” to be accepted in a society that diminishes my worth. But those boxes do not present real options for me. For me, the real challenge is producing what is required for success without forgetting my essence. It is finding ways to quantify my approach and for my approach to be recognized as part of student learning. It is discerning when to speak up and when to listen. This is the internal value system that I share with students and that informs my approach.

During the first day of class, I share with students the class objectives—what I hope they learn and skills I wish they develop; and I also share with them my true wish for them—just like my grandma counseled me, I invite students to “feel their heart, find their spark, and make their mark.” In my personal view, this goal is how I can help students think about their academic interests in ways that are centered and validating of their experiences and realize their potential for communal impact.

If there is something I learned from my family, it is that no matter how difficult times are, we continue to show up. We show up to Cafecito every time we are invited to it, we participate and engage, but we also know that Cafecito is not possible all the time. And very importantly, not everybody is invited to Cafecito. The same is true in the classroom. As a person of color, I realize that not everyone in the classroom is going to be ready or willing to participate the way I invite them to, and that is okay. I know that some of my activities are going to trigger reactions from some students and I have learned to be emotionally prepared for this reaction. I have also learned that whenever I get this kind of reaction, it is not about me; rather, I have challenged a deeply held belief in that person. Experience has taught me to navigate these situations with grace and courage. Rather than taking students’ resistance personally, I become an observer and try to understand the current perspectives. I would prefer that my students did not feel the need to challenge my presence in the classroom or try to invalidate my being because how I do things is different from what they envision, but that is the reality of the circumstantial culture in the classroom. In the

classroom, I seldomly enforce hierarchies of power. I ask students to call me by my first name but do expect respect from them. I want to teach them that respect should be given equally, regardless of what titles a person uses. This is a risk I am willing to take to challenge colonial hierarchies of knowledge and teach students about reciprocity.

I use narrative in the classroom to dispel misunderstandings or to resolve issues. On a few occasions, I have engaged in difficult conversations to address issues as they showed up. One specific example was when in the class, a student used a word that was problematic for some students. I invited the class to pause for a second to have a conversation about words and how we use them, and as a class, we engaged in a deep delve into the use of language and the power of words in general. We did not engage in shaming or power-over dynamics⁸² of suppression, but rather, we sought to understand the dynamic use of language and the importance of using it responsibly. We then applied our understanding of the use of words to the use of language in the law and what that tells us about relationality, social constructions, and power dynamics. Students identified this activity as a form of community development and gentle intervention. Students also invited me to talk about how I handled a potentially volatile situation and managed it in a constructive way.

In the classroom, I build community and engage students as human beings finding ways to be their best selves. However, there is no way to quantify this. I am currently facing the reality of the finite nature of linear time when I need to prioritize publishing and abandon social justice activism, community engagement, as well as the personalized level of advising with students. This is one of those hard-to-comprehend dissonances of being an educator. To succeed in my tenure application, I

⁸² Here I use power-over dynamics to refer to actions, systems, or ways of understanding that attempt domination in the domination-partnership continuum as referred to by Riane Eisler. See *generally* RIANE EISLER, *THE REAL WEALTH OF NATIONS: CREATING A CARING ECONOMICS* (2007).

need to be less available to students and the community so I can continue teaching. This struggle or balancing is what Professor Tuhiwai Smith calls the “dialogue across the boundaries of oppositions.”⁸³ She explains that this is “because we constantly collide with dominant views while we are attempting to transform our lives on a larger scale than our own localized circumstances. This means struggling to make sense of our own world while also attempting to transform what counts as important in the world of the powerful.”⁸⁴

Dolores: I work at a PWI and I am fully aware that my labor is not radical. Long ago I left those idealistic lenses behind. Speaking from a position of having tenure and having a strong union allows me to refuse certain modalities, such as publication quantity, the need for a high h-index, and the need to have my scholarship to be cited. Indeed, my refusal is not only about how I teach but also about how I approach this job. For me, this is challenging because I understand that the university will consume me for what I can offer to underrepresented students and other students who are marginalized by dominant society. As Leong elaborates, while faculty of color are used as band aids (commodified) to serve underserved, marginalized students in PWI spaces, they are being limited in instances where they endanger the university.⁸⁵ The university knows we care, that we love BIPOC students because of our own stories. If not for faculty, teachers, and community who created spaces for us, what would have happened to us?

By doing these things, we continue to save the university from where it fails students it wants to exclude. We recognize that from an abolitionist and a racial realist perspective, these students are intended to be excluded. Using Moten and Harney’s metaphor of the fort, I understand that very few

⁸³ LINDA TUHIWAI SMITH, *DECOLONIZING METHODOLOGIES: RESEARCH AND INDIGENOUS PEOPLES* 88 (2nd ed. 2012).

⁸⁴ *Id.*

⁸⁵ Leong, *supra* note 77, at 2192–94.

faculty of color have been invited into the fort (the university), and we are expected to feed the few from the surrounding that are allowed into the fort.⁸⁶ Meanwhile, the settler maintains the fort and changes nothing. Abolition is about being clear about the university's limits.⁸⁷ Thus, I engage in realist teaching and relationship building with students. I let them know just why I am in this space and what the university expects me to do.⁸⁸ I have done more work to think of alternative ways of doing the work that both equips students with knowledge they need and armor to refuse the modalities of being allowed in the fort.

My energy and life are finite. My health is carefully tended to by me so that I may be around for many, many years. Students, treated as peers in this manner, are receptive. This approach is empowering for them as well because it allows them to shift their relationship to learning.⁸⁹ From stories, I have learned how to take care of myself and community, and just as important, what not to do. I am not a healer. That is not my role at home, not a gift I have ever had or been told to have. To stand in a classroom and be expected to heal is dishonest and an affront to the way my community demands that I am accountable to my role. I remind students I have limits—limits to knowledge, limits to what I can do, and limits to what I give the academy. As shared, it offers students a model for themselves of how to walk in the world and acknowledge the limits to our own knowledge. There is still tremendous work in refusal as acknowledging our own limits opens the possibility of alliance and building with others.

⁸⁶ Moten & Harney, *supra* note 9, at 17.

⁸⁷ See generally Stein, *supra* note 61.

⁸⁸ See, e.g., Laura E. Hirshfield & Tiffany D. Joseph, *We Need a Woman, We Need a Black Woman: Gender, Race, and Identity Taxation in the Academy*, 24 GENDER & EDUC. 213–27 (2012); Ryan Rideau, *We're Just Not Acknowledged: An Examination of the Identity Taxation of Full-Time Non-Tenure-Track Women of Color Faculty Members*, 14 J. DIVERSITY HIGHER EDUC. 161 (2021).

⁸⁹ See, e.g., Justice, *supra* note 48.

In short, this is a job. I also get to do some good work, but the good work of the communities I work alongside continues without me. It does not necessarily need me. In short, I choose to be of service, particularly because I am a guest on other peoples' lands and waters. The stories shared with me and the lessons I learn teach me how to do this respectfully and with humility. While the academy forces most of us to move away from home (as fraught as home places can be), I ask, how can I do work that uses the limited skill set I have to answer a need in community? But I can only ask this because I have taken time to listen to the friends I have made here and their stories. Certainly because of stories and the relationship required for the process of storytelling, I understand how to listen.

Recently, research and community collaborators told me to speak up more. They were giving me permission and asking me to do more. I follow their lead and go forward humbly, listening to their expertise, supporting where my work and credentials might help. Though our team refuses neoliberal productivity models, we realized we needed to do more to highlight the work because key constituents did not know what we were doing. Some heard of our good work and urged us to let more people know what we are doing. We have listened and are carefully using this university system to promote the work, always cautious, because we come from a long line of people hurt by the university, whether we worked in it, studied in it, and/or were studied by it. We know, like our ancestors before us, to keep a look out for those that come for you, to capture you, to hurt you. We know these stories intimately, listening to them at the kitchen table, by the campfire, as you are shucking corn, chopping onions, helping change the oil, and planting seeds alongside others. For some of us we carry that knowledge intimately on our own journeys, our bodies carrying us a long way, evading capture.⁹⁰ Sometimes we are caught and yet I know where to

⁹⁰ See generally Moten & Harney, *supra* note 9. Our journeys are reflected in the use of the undercommons—how our cultural upbringing helps us escape professionalization—

listen for guidance: as my mother says to me, *que diria tu padre?* What would my father say, what would he do? That is revolutionary. I know exactly what he would say, what he did say, and how he was in the world.

B. Discussion

We are invited into the fort because we are perceived to have a specialized knowledge. Indeed, students and BIPOC students begin to see us as avatars for marginalized communities, what Montoya describes as masks:

For stigmatized groups, such as people of color, the poor, women, gays and lesbians, assuming a mask is comparable to being “on stage.” Being “on stage” is frequently experienced as being acutely aware of one’s words, affect, tone of voice, movements and gestures because they seem out of sync with what one is feeling and thinking.⁹¹

Gendered expectations are placed on faculty of color to be healer, to be sage, to be mother. But we refuse the avatar and make clear to the students that they too have a role to reject. Rather than seeking mastery we ask them to learn to listen, to develop curiosity, and grasp that learning in community builds a foundation for the world that has been, that is and is to come.⁹²

VI. CONCLUSION

Oftentimes, formal and colonial schooling works to erase our histories and communities, deeming them uncivilized. Yet through us, those that did not have access to higher education, indeed formal education, are present in the legal undergraduate classroom. It is from them that we understand the way forward, what refusal looks like for us within the university. From their

because we cannot change the color of our skin; who we are, allows us to never be captured because we will always be deemed outside of the enclosure.

⁹¹ Montoya, *supra* note 3, at 14.

⁹² See generally Justice, *supra* note 48.

struggles we understand realist practice and because of their stories we want to do more than survive. We want to thrive.

