

# LEGAL EDUCATION AND THE FORMATION OF PROFESSIONAL IDENTITY: A CRITICAL SPIRITUO-HUMANISTIC—"HUMANITY CONSCIOUSNESS"—PERSPECTIVE

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## I. INTRODUCTION

Over the past generation, sociologists, critical legal theorists, and commentators from various perspectives have increasingly focused on what might be called the identity crisis among American lawyers.<sup>1</sup> This evidence of a crisis of despair among lawyers comes as no surprise to critical theorists—also known as “Crits”—in legal academia. Since the earliest days of the development of critical legal studies, Crits have focused on the alienation and despair which are the common consequences of both traditional legal education and the professional identity inculcated in the legal education and socialization process.<sup>2</sup> Recent attention to widespread dissatisfaction among law students and lawyers may, however, provide a new opportunity to re-think and reconstruct the legal education process and develop proposals that address this malaise through radical institutional reform.

There is every reason to believe that student participants in such a movement to reconstruct legal education will disproportionately be those intimately familiar with life “at the bottom.”<sup>3</sup> Because of their tendency toward counter-

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1. See, e.g., DOUGLAS LITOWITZ, *THE DESTRUCTION OF YOUNG LAWYERS: BEYOND ONE L* 21 (2006). Litowitz cites the experience of socialization into a dominant view of the legal profession while in law school as one of several major causes of lawyer unhappiness: “The main thing [law school] teaches is the ability to read appellate opinions from the perspective of a reviewing court, to bluff and pose under pressure, and to be litigious. It subtly trains lawyers to be apolitical and socially conservative.” *Id.*

2. See Peter Gabel, *The Spiritual Foundation of Attachment to Hierarchy*, in *LEGAL EDUCATION AND THE REPRODUCTION OF HIERARCHY: A POLEMIC AGAINST THE SYSTEM: A CRITICAL EDITION* 154, 162 (Duncan Kennedy ed., 2004) [hereinafter KENNEDY, *LEGAL EDUCATION*] (“The work of [Critical Legal Studies] was always divided into two main strands, what might be called the critique of alienation, on the one hand, and the neolegal realist/deconstruction critique, which became known as the ‘indeterminacy’ critique, on the other.”)

3. See generally Mari J. Matsuda, *Looking to the Bottom: Critical Legal Studies and Reparations*, 22 HARV. C.R.-C.L. L. REV. 323 (1987). In her classic essay, Professor Matsuda argues that “[l]ooking to the bottom—adopting the perspective of those who have seen and felt the falsity of the liberal promise—can assist critical scholars in the task of fathoming the phenomenology of law and defining the elements of justice.” *Id.* at 324. While Matsuda’s essay defines those at the bottom primarily as being people of color, I suggest that “the bottom” be conceived as those outside of power relative to the mainstream—including, but by no means limited to, many (but not

cultural political views, students whose experiences, social identities, or political leanings place them outside of the mainstream—women, students of color, students from poor or lower socioeconomic status backgrounds, sexual orientation minorities, for example—likely experience more intense feelings of alienation than law students from more “mainstream” backgrounds. Scholars engaged in critical analyses have a special obligation to participate in the reconstruction of legal education to address these recurring concerns.

In the following essay, I summarize recent studies which seem to confirm these hypotheses, and describe how these studies confirm the desirability of an approach to critical legal theory that not only incorporates the insights of critical race theory, but also straightforwardly addresses the alienation common in the legal education experience. I advance the critical spirituo-humanistic perspective I call “Humanity Consciousness” as one such approach.<sup>4</sup> I conclude by proposing that left-leaning legal scholars employ alternative—perhaps even radical—means of providing access to critical legal theory and other approaches to law grounded in humanistic critique to interested law students each semester. We should address specifically the alienating consequences of mainstream legal education through praxis.<sup>5</sup> This view of law takes seriously the law’s emotional, ethical, and practical implications in the lives of human beings and engages in reflective efforts to reform legal education to alleviate these concerns.

## II.

### RECENT ANALYSES OF PROFESSIONAL IDENTITY DEVELOPMENT THROUGH LEGAL EDUCATION, AND ITS ALIENATING EFFECTS

#### A. *Daisy Hurst Floyd on the Development of the Traditional Professional Identity*

Professor Daisy Hurst Floyd used legal education and ethics seminars to study the development of professional identity in law school—that is, on the way law students become lawyers.<sup>6</sup> She found evidence that the law school ex-

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all!) people of color; many (but not all!) women; and all committed, leftist students in traditional legal environments.

4. See *infra* Part III.A.

5. See generally PAULO FREIRE, *PEDAGOGY OF THE OPPRESSED* (Mayra Bergman Ramos trans., Continuum 1993) (1970). See also Peter McLaren, *Icon of Liberation: Knowing Freire*, 1 *EDUCATE! A QUARTERLY ON EDUCATION & DEVELOPMENT* (2001) (Pakistan), available at <http://www.sef.org.pk/educatewebsite/educate2fol/iconofedu2.asp>. McLaren defines praxis as a complex activity by which individuals create culture and society, and become critically conscious human beings. Praxis comprises a cycle of action-reflection-action, which is central to liberatory education. Characteristics of praxis include self-determination (as opposed to coercion), intentionality (as opposed to reaction), creativity (as opposed to homogeneity), and rationality (as opposed to chance).

*Id.* at Glossary, available at <http://www.sef.org.pk/educatewebsite/educate2fol/glosiconedu2.asp>.

6. See Daisy Hurst Floyd, *The Development of Professional Identity in Law Students* 1–2 (2002), [http://www.law.fsu.edu/academic\\_programs/humanizing\\_lawschool/images/daisy.pdf](http://www.law.fsu.edu/academic_programs/humanizing_lawschool/images/daisy.pdf).

perience incorporated recurring negative consequences that created unhappiness in students during law school, throughout their post-legal education careers, and in their relationships outside of law. These consequences include: (1) immersion in a highly competitive environment in which “winning”—narrowly defined by the law school and legal culture—is the ultimate goal; (2) increased feelings of failure and inadequacy among the majority of law students unable to “win” law schools’ most coveted prizes;<sup>7</sup> (3) inordinate focus on short-term goals; (4) devaluation of emotional matters, including the ability to form and sustain relationships (especially those existing before law school); (5) a sense of isolation and discouragement of collaboration; (6) a sense of loss of purpose; (7) replacement of hopeful expectations for career and purpose with minimal expectations for finding meaning and purpose in their work; (8) feelings of increased isolation and alienation which lead to disengagement from the law school community; (9) pressure to hide anxiety, low confidence, and uncertainty, which are considered markers of weakness; and (10) over-emphasis on one legal skill—the analysis of legal opinions—which becomes boring and arid over time.<sup>8</sup> Professor Floyd concludes by suggesting reforms that appeared to minimize the impact of these negative consequences on the students she interviewed: increasing students’ opportunities for self-reflection while in law school, and deepening connections with practitioners and other students dealing with these issues.<sup>9</sup>

*B. Jean Stefancic and Richard Delgado on Professional Socialization and the Loss of Creativity, Access to Emotions, and Contextualized Perspective*

In their recent book,<sup>10</sup> Professors Stefancic and Delgado depart from the tradition of critical race theory for which Delgado is well-known<sup>11</sup> and adopt a historical investigation and a general critical legal analysis to diagnose the pervasive unhappiness among lawyers. Like Floyd, they conclude that unhappiness among legal professionals is a symptom of the way law schools teach lawyers to think. The traditional methodologies of “thinking like a lawyer” deplete one’s creativity and force law students to value “consistency over ambiguity, rationality over emotion, and rules over social context . . . and

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7. *Id.* (listing “prizes” such as law review membership; high-status, high-paying, big-firm jobs; or prestigious public interest positions).

8. *Id.* at 2–4.

9. *Id.* at 4.

10. JEAN STEFANCIC & RICHARD DELGADO, *HOW LAWYERS LOSE THEIR WAY: A PROFESSION FAILS ITS CREATIVE MINDS* (2005).

11. See, e.g., RICHARD DELGADO & JEAN STEFANCIC, *CRITICAL RACE THEORY: AN INTRODUCTION* (2001); Richard Delgado, *The Current Landscape of Race: Old Targets, New Opportunities*, 104 MICH. L. REV. 1269 (2006); Richard Delgado, *Affirmative Action as a Majoritarian Device: Or, Do You Really Want to Be a Role Model?*, 89 MICH. L. REV. 1222 (1991); Richard Delgado, *The Ethereal Scholar: Does Critical Legal Studies Have What Minorities Want?*, 22 HARV. C.R.-C.L. L. REV. 301 (1987); Richard Delgado, *The Imperial Scholar: Reflections on a Review of Civil Rights Literature*, 132 U. PA. L. REV. 561 (1984).

narrative.”<sup>12</sup> This way of thinking and reasoning, the authors argue, is ultimately the source of profound professional and personal dissatisfaction among many lawyers. The authors conclude that giving lawyers and law students “more room to experiment, grow, and breathe”<sup>13</sup>—including more exposure to poetry and other forms of literature,<sup>14</sup> to a broad range of public interest work, and to critical legal theory—may minimize the dispiriting effects of traditional legal education.<sup>15</sup>

*C. Carrie Yang Costello on the Race, Class, and Gender Bias Within Professional Socialization Norms*

Former lawyer and current Sociology Professor Carrie Yang Costello applied her sociological training to explore why patterns of social stratification emerge during professional schooling.<sup>16</sup> According to sociologists, a graduate education program should train students in (1) the intellectual requirements of their field, and (2) the development of the appropriate identity for success in their field.<sup>17</sup> Given these functions, Professor Costello sought to understand why white men tend to outperform women and students of color, even among those of equivalent standardized admissions test scores and undergraduate grades. She analyzed the students’ training in professional identity roles to see how the training impacted patterns of grade distribution.

After extensive field research based on the experiences of students at the Boalt Hall School of Law and the School of Social Welfare at the University of California, Berkeley, Professor Costello concluded that the educational programs of both schools implicitly trained students in—and privileged students comfortable with—a WASP male point of view.<sup>18</sup> She concluded that this training leads to poorer performance among students from nontraditional backgrounds because these students’ personal identities did not tend to align with the WASP-leaning professional identity of law schools;<sup>19</sup> hence, these students face the dispiriting effects of negative identity dissonance.<sup>20</sup> Because success in a profession requires students to “internalize an appropriate professional identity[.]”<sup>21</sup>

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12. STEFANCIC & DELGADO, *supra* note 10, at xi.

13. *Id.* at 81.

14. *See id.* at 84–85.

15. Presentation to the faculty of the University of San Francisco School of Law, Apr. 2006 (notes on file with author).

16. CARRIE YANG COSTELLO, *THE PROFESSIONAL IDENTITY CRISIS: RACE, CLASS, GENDER, AND SUCCESS AT PROFESSIONAL SCHOOLS* (2005).

17. *Id.* at 23–24.

18. *Id.* at 52 (describing law professors); *id.* at 54 (describing social welfare professors).

19. *Id.* at 26 (“[I]ntegrating new professional identities into personal identities is an easy process for people whose personal identities are consonant with their new professional role, but traumatic for those whose personal identities are dissonant with it.”) (citation omitted).

20. *Id.* at 127–33 (describing alienation and a feeling of “losing oneself” as common among those experiencing negative identity dissonance).

21. *Id.* at 16.

nontraditional students cannot focus solely on their studies while trying to resolve their identity dissonance. The struggle distracts these students and leads to underperformance.<sup>22</sup> Costello suggests that real relief from the problem of identity dissonance will only happen if concerned students, professors, and professionals engage in a "long-term group effort to alter professional roles."<sup>23</sup>

In short, there is ample empirical evidence that traditional legal education and narrowly delineated professional identity inflicts spirit-injuries on lawyers and law students. As discussed in Part III, *infra*, critical legal studies (CLS) must do more to address this crisis. CLS itself must be infused with a spiritually-grounded humanism and applied more broadly to the teaching and practice of law. One method of doing so is through an approach I call Humanity Consciousness.

### III.

#### A CRITICAL SPIRITUAL, HUMANITY-CONSCIOUSNESS RESPONSE

##### *A. The Development of Humanity Consciousness*

Humanity Consciousness is an approach to the study of law and its institutions that incorporates aspects of critical legal theory and critical race theory with spiritual humanism to develop human beings' capacities for sustained engagement with dignity and community. The critical legal theory revolution of the 1980s began with critical legal studies and went on to include, among other approaches, critical race theory (CRT), an explicitly race-focused critique of the law which implicitly dwells on the fundamental issue of what it means to be a human being in the eyes of the law. While the critical legal theory from which critical race theory emerged had explicitly focused on the development of professional identity,<sup>24</sup> critical race theory began with a focus on the material conditions of minorities systemically subordinated under law.<sup>25</sup> Moreover, CRT focuses on identifying the ways in which race does not operate as an aberration, but is a central organizing concept in American public life and its legal institutions.<sup>26</sup> The approach has elaborated on the aspects of racial identity formation which have been inadequately treated under law. Critical race theory may be distinguished from critical legal theory by its focus on the material consequences of law and legal education for traditionally subordinated groups and persons. In that respect, a CRT critique of the role of legal education in the

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22. *Id.*

23. *Id.* at 232.

24. See generally, e.g., *Legal Education and the Reproduction of Hierarchy* (1983) [hereinafter Kennedy, *Reproduction*], reprinted in KENNEDY, *LEGAL EDUCATION*, *supra* note 2, at 9–144.

25. See generally CRITICAL RACE THEORY: THE KEY WRITINGS THAT FORMED THE MOVEMENT xiii–xiv (Kimberlé Crenshaw, Neil Gotanda, Gary Peller & Kendall Thomas eds., 1995).

26. *Id.*

development of professional identity would include a materialist component as well. CRT has not, however, traditionally analyzed the spiritual alienation of law school and law practice.<sup>27</sup>

Critical legal theory and critical race theory arguably are joined and enhanced by a deeper consideration of the spiritual and psychological effects of law, and an embrace of the praxis objectives of humanism.<sup>28</sup> Scholars such as Peter Gabel have advanced a critique of law's tendency to force the donning of masks to hide our deep vulnerability to and fear of the ever-present threat of human *nonrecognition*.<sup>29</sup> My own work has argued for a transformation of law to address this alienation, especially the particular ways that race and race consciousness have furthered this process, through the Humanity Consciousness approach.<sup>30</sup> As I have detailed in previous works, Humanity Consciousness (HC) has four aspects: (1) a *perspectival* aspect, a commitment to seeing both the one-ness of all humankind and the genuine dignity or sacral nature of every human being; (2) an *affective* aspect, a commitment to open-hearted vulnerability in reckoning with all assaults on genuine, universal dignity; (3) an *ethical* aspect, a commitment to making and defending ethical judgments as necessary to challenge violations of human dignity; and (4) a *praxis* aspect, a commitment to theory-in-practice and consciousness-in-action for the purpose of universal human uplift.<sup>31</sup>

#### *B. Humanity Consciousness as a Response to the Dominant Identity Norm in the Development of Legal Professional Identity*

Critical Spiritual or Humanity Consciousness (HC) theorists would not be surprised by Professors Floyd, Stefancic, and Delgado's conclusions about the impact of an exclusive focus of legal education on the dry, dull, traditional approach to "thinking like a lawyer." Neither would such scholars find Professor Costello's findings unexpected. For purposes of this essay, I will summarize their critique as identifying the "dominant identity norm" in legal education.

27. But see generally Anthony E. Cook, *Beyond Critical Legal Studies: The Reconstructive Theology of Dr. Martin Luther King, Jr.*, 103 HARV. L. REV. 985 (1990) (arguing that Martin Luther King Jr.'s synthesis of theology, political thought, and social justice achieved the reconstructive effect lacking in critical legal studies).

28. See, e.g., Anthony B. Pinn, *On Becoming Humanist: A Personal Journey*, 32 RELIGIOUS HUMANISM: THE JOURNAL OF HUUMANISTS (1998), available at <http://www.americanhumanist.org/hsfamily/rh/pinn2.html> (discussing "humanist praxis" from a Black perspective).

29. See Peter Gabel, *The Meaning of the Holocaust: Social Alienation and the Infliction of Human Suffering*, in THE BANK TELLER AND OTHER ESSAYS ON THE POLITICS OF MEANING 27, 29–32 (2000).

30. See Rhonda V. Magee Andrews, *The Third Reconstruction: An Alternative to Race Consciousness and Colorblindness in Post-Slavery America*, 54 ALA. L. REV. 483, 527–57 (2003); Rhonda V. Magee Andrews, *Racial Suffering As Human Suffering: An Existentially-Grounded Humanity Consciousness as a Guide to a Fourteenth Amendment Reborn*, 13 TEMP. POL. & CIV. RTS. L. REV. 891, 893–900 (2004) [hereinafter Magee Andrews, *Racial Suffering*].

31. Magee Andrews, *Racial Suffering*, *supra* note 30, at 894.

Indeed, in some ways, CRT, HC, and the spiritual critique of law generally might be described as a response to the sort of WASP norm as the dominant identity norm within legal education that Costello describes. Critical legal studies emerged as an elaboration on the realist insight that law is inherently political, reproductive of social hierarchy, and alienating to its participants. Critical race theorists pointed out the lack of concrete focus on the legacies of white supremacy as one of the hierarchies most often replicated by legal education, and demanded a respect for the law's capacity to make concrete changes, however minimal, in the lives of disadvantaged people. HC merges the insights of CLS with CRT, explicitly challenging practitioners of all backgrounds to embrace a humanity-affirming approach to law and its aspirations—one that recognizes the essential human dignity of all persons and is explicitly committed to the uplift of all. In this way, the Humanity Consciousness perspective not only undermines the dominant identity norm in legal education; it seeks to place the full development of free human beings at its center.

Taking seriously the lived experience of law students, HC theorists would point out, on the one hand, that certain traditionally marginalized groups—people of color, for example—have often valued legal education and professional experience as a means of obtaining access to those very ways of thinking, so as to better understand how to deal with a “white” world. Thus, the materialist or pragmatist agenda of Critical Race Theorists and others concerned with the material conditions and experiences of traditionally marginalized people suggests that we acknowledge the ways in which access to legal education has served to empower people of color and women. Indeed, many traditionally disadvantaged people have pursued legal education for just this purpose.

However, to the extent that legal education's dominant identity norm does, indeed, set up students and practitioners for problems with self-esteem, feelings of isolation, and lack of meaning, then an HC insight would posit that students from nontraditional backgrounds or political views that vary significantly from the mainstream—e.g., students of color, women, sexual orientation minorities, and left-leaning students generally—would disproportionately suffer these ill-effects of the dominant identity norm. HC would also recognize, however, that these alienating practices and norms impact *all* students in ways that infringe upon students' full and free development. Accordingly, *all* of those engaged in the legal educational process should care about and address these feelings of alienation as a means of minimizing their impact *on the system as a whole*—including the students of today who will be the practitioners of tomorrow.

### *C. Canaries at Work: A Brief Example from a San Francisco Mine*

A few years ago, Professors Lani Guinier and Gerrald Torres suggested that students of color often encounter but may raise more often the same problems as those suffered by all students, and thus the concerns of minority students should be seen as important early detection signals—like the canaries in the old

mines.<sup>32</sup> Empirical and anecdotal evidence support the Guinier-Torres hypothesis and its potential for stimulating broad institutional change. For example, a recent student-run study at my institution, the University of San Francisco, concluded that students of color and women disproportionately experience law school as having a negative effect on their self-esteem.<sup>33</sup> And studies of law-firm diversity indicate a continuing disproportionate turnover rate among attorneys of color.<sup>34</sup>

Both of these findings might be explained by the analytical insights of Professors Floyd, Stefancic and Delgado, and Costello. Moreover, the USF study, and the students' subsequent use of the data, demonstrate Humanity Consciousness at work in an effort to make concrete changes in a particular legal institutional setting. The student organization that conducted the research at USF presented their findings to the faculty with requests that the faculty consider this information and modify the classroom environment to create a less alienating environment for all.<sup>35</sup> Thus in this recent exemplary incident, experiences of nontraditional students challenged by the dominant identity norm in legal education provided a basis for working toward institutional interventions that would soften the dominant identity norm. This move from experience, through feeling, to the ethical conclusion that "something should be done," and towards true change demonstrates in microcosm the Humanity Consciousness approach in action: from the perspectival element through the praxis element, supporting reflection upon and directly challenging the dominant identity norm that is the seed of significant dissatisfaction among both law students and practitioners at the site of lived experience itself.

#### IV.

#### WHAT IS TO BE DONE?

Professors Floyd, Stefancic and Delgado, and Costello argue for specific interventions to minimize the impact of the dominant identity norm on the

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32. LANI GUINIER & GERALD TORRES, *THE MINER'S CANARY: ENLISTING RACE, RESISTING POWER, TRANSFORMING DEMOCRACY* (2002).

33. See Marina Smerling, *The Color of Legal Education: The Myth of Race Neutrality and a Proposal for Educating Students About Racial Justice at USF Law*, *THE FORUM: THE STUDENT NEWSPAPER OF THE U. S.F. SCH. OF LAW*, May 2006, at 4, 4, 8. Ms. Smerling was among several students involved in this project who were or had been enrolled in my Race, Law, and Policy course, in which the Humanity Consciousness is briefly considered. Students met with the Dean and conducted two teach-ins on race in the legal education in spring 2006, inviting all members of the law school community. More than 40 students and faculty were in attendance.

34. Law firm attrition rates for minority women are higher than for any other group. Around 12.1% of minority women leave their firms within the first year of practice and more than 85% leave by the seventh year, before being considered for partnership or just at the time when such decisions are made. Indeed, the legal profession is the least racially diverse of all the major professions. ELIZABETH CHAMBLISS, *MILES TO GO 2000: PROGRESS OF MINORITIES IN THE LEGAL PROFESSION* 6 (2000).

35. Smerling, *supra* note 33, at 4, 8.

development of professional identity among law students. Their proposed interventions include creating spaces for self- and critical-reflection within traditional law schools, and for highlighting the problem of identity dissonance, so as to raise students' consciousness about these impacts of legal education and thereby make students better able to cope with them. Each of the findings discussed above favor providing greater access to critical legal education generally, and to classes within law schools that promote critical reflection on the nature and experience of legal education.

Further, each of these findings suggests another reason for sustained political action around inclusion of minority and critical voices among the student and professorial communities in traditional law schools. It is from within these nontraditional student populations that we are learning the most about the ways that traditional legal education alienates and deflates the spirits of all students. In an era of tacit withdrawal of support for affirmative action and re-segregation of schools at every level, the above-discussed research provides further principled bases for the inclusion of various kinds of critical viewpoints among both student and faculty populations and for fighting against policies which turn back the clock on integration.

I conclude that the research, analysis, and student activism summarized above confirm the need for an approach to the teaching of law that incorporates the tenets of Humanity Consciousness. The HC approach not only supports the effort to include nontraditional students and their experiences, but also argues for a spiritualization of law to address specifically the law's dispiriting and de-humanizing effects on human beings. HC argues in favor of contextualized applications of law and for a heightened appreciation of lived experience as a guide to what we should do. HC would support the move from such appreciation to concrete interventions in traditional institutions that support and encourage student and lawyer reflection on the experience of law school and law practice, that create spaces for emotional and ethical responses, and that encourage work for change.

Unless and until law schools change significantly, nontraditional students' lived experiences in these institutions will be marred especially by heightened feelings of alienation and identity dissonance. As a coping strategy, students from nontraditional backgrounds would be better off entering the legal profession with a perspective informed by awareness of the problems of alienation and, in particular, of identity dissonance. As an example of the kind of left-focused intervention critical legal scholars can make now, we should push to have law schools teach both faculty and students about the problem of identity dissonance during the prevailing socialization process favoring the dominant identity necessary for success in most law schools.<sup>36</sup> In his early critique of education, Duncan Kennedy proposed such changes in the content of the cur-

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36. *See supra* Part II.C.

riculum, those that “make it at once less politically biased to the right and less of an engine of incapacitation for alternative forms of practice.”<sup>37</sup> This proposal would do that and more, as teaching CLS from a Humanity Consciousness perspective specifically minimizes the dispiriting impact of traditional legal education for all students. Indeed, for example, we should make clear in class sessions on identity dissonance that not only students of color and traditionally disadvantaged students suffer this dissonance, but so do white, male, and upper-class students from left-leaning political backgrounds. On our students’ behalf, with their support, and sometimes in support of their leadership, we must fight for a greater acceptance of explicitly left-leaning discourse within mainstream institutions.

More bluntly, scholars interested in teaching from the left in ways that incorporate the insights of HC should simply and irrepressibly just do so. In other words, we should offer courses, workshops, daylong teach-ins, and the like to those students who want and need exposure to leftist approaches to the law that incorporate sensitivity to the need to develop the whole human being. We should each commit to offering one such intervention per semester, such as a Brown Bag series or one-credit discussion groups that introduce critical legal theory and alternative approaches to the law in ways which recognize and respect the whole human being.<sup>38</sup> We should encourage and support student efforts to teach what they are learning to their peers and other professors in the manner exemplified by the USF group.<sup>39</sup> We should talk about the spiritual and emotional implications of what we study, what we do, and how we interact with one another, so as to encourage and to model an approach to legal education and practice that brings the whole person into the room. And we should do these things even if they amount to an “overload,” for which we get little more than increased institutional scrutiny for our troubles. We should do these things because our students and our institutions will be better off for them. Moreover, and not incidentally, we increase our capacity to imagine the possibility of change from within, and to continue the work necessary to make such change, to the extent we experience students’ affirmation of the value of these interventions and ideals, carrying the praxis forward into legal institutional settings far beyond our classrooms.

## V.

### CONCLUSION

The foregoing research and analysis suggest that the Guinier-Torres metaphor of the miner’s canary is true, but does not tell the whole story. For one

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37. Kennedy, *Reproduction*, *supra* note 24, at 126.

38. Organizations such as the Renaissance Lawyer Society provide resources about transformational approaches to law to educators, students, attorneys, and the broader community. See Renaissance Lawyer Society, <http://www.renaissancelawyer.org> (last visited Aug. 8, 2007).

39. See *supra* note 33 and accompanying text.

thing, it does not make explicit the power relations providing the context in which the canary does its good work for the miners. The canary suggests dangerous conditions, which, if not heeded, may imperil everyone. But it is always the miner, never the canary, who decides which of the two must be vulnerable to death in the process, and the vulnerable one is always the canary. In similar fashion, the interests of nontraditional students historically have been sacrificed for the dominant interests controlling legal education. Faculty committed to teaching from the left must be willing to make explicit the power dynamics at play in traditional legal education. But more than that, we must, in the interest of liberation and justice, increase our commitments to creating environments within and outside of traditional legal institutions that reconstruct the notion of what it means to be a lawyer in ways that elevate the spirit and create the lived experience of freedom, possibility, and mutually-affirmed humanity, for all. I offer Humanity Consciousness as one guide to the way forward in this effort.

