

# Presumed Incompetent

The Intersections of Race and Class for Women in Academia

Edited by

Gabriella Gutiérrez y Muhs

Yolanda Flores Niemann

Carmen G. González

Angela P. Harris

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## CHAPTER 13

# NOTES TOWARD RACIAL AND GENDER JUSTICE ALLY PRACTICE IN LEGAL ACADEMIA

Dean Spade

The many ways that academia generally and legal academia specifically produce and reproduce hierarchical norms and standards of race, gender, sexuality, ability and class have been explored in the articles in this volume and many others. Because the university is both a location of the production of knowledge that is often central to sexist, racist, capitalist, and imperialist regimes of practices and a place where structures of laboring are articulated through these forces, what does it mean to practice ally politics in the university, and specifically, in the law school (Dean 2010)?<sup>1</sup> Race and gender norms in academia produce structural barriers for women and trans people of color in hiring and promotion.<sup>2</sup> These forces also create

1 I take the term “regimes of practices” from Mitchell Dean’s discussion of Foucault’s theory of governmentality, which is useful for thinking about the multiple locations of the production of racial and gendered systems of meaning and control. Such an analysis

attend[s] to . . . the routines of bureaucracy; the technologies of notation, recording, compiling, presenting and transporting of information, the theories, programmes, knowledge and expertise that compose a field to be governed and invest it with purposes and objectives; the ways of seeing and representing embedded in practices of government; and the different agencies with various capacities that the practices of government require, elicit, form and reform. To examine regimes of government is to conduct analysis in the plural: there is already a plurality of regimes of practices in a given territory, each composed from a multiplicity of in principle unlimited and heterogeneous elements bound together by a variety of relations and capable of polymorphous connections with one another. Regimes of practices can be identified whenever there exists a relatively stable field of correlation of visibilities, mentalities, technologies and agencies, such that they constitute a kind of taken-for-granted point of reference for any form of problematization (Dean, 26–27).

2 I use the phrase “women and trans people of color” intentionally to mark those facing the intersections of gender and race-based harm. Like other trans scholars and activists, I understand that transphobia is an element of patriarchal systems of meaning and control. To the extent that trans people violate the basic rules of gender assignment and coercive

barriers to admission for students who are women and trans people of color as well as grade disparities and a hostile environment. These conditions contribute to the law profession's lack of accountability to populations who bear the brunt of violence and maldistribution structured and maintained through our legal systems. How can those of us who seek to engage our academic labor in solidarity with women and trans people of color codevelop interventions to address these concerns,<sup>3</sup> particularly learning from the methodologies and innovations of women of color feminism (Sandoval 2000)? How can we work to change the culture and impact of law schools and of the legal profession?

I entered legal academia from a background in grassroots activism and legal services. In the context of that work and the experiences that brought me to it, I learned the value of thinking critically about my privilege and power and cultivating awareness of opportunities for solidarity with people with differing identities and experiences. These frameworks became central method of my work. In fact, a significant part of my decision to pursue an academic job emerged out of my desire to leave a paid leadership position in the organization I had founded. The social movements in which I was working and that still guide my work have critiqued the concentration of nonprofit governance in the hands of lawyers and white people (INCITE! 2007; Mananzala and Spade 2007). As a white lawyer/founder of an organization that serves and organizes primarily low-income people of color and operates through a collective model committed to being governed by and for those we serve, I decided early in the organization's history to leave a paid staff role when the time was right in order to open that staff position to someone else. Developing new leadership from the constituency most affected by the work and redistributing power and money away from allies and toward directly impacted populations are key values in the organization and in how I understand my participation. The organization has race and gender quotas for collective membership to develop and centralize the leadership of trans people of color and features a flat pay scale to ensure that people with educational privilege (especially lawyers) do not receive more compensation than others.<sup>4</sup>

I sought work as a professor not only because I love teaching, reading, and writing but also because it is a type of work that allows flexibility and time for doing unpaid work in social movements. As a white person and lawyer, I want to provide support to social movements, not take resources (in the form of salary, for example) from them. When I was hired into a tenure-track law teaching job, I brought these sensibilities, which had been developed through years of activism, into a new

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gender norming, we experience conditions of marginalization that produce high rates of unemployment (an estimated 70 percent nationally), housing and health-care discrimination, and disproportionate incarceration. As I have written elsewhere, these conditions are particularly severe for trans people of color. Trans scholars and activists use the term women and trans people when talking about a variety of situations and conditions where gender oppression produces disparities impacting people facing acute harm in various gendered systems of meaning and control.

3 As a new professor in only my second year on the tenure track, I am aware that the interventions I am working on are at a very early stage of development and also that much work has already been done on these issues that I am likely still to discover. I offer the tools shared in this article with a deep sense of humility and desire to find opportunities for further collaboration and mentorship.

4 See <http://srlp.org/about/collective>.



work environment. As I adjust to academia, I am confronted by norms of hierarchy, competition, and individualism and struggle to figure out ways of translating feminist and antiracist values of collectivity and antisubordination into the new work I am doing.

I entered legal academia with an interest in bringing the critical thinking and practices of grassroots activism to students. I believe this to be particularly important because the legal profession is especially hierarchical and trains attorneys in ways that are often problematic for social movements. Legal services follow service and reform models that have been critiqued by women of color feminists and others for replicating colonial dynamics and strengthening and legitimizing structures that produce harm (INCITE 2007; Spade and Mananzala 2007; Munshi 2009). Further, law reform often operates as a cooptive and containing force in social movements where radical demands for redistribution are translated into formal legal equality demands that preserve the status quo while creating the appearance of change (Siegel 1996; Harris 2006).

To move beyond legal services that primarily stabilize and justify systems of exploitation and to combat the colonial dynamic of lawyers understanding themselves as autonomous saviors of communities unconnected to meaningful collective struggle and unaccountable to the communities they serve, legal education needs to open more space for critical interrogation both of structural inequality and the complex role of law reform in social movements. I am interested in exploring how law schools frame leadership, how the law school classroom reproduces national mythologies about law and the power of law reform, how stories about transformation can more accurately reflect the histories of social movement, and how individualism and heroism can be disrupted as guiding ways to understand the role of lawyers in social change.

The ability of legal education to provide this kind of analysis—to produce learning communities that critically confront power, rather than solely reproduce conditions of domination—is integrally connected to who is in the law school—the students, staff, faculty, and administrators. The people who govern the school (faculty and administrators) determine key points regarding admission criteria, curriculum, and pedagogy. The people who teach classes engage or fail to engage with students in ways that build critical analysis and skills for understanding and addressing power and privilege. The students who attend classes and cocurricular activities and gather socially cocreate an environment that is more or less accessible and welcoming to traditionally underrepresented students and professors and also evaluate professors in the light of biases they have.

At each level, the presence or absence of traditionally underrepresented groups creates feedback loops that impact access to the institution, the curriculum, the environment, and the future of the profession. Ensuring that women of color faculty are hired, retained, and flourish in the legal academy requires addressing student racism and sexism that contribute to biased evaluations, introducing students to pedagogy focused on feminist and racial justice issues, and addressing admission criteria for students and other policies of the law school. Because white supremacy and patriarchy are produced and reproduced at all levels of legal education—from disparate pay scales for staff and faculty to admissions policies to pedagogy—opportunities for intervention are virtually everywhere. Figuring out how to take advantage of them is a complex and creative process requiring frequent reflection

and revision. Allies working in solidarity with women and trans people of color must ensure that our actions are guided by relationships with those most directly impacted and are continuously reevaluated and open to critique.

## Interventions

In both classroom and cocurricular settings, I seek to help students develop their ability to critically analyze the role of law in social change and the limitations and dangers of law reform as well as critically engage with their own social and political positions and behaviors. This process involves linking analysis of personal experiences of trauma, subjection, and privilege with structural understandings of power and distribution. Particularly, I find that developing a meaningful racial justice critical lens requires both classroom and cocurricular engagement because of the inherent limitations of mandatory/graded classes. For students to analyze their experiences of racial domination and oppression and unpack the trauma connected with them requires a non-graded space in addition to the intellectual and political discussions (and sometimes more) that can happen in the classroom.

In the rest of this chapter, I share examples of methods I use in the classroom as well as a project I codesigned called the Racial Justice Leadership Institute that offers students a cocurricular space for developing skills and capacities for racial justice work. The strategies I share constitute my initial efforts to intervene in some of the conditions that marginalize women and trans people of color in legal academia and perpetuate the cooptation of social justice work by legal reform.

## Classroom Strategies

### *Group Agreements*

I start all my classes with an exercise that is typical of many activist community meetings. The class generates group agreements about the ways we want to treat each other and create a learning environment that will support our work together. I find this exercise necessary and useful because of the competition and individualism that legal academia fosters through the Socratic method and curved grading. My concern is that the culture of the law school classroom actually makes lawyers into bad people—or worse people than they would have been otherwise—because it harms their ability to work in groups, to collaborate, to listen, to share power, and to be secure enough personally to withstand critical feedback. The group agreements offer an initial chance to address some of those problems as well as others that relate to oppressive dynamics in the classroom.

The first group agreement we discuss is “move up/move back.” This agreement asks each person to gauge his/her own participation rate. It invites those who have a tendency to observe and volunteer less to take the risk and those who tend to be the first with their hand up to let others have more time to gather their thoughts. In discussing this agreement, I tell the students that I intend to create a space where guessing is invited and wrong answers are not a source of humiliation, hoping that those who are shy to volunteer based on bad classroom experiences will risk trying again under new conditions.

The second group agreement is “collaboration not competition.” In this agreement, we discuss ways that the class will be a space where small group work and graded group assignments take place, and in each of those instances, we will all aim

to make sure everyone participates equally and no one is left behind. I ask them to take responsibility for educating one another as well as themselves.

The third group agreement is “constructive feedback.” In this one, I invite students to tell me how the class is working for them as it goes along and to post thoughts about it on a Web page that I have set up to allow anonymous entries so that I can continue to improve the class throughout the semester, rather than only getting feedback from them at the end. I encourage them to take responsibility for their experiences in the class by giving this feedback.

The fourth group agreement is addressing each other correctly with regard to name and pronoun. We agree to pronounce each other’s names correctly (Lustbader 2006),<sup>5</sup> not to assume each other’s pronouns until we have confirmed them,<sup>6</sup> and to call each other by the names we go by. Being misidentified by professors or fellow students, I have found, can be a major obstacle to student participation. Some choose to avoid speaking if it includes risking being misidentified. Other, more obvious group agreements that usually get included are “respect one another,” “do not use the Internet for unrelated purposes during class,” and “be punctual.”

Starting the class with the idea that we are a community with a shared purpose, that there are guidelines to make the space open and accessible, and that these guidelines are something we are volunteering to share provides a significant departure from the professor-dominated, presumed-neutral space of the law school classroom. No doubt we are still in the law school. I am still the professor. In large classes, I still have to grade on the curve. These group agreements do not eliminate any of that, but they establish a critical entry point for conceptualizing our relationship to one another, an invitation to track our participation in those dynamics, and a space for questioning the way things are arranged. They explicitly disavow certain values (competition, individualism, self-promotion) and invite others (collectivity, cooperation, self-reflection). I also openly share the limitations of the group agreements and acknowledge the structural conditions that undermine them, encouraging the students to critique the grading system, the curve, law school pedagogy and other structures and suggesting that student activism can be mobilized to change these structures if they desire it. I hope that framing the context in these ways reminds them of the agency they do possess in a context that often feels stifling and disempowering.

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5 Paula Lustbader’s insightful article, “Walk the Talk: Creating Learning Communities to Promote a Pedagogy of Justice,” addresses the hostility of law classrooms to students from groups underrepresented in legal education and recommends practices that foster an improved learning environment. Lustbader specifically addresses proper name pronunciation as a key element of creating a respectful and accessible environment.

6 One barrier for transgender and gender nonconforming students in the classroom occurs when professors and fellow students misidentify them by name or pronoun. Because pronouns are often based on appearance and many trans and gender nonconforming people have identities and appearances that depart from traditional expectations, being misidentified is a common experience. Professors can address this potentially embarrassing problem by ensuring that they refer to students correctly, rather than adding to the problem by forcing students to decide between trying to correct them or avoiding participation in class so they won’t be misidentified (Spade 2010).

### *Grading Criteria*

Another strategy I bring to the classroom is using multiple grading criteria in classes where the traditional method is a single final exam (Lustbader 2006).<sup>7</sup> In my Administrative Law course, 30 percent of the grade is based on the final exam, 30 percent is based on an assignment where students write a five-page comment on a current proposed regulation, 30 percent is based on a group project where students investigate an administrative agency as a group and create a fifteen-minute presentation, and 10 percent is class participation. This mix of assignments allows students to get training in collaboration, something rarely offered by a law pedagogy that centers on individualism, competition, and the myth of meritocracy.

I find that students have an enormous amount of anxiety about collaborating, and I ask them to confront it, establish a group process that ensures the work is evenly distributed and report on that to me, and take the risk of moving up and moving back in the group. I am clear about my desire to help them hone the kind of leadership skills that involve collaboration and collective participation. The group project and the paper also have the benefit of allowing students to focus on administrative-law issues that relate to their career interests and helping them get a more hands-on sense of material that can seem abstract. Perhaps the primary reason I choose this evaluation strategy, however, is that I believe that the exam-focused evaluation criteria that is common in law pedagogy contributes to racial disparities in law school performance (Lustbader 2006). My hope is that by providing opportunities to demonstrate a range of skills, rather than solely exam-taking ones, students who sometimes fare poorly in law classes may have an opportunity to excel.

### *Political Education Skills*

In my Poverty Law course, we spend time critiquing the system-stabilizing role of legal services (Geoghegan 2008) and the dissent-quelling role of poverty programs more broadly (Piven and Cloward 1993). We look at critiques of the power dynamic between lawyers and poor people seeking legal assistance and discuss models for developing legal services as part of social movements that help build collective struggle against poverty, rather than individualizing harm and maintaining systems of wealth inequality. We discuss how attorneys can act as demystifiers of legal systems for communities organizing against harms that include enforcement of laws and policies. In analyzing how lawyers can support the demands of directly impacted communities, rather than framing and shaping demands in the name of those communities, we discuss ways lawyers can learn to communicate with people struggling in poverty differently and shift expertise and power through that communication.

As part of their graded work, the Poverty Law students do group projects where they create interactive political education workshops and lead them for their classmates. These workshops are not presentations; they are interactive activities designed to help the group engage in shared political analysis about some critical point from the week's readings. I share with them a range of tools, including sample political education workshops from United for a Fair Economy, which has developed very useful political education curricula on the racial wealth divide in the United States. These tools provide a sense of what it means to create a community

<sup>7</sup> Paula Lustbader discusses the benefits of using multiple grading criteria rather than a single exam.

learning space not based on the idea that people are to be told the truth, but rather that they can collaborate to build shared analysis about their experiences (Chinen 2010).<sup>8</sup> I work with them as they create the workshops to help them think through their goals, logistical issues, and potential pitfalls. This project aims to help them move from conceptualizing poverty lawyering as saving poor people and leading change from the top to understanding that the poverty lawyer is an ally and servant to poor people's movements.

### *Focus on Governance and Participation*

In my Poverty Law, Law and Social Movements, and Critical Perspectives on Transgender Law classes, I devote time to the analysis developed by women of color feminism and other intellectual traditions about the governance of social movement organizations and the role of mass participation and leadership development in social change. Moving beyond a doctrinal focus to analyze the relations of power that lead some harms to be addressed by litigation and services and others to go unaddressed and that privilege some strategies while others get overlooked is key to the critical engagement I seek to share with the students. Women of color feminism has developed analytical tools that examine how social issues get framed into narrow legal-equality struggles, often in ways that undermine and coopt struggle and even worsen conditions for those experiencing multiple vectors of subjection.<sup>9</sup> Helping law students analyze movement decision making, including understanding barriers to leadership development for people directly affected by marginalization, and conceptualize accountability strategies for movement organizations and professional workers provides tools for them to interpret their experiences of internships and jobs that are lacking in a focus on doctrinal analysis. Building an understanding of privilege (race, gender, education, age, class, ability, citizenship status) and sharing models of work that aim to redistribute decision making away from elites and toward large numbers of impacted people provides a framework for imagining transformative change that uses law reform as a tool, rather than defining itself through law reform. More broadly, the analysis developed by women of color feminism operates as a baseline for these classes, where an analysis of race, poverty, and gender is expected on every issue. Race, gender, and poverty are central, and students learn that they are expected to consider any problem we discuss through a critical lens that interrogates the impact of any issue and the effectiveness of any strategy through these dimensions.<sup>10</sup>

8 Mark Chinen cites Paulo Friere on the "banking" method of education.

9 Scholarship focused on the limitations of the white-led domestic-violence movement's focus on law enforcement is an example of this kind of analysis that I frequently use in classes (INCITE 2008; Bierra, Liebenthal, and INCITE 2007). Chela Sandoval's description of five forms of oppositional consciousness commonly employed by social movements in the United States is particularly helpful for understanding conflicts between legal equality demands and broader demands for social and political transformation (2000, 56).

10 Though the doctrinal focus of administrative law can make this project somewhat more challenging, I have found that inserting a few key critical materials on race and power into the beginning of the class and then refocusing discussions of various areas of doctrine using examples related to the administration of welfare, criminal punishment, and immigration helps to retain a critical lens for the course. Texts I have found useful include James C. Scott's *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed* (1999); Lisa Brodoff's "Lifting Burdens, Proof, Social Justice, and Public Assistance Administrative Hearings"; and Gabriel J. Chin's "Regulating Race: Asian Exclusion and the

### *Confronting the Valorization of Law and Lawyering*

In the first half of the semester, students sometimes say my class is depressing. I think this is because of the work I am doing to shift their understanding of law. I find that many students have certain beliefs that both obscure their understanding of the role of law in structuring and addressing the maldistribution of life chances and lead to disappointment and alienation in the legal work they take up during and after law school. First, many of them worship the Constitution and other canons of law as sacred texts that will deliver equality and fairness if only they are interpreted correctly. Historicizing the conditions under which the American legal system was established and the founding documents drafted (slavery, genocide), and the meanings of the key terms that were used at the time (“equality”) helps move students away from uncritical acceptance of the nationalist narratives that justify and legitimize racialization and maldistribution.

Second, I help them critically examine the hero and savior stories about lawyering and legal change that they bring to class and the progress narratives that anchor them. Relying on a range of critical tools, we raise questions about whether it is true that everything used to be worse (more oppressive/unfair/exploitative) than it is now and that it was fixed by changing what was legally permissible (passing anti-discrimination laws, establishing color-blind constitutionalism, creating minimum wage laws, etc.). We explore the limitations of formal legal equality and the ways that law often transforms just enough to preserve the status quo in the face of social movement demands or other disruption. We study theories of power that help us account for ways that harmful systems of meaning and distribution like racism and sexism operate through complex and diverse strategies and technologies that are mostly outside the scope of the laws that purportedly try to eradicate them.

These conversations question the theory that many law students arrive in class with—that changing the law will change people’s lives and by being law reformers, they will be heroes to downtrodden people. By studying social change processes and the role of lawyers in them and exposing the false neutrality of American law and the false promise that tinkering with it is the path to liberation for people whose systematic exploitation and liquidation it was created to legitimize, we can move into an analysis of the potential for change that legal work *can* have and the meaningful roles that lawyers can play.

These initial disillusionments, however, are challenging. Perhaps the best resources for this work, I find, are the students themselves, who tend to arrive with different experiences, areas of awareness and myopia, and motivations. As we explore the materials in a participatory environment (both the classroom and the course Web page, where we have a dialogue that different students are assigned to lead each week), they tend to question each other’s progress narratives and paternalistic assumptions, name their own and each other’s conditions of privilege, and to coconstruct a new analysis strengthened by a collaborative process that includes conflict and disagreement.

### Cocurricular: Racial Justice Leadership Institute

In addition to these approaches to classroom teaching, I have also sought to incorporate tools for developing a critical race lens based in a personal exploration of trauma, oppression, and dominance into the law school by collaborating on a

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Administrative State.”



cocurricular activity called the Racial Justice Leadership Institute (RJLI).<sup>11</sup> In the grassroots activist spaces where my work developed, intensive training on racial justice is a central tool for organizational development and movement building. It provides dedicated space to do deeper work to confront internalized oppression and dominance and build skills for identifying, talking and thinking about, and dismantling racism.

A key component of this work is the use of caucuses. The RJLI divides participants into a white caucus and a people-of-color caucus, and participants spend much of their time meeting in these caucuses. Caucuses have several benefits. First, they overtly disrupt the “people of color as educators” dynamic that often pervades racially integrated spaces. Creating separate caucuses acknowledges that white people and people of color have different work to do in healing and addressing racism. In these separate spaces, each caucus can focus on its particular work and the dynamics of internalized oppression or dominance. Often getting into the caucuses also provides an intensive entry point for talking about racial justice. As a white caucus participant in many similar trainings, I have consistently seen white people struggle with the idea of being grouped in a white caucus. Several key complaints tend to emerge. First, many struggle with seeing themselves as white people. These responses relate to their refusal to acknowledge white privilege. Also many white people feel uncomfortable in the caucus because they believe that the best way to learn about racism is to be with people of color who are talking about the effects of racism in their lives. They feel they are being deprived of key learning by being separated into a white caucus. Also white caucus members often point out that the people-of-color caucus is multiracial so it does not makes sense to separate only white people, and in fact it may be racist to do so.

All of these objections, and the underlying anxiety they reflect, are excellent starting points for talking about race and racism. For both caucuses, separating offers an opportunity to discuss how race and racism impact white people and people of color differently and therefore the work of dismantling racism has different obstacles and requires different capacities for white people and people of color. Breaking into caucuses also provides an opportunity to discuss the way people of color are commonly put in the role of educators of white people. The white caucus also creates a space where white people can begin to address competitive dynamics that often exist among self-identified antiracist whites. When white people are competing to show how aware they are, they often fail to build the trust and form the relationships necessary to do white-on-white work to dismantle racism. The white caucus is intended to be a space to build relationships among white people that may be a key resource for the white-on-white work that needs to be done in any institution or organization to address white supremacy.

The white caucus is also an important place to address key responses to being confronted about racism, especially guilt and defensiveness. At the RJLI, I start the white caucus with an exercise where members partner up and go over a worksheet about “one-ups” and “one-downs.” The sheet, divided into two columns, identifies forms of privilege and categories of oppression such as age, socioeconomic class, education, religion/spirituality, ability, and physical size. It describes one-up groups

11 I codeveloped and cofacilitated the Racial Justice Leadership Institute with Jolie Harris, assistant director of the Office of Multicultural Affairs at Seattle University.

(e.g., US born, able bodied, age of thirty to mid-fifties, Christian, slender) and one-down groups (e.g., born outside the US; people with physical, emotional, or learning disabilities; Muslim, Jewish, agnostic, atheist, Buddhist, Hindu). I ask the students in their pairs to look at all the categories and tell each other where their experience is reflected. I start the session by sharing that I want them to have a chance to think through their different experiences of privilege and oppression because of an awareness that each of these connects to their race privilege and causes them to experience whiteness and access to its benefits differently. I introduce this to acknowledge that white experience is not uniform, even though our work in the session focuses on race and aims to help each of us learn more about how race and racism operate. My hope is that starting with this exercise allows students to feel heard and seen in their multiple identities and experiences but also realize that experiences of other kinds of oppression do not negate white privilege or mean that we do not need to account for and understand our roles as white people in a racist society. This, along with a discussion of people's concerns about being in a white caucus, provides an entry point for our work analyzing race and racism and beginning to address common defenses against acknowledging them.

Both the white caucus and people-of-color caucus of the RJLI are also assigned to read a short article called "Detour-Spotting for White Anti-Racists." The article outlines common habitual responses that dismiss or minimize the existence of racism, such as the assertion of color blindness, cultural appropriation, victim blaming, silence, requests to be educated, and the assertion of a white person's own oppression in another area (sexism, anti-Semitism, homophobia, etc.) (Olsson 1997). In the white caucus, the group goes over the article paragraph by paragraph, looking at each particular detour and discussing when we have seen it used and any reflections we have about it. We also make lists of manifestations of white privilege that we have seen to help us build skills and awareness about the way racism operates. We also go over a handout about cycles of socialization to help establish that racism is not an issue of individual wrongdoing but an immersive, systemic, formative experience that requires constant, active, reflective engagement to continually unlearn. This provides an opportunity to talk about guilt and blame as well and address the ways that white people often compete with each other to be the "most antiracist," rather than working together to support the lifelong process of reflection and action to address our co-production of white supremacy.

The white caucus also uses a handout called "Costs of Racism to Whites." The list includes things like "distorted, inaccurate picture of history," "feeling a false sense of superiority," "lost relationships with people of color," "lost relationships with family, friends, colleagues over fighting about racism," "tendency to live in fear of people of color, feel uncomfortable and tense around them," and other items. We go over the handout in the caucus and share experiences we are reminded of by the different items on the list. Again this gives the participants an opportunity to reflect on the role that racism plays in their lives, how deeply it shapes their experience and emotional reactions, and how significantly it organizes our social and professional interactions. For many this is also another moment to expose the prevalence of racism in a culture that pretends it has been resolved or is a problem of isolated aberrant individuals.

The white caucus also uses tools that directly address ways of responding to being confronted about racism that offer an alternative to defensive/evasive responses



and stem from an understanding of the cumulative impact of racism and the difference between intent and impact. The caucus identifies cumulative impact as one reason to choose not to criticize the way that someone brings up racism. We discuss the fact that people on the losing end of white supremacy will have repeated experiences of racism throughout life and may have deep feelings of anger, fear, distrust, and frustration. Caucus members are encouraged to approach these conversations with openness and a desire to support these individuals in sharing their experience, rather than with a critical appraisal of the way they might have presented their point “better.” When working with white law students, I include in this discussion the fact that white lawyers often occupy high-level positions in organizations where it is especially important that we provide space and support, rather than critiquing people who bring racism to our attention. I share stories of moments in my own life when such assertions prompted feelings of defensiveness, fear, and a desire to critique the way the message was delivered. I share how working with myself and/or other white people to process those feelings allowed me to make a more appropriate response that did not blame the victim, criticize the delivery, or evade the issue.

Similarly, when we discuss intent versus impact, we talk about the need for allies to apologize for and address impact, rather than defend their intent. During this discussion, members often share stories about their own mistakes in dealing with discussions of racism, their fears about being racist, and their difficulties in realizing that they cannot become perfect at antiracism and need to continue unlearning harmful approaches and behaviors and being accountable for mistakes throughout their lives. During this discussion, we also go over handouts that outline specific language to use in dialogues about race to avoid these issues, show respect and openness, and support people naming racism and seeking accountability and change.

The members of both caucuses are also given an assignment between the second and third sessions to track patterns of behavior by group identity in the various spaces of their lives. They are asked to watch the ways race operates in their workplaces, families, classes, and other parts of their lives. The tracking worksheet asks them to think about questions like “Who is talking? Who is silent? Who has eye contact with whom? What is being talked about? Who reacts to whom? Who seems to be shutting down or zoning out? Who initiates? Who supports?” These questions invite the students to look at the world through a racial justice lens and identify patterns. In the final session, the caucuses come together to discuss what patterns they have noticed. This activity builds shared analysis among the students and creates the possibility of collaborating to address problematic trends they see in the spaces they share.

The RJLI program takes place during three sessions; the first lasts all day, and the two others are three-hour evening meetings. At Seattle University, where we have begun this institute, students have expressed a desire that the program be mandatory for all students, faculty, and staff. It remains to be seen whether the training will be broadened to reach more or all of those constituencies, but our hope is that the success of the program will encourage the students to push for its expansion and the school to meet that demand over time. We believe that the depth of this curriculum, which extends far beyond diversity and inclusion rhetoric, provides vital tools to help students work for racial justice throughout their careers. This is particularly urgent in law, where racial disparity plays out, not just in the systems that deliver racial injustice (criminal punishment, public benefits, housing, immigration, child

welfare) but also in the profession itself, where power and compensation are concentrated in white people, and in legal education, where racist admission practices and institutional norms produce unequal access to the profession.

In its broadest vision, perhaps such training could be one tool in addressing a range of issues we see in legal academia. Perhaps students with sharper racial justice perceptions will be less racist as evaluators of professors, will make more demands for racial justice in their law schools, and will participate in their classes differently. Perhaps an increased analysis of white supremacy in all members of the law school community can shift dialogue and decision making about admission criteria, tenure, compensation, curriculum reform, and other key issues that structure our profession.

There are many structural obstacles to working as a white ally in struggles for racial justice in legal academia. The pressures of professionalism promote silence and assent, perhaps especially in untenured professors. The white cultural norms that shape academic institutions—hierarchy, individualism, competition, scarcity—encourage us not to act as allies, not to endure the risks of taking unpopular action by naming oppression in our academic work or professional interactions with students, faculty, and staff. The structure of the law school encourages our students to emulate these qualities, compete, and abandon their preexisting values and “think like a lawyer.” Legal scholarship includes long traditions of critique and counter-practice, and yet legal academia’s limitations remain persistent and perhaps have worsened in the context of a rollback on affirmative action and a political climate of neoliberalism (Lewin 2010a). It can be difficult to take up ally work under such conditions, or that work can feel so compromised that it can be discouraging. However, a central tenet of this work is recognizing the opportunities that privilege provides to disrupt the creation of that privilege and the obligation to take action. My own practices in this realm feel incomplete and experimental and no doubt will be a source of reflection, mistakes, and adjustment for decades to come. My years in grassroots activism provide an anchor for the values I want to bring to this work, just as the example of radical academics intervening on these issues supplies inspiration.