SURVIVING LEGAL DE-EDUCATION: AN OUTSIDER'S GUIDE

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In the last four decades, the proportion of women in law schools has risen from 3 percent to 42 percent.[1] In the last twenty-five years, the proportion of people of color in law school has risen from less than 2 percent to 13 percent.[2] These are big numerical differences. I wish I could say that this dramatic numerical change has had a corresponding dramatic educational effect. It is tempting to read too much into these numbers. One fantasizes, for example, that when a sufficient proportion of women enter law school, the educational enterprise will be transformed according to the dictates of common sense and mother love. We will inculcate mass devotion to non-adversarial modes of dispute resolution. The practice of law will become efficient and cooperative. Ultimately, our political theory will reincorporate the classical ideal of the republic, with civic virtue as its noble cornerstone. This fantasy is what I have come to call, "Pollyanna in Hell."

Make no mistake about it. The legal system was designed by white men for white men. The legal system is at once a stunning portrait of white male Christian consciousness, and a reliable institutional protector of that consciousness. Regarding *how* the institution functions, consider Catharine MacKinnon's description of

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1. *A Review of Legal Education in the United States, Fall, 1988: Law Schools and Bar Admission Requirements*, 1989 A.B.A. SEC. LEGAL EDUC. & ADMISSIONS TO THE BAR 66; AMERICAN BAR FOUNDATION, WOMEN LAWYERS: SUPPLEMENTARY DATA TO THE 1971 LAWYER STATISTICAL REPORT 14 (1973).

2. The comparison of percentages for people of color is inexact. Data for 1965 which indicated a proportion of less than 2 percent included African-Americans, Native Americans, Puerto Ricans, Chicanos, and other Latin Americans. W. LEONARD, BLACK LAWYERS: TRAINING AND RESULTS, THEN AND NOW 250 (1977). The data for 1989-1990 also includes Asian-Americans, whose proportionate increase has outpaced other people of color. *Minority Enrollment: Efforts Show Gains at Law Schools*, N.Y. Times, Mar. 8, 1990 at A20, col. 4 (indicating 49 percent increase among Asian-American students from 1987 to 1989; 16 percent for African-American students). In this essay, I include Asian-Americans within the designation of "outsider."

patriarchy. I tell my students to tape this quote to their refrigerators and ink it on their sneakers, because it neatly encapsulates what we most need to remember and are most likely to forget. The system of male dominance, MacKinnon states, "is metaphysically nearly perfect. Its point of view is the standard for point-of-view-lessness, its particularity the meaning of universality. Its force is exercised as consent, its authority as participation, its supremacy as the paradigm of order, its control as the definition of legitimacy."[3] Though MacKinnon was talking about male dominance in general, I think this description fits the legal system perfectly. Both depend upon the norm of objectivity and the process of objectification. Both excise the substance of life—including real instances of systematic oppression—and leave only a formal, abstract account of life, which claims to be the only legitimate account.

MacKinnon's description also expresses why law school is often emotional torture for women and other outsiders. From the very beginning, we can sense the contradictions. We see the particular point-of-view embedded in law's alleged neutrality. We feel the coercion that fuels the democratic ideal of law. We are left breathless by the circularity with which the system rationalizes itself. As law students, however, we typically don't have the language, the confidence, or the stamina to challenge these things. I was, literally, struck dumb.

Meanwhile, the workload, the competition, and the relentless repetitions of the rationalizations wear you out and wear you down. And so, added to one's feeling of incompetence is self-hatred, the creepy sensation that one is in a long slide through angst, through ennui, to selling out. And you may be selling out. In 1964, Professor Judith Shklar wrote a scathing indictment of legal ideology entitled *Legalism*.[4] In that book, Shklar quoted an English barrister as saying that " '[t]he lawyers could no doubt reform their education and training, reform the practice and processes of the law, even reform the law itself, if they felt like it. But probably they will not feel like it.' "[5]

Indeed, they generally don't feel like it, because they are holding up their end of the *quid pro quo*. In law school you get a grad-

3. MacKinnon, *Feminism, Marxism, Method, and the State: Toward Feminist Jurisprudence*, 8 SIGNS 635, 638-39 (1982).

4. J. SHKLAR, LEGALISM: LAWS, MORALS, AND POLITICAL TRIALS (1964).

5. *Id.* at 14 (quoting R. LEWIS & A. MAUDE, PROFESSIONAL PEOPLE 208 (1952)).

uate degree in a relatively short time—a cheap doctorate, as my Ph.D. friends are quick to point out. Most important, you get legitimacy, and at least the appearance of power. People will listen to what you say. The *system's* reward in this bargain, if it has trained you right, is that you won't say anything, really, or at least nothing threatening to it.

When I was in law school, I campaigned with a number of my naive friends for the abolition of grades in the first year. First year grades are stupid, even stupider than other grades, for we do not teach discrete subject matters in law school. Rather, law is a language, a way of thinking, and a culture. It is ridiculous, therefore, to expect that one can have "gotten it" by the end of four or nine months. Indeed, we argued, first year grades cannot measure anything "learned" in that year. Rather, the grades can discern only who *already knows the stuff*, and are therefore unfair to the rest of us.

In the midst of this, one of my teachers sighed, put his hand on my shoulder and bade me sit down. "You don't understand," he said. The grading policy, he said, is dictated by big law firms, and, though they might agree to abolition of grades in the second and third years, if we wanted that, they would *never* agree to abolition of first-year grades. My teacher told me that a partner in a big east coast firm had characterized the first year as The Race. To do well in the first year is to win The Race, and to secure your success in law firm practice forever.

Good grades in the first year are a reasonably reliable indicator that you are pre-programmed to law firms' needs. You are likely a beneficiary, and, they hope, likely a defender of the culture of which law is an institutional expression. If you do poorly in the first year, but well in the second and third years, you are a poor risk. You have had to *learn* it, instead of being born to it. You might forget it, or turn against it. I don't know what partner allegedly said these things, but I do know that my law school never abolished first year grades.

Don't get me wrong. I know that law school is an undermining experience for everybody, at least at first; but, cruise the halls as the year goes on. Peoples' faces change a lot. There will be some who begin to have a smug gleam in their eyes as they start to figure it out. There will be another group that always acts frustrated, because they are used to things being a little easier for them. They,

too, will be fine. There is a third group that is very angry. They skip a lot of classes, and walk out of others. Some of them will drop out; some will be sustained by their anger.

There is yet another group that, as the year goes on, will come to have permanent expressions of what appears to be anguish. They may or may not be making it academically, but most of them feel some obligation to stick it out. They will all have the sensation of acid slowly dripping on their souls.

In my experience, this last group tends most often to be women and people of color. I hate that. The worst thing about being a law teacher is observing the difference in quality of life between those who *feel at home* is law school and those who do not. The people who feel at home are miserable, but in a homey way. They are being exhausted but well-nourished while in training for The Race. The other group, the not-at-home, are merely exhausted. They are being existentially starved to death, for law school is a very specialized diet.

Law school gets characterized as characterless, as impersonal and cold. But I don't think that is right. In fact, legal education tells a very emotional story, over and over again. Maybe that story will help illustrate what I mean by "feeling at home" or not. It is a story about one kind of emotional experience, but it gets called "objective analysis." For the people who hear the story, the fact that it is labeled "objective" means one of two things. If the story does not correspond to one's own experience, then one must divorce those experiences from the study of the story, and relegate feelings to a separate realm, perhaps never to be heard from again. If one is lucky, however, the story told in law school is one's *own* story. If so, privilege pays a dividend: one's subjective experience gets elevated to the status of objective truth.

The story has at least three chapters. The first celebrates a particular self-image and corresponding social organization. The self-image is the reasonable man who inhabits the private law courses which are the core of the required curriculum. He is self-sufficient, and prefers fewer rather than more obligations, except those that he has imposed upon himself. He values individual autonomy above all competing values. The plot is revealed through the doctrines of freedom of contract, the good samaritan rule (that is, that you don't have to be one) in torts, and the catalogue of fee simple ownership rights in property.

The dramatic tension builds in the second chapter. These exclusionary, self-protective doctrines sometimes just don't feel very good. This is most stunning in the old torts cases, where the mill operator could easily step in to prevent the trespassing child from mangling his arm in the machinery, but the law says he doesn't have to.[6] That is, the rules feel great until we add in real injuries to real people (or at least really bad injuries to otherwise really deserving people). This second chapter can be characterized as a battle of metaphors. On one hand, there is the need to break some eggs in order to make an omelet. On the other hand there is the search for a foothold on that darn slope, which, as you know, is slippery, due no doubt to the eggs there which didn't make it into the omelet pan.

The third chapter provides dramatic resolution of sorts. We get some doctrinal relief for those sneaking creeping altruistic feelings that were spoiling the individualism festival—so we are presented with promissory estoppel, unconscionability, the duty to deal in good faith, exceptions to the good samaritan rule, burden shifting occasions in torts, rights for mere leaseholders in property, and so on. These doctrines are very dangerous, of course, but we are big enough to try them, by golly, and deserve a big pat on the back for taking those risks.

According to Robin West, this tension, and the means of cautious resolution, tell a distinctly male story.[7] For a man in this culture, the primary and "official" value is individuality. However, he still has a deep and often secret longing for community and intimacy, as dangerous as those may be. For a man whose emotional life fits this pattern, hearing his own story retold in law school—and having it called "objective analysis"—must be wonderful. It reassures, it validates. To that person, the story says, "You are not alone and your existential doubts are *exactly* the ones we are all working on. We can't actually have communitarian presumptions, of course, but we can have lots of exceptions to individualistic rules, so long as they are carefully managed. Just help us consolidate these limits. Good thing you're here to help!"

For an outsider in law school, or at least for me, this laborious

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6. *See, e.g.*, Buch v. Amory Mfg., 69 N.H. 257, 260, 44 A. 809, 810 (1898). "If he does not [rescue the child], he may, perhaps, justly be styled a ruthless savage and a moral monster; but he is not liable in damages for the child's injury . . . ." *Id.*

7. West, *Jurisprudence and Gender*, 55 U. CHI. L. REV. 1 (1988).

generating of exceptions seemed like a lot of hand-wringing over very little in the way of justice. This is at least in part because, for women and for people from many other cultures, intimacy and connectedness are the primary values on which we are raised. Individuality is the lessor competitor, the secret and dangerous longing. As Robin West says, "women do not struggle toward connection with others, against what turn out to be insurmountable obstacles. Intimacy is not something which women fight to become capable of. We just do it. It is ridiculously easy."[8] So the feeling for a woman or person of color or cultural outsider in law school is something of an Orwellian nightmare. The assumptions about human nature, and about the dynamics of social life seem backwards at the very least, if not perverse and suicidal.

If those are your impressions, remember that the story of law as told in law school is a very particular one. Keep in mind that it is only one way of organizing the world. It is the result of an ongoing white male encounter group. It is what happens when you take millions of white male subjectivities, compare their responses to the challenges of being alive, write it all down, and work for centuries on hammering out the rough edges and making it all seem inevitable.

In my feminist legal theory seminar, I ask students to read a piece by Carol Cohn, a psychologist who spent a year and a half in the belly of the beast (or a different part of a multi-bellied beast), working with the men who develop nuclear weapons strategies for the United States.[9] I believe that what she learned there is analogous to what we teach law students, and illuminating because her experience, unlike ours, is not prettified with the trappings of liberalism and the majesty of the rule of law. Cohn said that in order to talk to defense strategists, you have to learn their language, and having learned their language—which is sexy, powerful, and exclusionary—you learn to think in it. This process is what she calls, "the militarization of the mind."[10] Having learned this language, there are certain things that can no longer be said. In the repertoire of strategic language, there is no such thing as "peace." There is only "strategic stability,"[11] a term which presumes the existence

8. *Id.* at 40.

9. Cohn, *Sex and Death in the Rational World of Defense Intellectuals*, 12 SIGNS 687 (1987).

10. *Id.* at 714.

11. *Id.* at 708.

of nation-states, the necessity for a balance of armaments, and the truth of the theory of nuclear deterrence.

Even for those of us outside the nuclear priesthood, think of how limited our concept of "peace" has become. True, peace means lack of violence, but there are many forms of violence besides the kind perpetrated by a physical attacker. Peace should also mean the absence of economic, political, and psychological violence, whether perpetrated on a personal or an institutional scale.[12] Peace means cultural survival, dignity, and fulfillment of aspirations. We generally *use* the term "peace," however, to mean "no genocidal massacres at this moment." That's the meaning of the word in President Bush's rallying cry, "peace is breaking out all over."

Compare what you learn in law school, which we might call the "legalization of the mind." One of my students analogized the substitution of "strategic stability" for "peace" in defense discourse to the substitution of "policy" for "justice" in legal discourse.[13] You know what "policy" is: It is everything that isn't law, and it is amazing how quickly law students can be taught to devalue everything that isn't law.

We teach that policy arguments are supplements to legal argument, and often as the last resort. We teach that policy is epistemologically and persuasively *inferior* to law. Consider what that division assumes: that the law *is* necessarily separate from morality and politics, that the law is *better* than morality and politics, that it is largely worthless to engage in the discourse of morality and politics because we can never agree on anything anyway, and that human beings are horrid aggressive creatures who will only be persuaded, ultimately, by coercion.

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12. Joel Kovel writes:

> Violence today is largely automatic and impersonal. People don't do it; violence 'happens' through the institutions people set up. . . . If the life expectancy of blacks is 8 percent lower than that of whites (68.3 to 74.4 years in 1979), this is the equivalent of killing 8 percent of the black population.
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> . . . I have read that for the International Monetary Fund to raise its interest rates on the Third World debt by 1 percent, and to demand the corresponding 'austerity' measures, is equivalent to lining up 25,000 children against a wall and machine-gunning them, the difference being that in the case of economically induced death the process is much slower and occurs through starvation and disease.

Kovel, *On Violence and Nonviolence*, ZETA MAGAZINE, July/Aug. 1988, at 129.

13. Remarks of Katy Hoh, Feminist Legal Theory Seminar, University of New Mexico Law School, Spring 1990.

I have said a lot of negative things about legal education, and why it is a drag to be an outsider in law school. Let me be quick to add what I *don't* mean by all of that. I don't mean that law and the state are necessarily, eternally white, Christian, and male. I don't mean that law and the state are necessarily evil. I don't mean that maleness is evil, or that evil is male. Evil and madness come in an infinite number of multi-gendered, multi-colored, and multicultural forms. If the sources of evil were easy to identify, we could have long since eradicated them. But I *do* think that patriarchy—as a system of organized oppression on the bases of race, sex, spiritual imperialism, and class—*is* evil. I also think that the souls of lawyers and others who work to support patriarchy are in mortal danger.

I believe that it is possible to be a lawyer and to do good. In this regard we should take to heart what has been called "the minority critique"[14] of the critique of rights. In this literature, people of color have demonstrated that there is no stark choice which must be made between using law and abandoning law.[15] The law can be an effective mode of discourse for community organizing, can actually effect some change, and can at least be used to buy some breathing room for people who are being suffocated by the powers-that-be. To be able to use the law effectively requires being able to discern appropriate political circumstances for its use, resisting being coopted by the system's rhetoric, and keeping one's own sanity and clarity intact.

That is really hard to do in law school. An outsider's life within such an institution is, in Audre Lorde's words, a "vulnerable and temporary armistice between an individual and her oppression."[16] Adrienne Rich says that, "no woman is really an insider in the institutions fathered by masculine consciousness."[17] To be a happy outsider requires much, much more than learning, savvy, and endurance. It requires enormous vigilance to maintain clarity of vision. It requires caretaking—of yourself and of each other. It requires a healthy infusion of grace.

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14. *See, e.g.*, Bracamonte, *Minority Critiques of the Critical Legal Studies Movement—Forward*, 22 HARV. C.R.-C.L. L. REV. 297 (1987).

15. *See, e.g.*, Williams, *Alchemical Notes: Reconstructing Ideals from Deconstructed Rights*, 22 HARV. C.R.-C.L. L. REV. 401 (1987).

16. A. LORDE, *The Master's Tools Will Never Dismantle the Master's House*, in SISTER OUTSIDER 112 (1984).

17. Commencement Address by Adrienne Rich, SMITH ALUMNAE QUARTERLY 10 (Aug. 1979) [hereinafter Commencement Address].

Let me suggest some specific ways that women and other outsiders can rescue the experience of law school. I am actually going to enumerate a seven-part approach. The enumeration is artificial, kind of silly, and kind of anti-feminist. It suggests that reality has a linear modality, that it can be bludgeoned into an orderly linear format. It is crucial to feminist epistemology to remember that that is not the case.[18] This organization is partial and provisional. It is only part of a part of one changing story.

Also, please understand that I am not proposing a *system*: a monolithic program where every part depends on every other part and where all must be pursued simultaneously or in some special order, like Marx' theory of history, in order for the system to work. Not at all. Monolithic strategies are theoretically and practically antithetical to feminism.[19] Theoretically, because monolithic approaches imply uniformity in a reality we know to be multiple. Practically, because monolithic programs invite monolithic responses, akin to war, and if you get into an all-out war with male dominance, you will lose.[20] Monolithic warfare is something that patriarchy is very good at.

The approach that I propose should be thought of as having two features. First, it is multilithic. I suggest that everyone use any one or more of these methods sort of randomly, when you feel like it. The combined effect, one hopes, will be like raindrops wearing away a stone. It will also be much more fun. I am tempted to continue the militaristic metaphor—to say outsiders in law school should mount a guerilla war. There is something to that. Women and other outsiders are guerilla warriors of life in a system of white male dominance—taking little victories where they can, operating covertly, without any apparent organization, on the edges and in a thousand unexpected ways.

The second feature of the seven-part plan, however, disavows any militaristic aspect. It is confrontational, yes, but it does not mean confronting the annihilative power of male dominance with similarly structured power. It is not oppressor A versus oppressor B. Rather, in order to work and in order to be healthy, it means

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18. For a discussion of legal "reality," and alternative conceptions of time, space, and causality, see Scales, *Feminists in the Field of Time*, 42 FLA. L. REV. 95 (1990).

19. Cole, *Strategies of Difference: Litigating for Women's Right in a Man's World*, 2 J. L. & INEQUALITY 33, 51 (1984).

20. *Id.* at 51-52 n.65.

confronting white male dominance with versions of reality that are foreign to it, which it cannot simply absorb or obliterate.[21] Included in these alternative realities are transformative versions of authority, power, and order. Genuine diversity requires this. It requires, in Robin West's words, that we "flood the market with our own stories,"[22] until they are heard, until there is room for us simply to be who we are.

ITEM ONE: In the words of the late 20th century bumper-sticker, QUESTION AUTHORITY. An enormous part of legal education is imprinting students with the hierarchy and legitimacy of various sources of authority: constitutions, statutes, regulations, judicial opinions, public policy, and in that order. We also spend a lot of time teaching students how to defend the correctness and necessity of existing authority. Think of the role of the concept of "predictability." In contracts class, you can almost always score points by trotting out the old predictability argument. Look around you, however, and you may recognize that it is used more often as a mantra than as an intelligible reason for the rule. "Predictability" by itself is worthless, and sometimes a patent evil. When the curriculum czarina asks whether I will agree to teach Title VII law, I say, "I can teach that class in 10 seconds." It all boils down to this: A plaintiff can state a cause of action, she just can't prevail.[23] There's a nice, predictable norm, right? With respect to rule-games, remember the words of the late great Lon Fuller: "We are still all too willing to embrace the conceit that it is possible to manipulate legal concepts without the orientation which comes from the simple inquiry: *toward what end is this activity directed?*"[24]

Say this out loud, and often: "TOWARD WHAT END IS THIS ACTIVITY DIRECTED?" Law has no intrinsic value; it is

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21. Starhawk, TRUTH OR DARE: ENCOUNTERS WITH POWER, AUTHORITY, AND MYSTERY 313 (1987).

22. West, *supra* note 5, at 65.

23. That is, the Supreme Court has interpreted Title VII such that almost any reason an employer could imagine for the treatment or practice in question is a defense. *See, e.g.*, Wards Cove Packing Co. v. Atonio, 109 S. Ct. 2115, 2125-26 (1989) ("business necessity" defense to disproportionate impact claim interpreted to require only assertion that challenged practice significantly serves a legitimate employment goal); Texas Dep't of Community Affairs v. Burdine, 450 U.S. 248, 253 (1981) (employer need only "articulate" a "legitimate, non-discriminatory reason" for unequal treatment of an individual) (quoting McDonnell Douglas Corp. v. Green, 411 U.S. 792, 802 (1973)).

24. L. Fuller & R. Purdue, *The Reliance Interest in Contract Damages*, 46 YALE L.J. 52, 52 (1986) (emphasis in original).

always and only an instrumental institution. If it doesn't contribute to a good society, it has no point. When you hear the reasons for rules expressed, it is always appropriate to ask whether that reason actually embodies anything that is useful to society.

ITEM TWO: Question sports metaphors. Have you noticed how pervasive they are? One of my colleagues at the University of New Mexico says that the difference between a corporation and a partnership is the same difference between a zone and a man-to-man defense in basketball. That's probably useful, either to people who understand basketball and want to understand business associations, or to people who understand business associations and want to understand basketball. I think my colleague's expected audience, however, was the first group: people who already thoroughly—yea, intuitively—understand sports, for the function of sports metaphors is not only to illustrate, but to legitimate. The expected reaction is not only, "I see," but also, "Oh, that *makes sense.*"

Mainstream jurisprudes often use sports metaphors this way. John Rawls uses this baseball story: What if, after swinging at the ball the third time, the batter were to turn to the umpire and say, "can I have four strikes?"[25] According to Rawls, if we are in a generous mood, we would say this person doesn't understand the game.[26] I suppose that in some other mood we would not hesitate to crucify this person on the scoreboard.

Herbert Hart attempts to demonstrate the reliability of the rule of law by contrasting it with a game he calls "scorer's discretion."[27] In this game, there is no rule for scoring, at least none to which the scorer is bound, so that the score really is only what the scorer says it is. According to Hart, "[t]here might indeed be a game with such a rule, and some amusement might be found in playing it if the scorer's discretion were exercised with some regularity; but it would be a different game."[28] Of course there are many such games, such as the scoring mechanisms employed in gymnastics and figure skating. In those—though they don't inspire the fanaticism directed toward *real* sports by *real men*—Hart's qualification is satisfied: the scorer's discretion is exercised with

25. Rawls, *Two Concepts of Rules*, 64 PHILOSOPHICAL REVIEW 3, 26 (1955).
26. *Id.*
27. H.L.A. HART, THE CONCEPT OF LAW 139 (1961).
28. *Id.*

some regularity.

Hart and Rawls are not really contrasting law with these sissy sports. These sports would be analogous in their minds, I imagine, to courts sitting in equity. What these authors are getting at in using sports metaphors is the contrast between law and their idea of chaos. The horrible specter leaps to mind: a megalomaniacal official deciding on the basis of his level of intoxication, what he had for breakfast, and—oh no—his unfettered *subjectivity*. "Sure! You can have *five* strikes if you want!" "Hey, I think I'll double the score for the home team!" And so on. Thus, with these examples in mind, the rule of law seems wise because it resonates with an experience these men—on the playing fields of Eton or Phillips Exeter—have learned to cherish.

Now, there are several fishy things about the use of sports metaphors. First, they are exclusionary of women. When my colleague told me about the relationship between corporations and basketball, the first thing that came to my mind was playing basketball in Oklahoma as a teenager, under the "girls' rules." Remember them? They required two half-court games going on at once, six people to a side. What kind of business organization is that? Basketball got very boring, so I quit before high school. I hear from time to time that this is changing—that girls interested in sports have far more opportunity to participate, to get sports scholarships, and so forth. However, I have yet to see sports opportunities for young women that serve the same function as those for young men: as an introduction to the culture of power. In sports, young men learn not only loyalty, male-bonding, teamwork and self-esteem, but they also learn how rules in this society *really* work—which ones really are unquestionable in order for the game to be played, which ones can be bent and how far, and how much violence is not only tolerated but expected. Thus, when sports metaphors are used in law school, women are likely to get only part of the message, and not the most important part at that.

Second, sports metaphors may have the effect of directly invalidating women's experience. The developmental psychologist Piaget noted the difference in boys' and girls' games. In his studies, little boys played their games rigidly according to rules, with an adjudicatory attitude toward rule infractions and those who refused to recognize the rules. Little girls, on the other hand, found the rules useful only the extent they enhanced the pleasure of the game. Little girls were apt to change or ignore the rules, to let the

game transform itself into another game. Think back to your own experience. Think about the first times you tried co-ed games. When I was 7 or 8 or 9, I couldn't believe it. The boys seemed to me incredibly harsh and humorless, and I'm sure I drove them crazy. I'm sure because they let me know it—by verbal, emotional, and physical violence.

I am not saying that this gender differential is inherent, universal or necessary. It is very likely a cultural phenomenon, but it is true for many of us. The point is, when we use sports metaphors in law school to illustrate the necessity and wisdom of the rules, we are speaking to only one experience of sports, and to one sort of facility with using rules. Being flexible with rules is another important skill. Sports metaphors often devalue that skill, and the context, such as young womanhood, where we learned it.

Third, sports metaphors often trivialize the power of law. Sports metaphors encourage us to lose sight of the ways that law is unlike a game. Since I was 8 years old, I've expanded my repertoire of ways of participating in games. I've learned to be a little more flexible about the need to be inflexible sometimes. I can see how, if what you want to do is play a game of baseball, it makes sense strictly to follow the format and rules of baseball. The crucial qualification, however, is *whether you want to be playing baseball.*

I am sorry, sports fans, but law is just more serious than baseball or football. Rape is not a game, racial violence is not a sport, and the deployment of first-strike nuclear weapons portends no comic relief. In high stakes legal proceedings, every rule must be subject to question and capable of some flexibility. A sports metaphor is therefore always inappropriate as an argument for the general obligation to follow rules.

Of course I am not saying that you should never use sports metaphors. Use them correctly. Elaborate on them, and, also, expand the kinds of metaphors that pervade discussion in the schoolhouse. For example, one of the ways that law school *has* changed by virtue of the increase in the proportion of female students is that there are many more mothers in the classroom. There are enough mothers that some of them are comfortable in talking about their experiences of motherhood, and they have shown me that motherhood is a generally much more useful metaphor for

law.[29] Think about it: when you tell a child to do something, when you issue what you hope to be an authoritative command, the child's response very often is to ask why. "Why do I have to do this particular thing? Why do you always get to boss me around?" Your response is not, "Because the metarules of childhood require that you eat your oat bran, just as the rules of baseball allow only three strikes." Successful mothering does not depend on making references to some higher authority. Rather, it depends upon judgment and justification (We might even call it "reasoned elaboration"). It depends on a willingness to explain the rule in some cases, and a willingness to suspend the rule when the situation indicates it, as in, "you will feel bad at school if you don't eat a good breakfast, and cereal is healthier than doughnuts, but you've already had toast and don't have to eat cereal if you are too full." Sports are pre-arranged contests of strength, with very little flexibility in the rules. Mothering is a constant process of negotiation and judgment. It is a dialectic of persuasion. Like the authority of law, the mother's authority must be *earned* every day.

Everyone who enters law school has far more experience in using rules successfully than the process credits them for, and mothers have the most experience of all. In Iceland, the old title for the supreme justice of the intertribal council was "Lögsögomathr," which literally means, "Mother-Who-Speaks-the-Word-of-the-Law."[30] If you are a mother in law school, don't think of yourself as an apprentice legal decision-maker. Think instead of judges as honorary mothers.

ITEM THREE: Question false dichotomies. Law is a system of classification of human behaviors. We begin with big divisions—crimes, torts, contracts—and break them down further—into particular torts, for example, with particular elements, and with particular facts and arguments that sustain each. This process of analysis is not inherently an evil thing. In order to deal with what William James called "the blooming, buzzing confusion"[31] of all the data available to our senses, the human mind inevitably classifies and organizes. In response to the blooming buzzing confusion of human behaviors which the law must address,

29. I do not use the sex-neutral term "parenthood" here, because the actual day-to-day childrearing is still primarily done by women, and it is my women students who have explained the relationship between childrearing and law to me.

30. B. WALKER, THE CRONE: WOMAN OF AGE, WISDOM, AND POWER 52 (1985).

31. S. LANGER, PHILOSOPHY IN A NEW KEY 89 (3d ed. 1957).

law has made an amazingly comprehensive job of classification. The problem comes, of course, when those classifications at any level come to be viewed as correct, necessary, and unchangeable. But remember, the law is the result of a lengthy white male encounter group.

What I want to focus on here is one aspect of that system, its binary logic. In the white male taxonomy of which law is the perfect flower, everything that happens is supposed to be either in or out of a category. Now, law does recognize blurry edges on the meta-categorical level. Some actions, for example, can be both torts and breaches of contract, but in the sub-categories, the law still requires an either/or ontology.

These false dichotomies are pervasive and powerful. I've already mentioned one—law versus policy—but there are scores more: public versus private realms, objective versus subjective judgments, expert versus lay opinion, civilian governance versus military necessity, consent versus coercion, speech versus conduct, and on and on. The process of making and enforcing these dichotomies is *objectification*, the rendering of everything into subject and other. The *effect* of the dichotomization is to make one side of each dichotomy *un-dealable-with*, either because it is rendered invisible or because it is placed out of reach by ontological fiat.

This latter, the out-of-reach by definition group, includes the private realm, subjective judgments, and military necessity. In a recent article, Professor Kimberle Crenshaw has shown how rigidity in legal classification does the former to black women, *i.e.*, how the law renders their experience invisible.[32] Discussing employment discrimination cases, Crenshaw demonstrates how the dichotomized regime gets black women coming and going. Courts can refuse to recognize the compound nature of discrimination against black women, thus making plaintiffs choose between race or sex discrimination claims. Consequently, what may be the relatively fair treatment of white women or black men obscures the *distinct* nature of discrimination against black women. Alternatively, courts may allow black women to proceed *only* as black women, and refuse to let them rely on data demonstrating unequal treatment

32. Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics*, 1989 U. CHI. LEGAL F. 139.

against all women and/or against all blacks.[33] This approach denies the similarity in kinds of oppression.

Both of these approaches miss the point. According to Crenshaw, "Black women can experience discrimination in any number of ways[.] . . . [T]he contradiction arises from our assumptions that their claims of exclusion must be unidirectional."[34] In other words, the law forces the litigant to conform to its logic. The law says: "Well, are you black today, or a woman today? Can't be both. You are entitled to exactly one degree of remove from the norm. Stereotype yourself, universalize experiences the way we do." It's a terrible trap, and really, so unnatural. The categorizations we employ in daily life are always provisional and fluid. The philosopher Ludwig Wittgenstein did a good job of showing how either/or categorizations actually disable the usefulness of concepts. I hate to rely on a dead white man to illustrate this, but I like his weird clarity. Also, his prominence in philosophy demonstrates that it isn't that white male Western logic *can't* deal with the fluidity of concepts—it just *won't*.

Wittgenstein challenged his readers to come up with an exhaustive definition of "games," whereby we could always tell whether or not an activity fell within that classification. For instance, think about all the activities that we actually call "games," from Scrabble to military maneuvers. Then, asks Wittgenstein:

> What is common to them all? . . . [I]f you look at them you will not see something that is common to *all*, but similarities, relationships, and a whole series of them at that. To repeat: don't think, but look! . . . And the result of this examination is: we see a complicated network of similarities overlapping and criss-crossing: sometimes overall similarities, sometimes similarities of detail.[35]

Apply this analysis—just as one example—to the concept of "discrimination." Discriminators are powerful, clever, and capable of hiding their tracks. No two cases of discrimination are the same, nor are they completely different. We just can't say ahead of time what the essential features are.

We have to use categories, and we have to draw distinctions.

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33. *Id.* at 141-48.

34. *Id.* at 149.

35. L. WITTGENSTEIN, PHILOSOPHICAL INVESTIGATIONS ¶ 66 (G.E.M. Anscombe trans. 2d ed. 1972) (emphasis in original).

However, having learned to think like a lawyer, we need to debrief ourselves and remember how to think like a person. As people, we create and use distinctions exactly to the extent that they facilitate our lives. Do that with law.

ITEM FOUR: Question the curriculum. As I stated above, there are meta-categories of legal analysis, and they correspond to the conventional law school curriculum. What I have enjoyed about these categories is that it is fun to say that something "sounds" in contract, or "sounds" in tort, but such lingo portrays legal analysis as more of a party animal than it is. That the curriculum has survived with so little change is a tribute to the deep imprint of the rites of passage your law teachers went through, and are now inflicting upon you. Not that there aren't plausible reasons for the curriculum as it is. Since the law operates according to those categories, you do need to know them. It's true that the universe of law must be carved at some joints, in order to package it for students, but the way the conventional curriculum carves has at least four major flaws: it misleads, it bores, it disenables outsiders' learning, and it legitimates exactly those aspects of law that make it such an effective funnel of society's resources into the pockets of the already rich.

First, it misleads, especially with respect to those blurry edges in legal reconstructions of events. My state, New Mexico, has just recognized the "prima facie tort,"[36] which provides a cause of action for an injury inflicted crummily but otherwise legally. It is conceptually akin to the doctrine of "unconscionability" in contract law. However, the importance of both prima facie tort and unconscionability can't be effectively taught within the confines of "torts" and "contracts" classes. That format fails to emphasize the importance of being able to cross the doctrinal membranes, which may be a lawyer's most important skill.

Second, I believe that the ability to learn is one of our greatest and most joyous gifts, and therefore that education should be fun. Legal education takes that which is interesting, and potentially inspiring, and renders it tedious. You can dig this. The night before your first day of law school, you watch "L.A. Law" (or, for people of my vintage, "Perry Mason"), and it's a gas, but the next morning you're hit with expectation damages for breach of contract.

36. *See* Schmitz v. Smentowski, 109 N.M. 386, 785 P.2d 726 (1990).

Yuck. Now I see why contractual remedies are interesting and important, but I didn't then. Then, it simply encouraged me to skip class.

The teaching of constitutional law is the best example. A caveat here: I try to be very careful not to exalt the Constitution. It's an incredibly exclusionary document, it has major flaws as a working model, and its reified status impedes the cause of freedom as often as it helps. Still, within the narrow confines of legal life, it *is* the trump card. Moreover, constitutional adjudication *can't* avoid real social policy issues. Even though in law nothing important ever gets *directly* addressed, constitutional law is the closest we come to an unmediated experience of rage or hope.

Studying constitutional law could be engaging and fun. But no. Before students can get to the inherently interesting parts, they have to trudge through *McCullough v. Maryland*[37] and the interminable implications of the commerce clause. Again, I now find the commerce clause interesting and important, but only because I know how it fits with the analyses that are more transparently important. Why not *start* law school with *Brown v. Board of Education*,[38] or *Roe v. Wade*,[39] or *Bowers v. Hardwick*?[40] I think we always start with the boring doctrines for several reasons. In the conventional format, students learn that the Constitution, or at least the important stuff, is not about *rights*, or even about *people*. Also, the lesson is that even though constitutional rights exist, they are as hard to claim as they are to get around to studying. Further, by the time they get to interesting cases, students have such a rigid doctrinal framework that cases can safely be confined only to their doctrinal placement, rather than indicating any potentially subversive, non-legal context. Thus, *Lochner v. New York*[41] stands for bad judicial activism, and has no referent in class struggle.

Third, the conventional curriculum denies alternative ways of learning. In legal education, the typical scenario is the debating of

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37. 17 U.S. (4 Wheat.) 316 (1819).

38. 347 U.S. 483 (1954) (finding that racial segregation of public schools violates the equal protection clause), 349 U.S. 294, 301 (1955) (ordering desegregation of schools "with all deliberate speed").

39. 410 U.S. 113 (1973) (granting limited right to choose abortion).

40. 478 U.S. 186 (1986) (refusing constitutional protection for consenting adult homosexual activity in private, largely on the ground of historical hatred of homosexuality).

41. 198 U.S. 45 (1905) (invalidating maximum hours legislation for bakers on grounds of contractual liberty).

appellate opinions in a large class by means of the so-called "Socratic method." I have only two things to say about this method as used in law schools. First, it is the exact opposite of the real Socratic item, which is self-exploration facilitated in a generous and loving way. Second, the Socratic method and the case method persist, in my opinion, for purely economic reasons. With them, law schools minimize overhead with large classes,[42] and make fear the primary motivation for (and I use the term advisedly) "learning." This process is especially harmful to women and people from other cultures, because legal education uses the technique of "separate knowing," as opposed to "connected knowing."[43] Rather than involve ourselves in the real problems of real people, we look at a judicial "solution" to that problem, and engage in abstract adversarial debate about that solution's status within a doctrinal hierarchy.

Fourth, the arrangement of the curriculum tells you very clearly what are the "hard" subjects and what are the "soft" subjects, what real lawyers do and what fluffy-headed lawyers do, and what law is meant to accomplish versus what do-gooder liberals have perverted it to attempt to accomplish. That is, the curriculum is an advertisement for the inevitability of the capitalist state. I won't fully develop this argument, as it has been amply covered by others.[44] Suffice it to say that from the first day of law school, when you become the captive audience of tort, contract, and property, everything that happens will tend to transform your labor into surplus value for the 5 percent of the nation's population that consumes 95 percent of the nation's lawyer person/hours. I am tempted sometimes to change the title of my Feminist Legal Theory seminar to "Advanced Commercial Transactions." As it is, to have the "f-word" on one's record is to be carrying a giant handicap in The Race.

OK, so what to do about the content of legal education? The first step requires some self-motivation. You need to find out what is out there. With respect to the courses you are taking, look up

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42. For a historical account of the development of legal teaching method, see R. STEVENS, LAW SCHOOL: LEGAL EDUCATION IN AMERICA FROM THE 1850S TO THE 1980S (1983).

43. M. BELENKY, B. CLINCHY, N. GOLDBERGER & J. TARULE, WOMEN'S WAYS OF KNOWING 100-23 (1986). For a description of some women's experience in the law school regime of "separate knowing," see Weiss & Melling, *The Legal Education of Twenty Women*, 40 STAN. L. REV. 1299, 1304-08 (1988).

44. *See, e.g.*, Kennedy, *The Political Significance of the Structure of the Law School Curriculum*, 14 SETON HALL L. REV. 1 (1983).

what's being written on that topic. Immerse yourself in some different perspectives. Ask your teacher, respectfully of course, to assign particular readings and subjects for discussion. With respect to what isn't being taught, I wish I could say that there is hope for a full-scale re-design of the curriculum. Maybe I am just burnt-out—that is a real possibility—but I think that the best strategy for now is to secure curricular experiences that speak to alternative concerns and different ways of learning.

The current fashion to devote some part of the curriculum to alternative dispute resolution just isn't enough, and is, I think, something of a smokescreen. I hate to sound cynical. (On the other hand, as Lily Tomlin said, "I worry no matter how cynical you become, it's never enough to keep up."[45]) It is crucial—for lawyers, for neighbors, and for nations—to become expert at non-adversarial means of resolving disputes. The continuation of the world depends upon that. I am just suspicious that ADR is being used to clear trial dockets for big commercial cases, the sorts of disputes to which we already devote too much time and talent. In the county in which I live, what must go through ADR are some domestic relations matters and cases with amounts in controversy below $15,000—that is, the kinds of problems real people are likely to have. I worry about the results of ADR, particularly for women in domestic relations matters. It is easy for ADR proponents to send litigants unprotected into informal meetings when those proponents have never needed protection themselves. When it comes to ADR, my mind is open, but our eyes need to be, too.

In addition to ADR-type curricular offerings, we need many more ways to focus on social problems. When I was in law school, nothing made much sense to me until I took a course called "Sex Discrimination Law." That course bumped my understanding for three reasons. First, I had a great teacher, a real person. Second, I was passionately interested in the subject matter, which certainly distinguished that course from other law school courses. Third, and my point here, we had a problem-orientation. Contrasted with, say, constitutional law, where we focus on the text, and survey the contexts it can effect, sex discrimination law focuses on a social phenomenon, and moves among all the different legal approaches that might remedy it. It was, for me, a much more effective way to

45. J. WAGNER, THE SEARCH FOR SIGNS OF INTELLIGENT LIFE IN THE UNIVERSE 26 (1986) (the Broadway play written by Wagner and performed by Lily Tomlin).

learn.

I would love now to help organize and participate in seminars like, "Organizing the Homeless," and "De-militarizing the Economy." There's a writing competition at my school this semester that has as its topic, "Eliminating Racism by the Year 2010." It would be arrogant to think that the law could do that by itself, or even could do much more than stay out of the way, but it has been fascinating talking to students who are working on the project. They tend to begin with constitutional law and anti-discrimination statutes, the places where legal education begins *and ends* its study of racism. They quickly realize, however, that there is a whole range of other legal strategies that law school courses hardly touch upon. It would be a wonderful seminar topic.

What you should do is sit down and think about what kinds of things you came to law school to learn. Again, go to the library to verify that there is a world out there that speaks to your aspirations. At this point, there are several strategies to pursue. Organize your own reading groups, and get the law school to give you academic credit for your participation. Find faculty who would be willing to teach seminars like the ones I've just mentioned. They don't have to be experts in the field. They can still give lots of research guidance, and can help through their experience to direct the discussion on profitable paths. It will be more fun to learn together. Go to the curriculum committee. Get that body to find appropriate faculty who will regularly offer an assortment of problem-orientation courses, so that different styles of learning can be accommodated.

ITEM FIVE: Practice solidarity. The underlying theme in much of what I have said is to urge you *not* to seek insider status in the institution, for you will either go crazy in the process or you will lose who you are. Rather, I am suggesting ways to develop and refine your outsider's perspective. Adrienne Rich has addressed the difficulty and profundity of this process:

> Gradually those flashes of insight, which at times could seem like brushes with madness, began to demand that I struggle to connect them with each other, to insist that I take them seriously. It was only when I could finally affirm the outsider's eye as the source of a legitimate and coherent vision, that I began to be able to do the work I truly wanted to do, live the

kind of life I truly wanted live . . . .[46]

One purpose of developing the outsider's perspective is self-affirmation—including your gender, your race, your cultural context. Just as crucially, the outsider's perspective binds you to other outsiders, past and present.[47]

To say that women, people of color, cultural outsiders, and other disenfranchised peoples are bound to each other is *not* to say that their characteristics or experiences are the same, but nor are those experiences completely different, in this context of institutional white male consciousness. To invoke Wittgenstein's analysis again, don't think, but look. Wittgenstein used a spinning metaphor, far closer to women's experience than the rules of baseball: "And we extend our concept . . . as in spinning a thread we twist fibre on fibre. And the strength of the thread does not reside in the fact that some one fibre runs through its whole length, but in the overlapping of many fibers."[48] For women and other outsiders, the thread is a common sort of experience of exclusion. Our individual and group experiences are the fibers that overlap and intertwine. We need to recognize the strength of the thread in order to get on with it.

Oppression is not a car wreck, or a series of car wrecks in different parts of town. Sexism, racism, classism, and cultural imperialism constitute a well-oiled *system* that silences the vast majority of the world's population. Somehow, we outsiders get bogged down in a sort of "oppression sweepstakes," a heated discussion about whose treatment has been worse, or which is the template for the others,[49] or what have you. It seems to me that in doing this we have fallen for a divide-and-conquer strategy, as old as history itself. The requirement that our experiences be the same or be hierarchically ordered before we can work together is a lie that we bought from patriarchy.

We do not have to agree with each other on every aspect of analysis or strategy in order to present a forceful and legitimate coalition against oppression. Internal logical consistency is another

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46. Commencement Address, *supra* note 15, at 8.

47. *Id.* at 9-10.

48. L. WITTGENSTIEN, *supra* note 32, at ¶ 67.

49. I have sometimes fallen into the trap of arguing which kind of oppression came first. *See, e.g.*, Scales, *Militarism, Male Dominance and Law: Feminist Jurisprudence as Oxymoron?*, 12 HARV. WOMEN'S L.J. 25, 43-44 (1989).

requirement imposed by the very world-view which we oppose. We have a lot to learn from patriarchy here. Male supremacy is wildly inconsistent: it can put woman on a pedestal and dismember her for erotic entertainment at the same time.[50] No matter what degree of disagreement among the white patriarchs there appears to be on some issues, they are always loyal to each other, and they always recognize their mutual interests when it really counts.

Disagreements are natural and healthy. We mustn't be afraid to have them, but we need to learn to have them in a loving, progressive way. We have seen brutal division and exclusion much too often within the feminist community, recently, for example, over the ordinances that would subject pornographers to civil rights suits.[51] This is a plea for peace and sanity and common political sense. We have to learn to appreciate and protect and show solidarity with each other. I think that Catharine MacKinnon's work, for example, is wonderful. As time goes on, I expect that lots and lots of people (including people who don't think of themselves as feminist—what a difference in consciousness that will represent!) will see the real depth and transformative power in it. I think of MacKinnon as having the sort of influence in our intellectual efforts that Hegal or Sartre had in their time. It is not that MacKinnon is like them, or says anything like either of them said, or that our movement is like those of past eras. Rather, her work has the same sort of structural coherence, and potential comprehensiveness, so that it has inevitable spill-over effect. It has lots of implications for every subject matter to which it is applied. That doesn't mean that it is necessarily right in every respect, or that I always agree with it. It just means we have lots to learn from it. Thank you, Professor MacKinnon, and keep it up.

Taking a stand and saying what you really see is a tough assignment. When anyone who is committed to liberation does that, love her for it. Remember that in expressing experience or insight, words are never very precise, particularly within a language connotated by the oppressors. Every sentence in this paper is subject to a thousand different qualifications, as many readers will point out by mail and in person. You are right to do that, and you will be

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50. On how the inconsistent modes of male supremacy work well together, see A. DWORKIN, RIGHT-WING WOMEN 202-16 (1983).

51. *See, e.g.*, Mullarkey, *Hard Cop, Soft Cop*, Book Review, THE NATION, May 30, 1987, at 720, 726 (reviewing A. DWORKIN, INTERCOURSE, and C. MACKINNON, FEMINISM UNMODIFIED) (describing authors as "neobarbaric thought police").

substantively right in many ways. If we can't agree, or I'm being obstinate, go ahead and call me a bitch, then give me a hug and let's make plans to collaborate in the future.

This is sometimes especially hard for non-black women to learn to do. bell hooks has pointed out how black women talking together are often noisy and critical, and how other women sometimes perceive that as hostile and destructive.[52] But really, such boisterousness can just as well be affectionate and affirming. It is a question of overcoming one's ignorance of different cultures and modes of expression, allowing oneself to have a little fun and to learn something.

The goal of feminism, it seems to me, is the realization of a context for social life in which *all* disparate experiences and perceptions of the world can be spoken with equal dignity and received with equal value. That is what makes participation in feminist practice so exciting: we are learning to hear in spite of having been brought up in a society designed so that certain stories could not make sense. We are learning to learn from them. It is a thrilling experience of validating many worlds, of having multiple realities, of sensing—if only in a fleeting moment—the meaning of freedom. It is at once a tantalizing and frustrating participation, because when we take seriously the pervasiveness of imposed silence, we realize that we have not yet even *imagined*—much less achieved—a society of equal world-making opportunity.

ITEM SIX: Use the power you have. You are the consumers of legal education today and the alumnae of tomorrow. What you decide to do, how well you perform, and what you say to other lawyers about this experience will be a large part of the data on which your law school's prestige will be measured. How much money you donate will be even more important. No law school should be allowed to forget that. As a student I was a member of a "harass the dean" committee that tried to get more women and people of color on the faculty. After I graduated I participated in an alumni giving boycott toward the same end. At the time it seemed like a waste of time. Now, as a faculty member, I still see instances where students' grievances get procedured-to-death, but I understand that changes we couldn't have imagined are getting underway at the hell hole where I went to school. Also, as a faculty member myself,

52. B. HOOKS, FEMINIST THEORY: FROM MARGIN TO CENTER 56-57 (1984).

I am aware of how terrified we are of student power. The law school simply cannot afford not to take you seriously, not only because of who you are, but because of the times. The great old calcified tradition of American law practice and American legal education reflects a way of life on the way out. The paper economy which absorbs the lion's share of lawyering talent crumples in on itself a little more every day. The United States is no longer number one in anything except debt. The vaunted neutrality of the law won't change that. The more you do to force your school to embrace diversity, the more you are helping to prepare it for tomorrow. The more you do to get the curriculum to look at real problems of real people, the more law can still have some voice about life in the twenty-first century. Do everybody a favor, raise some hell today.

ITEM SEVEN: Take care of yourselves and each other and have real fun. A few years ago I had a wonderful student named Roz O'Reilly who, in the depths of moot court burnout, came to me and said, "you know, I have realized that the key to law school is redefining fun." Learning law is a long and tedious and sometimes scary project, even without the pitfalls of depression and anxiety and cooptation. But there is some fun in it. It is a thrill to perfect any skill, or to mother a project through to the next project. Give yourselves these pleasures. Be aware of your growing competence and confidence, but also be aware of when you are not capable of healthy engagement in legal endeavors. Stop when it hurts or when you hate it. Do something else for a while. I am lucky to teach in New Mexico. Around me are people from many cultures who keep me sane. New Mexico is in a natural setting of great power and enchantment. Pursue other points of view, and spend a lot of time outside. These are the best antidotes for the constriction of heart and mind caused by law school.

I would not wish to be anything other than An Other at this moment. It is a great day to be an outsider. I don't think it is engaging in Pollyanna-in-Hellism to say that, though we haven't seen dramatic changes in legal education, there are dramatic changes in us. Women have reached a critical mass in law school. Outsiders in coalition are the majority. There is emotional and intellectual space for us to begin. If you don't believe it, just consider that you are reading this in a law review.

When I was in law school, there was a young man in my first-year section named Scott Turow. Scott wrote a book about that

experience called *One L.*[53] It is a pretty dismal account of what it is to begin a career in law. I am not a character with a real life or story line in the book. Rather, I appear a couple of times as a disruptive influence. Scott was a very nice person, but he ran with a different crowd, and I think had a very different attitude. Consider this description of his first year classmates: "We are men and women drawn to the study of rules, people with a native taste for order."[54]

Scott was right about some of us, but I believe that his version of law school is becoming obsolete. The day is coming soon when some right-minded successor to Scott Turow can write about her first-year classmates: We are women and men drawn to the living of life, people with a native taste for survival, for diversity, and for freedom.

53. S. TUROW, ONE L (1977).
54. *Id.* at 270.