ESSAY

DIVERSITY CHALLENGES: CLEO STUDENTS IN SEARCH OF AN IDENTITY

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I. INTRODUCTION

> Who am I? Can I conceal myself forever more, pretend I'm not the man I was before? And must my name until I die be no more than an alibi? Must I lie? How can I ever face my fellow men? How can I ever face my self again?. . . Who am I?[1]

In the summer of 1993, I had the opportunity to teach Legal Writing in the Region VI CLEO[2] Institute at the University of Pittsburgh School of

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1. Herbert Kretzmer, Alain Boublil, Jean-Marc Natel & Claude-Michel Shönberg, "Who Am I?", LES MISERABLES.

2. The Council on Legal Education Opportunity ("CLEO"), formed in 1968, was created to:

> expand and enhance the opportunities to study and practice law for members of disadvantaged groups—chiefly Negroes, American Indians, and Ibiro-Americans —and thus help to remedy the present imbalance of these disadvantaged groups in the legal profession in the United States.

Nancy Fulop, *The 1969 CLEO Summer Institute Reports: A Summary, Symposium*, 1970; U. TOL. L. R. 633 (1970). CLEO was originally funded as a legal services pilot project under Section 232 of the Equal Opportunity Act and funds were obtained from an Office of Economic Opportunity grant. *Id.* at 640.

Today, CLEO is sponsored jointly by the American Bar Association, the Association of American Law Schools, the Hispanic National Bar Association, the Law School Admission Council, the National Asian Pacific American Bar Association and the National Bar Association. *See* 66 A.B.A. J. 528 (1980). The organization's focus is to provide pre-law school exposure to persons from economic and cultural backgrounds underrepresented in the legal profession. *Id.* The CLEO institutes, which take place around the country each summer, are funded by CLEO through the U.S. Department of Education and from supporting regional law school consortia.

The primary objectives of CLEO are:

1) To recruit to the CLEO program members of disadvantaged groups not likely to be accepted at accredited law schools under present admission standards;

2) To motivate these students to study and practice law;

3) To acclimatize the students to both the academic and psychological rigors of law school life;

4) To strengthen their academic credentials by training them in the key skills required of a law student;

5) To evaluate performance—thus providing an effective alternative to the traditional Law School Admissions Test;

6) To successfully place the CLEO graduates in ABA-approved law schools;

Law ("Pitt"). When I told my dean that I would be willing to serve as our school's representative to CLEO, he predicted that an essay about my experiences would be inevitable.[3] I was somewhat familiar with the program, but I really did not know what to expect when I agreed to join the Pitt CLEO faculty for six weeks.

During the 1993 CLEO Institute, I lived in the dormitory with the CLEO students.[4] I ate with many of them, and I was privileged to have them share with me some of their thoughts about the law, lawyers, and the lives they would be leaving behind while in law school.[5]

In the summer of 1994, I served as one of two co-directors for the Region VI Institute, which was hosted by my law school. The experience was very different than the one I had experienced the previous summer. Not only was I responsible for part of the legal writing course, I was also in charge of the Institute's budgetary and personnel matters.

Even though my responsibilities during the two institutes were different, one of the most remarkable phenomenon of both institutes involved observing the men and women who participated in the program actually becoming law students. Their thought processes and legal reasoning abilities improved literally before my eyes. The second remarkable phenomenon was that I observed discomfort on the part of some of our students as they realized that they were beginning to process information differently than when they had arrived. During the 1993 program, this discomfort was apparent in five of our seven African-American male students; in the 1994 program, it was apparent in only two students. The phenomenon may very well have been present in all of our students,[6] but I didn't see it.[7]

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7) To channel to CLEO graduates some financial assistance while they are in law school, and

8) To publicize the commitment of participating law schools to recruit and sustain disadvantaged students. Fulop, *supra*, at 638.

3. I kept a journal throughout the CLEO program, hoping to memorialize any noteworthy events. This essay is the result of my review of and reflection upon my journal entries.

4. The housing arrangement at the University of Pittsburgh dormitory provided that the men live on one floor of the dormitory and the women live on the floor right below them. Curiously, this resulted in the men and women often eating and socializing at different times. As a result, the majority of my informal contact with the students was limited to the men in the program.

5. This article will attempt to articulate some of the "thoughts" of our CLEO students but will preserve the identities of the students. Consequently, the names of the CLEO participants have been omitted and some license has been taken in recounting my CLEO summer.

6. In 1993, there were twenty-nine students in the Institute. Of that group, there were eighteen women and eleven men. A breakdown of the racial make-up of the group is not as easy because information from CLEO was not available for all students and because some students did not disclose their racial or ethnic group identification on their CLEO applications. From my observations, however, it appeared that there were seven African-American males, twelve African-American females, three Hispanic/ Latino students, three Hispanic/Latina students, zero Asian males, two Asian females, one student of South American descent with Muslim religious identification, and one Caucasian female.

In 1994, there were twenty-six students in the Institute. Of that group there were sixteen women and ten men. From the information supplied by CLEO, there were three African-American males, eleven African-American females, six Hispanic/Latino students, three Hispanic/Latina students, two Asian males, one Asian female and no Caucasian students.

7. *See* Okianer Christian Dark, *Just My 'Magination*, 10 HARV. BLACKLETTER J. 21 (1993) (reflecting upon numerous indignities suffered by an African-American female law professor as a result of ignorance, insensitivity and/or intolerance of her students and colleagues). It is very possible that I did not see the concern in all of the students because I was not experiencing it; I recognized it only after students shared their concerns with me. Those CLEO fellows who did

As an African-American, I have had feelings of uncertainty about becoming a lawyer and joining a profession where I would be part of a smaller minority than that which I am a part of in the general population. I am sure that many other people have experienced the same feeling. However, the students were referring to something deeper and more powerful. They were concerned that, at an institutional level, they were compelled to change their basic personalities and become new persons.

This essay attempts to describe the two CLEO institutes in which I was involved, by first discussing both the curricula and the facilities. The piece continues by identifying a student identity crisis from the perspective of certain students of color in the institutes. The essay focuses on the experiences and sensations of the CLEO students in order to explain both the culture clash they encountered and their perceived loss of identity as they increasingly learned more about law and the lawyering process.

The essay concludes by discussing the need to empower students of color in order to help them overcome their sense that, in order to survive, they need to compromise their identity. The paper suggests that the CLEO faculty would also benefit from empowering CLEO students. The challenge involved in improving the learning experience for these students would make us better teachers and scholars. Finally, several alternatives are proposed—some realistic, some fanciful—in order to focus those involved in the education of minority law students in a new direction.

II. The Institutes

In 1993, I arrived in Pittsburgh to discover that dormitory life was not as fun as I remembered from my college days; the rooms were small; there were communal bathrooms; there were only two functional elevators for sixteen floors; and the dining hall was several blocks away. In 1994, I was responsible for the living arrangements: a modest three-story dormitory on the nearby Dickinson College campus. The rooms were small but functional; they were not air conditioned, but we encouraged the students to bring room fans with them. The cafeteria was about a half block away.

The accommodations were only part of the adjustment for CLEO students. They were in foreign environments both summers, having to adjust to living with strangers for six weeks and having to prepare for intense legal training. I found it very difficult to settle in during my summer in Pittsburgh, and I'm sure the University of Pittsburgh professor who joined the Dickinson faculty in 1994 found it equally arduous.

It is always hard to adjust to a new situation. Sitting comfortably in my office each Fall without having to teach first-year students until the second semester, I tend to forget the student experience of relocating and beginning a new way of life. CLEO students were being asked to uproot themselves and to relocate to Pittsburgh and Carlisle for six weeks of intensive law school training. They were understandably nervous and very anxious.

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share their thoughts, however, were experiencing some of the very concerns that Professor Dark discusses in her article: being overwhelmed with the newness of the law school experience, facing challenges in the classroom, trying to "fit-in", and feeling that you are alone in your perceptions and concerns. *Id.* at 22, 22-23, 30, 34-35.

Personally experiencing the CLEO "moving in" ordeal helped me to appreciate what first-year students go through at the beginning of law school: new surroundings and new faces, complicated by a new challenge.[8] Many of our CLEO students really did not have any idea what was in store for them as law students. What was in store was a mini first-year curriculum consisting of three substantive courses[9] and one legal writing course.[10] The substantive courses were offered three days per week, one hour each session. The legal writing course was offered four days per week, two hours each session. As part of the program, students were required to complete a mid-term and a final examination in each of the substantive courses and several written assignments in the legal writing course.[11]

III. The Students

Clearly, one of the two best things about teaching in a CLEO Institute is meeting all of the new students. The other is actually witnessing students' transformation as they learn to think like lawyers. Our groups were as diverse as you can imagine. Many of the students were among the first members of their families to go to college, and all were probably the first to attend law school. In 1993, one of our students had attended high school (and raised her younger sister) without parents and without a home. She and her sisters had lived out of their car for a time. It was an incredibly humbling experience just to be around such diverse individuals.

I was one of two professors teaching Legal Methods.[12] Consequently, it was not necessary for both of us to attend class and to teach everyday. At the beginning of each institute, I would sit in the back of the room and observe the students' interaction with the other professor and with the material. It was important to have a sense of how the students reacted to the course because Legal Methods was introduced to the students in both years unlike other courses. We told the students that we would probably avoid the Socratic method and the more formal teaching styles that they would experience in their other courses. They were to treat Legal Methods as the

8. In the context of law students attending The Dickinson School of Law, many students find that moving to Carlisle is a major adjustment. Carlisle, Pennsylvania is very rural and rather isolated. Students coming from urban settings seem to have the most difficulty adjusting. Indeed, during the 1994 Institute at Dickinson, several students from the New York City area commented that it was hard for them to walk from their dormitory to the law school (about one-half block though a grassy quadrangle) without constantly looking over their shoulders.

9. At the University of Pittsburgh Institute, the substantive courses offered were Civil Procedure, Criminal Law and Torts. At Dickinson, the courses were Criminal Law, Property and Torts.

10. In both institutes, we offered a course entitled "Legal Methods", which introduced students to legal research and writing and to the lawyering process. We had several guest speakers within the context of this course. Topics included alternative dispute resolution, client counseling, professional responsibility, the death penalty, battered women's syndrome, statutory interpretation, and family law.

11. In both institutes, the Legal Methods assignments consisted of three case briefs, a factual (client interview) memorandum, two drafts of a one-issue closed memorandum, one draft of a two-issue closed memorandum, and a ten-minute oral argument.

12. In the Pittsburgh Institute, the other Legal Methods instructor was Professor David Herring, Associate Professor of Law, University of Pittsburgh. In the Dickinson Institute, the other instructor was Professor Kevin Deasy, Director of the Mellon Legal Writing Program, University of Pittsburgh.

course where they could raise questions on any topic—legal or non legal—and we would try to answer them.

My first observation each summer was that the students were very relaxed and quite enthusiastic. They were very interested in the material and in "getting it right," perhaps in the same way my colleagues describe typical first-year law students in their first semester of studies. Several students wrote down every word the professor said. Several students asked questions for clarification purposes, and all of them seemingly had something to contribute. They wanted to try their hands at playing lawyer for the first time. However, unlike what my colleagues report about typical first-year students, the CLEO students were not timid. They challenged the teachers and each other, asking questions, making suppositions and offering solutions to the problems presented. Moreover, their enthusiasm was not confined to the classroom. In the evening, they often continued discussions that had begun in class that day.[13]

IV. Identity Crisis

Teaching someone to "write like a lawyer" is not a topic that a debtor-creditor/ criminal law/ evidence/ trial advocacy professor typically thinks about. My colleagues and I are certainly involved in helping students learn to think like lawyers, to express themselves like lawyers and to analyze problems like lawyers. However, I really do not spend a lot of time thinking about the mechanics of teaching someone to write like a lawyer.

I read through a few of the students' first assignments[14] and each summer I discovered that two or three students used idiomatic expressions in their papers that were not traditionally seen in law office memoranda. This was not wrong, but for some reason it bothered me. Perhaps, as a lawyer, I had forgotten how lay people refer to legal problems and situations.

By week three in both institutes, we had progressed to the point where the students were beginning to identify rules of law and synthesize a line of related cases to come up with an overall rule. It was hard to believe that these were the same students that we had seen three weeks earlier. The knowledge they acquired each day was phenomenal; there was clearly a noticeable improvement each day.

A. *Pittsburgh Institute*

During the Pittsburgh Institute, something else was occurring by the third week. Outside of class, five of the African-American male students had developed into a powerful clique, which seemed to exist separate from the group. They frequently ate at their own table and spent a great deal of time together. Interestingly, I don't think they all knew each other prior to CLEO, but they had certainly become close friends very quickly.

13. One explanation for this phenomenon could be that the small number of students in the CLEO program, plus the fact that the students lived in close proximity to each other, fostered more confidence in each student.

14. The first memo assignment required that the students write a memo to their supervising attorney regarding a client interview session they had observed. We used one of the Legal Methods instructors to play the "lawyer" and used someone who was not connected with the CLEO program to portray the "client".

Something happens to all of us when we are thrown into unfamiliar surroundings. We tend to gravitate toward people who look like us, who sound like us, and/or who think like us. The CLEO students were no exception. At Pittsburgh, the women who lived together on one floor in the dormitory, seemed to be one large group, inter-dependent and supportive. The male groupings were more fluid.[15] On one day, the guys who liked to exercise were together; on a different day, the guys who liked to party were together. The next day, however, it might be a group of type-A personalities who would find one another. In any event, it was unlikely that a group of people, having little or nothing in common, would find themselves together. The one exception to the "fluid" associations, however, was the five African-American male students who became fast friends—studying together, eating together, working out together and socializing together. By the second week, they had developed their own jargon, and their behavior was clearly exclusionary. I'm not sure if they even realized it at the time.[16]

At dinner, these five students almost always sat together, usually at a different table than the rest of the group. After dinner, they disappeared; perhaps to study or to work out at the gym, or maybe to go to a club or a movie. When I would sit with them, or when other CLEO students would sit with them, they were not rude nor did they make anyone feel unwelcome, but it was clear that they were part of a subset of the CLEO group to which the rest of us did not belong.

Because I was living on the same floor as the other male students, many students felt free to wander in and out of my dorm room when they had questions or when they just wanted to talk. By the third week a regular topic of conversation for me and "The Posse" was what it means to be a Black male lawyer. Two members of The Posse felt very strongly that they were changing. They felt that the CLEO experience was moving them involuntarily in a certain direction and that there was nothing they could do to change it. When I inquired about the kind of "changes" they were experiencing, all they could say was that CLEO was changing the way they thought and the way they processed information.

As a lawyer and a law teacher, I have never really perceived changing the way a layperson "thinks" and "processes" information as a bad thing. In fact, I initially took pride in the fact that the CLEO Institute had apparently succeeded in showing at least two students that "thinking like a lawyer" is a different kind of thinking. What disturbed me was that, from their comments, the students seemed to view thinking "like a lawyer" as incompatible with thinking "like an African-American."

Between week three and week five, I had had the "who am I/who am I becoming" discussion each day with at least one of the members of the "group of five." Curiously, the African-American females and I never had

15. I later learned that the women, too, had splintered into subgroups. However, their groupings seemed to be based on common personality traits; the shy female students tended to stay together, as did the moderately outspoken female students and the more confident female students.

16. These students named their group "The Posse", encouraging each other and others to refer to them collectively in that fashion.

this discussion, nor did I have it with any of the other students at the Institute. This may explain why these five guys spent so much time together. They may have felt that they had a problem or concern that was unique to the five of them.

Upon further and deeper inquiry, I learned that the students' primary concern was that thinking logically and inductively were somehow inconsistent with a more emotional style of argument, which seems to be almost second nature to African-Americans.[17] To become a law student meant that they could no longer be the person they were when they arrived at the CLEO Institute because holding on to who they were would render them less effective in the classroom and/or in the courtroom.[18]

By the last week of the Institute, the five students and I were meeting quite frequently, continuing our discussion about lawyering as a person of color. Inadvertently, I may have increased their panic level in class during my lecture on appellate oral arguments.[19] However, the oral argument lec-

17. The fact that African-Americans and many other people of color process and use information differently from Caucasians is not a new concept. *See, e.g.*, Denise A. Segura and Jennifer L. Pierce, *Chicana/o Family Structure and Gender Personality: Chodorow, Familism, and Psychoanalalytic Sociology Revisited*, 19 SIGNS 62 (1993); Linda E. Davila, *The Underrepresentation of Hispanic Attorneys in Corporate Law Firms*, 39 STANFORD L. REV. 1403 (1987); Placido Gomez, *White People Think Differently*, 16 T. MARSHALL L. REV. 543 (1990-91); Cheryl I. Harris, *Whiteness as Property*, 106 HARVARD L. REV. 1707 (1993). What does seem to be new, however, is actually reading in the literature the sense of isolation and rejection that besets many minorities in the academy. Professor Okainer Dark provides a poignant description of an African-American law professor's perspective on this phenomenon as it relates to law teaching in her essay entitled, "Just My 'Magination". *See* Dark, *supra* note 7. She writes:

> It came to me one day in my sixth year of teaching. "It" came to me after I had just completed another one of those "repeat performance" conversations with one of my colleagues. I related an experience; he listened with skepticism in his eyes and body posture (you know those neatly tucked crossed arms across the chest) and told me how I just should not jump to conclusions. "You're speculating . . . . You don't want to overreact, now do you?" I always listen to these remarks with a fairly practiced calm exterior while I devote some energy to controlling the raging explosion of emotion within or behind my facade. It was during one of those conversations that "it" came to me: The Temptations' song—"It was just my 'magination." (footnote omitted) *Id.* at 22.

18. This perception seemed to exist in these five students even though the majority of students were receiving quite the opposite message. Sometime during the third week of CLEO, we took the students to see an argument in the U.S. Court of Appeals for the Third Circuit. It was very interesting because the argument was held via video conferencing, with the two lawyers in Pittsburgh and the judges sitting in Philadelphia. The students observed two very different styles of practitioning. One lawyer was very prepared and professional and one was seemingly not very prepared. When we left the courthouse, several people commented to me that they felt, for the first time, that they really could be lawyers, themselves.

What helped the students was that they witnessed lawyers as human beings, rather than as "super beings." One lawyer was late; he arrived only a few minutes before the hearing was scheduled to begin. The students felt the tension in the courtroom over the concern that a tardy lawyer would likely receive a tongue lashing if he were late. The students also saw the opposing counsel appear before the appellate court without her copy of the trial record and, when one of the judges asked her about a reference to the record in her brief, she stammered, having to admit that she left the office without it.

19. The final Legal Methods project was an oral argument before a panel of two judges, a CLEO instructor and a teaching assistant. I explained to the students that appellate oral arguments were about "looking and sounding like everyone else but, at the same time, being different." I said that you don't want to use trial court theatrics, wandering all over the courtroom and appealing to the decision-makers' passions. Nor do you want to use odd terms of art or rely on mannerisms and idioms that divert the judges' collective attention from your message to your delivery. I told them, "Impress them with your command of the law and your knowledge of the problem you are arguing."

ture may also have provoked the beginning of a response to their dilemma. To the five students, it seemed that we (the members of the law teaching profession) wanted everyone to look the same and to think the same and to act the same. They appreciated that they were starting to think more logically and had developed an ability to focus their thoughts better than they did in college. However, if the change was an indication of what being a lawyer was going to be like, they could not see themselves returning to their respective neighborhoods to practice law. In one case, the student did not even see himself returning to his neighborhood to socialize. One asked, why go back home when no one thinks or processes information like you do?

In a very brief period, I attempted to explain to these men that one's ethnicity and culture are part of the lawyering process.[20] I suggested that legal education is not about giving up who we are; on the contrary, it's about finding out who we are and using those unique characteristics to process information.[21] I added that it was up to minorities to use the knowledge we acquire from the study of law and add it to our intellectual makeup and to help members of our own communities access legal information and power in the same way we help non-minorities.

B. *The Dickinson Institute*

As I explained earlier, my role in the CLEO institute at Dickinson was very different from my role the previous summer at the University of Pittsburgh. As one of the co-directors of CLEO, I had significantly greater administrative responsibilities, which left me with less time for casual interaction with the students than I had enjoyed in the Pittsburgh Institute. Additionally, I did not live with the students during the Dickinson Institute because I had a house a few miles from campus. However, the exchange I had had with the five African-American students was repeated somewhat during the second Institute.

In week four of the Dickinson Institute, one of the CLEO Fellows (who was Hispanic) asked me about the law review article I was in the process of writing. I told him that it was about CLEO and about the experience I shared with five African-American students, to which he responded, "Yeah, I've learned from CLEO that it's real important that you check yourself."[22] I was surprised to hear the topic surface again. A second Hispanic student joined our conversation and, once again, I listened to students of color say that the process of becoming a lawyer created an identity compromise.[23] And, again, I disagreed, explaining that who you are is

20. I am not sure how successful I may have been given that my own background was very different from the students I was trying to address. My childhood was spent in suburban New York City, experientially far removed from the streets of urban America. Perhaps I found the explanation more tolerable than my student audience.

21. *See* Paula C. Johnson, *The Role of Minority Faculty in the Recruitment and Retention of Students of Color*, 12 N. ILL. L. REV. 313 (1992) (asserting that her identity as an African-American woman is "no accident" and that identity gives her a particular and unique focus on the law).

22. To "check yourself" is an idiomatic expression from urban neighborhoods that means you must remind yourself of your cultural roots to keep your ego from inflating to the point that you forget who you are.

23. The students were particularly troubled by one of our Legal Methods exercises wherein we examined premises liability. In the problem, the plaintiff was attending a party as a social

who you are; that cannot change or else the purpose for being a lawyer is thwarted. A law student must process all of the new information being hurled at him/her through the sieve of his/her personal experiences. Otherwise, the lessons collected in law school are merely a set of interesting stories.

V. IDENTITY COMPROMISE

It is not unusual for minorities to struggle to figure out how we "fit in."[24] Part of the problem is that, for most of us, success and prosperity have been defined in terms of "White America."[25] Another part of the problem is that racism continues to eat away at the fabric of our society, causing minorities to expend valuable energy fighting bigotry rather than improving our minds, our self-confidence and our self-respect.[26] What should be our response to this problem? We must recognize the powerlessness of minorities in general, of Blacks in particular,[27] and seek to em-

guest of one of the tenants of an apartment building. The landlord was also present at the party. The plaintiff wanted to look at some vacant units in the building and the landlord responded, "Feel free to look around. Be careful because the electricity is not on in all of the units." The plaintiff started to explore the building and wandered onto the sixth floor, which was unlit, and fell through a hole in the floor, landing on the fifth floor.

The exercise required the students to determine the status of a slip-and-fall plaintiff and determine whether he was an "invitee," "licensee," or "trespasser" at the time of his injury. (This is a variation of a legal writing problem used at Northeastern University School of Law.)

The students in question were troubled by the fact that people in New York (where they lived) frequently had house parties and frequently invited people into a building and gave them carte blanche to wander about the premises. If the holdings of the cases I assigned were to be believed, the casual nature of these parties had to change in order to protect the host. This would be a major interference with normal party etiquette. In the words of one student, "I will never let anyone into my house again without giving explicit instructions about where they can and cannot go!"

This is certainly a reaction common to most new law students. However, for many students of color, these relatively simple realizations often translate into a need to re-examine their way of life, their relationships, and the order that they have come to know in their communities. *See* Harris, *supra* note 17, at 1775 (describing the difference between differential treatment of Whites and differential treatment of Blacks).

24. *See, e.g.*, HARRY T. EDWARDS, PERSONAL REFLECTIONS ON THIRTY YEARS OF LEGAL EDUCATION FOR MINORITY STUDENTS 2-3 (1993) (describing trying to "fit in" at University of Michigan law school in the early 60s); Dannye Holley and Thomas Kleven, *Minorities and the Legal Profession: Current Platitudes, Current Barriers*, 12 T. MARSHALL L. REV. 299 (1987) (asserting that the following barriers have a substantial impact in screening Blacks and Hispanics out of the legal profession: the requirement of a college degree, the law school admissions process, the disproportionate impact of law school attrition on minorities, and the bar exam); Harris, *supra* note 17, at 1710-14 (telling the story of her African-American grandmother "passing" as white in Chicago to get a job and to "succeed").

25. Harris, *supra* note 17, at 1725 (referring to "whiteness" as "simultaneously an aspect of self-identity and of personhood" and arguing that "whiteness," in legal terms, has moved from "privileged identity" to a "vested interest").

26. *See* Edward J. Littlejohn and Leonard S. Rubinowitz, *Black Enrollment in Law Schools: Forward to the Past?*, 12 T. MARSHALL L. REV. 415, 421 (1987) ("Pervasive racial discrimination in education, employment, housing, voting, and other aspects of life kept most Blacks from attending law school. Racism also damaged the self-image and confidence of Blacks, deterring them from applying to law school even if they met the entrance requirements.").

27. Individuals of color must seize opportunities to become personally empowered, thereby providing other minorities with competent role models. These leaders must recognize that their opportunity is not just an individual accomplishment; instead it is a vehicle to empower the larger minority community to strengthen its position within the greater society in which we exist. In addition, members of the majority community must be supportive and respectful of the attempts

power minority communities to strengthen their positions in mainstream society.[28]

Is it the lawyer of color's fate to compromise in order to succeed as a professional? Were the students correct in asserting that the adoption of lawyer-like reasoning processes necessarily means a redefinition of who the student is? I do not have the answers, but I think I can help frame the discussion.

The theoretical argument seems to be that all law school students are assimilated into the "lawyer culture," having to think like a lawyer and express oneself as a lawyer. Therefore, this experience is not a "Black thing" or a "minority thing." On the other hand, it is argued that the aforementioned assimilation process robs minority students of their already fragile self-esteem by further stripping them of their unique cultures and backgrounds. As a consequence, while the integration process affects everyone, it affects minorities more disparately than it does non-minority students.

Viewing the arguments as existing along a continuum,[29] on one end, one finds the argument that what was happening to our CLEO students is no different from what happens to law students everywhere.[30] Scholars have been writing in recent years that law school education needs to change in order to accommodate a changing world and an ever-demanding client population.[31] The response to this argument has been to push for

by individuals and minority groups to become leaders and role models. To accomplish this goal in an effective manner is the challenge.

28. Theodore Cross writes:

> ALMOST WITHOUT EXCEPTION, black people in the United States are born into a state of powerlessness; they are reared in a condition of powerlessness; as adults they live in communities of powerlessness. Even when their professional, management, or business attainments are very great, individual blacks in the United States are seldom in a position where they are feared, obeyed, or greatly respected by whites. Powerlessness—with its handmaiden qualities of obedience, deference, and withdrawal—is still the norm of black life in America.

THEODORE CROSS, THE BLACK POWER IMPERATIVE: RACIAL INEQUALITY AND THE POLITICS OF NONVIOLENCE 551 (1987).

29. It is most helpful for me to view the discussion about the effect of law school along a continuum because I believe that a "correct" answer does not exist. People view the consequences of legal education in light of their own life experiences; consequently, just as there are varying degrees of life experiences, there are also varying positions to be held regarding the impact law school and law have on people.

30. *See, e.g.*, JOHN JAY OSBORN, THE PAPER CHASE (1971); SCOTT TUROW, ONE-L (1977). *See also* Nancy M. Mauer and Linda Fitts Mischler, *Introduction to Lawyering: Teaching First-Year Students to Think Like Professionals*, 44 J.LEGAL EDUC. 96 (1994); Robert MacCrate, *Preparing Lawyers to Participate Effectively in the Legal Profession*, 44 J.LEGAL EDUC. 89 (1994) (challenging educators to really prepare law students to be lawyers); Nancy L. Schultz, *How Do Lawyers Really Think?*, 42 J. LEGAL EDUC. 57 (1992) (discussing new approaches in teaching students to think like lawyers). Note: These articles are not cited in this footnote for the proposition that the authors are taking the high ground and are somehow avoiding the issue of minority acculturation in law school. On the contrary, these articles point out the need to amend the educational experience for all law students.

31. *See, e.g.*, Francis J. Mootz, III, *Legal Classics: After Deconstructing the Legal Canon*, 72 N.C. L. REV. 977 (1994); Kenneth L. Port, *The Case for Teaching Japanese Law at American Law Schools*, 43 DEPAUL L. REV. 643 (1994).

educational change that integrates theory, practice, defined lawyering skills, alternative dispute resolutions and many other aspects of law.[32]

At the other end of the continuum, the argument is that minority law students are not like "every" law student, and what happens to students of color during the period called law school is much different from what non-minority students experience:[33] minority law students have higher attrition rates than White students;[34] they frequently encounter resistance from people who refuse to believe they achieved success on their own merits;[35] and they often feel disenfranchised at the hands of their professors and deans.[36]

One response to this argument has been to call for All-Male Black Schools (AMBS) at the college level,[37] or immersion schools,[38] which allow students of a certain ethnic background to learn in a more ethnocentric environment. Such programs, however, have been attacked on constitutional grounds,[39] on sociological grounds,[40] and on educational grounds.[41] Another response to the problem of providing proper support to minority law students has been to diversify law faculty to provide leadership and guidance through people who resemble the student body.[42]

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32. *See* Legal Education and Professional Development—An Educational Continuum, Report of the Task Force on Law Schools and the Profession: Narrowing the Gap (Chicago, 1992), also known as "The MacCrate Report."

33. *See* Holley & Kleven *supra* note 24; Donald K. Hill, *Law School, Legal Education, and the Black Law Student*, 12 T. MARSHALL L. REV. 457 (1987) (noting that racism, cultural dominance, socialization, and other factors are barriers to the legal education of Blacks).

34. *See, e.g.*, Mark Cordes, *Preparing Minority Students for Law School: The Program for Minority Access to Law School*, 12 N. ILL. L. REV. 267 n.2 (1992) ("Throughout the 1980's the national attrition rate for African-Americans and Latinos was more than twice that for other students.").

35. Edwards, *supra* note 24, at 3-4.

36. *See, e.g.*, Dark, *supra* note 7, at 29 n.16 (discussing a complaint by a Black female law student regarding the fairness of an intra-school moot court competition).

37. Pamela J. Smith, *All Male Black Schools and the Equal Protection Clause: A Step Forward Toward Education*, 66 TUL. L. REV. 2003 (1992).

38. Kevin Brown, *Do African-Americans Need Immersion Schools?: The Paradoxes Created by Legal Conceptualization of Race and Public Education*, 78 IOWA L. REV. 813 (1993). *See also* Garrett v. Board of Educ., 775 F.Supp. 1004 (E.D.Mich. 1991) (injunction granted to opening of the Detroit Male Academies).

39. Garrett, 775 F.Supp. at 1006; *see also* Richard Cummings, *All-Male Black Schools: Equal Protection, the New Separatism and Brown v. Board of Education*, 20 HASTINGS CONST. L. Q. 725 (1993) (rejecting Detroit's proposed separate schools for males in light of Brown v. Board of Educ., 347 U.S. 483 (1954) and Henderson v. United States, 339 U.S. 816 (1950)).

40. Richard Cummings, *All-Male Black Schools: Equal Protection, the New Separatism and Brown v. Board of Education*, 20 HASTINGS CONST. L. Q. 625, 730-31 (1993).

41. Wendy Brown-Scott, *Race Consciousness in Higher Education: Does "Sound Educational Policy" Support the Continued Existence of Historically Black Colleges?*, 43 EMORY L. J. 1 (1994).

42. *See* John M. Conley, *The Social Science of Ideology and the Ideology of Social Science*, 72 N.C. L. REV. 1249 (1994); Johnson, *supra* note 21 (discussing responsibility she has as a faculty member of color to aid in the recruitment and retention of students of color); Katherine L. Vaughns, *Towards Parity in Bar Passage Rates and Law School Performance: Exploring the Sources of Disparities Between Racial and Ethnic Groups*, 16 T. MARSHALL L. REV. 425 (1991) (suggesting that familiarity with the law school culture is critical for success by faculty and students of color); Martha S. West, *Gender Bias in Academic Robes: The Law's Failure to Protect Women Faculty*, 67 TEMPLE L. REV. 67 (1994) (comparing women's progress in entering the legal academy as students to those entering as faculty).

CLEO and other similar programs[43] are a start. However, they may not go far enough in providing an appropriate education for law students of color. One of the lessons that I learned in my two years with CLEO is that students must be taught that a student's minority status should be viewed as a source of empowerment that must be protected, not rejected. The lesson is appropriate for all students but is essential right now for students of color. The Honarable Harry T. Edwards[44] said it best:

> In this era of intense and expanding conflict, society can ill afford to lose or underutilize Black resources. Frustration, dissatisfaction, and disillusionment have built to the point that the legal profession must change to accommodate Black lawyers within all levels of the profession, even if only in response to imminency [sic.] of social eruption. Blacks will be the engine of Black progress in America; or, to a lesser extent, Blacks will be the engine of societal destruction if there is not sufficient recognition by the establishment that there must be an input of the Black vision in the societal process.[45]

Judge Edwards' words are applicable to all minority students, not just Black students. By his words and example, he challenges students of color to set their sights high,[46] not to waste their talents on "petty people and petty issues,"[47] and never to confuse wealth or fame with character.[48]

Who we are is what we are and that's all we have. Student A is from New York City, distrusts all police, and, therefore uses street jargon to keep the police from knowing what he is doing or thinking. Student B is from rural Pennsylvania and grew up in a family that has a strong work ethic and refuses to accept help from anyone. The life experiences of both Student A and Student B are helpful to legal anaylsis. Who we are is the basis for how we process information, how we analyze problems, and how we come up with solutions. That message must be conveyed to our students of color, yet it is not.

What should we have done in the CLEO program? In hindsight, there are several things we might have done within the context of the CLEO program to help not only the five African-American male students or the two Hispanic students, but also all of our CLEO students.[49] We could have engaged the entire CLEO faculty—minority and non-minority—in a discussion of the problems and concerns expressed by the students. I did not do that. At first, I considered it a "Black thing" and not something suitable for our CLEO faculty meetings or for full group discussion.[50] As each Institute progressed, I realized that the problem was not an isolated one.

43. *See, e.g.*, Cordes, *supra* note 34 (examining a minority student bridge program co-sponsored by law schools at Northern Illinois University, Southern Illinois University and the University of Illinois).

44. Circuit Judge for the United States Court of Appeals for the District of Columbia Circuit.

45. Edwards, *supra* note 24, at 6 (quoting Harry T. Edwards, *A New Role for the Black Law Graduate: Reality or Illusion?*, 69 MICH. L. REV. 1407 (1971)).

46. *Id.* at 7.

47. *Id.* at 9.

48. *Id.* at 10.

49. It is important to point out that both CLEO institutes ran smoothly and very successfully. This essay is not an attempt to criticize any aspect of the experience that the CLEO fellows received. It merely raises some ways to make the experience even better for future students.

50. I did, however, share my observations each year with my co-teachers and with a few faculty members on an informal basis and received supportive feedback.

But, each year I had what seemed like sound reasons for not raising the issue.[51]

As an African-American professor, my obligation is not only to educate and nurture African-American students;[52] I educate and nourish all students and my colleagues, too.[53] Professor Paula Johnson writes, "Through the sharing of diverse perspectives and expertise, we as a faculty can shape the aspirational and operational success of the law school and its members."[54]

More specifically, the entire CLEO faculty might have discussed this culturally-based anxiety and incorporated the students' identity concerns into each of the substantive courses that were offered.[55] The faculty might have participated in a roundtable discussion with the students one evening over pizza, sharing anecdotes and theories over why there is or is not a difference between being a lawyer and being an African-American; or a Latina; or a member of any disadvantaged group in society. Perhaps each of the faculty members could have analyzed a particular legal problem for the students to demonstrate that our cultural differences really do affect the ways in which we approach and solve problems. This would involve faculty members integrating materials and problems very closely with one another.[56]

A second idea involves the reconfiguration of the classroom. It may be necessary to divide students into groups of six or seven, rather than one section of twenty-six or twenty-nine. The classroom setup may also be a

51. During the first CLEO Institute, I felt that the issue was more of a social concern (because I would hear about it in the dormitory, rather than in the classroom). Consequently, I felt the best place to address it was during social time. During the second institute, I really did not expect to hear the same concern again and when it surfaced late in the Institute, it seemed inappropriate to amend the schedule to add another classroom experience to the schedule.

52. Johnson, *supra* note 21, at 319. Professor Johnson concludes her article with a challenge: "Create an expectation of excellence; have a commitment to assist those students with whom you share an identity; and continue your own personal and professional growth so that when you encourage students, you continue to strive for higher ground as well." *Id.* at 324.

53. *See generally*, Dark, *supra* note 7.

54. Johnson, *supra* note 21, at 319-20.

55. For instance, in the landlord/tenant unit of Property, the students could examine ways in which landlord/tenant laws affect the balance of power between landlords and tenants, drawing on the students' experiences. The professors could then challenge the students to find ways in which their understanding of landlord/tenant laws could be used to benefit their respective communities. Likewise, in Criminal Law, an introductory discussion on what society hopes to accomplish through the criminal justice system could center on the impact that the system has on people in the students' neighborhoods. The discussion could lead to an examination of where lawmakers erred in creating laws and punishments.

It is possible to think of similar approaches for all CLEO subjects. It is most effective, however, when the particular substantive teacher employs a method that s/he finds most comfortable and responsive to the needs of the students.

56. For example, at the end of a unit on intentional torts, the Torts professor could work through a hypothetical situation for the students as a way to summarize what the students have studied. In Criminal Law that same day (or soon thereafter), the Criminal Law professor could work through the very same hypo and show the students how s/he would analyze the tort problem. After the Criminal Law professor shares his/her methodology, the same hypo could be turned into a Criminal Law hypo, so the students could see that different goals are addressed through a civil suit and a criminal action. The next day, the Torts teacher could give his/her reaction to the Criminal Law version of the hypothetical, again showing the students that there is really no singular way to reason.

problem. Perhaps arranging chairs in traditional rows stifles discussion and meaningful input from all people in the room.[57]

Another possible solution would have been to engage the teaching assistants[58] or the CLEO fellows, themselves, in the effort to "solve" the identity problem.[59] Regular informal discussion sessions may have helped the five African-American males gain some insight into the role of an African-American lawyer; it also may have revealed that the other minority students had similar concerns. Such a revelation might thereafter have given the five "Posse" students less cause to feel isolated.

A fourth alternative would have been to include some type of cultural identity class as a regular course. In the same way that law schools are trying to respond to the MacCrate Report,[60] including skills training and doctrine in their curricula, the CLEO Institutes could have offered an additional course focusing on cultural differences and the law.[61] The problem with this approach is that there were already four courses being offered during the six-week program, and the addition of a fifth course, albeit an important one, may be just too much to ask of the students.[62]

Although inadvertent, in hindsight, it was a mistake not to involve the students more directly in the effort to strike a balance between teaching people how to study law and encouraging those same people to integrate their particular cultures and individual characteristics. That failure unfortunately plays into student perceptions of an institutional inequity that befalls minority students, supporting the argument that the academy has not recognized the student of color as bringing much to the overall classroom experience except compliance with federal law or statistical diversity.[63] But, that position is insupportable in light of the significant accomplishments of minority legal professionals.[64] In fact, the CLEO Fellows and teaching assistants could not have received a better lesson than to confront (within the CLEO Institute) the notion that their race is anything other than a benefit with respect to their ability to practice law.

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57. I have used this very argument with my upper-level classes in order to move the chairs from rows into a circle. There is every reason to believe that the logic applies to the CLEO classroom as well.

58. In addition to the five faculty members, each CLEO institute was staffed by four teaching assistants, all of whom were either second or third-year law students from various schools around our region.

59. Vince Herron, *Increasing the Speech: Diversity, Campus Speech Codes, and the Pursuit of Truth*, 67 S.C. L. REV. 407 (1994) (noting that students teaching other students is one of the hallmarks of diversity).

60. *See* "The MacCrate Report", *supra* note 32.

61. During the northeast region's CLEO Institutes in 1975, 1976, and 1977, Director Ralph Smith held regular informal gatherings of students and faculty to discuss some of the very issues that are raised in this essay. Ralph R. Smith, *The CLEO Experience: A Success by Any Measure*, 22 How. L. J. 399, 406-08 (1979). In addition, the Institutes' curricula had a distinctively non-traditional appearance: Agency, Development of Law and Legal Institutions, Introduction to Law (Biography of a Legal Dispute), Introduction to Law (Legal Methods), Introduction to Law (Perspectives on the Law), Legal Reasoning and Legal Methods. *Id.*

62. The CLEO national office does not require that four courses be offered. It is possible to teach two substantive courses plus legal writing plus a law and culture course.

63. *See* Smith, *supra* note 37.

64. *See, e.g.*, Edwards, *supra* note 24, at 2 (citing a few of the alumni of the University of Michigan School of Law who have achieved greatness).

The error, however, was not just in failing to include the students in a discussion. The error was also in failing to recognize that working together to solve a cultural identity problem would have provided the first concrete opportunity to show the CLEO Fellows how giving back to their own communities can be beneficial. The benefit would have been not only to the five students who posed the initial question but also to the entire CLEO "community." Through questioning each other about law and culture, the students might have gained a sense of unity, strength, and power.[65]

There would also have been great benefit from including the students in the analytical process. As a group consisting largely of students of color, the CLEO Fellows could have experienced the different ways in which lawyers analyze and solve problems first-hand. The cultural awareness issue could have been integrated into each course or replaced by new courses, with less emphasis on substantive law and more emphasis on perspectives on the law. Each student could have been challenged to draw upon his/her unique life experiences to try and determine why students felt as they did and what could be done to alleviate some of that concern. Parallels could be drawn between the students' experiences and those of clients, lawyers, and judges. This process, although not a new idea,[66] involves a commitment of significant time and dedication from the entire faculty and, perhaps, all of the law schools in the region. One would also have to guard against the perception that the marriage of law and culture is an approach typical of all law school classes.[67]

The faculty would have benefited by having these issues raised in the classroom. The preparation of the subject matter by the teacher, and the discussion of the issues by the students and the teacher, would certainly improve a faculty member's teaching and scholarship. The possible benefits to students, faculty, the CLEO program, and legal education are enormous.[68]

There are certainly other options that must be discussed and considered for the future, but they will take money, time and energy. They include the relatively expensive (private CLEO opportunities for the minority students who do not qualify for CLEO participation[69]), the non-

65. Cross, *supra* note 28, at 689-717 (mapping a strategy for the political empowerment of Black Americans).

66. *See supra* note 61.

67. One could also raise a legitimate question of whether an alternative curriculum trains students in "key skills required of a law student." *See* CLEO primary objectives, *supra* note 2 at 638.

68. *See, e.g.*, Charles R. Lawrence III, *Doing "The James Brown" at Harvard: Professor Derrick Bell as Liberationist Teacher*, 8 HARV. BLACKLETTER J. 263 (1991). As one example of teaching by complete interaction with the students and the particular legal problem to be solved, Professor Lawrence writes:

> There are four ways in which Derrick Bell teaches, four fora in which he engages in the practice of liberationist pedagogy. These are: (1) classroom teaching, (2) teaching through scholarship, (3) teaching through activism, and (4) teaching by making us family. Each of these ways of teaching is enabled by the others. All are bound together in the work of empowering those who are excluded and marginalized in the canon and culture of legal education and the law. All serve the equally important goal of transforming that canon and culture so that it embraces the knowledge and serves the liberation of subordinated peoples.

Id. at 264.

69. *See, e.g.*, Cordes, *supra* note 34 (Program for Minority Access to Law School).

controversial (seek grant money to fund opportunities for minority students[70]), the moderately controversial (reliance on Traditionally Black Colleges and Universities [TBCUs] and other ethnocentric institutions to provide legal education to Blacks and other minorities[71]), and the extremely controversial (creation of All-Male Black Schools and other immersion schools for the express purpose of providing a unique educational experience to African-American males and other specifically-identified students[72]).

III. Conclusion

In the musical adaptation of Victor Hugo's classic, "Les Miserables,"[73] the main character, Jean Valjean, must examine who he has become as he decides whether to remain silent as another man is wrongfully accused of Valjean's crime, refusing to comply with the terms of his parole. Valjean sings a woeful ballad, "Who Am I?"[74] in which he searches for his identity and tries to decide whether to obey the parole regulations of the French penal system (to carry a yellow card, identifying himself as a parolee) or to blend into society with an assumed name and identity (in order to prosper without the stigma of being recognized as a former convict).

On a much less dramatic scale, our CLEO students faced a similar dilemma. The legal education process transforms people; it teaches us to think in new ways, to think about new issues and to modify our methods of presentation so our messages are not obscured by our deliveries. Some of the CLEO students, however, felt that their legal education was perverting their understanding of "self." Legal education cannot allow that to happen. Whoever we are and whatever we have experienced cannot be left on the law school doorstep. Students, particularly students of color, cannot be given the impression that becoming a lawyer means that you are no longer a person with a rich heritage and a distinct cultural grounding.

Perhaps all law students experience some sort of transformation as they study law for the first time; maybe law school is less "graduate-level study" and more "right-of-passage" than anyone really wants to admit. One belief is that the feelings of helplessness are natural consequences of teaching people a new skill. But another is that minority students bring life experiences to law school that cause them to be more self-critical and to have more self-doubt. In any event, we have an obligation to prepare students for what is about to happen to them in law school and in legal careers. Those of us who are already members of the academy need to pay more attention to our explanations of the legal education process in order to ensure that minority students fully understand and appreciate that who they are is one factor that is considered by law school admissions committees and who they are is who they should continue to be throughout law school and after law school.

70. *Id.* at 269.
71. Littlejohn and Rubinowitz, *supra* note 26, at 417-20.
72. *See* Smith, *supra* note 37; Cummings, *supra* note 40; Brown, *supra* note 38.
73. Victor Hugo, Les Miserables (1888).
74. *See* Kretzmer, et al., *supra* note 1.