

## AALS WORKSHOP FOR NEW LAW SCHOOL TEACHERS

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### *Converting Challenging Conversations in the Classroom into Learning Opportunities for your Students (and for Yourself)*

- I. You can prepare in advance for the expected and the unexpected, most of the time, by:**
- A. *Thinking in advance about your law school and its culture* and by honestly analyzing “how you fit” within the school and culture. (You are not doing this to silence your individuality, but to prepare for how your individuality may be embraced.)
  - B. *Identifying your teaching community mentors* and supporters. But, this involves more than finding “subject matter” experts and confidantes. Locate inside and outside mentors and supporters.
  - C. *Thinking about your teaching goals.*
  - D. *Thinking about how do you choose to balance wide open discourse versus cautious professionalism.* Remember: allowing wide open discourse may silence some students and may lead to callous insensitivity of some experiences. Provocative remarks may hurt someone (even you!).
  - E. *Giving students notice: “some” idea of appropriate parameters for your course.* My choice: try to teach students professionalism and how to critique ideas, not classmates. See Appendix 1, excerpt from Syllabus for Race and the First Amendment Seminar, Appendix #3, goal sheet.
  - F. *Critically considering your subject matter.* In some of my courses that cover more provocative matters, I have found the following helpful:
    - 1. Using nontraditional reading.
    - 2. Having the class work sometimes in groups in class.
    - 3. Utilizing collaborative group presentations of some materials.
    - 4. Even in mainstream courses, place on syllabus a meeting or two to cover “contemporary topics.”
    - 5. Help and encourage students to individually prepare to resent some difficult conversations. (some students will bring to you, outside of class, controversial news articles, cases, etc. that are related to the course)
    - 6. Using humor and life stories delicately.
    - 7. Helping the students with any troublesome language.

- G. *Critically considering your own self.* You are human, after all, with beliefs, preconceptions, prejudices, stereotypes, limited experiences, and views on issues. Having some of these is not the worst problem. The worst problem is when you are unaware or deny that you have these, and unconsciously act on them in class.
- H. *Building relationships with, at least, a small, diverse, number of students in your courses.* (Use opportunities that naturally present themselves or create opportunities by attending some student programs.) These students may give you informal information that may help your teaching.
- I. *Noticing changing and ongoing dynamics in your classroom and in yourself as facilitator.*

*FOR A SUCCESSFUL CONVERSION OF A CHALLENGING CONVERSATION—A KEY IS OBSERVATION.*

**II. But, in spite of preparation, you will still face unexpected challenging conversations.**

A. Here are highlights from some of mine:

1. In Contracts I, we were challenged by:
  - \*\*the oil and gas explosion
  - \*\*the battle of the sexes, in an unbalanced war
  - \*\*a student’s unconscionability remark, “those Food Stamp using, commodity cheese eating, people don’t deserve fairness”
2. In Constitutional Law and Civil Rights, post 9-11 discussions, delayed until 10-11.
3. In Civil Rights, a student’s contributing comment “I didn’t know any poor people cared about their children.”
4. In First Amendment Law, what to do when the room does not smell so sweet, the media is on your back, and curious onlookers are trying to break down the door?
5. In Civil rights, “I’m from the hills, I haven’t been around many black people, but what I really think about these people and how they can fix their problems is.....”
6. In Race and the Law, where I was the only black in the room, a nonblack student’s comment, “All blacks call each other n\_ \_ \_ \_ \_ , the only reason you don’t, Professor, is you are not a regular black. I know about blacks, because my boy friend is black. His black friends call me an n\_ \_ \_ \_ \_ lover, and then they all laugh. Since they laugh this means it is okay. You are out of touch because of your age and how you grew up out of touch.”
7. In Civil Rights, one student told a sexist joke, the class laughed a little, nervously. Then silence (even from me). A white female student, who was visibly upset about the situation, raised her hand to speak and

professionally challenged the joke and the reaction. She analogized to how the class would not have laughed at a racist joke. This led to a valuable discussion of race and gender, societal and legal responses to each. I thanked the student for calling “us” on the initial response.

*See also Appendix #2, for other readings on my teaching experiences.*

- B. In the midst of the challenging conversation, these techniques may help to convert the conversation to a learning opportunity:
1. Notice what is going on within your own self. To have control of the classroom requires knowledge of self. And, if that doesn't work, honesty may work, at some point.
  2. Remember you are in control of the class....though you can allow dialogue to intensify if you want. (In an engaged class, are you creating a composition and conducting the orchestra?)
  3. Convert personal attacks to discussions of the issues. Tie the discussion into the law. Bring balance to the viewpoints. Even if no student volunteers to make an opposing argument, you can ask a student, “Now, even if you don't agree with the opposing argument, what would the opposing argument be? As Lawyers, we must work to see all sides of an issue.”
  4. Feel free to slow down the discussion, a slow down lends time for a cool down. (Consider if you will require students to raise their hands to speak in a class discussion, or if you will not.)
  5. Remember, you can selectively call on students...but make sure you are not consistently using this to silence certain perspectives and groups that should be heard and should be allowed to be heard.
  6. Try to keep a balance of perspectives, even if you have to make arguments yourself for the other side.
  7. Exhibit zero tolerance for disrespect of individuals, especially the students. Always protect the other viewpoints, other students, and your colleagues?
  8. You don't have to allow students to make unsubstantiated claims. We are training lawyers, after all.
  9. You can take some matters outside the classroom.
  10. Some conversations are not related in any way to your subject matter. So should you discuss at all in the classroom? (Was the O.J. Simpson verdict related to Contracts? In hindsight, maybe it was as to whether some of his promotion contracts could legitimately be cancelled, or whether the jury outcome warranted reconstruction of the legal system, or whether it proved the system worked.. But, even if I had chosen to

cover the contractual implications or broader legal structure issues, I did not have to do so on that day of the verdict. I chose to leave the “conversation” for the criminal law and procedure professors!

11. You can delay (i.e., temporarily silence) an actually warranted conversation ...but not forever.

*FOR A SUCCESSFUL CONVERSION OF A CHALLENGING CONVERSATION—A KEY IS BALANCE.*

**III. After the challenging conversation, constructively critique your own teaching, but always remember:**

- A. There are no permanent failures of technique. You will likely have another class meeting, or another semester, or another year to try something different.
- B. The only failure is if you consistently silence difficult conversations (which I tried in my first year of teaching Constitutional Law), which sacrifices learning for students and for yourselves.

Even my 9-11 Constitutional Law experience led to a more open classroom. Awkwardness reinvigorated a course. I learned from that experience. Now I consistently receive very high evaluations in my Constitutional Law course. I actually now begin the course with the more controversial material: equal protection and privacy issues, including race, gender, sexual orientation, alien status, abortion, etc.

- C. You should utilize your “teaching community” for constructive feedback.
- D. The students will remember, so plan how to address any unfinished business and address it: in the classroom, in office hours, by phone or email, (or even in the elevator).

*FOR A SUCCESSFUL CONVERSION OF A CHALLENGING CONVERSATION— KEYS ARE REFLECTION, ADJUSTMENT, AND LEARNING.*

**IV. TO SUMMARIZE**

*OBSERVATION + BALANCE + (REFLECTION + ADJUSTMENT + LEARNING) =  
A SUCCESSFUL CONVERSION OF A CHALLENGING CONVERSATION  
TO A LEARNING OPPORTUNITY.*

***Remember, discomfort does not mean failure:  
discomfort means the “birth” of a new idea, signaling new growth.***

***Remember, teaching is about learning:  
learning your subject matter, learning about teaching methodologies and strategies, learning  
your students, and learning yourself.***

***Challenging conversations lead to learning,  
and learning leads to growth.***

*Take this from someone who has been teaching for almost 20 years (13 in law schools) and has enjoyed it “most” of the time!*

***I hope you have a great year, wonderful future, and much growth in the academy!!***

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**APPENDIX #1 Excerpt from Race and the First Amendment Course Syllabus:**

PLEASE CAREFULLY NOTE:

In this course, we will discuss speech that may be offensive in nature. As to racial slurs and other potentially offensive speech that appears in the readings and arises in discussion, the class rule is that any student may repeat the words in the context of referring to the use of the word in materials for discussion purposes. But, students should not refer to themselves or others by racial slurs or offensive speech, not even in a joking way. Violation of this rule will be regarded as unprofessional conduct.

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**APPENDIX #2 Following are several pieces I’ve written on teaching:**

Angela Mae Kupenda, *Loss of Innocence* (essay), M. Robinson and R. Bonnie, eds., *LAW TOUCHED OUR HEARTS: A GENERATION REMEMBERS BROWN V. BOARD OF EDUCATION* (Vanderbilt University Press, forthcoming, 2008).

\_\_\_\_\_ Book Review of *Your Blues Ain’t Like Mine*, by Bebe Moore Campbell (using literature to teach politics), *THE LAW AND POLITICS BOOK REVIEW* (an electronic periodical published by The Law and Courts Section, The American Political Science Association) (Vol. 18 no. 4, April 2008) 303-05.

\_\_\_\_\_ *How Diversity Benefits Whites* \_\_\_\_\_ SEATTLE JOURNAL FOR SOCIAL JUSTICE (symposium issue) \_\_\_\_\_ (forthcoming 2008)

\_\_\_\_\_ *Moving from Fear to Courage, and Replacing Preaching with Reaching*, published by the Center for the Study of Race and Race Relations, University of Florida Levin College of Law (2006) [www.law.ufl.edu/centers/csrrr](http://www.law.ufl.edu/centers/csrrr)

\_\_\_\_\_ *To Whom this May Concern: Re: Brown III.*, 27 NORTH CAROLINA CENTRAL UNIVERSITY LAW JOURNAL 216 (2005)

\_\_\_\_\_ *Why I Teach?*, Op/ed piece, *THE LAW TEACHER* at p. 12 (Fall 2003).

\_\_\_\_\_ *Diversity: Do You Really Want It? (Essay)*, 21 *LAW & INEQUALITY JOURNAL* 415 (2003) (University of Minnesota).

\_\_\_\_\_ *On Teaching Constitutional Law When my Race is in their Faces (Essay)*, 21 *LAW & INEQUALITY JOURNAL* 215 (2003) (University of Minnesota).

\_\_\_\_\_ *Risking Collaborative Learning*, in *THE LAW TEACHER* (spring 2002), available <http://www.law.gonzaga.edu/ILST/newsletters/spring02/kupenda.htm>

\_\_\_\_\_ *Making Traditional Courses more Inclusive: Confessions of an African American female professor who attempted to crash all the barriers at once*, 31 *University of San Francisco Law Review* 975 (Summer 1997).

**APPENDIX # 3** [I usually print this on heavy colored paper and distribute something like this in my classes with over 20 students the first day of class. Occasionally I ask them during the semester to take out their “green sheet.”]

**GOALS: Constitutional Law**

**Becoming a successful**\_\_\_\_\_

**GOAL ONE: To learn and understand principles and rules of basic, substantive black letter law. To know the names, holdings, and rationales of important constitutional law cases. To know the arguments on all sides.**

**GOAL TWO: To improve analytical skills**

**Critical reading**

**Critical thinking**

**Applying rules to new scenarios, new fact patterns**

**Seeing both sides of an issue**

*Thinking like a lawyer! Writing Like a lawyer!*

**GOAL THREE: To model professional behavior**

**Being prepared**

**Being punctual**

**Standing and speaking confidently**

**Debating collegially (being able to hear others’ viewpoints, supporting own viewpoints with law)**

**Considering ethical issues**

**Improving ability to work with a team of “lawyers”**

**Improving communication skills**

**Maintaining appropriate estimation of self**

**(not arrogance, but not lacking confidence)**

**Respecting authority and all others**

**Building relationships/friendships/mentor relationships**

**Constantly learning**

**Being family, community, justice and equality minded**

*Working collaboratively! Being a professional!*

**GOAL FOUR: To understand connection of substantive area to**

**Other law subjects (“Law is a seamless web”)**

**Other disciplines**

**Public policy**

**Community**

**Family**

**Life**