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In Honor of Angela Harris: Finding Breathing Space, Embracing the Contradictions, and “Education Work”

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[†] As I wrote in *Privilege Revealed*, language reflects the dominant cultural privileging of whiteness, maleness, and heterosexuality. STEPHANIE M. WILDMAN WITH CONTRIBUTIONS BY MARGALYNNE J. ARMSTRONG, ADRIENNE D. DAVIS & TRINA GRILLO, *PRIVILEGE REVEALED: HOW INVISIBLE PREFERENCE UNDERMINES AMERICA*, at xii (1996). The text continued:

Difficulties also arise with respect to words to describe race, such as “white” and “Black.” The Chicago Manual of Style uses lower case letters for the word “Black,” and it appears that way in many quotations. Many legal scholars have disagreed with that convention, capitalizing “Black” to show that, as Kimberlé W. Crenshaw explains, “Blacks, like Asians, [and] Latinos . . . constitute a specific cultural group and, (thus) require denotation as a proper noun.” Neil Gotanda agrees that “Black” should be capitalized because it “has deep political and social meaning as a liberating term.”

Ian Haney López makes a strong argument for also capitalizing the word “white” in his book *White by Law: The Legal Construction of Race*. Nonetheless, because whites usually see ourselves in uppercase letters without even realizing it, because of white privilege, I have declined to capitalize “white” in this text.

Id. This Article makes the same choice to capitalize “Black” unless using a quote in which the word appears in lower case and to write the word “white” without capitalization.

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Stand up behind your chair. Ground your feet firmly in the earth and stand as tall as you can with your hands at your side. It is okay to close your eyes. Breathe slowly in and slowly out. Try to count to five during each inhalation and exhalation or count higher if you can. After five of these deep breaths resume your seat.

Late afternoon sunlight streams into the small church, filtering through the stained glass windows with gothic style frames lining the sanctuary. The arched windows pointing heavenward and the wooden pews and wood-paneled walls beneath the stained glass create a warm, welcoming effect, even to a non-church goer. The space, built on a human scale, smaller than many hotel ballrooms, pulses with anticipation as the pews fill with concert attendees.

The choir members walk in two parallel processions down the side aisles of the church, entering from the rear and marching to the front, singing “hallelujah” and carrying candles. Their expressions are serious, but one face, framed with braids, radiates gladness. Her face lit with joy, Angela Harris, wearing a royal purple sateen tunic, enters and takes her place on the stage right of the choir.¹

As the choir assembles in the front of the church, twenty-two members strong, I cannot help but notice that hers is the only visibly brown face, although two members do appear Asian.² The choir appears predominantly white. I am reminded again about the many places in her life in which Angela finds herself as “the minority,” and often “the only,” and many times “the first.” In one of her many articles, Angela named “the private, interpersonal work of fostering empathy for minorities ‘education work.’”³ Has she had to perform “education work” with the choir, even in this place of sanctuary that clearly brings her joy? I try to breathe deeply, as I listen to the music

¹ See generally *Sacred & Profane*, Choral Tributes: Benjamin Britten Holiday Concert, Performance at St. Luke’s Episcopal Church, San Francisco, California (Dec. 8, 2013). The Sacred and Profane Chamber Chorus takes its name from the Benjamin Britten work *Sacred and Profane: Eight Medieval Lyrics (1974–75)* which reflects “religious, secular, and semi-sacred sentiments.” Program Notes.

² Assessing race by visual means can be problematic. While studies show that “perceivers are surprisingly accurate” at construing identity, “perceptions of the world are subject to influence from a host of characters much greater and more broad-reaching than the input that perceiver’s eyes receive.” *SOCIAL PSYCHOLOGY OF VISUAL PERCEPTION 3* (Emily Balcetis & G. Daniel Lassiter eds., 2010). Furthermore, a visual assessment of race does not portray a full picture; for example, someone might assume (correctly) that I am white, but not realize that members of my family are not white.

³ Angela P. Harris, *On Doing the Right Thing: Education Work in the Academy*, 15 *VT. L. REV.* 125, 125 (1990–1990) [hereinafter *On Doing the Right Thing*].

of her voice melded with the others, hoping she finds some respite here from the “education work” that marks large parts of her life.

As a white person, part of my privilege permits me not to engage in that work.⁴ My privilege insulates me from feeling the cost of engagement, or the cost of skipping the confrontation, with obtuse others over the spoken microaggression⁵ or outright slur that people of color face all too often in modern culture. As a friend, I try to notice and to speak up, sometimes surprising other whites who thought they were “safe” to make a disparaging racial remark or who did not understand the comment made as offensive. As a teacher, I hope I am setting a better example for other white allies of how to “do education work.”

Angela Harris is a true innovator in legal education who inspires both in her teaching and her scholarship. I have experienced the pleasure of working with Angela as a co-teacher in a law and social justice seminar⁶ and as a co-author on a textbook about race.⁷ I have audited the course she taught from that text. And we have shared hikes, chocolate expeditions, and yoga classes. Most of all I feel proud to consider her a friend.

In *Privilege Revealed: How Invisible Preference Undermines America*,⁸ I counseled, as a white person, other white people, advising them to “make a friend” of color. This recommendation cautioned the reader not to seek a token or trophy friend, but rather to build a deeper friendship that could enable one to begin to see the world through the

⁴ But see generally COMBINED DESTINIES: WHITES SHARING GRIEF ABOUT RACISM (Ann Todd Jealous & Caroline T. Haskell eds., 2013) (describing the damage to whites who fail to recognize the harm caused by unearned privilege).

⁵ Peggy Davis notes that “microaggressions” have been characterized as instances of “incessant, often gratuitous and subtle [racial] offenses.” Peggy C. Davis, *Law as Microaggression*, 98 YALE L.J. 1559, 1565-66 (1989) (noting that “microaggressions” have been characterized as instances of “incessant, often gratuitous and subtle [racial] offenses”); see also DERALD WING SUE, MICROAGGRESSIONS IN EVERYDAY LIFE: RACE, GENDER, AND SEXUAL ORIENTATION, at xvi-xvii (2010).

⁶ See Angela P. Harris, *Reforming Alone? In the Interests of Justice: Reforming the Legal Profession* by Deborah L. Rhode, 54 STAN. L. REV. 1449, 1459 (2002) (detailing observations from the seminar about social justice students).

⁷ See generally JUAN F. PEREA, RICHARD DELGADO, ANGELA P. HARRIS, JEAN STEFANIC & STEPHANIE M. WILDMAN, RACE AND RACES: CASES AND RESOURCES FOR A DIVERSE AMERICA (2007) (exploring different perspectives on race and racism).

⁸ STEPHANIE M. WILDMAN WITH CONTRIBUTIONS BY MARGALYNNE J. ARMSTRONG, ADRIENNE D. DAVIS & TRINA GRILLO, PRIVILEGE REVEALED: HOW INVISIBLE PREFERENCE UNDERMINES AMERICA (1996) [hereinafter PRIVILEGE REVEALED]. For further reading on whiteness, see generally JANET E. HELMS, A RACE IS A NICE THING TO HAVE: A GUIDE TO BEING A WHITE PERSON OR UNDERSTANDING THE WHITE PERSONS IN YOUR LIFE (1992) (examining white racial identity and how its recognition may help end racism).

friend's eyes.⁹ Seeing the world as the friend experiences it is one small step toward developing the empathy that derives from "education work." I wrote that passage in part because of an experience I shared with Angela.

We had flown together from the San Francisco Bay Area to Minneapolis for a Society of American Law Teachers ("SALT") conference.¹⁰ As we disembarked together from the plane and started to walk through the Minneapolis airport, I noticed that not one African American person appeared in evidence, other than Angela. In this crowded sea of white faces, Angela and I drew many stares, not all of them friendly. The environment did not feel totally safe, although we were in a public airport. I was glad that she was not traversing that terminal alone, and I told her so. In that moment, I felt a glimmer of what she must have frequently experienced being an "only" in the many white spaces that she inhabited.

It is an honor, indeed, to share some insights gained from my longtime collaborative work with Angela and to express my appreciation and debt to her for her teaching, scholarship, and friendship, as I try to recognize the time and place for "education work" and try to become better at performing it.

Noting that collaborative work is not always valued by the academy, Angela wrote about my own collaborative projects that they "demonstrated a remarkable gift for facilitating the mysterious process by which a group becomes larger than the sum of its parts."¹¹ As the adage states: "It takes one to know one."¹² Angela also possesses that gift for collaborative teaching, scholarship, and service that has enriched us all. Her work mentoring junior faculty deserves special note, as that kind of collaborative effort can make such a difference in another's career.

⁹ PRIVILEGE REVEALED, *supra* note 8, at 3.

¹⁰ SOCIETY OF AMERICAN LAW TEACHERS, <http://www.saltlaw.org/> (last visited Dec. 30, 2013) (describing SALT as a community of progressive law teachers working for justice, diversity, and academic excellence).

¹¹ Angela P. Harris, *A Tribute to Professor Stephanie M. Wildman*, 34 U.S.F. L. REV. 409, 410 (2000).

¹² Most often a speaker utilizes this phrase as a retort to an insult, see CHRISTINE AMMER, *THE AMERICAN HERITAGE DICTIONARY OF IDIOMS* 348 (2003), but this text utilizes the expression as a compliment to Angela's collaborative work skill.

In Part I, this Essay explores Angela's notion of "education work,"¹³ suggesting the concept provides an opportunity for another kind of collaborative work that whites can perform so that people of color do not carry the entire burden of that "education work." Whites who step up as educators can cement their role as allies and build bridges for working across racial lines.¹⁴ In Part II, this Essay considers an aspect of Angela's scholarship, in which she argues for reframing legal education to acknowledge emotion and mindfulness as key attributes for social justice lawyering. She has been a pioneer in this effort.

I. "EDUCATION WORK"

*Breathe in slowly and exhale slowly. As you breathe in and out slowly, try to notice the space in between each inhale and the exhale. Inhalation and exhalation are seemingly opposite motions — in and out. But spaces exist between each inhale and exhale, suggesting that the breath is made up of more than just two opposing parts. Each of these four parts of the breath — the inhale, the space between the inhale and exhale, the exhale, and the space between the exhale and the next inhale — has a different quality. Notice how each part feels and especially notice the spaces.*¹⁵

In her essay *On Doing the Right Thing: Education Work in the Academy*,¹⁶ Angela highlights the limits of legality in fostering antidiscrimination. Rather, she explains, "private, interpersonal relationships" foster empathy and understanding for minority members of society.¹⁷ Her essay considers the theory and practice of such work from her perspective as a racial minority faculty member. Education workers cross boundaries when they challenge hurtful remarks and risk sacrificing "community," even when that community

¹³ See generally Harris, *On Doing the Right Thing*, *supra* note 3 (exploring the theory of "education work").

¹⁴ For a lengthier discussion of working across racial lines, see generally Margalynne J. Armstrong & Stephanie M. Wildman, *Working Across Racial Lines in a Not-So-Post-Racial World* in PRESUMED INCOMPETENT: THE INTERSECTIONS OF RACE AND CLASS FOR WOMEN IN ACADEMIA 224 (Gabriella Gutierrez y Muhs et al. eds., 2012) [hereinafter *Working Across Racial Lines*]. Angela Harris is one of the editors of this book.

¹⁵ T.K.V. DESIKACHAR, THE HEART OF YOGA: DEVELOPING A PERSONAL PRACTICE 38 (1995) (naming the "spaces" as "retention after inhalation" and "retention after exhalation"); see also B.K.S. IYENGAR, LIGHT ON PRĀNĀYĀMA: THE YOGIC ART OF BREATHING 14-17 (2013).

¹⁶ Harris, *On Doing the Right Thing*, *supra* note 3.

¹⁷ *Id.* at 125.

may be illusory from a minority's perspective.¹⁸ "Trying to respond to perceived bigotry and affirm the relationship at the same time is doing education work."¹⁹ The burden of such work undoubtedly falls more heavily on minority community members. Helping in "education work" is an important role that white allies can play. Majority community members (whites in the racial paradigm) face less risk of being labeled outsiders if they engage in "education work." And indeed Angela suggests "that the burdens of doing education work should be lifted from the shoulders of 'diverse' colleagues whenever possible."²⁰ One need not be a minority group member to empathize with that perspective or to recognize a hurtful, racist dialogue in the institutional setting. In the racial context, whites should strive to acquire this knowledge. As Angela observes, "[E]ducation work is *work* as well as *education*."²¹

Yet conversation about race, racism, and discrimination remains fraught with tension in current U.S. society.²² As a nation that declared independence from a colonial power, the United States might have been expected to exhibit more empathy toward colonized peoples. But the founders, as colonizers themselves, embedded oppression of American Indians and people of African descent into the nation's founding document. Some argue this history is old and irrelevant; "after all," they say, "the U.S. elected a black president." In public discourse the refrain, "Aren't we post-racial?" or the making of some reference to a "post-racial" era have become common.²³

Yet race, racism, and discrimination remain relevant and problematic today because of a multi-layered system that enforces messages about power and lack of power across multiple identity categories. This system, which often allows stigma,²⁴ stereotyping,²⁵ hate speech,²⁶

¹⁸ *Id.* at 126-27.

¹⁹ *Id.* at 129.

²⁰ *Id.* at 137.

²¹ *Id.* at 132 (emphasis in original).

²² See, e.g., *id.* at 132-34 (describing pitfalls of "education work").

²³ For further discussion of "post-racial," see *Working Across Racial Lines*, *supra* note 14, and TIM WISE, *COLORBLIND: THE RISE OF POST-RACIAL POLITICS AND THE RETREAT FROM RACIAL EQUALITY* (2010).

²⁴ For a landmark work on stigma, see ERVING GOFFMAN, *STIGMA: NOTES ON THE MANAGEMENT OF SPOILED IDENTITY* (1963).

²⁵ See e.g., GLENN C. LOURY, *THE ANATOMY OF RACIAL INEQUALITY* (2003) (discussing how cognitive bias creates racial stereotypes); Angela Onwuachi-Willig & Mario L. Barnes, *By Any Other Name?: On Being "Regarded As" Black, and Why Title VII Should Apply Even If Lakisha and Jamal Are White*, 2005 WIS. L. REV. 1283, 1289-313 (2005) (exploring role of stereotypes in leading to unintentionally biased choices).

microaggressions,²⁷ systemic privilege,²⁸ and discrimination,²⁹ reveals that laws aimed at ending discrimination address only a fraction of the behaviors that make the discrimination possible.

Part of the difficulty and tension society faces in trying to talk about race is the conflation and confusion that surrounds these distinct practices. As a society, we are clear that discrimination is bad and that racism is bad. Whites seek to show they are “good” and not racist. But those with power participate, often unwittingly, in these other behaviors that are part of the skeletal structure that scaffolds the beast of discrimination. The microaggression offers one example of how systemic oppression remains intact, even while Congress has enacted powerful antidiscrimination laws.³⁰

Peggy C. Davis offers this example of a microaggression, just one of the devices that supports a system of white supremacy. The setting is a New York courthouse in an elevator going up.³¹ As Davis relates: “A white assistant city attorney takes the elevator up to the 9th floor. At the fifth floor, the doors open. A Black woman [outside the elevator on that floor] asks: ‘Going down?’ ‘Up,’ says [the city attorney]. And then, as the doors close [the city attorney says:] ‘You see? They can’t even tell up from down. I’m sorry, but it’s true.’”³²

Davis explains that indeed the Black woman may have been an incompetent elevator traveler, but it is also possible that the elevator indicator light may have been broken. Davis suggests another

²⁶ RICHARD DELGADO & JEAN STEFANCIC, UNDERSTANDING WORDS THAT WOUND 26-27 (2004); Mari Matsuda, *Public Responses to Racist Speech: Considering the Victim’s Story*, 87 MICH. L. REV. 2320, 2339-41 (1989). See generally Charles R. Lawrence, *If He Hollers, Let Him Go: Regulating Racist Speech on Campus*, 1990 DUKE L.J. 431 (discussing the problems with the hate speech on campus).

²⁷ See SUE, *supra* note 5, at 8-9; Davis, *supra* note 5, at 1576-77.

²⁸ See generally PRIVILEGE REVEALED, *supra* note 8 (discussing the problems of systematic privilege in our society); Stephanie M. Wildman, *Revisiting Privilege Revealed and Reflecting on Teaching and Learning Together*, 42 WASH. U. J.L. & POLY 1 (2013) (continuing the discussion on privilege in our society).

²⁹ See generally Title VII of the Civil Rights Act of 1964, Pub. L. No. 88-352, §§ 701-16, 78 Stat. 241, 253-66 (1964) (codified as amended in 42 U.S.C. §§ 2000e to 2000e-17) (federal antidiscrimination statute).

³⁰ See generally Civil Rights Act of 1964, Pub. L. No. 88-352, 78 Stat. 241 (1964) (codified as amended in scattered sections of 2 U.S.C., 28 U.S.C., and 42 U.S.C.) (containing an example of powerful antidiscrimination laws). One ongoing weakness in antidiscrimination law has been its failure to recognize the intersection of forms of discrimination. See, e.g., Beverly Moran & Stephanie M. Wildman, *Race and Wealth Disparity: The Role of Law and the Legal System*, 34 FORDHAM URB. L.J. 1219 (2007) (discussing how the legal system’s neutrality encourages forms of discrimination).

³¹ Davis, *Law as Microaggression*, *supra* note 5, at 1560.

³² *Id.* at 1560-61 (quoting PETER S. PRESCOTT, *THE CHILD SAVERS* 169 (1981)).

possibility; that the woman thought it “efficient, appropriate, or congenial” to ask direction.³³

Davis relates the well-known idea that humans categorize to make sense of the world and that stereotypes — such as the idea that Blacks are “incompetent (or dangerous, or musical, or highly sexed)”³⁴ — play a role in decisions and actions that members of society take. Davis explains that the attorney also understands that racial prejudice is “socially and morally unacceptable.”³⁵ Thus the attorney in the elevator likely possesses an aspiration to equality while negative attitudes toward Blacks co-exist with that aspiration within her psyche. This point of contradiction provides an example that would benefit from “finding the space,” if the attorney could recognize those conflicting values in herself. For a white traveler in the elevator, this scenario presents an opportunity for “education work.” Microaggressions happen to people of color, often in the presence of other whites who are not the aggressors. The silence of white observers enables the microaggressive behavior to continue and places the burden of responding onto people of color.

Discrimination feeds on casual racism, such as that exemplified in the microaggression story, and still remains a beast in our society. Some believe the beast was slain at the end of the civil war or when the United States elected Obama as president. Many believe discrimination still exists but it is the aberrant behavior of racist others; they see themselves as siding with the angels who would slay the beast.

Society preaches colorblindness, and the message of equality behind that vision is inspiring, but it does not reflect contemporary reality. Only by noticing the race of the attorney in the elevator and the race of the would-be passenger can a white ally engage in “education work” and take a small move toward enlarging the space between the contradictory messages. By speaking, an ally might perhaps help the perpetrator of the microaggression to take a step closer toward the equality aspiration.

So “education work” can begin when a white ally helps other whites to understand that whites have a race.³⁶ A white passenger might have

³³ *Id.* at 1561.

³⁴ *Id.* at 1562.

³⁵ *Id.* at 1564.

³⁶ Writings by authors like Tim Wise and Frances Kendall offer insights about whiteness. See IAN HANEY LÓPEZ, *DOG WHISTLE POLITICS: HOW CODED RACIAL APPEALS HAVE REINVENTED RACISM AND WRECKED THE MIDDLE CLASS* 10-11 (2013); Margalynne J. Armstrong & Stephanie M. Wildman, *Teaching Race/Teaching Whiteness:*

responded, “Did you make that comment to me because I am white and you are white?” Recognizing race and the role of whiteness is the beginning of learning more about race and racialization in the contemporary United States.

In other writings, Margalynne Armstrong and I have proposed the idea of color insight to replace colorblindness as a vehicle for viewing race.³⁷ Utilizing color insight, “education work” says, “Let’s notice race and consider racial dynamics.”³⁸ Tools for practicing color insight include: “(1) considering context for any discussion about race; (2) examining systems of privilege; (3) unmasking perspectivelessness and white normativeness; and (4) combating stereotyping and looking for the ‘me’ in each individual.”³⁹ Once education work sets down the path to recognize race and to see whiteness, developing color insight — a lifelong process of learning about how race affects the world in which we breathe — provides useful tools.

Lacking this vocabulary, my own lack of awareness about race and racial injustice mirrored society’s confusion about race. As a young child I knew that Blacks had been enslaved in the United States. But I did not know about Jim Crow and the history subsequent to the end of slavery that maintained racial hierarchy, except in the broadest sense that racial segregation existed in the South. As I entered my teens I became aware that a contemporary civil rights movement attempted to end that segregation. But I did not really understand references to discrimination in the north. The fact that my world was pretty much all white did not seem unusual to me, rather just “the way things are.”

While I have trouble remembering when I began to learn about race, I can vividly recall when my daughter first verbalized that knowledge. My friend Charles Lawrence’s eleven-year-old daughter Maya had been an occasional babysitter for my daughter Becky. Becky was about three

Transforming Colorblindness to Color Insight, 86 NO. CAR. L. REV. 635, 638-39 (2008) [hereinafter *Teaching Race*] (applying the need to recognize whiteness in legal education).

³⁷ Margalynne J. Armstrong & Stephanie M. Wildman, “*Colorblindness Is the New Racism*”: *Raising Awareness About Privilege Using Color Insight*, in *DECONSTRUCTING PRIVILEGE: TEACHING AND LEARNING AS ALLIES IN THE CLASSROOM* 63, 67-71 (Kim A. Case ed., 2013) [hereinafter *Colorblindness Is the New Racism*]; Armstrong & Wildman, *Teaching Race*, *supra* note 36, at 649; Armstrong & Wildman, *Working Across Racial Lines*, *supra* note 14, at 233.

³⁸ *C.f.* Armstrong and Wildman, *Colorblindness Is the New Racism*, *supra* note 37, at 68 (noting that “[c]olor insight serves to promote equality and to emphasize nondiscrimination among races.”).

³⁹ *Id.*

years old at the time, in her car seat in the back seat, as we pulled up to Chuck's house to pick up Chuck and Maya and take them to a swimming pool. Maya got into the back seat with Becky, and as we drove off, I said to Becky, "You remember Maya, don't you? She babysat you." Becky said, "Maya didn't used to be Black."

I was momentarily speechless. Studies show that children begin to recognize race as early as three years old.⁴⁰ But I was not thinking as an academic. My first reaction was to be embarrassed and concerned. I was embarrassed because my daughter had brought up race. I was still at a point of believing this topic was best avoided in polite company. My reaction of embarrassment was a testament to the power of the colorblind ideal that somehow noticing race was rude. And I also felt concerned for Maya. Obviously Maya knew she was Black, but how would she feel having the topic raised? Her father's smiling reaction, reassured me that no horrible line had been transgressed. Yet I had been trying to take my friends swimming, not looking to create a situation in which they had to engage in "education work."

II. REFRAMING LEGAL EDUCATION WITH A DEEPER UNDERSTANDING OF THE MEANING OF PRACTICE

I remember when I first heard of Angela Harris. I was standing in my kitchen during a lunch break for the West Coast Feminist Legal Theorist study group of which I was a part.⁴¹ Herma Hill Kay, leaning slightly against the green Corian countertop, addressed the cluster of women waiting to fill their plates. She said, "And we⁴² have hired Angela Harris." The nods from the group suggested that Angela's name was already well-known in legal academic circles. I surmised she had been a big "catch" on the hiring market that year. My own school had not been interviewing and I had not been paying attention to the rising class of law professors, so I did not know for sure.

Many journalists, bloggers, and scholars describe legal education as currently in crisis. As Carrie Menkel-Meadow explains: "For the last few years we have been bombarded with news articles, lawsuits,

⁴⁰ FRANCES KENDALL, UNDERSTANDING WHITE PRIVILEGE: CREATING PATHWAYS TO AUTHENTIC RELATIONSHIPS ACROSS RACE 49 (2d ed. 2013).

⁴¹ See Angela P. Harris, *Race and Essentialism in Feminist Legal Theory*, 42 STAN. L. REV. 581, 604 (1990) (describing an exercise used at a later "fem-crit" meeting to illustrate whites inability to see whiteness).

⁴² By "we," Kay referred to her law school, Boalt Hall, Berkeley's law school.

conferences, and scholarly treatments of the ‘crisis in legal education.’”⁴³ Students face huge debt loads and declining jobs. This cycle has led to fewer applicants to law schools, which face declining enrollments and budget deficits. Menkel-Meadow summarizes the tenor of these critiques of legal education. “The conventional treatment of the crisis is that there are fewer jobs, at greater expense of legal education for students, so that attending law school is, instead of a great opportunity, now a terrible risk of both economic loss and personal and professional disappointment.”⁴⁴ The answer, some urge, lies in law schools meeting the challenge to produce “practice ready” lawyers.⁴⁵

While many toss around the phrase “practice-ready,” its meaning remains contested. Some view practice readiness as an extension of earlier calls for greater skills training in law school.⁴⁶ Others who agree with the goal of practice readiness elaborate upon its meaning as requiring more than merely skill but also “justice readiness.”⁴⁷ Some

⁴³ Carrie Menkel-Meadow, *Crisis in Legal Education or the Other Things Law Students Should Be Learning and Doing*, in Symposium: The State and Future of Legal Education, 45 MCGEORGE L. REV. 133, 133 (2013).

⁴⁴ *Id.*

⁴⁵ For one article in this vein, see Patrick M. Kelly, *What Can, or Should, Lawyers Do About the Decline in Law School Enrollment?*, 120 DAILY J. 1 (Jan. 2, 2014), <http://www.dailyjournal.com/public/Pubmain.cfm?seloption=The%20New%20Lawyer&pubdate=2013-11-26&shNewsType=Supplement&NewsId=965&sdivId=&screenHt=680&eid=1#section=ptab3.cfm%3Fseloption%3Dnews%26pubdate%3D2013-11-26%26shNewsType%3DSupplement%26NewsId%3D932852%26sdivId%3Dtab3> (citing national economic downturn, increased cost of legal education, declining reputation of lawyers in society, and cyclical nature of professional enrollment as factors to explain declining applications). However, few of these articles also note the ongoing need for legal services, particularly for low-income populations. Kelly’s article provides a welcome exception to that trend, and the article suggests that as a possible solution to this crisis that law schools give greater emphasis to public service and pro bono service. *Id.*

⁴⁶ See e.g., Robert J. Condlin, “Practice Ready Graduates”: A Millennialist Fantasy 1-2 (Univ. Md. Legal Studies Research Paper No. 2013-48, 2014), available at <http://ssrn.com/abstract=2316093> (noting that the current call for practice readiness is the “millennialist version of the argument for clinical legal education that dominated discussion in the law schools in the 1960s and 1970s”). Condlin notes, “The circumstances are different now . . . as are the people calling for reform But the two movements are alike in one fundamental respect: both view skills instruction as legal education’s primary purpose.” *Id.* at 2.

⁴⁷ See, e.g., Sharon L. Beckman & Paul R. Tremblay, *The Way to Carnegie: Practice, Practice, Practice — Pedagogy, Social Justice, and Cost in Experiential Legal Education*, 32 B.C. J. L. & SOC. JUST. 215 (2012) (stating that beyond practice readiness, schools should graduate lawyers who are justice ready).

critics of the critiquers bemoan that no one knows what practice readiness even means.⁴⁸

These critiques and counter-critiques beg the real question: practice for what? While bloggers decry that the United States has “too many lawyers,” in fact legal services for low income and middle-income families remain underfunded and needed.⁴⁹ The bar and law schools should work together to address this unmet need for legal services and aim to graduate lawyers with a sense of ethical responsibility as professionals. Both of these tasks remain equally urgent.

Angela’s teaching about legal education provides a most helpful beacon here. She writes about the contradictions inherent in being a lawyer for social change who cares about social justice.⁵⁰ “The compassion and humility necessary to be a good social justice lawyer . . . come from recognizing the impossible relationship between law and justice, yet acting anyway, with a full knowledge of the possibilities and limitations of one’s actions.”⁵¹ She explains the violence that underlies the legal system, and how law students learn not to see that violence.⁵² Part of the violence that legal education fails to teach students concerns the systemic devices like microaggressions and privilege that uphold systemic discrimination. Most tragically, as Angela has written: “[L]egal education gives short shrift to the

⁴⁸ See David Barnhizer, “Practice Ready” Law Graduates 2 (Jan. 2013) (unpublished manuscript) (on file with Cleveland State University) available at http://works.bepress.com/context/david_barnhizer/article/1091/type/native/viewcontent (“Although there has been an increase in demands that American legal education ought or must become more focused on producing ‘practice ready graduates’ the idea of ‘practice ready’ is poorly defined and elusive. I am certain that when some hear the words they immediately think about the most narrow and technical form of ‘skills’ training that brings to mind something akin to a community college vocational school.”). But see Lisa A. Kloppenberg, *Training the Heads, Hands and Hearts of Tomorrow’s Lawyers: A Problem Solving Approach*, 2013 J. DISP. RESOL. 103, 104 (recognizing that “practice-readiness” means providing students with “the initial skills needed to flourish in the modern workplace”). This emphasis on skills to begin work suggests a definition of practice readiness that recognizes “practice” implies continuing professional development and not a final goal.

⁴⁹ Deborah Moss-West & Stephanie M. Wildman, *A Social Justice Lens Turned on Legal Education: Next Steps in Representing the Vulnerable and Inspiring Law Students*, 37 J. LEGAL PROF. 179, 181 (2013) (“[S]tudies show that the collective legal aid effort is meeting only about 20% of the legal needs of low-income people.”).

⁵⁰ Angela P. Harris, *Teaching the Tensions*, 54 ST. LOUIS U. L.J. 739, 742-43, 749-50 (2010) [hereinafter *Teaching the Tensions*].

⁵¹ *Id.* at 753.

⁵² *Id.* at 743-46.

emotional, interpersonal, moral and spiritual development of students, despite the demands lawyering places on all these capacities.”⁵³

Many students come to law school caring about justice and then ask, “Where was the class about justice?” Recognition of emotion, especially passion, and mindfulness are crucial tools for addressing social change. Offering a mindfulness seminar was Angela’s statement that growth in these areas remains crucial to life and to law. In a recent essay, written for a Mindfulness Symposium in the *Journal of Legal Education*, Angela recounts her work with Stephanie Phillips to offer a course called “Mindfulness and Professional Identity: Becoming a Lawyer While Keeping Your Values Intact” at SUNY Buffalo.⁵⁴ Angela relates their dilemma in considering how to explain mindfulness to the students in terms of its relationship to values. As Angela explains, mindfulness could be taught as purely secular: “In its most stripped-down form, it could be offered as pure stress reduction. This mindfulness ‘economy package’ would include instruction in breathing, relaxation and basic awareness training, but nothing more.”⁵⁵ Or at the other end of the possible spectrum, the course could connect mindfulness to a religious or spiritual worldview. The course they decided to offer did have a distinct moral orientation. The practices “encouraged the cultivation of love and compassion for ourselves and others and discouraged the cultivation of anger, hatred, jealousy, resentment, envy and other ‘negative’ emotions.”⁵⁶ Angela and Stephanie’s choice of this “middle ground” kept the mindfulness practice true to the tradition that practitioners use mindfulness within an ethical framework.⁵⁷

It has become common for people to equate mindfulness with a state of awareness or bare attention.⁵⁸ However, the traditional import

⁵³ Angela P. Harris, *Toward Lawyering as Peacemaking: A Seminar on Mindfulness, Morality, and Professional Identity*, 61 J. LEGAL EDUC. 647, 653 (2012) [hereinafter *Toward Lawyering*]; see also Angela P. Harris & Marjorie M. Shultz, “A(nother) Critique of Pure Reason”: *Toward Civic Virtue in Legal Education*, 45 STAN. L. REV. 1773, 1773-74 (1993) (early statement on the importance of emotion to “any truly important intellectual undertaking”). For one notable exception to legal educators’ emphasis on reason alone, see Kloppenberg, *supra* note 48, at 142 (calling for legal educators to shape “the heads, hands, and hearts of our students”).

⁵⁴ Harris, *Toward Lawyering*, *supra* note 53, at 647-48.

⁵⁵ *Id.* at 648.

⁵⁶ *Id.*

⁵⁷ EMOTIONAL AWARENESS: OVERCOMING THE OBSTACLES TO PSYCHOLOGICAL BALANCE AND COMPASSION; A CONVERSATION BETWEEN THE DALAI LAMA AND PAUL EKMAN 56-57 (Paul Ekman ed., 2008) [hereinafter EMOTIONAL AWARENESS].

⁵⁸ Thanks to Jennifer Rodrigue for providing this insight, as well as sources cited in this essay that explore the ethical context for the practice of mindfulness. Today, the

of mindfulness includes the understanding that the practitioner exercises this awareness or bare attention within an ethical framework.⁵⁹ “So traditionally (and accurately) speaking, mindfulness practice is developing skill at present awareness *in order* to recognize and cultivate ethical states while also recognizing and releasing unethical states.”⁶⁰

No definitions of practice readiness use the term as Angela’s work suggests it should be used. Her practice-ready students are aware of the power of emotion and its role in lawyering, and they are engaging in a mindfulness practice within an ethical framework. We can introduce our students to this idea of practice as Angela suggests. Practice-ready people, in this sense of practice, will be better lawyers. It is interesting that members of the legal profession speak of their work as a “practice,” which is also done within a framework of ethics, and that yogis and others who cultivate mindfulness similarly regard their work as a “practice,” also within an ethical realm. The notion of “practice” suggests one is always learning, making the phrase “practice-ready” nonsensical, unless it connotes one who is always ready to learn and to act ethically. Mindfulness practice offers the potential for lawyers to reconnect with values that brought them to law school in the first place.

CONCLUSION: MINDFULNESS AND “EDUCATION WORK”

Pincha Mayarasana or forearm balance is a yoga pose in which the practitioner places both forearms on the floor and kicks her legs up to balance upside down on her forearms. It looks like a handstand, performed with forearms as the base rather than just hands. Breathing upside down is a challenge that feels like a contradiction at first for most humans, who are used to standing upright on two feet. A body’s initial response to inversion may be to hold one’s breath. But the power of the pose comes from breathing; the pose requires both strength and

notion of mindfulness appears as a part of everyday news stories, see e.g. Dan Hurley, *Breathing In vs. Spacing Out*, N.Y. TIMES (Jan. 14, 2014), <http://www.nytimes.com/2014/01/19/magazine/breathing-in-vs-spacing-out.html?emc=eta1&r=0> (reporting on scientific debates about benefits of meditation practice with no mention of the ethical context that grounds the practice). For more on the modes of ethical practice that frame ashtanga yoga see David Gordon White, *Yoga in Transformation*, in DEBRA DIAMOND, *YOGA: THE ART OF TRANSFORMATION* 38 (2013).

⁵⁹ B. Alan Wallace, *On the Meaning of Mindfulness*, in *EMOTIONAL AWARENESS*, *supra*, note 57, at 56.

⁶⁰ E-mail from Jennifer Rodrigue to Stephanie Wildman (Dec. 30, 2013, 4:14 p.m.) (on file with the author).

calmness. My own journey toward this pose has illuminated the muscles, breathing, and co-ordination necessary to move toward achieving it. At my age, I may never reach the pose unassisted. But developing the wisdom to experience the contradictions has still been enriching. Similarly, practicing “education work” may not bring an immediate end to racism, but the world may benefit from our efforts. Legal education may never fully embrace emotion or mindfulness, but students will likewise benefit from an awareness of the potential of these ideas for law practice and life.

Practicing yoga with Angela at an Oakland studio, I can feel the calm she radiates. Yoga is not competitive; it is not about being “good at it”; it is about breathing in each moment. Breathing is the hardest part of yoga for me. That statement may sound silly if you have never tried being mindful of each breath you take. I have discovered that as I progress through my day, I often barely breathe. I have started to notice when I am driving or sitting in a meeting, my breath takes on a shallow, barely moving quality. Take a moment to examine your own breath as you read these words. I am trying to breathe, really breathe fully, as I write them. Angela’s urging of mindfulness to her students, and to all of us, marks her as a pioneer among teachers in a discipline that suppresses that knowledge.

In *Teaching the Tensions*,⁶¹ Angela explains her view of law teaching as embodying paradoxical contradictions that she embraces. “[T]he project of getting law to do, or reflect, ‘justice’ is always already . . . a failed project.”⁶² She asks: “[H]ow does a person committed to social change live within the law, a set of institutions and ideologies committed to preserving the status quo?”⁶³ The answer must include practicing mindfulness and doing education work to embrace the contradictions and enlarge the breathing space.

Angela describes her young self as “a black kid in a series of predominately white environments.”⁶⁴ I think now about how often in her career Angela has had to be the “only” — the odd one out in many environments. I myself am an “affirmative action professor.”⁶⁵ Angela chose other words to describe that experience, relating how she came to teaching law at age twenty-six:

⁶¹ Harris, *Teaching the Tensions*, *supra* note 50, at 740.

⁶² *Id.* at 743.

⁶³ *Id.* at 740.

⁶⁴ *Id.*

⁶⁵ See generally Stephanie M. Wildman, *Gender Integration of the Legal Academy: The Role of the AALS Section on Women in Legal Education*, 80 UMKC L. REV. 801, 801 (2012) (reflecting on role of women in law teaching).

[T]he slightly stunned product of many converging forces: hand-to-hand combat by Boalt Hall's student Coalition for a Diversified Faculty; the genteel patronage system of hiring developed by the national old boys' network of white-guy law professors; federal and state affirmative action policies; and a bewildered and anxious faculty reluctantly convinced to 'diversify' by threats, lawsuits, and demonstrations.⁶⁶

So while we shared a sense of "feeling like a fraud"⁶⁷ and not belonging in our environments, I could, as the beneficiary of white privilege, pass into some situations with less notoriety.⁶⁸

In a sense, neither of us wanted these jobs, integrating the legal academy as to race and gender, yet that was the work.⁶⁹ So race and gender and other systems of oppression and subordination underlie all of our work together. Yet in the yoga we practice at home and when we take classes together, in the conversations about being moms, or hiking across San Francisco through Crissy Field, although race is present, those activities are not about race per se. Being a friend equals being a friend, but a white person can be a better friend by mindfully taking on "education work." One ethical framework for practice is an antiracism and anti-oppression stance; recognizing whiteness is a first step in that practice.

Angela writes about teaching the contradictions, because she lives her life at the junction of these kinds of contradictions — between silence and action, belonging and not belonging. Perhaps that insight of the need to live in the contradiction is the biggest lesson of her work. Contradictions twist and squeeze and constrain. But in helping each of us to find the spaces between the breath's inhale and exhale and, thus, aiding the possibility of embracing the contradictions, Angela shows her brilliance as a teacher and her wisdom as a practice-ready person.

⁶⁶ Harris, *Teaching the Tensions*, *supra* note 50, at 741.

⁶⁷ See generally Peggy McIntosh, *Feeling like a Fraud* (Jean Baker Muller Training Institute at the Wellesley Centers for Women, Paper No. 18, 1985), available at <http://isites.harvard.edu/fs/docs/icb.topic857636.files/Fraud%201.pdf> (providing an excellent exploration of the "feeling like a fraud" phenomenon as it affects women in academia). I am grateful to Angela for calling my attention to this unpublished essay, many years ago.

⁶⁸ See Stephanie M. Wildman, *Affirmative Action: Necessary for Equality for All Women*, 12 BERKELEY LA RAZA L. J. 429 (2001) (explaining how affirmative action benefits women of all races).

⁶⁹ See Wildman, *supra* note 65, at 802; see also Angela Harris, *Women of Color in Legal Education: Representing La Mestiza*, 6 BERKELEY J. GENDER L. & JUST. 107 (1991) (on the visibility of being a Black woman professor).

CODA ON MOTHERING AND CHOCOLATE CHIP CAKE

Many pages in this journal will be devoted to Angela Harris as the public intellectual, the scholar, the teacher, the innovator of legal theory. All of these descriptors for her will and should be preceded by adjectives like brilliant, cutting-edge, pathbreaking, dazzling, and talented. But no honoring of Angela Harris would be complete without acknowledging that she inhabits all these roles while having been and being a devoted mother to Mark, Rachel, and Jasmine.

I had planned a baby shower for Angela, before Rachel's birth. Forty guests were due at my house at 2 p.m. and that morning I called the neighborhood bakery where I had pre-ordered a chocolate chip cake for Angela on the preceding Tuesday, because Angela and I share a love of chocolate. Imagine my extreme distress when a recorded message answered, stating that the bakery had gone out of business! As a true chocolate lover, I went to my back-up sources and the shower commenced with appropriate chocolate treats. But I did leave a message on the bakery's number, wailing, "How could you leave me in the lurch like that?" The next day they apologized and provided me with the recipe for the cake.

For chocolate lovers, here is the recipe:

Cream: 1 cup butter, ½ cup white sugar, 1 cup brown sugar

Add: 1 teaspoon vanilla, 3 beaten eggs

In a separate bowl: sift 2 ½ cups flour, ½ teaspoon baking soda, 3 teaspoons baking powder, 1 teaspoon salt

Mix dry ingredients into creamed mixture with 1 ¼ cups buttermilk. Don't overstir.

Add 1 cup chocolate chips.

Bake at 350 degrees for thirty to forty minutes in a greased 9x13" pan or in 9" rounds for two layers.

I use a Bundt pan and bake for forty-five to fifty minutes, testing for doneness with a toothpick.

Enjoy and think of Angela.