

2010

Reflections on Substance and Form in the Civil Rights Classroom

Doni Gewirtzman

New York Law School, doni.gewirtzman@nyls.edu

Follow this and additional works at: <https://scholarship.law.slu.edu/lj>



Part of the [Law Commons](#)

Recommended Citation

Doni Gewirtzman, *Reflections on Substance and Form in the Civil Rights Classroom*, 54 St. Louis U. L.J. (2010).

Available at: <https://scholarship.law.slu.edu/lj/vol54/iss3/6>

This Article is brought to you for free and open access by Scholarship Commons. It has been accepted for inclusion in Saint Louis University Law Journal by an authorized editor of Scholarship Commons. For more information, please contact [Susie Lee](#).

REFLECTIONS ON SUBSTANCE AND FORM IN THE CIVIL RIGHTS CLASSROOM

DONI GEWIRTZMAN*

AUTHOR'S NOTE

Last year, I taught Sexuality and the Law for the first time. While teaching the course, I observed a wide disparity between my students' high level of interest and enthusiasm for the course and my own response to what was happening in the classroom. I found myself frustrated and unhappy, not with the students or their performance, but with the decisions I made about how we spent our time. The choices I made were bad ones, and I am no doubt guilty of many of the pedagogical sins that are cataloged in the pages that follow.

This Essay is an effort to work through the reasons why I made those choices, and how I might avoid making the same mistakes twice. In reflecting upon the experience, I have found it helpful to generalize, exaggerate, and overstate what "typical" law professors do in their classrooms. It is my hope that this admittedly distorted and broad-brush approach will—like a magnifying glass—make the nature of certain pedagogical choices more transparent, and highlight the larger value commitments that are at stake when we make decisions about how to teach. It is in no way intended to denigrate the many innovative teachers among our ranks, or to ignore the nuanced and varied approaches those teachers have adopted.

INTRODUCTION

In an ideal universe, there is a direct, holistic relationship between what we teach and how we teach—between substance and form. When substance and form align, our pedagogy reflects, models, and creates an experiential manifestation of the subject matter's core components and central conflicts. In

* Associate Professor of Law, New York Law School. I owe much of the thinking in this Essay to some of the great teachers in my life, including George Creeger, Peggy Cooper Davis, John Dwyer, John Finn, Liz Gewirtzman, Linda Hamilton Krieger, Linda Messing, and Anna Morello. Each of them set standards I aspire to meet every day and made me think long and hard about how I teach. I am also indebted to Gerry Korngold, the members of the New York Law School Junior Faculty Colloquium, particularly Rebecca Roiphe, James Grimmelman, and Molly Land, and the editors at the *Saint Louis University Law Journal* for their comments on this Essay. Copyright © 2010 by Doni Gewirtzman.

this perfected vision of the classroom, the essence of what we teach is embodied by *how* we teach, and the decisions we make about how we teach reflect substantive judgments about law, our legal system, and the nature of the profession itself.

Yet all too often, legal education treats substance and form as distant cousins. The formal components of classroom teaching remain largely the same, regardless of the subject under review. In the day-to-day, give-and-take of the classroom, a contracts class looks like a torts class, and a torts class runs the same way as a constitutional law course. The answers to the questions “how to teach constitutional law” or “how to teach torts” focus on adding or subtracting cases from a casebook, emphasizing or deemphasizing particular historical developments, or advocating the adoption of a grand unified theory that unites disparate subject matter.

This turns course design into a question of substance rather than form. The result is limited pedagogical variance from class to class, professor to professor, or institution to institution. True experimentation and innovation are absent, and plain vanilla remains the perpetual *entrée du jour*.

In order to create true alignment between substance and form, we must ask what is at the heart of our substance, which is no easy question given the broad and undefined category of “civil rights.” Beyond providing familiarity with a laundry list of canonical cases, statutes, and constitutional provisions, what core substantive conflicts are acted out through the drama of the classroom?

Within the civil rights arena, I came to think about the meta-substance of my course as three interrelated dualistic conflicts that not only appear repeatedly throughout the doctrine, but are inherent to the very nature of what law is and what clients seek to resolve through our legal system. These conflicts are: the battle between coercion and freedom,¹ the battle between “public and private,”² and the battle between “law and love.”³

All three conflicts are inevitable given the ways in which any legal regime achieves dominance and perpetuates itself. First, law—as a cultural practice—requires some form of coercion to maintain its power and legitimacy, often using compliance techniques that restrict and devalue freedom. Second, law inevitably imposes itself into the private sphere, bringing external public norms into relationships and places where its presence may be unfamiliar and unwelcome. Finally, law creates categories of people and things and allocates

1. *See generally* PAULO FREIRE, *PEDAGOGY OF THE OPPRESSED* (Myra Bergman Ramos trans., 1993) (1970).

2. *See* BELL HOOKS, *TEACHING TO TRANSGRESS: EDUCATION AS THE PRACTICE OF FREEDOM* 16 (1994).

3. PAUL W. KAHN, *THE CULTURAL STUDY OF LAW: RESTRUCTURING LEGAL SCHOLARSHIP* 121 (1999).

them into a hierarchy, bringing the finalized legal regime into tension with the unbounded and egalitarian nature of universal love.⁴

Just as inevitably, the core dramatic conflicts that take place within the classroom replicate the substantive tensions behind what we teach. In this way, the civil rights classroom—whether we like it or not—serves as a space for “acting out” each of these three battles. Through their in-class behaviors, professor and student alike are engaged in acts of coercion and liberation, pushing at or reinforcing the boundaries between public and private, and managing the tensions between law and love.

In the civil rights context, the gap between substance and form is particularly stark. In terms of form, the standard law school classroom reinforces each of the three dualities and takes a clear stand in favor of one side or the other: it sides with coercion against freedom, maintains a rigid boundary between public and private, and polarizes the divide between law and love. These ever-present realities present challenges for aligning substance and form in a civil rights course, where the substance is often related to exposing, questioning, and undermining the ideologies reinforced by our signature pedagogical approach.

This Essay, building on observations by critical education and legal theorists like Paulo Friere, Duncan Kennedy, Robert Cover, Paul Kahn, bell hooks, and others, is an effort to make the disconnect between substance and form more explicit. Rather than serving as a “how-to” manual for teaching a civil rights course, it suggests that any answer to the question “how to teach civil rights” should inquire into each of the three core conflicts that constitute the underlying meta-substance of the course. In turn, these substantive struggles require the civil rights professor to revisit many of the deeply ingrained formal habits of law school teaching, towards the eventual goal of creating synergy between substance and form.

I. THE BATTLE BETWEEN COERCION AND FREEDOM

The law school classroom is a fearful and angry place. Most of the fear and anger is not on full display, but it is there, lurking under the surface, being silently channeled back and forth between professor and student.

The fear and anger derives from what the Carnegie Report refers to as legal education’s “signature pedagogy”: the case dialogue.⁵ As the Carnegie Report describes it, the case dialogue is a largely teacher-centered exercise, where the professor “is clearly the focal point” and where “it is relatively rare . . . for students to address one another directly.”⁶ All knowledge is mediated through

4. *See id.* at 121–22.

5. *See* WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 23–24 (2007).

6. *Id.* at 49–50.

a single figure that sits atop a hierarchy, a hierarchy that replicates, as Duncan Kennedy noted, “relations between junior associates and senior partners . . . between lawyers and judges.”⁷ We see professors, in bell hooks’ words, who are “enthralled by the exercise of power and authority within their mini-kingdom, the classroom.”⁸

In its current form, our signature pedagogy, detached as it is from the nature of the subject matter, provides our students with one reliable point of confluence between substance and form: a first-hand, ringside-seat encounter with the coercive power of law. The professor controls the discussion through an elaborately scripted Socratic or quasi-Socratic dialogue. Questions are asked, for which there is a desired response, and if the response is not given, the professor finds a way—either through reinterpreting the student’s comment or calling on another student—to get the answer she wants. As anyone who has written a standard-issue syllabus or lesson plan knows, there is very limited room for movement or departure from the lesson plan itself, virtually no room for debate about the content of the course, the structure of the discussion, the method of evaluation, or much of anything else. There is next to no chance that the class itself will construct new knowledge—most of the time, classroom discussion consists of the arguments outlined in majority or dissenting opinions restated in a more accessible way (i.e. reading comprehension), or to bring forth an underlying academic theory advanced by the professor or already articulated by another expert. Because all knowledge is mediated through the professor, there is virtually no opportunity for students to surpass the professor in their mastery of the material or in their analytic capabilities. Most speech, other than the professor’s, operates in a highly regulated environment. All rules about the classroom are sent down as dictates from on high, with the professor at the top of a clearly defined hierarchy that makes it evident, at every available opportunity, who is in charge.⁹ It is not a model of democratic governance. It is not a model for, to use educational theorist Paulo Friere’s word, “liberation.”¹⁰

Instead, the pedagogy models the coercive power of law, where our actions are manipulated—consciously or unconsciously—in ways that restrain individuality and self-expression. And like most populations that are subjected to the coercive power of law, it generates anger and fear in those that are at the bottom of the totem pole.

7. DUNCAN KENNEDY, *LEGAL EDUCATION AND THE REPRODUCTION OF HIERARCHY: A POLEMIC AGAINST THE SYSTEM* 77 (2004). Kennedy’s essay contains many of the core concepts identified in this section, though his terminology is somewhat different.

8. See HOOKS, *supra* note 2, at 17.

9. FREIRE, *supra* note 1, at 73.

10. *Id.* at 70.

The anger and fear exist from the teacher's vantage point as well. The subconscious fantasy on the professor's end is that the classroom will become "not law." It will descend into anarchy, or revolution, or some other form of social chaos that exposes the undeniable fact that there are one hundred ten students, and only one professor.¹¹ Moreover, those students pay the professor's salary, and may—in a moment of sudden self-realization—decide that they are entitled to some degree of power as a result. It is the same fear that most despots encounter throughout their reign. And the professor, like most dictators (both benevolent and malevolent), responds by using the coercive power of law to full effect: imposing themselves at the top of a rigid classroom hierarchy, constraining the exchange of knowledge between members of the classroom community, conducting an evaluation process that lacks transparency or an effective means of appeal, and ruling by fiat.

This serves some purpose in professional training. As Duncan Kennedy observed, compliance with rules, a respect for institutions, and a willingness to operate within hierarchical structures are essential components of what it means to be a legal professional in contemporary America.¹² In this way, the pedagogy does indeed unite substance and form by inculcating compliance with law's coercive power as a professional value, though usually without the critical awareness, transparency, or experiential components necessary for professors or students to fully internalize its benefits or question the costs of law's regime.

By contrast, the substance of civil rights law presents the relationship between coercion and freedom as far more complex and mutually dependent. On one hand, the corpus of modern civil rights law developed as a direct and antagonistic response to law's coercive power. The Civil Rights Act of 1964,¹³ the Voting Rights Act,¹⁴ the Americans with Disabilities Act,¹⁵ and countless other federal, state, and local civil rights statutes are the products of social movement activism that, at one point, mobilized under the banner of freedom against the detrimental effects of law's coercive power on particular communities.¹⁶

Yet, once each social movement achieved mainstream acceptance, law—as embodied by statutory reform and enforcement practices—was the primary

11. See HOOKS, *supra* note 2, at 188 ("Fear of losing control in the classroom often leads individual professors to fall into a conventional teaching pattern wherein power is used destructively.")

12. KENNEDY, *supra* note 7, at 71.

13. Civil Rights Act of 1964, Pub. L. 88-352, 78 Stat. 241 (1964) (current version at 42 U.S.C. § 2000e (2006)).

14. 42 U.S.C. § 1973 (2006).

15. *Id.* § 12101.

16. See William N. Eskridge, Jr., *Some Effects of Identity-Based Social Movements on the Development of Constitutional Law in the Twentieth Century*, 100 MICH. L. REV. 2062 (2002).

vehicle for these movements to memorialize and consolidate their gains. As Paul Kahn noted, "Revolution is thus the source and underlying truth of law."¹⁷ Each social movement, as it gained acceptance, enshrined its vision of the world by relying on law's coercive capacity to achieve a radically different set of social goals.

Hence, ambivalence about law's relationship to coercion and freedom is built into the substance of the course. Civil rights law has a rich history of questioning the utility and moral justification for legally enforced power structures, while nevertheless adopting legal means to achieve different ends. It is a complexity that is missing in the design of our signature pedagogy, creating a wide chasm between the nuance of the subject matter and the brute coercion of our form.

In my classroom, the substance-form divide between coercion and freedom manifested itself on a daily basis. While the substance reflected cases about lesbians and gay men who, at deep personal cost, bravely challenged power structures and social expectations, my pedagogical form provided no opportunities for that courage to manifest itself in the classroom environment. The management of classroom discussions was strictly top-down, as I unilaterally imposed content, guided discussion towards personal areas of interest, and restated student comments so that they aligned with my own goals for the course. The result was a personal sense of despair after each class, brought about by the feeling that my teaching practice was reinforcing precisely the sort of social hierarchies that were challenged in the cases we read. There was no room for revolution.

Hierarchies themselves are not necessarily bad. They enable individuals to coordinate behavior, minimize conflict, specialize skills, discourage the shirking of responsibility, motivate individuals to perform, and make their behavior more efficient. And there are good reasons for some hierarchy within a classroom—the professor's superior level of expertise, the efficiencies of allowing one person to make quick and authoritative decisions, and a culture of expectations among law students that often craves hierarchy in its most *1L*, *Paper Chase*-like manifestations.

Yet the hierarchical form of my classroom seemed ill matched to the substance of the class. The next time I teach the course, I plan to explore ways to give students greater control over the class agenda by creating opportunities for student-led discussions, group projects, and other mechanisms designed to foster greater autonomy and ownership over the classroom experience. Coercion, whether explicit or implicit, cannot function as the primary pedagogical dynamic in a civil rights classroom.

17. KAHN, *supra* note 3, at 120–21.

II. THE BATTLE BETWEEN PUBLIC AND PRIVATE

Our signature pedagogy maintains a rigid boundary between public and private.¹⁸ The private lived experience of students is suppressed and treated as not only irrelevant, but an inappropriate distraction from the important public work of the classroom. The case-based nature of the classroom inquiry, which calls upon students to exclude so much of human experience as irrelevant in the search for “material facts,” depersonalizes the rich and diverse nature of human experience into a set of archetypal case narratives for public consumption.¹⁹ And it provides virtually no opportunity to systematically reflect on how the law affects the aspects of the self that are essential to who we are but often defy our efforts to translate them into the language of the law school classroom: our sense of right and wrong, our racial or sexual identity, or the challenging interpersonal dilemmas that arise out of even the most mundane professional interactions. The result is a private self that is disintegrated from and suppressed by a public professional identity, and a classroom environment that excludes so much of how we make sense of our jobs and the external world.

As with coercion and freedom, the professor’s desire to maintain a clear line between public and private serves some valuable professional training objectives. Lawyers are valued for their ability to suppress their own private desires in the service of a client’s needs, as well as their ability to exercise independent professional judgment that is untainted by emotions or other judgment-distorting elements of the private self.

Yet this bright-line divide between public and private is particularly out of place in the civil rights classroom. In part, this is because students often take the course in order to bridge the gap between public and private, to make sense of their own private experience as existing within or outside a socially salient category like race or sexuality, and to directly address the ways that a public legal regime impacts the construction of their private self.

And in part, it is because the pedagogical approach fails to reflect the complexity with which civil rights law has addressed the substantive line between public and private. On one hand, much of civil rights law has been designed to take areas of human interaction that were once deemed private and make them public. Prior to the development of statutory remedies for civil rights violations, the early civil rights constitutional “canon” was built around

18. See HOOKS, *supra* note 2, at 16.

19. Leah Ward Sears, formerly of the Supreme Court of Georgia, provides an excellent example of this need to recognize human experience over rigid law in a dissent arguing for a broader understanding of adoption in inheritance cases. *O’Neal v. Wilkes*, 439 S.E.2d 439, 492–94 (1994) (Sears-Collins, J., dissenting) (majority upholding Georgia law requiring legal adoption and denying potential inheritance rights on the basis of equitable adoption).

cases defining the scope of state action doctrine²⁰ and establishing a rigid dichotomy between the political (i.e. public) sphere, which was deemed appropriate for legal regulation, and the social (i.e. private) sphere, which was considered off-limits.²¹ Much of civil rights reform has been dedicated to questioning, challenging, and supplanting this dichotomy by broadening the spaces in which public constitutional norms may apply and through statutory reforms that have taken areas that were once considered matters of private choice (i.e. the ability of private actors to discriminate) and subjecting them to public norms. It is no surprise, therefore, that the social movements that drove civil rights reform originated in acts of consciousness-raising, where participants drew on personal testimonials and other forms of self-expression to consider the ways that public life infiltrates and distorts the private self.

In other areas, civil rights reform has taken spheres of social engagement that were once public and made them private. In courses like *Sexuality and the Law*, the public/private distinction infiltrates virtually every area of the course, as the class explores whether and why an individual's choice of sexual partners, the decision to engage in a particular sex act, or to choose a particular family structure is a legitimate matter for public concern.

The marriage of substance and form asks the civil rights teacher to reflect on the division between public and private in the classroom itself. After all, how can we fully engage the boundary between what is public and what is private when those boundaries are so rigidly maintained in practice by our signature pedagogy? The civil rights classroom environment is fertile ground for working through law's unresolved and ambivalent relationship with these issues, as students make deliberate decisions about what aspects of their lives they wish to share with the rest of the class, the degree to which their lived experience ought to be subject to public scrutiny, and which aspects they choose to remain private. The same questions confront the professor as well, who must reconcile dueling obligations: to model the sort of vulnerability and personal reflection that makes the potential for self-actualization and professional satisfaction that much more possible, or to model the sort of professional distance between public and private that facilitates legal judgment.

My classroom, like most, rigidly maintained the boundary between public and private. As a result, a course that should have drawn rich links between individual experience and legal rules and structures adopted the impersonal approach of an antitrust seminar. And while I was certainly "out" as a gay man, the specific dynamics within my own private life that led me to teach the course remained closeted and suppressed. The next time I teach the course, I plan to be a little braver, allowing myself to speak more from personal

20. *See* *The Civil Rights Cases*, 109 U.S. 3 (1883).

21. *See, eg., Plessy v. Ferguson*, 163 U.S. 537, 544 (1896).

experience, but also to encourage students to draw explicit links between the course substance and their own lives. This becomes particularly challenging in a sexuality course, where generational distinctions between professor and student are often stark. Today's law students often have a very different relationship with "coming out" than their professors. They may think about gay identity in different ways, their relationship with their families may be very different, and their perceptions about the ways that homophobia affects their lives may also be different. A course that maintains a rigid boundary between public and private suppresses these differences, and in turn, stifles intellectual exchanges that would ultimately serve the goals of the course.

This is not to suggest a "right answer" for balancing the competing demands of public and private, or to advocate for a classroom environment that resembles a confessional booth or a therapist's couch. For now, it is simply enough to ask civil rights professors to interrogate the status quo of our signature pedagogy, and to welcome opportunities for professor and student alike to situate their respective experiences within the substantive context of the classroom.

III. THE BATTLE BETWEEN LAW AND LOVE

In his book *The Cultural Study of Law*, Paul Kahn casts law and love in opposition to one another. While law is based in rationality, category-based hierarchies, and "division and distinction,"²² the ideal of love—in the John Lennon "Imagine" sense of the word—is based in emotion and equality, and seeks to advance "the abolition of borders and the common community of mankind."²³

The process by which law achieves supremacy over love has at least two features, both of which are replicated within the law school classroom. First, law's dominance occurs, as Robert Cover observed, through a "jurispathic" process in which alternative legal interpretations are systematically suppressed, struck down, or dismissed.²⁴ As Cover points out, there is a violent aspect to this interpretive winnowing process, as law's coercive features are invoked to elevate certain interpretive perspectives while striking down competing versions of legal meaning.²⁵

In practice, our signature pedagogy shares this pathology. Students generate alternative visions of legal regimes all the time. One by one, either from the professor's mouth or through student dialogue that is solicited or manipulated by the professor, these alternative visions—often driven by

22. KAHN, *supra* note 3, at 121.

23. *Id.* at 122.

24. See Robert M. Cover, *The Supreme Court 1982 Term Foreword: Nomos and Narrative*, 97 HARV L. REV. 4, 40 (1983).

25. *Id.*

emotion, morality, or amorphous concerns about justice—are struck down as irrational. Or unrealistic. Or off-topic. In this way, the signature pedagogy leaves a sense of alienation and dissociation in its wake, as law becomes detached from internal value commitments that pre-date law's intrusion into our individual consciousness. The law school classroom—imbued with the jurispathic characteristics of law itself—is where dreams come to die. It is where hot air balloons run out of steam, and begin the long, steep descent back to earth.

Second, law attains its superiority over love by exalting its rational components, situating itself as the vehicle by which logic triumphs over the emotions and thereby constraining “the emotionality of the behavior that gives rise to legal disputes.”²⁶ While love is the realm of the intuitive, the unruly, and the unpredictable, law promotes order, stability, cognition, and consistency.

Our signature pedagogy replicates law's triumph over love. The law school classroom operates to suppress emotion and intuition by systematically devaluing comments tinged with feelings while granting exalted status to the cognitive and rational realm. The professor maintains a monopoly on emotive content through a relentless focus on getting students to “think like lawyers” and the egocentric theatrics of the classroom performance.

The result of law's triumph over love in the classroom is an environment where students are deprived of both feeling and a sense of possibility and imagination. While this process has significant value for professional training—legal discourse demands a particular type of performance from its practitioners and, at times, must distance itself from emotion to maintain its legitimacy—it creates a schism in our students, one in which professional identities become completely separated from an emotional sense of self. Moreover, it results in lawyers who are ill-equipped to manage the emotional content of their interactions with colleagues and clients, precisely because the bulk of their professional training—unlike a growing number of business and medical schools²⁷—ignores the interpersonal dynamics at the heart of any professional relationship.

In contrast to the law school classroom, civil rights law has never been content to allow law and love to exist in separate spheres. Perhaps more than any other area of law, civil rights law has embraced love's potential by bridging gaps between emotion and rationality and setting forward an “I Have a Dream” narrative ideal of a fully inclusive social structure without categories, boundaries, or hierarchies. It has been built on an ability to idealize

26. Richard A. Posner, *Emotion Versus Emotionalism in Law*, in *THE PASSIONS OF LAW* 309, 309 (Susan Bandes ed., 1999).

27. See, e.g., MOHAMMADREZA HOJAT, *EMPATHY IN PATIENT CARE: ANTECEDENTS, DEVELOPMENT, MEASUREMENT, AND OUTCOMES* 4 (2007).

and imagine different utopias and better versions of the world we live in. It has challenged existing categorizations and boundaries between people, and sought ways to legalize alternative and more inclusive social structures.

Moreover, emotions and feelings have always been a driving force behind the development of civil rights law, and emotional content has often been a transparent part of interpretation. From Selma to Stonewall, social movements have long used emotional triggers by inducing shame, compassion, empathy, guilt, and pride to motivate legal change.²⁸ As a result, it is no surprise that emotional content has become a part of civil rights jurisprudence, from the *Casey* joint opinion's "sweet-mystery-of-life" passage²⁹ to Justice Kennedy's references to the "transcendent" link between liberty and sexual intimacy in *Lawrence*.³⁰

Emotions were kept on limited display and a tight leash in my classroom. Statements by students that began "I feel" were often met with eye-rolls from their peers, and I often responded by moving the student towards more familiar ground. The result was a disconnect between subject matter that provoked deep emotional responses that were closely tied to moral development, and a classroom environment that suppressed emotional expression by valuing cognition *über alles*. At the very least, my next effort to teach the course will openly interrogate the appropriate role of emotion in a law school classroom and try to create space for feelings and thinking to coexist.

CONCLUSION

It is little wonder that many law students experience our signature pedagogy as deeply wounding to their sense of self. It is, after all, a process that—in its most pure manifestations—replicates the more coercive and jurispathic aspects of law itself.

In her book *Teaching to Transgress*, bell hooks describes teaching as a healing profession.³¹ Given the nature of its substance, there is no better place than the civil rights classroom to heal the wounds created by the way we teach. We can bridge the gap between coercion and freedom by deliberately altering the power dynamic in the classroom. We can engage the distinction between public and private by providing opportunities to situate the lived experience of both professor and student within the subject matter of the course. And we can offer a vision of the world where law and love coexist by imagining alternative futures and finding a place for emotional content.

28. See Doni Gewirtzman, *Our Founding Feelings: Emotion, Commitment, and Imagination in Constitutional Culture*, 43 U. RICH. L. REV. 623, 676 (2009).

29. *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833, 851 (1992).

30. *Lawrence v. Texas*, 539 U.S. 558, 562 (2003).

31. HOOKS, *supra* note 2, at 14–16.

Let me be clear: a law school classroom is neither a Montessori school nor a Pete Seeger concert. It is—and should be—a venue for students to learn law, the inculcation of shared cultural norms, and the development of sound professional judgment.

At the same time, it is impossible to teach civil rights law without maintaining a critical eye towards the sets of rules, structures, and practices that create hierarchies within a society. True synergy between substance and form requires applying that same critical eye to the drama of the classroom, and seeking out opportunities for student and professor alike to experience the ambivalence and confusion that lies between each of these stark dualities. Much as the substance of civil rights doctrine has served as a corrective for law's more extreme manifestations, the civil rights classroom ought to serve as a corrective for the more extreme manifestations of our pedagogical form.