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Of Gentlemen and Role Models

Lani Guinier†

In 1984 I returned to Yale Law School to participate on a panel of mainly black alumni reminiscing about the thirty years since *Brown v. Board of Education*.¹ It was a symposium sponsored by the current black students who were eager to hear the voices of those who came before them. Each of us spoke for ten minutes in a room adorned by the traditional portraits of larger-than-life white men. It was the same classroom in which, ten years earlier, I had sat for "Business Units" (corporations) with a white male professor who addressed all of us, male and female, as *gentlemen*. Every morning, at ten minutes after the hour, he would enter the classroom and greet the upturned faces: "Good morning *gentlemen*." He explained this ritual the first day. He had been teaching for many years; he was a creature of habit. He readily acknowledged the presence of the few "ladies" by then in attendance, but admonished those of us born into that other gender not to feel excluded by his greeting. We, too, in his mind, were simply *gentlemen*.

In his view, *gentlemen* was an asexual term, one reserved for reference to those who shared a certain civilized view of the world and who exhibited a similarly civilized demeanor. If we were not already, law school would certainly teach us how to be *gentlemen*. *Gentlemen* of the bar maintain distance from their clients, are capable of arguing both sides of any issue, and, while situated in a white male perspective, are ignorant to differences of culture, gender and race.² That lesson was at the heart

† Associate Professor, University of Pennsylvania Law School. This essay responds to a request by the Northeast Corridor Collective of Black Women Law Professors for letters or personal statements reflecting our views about our professional roles. The purpose of writing these short letters or personal statements "was to increase awareness of the significance of our personal experiences to our work as well as to help the group develop its collective identity." The statements were to be directed at a number of common concerns, including: "the distinctiveness of our contributions to our students, colleagues, and institutions." Call to Meeting, September 5, 1990 letter (on file with the Berk Women's L J). Special thanks are due to the contributors to the Northeast Corridor Collective, including Anita Allen, Taunya Banks, Linda Greene, Phoebe Haddon and Patricia King. I am indebted to Howard Lesnick, Michael Schill, Ralph Smith, Susan Sturm and Gerald Torres for sharing their valuable ideas and to a former student, Ann Bartow, University of Pennsylvania, J.D. '90, for research assistance and her tenacity in helping others find their voice.

¹ 347 US 483 (1954).

² The lawyer's role is still occasionally described in terms such as "behaving like a gentleman."

of becoming a professional. By his lights, the greeting was a form of honorific. It evoked the traditional values of legal education to train detached, neutral problem-solvers. It anticipated the perception, if not the reality, of all of us becoming *gentlemen*.

It took many intervening years for me to gain the confidence to question directly this term that symbolically stripped me of my race, my gender and my voice.³ Now, seated at the podium in the familiar classroom preparing to address a race- and gender-mixed audience, I felt the weight of the presence of those stern, larger-than-life *gentlemen* portraits. For me, this was still not a safe place.⁴

Yet, all the men on the panel reminded us how they felt to return "home," with fondly revealed stories about their three years in law school. Anecdotes about their time as law students, mostly funny and a touch self-congratulatory, abounded. The three black men may not have felt safe either, but they each introduced their talks with brief yet loving recollections of their law school experiences. Even the so-called "black radical" among us waxed nostalgic and personal with proud detail about his encounters as the law school troublemaker.

It was my turn. No empowering memories stirred my voice. I had no personal anecdotes for the profound senses of alienation and isolation caught in my throat every time I opened my mouth. Nothing resonated there in that room for a black woman, even after my ten years as an impassioned civil rights attorney. Instead I promptly began my formal

See Ann Bartow, Michelle Fine and Lani Guinier, *Not Behaving Like Gentlemen: Women Students at the University of Pennsylvania Law School* (unpublished manuscript on file with the Berk Women's L J) ("*Not Behaving Like Gentlemen*") (citing orientation class for first year students at the University of Pennsylvania). For the purpose of this essay, the term "gentlemen" describes the lawyers' role as that of being neutral, dispassionate, unemotional but courteous advocates for a client's interest. While gentlemen primarily refers to males, and in particular to those of good breeding, it assumes men who possess neither a race nor a gender. Compare Peggy McIntosh, *White Privilege and Male Privilege: A Personal Account of Coming to See Correspondences Through Work in Women's Studies*, Working Paper No. 189 (Wellesley College Center for Research on Women, 1990) (for white men, their race and gender are an "invisible package of unearned assets").

³ In law school I resisted through silence. Only later did I learn to question out loud how much of a gentleman I ever was, or even how much of a lady I ever could be. Compare Neil A. Lewis, *Speeches Supporting Souter Begin As Soon As Senate Hearings End*, NY Times A14 (Sept 20, 1990) (Molly Yard, president of the National Organization for Women, and others apparently "grimaced" when Senator Strom Thurmond greeted the "lovely ladies" who had come to Senate confirmation hearings to testify in opposition to the nomination of David Souter as an Associate Justice of the Supreme Court. In response, Senator Alan K. Simpson of Wyoming "lectured [the female witnesses] like schoolchildren on proper behavior" (quoting Molly Yard). Senator Simpson characterized the women's attitude as one of "tiresome arrogance" and defended his colleague's attention to the female witnesses' appearance with a stern, "well, we don't have to quack around in that stuff, do we?" Id.)

⁴ In some ways, the gigantic male portraits symbolized my alienation as a student from class, race and gender privilege. Yet, because I had attended an Ivy League college, perhaps it is surprising that I continued to find the *gentlemen* portraits so alienating. My intuition is that, law school, as a professional school, was simply more homogeneous with even more explicitly homogenizing institutional norms (such as value-neutral detachment) than I had either expected or previously experienced.

remarks, trying as hard as I could to find my voice in a room in which those portraits spoke louder than I ever could. I spoke slowly and carefully, never once admitting, except by my presence on the podium, that I had ever been a student at that school or in that room before. I summoned as much authority as I could to be heard over the sounds of silence erupting from those giant images of *gentlemen* hanging on the wall, and from my own ever-present memory of slowly *disappearing* each morning and becoming a *gentleman* of Business Units I.

Immediately after my presentation, the other black woman on the panel rose to speak. She too did not introduce herself with personal experiences or warm reminiscences about her past association with the law school, but, like me, remained upright and dignified. Afterwards, she and I huddled together to talk about how different the law school we had experienced was from the one recollected by our male colleagues.

We were the *disappeareds*, she and I. The alienation stirred by our return to the place where we first became *gentlemen* was too profound and silencing to share except between ourselves. Continuously scrutinized by those larger-than-life portraits, our humanity, culture, frames of reference, and identity as women of color were dislocated by those giant-size *gentlemen* images, which evoked memories of our law school experience.⁵ We were the minority within a minority whose existence, even physical presence, had been swallowed up within "neutral" terms and other marginalizing traditions associated with educating *gentlemen*.⁶ Except at private intersections of blackness and womanhood, our voices had been silenced.⁷

⁵ See Suzanne Homer & Lois Schwartz, *Admitted but Not Accepted: Outsiders Take an Inside Look at Law School*, 5 Berk Women's L J 1, 37-38, 43-44 (1989-90) ("marginalized persons" develop a counter-code of silence in response to an interrogation technique and educational atmosphere that is perceived as assaulting their privacy and dignity; "women and persons of color experience frustration instead of growth" when forced to develop an identity within an academic institution dominated by a white male perspective).

⁶ See Id. One of my students recently collected anecdotal evidence from almost half of the law student body about their reactions to "silencing" by current legal pedagogical and curricula approaches and the responses thereto of student peers. See Ann Bartow, *Gender Differentiated Views of Certain Aspects of the Legal Education Offered By the University of Pennsylvania Law School: A Survey* (unpublished manuscript on file with the Berk Women's L J) (June 6, 1990) (A survey of 744 University of Pennsylvania law students. A preliminary study of the responses from 366 students suggests that men and women attend different law schools, that first-year women are more interested in public service than first-year men, that by third year the women have modified their career goals to resemble those of third-year men, that women participate less in class, are less happy in law school and value the role of law student organizations more than men but do not see themselves in leadership positions, that women feel marginalized not only by the formal aspects of legal education but also by their male peers, and that all students, men and women, are somewhat more comfortable speaking in and after class if the professor is a woman); see also Bartow, Fine and Guinier, *Not Behaving Like Gentlemen* (cited in note 2) (exploring the theory that the law school environment which embraces the masculine traditions of competition and, specifically, the Socratic method, makes it more difficult for female students than male students to excel in their studies).

⁷ Indeed, our sense of disassociation appears consistent with the contemporary school experience of other black women and black girls. See Suzanne Daley, *Little Girls Lose Their Self-Esteem On Way to Adolescence, Study Finds*, NY Times B6 (Jan 9, 1991) (survey of 3,000

Four years later, at the first Women of Color and the Law Conference, I again returned to Yale Law School. I was invited to speak at a panel entitled "Roots in our Communities: What Roles for Lawyers and Professionals?" This time I was invited by young female students of color who asked me to speak explicitly about the personal choices and conflicts I had experienced in my career as a black female civil rights attorney. At the conference, I tried to overcome my training as a surrogate *gentleman* who distances her personal self from her professional self. I also tried to overcome the self-protective silence that earlier helped me survive as a *gentleman* in Business Units I.⁸ This time I found my voice.

I revealed myself in context, talking about my family, my colleagues, my adversaries and my clients. In all my professional roles, I experienced what Mari Matsuda calls "multiple consciousness,"⁹ meaning the bifurcated thinking that allows one to shift back and forth between one's personal consciousness, and the white male perspective that dominates the legal profession. Multiple consciousness allows us to operate within mainstream discourse and "within the details of our own special knowledge,"¹⁰ producing both madness and genius.

Multiple consciousness provides intellectual camouflage and emotional support for the outsider who always feels the threeness¹¹ of race, gender and marginality. It engenders the spirit of W.E.B. Dubois' idea of double-consciousness, two warring selves within one black body, living within "the veil" yet gifted with "second-sight."¹² Even while performing insider roles, many of us still function as outsiders. As a black woman civil rights attorney with insider privileges and outsider consciousness, I moved along the perimeter of cultural norms (roots, com-

adolescents concluded that black girls in high school draw apparent self-confidence "from their families and communities rather than the school system"; in order to maintain their self-esteem, black girls must disassociate themselves from school experience). Although admittedly neither as intense or painful, my invisibility also revived memories of my father's experience a generation earlier as the only black student entering Harvard College in 1929. See C. Gerald Fraser, *Ewart Guinier, 79 Who Headed Afro-American Studies at Harvard*, NY Times B7 (Feb 7, 1990) ("Because of his color, Mr. Guinier said, he was barred from the dormitories, was denied financial aid because he had failed to send his picture with his application, and was spoken to inside and outside of class by only one person").

⁸ See supra notes 3-6. As a surrogate gentleman, I had been silenced in law school both by choice (meaning by reaction to externally imposed constraints) and by custom.

⁹ Mari J. Matsuda, *When the First Quail Calls: Multiple Consciousness as Jurisprudential Method*, 11 Women's Rts L Rptr 1 (1989).

¹⁰ Id.

¹¹ See W.E.B. Dubois, *The Souls of Black Folk* 16-17 (A C McClurg & Co, 1903):

[T]he Negro is a sort of seventh son, born with a veil, and gifted with second-sight in this American world,—a world which yields him no true self-consciousness, but only lets him see himself through the revelation of the other world. It is a peculiar sensation, this double-consciousness, this sense of always looking at one's self through the eyes of others, of measuring one's soul by the tape of a world that looks on in amused contempt and pity. One ever feels his twoness,—an American, a Negro; two souls, two thoughts, two unreconciled strivings; two warring ideals in one dark body, whose dogged strength alone keeps it from being torn asunder.

¹² Id.

munity, race and gender) and cultivated status (mainstream professional role) as an explorer and translator of these different identities.

For outsiders, who do not experience the world through colorblindness or gender neutrality, multiple consciousness is a cultural norm. Those with outsider consciousness live with the peculiar sensation of always looking at one's self through the eyes of others. We are outsiders precisely because of, not in spite of, our race and gender. In our insider roles, we are still outsiders. As a result, we experience colorblindness, gender neutrality, and individual perspective as unfamiliar, mainstream, existential luxuries. "Neutrality" feels very different from the perspective of an outsider.¹³ A race-neutral, gender-neutered perspective is apparently enjoyed, to the extent it exists at all, by *gentlemen*: those with a white, male perspective, those in the majority, and those *gentlemen* surrogates to whom the majority grants insider privileges. For self-conscious, second-sighted outsiders, multiple consciousness centers marginality and names reality.¹⁴

I recounted to the students at the conference how multiple consciousness often became a burden in my professional relationships with male lawyers and colleagues. I was never certain when to situate myself outside a white male perspective or with whom to disengage from value-neutral problem-solving. Even my mother complained that sometimes I "cross-examined" her.

But in my relationship with clients, multiple consciousness was liberating.¹⁵ It made me a more skilled advocate. I lost myself in my work,

¹³ Richard Delgado, *Storytelling for Oppositionists and Others: A Plea for Narrative*, 87 Mich L Rev 2411, 2425 (1989). As a black woman who has experienced minority status and stigma associated with my race and/or gender, I am self-conscious about both race and gender. Angela Harris provides a fitting illustration of the inseparability of this dual identity. She describes a meeting of West Coast "fem-crits" in 1988 at which all the women present were asked to describe themselves with only two or three words. In doing so, "[n]one of the white women mentioned their race; all the women of color did." Angela Harris, *Race and Essentialism in Feminist Legal Theory*, 42 Stan L Rev 581, 604 (1990).

However, multiple consciousness is not a claim for essentialism. See, for example, Regina Austin, *Sapphire Bound!*, 1989 Wis L Rev 539, 544-45 (black women scholars should be "vigilant about lapsing into outrageous themes which suggest that black people are united by biological essences that produce in all of us a refined instinctive sense of justice"). In fact, the opposite of essentialism is multiple consciousness in which the self is "multiplicitous, . . . differences are always relational rather than inherent" and "wholeness and commonality are acts of will and creativity rather than passive discovery.") Harris, 42 Stan L Rev at 608.

¹⁴ See Kimberlé Williams Crenshaw, *Race, Reform, and Retrenchment: Transformation and Legitimation in Antidiscrimination Law*, 101 Harv L Rev 1331, 1336 (1988) (describing blacks' greatest political resource as the ability to speak and share a collective identity based on experiences of racism and to "name [their] political reality").

¹⁵ I was not unaware of hierarchical relationships between clients and attorneys, between lawyers for the same client, or between opposing counsel and my clients. Nor was I oblivious to the silencing role that law or litigation itself may play. As a translator and facilitator for my clients' voices, I viewed my role co-productively, as bringing a marginal perspective into the courtroom and helping my clients as well as cooperating attorneys to empower themselves, not simply by winning a lawsuit but by defending the marginal perspective and giving it credibility in its own eyes. See Homer & Schwartz, 5 Berk Women's L J at 44 (cited in note 5) (outsider consciousness must be encouraged and validated from within the system).

spending countless hours interviewing, researching, writing and thinking. I did not presume to know. Nor was I silenced by the presumed authority of others. Instead I listened; I empathized; I discerned the facts necessary to channel my clients' anger to overcome their isolation and to obtain legal redress. Their anger, their disaffection and the pain of their grievances mobilized my advocacy.

Effective representation, I discovered, requires mutual respect, honest and continuous communication, intimacy with the facts and familiarity with the law. Furthermore, the advocate must constantly struggle to recognize the importance of everyone's perspective in order to support serious collective action. The effective advocate hears the passion, anger and fear expressed by clients who are alienated and intimidated by formal speech, and translates them into legal discourse. Able advocates for the disempowered plant themselves in the daily struggles of their poorest clients,¹⁶ yet encourage participation by all clients. Likewise, effective representation, through the constant process of dialogue and the struggle to communicate, enables the "building of coalitions, the development of a voice, [and] . . . the flexing of organizational muscle . . ." ¹⁷ Skilled advocacy, for me, meant giving a marginal perspective credibility in its own eyes—unbecoming a *gentleman*. In my work I had found my voice.

As a law professor, I now take the podium daily under the watchful eyes of those ever-dominant portraits of *gentlemen* which still guard the periphery. I am at the podium; but for women and people of color like myself, this is not yet a safe place. Legal education still teaches value-neutral detachment. As legal educators we still distance our personal selves from our professional selves. Our race and our gender and those of the litigants in our casebooks are still, for the most part, an unspoken subtext.

Nevertheless, recent events remind me that my presence in legal education offers some students refuge. Renewed calls have been made for more black women law professors to be "role models" for black female students.¹⁸ In the conventional sense of the term, I function not

¹⁶ As Professor Matsuda recognizes in a slightly different context, in movements for social change, people of color derive most of their truths from day-to-day experiences outside the legal academia. Mari J. Matsuda, *Looking to the Bottom: Critical Legal Studies and Reparations*, 22 Harv CR-CL L Rev 323, 346 (1987) ("Those who are oppressed in the present world can speak most eloquently of a better one").

¹⁷ *Id.* at 348.

¹⁸ Indeed, my decision to join this collection of self-reflective essays was precipitated by the role model characterizations that abounded during Professor Derrick Bell's protest in Spring 1990. Claiming he could not function as a "role model" for women students, Professor Bell refused to accept his Harvard Law School salary until a woman of color was hired as a professor. See Fox Butterfield, *Harvard Law School Torn by Race Issue*, NY Times A20 (Apr 26, 1990) ("As a male," Professor Bell said, he "could not serve as a role model for female black students"; quoting first-year student: "I'm coming from the perspective of a black woman, and we need black women role models"; and quoting second-year student: "We need black women mentors to tell us what it is like out there when we join a firm and start trying to get clients"). See also Homer & Schwartz, 5 Berk Women's L J at 54 (Appx A, Tables 9-10) (cited in note 5)

only as a teacher but as a symbol for certain student voices and aspirations.¹⁹

Repercussions from these public claims for more black women role models prompt me to explore further the uneasiness I have with the role model rationale for hiring black women law professors. I do not object to being a role model—even if I had a choice about the matter, which I probably do not. Indeed, I do feel special responsibilities as a black woman law professor. But in my eyes I am a mentor more than a role model. As such, I rely on a *communicative* discourse,²⁰ actively and constructively listening to empower my students' own voices. As a teacher I act as a mentor who takes from the margin²¹ to facilitate student reflection, insight and professional responsibility.

I prefer the term mentor to role model in part because I worry about the way the role model argument is often used to diminish the role outsiders play, a role which benefits insiders as well as other outsiders. I question the way the role model argument measures successful outsiders by an insider yardstick.²² In addition, I take issue with the representational justification currently in vogue. Role models may grant a passport to power or status to people who then take no account of how they arrived at their destination.

The first problem with the role model argument is that it trivializes the important contribution that outsiders play in diversifying a faculty. Presenting black women law professors primarily as role models ignores their roles as scholars and intellectual leaders whose presence on a faculty might alter the institution's character, introducing a different prism and perspective.²³ Black women legal scholars may challenge their

(tabulating results of Boalt Hall *Student Questionnaire* April, 1988: "Has the lower number of professors of color at Boalt deprived you of significant role models in the field of law?"; "Has the lower number of female professors at Boalt deprived you of role models in the field of law?" At least 75% of the women of color who responded to the questionnaire answered in the affirmative to both questions).

¹⁹ A role model may be nurturing mentor, symbol of achievement, or template for how this particular role might be performed. See Anita L. Allen, *On Being a Role Model*, elsewhere in this volume (the conspicuous presence of role models as symbolic achievers may rebut assumptions of group inferiority that undermine student confidence and performance).

²⁰ Iris M. Young, *Justice, Democracy and Group Difference* 9-15 (unpublished paper prepared for presentation to American Political Science Association, on file with the Berk Women's L J) (Sept 1, 1990) (describing a communicative model of democracy that rejects a disciplined, unemotional style of expression which often operates to exclude, silence, and disadvantage members of some groups; communicative style does not require emotional detachment or rigid argumentation but employs a broader conception of permissible forms of discourse, including personal narrative).

²¹ Harlon L. Dalton, *The Clouded Prism*, 22 Harv CR-CL L Rev 435, 444 (1987) (quoting bell hooks: "With creativity and an open mind, 'we can use information from the margin to transform how we think about the whole.'").

²² See *id.*; see also notes 38-51 and accompanying text (describing my philosophy as a mentor and teacher). See also Allen, *On Being a Role Model* (cited in note 19) (the role model argument carries with it the danger that "[w]hile it trumpets our necessity, it whispers our inferiority"; it may reinforce the misperception that black women who are not intellectually qualified are hired over white men of merit).

²³ Delgado, 87 Mich L Rev at 2421 (cited in note 13).

white male colleagues to perform their own roles better.

As teachers, we benefit from exposure to an introspective, interactive, communicative process that transforms the educational conversation. We learn to speak until our students find their voice. As scholars we also benefit from a discourse that acknowledges implicit values and respects the perspective of outsider consciousness.

Using her outsider perspective, a black woman law professor may take "information from the margin to transform how we think about the whole."²⁴ She tells counterstories to attack complacency. Her stories enrich the reality of majority group members.²⁵ She contributes to legal education not merely through her physical presence but by pulling from the richness and rootedness of her experience, by continuously reaching for the transformative possibilities of her role.²⁶

But the term "role model" is often used insidiously to refer only to a faculty "mascot" who counsels and keeps students in line, a pacifier of the status quo who won't bite the hand that uplifted her.²⁷ Using the external standard of the in-group to measure performance by an outsider distorts the "role" being modeled. As prototypes of achievement, role models illustrate, through example, the possibility of success for their constituency. Yet these same symbols of achievement are measured by institutional reference points external both to the minority group and the individual.²⁸ In fact, black role models may become powerful symbolic reference points for visibly camouflaging the continued legacy of past discrimination.²⁹ Institutionally acceptable role models may simply convey the message "We Have Overcome" in language calculated to exact admiration from, but not necessarily to inspire, those not yet overcoming.

Black women role models are also defended as group spokespersons or "spokesmodels."³⁰ For example, some blacks claim that as teachers

²⁴ See Dalton, 22 Harv CR-CL L Rev at 444 (cited in note 21).

²⁵ See Delgado, 87 Mich L Rev at 2439 (cited in note 13).

²⁶ Richard Delgado, *When A Story Is Just A Story: Does Voice Really Matter?*, 76 Va L Rev 95, 99 (1990) (describing outsiders' accessibility to and stake in disseminating information that persons without their experiences may not have).

²⁷ Delgado, 87 Mich L Rev at 2423-27 (cited in note 13) (describing conventional faculty concern that black professor who causes trouble by stirring up students "wouldn't be a good role model even for the minorities." Id at 2426 n45).

²⁸ See Austin, 1989 Wis L Rev 539 (cited in note 13) (describing firing of young black woman "role model" for being an unwed mother). As Professor Regina Austin argues, role models are

black people who have achieved stature and power in the white world because they supposedly represent the interests of the entire black community. Such role models gain capital (literally and figuratively) to the extent that they project an assimilated persona that is as unthreatening to white people as it is (supposed to be) intriguing to our young.

Id at 574.

²⁹ Id at 575 (role models who offer "pride" and "positive identities" are not substitutes for effective, committed teachers and leaders).

³⁰ See Lani Guinier, *The Triumph of Tokenism: The Voting Rights Act and The Theory of Black Electoral Success*, 89 Mich L Rev (1991) (publication forthcoming) (spokesmodels are attractive group spokespersons with no accountability to group goals; the term spokesmodel derives

they have "a clear, racial representational function," meaning that they both "comprehend" and "represent" the needs and interests of all black students.³¹ Thus, some argue that black women role models *represent* aspiring young black women's needs and affirm the status of black women as law school citizens who can participate in the process of making policy decisions that affect their lives in law school and beyond.

The representational view posits an inspirational figure based disproportionately on mere physical attributes, potentially institutionalizing acceptable or assimilated "*gentlemen of color*" to serve as group representatives to the outside world. By their presence, such role models presumably articulate black interests and act as living symbols of the equal opportunity process.³²

But these aspects of the role model as spokesperson overemphasize the representational value of passive, individual success unconnected to a dynamic, rooted concept of socially responsible, emotionally engaged leadership.³³ Without an introspective or reflective understanding of their own experience, and an open ear listening and responding to the voices of group and non-group members, the role model as respectable insider simply presents success as an illusion of privilege. The possibilities for social change become the possibilities for individual advancement.

from the television program "Star Search," in which young women are scouted for their poise, looks and articulation).

³¹ See Statement of Derrick Bell, Statement, reprinted in AALS Section on Minority Groups Newsletter 4 (May 1990) (advocating on behalf of black women role models and mentors).

³² To some, the selection of black role models signals that society's institutions are pure "color-blind" meritocracies. The individual advancement of black women professors inspires black students and young people in the community to believe in the system. See Alan Freeman, *Antidiscrimination Law: A Critical Review*, in David Kairys, ed., *The Politics of Law* 96, 110 (Pantheon, 1982) (role models "bourgeoisify" a sufficient number of blacks to legitimate basic social structure); Richard Delgado, *The Ethereal Scholar: Does Critical Legal Studies Have What Minorities Want?* 22 Harv CR-CL L Rev 301, 310 (1987) (role models demonstrate that the system is formally fair; the person who occupies a position of power, therefore, deserves it: "In a meritocratic society, the cream rises to the top").

³³ The representational aspects of role model theory may be related to a "meritocracy" concept of advancement. The notion of a black leadership aristocracy was initially influenced by Dubois' theory of the "talented tenth," a group of highly gifted black leaders who inspire others by their achievements and social responsibility. See Joseph P. DeMarco, *The Social Thought of W.E.B. Dubois* 46, 48 (U Press of America, 1983) ("the Talented Tenth" rises and pulls all that are worth saving up to their vantage ground). Dubois advanced a theory of self-development, voluntary self-segregation, and personal intellectual achievement to create an avant-garde of black intellectuals who would inspire and lead other blacks. This avant-garde would also foster the good will of the whites, thereby convincing them that blacks were worthy of help. Elliot Rudwick, *W.E.B. Dubois: A Study in Minority Group Leadership* 291 (U Penn Press, 1960). Dubois ultimately abandoned his early proposals for a Talented Tenth, although the concept remained influential to the advancement of middle-class aspirations and opportunity. In many ways, treatment of the talented tenth became a barometer of the degree to which blacks had overcome racism, both as a direct measure of equal opportunity for individual black achievers and as an indirect measure of the lowered racial barriers for those disadvantaged blacks still suffering disproportionate levels of poverty and deprivation. Compare Roy L. Brooks, *Life After Tenure: Can Minority Law Professors Avoid the Clyde Ferguson Syndrome?*, 20 USF L Rev 419, 423 (1986) (arguing that the black middle class is in a position to speak on behalf of black problems in general).

Without moral leadership and a critical perspective, the representational role model suggests that the problems of group disadvantage are individual ones, unconnected to a changing economy or the social and racial nature of opportunity. By showcasing the individual spokesmodel as the image of success, the role model argument obscures both the struggle and the discrimination involved in creating for other group members real opportunities rather than perceived possibilities.³⁴

To realize their value as catalysts for meaningful group "upward mobility" (meaning mobility beyond their own individual advantage), role models need ties to their community: heeding their own accounts of their experience and internalizing reference points of what is or should be responsible and responsive behavior. For me, role models should be more than mere "gentlemen of color"—detached, neutral, wooden images for emulation or admiration.

Role models have responsibilities, not just privileges. To be effective group representatives rather than institutionally acceptable achievers, role models must reflect the values of the group whose aspirations they symbolize. Role models should be people with whom members of the out-group identify and should be held accountable to other outsider aspirants. Especially to the extent they are seen as agents for others, role models need to nurture their roots, not just model their roles.

This rootedness needs to be incorporated more directly into the definition of the term "role model." As a self-referential term, "role model" fits only to the extent that my own polar experiences—as a marginalized student and as an empowered and empowering civil rights attorney—root me in the sturdy soil and rocky terrain of multiple consciousness. Rooted in community, a law professor can be "an organic intellectual with affiliations not restricted to the walls of the academic institution."³⁵ She can produce legal scholarship and engage in educational instruction, not in isolation, but in solidarity with other like-minded scholars. Authenticity and faithfulness to her own voice connects her to "the richness of [her] own experience" and empowers her to overcome silencing even by well-intentioned white male colleagues.³⁶ Her stories help construct a shared reality as a means of "psychic self-preservation" and of "lessening [her] own subordination."³⁷

Students—those to whom a role model should be accountable—find her stories are empowering. In this sense, an effective teacher is less a

³⁴ See Patricia Hill Collins, *We Don't Need Another Dr. King*, NY Times 31 (Jan 19, 1991) (exposure to role models does not guarantee emulation of their ideas and actions; search for positive role models may simply encourage dependence and sense of paralysis; role model approach to social change does not substitute for transformation through institutional strategies).

³⁵ Remarks of Kendall Thomas, AALS Annual Meeting, Law and Interpretation Section, Washington, D.C. (Jan 4, 1991).

³⁶ See Dalton, 22 Harv CR-CL L Rev at 441 (cited in note 21).

³⁷ Delgado, 87 Mich L Rev at 2436 (cited in note 13).

role model than a mentor, an educator who empowers through feedback, guidance and sharing rather than one who commands through example, visibility or physical stature. I find meaning in this alternative view of the role model relationship: the role model as an “interdependent” or “coproductive” mentor.³⁸ Mentors are not simply cultural icons, but rather, are continuously legitimated and reinforced by an interactive, communicative process that monitors student performance and holds those who follow to high expectations.³⁹

Mentors see learning as an active process that builds on students’ emotional engagement and emphasizes the mutuality of their role in the educational conversation. Second-sighted within the “veil,” a mentor may draw on the outsider consciousness of a minority group advocate and member. From this vantage point, she can see that women and students of color, already silenced by their status and their low numbers, respond less enthusiastically to learning by intimidation than to teaching techniques which foster security and respect for multiple viewpoints.⁴⁰

Like most law professors, I was taught that the tension of the Socratic dialogue motivates learning. But though I try hard not to silence, I still find women and people of color reluctant partners in the Socratic exchange. Silencing, even by a “compassionate” black woman, diminishes self-esteem, and may insult students’ privacy and dignity.⁴¹ To reach women and people of color in particular, I encourage them to view their presence as an opportunity not only to listen but to speak. I attempt once again to give a “marginal” perspective credibility in its own eyes.

I assume a starting point of distance in which all participants do not necessarily already understand each other.⁴² Using the Socratic method within a communicative, rooted discourse, I then encourage “careful lis-

³⁸ Interdependency is a term used in the corporate context to describe efficient, effective teamwork that promotes productivity and interactive communication. Claudia H. Deutsch, *Less is Becoming More at A.T.&T.*, NY Times F25 (June 3, 1990) (the “perfect” 1990s employee would practice interdependency, neither placing blame nor accepting full responsibility and developing own strategy for recovery. Instead, teamwork would become the norm: “an interdependent store manager [of a store suffering sluggish sales] would sit down with people from marketing, production and other departments to discuss how the product could be better designed, priced—and sold”). Coproduction is Political Science Professor Jack Nagel’s term for a leadership relationship that is communicative and interactive. J. Nagel, *Participation* (Prentice-Hall, 1987).

³⁹ See Collins, NY Times at 31 (cited in note 34) (quoting poet Nikki Giovanni: “The purpose of any leadership is to build more leadership. The purpose of being a spokesperson is to speak until the people gain a voice”).

⁴⁰ See, for example, Bartow, *Gender Differentiated Views* at 11 (cited in note 6) (according to 1990 survey of students at University of Pennsylvania Law School, 93.1% of women respondents chose *treats students with respect* as one of three most admired qualities in a professor, while 82.3% of the men preferred professors who express their ideas clearly; with this exception, men and women respondents chose the same other most admired qualities: knowledge of subject matter—94.8% of women, 88% of men; and enthusiasm for teaching—92.5% of women, 80.7% of men).

⁴¹ See *supra* notes 4-7 and accompanying text.

⁴² Young, *Justice, Democracy and Group Difference* at 12 (cited in note 20) (communication

tening, questioning for clarification, the willingness to express oneself many different ways, to engage in struggle and conflict without walking away."⁴³ Even outside a civil rights context, law students trained in a communicative discourse may become better advocates in a pluralistic society.

A professor who engages students in a communicative discourse disavows rigid argumentation for its own sake, encourages emotional commitment where it provides psychic satisfaction, acknowledges where appropriate the relevance of race or gender,⁴⁴ and makes explicit other implicit values. Communicative discourse may help awaken the classroom participation of some students, and subsequently make possible their learning.⁴⁵ A communicative discourse that legitimates and respects alternative forms of participation and broadens the educational dialogue may make other students better advocates by deepening their knowledge of the world around them, as well as enhancing their understanding of the implications of their claims.⁴⁶ Women students in particular apparently already seek a discourse of mutual respect.⁴⁷

I also experiment with innovative teaching techniques that depart, at least occasionally, from the Socratic method of a single authority figure dominating a structured dialogue. For example, I developed a law school course, *Public Interest Lawyering*, to expose students to a different and broader perspective on the practice of law and to explore the relationship of the public interest advocate to multiple clients in litigation, legislative advocacy and administrative agency contexts.⁴⁸

assumes that participants must always be reaching out to one another to forestall or overcome misunderstanding).

⁴³ Id.

⁴⁴ See, for example, Kimberlé Williams Crenshaw, *Foreword: Toward a Race-Conscious Pedagogy in Legal Education*, 11 Natl Black L J 1 (1989); Mari J. Matsuda, *Affirmative Action and Legal Knowledge: Planting Seeds in Plowed-Up Ground*, 11 Harv Women's L J 1, 14-16 (1988) (use of black girl's memories of civil rights movement in American Legal History class; use of an Alice Walker essay in torts class).

⁴⁵ Through a communicative discourse, I seek a role that is nonjudgmental of different perspectives, tolerant of impassioned pleas, yet rigorous in its expectations of preparation and performance. A communicative discourse reinforces skilled argument, acknowledges sophisticated perceptions, and points out constantly the nuances, the implications, the complexity of voice, of analysis, of legal rules and of policy alternatives. A genuinely interactive perspective on legal education does not mean a lack of rigor. The big difference, it seems, is the "atmosphere of mutual respect," in which students can challenge each other. "There is a different feeling in the classroom when students go after each other than when a professor goes after them; the fear is gone and people aren't afraid to have personal viewpoints." Letter to Lani Guinier from a former student, December 26, 1990 (on file with the Berk Women's L J).

⁴⁶ See Young, *Justice, Democracy and Group Difference* at 13-14 (cited in note 20) ("By having to speak and justify his or her preferences to others who may be skeptical, a person becomes more reflective about them, accommodates them to the preferences of others, or perhaps becomes even more convinced of the legitimacy of his or her claims").

⁴⁷ See *supra* note 40.

⁴⁸ The readings include actual legal case studies, literature on the psychology of group dynamics and organizational behavior, and narratives from legal practitioners about their work. The class sessions involve simulations, advocacy role playing, and directed conversations with actual public interest attorneys. The students must write a research paper with an empirical component on a contemporary problem confronting public interest attorneys. They must

For me, representing poor black clients meant bringing credibility to a marginal viewpoint. By taking information from the margin and incorporating it into a law school course, I also hope to transform the thinking of law students, as future leaders, to live and participate in a world in which many of their clients, constituents, and colleagues will differ from them. Through practical application of interdisciplinary, multimedia, role-playing pedagogy, I encourage all students to reflect deeply, respectfully, and critically on the implications of their experience.⁴⁹

I do not aspire to be a cultural icon in the conventional or group representative sense. I value my role as a translator and facilitator, a beneficiary of and contributor to a transformed and transformative educational conversation with black women, people of color, and minority viewpoints of all colors. But I play this role not just for black women, or even for people of color. Despite special concerns and responsibilities to engage particular students, I take information from the margin to transform the educational dialogue for *all* my students. I play the role of teacher, mentor, counselor and educational facilitator for white male students too.⁵⁰

As if peeling an onion, I unlayer these preliminary, still tentative thoughts on our continuing negotiation over shared cultural space. I puzzle over demystifying the traditional image of legal educators and lawyers as detached, problem-solving, neutral *gentlemen*. The nature of my own education and of the schools with which I have associated makes it difficult either to reject the opportunities afforded passive symbols of achievement or to transcend traditional, established ways of viewing the world.

Nevertheless, through the process of careful listening and mutual

either volunteer for a "law reform" project, or interview the staff and clients to assess critically the way the project responds to the important public policy problem they have identified. Students are encouraged by the course readings and class sessions to integrate their own experience into class discussions, to focus on the social and psychological skills of good advocacy, and to develop a critical perspective on the work of public interest attorneys.

⁴⁹ My primary ambition in teaching this course is to help law students understand the importance of their client's perspective in shaping their advocacy, to become more responsible legal professionals. By emphasizing the importance of the lawyer's relationship with his/her clients, I present the many complex legal theories, public policy debates, ethical principles and lawyering strategies in conjunction with a heightened, practical awareness of the competing real life pressures. My secondary goal is to encourage more law students to consider public interest work as a career in which psychic satisfaction more than compensates for the salary differential from lucrative private practice.

My third goal is to experiment with alternative approaches to legal education. I pursue an interdisciplinary approach to the task of legal education not only to be a better teacher, but also and more importantly, to develop a persuasive critique of the way in which law schools and the legal profession marginalize women and minorities. See *supra* notes 4-7 and accompanying text.

⁵⁰ Although the law school admits a class of almost one-half women and, for the first time in 1990, one-third non-white persons, my upper-level courses have always consisted primarily of white men. This is not surprising, considering the small absolute number of African-American, Asian-American and Latin American students, and the relatively small percentage of these students admitted prior to 1990.

discovery, I join other black women in telling our stories. Collective action engages our personal selves with our professional roles, asserts the value of our lived experiences, takes account of the way others perceive our contribution, and attempts to empower and build community.⁵¹ A rooted, communicative discourse emboldens us to explore the unclaimed territory of our experience on the margins of legal education.

Many more law professors of color, including black women, should be hired, but not simply to "unbecome" *gentlemen* or to become role models instead. Indeed, to the extent that we are role models, it is not because we become *gentlemen* with race and gender added. To be a role model is not just a privilege, but a responsibility to those who come after us and to those whom we follow.

Thus, I write this essay to collaborate with other black women law professors, to find our voices and to help other people find theirs. And if we find in our voices a race, a gender and an outsider perspective with roots deep in the rocky terrain and sturdy soil of multiple consciousness, we also may finally dislodge from our throats the alienation and isolation beget by *gentlemen* orthodoxies, including those ever-present *gentlemen* portraits that still guard the citadel.⁵²

⁵¹ See Dalton, 22 Harv CR-CL L Rev at 439 n12 (cited in note 21) ("key to solidarity is identifying and acknowledging our differences and their impact on our perspectives"); Delgado, 87 Mich L Rev at 2414 (cited in note 13) (emphasizing the community-building functions of storytelling: building consensus, common culture, and ethical discourse).

⁵² And we may eventually help the *gentlemen* change the pictures. In 1990, a student group organized by women and people of color at the University of Pennsylvania raised enough money, with the active support of the Dean, to commission the first "official" portrait of a black woman law school graduate, Sadie T.M. Alexander. In the course of writing this essay I learned to my great surprise that at Yale Law School a seminar room display of graduates practicing public interest law now also includes the photograph of at least one black woman—me.