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ARTICLE

MINORITY LAW PROFESSORS AND THE MYTH OF SISYPHUS: CONSCIOUSNESS AND PRAXIS WITHIN THE SPECIAL TEACHING CHALLENGE IN AMERICAN LAW SCHOOLS*

Andrew W. Haines**

I. INTRODUCTION

This Article examines the teaching environment of minority law professors within American law schools. It outlines an existential teaching philosophy for minority law professors, examines their interactions with students, and other faculty members and with administrators, outlines a miscellany of reflections and effective teaching strategies for conducting a law school class, and outlines a miscellany of recommendations for creating a healthy teaching environment for minority law professors.

Nonetheless, this Article does not adopt a purely practical approach to the subject. It largely relies on other materials¹ for practical guidance on how to conduct a law school class. Instead, this Article primarily focuses on the philosophical dimensions of being a minority law professor within an American law school class, enlightened by the prismatic interpretation of the ancient Greek Myth of Sisyphus. In other words, this Article maps out the possible trajectories of thought that minority law professors may follow to establish and maintain an equilibrium and healthy direction within their respective classrooms and their careers. Also this Article maps out the possible trajectories of thought that administrators and faculties can follow if they wish to create healthy teaching environments for minority law professors. Moreover, this Article helps develop a literature on the needs, demands, problems, and solutions for this special teaching challenge within American law schools.

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1. Haines, A SELECTIVE BIBLIOGRAPHY OF MATERIALS ON LEGAL EDUCATION (presented at the Minority Teachers' Conference, October 26, 1985, University of San Francisco School of Law.)

One might wonder why this Article focuses on the stated subject areas. When I began an examination of the literature on teaching skills in preparation for the University of San Francisco Law School's 1985 Minority Law Teacher's Conference, I noted the absence of a rich vein of materials directed to the measurably different teaching experiences of minority law professors. For example, traveling back in time reveals only one Article, written in 1952, that briefly examines the then-new members of the American legal teaching profession.² Further, only a small collection of recent writings examine the teaching experiences of minority law professors.³ On either side of the 1952 Article, there is very little in the legal literature about the teaching experiences, approaches, or problems of minority law faculty. Naturally I asked why such a state exists.

A minority law professor might easily and generally conclude that their law teaching experiences within American law schools are on par with the teaching experiences of non-minority law teachers. Yet, other reasons might explain the absence of a germane legal literature. First, persons of color represent a relatively small fraction of the total law teaching profession. They still have not reached a point of critical mass so that non-minority law faculty cannot ignore them. Social pressures do not exist which would command consideration of their teaching experiences. Second, the demands of teaching usually besiege these teachers; they often lack the time or energies to record and memorialize their thoughts on the subject of teaching law. Surviving within American law schools often consumes their precious time and energies. Third, the dearth of minority law professors with years of teaching experience and the freedom of tenure has an impact on the development of this legal literature. Minority law professors often lack the wealth of teaching experiences and the psychological ease of tenure to reflect on the philosophy of teaching. Fourth, the law teaching profession places little real value on developing the literature of teaching. Both the achieving of tenure and advancement in the profession depend on the development of some "substantive" legal literature. Fifth, all minority law professors may not recognize their measurably different teaching experiences; they simply may not even recognize the impact of their academic presence and the consequent dynamics in their own classrooms. For this reason, they may not recognize their own social demands and the necessity to develop a legal literature to address these demands. Sixth, these law professors do not control the publishing of legal writings; others set the agenda for publications. Since legal publishers often jostle for fairly wide readerships, they can easily rationalize that literature on the social experiences of minority law professors focuses on too narrow and insular an audience, irrespective of the social need. In sum, for a complex of unsettling reasons, minority law professors have not enriched the legal educational literature with

2. Harris, *New Members of the Law Teaching Profession in America*, 4 J. LEGAL EDUC. 436 (1952); see also, Bloomfield, *John Mercer Langston and the Training of Black Lawyers*, in AMERICAN LAWYERS IN A CHANGING SOCIETY, 1776-1876 (1976).

3. Bell, *The Black Lawyer as Law Teacher*, in MINORITY OPPORTUNITIES IN LAW FOR BLACKS, PUERTO RICANS & CHICANOS 63 (C. Clark ed. 1974); Miller, *Teaching in a Black Law School*, in MINORITY OPPORTUNITIES IN LAW FOR BLACKS, PUERTO RICANS & CHICANOS 77 (C. Clark ed. 1974); In Memoriam: Professor Frank D. Reeves, 18 How. L.J. 1 (1973); Robinson, *No Tea For the Feeble: Two Perspectives On Charles Hamilton Houston*, 20 How. L.J. 1 (1977); Littlejohn, *Black Law Professors: A Past . . . A Future?*, 64 Mich. B.J. 539 (1985).

their special views about what it means to teach within the "veil."⁴

Law school teaching represents one of the most difficult and important subjects for minority law professors. This difficulty arises due to the magnitude of the challenges that all minority law professors face in guiding an American law school class. Teaching is important because classroom teaching looms as a significant determinant of the teacher's well-being,⁵ and despite the public statements of a fair portion of law teachers, faculties consider teaching an important factor for tenure and other employment decisions. Further, the collective teaching experiences of minority law professors demonstrates that their interactions with law students, other faculty members and with administrators represent some of the most frustrating and influential experiences in determining the minority law faculty's mental and professional well-being and development. In essence, no one can fully appreciate the broad law teaching experiences and demands of minority law professors without an appreciation of their poignant experiences inside and outside of the classroom.

II. MYTH OF SISYPHUS

This Article's central thesis is the interpretation of the minority law professor as a modern-day Sisyphus, the legendary prisoner of the gods in the Myth of Sisyphus. According to Greek mythology, the gods meted out punishment for Sisyphus' conduct.⁶ The gods condemned him to roll a rock up to

4. See W.E.B. DUBOIS, *THE SOULS OF BLACK FOLK* v. 16 (1903) ("Leaving, then, the world of the white man, I have to the world of the white man stepped within the veil, raising it that you may view faintly its deeper recesses,—the meaning of its religion, the passion of its human sorrow, and the struggle of its greater souls"); ("Then it dawned upon me with a certain suddenness that I was different from the others; or like, mayhap, in heart and life and longing, but shut out from their world by a vast veil."); ("... the Negro is a sort of seventh son, born with a veil, gifted with second-sight in this American world, . . .").

5. Stone, *Legal Education on the Couch*, 85 HARV. L. REV. 392 (1971). Stone analyzes the importance of teaching for law professors, in contrast to its importance to other teachers:

Despite these demonstrations of superior accomplishment, there seems to be a startling lack of productivity if one measures productivity by quantum of written work. As one gets to know professors of law, it becomes apparent that this is not entirely due to the difficulties of legal scholarship; rather they almost all suffer from the occupational malaise. They have internalized a legal standard of perfection which requires that they anticipate every possible counterargument before they advance a positive thesis of any sort. It would seem that their critical skills have so hypertrophied that their productive potential has been nearly extinguished. Thus professors of law are often cut off from one of the important scholarly satisfactions that their colleagues elsewhere in the university enjoy. Perhaps because of this, as far as their careers as professors are concerned, they tend to invest more of themselves in the act of teaching than do their colleagues elsewhere.

Id. at 403.

Stone's analysis does not sufficiently explore the importance of teaching for minority law professors. This Article explores other bases of determining the importance of teaching for minority law professors, while simultaneously exploring the tremendous centrifugal forces that may cause minority law professors to relegate law teaching to a low ranking priority. Nonetheless, law teaching possesses great relevance for the personal and professional well-being of minority law professors, regardless of the whether one adopts the narrow psychological explanation of Stone or one adopts the view of this Article.

6. See, e.g., A. CAMUS, *THE MYTH OF SISYPHUS & OTHER ESSAYS* 88-89 (1955). Scholars disagree about the conduct that merited such punishment for Sisyphus. One scholar claimed that the gods punished Sisyphus because of his hubris, levity, and his thief of heavenly secrets. Another scholar claimed that Sisyphus angered the gods because he sought water for the City of Corinth in return for which he supplied information about Jupiter's theft of the daughter of another god. A third scholar claimed that Sisyphus shackled Death in chains, which angered the god Pluto, who had Death released and in return punished Sisyphus. A final scholar claimed that Sisyphus angered the

the top of a mountain. However, whenever he reached the mountaintop the rock would roll back to the bottom. Consequently, Sisyphus' task was seemingly both futile and neverending.

This myth illuminates the difficult condition of minority law professors within American law school classrooms. Sisyphus' conduct before and during his punishment, and his conduct during imprisonment all illuminate the travails and travails of minority law professors, from their entrance into law school as students through their ascendancy into the "high priesthood" of the law teaching profession. In essence, the myth serves as a starting point for developing a metaphor on minority law professors' conditions. The metaphor also illuminates the rationale for adopting the "absurd" as the passageway toward "praxis,"⁷ strategies for making the "praxis" a reality, and the recommendations for law school administrators and faculty to ameliorate the teaching environment.

III. SYMBOLISM OF MYTH OF SISYPHUS

A. *Insight of Albert Camus*

In an essay about the Myth of Sisyphus,⁸ Albert Camus examines the symbolism of Sisyphus for modern man.⁹ Camus argues that Sisyphus repre-

gods because he refused to return to the underworld, after the gods had imprisoned him as his test of his wife's love. The god apprehended Sisyphus by the collar and forced his return to the underworld to assume his rock.

7. See J. SARTRE, *SEARCH FOR A METHOD* 5 (1968). Sartre uses the term as follows: "Thus a philosophy remains efficacious so long as the *praxis* which has engendered it, which supports it, and which is clarified by it, is still alive," *Id.* at 5-6 (footnote omitted) (emphasis in original). The author took the word from Greek, where some translators interpret the word to mean "deed" or "action." He uses the term to mean any *purposeful human activity*. This Article also adopts the Sartre's interpretation.

8. A. CAMUS, *supra* note 6, at 1. Camus' essay about the symbolism of the original Greek myth differs from the previously cited discussion of the myth.

9. The text briefly develops Camus' interpretation of the Myth for modern man. A full treatment of his analysis is beyond the scope of this Article. Nonetheless, Camus' essay examines whether life has any meaning, because if it did not, then suicide represents a legitimate alternative. *Id.* Accordingly, the Greek Myth of Sisyphus serves as a vehicle for examining this philosophical question. Sisyphus symbolizes modern man. Both his fate and his response represent the condition of modern man; being lodged into an existence where one has to give meaning to one's life, and has a consciousness of his condition and bravery superior to the bondage. In words that ring true for the minority law professor, Camus states: "You have already grasped that Sisyphus is the absurd hero. He is, as much through his passions as through his torture. His scorn of the gods, his hatred of death, and his passion for life won him that unspeakable penalty in which the whole being is exerted toward accomplishing nothing. This is the price that must be paid for the passions of this earth." *Id.*, at 89 (emphasis in original).

Further, Camus focuses on Sisyphus' consciousness. This is a major reason for adopting the analogy of Camus' Sisyphus for this Article. This point easily relates to the minority law professor, as demonstrated in the following statement:

As for this myth, one sees merely the whole effort of a body straining to raise the huge stone, to roll it and push it up a slope a hundred times over At the very end of his long effort measured by the skyless space and time without depth, the purpose is achieved. Then Sisyphus watches the stone rush down in a few moments toward that lower world. . . . He goes back down to the plain.

It is during that return, that pause, that Sisyphus interests me That hour like a breathing space which returns as surely as his suffering, that is the hour of consciousness. At each of those moments when he leaves the heights and gradually sinks toward the lair of the gods, he is superior to his fate. He is stronger than his rock.

If this myth is tragic, that is because its hero is conscious. Where would his torture be, indeed, if at every step the hope of succeeding upheld him? The workman of today works

sents the absurd hero or heroine. His scorn of the gods, his hatred of death, and his passion for life won for him the harsh penalty imposed by the gods. To the ancients, Sisyphus represented the price that humans had to pay for the passions of the earth. Yet, Camus found the ancient myth significant for other reasons. Camus focused on Sisyphus' actual imprisonment. In particular, he focuses on Sisyphus' heightened awareness as he goes about his imprisonment, "the hour of consciousness,"¹⁰ those moments during which Sisyphus returns to the lower levels to retrieve his rock, when, as Camus observes, Sisyphus becomes superior to his fate. To Camus, Sisyphus becomes a tragic hero: he has consciousness of his fate. Sisyphus, the workman of the gods, represents both powerlessness and rebellion; he symbolizes a man who knows the full extent of his wretched condition, yet triumphs over that condition. Sisyphus triumphs in the moments of his descent, in the lucidity of his thinking as he returns to assume his fate. In Camus' view, Sisyphus has a choice. His descent can take place in joy; or it can take place in sadness. The choice of joy represents the "absurd victory." Despite the ordeals, Camus finds that the nobility of soul makes Sisyphus conclude that "all is well."

Based on this brief glimpse into Camus' argument, one can understand how Camus believed that the Myth of Sisyphus explores the question of whether life has a meaning. The myth poses a moral problem for man; it sums up the "lucid invitation to live and to create, in the very midst of the desert."¹¹ For Camus, the desert refers to the "absurd world": a universe divested of what Camus calls the "illusions and lights,"¹² where humans feel alien, like a stranger.¹³ As such, the myth invites minority law professors, as it

every day in his life at the same tasks, and this fate is no less absurd. But it is tragic only at the rare moments when it becomes conscious. Sisyphus, proletarian of the gods, powerless and rebellious, knows the whole extent of his wretched condition: it is what he thinks of during his descent. The lucidity that was to constitute his torture at the same time crowns his victory. There is no fate that cannot be surmounted by scorn.

Id. at 89-90.

This interpretation of the myth opens the door to an examination of the fate of minority law professors, the significance of his or her consciousness of the professional fate and the alternative paths to travel after this consciousness.

10. *Id.* at 89. See *supra* note 9 for the full quote.

11. *Id.* at v. The full quote reads: "Although 'The Myth of Sisyphus' poses mortal problems, it sums itself up for me as a lucid invitation to live and to create, in the very midst of the desert." Thus, in the fullest sense of the word, the Myth does pose questions about how one ought to conduct oneself given the dimensions of existence. (emphasis added)

12. A. Camus, *supra* note 6, at 5. Camus describes his "desert" in the following manner:

A world that can be explained even with bad reasons is a familiar world. But, on the other hand, in a universe suddenly divested of illusions and lights, man feels an alien, a stranger. His exile is without remedy since he is deprived of the memory of a lost home or the hope of a promised land. This divorce between man and his life, the actor and his setting, is properly the feeling of absurdity.

13. *Id.* Camus points out that the "jolt into awareness," and the "hour of consciousness," leads to the creation of an "absurd universe and that attitude of mind which lights the world with true colors." *Id.* at 9. This confrontation with the new unknown, man can conclude that he or she has entered a foreign world. Camus has created his own rather romantic language to describe our "inner lives" in those moments when our environment acts upon us in a significant manner. We all possess an inner landscape created by our struggles, resistance in those struggles, despairs, failures, and victories in reconciling ourselves to our environments. We all encounter moments when the inner landscape makes the individual experience the strangeness from being unable to reconcile the external with the internal. Some of these moments, such as those highlighted by Camus, rise above others in an individual's life. This Article views the professional life of the minority law professor as presenting some of those major encounters in the professor's life.

does Camus, to formulate an existential philosophy that imposes a meaning on their teaching lives, rather than discovering a meaning,¹⁴ or waiting until others define their teaching existence.

Yet, Camus' interpretation does not sufficiently illuminate the dimensions of such an existential philosophy for minority law professors. Various questions about Camus' view demand attention before one can comprehend the transformation of a harsh reality into positive self-actualization. When and how does the state of "absurdity" begin? How does one define the coordinates of this "absurdity?" Can one identify any consequences of this "absurdity?" Where does "absurdity" lead the individual? Finally, how does one specifically relate Camus' points to the teaching existences of minority law professors? In sum, the transition from the myth to the formulation of an existential philosophy for minority law professors requires further consideration of Camus' exegesis of the ancient texts.

Importantly, no hero or heroine experiences Camus' absurd universe immediately. Camus argues that the absurd begins in the mundane that leads to questioning. The mundane leads to the formulation of a "why." The "why" then leads to a weariness in following the mechanical life. This same weariness "inaugurates the impulse of consciousness. It awakens consciousness and provokes what follows."¹⁵ Camus states, "[t]he irrational, the human nostalgia, and the absurd that is born of their encounter—these are the three characters in the drama that must necessarily end with all the logic of which an existence is capable."¹⁶ At the end of the weariness, Camus discovers the consequence: the consciousness of either death or recovery. Hence, the confrontation between a human need and the irrationality of existence gives birth to the absurd. For this reason, one can apprehend that for Camus absurdity "bursts from the comparison between a bare fact and a certain reality, between an action and the world that transcends it."¹⁷ To Camus, the absurdity symbolizes the divorce of man from his work and the confrontation between man and his world. Moreover, the absurd symbolizes the unceasing struggle of the individual with his or her world.¹⁸

Camus then develops what becomes a central concern for minority law professors. He argues that given life's certainties, "man's appetite for the absolute and for unity and the impossibility of reducing this world to a rational and reasonable principle,"¹⁹ man has three options: death, escape by a leap of faith, and construction of an architecture of ideas to his own scale. Yet, Camus argues that man's "challenge is to live life without appeal, to be persistent, to live life solely with what man knows, to accommodate himself to what is, and to bring in nothing that is not certain." Consequently, Camus postu-

14. The reader must draw this conclusion from reading the essays together. For example, Camus indicates that "[m]yths are made for the imagination to breathe life into them." *Id.* at 89. Previously, he explained that he cannot discover a meaning that transcends the world. *Id.* at 38. The discussion here and at other points leaves the reader with the conclusion that "man's search for meaning" must culminate in giving meaning to life. As such, Camus, like Martin Buber, recognizes "[t]he man who thinks 'existentially,' that is, who stakes his life in his thinking." M. BUBER, BETWEEN MAN AND MAN 81 (1947).

15. CAMUS, *supra* note 6, at 10.

16. *Id.* at 21.

17. *Id.* at 22.

18. *Id.* at 23.

19. *Id.* at 38.

lates revolt as one of the only coherent philosophical positions: the constant confrontation between man and the reality of his existence. Revolt then becomes an awareness of a crushing fate, devoid of resignation.²⁰ In essence, "[t]hat revolt gives life its value. Spread out over the whole length of a life, it restores its majesty to that life."²¹ Moreover, Camus argues that the revolt gives proof to the absurd person's truth: a defiance.²² It also enhances the absurd person's individual freedom.²³ To these two consequences of the arrival of the absurd, Camus adds: passion.²⁴ This means that at the end of the itinerary of the absurd, the hero or heroine will find passionate commitment to action.²⁵

Likewise, minority law professors may perceive several points of similarity between the Myth of Sisyphus and their classroom teaching predicaments. Quite frequently, larger law school communities interpret minority law professors' conduct as unacceptable hubris, levity, and even appropriation of legal knowledge and skills from the majority. The wider communities then rationalize the condemnation of minority law professors to the "prison of marginization," to the toil of ceaselessly pushing an insignificant intellectual rock up a hill. Or perhaps powerful forces within the law school communities object to minority law professors entering law school and acquiring society's political and economic currency and acquiring the power²⁶ to capitalize this currency. These forces may particularly object to the traditionally powerless entering the "high priesthood" of law teaching to capitalize on this currency. Restated, focusing on an implicit message in the myth, minority law professors encounter a manifest unwillingness of the majority to share social, political, and economic powers and a manifest willingness by the majority to relegate minority persons who attempt to share or otherwise redistribute these powers to a ceaseless profession of hardship and toil.

Regardless of the interpretation adopted, minority law professors can experience absurd existences consistent with the one that Camus outlines. These

20. *Id.* at 40.

21. *Id.*

22. *Id.* at 41.

23. *Id.* at 44-45.

24. *Id.* at 47.

25. See J. SARTRE, *supra* note 7, at 14. Sartre notes, "If men are to free themselves from it [alienation], and if their work is to become the pure objectification of themselves, it is not enough that 'consciousness think itself; there must be *material* work and revolutionary *praxis*.'" *Id.* (emphasis in original). Further, Sartre illumines this idea of freedom when he notes as had Karl Marx had recognized that in this objectification the alienated individual inscribes himself or herself. *Id.* at 15. Consciousness becomes a "moment of praxis," but man integrates into this moment and makes it the captive of action, which represents the true instance when the human goes beyond himself or herself to fulfill a human need. *Id.* at 91-92.

26. See M. FOUCAULT, *THE HISTORY OF SEXUALITY* 92-93 (1980). Foucault provides an insightful explanation of the term "power," focusing on its constituent elements, i.e., the process, the support system, and the strategies that comprise it. Foucault notes that power is "the moving substrate of force relations which, by virtue of their inequality, constantly engender states of power, but the latter are always local an unstable." *Id.* at 93. Such rich insights analyzing the social relations in America could help to explain attempts at marginality of the minority law professor. Examples of the types of analyses that capture this probing movement of power are Bell, *The Supreme Court 1984 Term-Foreword: The Civil Rights Chronicles*, 99 HARV. L. REV. 4 (1985), Delgado, *The Imperial Scholar: Reflections on a Review of Civil Rights Literature*, 132 U. PA. L. REV. 56 (1984), and Lawrence, *Book Review*, 35 STAN. L. REV. 831 (1983) (reviewing D. KIRP, *JUST SCHOOLS: THE IDEA OF RACIAL EQUALITY IN AMERICAN EDUCATION* (1982)).

individuals can indeed experience a weariness that ushers in a consciousness. When they go about their daily teaching chores, especially in light of the never wholly successful toil to "empower the powerless" and thus to change society, the question "why" can arise. From this "why" can arise an anxiety and weariness with mechanically guiding a few eager, but mostly hostile, minds up the "mountain" called legal education. In turn, this weariness can awaken recognition of the sometimes subtle and blatant attempts to relegate minority law professors to professional marginization and invisibility, through the conscious and unconscious construction of a "web of irrationality." From these thoughts, an absurdity "bursts from the comparison between a bare fact and a certain reality;" and this absurdity reflects the unceasing struggle of minority law professors with their irrational world. Moreover, the logical consequences of this absurd existence arise: the arrival of the three options—death, a leap of faith, and an intellectual construction. Minority law professors then must confront the psychic challenge to live this professional life persistently, to live defiantly, formulate their own philosophical position of revolt within the classroom, while pursuing the path of freedom within the law school's limitations, and to pursue this itinerary of freedom with a passionate commitment to action.

Given this heightened consciousness and the psychic challenge, the modern day Sisyphuses must select a path. They can either choose psychic death, further mechanization and true marginization. Alternatively, they may choose a blind leap of faith in the ability of the law and the law school to remedy itself and hence their conditions. Or, they can choose "revolt, freedom, and passion." For minority law professors, like Camus' Sisyphus, the arrival of the absurd and its consequences represents a reality of no small moment. For reasons that will become abundantly clear later in this Article, these individuals must fully recognize their existential conditions and work through them. For these persons to free themselves from the conditions of alienation, they must exhibit both the "consciousness thinking itself" and a "revolutionary praxis."²⁷

B. *Insight of Frantz Fanon*

There are other illuminating sources beyond Camus which aid in the further appreciation of the choice that the Sisyphean minority law professor must inevitably make, and which outline germane existential teaching philosophies. One such source appears in the form of the powerful critique of the consciousness of persons of color within the Western world, Frantz Fanon's *Black Skin, White Masks*.²⁸

In his book, Fanon states that man has a primal need to encounter his or her world. He notes, "[m]an is motion toward the world and toward his like."²⁹ Man has the need to earn the admiration or the love of others.³⁰ Fanon notes that this impulse toward self-consciousness through others can

27. SARTRE, *supra* note 7, at 14.

28. F. FANON, *BLACK SKIN, WHITE MASKS* (1967).

29. *Id.* at 41.

30. Using Hegelian thought to make his point, Fanon states:

Man is human only to the extent to which he tries to impose his existence on another man in order to be recognized by him. As long as he has not been effectively recognized by the other, that other will remain the theme of his actions. It is on that other being, on recogni-

result in erecting a value-making superstructure on the individual's whole world vision. He notes that this impulse can cause ego-withdrawal, insularity, or ego-restriction that can cause impaired development.

Importantly, Fanon notes that the consciousness must get beyond itself to experience the certainty of self, regardless of the resistance. While he finds "being for itself" fundamental and primary, he notes that the self needs the certainty of recognition; and the other consciousness needs the recognition of other self to merge with the universe of life. Resistance to this reciprocity does not mean unfulfilled personhood or the achievement of self consciousness; rather, Fanon writes that "[w]hen it encounters resistance from the other, self-consciousness undergoes the experience of desire—the first milestone on the road that leads to the dignity of the spirit. Self-consciousness accepts the risk of its life, and consequently, it threatens the other in his physical being."³¹ He goes on to note that "[i]t is solely by risking life that freedom is obtained"³² Accordingly, "human reality in-itself-for-itself can be achieved only through conflict and through the risk that conflict implies."³³ Indeed, Fanon notes the imperative of this struggle with this quote from Hegel: "The individual, who has not staked his life, may, no doubt, be recognized as a person, but he has not attained the truth of this recognition as an independent self-consciousness."³⁴

Further, Fanon enlightens us about the perils that persons of color face in trying to humanize a hostile world. They run risks and must pay a cost to become the world's "insurance policy on humanness."³⁵ First, he notes the possibility of destruction, "[a]s a man, I undertake to face the possibility of annihilation in order that two or three truths may cast their eternal brilliance over the world."³⁶ He notes that persons of color can become entrapped in the shackles of the past; ethnic histories should not encase the individuals. Persons of color should not be sealed in the "materialized Tower of the Past."³⁷ Revenge for centuries old injuries can entrap persons of color. Although he does not speak as such, Fanon intimates that possibly some persons of color cannot make the constant transition between the roles of social victim to objective observer and back. Those who fail to make this constant transition can become entrapped in an "architecture of anger" that, with its focus of vengeance, controls the victim's behavior every bit as much as the design of the building controls its function. Persons of color can also fall prey to the desire to become like the oppressor and to instill in the oppressor all of the important values of life. Fanon argues that persons of color must combat the "pathology of freedom," the sickness of some men who want to "fill the world with their presence."³⁸ Persons of color can fall prey to intellectual alienation, which

tion by that other being, that his own human worth and reality depend. It is that other being in whom the meaning of his life is condensed.

Id. at 216-17.

31. *Id.* at 218.

32. *Id.*

33. G. HEGEL, *THE PHENOMENOLOGY OF MIND* 233 (J. Balle 2d ed. 1949).

34. *Id.* at 218-19.

35. *Id.* at 129.

36. *Id.* at 228.

37. *Id.* at 226.

38. *Id.*

Fanon calls: "a creation of the middle-class society."³⁹ In essence, persons of color must avoid viewing society as closed, in which life has become "rigidified in predetermined forms, forbidding all evolution, all gains, all progress, all discovery."⁴⁰ Persons of color can become locked in their bodies; they can become objects of their consciousness, rather than the causes of the structures of the consciousness.

Importantly, Fanon points out that in facing perils, like Sisyphus, persons of color must nonetheless remain actional. Persons of color have one right: "[t]hat of demanding human behavior from the other;"⁴¹ and persons of color have one duty: "[t]hat of not renouncing my freedom through my choices."⁴² In sum, a healthy society depends on the development of a necessary reciprocity wrought by a passionate commitment to action. Fanon concludes, "[i]t is through the effort to recapture the self and to scrutinize the self, it is through the lasting tension of their freedom that men will be able to create the ideal conditions of existence for a human world."⁴³

C. *Insights of Orlando Patterson*

A third invaluable source for illuminating the condition, the choice, and the existential philosophy of minority law professors surfaces in Orlando Patterson's book, *Slavery and Social Death*.⁴⁴ Patterson links the ideas of Camus and Fanon to the symbolism of the Myth of Sisyphus; and deepens the understanding of the continuing legacies of law professors of color within American law schools, against which these persons must individually and collectively work to forge, through their existential philosophy and action, and integrity of personhood.

Slavery and Social Death is a cross-cultural comparison of slavery, it also illuminates the present condition of minority law professors when it examines the genesis, dynamics, and consequences of race relations in North America. In essence, Patterson undertakes what he calls the "cultural, ideological, and social" analysis of slavery.⁴⁵ He demonstrates how enslavement, slavery, and manumission represented different stages of a cultural continuum. "Enslavement was separation (or symbolic execution), slavery was a liminal state of

39. *Id.* at 224.

40. *Id.* Fanon continues his point: "I call middle-class a closed society in which life has no taste, in which the air is tainted, in which ideas and men are corrupt. And I think that [a] man who takes a stand against this death is in a sense a revolutionary." *Id.* at 224-25.

41. *Id.* at 229.

42. *Id.*

43. *Id.* at 231.

44. O. PATTERSON, *SLAVERY AND SOCIAL DEATH: A COMPARATIVE STUDY* (1982).

45. *Id.* at 293. Patterson also explores slavery as a "relation of parasitism." *Id.* at 334. This analysis affords him a means of explaining the complexities and contradictions of slavery. For example, he argues that this approach enlightens us about the nature of "freedom".

Before slavery people simply could not have conceived of the thing we call freedom. Men and women in premodern, non-slaveholding societies did not, could not, value the removal of restraint as an ideal. Individuals yearned only for the security of being positively anchored in a network of power and authority. Happiness was membership; being was belonging; leadership was the ultimate demonstration of these two qualities Slaves were the first persons to find themselves in a situation where it was vital to refer to what they wanted in this way. And slaveholders, quick to recognize this new value, were the first class of parasitic oppressors to exploit it.

Id. at 340.

social death, and manumission was symbolic rebirth."⁴⁶ In addition, he demonstrates how one can view the internal relations of slavery in its cultural phrase and as an "ideological dialectic."⁴⁷ Further, he argues that cultural and ideological interpretations were expressed in different "social modes of manumission;"⁴⁸ and he provides insight into the aftermath and legacy of these modes of manumission.⁴⁹ Finally, he explores factors that influenced the "pace of politico-legal and prestigious assimilation of the freedman:"⁵⁰ race, the variety of socio-economic system, demographics, and the "formalization of the ex-master/ex-slave relationship."⁵¹

Patterson notes that since slavery, above all, signifies a form of human relationship that rests on the "asymmetry of power," that is, the relations of domination, it must make use of the facets of "power distortions:" the threat of violence, influencing a subjugated person's perceptions of self, and cultural control of obligations.⁵² These driving forces cross-culturally culminated in the construction of slavery's "constituent elements." They brought about the first distinctive element of the "social death" of the slave since the master interpreted the powerlessness of the slave as the equivalent of the death of the subjugated.⁵³ These forces also created the "slave's natal alienation."⁵⁴ In essence, the master used cultural controls to genealogically isolate the slave, causing him or her to cease to belong in his or her own right to any legitimate

46. *Id.* at 293.

47. The master gives the slave physical life either directly (if he was the original enslaver) or indirectly (if he purchased or inherited him), in return for which the slave is under obligation to reciprocate with total obedience and service. In the act of repaying his debt, the slave loses social life. This loss, however, is not a part of the repayment to the master; it is rather one of the terms of the transaction—the exchange of physical life for total obedience. With manumission the master makes another gift to the slave, this time the gift of social life, which is ideologically interpreted as a repayment for faithful service.

Completion of the gift-exchange triad in this way forms the basis of a new trial, for the ex-slave now comes under another obligation to the ex-master, which he repays by faithful dependence. His redemption fee, if he pays one, is not and within the terms of the relationship cannot be ideologically interpreted as a repayment, for the money is not his own Rather, the redemption fee is interpreted as a token gift, meant for the gift of freedom. As such, it is the initiation of a new dialectic of domination and dependence.

Id. at 293-94.

48. *Id.* at 294.

49. Patterson provides insights on the aftermath and legacy of these modes of manumission: [M]anumission universally extended and indeed deepened the ties of dependency between ex-slave and ex-master. A master class never lost, but invariably gained, by the exchange in status. In most cultures the ties were formalized in a dependency relationship that I have called *wala*, the Arabic term to distinguish it from genuine patron-client relationships between free persons In all societies the freedman suffered some stigma, but the intensity and the duration differed. In some cases the stigma persisted for generations; in others it disappeared by the third generation. The movement from freedman to fully accepted free-man was usually an intergenerational process which took as long as, and often longer than, the movement from enslavement to manumission.

Id. at 294.

50. *Id.* Patterson notes that he found a distinction between the "political-legal status" of the freedman and "prestige ranking." The former related to the legal rights available; the latter related to the "degree to which he was accepted as an equal who fully belonged to the community." *Id.* at 247. A period of stigmatization followed the granting of the political and legal equality varied in length. *Id.* at 249. Further, "as a marginal person the freedman continued to be viewed as something of an anomaly and, like all persons in transitional states, was regarded as potentially dangerous." *Id.*

51. *Id.* at 294.

52. *Id.* at 1-2.

53. *Id.* at 38-45.

54. *Id.* at 5.

social order.⁵⁵ Accordingly, Patterson argues that these two elements brought on a third element: the dishonoring of the slave.⁵⁶ Lacking a social connection of their own and experiencing power only through the existence of another—the master—the slave experienced a “loss of honor” which manifested itself in the subjugated blaming themselves and self-inflicting psychological violence.⁵⁷

With the establishment of the “constituent elements of slavery,” Patterson develops the bridge between the legacy of manumission and assimilation and the ideas of Hegel. First, Patterson notes that while the master viewed the slave as socially dead, the master incorporated the slave into society by “formalizing marginality” or by achieving what he calls the “liminal incorporation”⁵⁸ of the slave. The master institutionalized marginality by mediating between the socially dead and the socially alive. In fact, this liminal state had important social value for the master, since “[t]he slave, in not belonging, emphasized the significance of belonging; in being clanless, emphasized the clan as the only basis of belonging.”⁵⁹

Second, Patterson examines the honor and the degradation of the slave, when he analyzes why Hegel could not escape the fundamental conundrum of slavery: why does the master both force subjugation of the slave and simultaneously degrade the slave? Hegel notes that the master signifies an independent consciousness living for and through the master,⁶⁰ thereby increasing the power and honor of the master. In short, when the master negates the slave’s ego independence, the master resolves the struggle for ego dominance by confirming the superiority of his own human ego.

This conquering of man by man brings on its own results. The moment the master achieves dominance, the master can experience the fragility of the unreal existence of slavery. Patterson notes, making a break with Hegel, the master avoids creating an “existential impasse”⁶¹ by seeking ego support from the recognition of other free persons who glory in and honor the master class, and by nurturing honor in the systematic degradation of the slave.⁶²

Patterson agrees with Hegel that another result of the subjugation

55. Patterson makes this point in a passage that has relevance for all minority law professors: *Formally isolated in his social relations with those who lived, he also was culturally isolated from the social heritage of his ancestors. He had a past, to be sure. But a past is not a heritage. Everything has a history, including sticks and stones. Slaves differed from other human beings in that they were not allowed freely to integrate the experience of their ancestors into their lives, to inform their understanding of social reality with the inherited meanings of their natural forebears, or to anchor the living present in any conscious community of memory. That they reached back for the past, as they reached out for the related living, there can be no doubt. Unlike other persons, doing so meant struggling with and penetrating the iron curtain of the master, his community, his laws, his policemen or patrollers, and his heritage.*

Id. at 5.

56. *Id.* at 10.

57. *Id.* at 10-12.

58. *Id.* at 45-46. Patterson notes that “slavery involved two contradictory principles, marginality and integration,” which some societies institutionalized by “formalizing the marginality.” Those persons caught up in the state existed in “the hem of society, in a limbo, neither enfranchised . . . nor true aliens.” *Id.* at 46.

59. *Id.* at 47.

60. G. HEGEL, *supra* note 33, at 234.

61. *Id.* at 98-99.

62. *Id.* at 99.

emerges from creating the "consciousness of freedom" in the slave.⁶³ The slave's consciousness focuses upon freedom and life, and negation of social death (the "double negation"),⁶⁴ while the master's consciousness focuses upon control and subjugation. In turn, Patterson stresses that Hegel believed that struggle for freedom creates a new man,⁶⁵ a man created for himself in contrast to a man created for the master. Hegel also believed that the path to this new man lay in "work and labor." Consciousness passes through labor into object and back into consciousness, with a permanence and an independence that did not previously exist.⁶⁶

D. *Summary of Sisyphean Consciousness*

The Myth of Sisyphus represents the entrapped, whose conduct brings on the existence mapped out by Patterson, and the consciousness Camus, Hegel, and Fanon explained. One can discover parallels and commonalities for minority law professors, although one must recognize that this analogy is limited. On another level, Sisyphus represents free man suspended in the "twilight of slavery," a person who struggles with the legacy of slavery between manumission and free person status. Patterson examines this person and Hegel and Fanon describe the person's struggle for freedom. The aftermath of servitude brings imprisonment, with its ties of dependency and stigmatization that may extend into several generations.

Broad outlines exist for understanding why and how minority law professors within American law schools represent a modern-day Sisyphean character for whom various forces entrap them within a complex socio-economic drama which this Article calls a special teaching challenge. Nonetheless, this Article has not fully explored the poignant existential predicament of minority law professors. Other important parameters of the professional existences of minority law professors remain unexplored. Moreover, one cannot easily conclude that law professors of color will naturally perceive their predicaments and achieve this Sisyphean consciousness, not to mention achieve the praxis of revolt, freedom, and passion. Achieving the Sisyphean consciousness comes only after a professor encounters numerous bewildering pressures and major diversions, inside and outside of the classroom. These diversions which can easily detour their minds from the Sisyphean consciousness and praxis of the absurd hero or heroine, can lead them into psychic death or, into a blind leap of faith.

IV. EXISTENTIAL CLASSROOM PHILOSOPHY

This Article rejects the popular myth about the unimportance of classroom teaching for the professional well-being of law professors. Instead, this Article embraces the view that teaching is of vital importance to the professional existences of minority law professors.⁶⁷ Moreover, examining the range of philosophic possibilities in classroom teaching attitudes points up the special challenges facing minority law professors who strive for the Sisyphean

63. *Id.* at 98; *see also, id.* at 339-42.

64. *Id.* at 98.

65. *Id.*

66. *Id.* at 98-99.

67. *See supra* note 5.

consciousness and commitment to action. Indeed, an appreciation of the universe of possibilities points out the forces that can cause a disjunction between an existential philosophy and the actual experiences of minority law professors.

A. *Primal Questions and Choices*

In exploring the teaching attitudes of minority law professors, two questions immediately come to mind: what do minority law professors mean by the concept of teaching in the classroom,⁶⁸ and what should minority law professors mean by the concept of classroom teaching?⁶⁹ Most certainly, minority law professors believe that they guide a class through an educational experience. But what does that really mean? Does that mean leading minds through some course material in a mechanized fashion,⁷⁰ uncaring about the product or the effect on the students, which may simply signify a disguised form of psychic death? Or does the educational experience involve going through the motions of leading through a subject with blind faith in the ability of the legal educational process to achieve its own ends (whatever they may be), regardless of what minority law professors may do? Or does it mean guid-

68. See e.g., Bloomfield, *supra* note 2. Bloomfield wrote about the first Howard University law professors:

Their teaching methods, like those in vogue at other institutions, emphasized the importance of memorization and formal classroom drills on assigned subjects. Students were expected to master the basic legal principles set out in standard texts and to recite them by rote when called upon, while their teachers provided supplemental lectures to fill in the gaps The combination lecture-text approach made it possible for the Law Department to advertise that it offered its students "thorough instruction" in twenty-eight subjects ranging from international and constitutional law to equity and admiralty jurisprudence. *Id.* at 330.

(citation omitted)

Bloomfield further noted that the teachers gave the early Howard students lectures that emphasized "pragmatism and morale building." The lectures centered on the practical difficulties that lay ahead for the Black practitioners; such as advice on pleading, courtroom approaches, and public speaking. The lectures even discussed the need for the continued dominance of the Republican Party and the necessity of governmental aid in those areas where the citizens could not take care of themselves. *Id.*

Genna Rae McNeil noted that Dean Charles Hamilton Houston taught his Howard University students with an approach that caused his students to "think about the broad spectrum of societies, laws, and classes of people." G. McNEIL, *GROUNDWORK: CHARLES HAMILTON HOUSTON AND THE STRUGGLE FOR CIVIL RIGHTS* 67 (1983). Dean Houston sought to stimulate the application of the law to the plight of the black underclass, which was consistent with his view that the law school must help train the black lawyer had to be a "social engineer and group interpreter," that is the lawyer had to be trained in the "legal aspects of Negro economic, social, and political life," as well as trained to work on the individual client's problems. *Id.* at 71-70.

69. McKay and Sandalow *Two Views of the Question: Are Law Schools Doing Their Job?*, 37 *RUTGERS L. REV.* 581 (1985); Wade, *Some Observations on the Present State of Law Teaching and the Student Response*, 35 *MERCER L. REV.* 753 (1984); Harvey, *Comments: A Response to Professor Wade*, 35 *MERCER L. REV.* 773 (1984); McKay, *Legal Education: Some Compliments and Some Complaints*, 35 *MERCER L. REV.* 789 (1984); Cole, *The Socratic Method in Legal Education: Moral Discourse and Accommodation*, 35 *MERCER L. REV.* 867 (1984); Mudd, *Thinking Critically About "Thinking Like a Lawyer,"* 33 *J. LEGAL EDUC.* 704 (1983); White, *The Ethics of Argument: Plato's Gorgias and the Modern Lawyer*, 50 *U. CHI. L. REV.* 849 (1983); Kronman, *Foreword: Legal Scholarship and Moral Education*, 90 *YALE L.J.* 955 (1981); Redmount, *A Conceptual View of the Legal Education Process*, 24 *J. LEGAL EDUC.* 129 (1972); Leleiko, *Legal Education-Some Crucial Frontiers*, 23 *J. LEGAL EDUC.* 502 (1971); Savoy, *Toward a New Politics of Legal Education*, 79 *YALE L.J.* 444 (1971); Watson, *The Quest for Professional Competence: Psychological Aspects of Legal Education*, 37 *J. LEGAL EDUC.* 93 (1968).

70. Savoy, *supra* note 69, at 456-62. Savoy chronicles what he calls "pedagogical mimesis—teaching as an imitation of teaching." *Id.* at 456.

ing the class toward some transcendent educational experience with the special emphasis on the personally ennobling and enriching experience that persons of color can introduce into a class and that American legal education ought to demand of its teachers?

While both the above statement of the questions and the identified choices seem illuminating, this Article will reexamine questions. Restated, should minority law professor neutrally train students to "think like lawyers?" Should they simply help students develop the "basic qualities of the good lawyer?"⁷¹ Should they simply cultivate and inculcate the "five critical thinking skills"?⁷² Should they simply pursue the well-known "Bloom Taxonomy of Cognitive Objectives,"⁷³ which will inexorably point the way to a meaningful and effective law school class without more? Or, should they pursue the above plus discover important thoughts and pose important and far-reaching questions to aid the students in developing their own powers of analysis?⁷⁴

B. Possible Depth and Breadth of Legal Education

A brief examination of legal educator's efforts to define the concept of teaching will precede answering what position minority law professors should adopt.

One discovers thoughtful and stimulating efforts⁷⁵ to explain and define the notion of training students to "think like lawyers." For example, by drawing on observations of the classroom, John Mudd has noted that such a training develops an ability to analyze facts, developing an appreciation of varying and shifting legal conclusions that the law can produce from slight differences in the fact patterns, the ability to dissect the complex fact patterns into constituent parts, appreciation of reconstituting these facts into a new, meaningful pattern, and an appreciation for discovering in the fact patterns those features that can point to the direction for resolving disputes.⁷⁶

Mudd hastens to add that "thinking like a lawyer" has many common features with the training of the intellect that one observes in other disci-

71. Wade, *supra* note 69, at 754. Wade reiterates Professor Leach's list of the qualities of a good lawyer:

[F]act consciousness, a sense of relevance, comprehensiveness, foresight, lingual sophistication, precision and persuasiveness of speech, "and finally, and pervading all the rest, and possibly the only one that is really basic: *self-discipline in habits of thoroughness*, an abhorrence of superficiality and approximation." *Id.* (emphasis in original).

72. Mudd, *supra* note 69, at 706. Mudd reiterates the Dressel and Mayhew list of the "five critical thinking skills"

- (1) The ability to define a problem;
- (2) The ability to select pertinent information for the solution of the problem;
- (3) The ability to recognize stated and unstated assumptions;
- (4) The ability to formulate and select relevant and promising hypotheses;
- (5) The ability to draw conclusions validly and to judge the validity of inferences. *Id.* (quoting P. DRESSEL & L. MAYHEW, GENERAL EDUCATION: EXPLORATIONS IN EVALUATION 179-80 (1954)).

73. TAXONOMY OF EDUCATIONAL OBJECTIVES, HANDBOOK I: COGNITIVE DOMAIN (B. Bloom ed. 1956). The Bloom taxonomy delineates the range of learning activities from the lowest to the most complex: "knowledge, comprehension, application, analysis, synthesis and evaluation." *Id.* Mudd notes that the Bloom list parallels "Lonerger's patterns of human understanding." Mudd, *supra* note 69, at 706.

74. See G. MCNEIL, *supra* note 68; see also Leleiko, *supra* note 69, at 502.

75. E.g., Mudd, *supra* note 69 at 705 n.2.

76. *Id.* at 705.

plines.⁷⁷ In essence, one can discover, as Mudd notes, a pattern to the development of all human understanding. For instance, "thinking like a lawyer," mirrors the Bloom Taxonomy of learning activities: knowledge, comprehension, application, analysis, synthesis, and evaluation.⁷⁸ Moreover, "thinking like a lawyer" parallels the development of the "five critical thinking skills."⁷⁹ Accordingly, Mudd concludes that "we legal educators might do well to state as our goal the training of our students, to think well, rather than to presume the assimilation of some new process that is unique to a lawyer's intellect."⁸⁰ Further, one might note developing the ability to "think like a lawyer" and developing the ability to "think well" resemble the development of the "basic qualities of the good lawyer."⁸¹

The combination of these ideas does not define the limits of law teaching, nor by extension, does it define the concept of teaching for minority law professors. Some educators emphatically agree. For example, Dean Sandalow fervently maintains that law teachers must pursue a transcendent teaching experience. Dean Sandalow argues that law professors cannot simply train students to neutrally and blindly "think like lawyers":

The proper object of a legal education, as of any other form of education worthy of the name, is to enlarge the capacity of students to realize their human potential. It should not merely equip students for the eight or ten or twelve hours a day in which they will be performing in professional roles, but to assist them in developing character traits, intellectual skills, and an understanding of law and its place in human society that will enrich moral beings. A good legal education is in this sense a continuation of a liberal education. To be sure, its focus is narrower than the undergraduate education that we commonly associate with the liberal education. But like a liberal education, its main object is to enable men and women to think clearly, to feel intelligently, and to act knowingly.⁸²

Dean Sandalow admonishes teachers to remember that they should view students as ends, in and of themselves, not simply as legal means for other purposes or as vessels to be filled by eager law teachers.

Moreover, John Cole stresses the pursuit of the transcendent teaching experience, but gives it a different emphasis: Cole states:

[T]hat the proper purpose of legal education is to shift the level of discourse engaged in by the student from the epistemological level, on which he assumes a discoverable world underlying the chaos of different opinions in the

77. *Id.* at 705-06.

78. *Id.*

79. *See supra* note 72.

80. *Id.* Further, Mudd examines the implications for shifting the focus from "thinking like a lawyer" to "thinking critically, precisely and clearly." *Id.* at 707-11.

81. *See supra* note 71.

82. McKay and Sandalow, *supra*, note 69, at 593. *See also* W. KAUFMAN, *THE FAITH OF A HERETIC* 74 (1978). Kaufman makes his point in the following:

"The whole point of an education, and not only of philosophy, is to make people more responsible. One cannot teach one's students, nor even oneself, always to do what is best; but one can try to teach oneself and others to become a little less impulsive and irrational and more conscientious and responsible."

Id. *See also* Leleiko, *supra* note 69, at 502, quoting L. Cahn ("In so far as legal education is a species of education, it ought to be concerned with truth. In so far as its specific subject matter is law, it ought to be concerned with justice, and in so far as it prepares young citizens to practice a profession of vast individual and social consequence, it ought to be concerned with their developing a sense of responsibility.") (Cahn, *Some Reflections on the Aimes of Legal Education*, in *CONFRONTING INJUSTICE — THE EDMUND READER* 245 (L. Cahn ed. 1966)).

classroom, to the level of moral discourse, on which he understands that the chaos of voices is not due to confusion but to competition of various world views in the marketplace of ideas. From this perspective, students who constantly complain about being confused need to be told that they are not confused; they just do not know the answer; that they erroneously equate not knowing the answer with being confused. In fact, they just do not know the answer and the reason is clear: there is no answer to know. There is no way to discover the answer—what we take as an answer must be created by some legitimate agency.⁸³

Cole equates legal education with "moral education." Law teachers must educate the students to appreciate that the content of the world arises by his or her "own independent, free act of creation."⁸⁴

Still, the possibilities for defining the concept of teaching and, by extension, the universe of choices for minority law professors has not been exhausted. Other reflections about the process of education, both inside and outside of legal education will be examined. While some of these reflections may not present new territory beyond that explored previously, they do provide a greater depth for these points.

In a "post-sixties" critique⁸⁵ of legal education, Paul Savoy urges law teachers to adopt a "humanistic view toward legal education."⁸⁶ Savoy believes law school teaching should not simply involve the display of "classroom techniques" or a "pedagogical mimesis,"⁸⁷ that parody of Socrates' method of instruction,⁸⁸ in the name of training students to "think like a lawyer."⁸⁹ Savoy notes that actual classroom training involves more a socialization process⁹⁰ than an exposure to the construction of special syllogisms. Hence, law teachers have an obligation to expose students to the "emotional landscape of the educational environment."⁹¹ They must utilize that reservoir of the unconscious and preconscious, where feeling and impulses reside, to unlock the door to educational discovery and creativity.⁹² Since the values we hold dear shield important feelings and attitudes, teachers must use the dialectical process, which includes making explicit the teacher's own value judgments, to penetrate the intellects of students and synthesize the oppositional forces within their students' minds. From these forces spring a meaningful integration of ideas which nurture educational growth.⁹³ Moreover, Savoy argues that teachers cannot ignore this "emotional landscape" for yet another reason. Its study prepares students for their role in lawmaking. He notes, the "process of lawmaking is determined by the undercurrents of human existence far more

83. Cole, *supra* note 69, at 883 (emphasis in original).

84. *Id.* at 870. See also Leleiko, *supra* note 69, at 502 (quoting Justice Holmes about the nature of legal education). For a general discussion of the moral dimension of legal education, see Wasserstrom, *Legal Education and the Good Lawyer*, 34 J. LEGAL EDUC. 155 (1984); Sandalow, *The Moral Responsibility of Law Schools*, 34 J. LEGAL EDUC. 163 (1984); Luban, *Against Autarky*, 34 J. LEGAL EDUC. 176 (1984); Shaffer, *Moral Implications and Effects of Legal Education or: BROTHER JUSTINIAN GOES TO LAW SCHOOL*, 34 J. LEGAL EDUC. 190 (1984).

85. See Savoy, *supra* note 69.

86. *Id.* at 455.

87. *Id.* at 456. Compare Savoy, *supra* note 69 with Wade, *supra* note 69.

88. Savoy, *supra* note 69, at 456. See Stone, *supra* note 69, at 406-28.

89. Savoy, *supra* note 69, at 457-60.

90. *Id.* at 460-68. But see Stone, *supra* note 69, at 422-28.

91. Savoy, *supra* note 69, at 461.

92. *Id.* at 466. But see Stone, *supra* note 69, at 419-21.

93. Savoy, *supra* note 69, at 470-71.

subtle and profound than the shifting winds of doctrine or the ballast of empirical data."⁹⁴ Finally, he urges law teachers to recognize that the "educational medium is the real teaching message."⁹⁵ Teachers introduce and initiate the student into a subgroup of society. Through this subgroup, teachers set the tone for the later distribution and exercise of power in larger social contexts.⁹⁶ Teachers must achieve the creation of a more humanistic environment: the type of environment that engenders self-respect and that helps acquiring a "skill in the management of interclass hostility."⁹⁷

Another significant effort to illuminate legal teaching is provided by James White.⁹⁸ While White focuses on Plato's *Gorgias* to examine the intellectual development of the modern lawyer, his lessons provide special insights for minority law professors who bring the legacies that Fanon and Patterson described into the classroom. In essence, these lessons deepen the meaning of the transcendent teaching experience, enlightening minority law professors about the dynamics of their efforts to transform their unique legacies into personally ennobling and enriching experiences for law students.

In examining how Plato distinguishes between "rhetoric" and "dialectic" in the *Gorgias*, White illumines the underlying aim of Plato: the shared reconstitution of self and language. Plato takes the reader through the examination of such important terms of value as "good," "bad," "noble," and "shameful" to achieve change.

The *Gorgias* is in an important sense about these words and others related to them: about what they should be taken to mean, how they should be defined or refined; about the ways in which the contradictions they entail might be resolved; and about the patterns of meaning in which they should be arranged. Its object is to construct a coherent language of value out of the naturally complex and inconsistent materials of its time and, in so doing, to define new possibilities for the life of the self and of the community.⁹⁹

In sum, Plato seeks to expose the contradictions in the thoughts of the interrogators of Socrates through refutation, isolation, and disorientation. But Plato does not aim to imprison these interlocutors in this division and disharmony. Rather he aims to stimulate a reconstitution of that person's language to make acceptable the "variabilities, complexities, and inconsistencies of ordinary life and language."¹⁰⁰ Ultimately, Plato instructs the interlocutors in making the new language by learning "how to ask questions of one's own,"¹⁰¹ rather than learning a stock of preestablished questions. He tries to unmoor the interlocutor from the "culture, the language and activities that normally define" him or her.¹⁰²

All education, in a general sense, involves a process of broadening the self. Successful education should open up the self to admit in the views of others beyond one's own.¹⁰³ The self should deepen and widen under an expo-

94. *Id.* at 470.

95. *Id.* at 481.

96. *But see* Stone, *supra* note 69, at 409-18.

97. Savoy, *supra* note 69, at 496.

98. White, *supra* note 69.

99. *Id.* at 853-54.

100. *Id.* at 868.

101. *Id.* at 869.

102. *Id.*

103. W. KAUFMAN, *supra* note 82, at 57. ("One of the most important parts of any education is

sure to the richness and diversity of life, which, in the case of minority law professors, means exposing students to the teacher's individual and cultural history. Education should develop one's respect for others, and it should encourage pursuit of cultural pluralism. In essence, education should involve what one writer has called "inclusion."¹⁰⁴ Students should extend their own present realities, to live through the common event forged by the relations with teachers. Students allow a selection of the world to affect them through the medium of teachers.¹⁰⁵ The result, an enriched self, a Platonian reconstitution with new dimensions from life's many possibilities. Moreover, education must involve teaching people responsibility in making choices and accountability for the choices they make. Education must stimulate "self action" that responds to interpretation and anticipation within a "continuing discourse or interaction among beings forming a continuing society."¹⁰⁶ When education unmoors the individual from the old cultural self, with its language patterns and activities, it compels the individual to adopt positions that construct the new self and to adopt those positions with a sense of "social solidarity."

C. *Inexorable Choice for Minority Law Professors*

How should minority law professors define the concept of teaching in American law schools? One should easily appreciate that the definition they construct transcends any intramural squabble among law professors. The choice of content for minority law professors goes to their vital existences in a human drama that extends centuries into the past, and it has perils in the present and into the future. Minority law professors cannot exhibit indifference and succumb to psychic death, parroting the "party line" of training students to "think like lawyers." Nor can they exhibit blind faith in the righteousness and curative abilities of the American legal educational process. Minority law professors must define law school teaching with a content that translates their social experiences into personally ennobling and enriching experiences for law students.

Moreover, any very close examination of legal literature would alert the reader to the fact that a fair share of legal educators, by implication, would support efforts to define the primal quest for minority law professors as outlined above. This Article has simply taken a sampling of opinion. It by no means exhausts the views taken by legal educators on the subject of teaching in law school. Indeed, if, for example, we consider recent controversial views¹⁰⁷ about the teaching profession and the debate about these views,¹⁰⁸

to learn to understand views different from one's own and to outgrow the narrow-mindedness and lack of intellectual imagination that cling to us from our childhood.")

104. M. BUBER, *supra* note 14, at 97 (1947).

105. *Id.* at 99-100.

106. H. NIEBUHR, *THE RESPONSIBLE SELF: AN ESSAY IN CHRISTIAN MORAL PHILOSOPHY* 61-65 (1963).

107. See Gordon, *Critical Legal Histories*, 36 STAN. L. REV. 57 (1984); Hutchinson and Monahan, *Law, Politics, and the Critical Legal Scholars: The Unfolding Drama of American Legal Thought*, 36 STAN. L. REV. 199 (1984); Kelmam, *Trashing*, 36 STAN. L. REV. 293 (1984); Trubek, *Where the Action Is: Critical Legal Studies and Empiricism*, 36 STAN. L. REV. 575 (1984); and White, *The Inevitability of Critical Legal Studies*, 36 STAN. L. REV. 649 (1984).

108. See "Of Law and the River," and *Nihilism and Academic Freedom*, 35 J. LEGAL EDUC. 1 (1985); Carrington, *Of Law and the River*, 34 J. LEGAL EDUC. 222 (1984); Schwartz, *With Gun and*

one could probably conclude that a good portion of the law teaching profession places emphasis on the nature of the transcendent teaching experience, not on whether the teacher should pursue a transcendent teaching experience. Hence, one can conclude that a segment of the profession presently adopts a view of the necessity of being about a transcendent teaching experience rather than believes in neutral and mechanical training to "think like a lawyer."

V. SISYPHEAN CONSCIOUSNESS AND THE REALITY OF TEACHING IN MODERN LAW SCHOOLS

The focus on an existential teaching philosophy for minority law professors is both fascinating and illuminating. In fact, these views can intoxicate legal scholastics. Yet, do they sufficiently illuminate and guide the existences of those persons who, in W.E.B. DuBois' words, are "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"?¹⁰⁹ For instance, does this discussion sufficiently illuminate the depth of the challenge for minority law professors, those legatees of the Sisyphean tradition, in defining and implementing a concept of effective law teaching within American law schools?

A. Views about Modern Law Schools

This Article explores the harsh reality of the modern law school classroom that minority law professors encounter. Without considering history to ground the previous points, no one can fully appreciate the magnitude of the challenge of attaining of the Sisyphean goal for minority law professors.

One does not need to search far to discover that some commentators view the law school classroom as a battleground rather than the rich, calm, contemplative environment for learning. Law schools and the attitudes of students have travelled far from the halcyon days of the 1950s in the eyes of some non-minority commentators. One researcher discovered that 97% of the college seniors planning to attend top law schools, 92% of those planning to attend superior law schools, and 75% of those going to other law schools rated the caliber of law school classroom teaching as excellent or good, before their entrance into law school.¹¹⁰ Now even the Rip Van Winkles in the legal community have read or heard about disaffection within law school classrooms, which continues at varying levels and in varying forms into this post-civil rights and post-Vietnam era of the "economics-fixated" law student. The Stanford experience does not represent an isolated phenomenon, nor does it

Camera Through Darkest CLS-Land, 36 STAN. L. REV. 413 (1984); Sparer, *Fundamental Human Rights, Legal Entitlements, and the Social Struggle: A Friendly Critique of the Critical Legal Studies Movement*, 36 STAN. L. REV. 509 (1984). A discussion of the import and value of this debate for persons of color is for another time and place and is beyond the scope of this Article.

109. DuBois, *supra* note 4, at 16. Even though DuBois noted his point nearly three quarters of a century ago his quote sheds some light on a minority law professor's condition.

It is a peculiar sensation, this double-consciousness, this sense of always looking at one's self through the eyes of others, of measuring the 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.

Id. at 16-17.

110. Wade, *supra* note 69, at 753 (citing M. MAYER, *THE LAWYERS* 74 (1967)).

represent ancient history.¹¹¹

For instance, the legal literature abounds with strong criticisms of law schools. The literature contains indictments of teaching methods, particularly the Socratic method,¹¹² and of the general dehumanizing character¹¹³ of the law school classroom. Critics vilify law professors as oppressive, demeaning, sadistic, and otherwise unpleasant. Students have specifically charged that law professors' classrooms rob them of self-esteem and, for the more sensitive students, these classrooms do not create environments premised on love and mutual respect. As one student claims, the law professor's beloved mistress, the Socratic method, strains the emotions and restricts perceptive sensitivity, powers of synthesis, independent creativity, and value clarification.¹¹⁴ The legal literature gives law students a share of the criticism, noting their aggressiveness¹¹⁵ and their highly competitive, cynical and extremely anxious nature. One commentary notes, however, that the particular cognitive style of law school and its reputation may temper the behavior and to some extent, affect students. Yet, the literature notes that the end result remains the same.¹¹⁶

B. *Law School Power Struggles*

Law schools foster numerous internecine power struggles to control the training of the future leaders of society. Students challenge the faculty and administrators for greater voice in the administration of the law school. Students often want a greater voice in devising the shape, content, and the direction of law classes, and they challenge each other for positions and roles from which to challenge the faculty and administration, both within and outside of student organizations. Challenges are often mounted according to ethnic, political, and gender divisions. Further, the faculty often battles the administration over all facets of law school governance. Even faculty members will align with students in battles for control. In some instances, faculty members will even align with administrative staff to battle the administration over governance of the law school. Finally, the exponential factor of central administrations in university complexes deepens and complicates these power struggles. These seats of power introduce fierce struggles for control of the law school power and influence; they ultimately may affect accreditation and fiscal policy.

C. *Difficult Path Toward Consciousness and Praxis*

The reality of the modern day law school classroom should sober minority law professors and should portend its consequences. Indeed, minority law professors may wonder if their entrance into this harsh reality equates to the entrance of Daniel into the lions' den. In essence, this maelstrom profoundly impresses minority law professors with the magnitude and number of major

111. Margolick, *The Trouble with America's Law Schools*, N.Y. Times, May 22, 1983, (Magazine) at 20.

112. See sources cited *supra* note 69.

113. Giblin, *Changes and Challenges: Law School, The New Legal Education and the Law Library*, 73 LAW LIBR. J. 693, 695-98 (1980).

114. *Id.* at 697.

115. *Id.* at 698.

116. *Id.*

currents and countercurrents that constitute their significant challenge of law teaching. Further, these currents can serve as centrifugal forces that deflect minority law professors away from the Sisyphian consciousness and its attendant consequences. These currents can overwhelm, focusing consciousness on survival "pure and simple." Minority law professors can find that they must expend so much of their vital energies simply avoiding the devastation of the maelstrom, that they often lack the peace and calm to search for a transcendent teaching experience. They become entrapped in a "survival syndrome," struggling to simply hold on in the classroom, while striving to obtain or retain tenure (and their mental stability) through scholarship. In sum, rather than pursuing revolt and the path to freedom, survival becomes the goal.

Minority law professors clearly should pursue the existential educational approach noted above. Indeed, humanizing law students dictates that minority law professors help students (and by extension faculty colleagues) enlarge their capacity to realize their human potential, to be generous towards others, to have respect for the rich ethnic and cultural diversity in America, to have respect for the important otherness of ethnicity and gender, and to have respect for other important social notions. Yet, minority law professors can feel overwhelmed. Consequently, they may not respond like Sisyphus. They may find, wittingly or unwittingly, that centrifugal forces thrust them down the path of least resistance. They can find that they simply strive to placate students, other faculty, and administrations. Accordingly, they can gravitate toward a straightforward and mechanized delivery of a quantum of knowledge and a limited exposure to reasoning skills.

There are other heavy demands¹¹⁷ on the time and energies of minority law professors which serve as additional centrifugal forces which militate in favor of capitulation, rather than in favor of revolt and freedom. First, minority law professors may find precious little time, energy, and incentive to direct their consciousness to teaching, let alone to pursuing transcendent classroom experiences with the heavy demands of the tenure process, a need to educate and placate non-minority faculty colleagues and administrators, the insatiable demands of the ever-needy minority law student population, the genuine and ingenuine demands of non-minority students, the endless concerns of faculty governance, scholarship pursuits, professional development, and the various community and professional projects. They often feel drained beyond endurance. Second, awesome pressure from administrators and a lack of consistent support among their colleagues may further deflect minority law professors from pursuing a transcendent educational experience.

Notwithstanding the reality of teaching in modern law schools, some minority law professors do avoid misdirection. Some still find the drive and energies to pursue the larger goals of legal education.¹¹⁸ Others "risk the Socratic hemlock" by restlessly experimenting in an effort to transcend the harsh realities of the law school classroom, in the manner reminiscent of

117. Brooks, *Life After Tenure: Can Minority Law Professors Avoid the Clyde Ferguson Syndrome?*, 20 U.S.F.L. REV. 414, 420-23 (1985).

118. See Bell, *supra* note 26; Delgado, *supra* note 26; and Lawrence, *supra* note 26 and sources cited *supra* note 68.

Camus' Sisyphus. And still others defy the classroom marginization efforts of their colleagues.

VI. INTERACTIONS WITH LAW STUDENTS

The important dimensions of the classroom experiences of minority law professors further illuminates the depth and poignancy of their challenge. The unexamined dynamics of the classroom deepen one's understanding of the difficult path toward the Sisyphean consciousness and its attendant consequences. Moreover, this discussion should elicit sympathy for those who have wittingly or unwittingly succumbed to the centrifugal forces that deflect from "revolt, freedom, and passion;" and it should deepen the respect for those who have consciously and conscientiously pursued the painful path toward the transcendent educational experience.

A. *Interactions With All Law Students*

There is not much legal literature on minority law professor's interactions with students.¹¹⁹ Most of the treatment continues to stay submerged and locked within impressions, informal writings, professional folklore, and the communications of minority law professors among themselves. Moreover, little treatment exists of the special consequences¹²⁰ of these classroom dynamics for the personal and professional well-beings of minority law professors. One must stitch together impressions, recollections, and observations to draw a broad picture of the special trauma that classroom dynamics can introduce into the lives of minority law professors.

When one begins constructing a picture of the minority law professor's interactions with law students, one can start with the Article entitled *Invisible Teachers: A Comment on Perceptions in the Classroom*.¹²¹ While that Article does not specifically address the social relations of minority law professors, it does serve as a basis for converging and canalizing the impressions, recollections, and observations of minority law professors. In fact, this Article particularly aids in illuminating the "Clyde Ferguson Syndrome."¹²²

Nagel explains the occasionally rude conduct of law students within the classroom. It concludes that students act rudely because they view the law teacher as "invisible." In reaching its conclusion, the Article finds several myths that students harbor about their professors: that teachers do not notice or show any concern for students, that teachers intentionally seek to humiliate and hurt the feelings of students, that teachers are omniscient, that teachers have a myopia focused only on legal thinking, that teachers are ignorant, and that teachers encourage students to believe that only constructing an argument is important, and that any argument is acceptable.¹²³

All law professors conduct classes with these invisible forces shaping the direction and movement of their classes. No law professor enters into a "neu-

119. Brooks, *supra* note 117, at 420-21.

120. *Id.* at 424-27.

121. Nagel, *Invisible Teachers: A Comment on Perceptions in the Classroom*, 32 J. LEGAL EDUC. 357 (1982).

122. See Brooks, *supra* note 117; see also, *In Memoriam: C. Clyde Ferguson, Jr.*, 97 HARV. L. REV. 1253 (1984); Bell, *A Tragedy of Timing*, 19 HARV. C.R.-C.L. L. REV. 277 (1984).

123. Nagel, *supra* note 121, at 358-60.

tral court" to guide eager, unbiased minds through the study of the law. Rather, students bring into their respective classes their collective social experiences and attitudes, and they mold these experiences into further attitudes that filter the teacher's instruction. No place illumines this panoply of student attitudes better than the classroom of a minority law professor, and no place demonstrates the severe negative character of that attitude.

For instance, view closely the dynamics of the minority law professor's classroom. A minority law professor recognizes that the invisibility that he or she experiences has a special dimension: a culturally refined invisibility for persons of color.¹²⁴ In addition to the previous list of student perceptions, minority law professors also battle racism and sexism. These attitudes can create rudeness, sometimes subtle and other times blatant, that transcends the rudeness that non-minority law professors experience in their law school classrooms. A minority law professor can get easily relegated to the humiliating status of invisibility, by both minority¹²⁵ and non-minority law students. In short, these students can transport society's notion that people of color do not possess a dignity that the overall society should respect into the classroom.

Moreover, students must cut against the grain of societal attitudes to ignore non-minority law professors. Society does not program law students to react to non-minority law professors as invisible within the classroom, as society programs these students to react to minority law professors. In fact, society programs both minority and non-minority students to view and accept non-minority teachers as highly visible and important social role models. The socialization process of law school centers on developing a professional psyche that mirrors the psyche of this highly visible non-minority law professor. Indeed, the structure of the non-minority law professor's class, which mirrors the hierarchy of both the law school and society, communicates a subtle message for students to identify with this professor. Accordingly, non-minority law professors experience a transient invisibility that has a *de minimus* effect on their professional lives and which has a virtually non-existent effect on the power they exercise within the classroom. These individuals do not discover that society intertwines the transient efforts to ignore them with the complicated web of societal attitudes about their values as human beings.

Likewise, a law student's self interest and the "will to power" can qualify the immurement of invisibility for minority law professors. The social realities of a minority law professor's classroom can jolt students into a vivid recognition of the political possibilities of the special social presences of minority law

124. See R. ELLISON, *INVISIBLE MAN* 7 (1952). Ellison describes this culturally refined invisibility in the following long, haunting statement in the Prologue:

I am an invisible man. No, I am not a spook like those who haunted Edgar Allan Poe; nor am I one of your Hollywood-movie ectoplasm. I am a man of substance, of flesh and bone, fiber and liquids—and I might even be said to possess a mind. I am invisible, understand, simply because people refuse to see me. Like the bodiless heads you see sometimes in circus sideshows, it is as though I have been surrounded by mirrors of hard, distorting glass. When they approach me they see only my surroundings, themselves, or figments of their imagination—indeed, everything and anything except me.

Nor is my invisibility exactly a matter of a bio-chemical accident to my epidermis. That invisibility to which I refer occurs because of a peculiar disposition of the eyes of those with whom I come in contact. A matter of the construction of their inner eyes, those eyes with which they look through their physical eyes upon reality.

125. See Moore, *Pain and Courage*, 97 HARV. L. REV. 1253, 1264 (1984) (A Black student describes the experiences of the late Professor Ferguson).

professors. They can invert the normal hierarchy of the law school authority within the minority law professor's classroom; they can convert a cultural vulnerability into usurpation of the professorship. Accordingly, the students can alternately ignore, recognize, and relegate to inconsequentiality the minority law professor, while at the same time making this classroom a power base from which to challenge other power centers within the law school.

Further, minority law professors can experience the immurement of invisibility for another reason. The notion of affirmative action¹²⁶ and the law school subculture has transformed this exogenous denomination into a pejorative shorthand for subpar and second-rate production.¹²⁷ Despite the fact that individual law professors brought in under affirmative action enrich the law school environment in innumerable ways, which easily justifies special efforts to break the hegemony of the non-minority male within the faculty, a student can transform the appellation into a dreaded status worthy of invisibility. In short, the larger society provides still another basis for discounting the presences of minority law professors within the classroom. The student, particularly the non-minority law student, thus can view this professor as merely an exogenous palliative to placate the liberals, the federal government, and ABA accreditation guidelines.

Also, minority law professors experience the immurement of invisibility because of the teaching profession's dichotomy of law schools. The profession bifurcates schools into either the "national, elite schools," or the "non-elite schools." Importantly, students at non-elite schools often view themselves as purchasing a professional degree, in contrast to advancing their liberal arts education. These students often perceive their teachers (quite contrary to how these teachers perceive themselves within this environment) as irrelevant to the students' purchase of the professional degree on the installment plan. Rather they often perceive these teachers as average instructors¹²⁸ who merely impart the knowledge and skills necessary to pass the bar examination and to function as attorneys. Accordingly, students here perceive minority law professors as invisible just as one views a robot as invisible on the manufacturing assembly-line: engaging in low-level, drone-like and unobtrusive tasks. In these situations, this robotization intensifies the culturally derived invisibility which both the students and some non-minority colleagues find inevitable. Minority law professors seem to simply live up to the perception of limited human potential and human worth that society has mandated for them and has memorialized in wonderfully devious instruments such as IQ tests. Hence, the students can view these minority law professors here as being where they deserve to be, within a cultural prison of classification, irrespective of their efforts to enrich the law school and to educate these very students.

While focusing on the occasion and consequence of invisibility helps converge the impressions, recollections and observations of minority law professors about their social existences, one can not dismiss the consequences of efforts to escape or revolt from this immurement, of invisibility. In fact, ef-

126. This Article does not attempt to explain the term. *But see* Brooks, *Affirmative Action in Law Teaching*, 14 COLUM. HUM. RTS. L. REV. 15 (1982); *see also*, Parker, *Ideas Affirmative Action and the Ideal University*, 10 NOVA L.J. 761 (1986).

127. *See infra* note 140.

128. *See* Wade, *supra* note 69, at 753.

forts to escape sharpen the cultural and racial disjunction of the minority law professor's classroom. For example, students can interpret efforts to escape an immurement as aggressive behavior toward them; but for the minority law professor this is assertive behavior that seeks to define a sense of personhood, rather than manifest the acceptance of the culturally imposed definition. Students may view this assertive behavior as a "direct verbal or non-verbal expression which has the intent of putting them down."¹²⁹ What the minority law professor views as the concerted effort to destroy the old survival approaches of acceding to the dehumanizing of the oppressor, the students can view as harmful to their well-being. Whereas the minority law professor may not feel comfortable with the old survival techniques, particularly the use of passive behavior¹³⁰ and the attendant value system,¹³¹ the society has taught the student to accept this behavior as socially mandated.

Similarly, students can interpret the effort to express a personhood through beads, braids, or some other demonstrably ethnic, cultural, or racial identification, or even the effort to connect up with the ethnic, cultural or racial heritage, as aggression. In its essence, this conduct may simply manifest the cultural identity and diversity that society has denied. But within the classroom, this conduct unearths the submerged prejudices that the majority may have for those who deviate from their cultural straitjacket. Moreover, history teaches that societies single out as cultural scapegoats those personalities and behaviors it deems as unusual. Indeed, the society may even use the differences and anomalies as proof for setting these individuals apart from others. In sum, the assertiveness of a minority law professor can become caught up both in the legacy of oppression and in the value-making process, with the end result that what the professor does, gets perceived and labelled as a deviation from the law school norm.

Moreover, assertiveness can take on a special edge when one examines the dynamics of the law school classroom. Law students astutely perceive opportunities to invert the normal hierarchy of the faculty, the administration, and the students.¹³² Added to this "will to power" is the fact that American society has already educated students to believe that they can discount the person of color in positions of power. Consequently, students may conclude that a minority law professor's classroom represents a real opportunity to aggressively grab power within the law school environment. Students probably do

129. See D. CHEEK, *ASSERTIVE BLACK . . . PUZZLES WHITE* 18 (1976).

130. *Id.* at 16-17. Cheek makes his point with the following:

This form of passive behavior has been a traditional masks for hostility, anger and aggression. For many blacks, such behavior defined as passive by white standards. The non-verbal communication contained in one's cutting eyes, sucking one's teeth, looking away from the speaker or silently staring at the speaker just begin to touch on the mannerisms and silent ways an oppressed people can express their contempt in terms of in-group language. *Id.*

131. *Id.* at 34-35.

132. Cf. Stone, *supra* note 5, at 411-13, (Stone describes the roots of the student requests for educational reform, the conscious wish to share power, and the diminution of the professor's traditional unlimited authority over students; and Stone describes the nature of endogenous group hostility within student classes). See also Watson, *supra* note 69, at 102-03 (Watson describes the tendency toward aggression within law students). The combination of individual and group dynamics facilitate the movement toward sharing if not usurping power in the class. When one introduces the dimension of discrete student efforts to engage in politics within the school, one can note the deliberate efforts to invert the existing power arrangements.

not always consciously view themselves as an organized power group able to assume control from the moment they enter the minority law professor's classroom. At first, students may individually sense a growing desire to claim power. As time passes, these individuals may start sharing aspirations and common goals, which can be nurtured by a particular vocal student or group of students, or by some given event that serves as a rallying point for the disaffected. When the minority law professor asserts herself or himself, especially if the minority law professor reacts to nip the budding power "play" or if she or he reacts to the galvanizing event, these students can quickly perceive this behavior as aggression toward them. Frustration at the lost opportunity to invert the power structure and to control the class can turn into quite ugly and blatantly aggressive behavior toward the minority professor. Accordingly, as Patterson predicts, the students sense freedom through oppression: they begin to appreciate their freedom and power through the attempted subjugation of the minority law professor.

On top of this budding insurrection, which can easily spill over into the faculty governance sphere and the faculty-administrative interaction, the minority law professor discovers the consequence of a dreaded law school reputation: the belief that he or she disrespects students. This reputation then begins to develop a life of its own. The minority law professor's subsequent conduct within the classroom then becomes flavored by the reputation. Students may come to the professor's class anticipating aggressive behavior, which means that all future conduct gets put under close scrutiny. A minority law professor can find that the snowballing effect of the reputation serves as an obstacle in her or his class.

Compounding this difficulty, minority law professors must factor in the consequence of assertiveness on tenure, course selection, and advancement within the school. Neither the faculty nor the administration ignores what the students say or do, notwithstanding protestations to the contrary. There are economic and personal motives for the awareness of student reactions. This sensitivity to students becomes particularly evident in the case of minority law professors. Students can observe the greater willingness of the faculty and the administration to feed into the students reaction to the professor's assertiveness. The faculty and administration can easily interpret the student reactions as an indication of the professor's inability to command a class or to get along with people. In the parlance of the profession, they may claim that the minority law professor who discovers herself or himself in this position cannot "control a class" and lacks "collegiality." Hence, the minority law professor's command of the subject matter and even scholarship becomes clouded, unless the professor is the reigning expert or authority in the subject; if so, the faculty and administrators begrudgingly ignore the lack of acceptability and sociability.

The minority law professor's mere presence in the class, not to mention both the verbal and nonverbal communications,¹³³ take on a greater complexity than that experienced by non-minority counterparts. Moreover, the non-minority law professor does not encounter the same complex dilemmas when

133. See M. KNAPP, NON-VERBAL COMMUNICATION IN HUMAN INTERACTION 33 (1978). Knapp gives particular attention to the classroom, citing a list of "classroom nonverbal cues, ranging from the student and teacher to the physical lay-out of the classroom." *Id.*

he or she attempts to escape the immurement of invisibility. While students may simply ignore the efforts of the non-minority law professor, or they may become amused at these efforts to break out of the prison of classification, these same students may become quite angry, and even hostile, toward the efforts of the minority law professor to escape this prison. Ironically, the efforts of a minority law professor who attempts to express personhood can seriously threaten what students perception of a developing normal equilibrium of the classroom. This perception merely reflects the normal equilibrium of the social hegemony, in ways that the conduct of non-minority colleagues cannot do.

Since we are constructing a picture of minority law professors' interactions with law students, we should give serious consideration to Toni Pickard's *Experience as Teacher: Discovering the Politics of Law Teaching*.¹³⁴ While Pickard's Article does not specifically address the social relations of minority law professors, it does collect the impressions, recollections, and observations that bear on the position of minority law professors. Pickard's rich insights present a helpful orienting point for examining the dynamics of classroom encounters of minority law professors, particularly the dynamics of minority law professors' interactions with students.

Pickard notes that lawyers have a real impact on the establishment and perpetuation of hierarchies within society. Law professors actually are the handmaidens of this movement toward dominance. They help shape authoritarian lawyers through the creation and nurturing of curricula that reinforce, intensify, and validate hierarchical thinking. Law professors socialize law students into believing that the law school models of hierarchy constitute the legitimate rites of passage into the hierarchical structure of society.¹³⁵

Even if this observation validly describes the American law school classroom, this observation itself does not adequately address the different dynamics of the classroom of minority law professors, nor does it not begin to intimate the different trajectory that the classroom can take under the guidance of minority law professors. Minority law professors can experience a definite tension and frustration in their roles of developing both the hierarchy and hierarchical thinking. Ironically, they can prepare a student to create, participate, and perpetuate hierarchical structures and hierarchical thinking that is not of the professor's making. In a sense, minority law professors can train a future nemesis; they can simultaneously form the Chrysalises and provide nourishment on the road to its socially preordained position in the upper levels of the hierarchy.

In other words, minority law professors have a vested interest and an important role in derailing the traditional hierarchical construction train which one cannot claim for the bulk of the law faculty. In fact, the very presence of minority law professors, if not their efforts to work against the grain of the existing hierarchy, challenges the "rightness of power allocations" of society. Minority law professors fracture the students' concentration within the traditional hierarchical thinking by their historical and immediate presences and their efforts to challenge the "shared assumptions" of society's power

134. Pickard, *Experience as Teacher: Discovering the Politics of Law Teaching*, 33 U. TORONTO L.J. 279 (1983).

135. *Id.* at 283.

structure. They signal to the law student, especially disaffected and socially alienated students, that traditional hierarchy and hierarchical thinking deserves challenge. Minority law professors symbolize a major social myth about the accepted social hierarchy and about hierarchical thinking returning to haunt law students, even as these students may reject or try to relegate these persons to invisibility.

The power dimension of the legal classroom, the teacher dominance and student subordination, does communicate a message about hierarchies and hierarchical thinking. But minority law professors can communicate a greater sensitivity to humanity within this relationship than other faculty persons, and minority law professors can humanize the lawyer/client relationship by making the law student sensitive to the hierarchical thinking that undermines the role of a truly "helping person." Thus, minority law professors have no inexorable consanguinity with the preparation of authoritarian lawyers. Instead, they have the great potential for communicating the contrary of traditional hierarchical thinking. While human functioning makes hierarchies socially necessary, minority faculty can stimulate students to infuse the hierarchy with humanity and sensitivity for the needs of a client or constituency. In sum, the presence of minority law professors, and especially their actions, undermine hierarchical thinking, notwithstanding counter efforts to relegate them to some form of invisibility. This countercurrent simply underscores the value of their presences in the law school environment and the hardships that they must encounter. Fanon illustrates this with his point when he discusses the perils for persons of color to humanize a hostile world.

Pickard also notes that a law professor does have a potential for abuse of power within the law school hierarchy. Law professors have a special opportunity to play out their personal vulnerabilities and social whims within the hierarchy of the classroom.¹³⁶ In fact, law professors can potentially injure students through their positions of dominance. When the abuse occurs or even the potential for abuse, the student is helpless and injects an unhealthy element into the educational experience. Further, this abuse instructs students that society will accept and even reward infusing the dominant role with exploitation and meanness.

Though the potential for abuse exists, one may note that the dialectical tension that arises between law professors and law students becomes infused with different energy and takes a different direction when the professor is a member of a minority group. Society teaches law students, even minority law students, to invert the power relationships with minority persons in power positions. The student learns to feel quite at ease challenging the authority of minority law professors, which seems quite heretical when applied to non-minority law professors, unless one factors in the dimension of gender. Consequently, minority law professors often experience difficulty in asserting the authority normally accorded non-minority law professors before they can even consider abusing their power. In sum, minority law professors can discover that they have more concern for a "power deficiency" syndrome, than they have for the anxiety about abusing power.

Moreover, minority law professors can experience a dynamic in their

136. *Id.* at 281.

classes that only a small number of the non-minority law professors experience. A sense of alienation among the students can precede the fear over the abuse of power. Non-minority law students can suspect, some even indelicately verbalizing this fact, that minority law professors will use the opportunity of power to "wreak vengeance" on all non-minorities for past societal injuries to minorities. Students react with hostility from the first class session because of this sometimes overwhelming sense of guilt and fear of vengeance. This fear serves as justification for the ferocious efforts to disempower minority law professors within the classroom, in comparison to the authorized norm that non-minority law professors possess in similar classes.

In turn, students easily translate minority law professors' conduct into the dreaded abuse. They interpret the same conduct that a non-minority law professor exhibits as outside tolerable limits if the minority law professor acts that way. Rather than become accomplices to their own abuse,¹³⁷ law students can actually minority abuse law professors. Thus, law students can evolve a "morality of oppression" of minority law professors that they eventually internalize in their own canons of professional conduct.

Further, this behavior is part of a group dynamic that students and professors do not always appreciate. The group may turn this hostility on the group leader or on some other source. Through socialization, students feel comfortable turning this hostility onto minority law professors. Indeed, this "free floating hostility" feeds into the culturally derived and individually developed hostility to form a complex of hostilities beneath the surface of the class which often bubbles to the surface of the class. This wellspring feeds the abuse of students, even as students imagine that they suffer unmercifully at the hands of minority law professors.

Pickard further notes that law school is the key to certification on the road to entering the profession. Consequently, law students are sensitive to the necessity of obtaining this certification from the law school. In effect, this sensitivity arises out of students' recognition that they must ransom themselves out of law school by accepting the faculty's ideas.¹³⁸ Only through aping the professor's views (or at least dissembling this action) will students ensure themselves success in completing this important professional rite of passage.

While this view may validly explain some students' experiences and reactions, it does not sufficiently illumine the classroom dynamics of minority law professors. It does not explain a students' subtle and naked refusal to bend their thinking to the certification process in minority law professors' classes. Some students struggle continuously to avoid succumbing to the naked power of minority law professors. Here one can observe the amazing power of racism. The great drive to invert the classroom hierarchy and hostility to professors, strips away the veneer of power to influence certification. Further, the "illusion of power" to bend students' minds to certain views becomes even more evident when minority law professors are academically demanding and give low grades.

In essence, some law students, even minority law students, rebel from ransoming their professional futures at the price of adopting the views of mi-

137. *Id.* at 279.

138. *Id.* at 284.

minority law professors. Some non-minority students particularly rebel by fleeing to the notion that the law school hierarchy symbolizes their hierarchy, as a mirror reflection of the wider societal hierarchy, even as minority law professors fracture their concentration in this thinking. The consanguinity to the wider social hegemony, even as non-minority law students rebel to overturn the local hegemony of a minority law professor's class, overrides any pressure to adopt minority law professors' views.

Moreover, if one examines this "illusion of power" closely, one can unmask a struggle for genuine power and influence. Sometimes students will become anxious because they perceive that minority law professors can genuinely influence them with approaches and ideas that command their attention from a position of moral dominance. These students may fear that minority law professors will directly influence some persons and leave lasting influence on many other persons with moral presences and humanitarian ideas that override and predominate over the alternative views. In sum, the students may fear that these will reconstitute their psyches and societal language.

Finally, Pickard notes that law schools become captives of the "ideology of expertise,"¹³⁹ since they actually dispense professional proficiency. The curriculum's very structural nature and the educational approaches demonstrate that law schools perpetuate hierarchical thinking in law students. The law school guarantees that it will subjugate and control law students by the approaches and treatment that the "ideology of expertise" fosters. Law professors indulge in a "neutrality illusion," and they discourage probative value examinations of the law. Students become swept up in this ideology that empowers them and narcotizes their minds. Law professors simply dazzle the students with expertise, which, of course, the students lack.

Yet, this description does not adequately interpret the law school reality of many minority law professors. Minority law professors often have serious difficulty reaching the safe harbor of "expert" in a given area. Some students may view minority law professors as knowledgeable in the sense of simply communicating a quantum of knowledge and some notion of skills, but they do not always perceive them as being able to come under the umbrella of the "expert." Minority law professors can face a very skeptical audience that begrudgingly, if, at all, acknowledges that the professor has a greater knowledge in the subject area, though, not classified as "true expertise." In fact, minority law professors experience, as symbolic of this disinclination to bestow on them the "crown of expertise," the following: a disproportionate number of challenges to their selection of course materials; a disproportionate number of challenges to the course treatment of the materials; an absence of charity and forgiveness for the inevitable professional errors and misstatements; a constant stream of virulent challenges to the grades given in the course, and the incessant "arm-chair" critiques about the teaching style.

Further, the bifurcation of law schools into the national, elite "scholastic centers" and the non-elite, "professional schools" does a great deal to foster the focus on the dispensing of expertise. The "scholastic centers" herald their national scope of analysis. These schools undertake extended examinations of social, philosophical, and moral dimensions of problems. They eschew the

139. *Id.* at 285-87.

urge toward "instant practicality." Whereas, the "professional schools," at least most of the students and some significant portion of the faculty and administration, may view themselves as directly transmitting the "nuts and bolts" of legal expertise, with a focus on various lawyering subskills, such as negotiating, litigating, and document drafting. Indeed, the bulk of students in these schools tend to believe that they "pay for their expertise and its attendant license to practice on the installment plan." They want that expertise and license with the least amount of detours into extraneous subjects such as value assessments of the law. These students pay for professor to tell (or give) them "what the law is" and, in turn, they simply transmit this information on to the bar examiners. These students may actually dread the prospect of reconstituting their psyches and societal language that results from those voyages into value assessments, especially if the end product causes the student to deviate from the perceived normalized professional path.

Moreover, categorizing law schools affects the classroom of minority law professors in two ways. First, minority law professors who have received their legal education in "scholastic centers" can experience passive resistance, if not outright hostility, to transference of the attitudes and the approaches of that educational experience into the other school environment. If one recalls the willingness of the students to indulge in the "presumption of incompetence,"¹⁴⁰ minority law professors may discover that the manifest anti-intellectualism in the "professional school" poses a stiff headwind. Further, some of the students here may simply interpret the transference of the legal educational approaches from the first type of institution as arrogance or as putting on airs.

Second, the dichotomy can affect the creation of a deep anxiety and guilt within minority law professors. The "professional schools" place an immense pressure on faculty to conform. Adoption of the ethos of these communities relieves some of the student hostility for minority law professors, and affords relief from the burdens and time drain of developing a course beyond preparing for the direct transmission of information. In fact, this latter freedom becomes invaluable for accomplishing other professional activities. It offers the time necessary to complete the requisite legal scholarship that can become an important demand of a faculty and administration who become swayed by the "publish or perish" ethic, while the actual focus of the school operations and student expectations center on the direct transmission of information to students. Yet, many minority law professors at these "professional schools" recognize what Fanon means by reference to the "institutional distribution of racial guilt." They cannot easily shed the attribution of that guilt in their roles as law professors. These robotized environments can make minority law professors acutely aware of the need to mentally and academically disassociate

140. Bell, *Application of the "Tipping Point" Principle to Law Faculty Hiring Policies*, 10 *NOVA L.J.* 319, 320 (1986):

[Y]ou cannot get away from the fact that there is a presumption that a minority is incompetent. The minute you walk into a classroom the question is asked, "Why are you there?" The reason you are in a law school is because of an affirmative action program. An affirmative action program has been defined as "lowering the standards to allow us in." Therefore, you have a burden and you cannot get away from it (quoting from the statement of a Black law professor in the Report of the conference of Minority Administrators and Law Teachers, Northwestern University School of Law (1976)).

themselves from a legal system that has historically and that continually dehumanizes them and their people. These professors in their very cores, understand the collective guilt for the injuries, and they often feel an instinctive drive to play a role that ameliorates the suffering. Further, they can see the present reminder of the collective guilt in the presence of minority law students, who often experience high attrition rates and severe adjustment problems, and in the occasional presence of a high percentage of minorities within the client population of the clinical programs. Cognizant minority law professors cannot easily conform to the ethos at this type of school, although pressures militate in favor of conformity. Moreover, the particular anxiety and guilt in this school setting can become intensified as minority law professors face the ambivalence of feeling wedded to civil rights courses, when their real professional interests may lie elsewhere. Conversely, their anxieties may become intensified at the ambivalence of teaching other courses, while their sympathies lie with the civil rights courses, because they may feel that they can use their expertise to "map out strategies for change."

Thus, one can observe that minority law professors do not easily cause the narcotized "illusion of neutrality" and a discouragement of value assessments that disempowers law students, and one can also observe the significant disempowerment that besets and exacts a cost upon minority law professors in the professional schools. Given "the presumption of incompetence" that besets minority faculty, the attendant ideological ethos and ethics that discourage deviations from the traditional hierarchical educational approaches, and given the anxiety complex and guilt that besets minority faculty in "professional schools," minority faculty must pay a high psychic price to bring inspiration, drive, freshness, illumination, and a balanced mind to the educational process within these law schools. In fact, student interactions with minority faculty to overcome Pickard's "ideology of expertise" in these "professional schools" can cause a significant mental drain on these professors.

B. *Interactions With Minority Law Students*

In order to complete the picture of a minority law professor's interactions, this Article gives careful attention to a minority law professor's interactions with minority law students. These encounters, both inside and outside of the formal classroom setting, have a significant bearing on the character of the teaching challenge that minority law professors face.

Law students of color bring a fascinating consciousnesses to law school. Since these law students come from varying socio-economic strata, with a wide range of formative experiences, they naturally bring a variety of ideas, attitudes, and sensitivities to the law school environment. A brief investigation of the blend of consciousnesses that this colorful student tapestry brings to the law school environment before examining their interactions with minority law professors is appropriate.

One often encounters the "student activist" rightly described in depth elsewhere in the legal literature.¹⁴¹ This student brings a high level of social and political awareness of contemporary issues. Also, he or she has a sustained commitment to social action. This combination causes the student to

141. Stone, *supra* note 5, at 395.

use the law school as preparation for social change. The "socially and politically alienated" student is one whose dulled sensibilities leave little room for concern beyond the immediate focus of getting through law school, for personal or economic reasons. A third type of student is the classic "middle class" student whose naive sentiments rest with the non-minority law students, since this student aspires to the same lifestyle values. One may also encounter the classic "ghetto or barrio survivor" who, like the fabled cat with nine lives, always manages to master a socially beneficial survival technique that helps him or her succeed. This student may frequently possess an especially weak academic background for reasons not of his or her making. This type of student is the classic "underachiever" who seems to rise to the challenge time and again. A variation of the fourth profile is the classic "highly self-centered" student. This student often exhibits far more manipulation and exploitation than the "ghetto survivor," and he or she can exhibit more destructiveness than one observes in the quietly performing alienated student. This category includes the student who seeks to persuade others to do his or her work and the power driven politician who seeks to shape the law school environment according to his or her ideology. One lastly encounters the "quiet intellectual" student whose background and profile prepared him or her to perform at the upper levels of law school. This student likes the intellectual challenge of law school which, in fact, may have encouraged him or her to enroll in law school, although the destabilizing emotional experience of the first year, not the intellectual rigors, can shake his or her confidence.

Though these students are diverse, they do share common features. An examination of their statements and behavior will uncover several commonly held attitudes. They all doubt their ability to succeed, while all humans experience self-doubt at various moments in their lives, this native variety of self-doubt particularly debilitates. Minority students carry with them a race and class derived doubt that flows into the normal self-doubt that all humans experience, and it doubly saddles them in an environment that feeds and nurtures their debility. Also very common among minority students is an attitude of false confidence and an inflated sense of capabilities. This often coexists with the first attitude within the same individual. The students may vacillate back and forth between self-doubt and false confidence. Further, one will observe the very common presumption that the student of color will have extreme difficulty passing the bar examination. Likewise, many minority students believe that law professors can easily find their examination number and flunk that student. Indeed, these students believe that this professorial bias explains the high attrition rate. Another common attitude is that the student of color will encounter difficulty in obtaining employment during and after completing law school. Finally very common is the view that minority student organizations serve little meaningful purpose except for those who have political ambitions. This view often accompanies the attitude that minority students can ill afford to devote time to any project beyond getting through law school.

These personalities and attitudes can affect the minority law professors' teaching in a variety of ways. First, minority law professors must expend significant energies breaking through (often unsuccessfully) the combined self-doubt and false consciousness of many of these students. This harsh social drama frequently relegates these professors to watching as this combined con-

sciousness daily undermine the discipline, depth of thinking, and the conceptual facility of these students. Naturally, these experiences diminish the limited mental resources of minority law professors as they prepare themselves for guiding classes.

Furthermore, minority faculty can experience a large energy drain in grappling with the traumas that arise in many of these students. Minority professors experience these drains in observing the trauma induced "survival fixation" in many of these students. The students become simply absorbed and overwhelmed with the constant struggle to survive within the inhospitable environments of law schools. These students cannot comfortably venture into extracurricular activities that will enrich their educations because of this "survival fixation." Minority law professors can experience frustration in observing these students run from professor to professor—sometimes in very demeaning manners—futilely seeking assistance to survive the present or next semester. Minority law professors can experience deep energy drains in simply imparting kind words, encouragement, and counsel to such persons. Moreover, minority law professors can experience deep energy drains helping these students develop and implement their academic survival strategies, which aid runs the range from counseling to one-on-one and group tutorials. Naturally, all of these energy activities take away from the time necessary to prepare and guide their classrooms.

Minority law professors experience serious anxieties and frustrations after other encounters with some of these students. Professors often discover that they cannot consistently boost the confidence, nor can they truly aide some of the more sensitive of these students, as these students work through their own frustration at their powerlessness in implementing strategies for social change, both within and outside of the law school. Neither kind words nor helpful suggestions about strategies can counteract the diminished confidence caused by the trauma of legal education.

Moreover, the divided consciousness of the students and a host of student social problems often come knocking on the office door of the minority faculty at inopportune moments. For the most part, these problems find their way to minority law professors' office doors as they prepare for class, or moments before the professor steps into the classroom. Students often expect to find a trouble-shooter, mediator, advocate, counselor, parent, and friend, all while minority law professors gather their thoughts for the onslaught of an especially slippery topic in their specialties. Hence, minority professors can become drained and mentally fragmented at a time when they greatly need concentration and mental unity.

Students can converge on minority professors' consciousnesses in another particularly unsettling manner. These professors can observe these students alternately identifying and rejecting the professors as role models. At times, the students see the minority professor as the achievable goal in the law, being an inspiration to complete law school. At other times, they shatter themselves with the mythology that law professors operate on academic and intellectual planes to which they can never aspire. This latter attitude occasionally results in the students rejecting counsel even as they seek it out, because they cannot imagine that the teachers have had similar experiences. For minority law professors, these moments can create overwhelming frustration and a sense of

futility in working with students. Minority law professors can leave these encounters with a profound sense of professional failure; they have not helped guide those students most in need of guidance. In turn, minority law professors can carry (or must work hard at not carrying) this sense of failure into the classrooms. Now they begin to question their relevancy within the law school.

Further, the "highly self-centered" student can particularly scar minority law professors. This exploitive student takes to heart the notion of service implicit in the role of professor. Not only can this student exhaust professors with countless legitimate demands and outlandish requests, but this person can manipulate minority professors' social vulnerabilities in the student's interactions with other faculty and administrators. In sum, this type of student brings "high anxiety" to minority professors' classrooms in countless ways.

Also, the "quiet intellectual" student needs frequent words of encouragement and frequent opportunities, particularly after and between classes, to demonstrate that he or she can really perform at high levels. While this type of student can engage the professor in numerous penetrating and stimulating class discussions about various points of law, this student needs steady reassurance of his or her capability to offset the erosion of confidence that the law school, other minority students, and non-minority student can cause. In fact, minority professors may seek opportunities to extend this class interaction into structured mentor/student projects or informal tutorials.

The remaining subgroupings of students have their own dimensions that they introduce to minority law professors' classrooms. The "student activist" will quite frequently inquire about the relevancy of the class materials and discussions relative to his or her social agenda. This student sometimes directs class discussions toward his or her social concerns. On the other hand, the "alienated" student and the "middle class" student will often remain silent in class, trying to achieve their own "invisibility." The haunting and empty stares and the sometimes bewildered look of the alienated and middle class students can invade the consciousness of minority professors as they direct the class. These people tend to maintain their distances in and outside the class until economic or social reasons dictate that they approach the professors, at which time these students bring impoverished interactions. Finally, the "ghetto or barrio survivor" can often bring a mixture of joy, amusement, and pain to the professor's class interactions. The joy arises from seeing the genuine and earnest struggles to master the materials of the course and from seeing what this person portends for a professional life. This student has the potential for making some of the greatest strides both within the class and later within professional life. In addition, this type of student can exhibit a humanity and sensitivity to others that few students demonstrate. The amusement comes through the abiding sense of humor that so often remains visible. This student often exhibits the skill of laughing at oneself and one's surroundings which he or she may occasionally use to introduce levity into the class. The sharp pain comes from observing this student's anxiety and frustration at meeting the academic demands. In fact, minority law professors can experience anxiety wondering whether this student will become an academic casualty.

Clearly, the introduction of the individual minority student and the complex of students pose serious challenges for the minority law professors' teach-

ing. Both the introduction of the individual student and the complex of students dramatizes the inability of minority professors to live in the myth of the "monolithic classroom." These students compel minority law professors to put the modern-day "assembly line" legal educational model to flight. Their introduction compels legal education to return to its tutorial well-springs. In essence, minority law professors can only assist and inspire this complex of students with any high degree of effectiveness if they interact within the tutorial model of student/teacher interaction. Minority faculty must give the student individual attention to help him or her handle, the psychology and dynamics of the classroom, the substance of the courses, the skill of law study, the art of taking examinations, the art of translating the classroom performance into a job placement, and the skill of translating legal training into conduct for social change.

Moreover, the teaching demands on minority students dramatizes and intensifies the conscious and unconscious struggles of minority professors to make themselves occasionally inaccessible for academic and professional purposes.¹⁴² The demand of tenure, scholarship, law school governance, and extracurricular professional activities often put extreme pressures on minority professors to occasionally avoid these students. Yet, to adopt the aloof, distracted, harried, and unapproachable demeanor, which the bulk of professors occasionally do, minority professors must reject the personal and professional responsibilities that their unique professional presences create within the law school environment. In fact, the failure to accomplish the goals in the aforementioned areas could mean personal and professional suicide. Accordingly, minority law professors can experience vacillation back and forth between attachment and detachment.¹⁴³ They have to learn how to give of themselves to students without giving all of themselves, all of the time; they can interact with students without a sense of total engagement during their course period; and they can guide students with a sense of a Moses or a Sojourner who must occasionally steal away to address other demands, while leaving the students to guide themselves based on previous direction.

C. *Consequences of All Law Student Interactions*

Based on the above, one can safely conclude that minority law professors' law school interactions with all law students entail an assumption of a significant amount of stress and even trauma.¹⁴⁴ Minority law professors can

142. *Id.* at 404.

143. *Cf.* Smith, *Edward V. Sparer*, 132 U. PA. L. REV. 430 (1984). Smith notes the following in his memoriam for Sparer:

He seemed to understand intuitively why I had learned to maintain distance and detachment, to interact without engaging, to participate without committing, in short, to operate from behind a wall—one that is simultaneously transparent and opaque, synthetic yet authentic. He had observed first hand how time after time that wall proved invaluable shielding from hypocrisy and treachery.

Id. at 431.

144. *Cf.* Smith, *supra* note 143, at 431. Smith makes the following point:

Ed never asked that I unlearn the lessons taught by a society that seems hostile to all not male and pale. Simply by being himself he taught me an additional lesson—perhaps the most important one of all. From others I had learned the value of the wall. Ed Sparer taught me the cost—the cost in friendships forgone, opportunities lost, and ultimately, humanity diminished. Because of Ed I learned to see the wall for what it is—necessary but evil.

encounter interactions with some of the hallmarks of combat fatigue. They may not experience the trauma of a Vietnam, but the experiences, indicate that these professors can engage in a major struggle to achieve a mental equilibrium and professional effectiveness, given the forces that often descend upon them. Their classrooms can sometimes truly become a battleground for a variety of social forces, some of them simply manipulating the professor and practicing on him or her for what the students view as the even larger battles outside of the classroom. Even those minority law professors who have not attained the consciousness of Camus' Sisyphus, experience some degree of tension and stress from these struggles. The impressions communicated here should leave little doubt about the commonality of existence of minority law professors, irrespective of the level of consciousness. In sum, each and every minority law professor symbolizes Sisyphus at some level of awareness, having a stressful bondage to the "mountain" called legal education.

Nonetheless, this Article has merely explored only a few of the consequences¹⁴⁵ of these student interactions. This Article has merely collected impressions of those who have shared their experiences. As with all impressions, the reader must accept the risks of incompleteness and imprecision. Yet, these recollections and impressions, supported by the ideas of Camus, Fanon, and Patterson, contain helpful insights. That twilight zone between a scientific social science study of experiences reveals its own rich insights.

D. *Conclusion*

Some students, minority and non-minority, help make minority law professors' travels and travails in conducting law school classes less painful and even rewarding. Minority law professors do discover friends within the student ranks. These professors do encounter several sensitive, kind, and considerate students who reach out: whose humanity impels them to counterreact their less charitable and inconsiderate classmates; who try to educate their classmates in the moral imperatives of an environment based on charity, mutual love and respect; who often serve as liaisons with other class members; who have sad tales of social injury and the sense of being socially victimized; who willingly implore other faculty and administrators to support and protect a besieged minority professor; and who deliberately support the minority faculty within the legal profession and wider political subdivisions.

Indeed, these people supply the sweet that counters some of the bitter from other student interactions. These people renew the faith in humanity and give hope for the future; they rekindle the belief that humans can make teaching a very ennobling profession; and they illustrate what the philosopher meant by the wonderfully insightful concept of "inclusion." These students do extend their own concreteness to live through the common event forged in relation with the minority law professor. Unlike their counterparts, they allow a selection of the world to affect them through the interactions. Moreover, because of them, the minority law professor can experience what Plato

145. *But see* Smith, *supra* note 143. These consequences can help explain the departure of some minority persons from the teaching ranks, some merely to enter administrative positions, and it can help explain why some of minority persons often find that legal scholarship represents a balm to the torn and tattered mind; further, it can help explain the unwillingness of some minorities to enter the teaching profession.

meant in *Gorgias*,¹⁴⁶ that the transcendent educational experience should involve a reconstitution of self, the development of a new language of the self. This conduct represents fine illustrations of the belief that education instructs and encourages the student to make choices and accept accountability for these actions, and that a student must have a sense of social solidarity that embraces and nurtures the accountability of the human choices.

Unfortunately, the positive contribution that these students bring have a limited reach and effect. This contribution is occasionally dwarfed by the overwhelming bitterness of a small but raucous segment of the class and the classic indifference of the remainder of the class. Importantly, this contribution cannot sufficiently deflect minority law professors from the realization of the major challenge that they share with Sisyphus.

VII. INTERACTIONS WITH FACULTY COLLEAGUES AND ADMINISTRATORS

A minority law professor's interactions with other faculty members and administrators, like those with students, can significantly affect the teaching dynamics of minority law professors' classes. Likewise, they have significant consequences for the personal and professional well-beings of these professors.

A. *General Character of Interactions with Non-Minority Colleagues*

One cannot discover much legal literature on minority law professor's interactions with other faculty members and administrators. Once again, this Article must rely on impressions, recollections, and observations of minority law professors. There are five noteworthy sources: *New Members of the Law Teaching Profession in America*,¹⁴⁷ *Affirmative Action in Law Teaching*,¹⁴⁸ *Society of American Law Teachers Statement on Minority Hiring in AALS Law Schools: A Position Paper on the Need for Voluntary Quotas*,¹⁴⁹ *The Civil Rights Chronicles*,¹⁵⁰ and the most recent examination of the profession, *Life After Tenure: Can Minority Law Professors Avoid the Clyde Ferguson Syndrome?*¹⁵¹ All of these examinations chronicle the lamentable relations of minority law professors with non-minority law professors over the last thirty years. In fact, these examinations, especially Professor Bell's unnerving allegorical venture into the future, paint a bleak picture of relations between the two groups. While one can take heart in the progress of relations since the early examination of Professor Harris in 1952, the SALT paper and a recent news article¹⁵² demonstrate the continued alienation and disjunction between minority and non-minority law professors.

Most sharply, these sources highlight that minority law professors have not persuaded, and cannot seem to persuade, their colleagues to increase minority representation on law faculties. Importantly, the failure to persuade makes a powerful point. But why does this failure occur, given the common-

146. White, *supra* note 69.

147. See Harris, *supra* note 2.

148. See Brooks, *supra* note 126.

149. Paper of the Society of American Law Teachers (SALT), January 1984.

150. Bell, *supra* note 26.

151. Brooks, *supra* note 117.

152. Kaplan, *Hard Time for Minority Profs*, NAT'L. L.J. Dec. 10, 1984, at 1, col. 1.

ality of training, interest, and goals? Perhaps the previous materials from Fanon and Patterson shed some light on the question. They help us appreciate why Professors Delgado¹⁵³ and Lawrence¹⁵⁴ probably go to the heart of the answer as to why logic, cumulative individual and collective shame, overwhelming data, and the moral impulsion to reduce alienation and disjunction appear ineffective. Moreover, one can recall Fanon's notion about the "pathology of freedom." Perhaps some people have that overwhelming drive to "fill the world with their presence[s]."¹⁵⁵

This pattern of exclusion indicates the receptivity of the bulk of non-minority law professors to the teaching concerns of minority law professors. Yes, several non-minority professors¹⁵⁶ exhibit unabashed generosity, graciousness, enthusiasm, and advocacy for minority law professors. While these faculty persons point the way to genuine and satisfying educational experiences, giving genuine and deep meaning to the hackneyed term "collegiality," minority law professors cannot discount the extent of the challenge posed by the attitudes of the bulk of their colleagues. Considering the magnitude of the challenge minority faculty face and the overriding pattern of insensitivity, minority law professors can rightly conclude that only small receptivity exists for addressing the teaching challenges that they face.

B. *General Character of Interactions with Minority Colleagues*

The picture of interactions among minority law professors is slightly less bleak. The legacy of oppression has wreaked havoc on these intrapersonal group relations. The subtle and continuing dominance of oppression, which often gets reflected through the externalization of the internalized oppressive ideology and which often is flavored by the American fixation with individualism, and sharpened by the law school induced adversarial ethic, can cause minority law professors to withhold support. On the other hand, the above cited articles and the 1985 Minority Law Professor's at the University of San Francisco symbolize an effort of a significant portion of minority law professors to overturn this legacy. In particular, the Conference represented a concerted effort by minority law professors to present themselves as valued and supportive colleagues who can reject the ideology of oppression.

C. *General Character of Interactions with Administrators*

Administrations often serve as satellites of faculties, consequently minority faculty relations mirror these various faculties. Since administrations reflect the institutional character of the particular law school, their relations mirror the institution's view of minority professors. Deans often represent the most adept legal politicians within the school, reflecting the topology of the "outer-directed" person. A minority law professor's relations with a dean will reflect the political winds and currents of the respective institution. Also administrations can recognize the larger values of legal education and a minority law professor's relations will mirror this consciousness. Since administrations represent the business centers of the law school, relations will mirror the cor-

153. See Delgado, *supra* note 26.

154. See Lawrence, *supra* note 26.

155. See FANON, *supra* note 28.

156. See *e.g.*, Smith, *supra* note 143.

porate relations between managers and minority employees. Since administrations often manifest sensitivity to student pressures, especially during the post-expansionist period of the eighties when the "sovereign student" will exert major influence over law schools, relations will mirror this student influence. Since deans exhibit sensitivity to their images in the annals of the respective institution, relations will mirror the sensitivity to the concern about posterity. Since deans represent the significant personalities among several notable personalities, sometimes resembling the topology of the "inner-directed" person, relations will mirror the individual personalities of the respective deans.

Consequently, the relations of minority law professors with administrators can run the gamut from warm and special to cold and disastrous, sometimes running this range with the same administration and the same dean, and sometimes running this range with the same administration and the same dean during the course of the same year, month, week, or even day. Indeed, the impression of Professor Brooks can in all probability, safely summarize the relations of many minority law professors with law school deans. "Too often, deans give only token support to minority law professors."¹⁵⁷ Hence, while non-minority colleagues can have their relations with the administrations affected by the above and hence can have relations that run a gamut, their relations do not take on the special flavor that the color and ethnicity introduce.

D. *Specific Character of Interactions with Colleagues and Administrators*

A large number of the non-minority colleagues do not, and simply cannot, appreciate the nature of the teaching experiences of minority law professors. Sadly, vestigially narrow attitudes limit their comprehension. This means that these individuals view the existential predicaments of minority law professors from their world views, even refusing to believe that minority law professors can experience greater challenges than themselves. For example, a significant number of these colleagues seriously underestimate the time and the physical drain that minority law professors experience in working with both minority and non-minority law students. Some of these colleagues quickly imagine that minority law professors exaggerate, and they quickly interpret this communication about the demands and the failure to amass an impressive, local or national list of legal publications as proof perfect of a lack of industry, or a lack of intellectual capacity, or both.

Second, non-minority colleagues and administrators often fail to appreciate the very large amount of time and energies that minority law professors must use to educate them on ethnic matters in general, because of the high cost of humanizing a hostile world. For instance, the minority faculty must educate non-minority colleagues and administrators on the major multiple burdens that minority faculty often assume within the law school: counselor to minority law students and their student organizations, coordinator of academic support of minority students, liaison to minority communities, consultant on ethnic matters to the faculty and administration, functionary in the recruitment of minority students for the law school, functionary in other faculty governance matters, effective teacher, productive scholar, and congenial colleague. In addition, minority faculty sometimes must even educate

157. Brooks, *supra* note 117, at 422.

them about the value of those extracurricular contributions to the law school, when challenged to compare them to the value of classroom teaching, scholarship, and public service to non-minority bar associations. Minority faculty must spend time convincing others that these extracurricular contributions represent teaching in its broadest sense and, in fact, correspond to the requirements of faculty tenure codes. Further, minority faculty must educate non-minority colleagues and administrators on the major impact of assuming those multiple burdens on the teaching and scholarship of minority faculty. Finally, minority faculty must occasionally remind their non-minority colleagues and administrators about the inhumane treatment of students, other faculty, and even administrative support staff, since the experiences and the sensitivities of minority faculty often cause them to identify with and to challenge mistreatment of others within the law school community.

Further non-minority colleagues often do not appreciate the destructive potential of student evaluations for minority law professors. Many of the student evaluations in use, at best, may merely reflect racism in America; they often do not serve as genuine guides for improving the class, for making sound personnel decisions, or for students to make sound judgments about classes. Sadly, these colleagues often overlook the extreme difficulty in constructing scientifically sound student evaluations.¹⁵⁸ Moreover, they are used for important professional decisions within a given institution. Instead, administrators and faculty should not give these imprecise instruments such global reach; they should devise other measures to evaluate the classes of minority faculty.

Also, these non-minority colleagues can seriously underestimate minority law professors' general ambivalence toward law school classroom experiences. These experiences do not reinforce or reaffirm a faith in and love of the law. Those interactions can so disaffect and alienate minority professors that they leave the classroom with a disenchantment for trying to persuade colleagues, governmental officials, lawyers, and even law students about a particular view of a given subject. Reading Professor Bell's *Civil Rights Chronicles*¹⁵⁹ or his *An American Fairy Tale: The Income-Related Neutralization of Race Law Precedent*¹⁶⁰ gives one a vivid sense of the dark feelings that can descend upon and overwhelm minority law professors during and after classes. Moreover, these colleagues do not always appreciate that minority law professors resolve this ambivalence through extracurricular professional activities. Some minority law professors occasionally find more redeeming virtue working for a given minority community or working with minority law students than they find in classroom teaching or scholarship.

Likewise, the non-minority colleagues' failure to appreciate how the unfair allocation (and perceived unfair allocation) of resources within the law school can affect school contributions and relations between and among colleagues. Putting aside the elusive and difficult to penetrate subject of compensation, one can focus on the allocation of resources for study, travel, and research. In every law school, administrators follow personal preferences in

158. Roth, *Student Evaluation of Law Teaching*, 17 AKRON L. REV. 4 (1984). Roth, unfortunately, does not emphasize the racial and ethnic dimension of the student evaluations, although he does give emphasis to the gender dimension of the evaluations.

159. Bell, *supra* note 26.

160. Bell, *An American Fairy Tale: The Income-Related Neutralization of Race Law Precedent*, 18 SUFFOLK U.L. REV. 331 (1984).

allocating these resources. Hence, even those minority law professors who feel that they have the peace of mind, tranquility, and motivation to travel and write can encounter problems in always identifying and obtaining school resources compared to non-minority colleagues. Moreover, minority law school professors can encounter difficulty obtaining assistance and support to secure resources outside of law school. In turn, the inability to identify and obtain these resources further fractures an already fractured consciousness of some minority law professors.

Furthermore minority law professors can encounter the willingness of their colleagues to let them literally "dangle-in-the-wind" when they experience conflicts with students. Perhaps minority professors can discover part of the explanation in the attitude that "where-there-is-smoke-there-is-fire." Some of these colleagues may quietly conclude that the student has justification for their reactions to minority faculty, although the students would certainly lose the benefit of the doubt if these same faculty persons experienced the difficulty. Minority professors can observe an occasional tip-off of this position in the response of the colleague that the problem exists "just between you and the students." Moreover, minority law professors can occasionally explain this behavior by the willingness of some colleagues to create an "institutional scapegoat" for student unrest.

In addition, minority law professors can experience the tension between persons of color and faculty on either end of the political spectrum. Because of differing agendas, ego clashes, professional jealousies, and hegemonic and hierarchical thinking, these colleagues can make uncertain and inconsistent allies in addressing teaching dilemmas and conflicts. In fact, these colleagues can make minority professors, students, another faculty and administrators pawns in a broader power struggle. For this reason, minority law professors become sensitive to and even wary of those who may want to use their teaching problems for personal political purposes.

Similarly, minority law professors can encounter, wittingly and unwittingly, misdirection from some colleagues. These persons, oftentimes from the middle segment of the political spectrum on the faculty, seem unwilling or incapable of providing constructive criticism about teaching, and in sharing ideas about teaching philosophies. These individuals may question the classroom decisions of minority professors or treat academic inquiries with "approval-by-silence," or they reply that each individual must find his or her own way in the mystical art of teaching, and then steer the conversation towards sports, music, or some intimate subject. These responses, assuming no maleficence, deny the person of color the type of guidance from colleagues that can aid in discovering the bearings in a given course.

Lastly, minority law professors can encounter ethnic-based professional jealousies from all segments of the faculty, even from other minority colleagues. A vivid treatment of the point appears in Professor Bell's *Civil Rights Chronicles*.¹⁶¹ There he accurately captures the incipience and evolution of the ethnic-based professional jealousy, as it moves from professional cordiality to the naked and constant professional bombardment of all facets of teaching and scholarship.

161. Bell, *supra* note 26 at 52-53.

Yet, Professor Bell leaves more unstated than he states, probably because his focus dictated the outlines of his allegory. Professor Bell does not explore the often collaborative character of this professional jealousy. For example, he only hints at a self-appointed panel of colleagues who review the teaching and scholarship of minority professors for the faculty, with the ostensible purpose of removing the cloud of doubt about the fitness to teach. Moreover, some individuals will vigorously and indefatigably work to influence the administration's judgment, especially as that judgement affects the allocations of resources. In addition, Professor Bell does not explore the insidious manner in which this collaborative professional jealousy can affect the relations of minority law professors with students. Nor does he explore the insidious manner in which this jealousy can affect the relations between the faculty and administrative support staff, nor how the collaborative professional jealousy can manifest itself in the pitting of one minority law professor against another. Finally, Professor Bell does not explore the professional jealousy of one minority law professor directed to another minority faculty, in a "mini type of battle."¹⁶² For instance, implicit in the scenario that Professor Bell portrays in the "Chronicle of the DeVine Gift"¹⁶³ one discovers the seeds of struggle between and among minority law professors, to see who survives the "final cut," or to see whom the faculty must "remove" to make room for the new minority professor.

E. Conclusion

Minority law professors experience both the very best and the very worst of interactions with other faculty and administrators. This should not surprise anyone. Law school reflects America; the deformities of American life do exist within the academic environment of professional schools. Hence, minority law professors, like their minority kin in other areas, experience the evolution of occupational opportunity from blatant exclusion to begrudging inclusion, followed by the subtle and no less harsh forms of discrimination. Yes, the teaching profession's sharp, traditional image of social harmony, that is, the picture of a cohesive community of brilliant, White male "thinkers" and "social engineers" who operate above the fray to immerse themselves in scholarship and instruction, and who occasionally enter the fray to create social change with justice and humanity, has given way to a limited form of social justice. This community has admitted into its ranks, sometimes graciously and positively, and other time less graciously and negatively, a small group of persons of color. This cold, blurred picture of social diversity certainly blots out the picture of idyllic legal camaraderie, moving in harmony toward scholarship, instruction, and social amelioration. In fact, this picture of social justice with its jagged edges sufficiently points to the serious problems in legal education. As one unearths the host of very complicated interactions of minority law professors with other faculty and administrators, one can safely conclude, even without the benefit of a major social science study, that these interactions

162. Jennings, PERCEPTIONS OF A BLACK PROFESSOR ON PREDOMINANTLY WHITE CAMPUSES, Monograph (submitted to the Tenth Annual Conference of the National Alliance of Black School Educators, Memphis, Tennessee, November 18-21, 1982, at 5.)

163. Bell, *supra* note 26 at 39-57.

confront minority law professors with very difficult teaching challenges within American law schools.

VII. MISCELLANY OF STRATEGIES FOR SISYPHEAN PRAXIS

With or without the Sisyphean consciousness, minority law professors face significant teaching challenges within American law schools. Minority law professors have great difficulty traveling to a Sisyphean consciousness and then to an existential teaching philosophy. Yet, the personal and professional well-being of all minority law professors dictates the development of effective strategies to implement an effective existential teaching philosophy. Sisyphus symbolizes more than an abstraction to minority law professors. The complex and painful Sisyphean bondage of legal education demands both consciousness of the dimensions of the challenge and concrete conduct: the pursuit of Sisyphean praxis. To become superior to the fate of the absurd existence, minority law professors must accept, like Camus' Sisyphus, the challenge "to live and create in the midst of the desert." In sum, they must accept the existential option to construct an "architecture of freedom." For this reason, this Article will offer some reflections and concrete recommendations for shaping this consciousness and developing this praxis.

A. *General Information*

*The Quest for Professional Competence: Psychological Aspects of Legal Education*¹⁶⁴ and *Ten Survival Suggestions for Rookie Law Teachers*,¹⁶⁵ should be included with the materials discussed earlier in this Article.¹⁶⁶ Watson's article represents a broad examination of the subjects listed above; while Newell represents a short discussion of various practical approaches to conducting a classroom. While these sources do not specifically address the concerns and consideration discussed in this Article, they provide some direction and food for thought.

B. *Reflections on Personal Action*

First, minority law professors must strive for and attain consciousness of "themselves-for-themselves." They must reflect on their socio-historical character, the nature of legal education, the socio-psychological dynamics of the classroom, and the socio-psychological dynamics of their relations with others within the law school. This cognition outlines the existential predicaments of minority law professors. In turn, this knowledge translates into power, for by comprehending of the character of teaching comes the ability to govern personal actions. Then, minority law professors can fully live out the symbolism of Camus' myth; they can move from consciousness to the commitment to action, then to action itself.

Second, minority law professor must recognize the difficulty America creates for them in moving from the "basic needs of hygiene and safety to the higher needs of belonging, social interaction, and love."¹⁶⁷ Minority law

164. Watson, *supra* note 69.

165. Newell, *Ten Survival Suggestions for Rookie Law Teachers* 33 J. LEGAL EDUC. 693 (1983).

166. See *supra* notes 68-107 and accompanying text.

167. Jennings, *supra* note 162, at 6-8.

professors must appreciate the cost of moving to the top levels of professional and personal creative self-fulfillment. Moreover, minority law professors must recognize the lessons of Fanon. They must risk destruction so that they can illuminate truths. Thus, the difficult law-teaching challenges test the powers to identify a healthy path toward consciousness and to retain it with dignity and nobility.

Third, minority law professors must not lose sight of the necessity of celebrating in the human resolve to succeed against major odds, symbolic of the Sisyphean hero or heroine who discovers dignity and nobility in supreme efforts. They can gather strength from predecessors who rose above the limitations of ethnicity to embrace the best in humanity. John Mercer Langston,¹⁶⁸ a founder of the Howard University Law School, and Charles Hamilton Houston,¹⁶⁹ the driving force in the emergence of Howard University Law School as the preeminent strategy and training center for civil rights activities, represent two examples of legal educators of color who met the challenge.

Fourth, minority law professors must participate in their respective minority community's untiring struggle for dignity and collective gain. Their microscopic participation in this struggle occurs, in some part, in the accomplishments within law school classrooms. Each minority professor must join the broader struggle and allow this connection to empower her or him within the classroom. In sum, each can participate in the nation's larger cultural, social and political struggle through the training of American law students. The Sisyphean task of defining the moral life of law students means that each will play some role in the larger struggle. Moreover, each must recognize that this participation within the larger struggle represents part fulfillment of a human need. As one source has stated, all persons experience "the craving of the human self for a life of inclusion in a community of mutual concern."¹⁷⁰

Fifth, minority law professors must undertake the path of Sisyphean praxis to counteract the "pathology of freedom" in legal education. They must not permit individuals to arrogate to themselves legal education. Moreover, they must not become imprisoned in the classification of "minority" so as to lose sight of its disutility. They must lay claim to the human heritage in legal teaching and accept the personal responsibility for enriching it as part of the collective human drama.

Sixth, minority law professors must recognize that they have a professional responsibility¹⁷¹ to pursue the Sisyphean goal of the transcendent education experience. This professional responsibility springs out of the social necessity of minority persons achieving dignity and social justice. Minority law professors must possess some professional vision that mirrors the human dimensions of these struggles. In turn, their teaching must translate these events into positive human values. They must appreciate that responding to events through identifying human values orients social decisions that the legal system makes, which, in turn, affect the significance of the values in the legal

168. M. Bloomfield, *supra* note 2.

169. G. McNEIL, *supra* note 68.

170. Sturm, *Crisis in the American Republic: The Legal and Political Significance of Martin Luther King's Letter from a Birmingham Jail*, 2 J. L. & RELIGION 309, 319 (1984).

171. See H. NIEBUHR, *supra* note 106. Niebuhr identifies four constituents of "responsibility": response; response based on the interpretation of external focus; accountability; and solidarity. *Id.* at 61-65.

system. By extension, minority law professors help set the social priorities and the relationship of society to all human beings.

Further, minority law professors respond to the social forces according to a social meaning developed around collective existences. The conscious and unconscious in the collective existences of persons of color permeate the social response of minority law professors. Their responses give meaning to interpretation of the Anglo-American legal system.

Moreover, if one assumes minority law professors aid the improvement of the processes of law, by interpreting, articulating, and responding to the social needs of minority communities, then their notions of accountability take on a greater meaning. Minority law professors anticipate the responses of the others (minority and non-minority communities) in a triadic relationship. Hence, law school teaching becomes a means of responding within this triadic relationship. Minority law professors play out their other professional roles in this important interaction.

Finally, minority law professors become responsible when they recognize that what they do involves interacting within the framework of a continuing society. The triadic dialogue implicitly recognizes that the American experience involves on-going interactions between and among various groups. Indeed, minority law professors must communicate through their teaching skills that the very essence of these interactions, and hence of American law, concerns race and racism. For this reason, minority law professors become dialecticians, in both the Socratic and the Hegelian senses, who respond through the triadic dialogue, and who synthesize ideas through the interplay of the thesis and antithesis of Anglo-American oppression and the struggles of the minority communities for dignity and social justice. Consequently, when minority law professors illumine students about this dialectic through the transcendent educational experience, they recognize the social solidarity of the various social forces of which these students represent one important component.

C. *Recommendations for Conducting a Class*

First, minority law professors must devise ways to make destructive "value systems cause those who cherish them some problems."¹⁷² They must put the cost of the destructive behavior too high for the minority and non-minority law students within the classroom. They can make major headway if law school administrators willingly assist in dismantling and discouraging the formation of these destructive value systems which may not materialize in this era of the "sovereign student," whose threat and use of the weapon of economic reprisal can influence administrators to traduce the principle of supporting faculty members.

Second, minority law professors should explore, map out, and contend with the "determinants and coordinates of racism" within the classroom. As others have said, minority professors can "put the isms on the class agenda." By causing the student to consider various "isms" such as racism, sexism and the like, these professors can have a hand in transforming the nature of the normative process in the law, illustrative of Plato's approach in the *Gorgias*.

172. Jennings, *supra* note 162, at 9.

Related to this, minority law professors should bring the injurious and potentially injurious behavior to the conscious level of the class discussions. Since students often have shared collective beliefs and actions that reflect the macro-level ideologies, minority law professors must, as some others have stated, address the cognitive component of the destructive behavior.

Similarly, minority law professors should utilize social science to affect some change in the destructive behavior. Minority law professors will discover helpful exercises for "role playing" and for helping the students "get in touch with their emotions." These sources may particularly interest those who desire to develop classroom exercises. The professor can put the students in positions where they confront their stereotypes (some might use "social schemata" here) about persons and various roles.

Third, minority law professors should utilize autobiographical material within the classroom. They can legitimize the diversity and different patterns of life and thinking within the students education by focusing on the teachers' own different life's experiences. Some colleagues have even suggested the use of dreams and visions.¹⁷³ Aside from giving the class a personal character, minority law professors can use these opportunities to unearth and transform buried stereotypes.

Fourth, minority law professors should utilize humor in the classroom. Humor serves as an excellent method for rechannelling anger, and it offers the opportunity to broach subjects that students can find otherwise too explosive for frontal attacks.

Fifth, minority law professors should select class materials, especially from other disciplines, that manifest humanistic approaches and that promote respect for racial and ethnic diversity. More specifically, minority law professors should construct classroom problems and course examinations to accomplish this. All of these symbolize the larger positive approach of creating a classroom atmosphere that conduces the development of an humanistic ethos and ethic within the law, although in most instances students will simply not comprehend or appreciate the efforts. Further, minority faculty should adopt such simple gestures as listening to students, eliciting student responses to each other, stressing the collaborative nature of legal work rather than the adversarial nature, and evincing empathy for the student role and its variegated anxieties.

Sixth, minority law professors should advocate the use (if at all) of student course evaluations that encourage mature, sensitive, and humane student evaluations,¹⁷⁴ rather than encourage and reward destructive behavior.

Seventh, minority law professors should generally devote more time to teaching than the conventional wisdom advises. They must take the time to adopt pedagogies that legitimize racial and ethnic groups, that actively undermine the traditional hierarchial thinking, and that sensitize and humanize both minority and non-minority law students. They must actively strive to

173. See e.g., Bell, *supra* note 26.

174. Cf. Roth, *supra* note 158 (Roth does not provide any guidance, even though he purports to address how to make an otherwise hard to tailor instrument palatable). Given the difficulty of constructing such a humane instrument, one can rightfully question whether administrators should ever use these instruments for evaluating persons of color.

shape the moral dimension of the classroom, not simply directly transmit information to willing pens.

Eighth, minority law professors must occasionally rely on their intuitions, honed through centuries by the evolution of ethnic group consciousnesses, in identifying enhancements and enrichments for the classroom. Clearly, teaching has an intangible character; it involves taking intellectual and emotional risks. In fact, "inclusion" operates when the teacher opens up, when he or she takes the intellectual and emotional risks of letting another human being into his or her world. No one person can completely map out how to take those risks. Teachers must have a sense of trusting their instincts and intuitions in judging when, where, and with whom they should take those risks.

Finally, minority law professors must occasionally turn to other professors, particularly other minority law professors, to obtain guidance in identifying classroom strategies and methods. If for no other reason than to overcome the legacy of alienation and disconnectedness, minority law professors should develop a "spiritual bank" of counter ideologies and consequent strategies for change.

IX. MISCELLANY OF RECOMMENDATIONS FOR ADMINISTRATIONS AND NON-MINORITY FACULTY

Clearly, non-minority administrators and faculty represent important protagonists in the minority law professors' law school drama. Their actions or inactions play an important role in the personal and professional well-beings of minority law professors. Indeed, non-minority administrators and faculty play vital roles in the simultaneous development and implementation of effective teaching strategies for minority law professors, such as dismantling and extirpating the vestiges of oppression, discouraging the formation of destructive value systems, and the like. In sum, these protagonists play a vital role in shaping the environment in which minority law professors construct an "architecture of freedom" and thus become superior to the fate of the absurd existence.

Consequently, below are some closing reflections and concrete recommendations for these persons to shape this environment. As with the previous discussion of the reflections and recommendations for minority law professors, this discussion represents collected impressions and input.

A. *Administrative Efforts*

1. *Introduction*

Administrators must make the concerns of minority law professors an integral part of the law school environment. They must move from benign neglect and covert racism to active concern; they must consciously work to change the present ethos and ethics of the law school communities. In essence, they must accept the high cost of having the social presence of minority law professors within the law school.

2. *Communications to Law School Community*

An important starting point for the change must come in the communications from the administration to the constituents of the community. Adminis-

trators must lead in the shared reconstitution of the self and language of the constituents, as Plato urges in his *Gorgias*.¹⁷⁵ These leaders must initiate the move away from the language of destruction into a new language of positive value. For example, administrators, consistent with the analyses of minority law professors,¹⁷⁶ can lead the law school into an adoption of the positive value and language for the concept of "affirmative action."¹⁷⁷

3. *Positive Actions for Change*

Administrators can pursue a host of positive actions within the law school environment. They can institute sensitivity programs for faculty, students, and staff. A particularly valuable time to reach student comes in the orientation period of their first year. If the administrators have presently instituted these programs, they can reaffirm the value of them, especially around such important events as Dr. Martin Luther King Jr.'s birthday celebration.¹⁷⁸ Administrators can place the "isms" on the agenda of faculty and staff meetings and on the agenda of student programs. Administrators can create colloquia and lecture series to focus on ethnic legal issues, especially the difficulties of handling racism and sexism within the classroom. Administrators can reward and support diversity within the law school. They can increase Student Bar Association or Law Review budgets for innovative programs on race relations and the like. For example, administrators can seek finances to aid minority law professors to develop teaching techniques to combat racism within the classroom.

B. *Faculty Efforts*

1. *Employment Actions*

Non-minority faculty must undertake the increased representation of minority law professors on the faculties. Others have written about this topic.¹⁷⁹ Nonetheless, much of this writing has focused on the lack of full-time minority law professors. Non-minority faculty often have power and influence in the hiring of adjunct faculty. Indeed, several of the law schools make very heavy use of adjunct faculty to fill curricula spots. Non-minority faculty can use this power and influence to employ more minorities than they presently do. Many local minority practitioners would make excellent candidates for these positions. Finally, non-minority faculty must make more lucrative and rewarding their academic visitation programs. Too few minority law professors receive the opportunity to enrich themselves, the visiting schools, and their own schools through those visitations.

2. *Teaching Assistance*

Non-minority faculty must give valuable counsel and emotional support to minority law professors. Those non-minority faculty who have experience in guiding classes can helpfully guide minority law professors through the

175. White, *supra* note 69.

176. E.g., Brooks, *supra* note 126.

177. Bell, *supra* note 140, at 321.

178. See, e.g., Haines, *Why Law Schools Should Celebrate the Contribution of Dr. Martin Luther King, Jr.*, 10 NAT'L BLACK L.J. 224 (1987).

179. For a very recent discussion see Bell, *supra* note 140.

adoption of effective teaching techniques. For example, they might help minority professors videotape and critique their classes. Or, they might point out important literature or teachers to observe. Further, non-minority faculty can undertake a team-teaching course with minority law professors. This action sends important signals to other faculty and students about the value placed on the legal camaraderie of non-minority faculty and minority law professors within the faculty.

3. *Teaching Evaluations*

Non-minority faculty must challenge the racist conduct of others within the law school community. They should urge the application of the respective academic or tenure codes to egregious conduct. Further, they should consciously and overtly factor-in and weigh the dimension of racism in their teaching evaluations of minority law professors.

4. *Treatment of Minority Law Professors*

Non-minority faculty can reinforce the approaches noted previously with respect to administrators. The former can add another voice that calls for administratively fair treatment. Further, non-minority faculty can explore ways to alleviate the burdens and stresses of minority law professors. For example, non-minority faculty can initiate the sharing of student research assistance and research grants, and they can initiate joint research projects that increase the opportunities for minority law professors to work on scholarship.

5. *Law School Governance*

Non-minority faculty can amend the student academic codes to clearly reflect that the school will severely treat racial oppression within the law school environment. Further, they can urge the redesign of the student evaluations consistent with the points raised above. In fact, non-minority faculty can refuse to use existing student evaluations that serve as "instruments of oppression." Finally, non-minority faculty can mandate that civil rights courses become required courses, beyond the preliminary constitutional law courses. These faculty must use every opportunity to put the "isms" on the classroom agendas.

CONCLUSION

Through the vehicle of the Myth of Sisyphus, this Article explored the "variabilities, complexities, inconsistencies, and contradictions" of the professional life of minority law professors. As an outgrowth of this special teaching challenge, this Article discussed strategies¹⁸⁰ for coping with the challenge. The focus now shifts to the respective minority law professor and the law schools. The primal concern becomes the individual and their collective actions to address this significant challenge.

180. Fanon captures the essence of this Article's development of strategies for the minority law professor: "To educate man to be *actional*, preserving in all his relations his respect for the basic values that constitute a human world, is the prime task of him who, having taken thought, prepares to act." F. FANON, *supra* note 28, at 222 (emphasis in original).