

What Is an Ethic of Teaching?

***837** TOWARD AN ETHIC OF TEACHING: CLASS, RACE AND THE PROMISE OF
COMMUNITY
ENGAGEMENT

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LAST year, I became Associate Dean for Academic Affairs at my law school. As I learned, the Associate Dean position is a near impossible job requiring absolute support from the Dean and others in the administration simply to allow one to face the day to day challenges of the position. As a job, it hardly compares to my regular gig of teaching and writing--being a law professor. I agreed to assume the Associate Dean post because, despite the challenges, I thought I could learn some things about the running of a law school (which I did) and might also be able to help direct and improve the course of the law school (which I did not really, at least not in the ways I imagined). At bottom, as I found there was little I could do to help transform the school, the only reasons for staying in the position were status, pay and pure service. These are good reasons for many, but were not satisfying or adequate enough for me in the end. My stint as Associate Dean though has caused me to question and reflect on a great many things I do, including why I teach. Do I teach for pay and status? Do I teach because it is a calling? Do I teach because it is satisfying to see students learn, and do I think that I can help them learn better than most? Who am I as a teacher, and how do I fit into the world?

The three articles in this cluster challenge the consumerist, product-oriented notion of teaching in American society today. As such, they provide some answers to my dilemma. They suggest that I should follow core ideals of community, caring, teaching and learning. They suggest, especially Darder's article, that the consumerist path fulfills neither the self nor the community ultimately. They all have at their core a notion of teaching more effectively for the challenges of today's society by breaking down artificial classroom walls and barriers and urging a pedagogy of community ***838** engagement. Professor Antonia Darder's article, *Schooling and the Empire of Capital: Unleashing the Contradictions*, [\[FN1\]](#) sets the tone for the article cluster by challenging capitalism's not-so-subtle hold on both the structures and goals of American education. Darder argues for a pedagogy focused on eliminating the challenges posed to primary education by poverty and its vestiges. [\[FN2\]](#) In doing so, Darder makes a substantial challenge to critical race theory, claiming that its focus on race as one of the underlying causes of educational problems in this country can often obscure how race and poverty are inextricably linked. [\[FN3\]](#) According to Darder, for example, the focus on race has led to improvements in the wealth status and prospects of racial minorities in the middle and upper classes, but has proved hollow for the sizable numbers of minorities in the lower class. [\[FN4\]](#)

The other contributions to the cluster all independently suggest a community engagement pedagogy as a way of increasing access to justice by those in oppressed communities. Professor Fran Ansley and Librarian Cathy Cochran, in *Going On-Line with Justice Pedagogy: Four Ways of Looking at a Website*, [\[FN5\]](#) have provided a living, breathing instance of the value of collaborative, experiential work for enhancing student learning and providing value to society on a grander scale. Ansley and Cochran document how learning takes place in Ansley's service learning offering at the University of

Tennessee Law School in which students work with community-based partners on various projects aimed at resolving community issues and problems. [FN6] Ansley and Cochran also demonstrate how the Web can be integrated as a tool for furthering the goals of the class, creating connections to other communities and as a means of disseminating scholarship of teaching and learning (SoTL). [FN7] Finally, Professor Nelson Soto, in *Caring and Relationships: Developing a Pedagogy of Caring*, [FN8] argues that a holistic*839 concern for students beyond pure academic focus, but also social, psychological, and cultural concerns (including understanding the starting place of each student in these) is the key to effectively integrating newcomer (im)migrant students into a world of education and success in America. A caring pedagogy necessarily involves community engagement and a more expansive notion of education.

In addition to the benefits of justice and equality in integrating community and schooling, all of the authors suggest community engagement pedagogies hold the promise of better learning and deeper understanding for students. Professor Darder states the fundamental disharmony for poor children in our public schools between the Jeffersonian ideal of educating citizens for participation in a democratic society and the harsh reality of a system that falls far short of that ideal for them. [FN9] The disappointment created by this hypocrisy may well have a substantial impact on student confidence, empowerment and, therefore, learning. According to Darder, "[t]he dissonance that exists between [students'] lives and the culture of schooling is often ignored and dismissed." [FN10] Professor Ansley and her collaborator Librarian Cochran echo this in citing to recent research on cognition indicating that knowledge is constructed by learners, not transmitted by teachers. [FN11] Both Ansley and Cochran talk about reflection on experiences as being the grist for the mill of deeper meaning and understanding by students. The community, therefore, is critical as a canvass for effective learning. Professor Soto explains that one key to a pedagogy of caring is an acknowledgement first that a student's life outside the school is important to learning and persistence. [FN12] A pedagogy of caring is not just directed at a student's academic growth, but at their social and emotional development as well. [FN13]

While Darder and Soto discuss the benefits to student learning and empowerment by connecting community and school in a way that facilitates integration and understanding between the two, Ansley and Cochran advocate enhanced student learning in law school through community projects that pose substantial problems in meaningful ways that both help *840 students to better understand community issues and to apply legal rules and methods to particularized problems. This notion of understanding education as best serving society when it is connected with community is not new. Parker Palmer, for example, in his book *The Courage to Teach*, emphasizes a teacher ethic of connection and community that leads to better mutual understanding and learning by teachers and students. [FN14] Palmer argues that the traditional hierarchical model of the teacher as an authoritarian figure placed between students and that which is the object of learning must melt away for true understanding by students. [FN15] It is certainly no leap to suggest that students are more engaged, responsible self-learners when they are effectively plugged into their communities in powerful and meaningful ways. Duncan Kennedy makes the case in the context of law learning. In *Legal Education as Hierarchy*, [FN16] Kennedy shows how legal hierarchy is served by mystifying the process of legal reasoning. Partly, he maintains, this is done by eliminating any connections between law school and the real world, emphasizing the secrecy of knowledge and staying away from skills training that would empower students themselves. [FN17] Kennedy emphasizes that if law schools engaged in more skills training, requiring more connection to society and community, students would be more empowered, would know more about how to be a lawyer and would not be deluded into thinking their only path after law school is a continuing apprenticeship with a large law firm. [FN18] All of the authors/teachers and their articles in this cluster show specifically how Duncan Kennedy's suggestions might be undertaken in legal academia today. *841 And, Darder's article reemphasizes the need for

paying attention to class and oppression and continuing to unveil the capitalist structures at work in education. [\[FN19\]](#) Professor Jane Aiken makes similar arguments in maintaining that students have a great potential to learn about social justice while learning to be excellent attorneys in the context of a justice based clinical program. [\[FN20\]](#) Professor Margaret Montoya stresses the importance of community connection in law learning; however, she maintains that voicing differences and helping students to understand their own role in racism and class domination is critical to making a pedagogy of community engagement meaningful. [\[FN21\]](#) This would seem critical to any emerging LatCritical/ OutCritical or other emancipatory pedagogy. Montoya's writing supports the argument made by Professor Soto regarding the limitations imposed on students by teachers from privileged backgrounds who do not in some meaningful ways connect to the cultural communities of their most oppressed students. [\[FN22\]](#) Other LatCrit scholar/teachers have made the same or similar points about a praxis of community engagement in the context of legal education and law practice. [\[FN23\]](#)

Another common point of the cluster pieces is an emphasis on an ethical and moral impetus for connecting school and community for the betterment of society and student learning. Professor Darder invokes Paolo Freire in suggesting that a truly emancipatory pedagogy focuses on the oppressed, both as individual people and as community. [\[FN24\]](#) Ansley and [*842](#) Cochran discuss their goals for pedagogy and the dissemination of their SoTL in the context of promoting colleges and law schools as centers for civic learning where knowledge and learning do not exist separately from concern about students' past, present and future lives and concerns about access to education and educational opportunity. [\[FN25\]](#) Finally, Professor Soto forwards a notion of culturally responsible pedagogy centered around an ethic of care that focuses not only on academic growth, but on social and emotional development as well. [\[FN26\]](#)

These authors and their contributions to this symposium strongly suggest an anti-atomistic, expansively focused view of the educational mission. But what do they suggest to us individually as professors in colleges, law schools and even high schools? The challenge of embodying and carrying out a progressive emancipatory LatCritical/OutCritical pedagogy is daunting. In the short term, it requires reaching out to community alone or with just a few others, it requires the commitment of extra substantive and psychic time, it requires the risk of failure without internal institutional support. Since this type of pedagogy does not typify (nor is it even grossly tolerated in) the current academy, the sacrifice comes surely without institutional reward. It is much easier, no, to be an Associate Dean for example. Effort is required, but it is also rewarded in the form of status, pay and teaching loads.

Professor Darder says, however, "[w]e need to surrender the penchant for chasing after new intellectual experiences for the mere sake of obtaining personal fulfillment, recognition, or reward." [\[FN27\]](#) Surely, she is right but it is not that simple. The ability to implement and nurture the service and community based learning efforts discussed by these authors/teachers is greatly enhanced from the position of Associate Dean. Darder herself suggests that "transformation can only take place when educators, scholars, and cultural workers, working in solidarity, take ownership of institutions." [\[FN28\]](#) I can only imagine she means full ownership not petit ownership, the kind that an Associate Dean might possess in some small way. The Associate Dean's ability to foment any transformation exists only within the grander economic enterprise; it does not exist in any real way, and certainly not in any moral or ethical way. [\[FN29\]](#) Tradeoffs and accommodations exist only within institutional rules and are precedent bound, at [*843](#) least if the job is approached ethically and with integrity. That means only, however, that you bring a very small level of fairness and justice to what is ultimately only a constant repetition of the economic oppression that characterizes many educational, and, I suspect, especially professional (law/business/medicine), institutions of higher learning.

These articles by Professors Antonia Darder, Fran Ansley and Cathy Cochran and Nelson Soto all give glimpses into what an emancipatory, OutCritical and LatCritical pedagogy might look like. As examples of what might be achieved within the academic status quo, they are squarely engaged in race critical work; that is, work that encompasses both a critique of current pedagogic practice but that also suggests a positivistic or prescriptive agenda as well. [\[FN30\]](#) All these authors demonstrate the promise of a pedagogy of community engagement, and that might well be the cornerstone of any OutCritical or LatCritical pedagogy. Professor Francisco Valdes, in his article *Outsider Jurisprudence, Critical Pedagogy and Social Activism: Marking the Stirrings of Critical Legal Education*, [\[FN31\]](#) begins to draw connections between pedagogy and practice in the context of reviewing various syllabi produced for classes on "Asians and the Law" taught in a variety of law schools. Valdes begins generally with the main purpose of any emancipatory pedagogy to "provide students with the tools necessary to de-colonize themselves, and then their social relations and spaces, across multiple axes of identity and difference." [\[FN32\]](#) The examples and arguments presented by Professors Darder, Ansley and Cochran and Soto all show glimpses of this. Darder makes the arguments outright, but the others all forward pedagogies that, through community connection, indeed provide students with these kinds of tools.

In his conclusion, however, Valdes synthesizes from the various syllabi five points which are intended to provide a contextualization and structure useful to developing a critical legal education. [\[FN33\]](#) These are: (1.) Connecting the Past to the Present, (2.) Connecting the Personal and the Structural, (3.) Connecting the Social and the Legal, (4.) Connecting the Particular and the General and (5.) Connecting Knowledge and Practice. It might be useful for those engaged in constructing an OutCritical or LatCritical pedagogy to think about how these particular contributions fit within Valdes' rubric. Professors Darder and Soto's contributions to the *844 symposium are not explicitly aimed at a law audience, and Darder's is more theoretical and general than the others, but certainly nothing they suggest is inconsistent with the markings of critical education put forth by Professor Valdes. Professor Soto's arguments for a pedagogy of caring seem to fall squarely within all five points while Darder's article hews most closely to the descriptions found in point 1 (connecting the past to present: Darder explicitly draws a comparison to the politics of globalization at work in the period from 1875 to 1914, for example [\[FN34\]](#)), point 2 (connecting personal and structural: Darder makes the point that specific personal experiences must be connected to the greater structural causes of those experiences, and calls for an increasing attention to the grounded experience of the physical versus the structural [\[FN35\]](#)) and point 3 (connecting the particular and the general: Darder explicitly discusses local issues related to schooling and connects those to the global context [\[FN36\]](#)). Professors Ansley and Cochran's contributions fall solidly into point 5: connecting knowledge and practice. They expressly discuss the connection between "education and action" in a pedagogy of community engagement. Ansley and Cochran further explore the effective dissemination of service learning experience as a way of connecting with other communities of learning through the Internet. All of these contributions serve strongly to help LatCrit reawaken one of its central tenets--praxis--in the context of forwarding emancipatory pedagogies.

On a final note, I feel it important to address Professor Darder's challenge to LatCrit and other Race Critical scholars about the impoverishment of class dialogue that comes with a focus on just race. [\[FN37\]](#) At times I have been extremely sympathetic to this kind of argument. For example, I felt at some point that all of the scholarly energy devoted in recent years to reparations had the effect of lessening the vigor with which defense of affirmative action was carried out.

Ultimately, however, it seems entirely counterproductive to blame a lack of one progressive dialogue on another possibly more emergent dialogue. There may be more

important, larger causes that stand in the way of a broad range of progressive critique. As Kennedy has noted, for example, rights discourse in law schools crowds out discourses focused on justice that would allow for more robust discussions of social classes, races or sexes. [FN38] Anita Tijerina Revilla has also made the same argument regarding *845 emerging competition among progressive discourses. [FN39] As for me, my interest is oriented toward working together with a variety of groups in a common anti-subordination enterprise. That is the promise of LatCrit, and, at this point in time, I have severe doubts about the ability to do this through formal hierarchies, like Deanships and other administrative positions, existing within American law schools. To me an emancipatory pedagogy is one that is expansive, in the sense of including concern for students beyond the walls of a school or the boundaries of a school district, collaborative, in the sense of connecting to and working with people beyond our teaching peers or our faculty and whole, in the sense of engaging both mind and body--a traveling out to and communicating with people. A pedagogy of community engagement resonates with all of these ideas.

Footnotes:

[FN1]. Professor of Law, University of Denver Sturm College of Law. I dedicate this introduction to the memory of Jerome McCristal Culp. Jerome was a friend, mentor and fellow LatCrit Board member. Jerome believed very strongly in the "critical" part of the movement and, invariably, presented his critique in the form of narrative. I believe Jerome understood the power of narrative to pose complex, nuanced questions at the heart of our society in meaningful and accessible ways. I think Jerome also understood narrative as the best way of posing honest, sincere and complete scholarly questions. Jerome's article [Autobiography in Legal Scholarship and Teaching: Finding the Me in the Legal Academy](#), 77 Va. L. Rev. 539 (1991), continues to inspire me as I constantly seek to strive for my own betterment and the betterment of society. To learn more about Jerome Culp, please see the tributes to him at [http:// www.law.duke.edu/fac/culp](http://www.law.duke.edu/fac/culp).

[FN2]. 50 Vill. L. Rev. 847 (2005).

[FN3]. See id. (arguing for mentioned pedagogy). Darder maintains that the U.S. is ostensibly a democratic republic that functions as an empire. See id. (arguing that conditions in education deny students freedom and autonomy). An emancipatory pedagogy must recognize that the politics of globalization are economic ones leading to the colonization of life and the commodification of "everything." See id. (discussing role of emancipatory pedagogy).

[FN4]. See id. (discussing focus on race in education). According to Darder, racism and the focus on racialization gets in the way of questioning the "phenomenon of racism and hence, the hegemonic forces at work in the construction of segregation." Id. at 848. At heart, according to Darder, the real villain in the story of failed public schooling is class: "well-meaning teachers use their authority and privilege to, wittingly or unwittingly, invalidate students when they are involved in constructing their own knowledge." Id. at 850.

[FN5]. See id. at 848-49 (discussing impact of focus on race in education).

[FN6]. 50 Vill. L. Rev. 875 (2005).

[FN7]. See id. (discussing service offering at author's law school). At the time of their article, students were involved in three different campaigns aimed at spousal rape, Individuals with Disabilities Education Act ("IDEA") inclusion and Tennessee Immigrants

and Criminal Justice. See *id.* (discussing projects).

[FN7]. See *id.* (discussing advantages of Web).

[FN8]. [50 Vill. L. Rev. 859 \(2005\)](#).

[FN9]. See Darder, *supra* note 1, at 849 (differentiating between Jeffersonian ideal and present day education). Students from oppressed communities are "tested, labeled, sorted, and tracked." *Id.* However, there is little engagement in this process with who they actually are, how they learn and what potential may be realized in them.

[FN10]. *Id.* at 850.

[FN11]. See Ansley & Cochran, *supra* note 5 (citing *How People Learn: Brain, Mind, Experience, and School* (John Bransford et al. eds., National Academy Press 2000)).

[FN12]. See Soto, *supra* note 8, at 861-64 (discussing importance of out of class experience in education). "[C]are ethicists focus on conditions and relations that support moral ways of life rather than on the inculcation of virtues in individuals." *Id.* at 863. Caring includes an acceptance of students' cultural background and values. See *id.* (discussing pedagogy of caring). All of this suggests a much stronger engagement with community in order to deepen learning and understanding.

[FN13]. See *id.* at 865 (discussing importance of emotional and social growth).

[FN14]. See Parker Palmer, *The Courage to Teach: Exploring the Inner Landscape of a Teacher's Life* 11 (2001) ("Good teachers possess a capacity for connectedness. They are able to weave a complex web of connections among themselves, their subjects, and their students so that students can learn to weave a world for themselves. The methods used by these weavers vary widely: lectures, Socratic dialogues, laboratory experiments, collaborative problem solving, creative chaos. The connections made by good teachers are held not in their methods, but in their hearts--meaning heart in its ancient sense, as the place where intellect and emotion and spirit and will converge in the human self.").

[FN15]. See *id.* at 28-43 (discussing authoritarian nature of most teachers). Palmer cites to Jane Tompkins to illustrate his point: "Tompkins says that her obsession as a teacher had not been with helping students learn what they wanted and needed to know but rather with '(a) showing the students how smart I was; (b) showing them how knowledgeable I was; and (c) showing them how well prepared I was for class. I had been putting on a performance whose true goal was not to help the students learn but to act in such a way that they would have a good opinion of me.'" *Id.* at 28-29 (citing Jane Tompkins, *Pedagogy of the Distressed*, in *College English* 52 (1991)). Palmer says himself: "When I devote myself to something that does not flow from my identity, that is not integrated to my nature, I am most likely developing the world's hunger rather than helping to alleviate it." *Id.* at 30.

[FN16]. Duncan Kennedy, *Legal Education as Hierarchy*, in *The Politics of Law: A Progressive Critique* 38-58 (D. Kairys ed., Pantheon Press 1990) (1982).

[FN17]. See *id.* at 42-45 (discussing problems of having no connection between law school and real world).

[FN18]. See *id.* at 49-50 (listing benefits of integrating law school education and real world work).

[FN19]. As Duncan Kennedy asserts, "[t]here are contracts, torts, property, criminal law,

and civil procedure. The rules in these courses are the ground rules of late-nineteenth-century laissez-faire capitalism. Teachers teach them as though they had an inner logic, as an exercise in legal reasoning with policy ... playing a relatively minor role." Id. at 44. And, he asserts, the focus on rights discourse in law school serves as a barrier to speaking of justice: "Rights are by their nature 'formal,' meaning that they secure to individuals legal protection for as well as from arbitrariness--to speak of rights is precisely not to speak of justice between social classes, races, or sexes." Id. at 46. But see generally Patricia J. Williams, *The Alchemy of Race and Rights* (1991) (suggesting rights discourse can be powerful for achieving transformational change).

[FN20]. See generally Jane Harris Aiken, [Striving to Teach 'Justice, Fairness, and Morality,' 4 Clinical L. Rev. 1 \(1997\)](#) (discussing benefits of clinical programs).

[FN21]. See Margaret Montoya, [Voicing Differences, 4 Clinical L. Rev. 147, 153 \(1997\)](#) (citing Henry A. Giroux, *Resisting Difference: Cultural Studies and the Discourse of Critical Pedagogy*, in *Cultural Studies 206* (Lawrence Grossberg et al. eds., 1992)) (discussing Giroux).

[FN22]. See Soto, *supra* note 8 (discussing problems of difference of social status of teachers and their pupils).

[FN23]. See Francisco Valdes, [Barely at the Margins: Race and Ethnicity in Legal Education--A Curricular Study with LatCritical Commentary, 13 Berkeley La Raza L. J. 119, 125 n.16](#) (collecting authority); see also Anita Tijerina Revilla, [LatCrit and CRT in the Field of Education: A Theoretical Dialogue Between Two Colleagues, 78 Denv. U. L. Rev. 623 \(2001\)](#) (discussing LatCrit's movement into field of education).

[FN24]. See Darder, *supra* note 1, at 853 (discussing Paulo Freire and his views). "Accordingly, any form of emancipatory pedagogy must function to revive a politics of collective self-determination in our teaching, research, and politics." Id. at 855. The Freirian notion of emancipatory pedagogy is that it is ethical in the sense that its goal is to allow people to excel at being human, and no one can do that in isolation. Id. at 853 (discussing Freirian notion). See generally Paulo Freire, *Pedagogy of the Oppressed* (Myra Bergman Ramos trans., Continuum 1970) (discussing modern education and how it reacts to oppression).

[FN25]. See Ansley & Cochran, *supra* note 5 (discussing goals for pedagogy).

[FN26]. See Soto, *supra* note 8 (discussing pedagogy of caring). In the Freirian tradition, Professor Soto discusses the critical nature of a care ethics for our most oppressed, including specifically (im)migrant newcomers. See id. (discussing pedagogy of caring in context of immigrants).

[FN27]. Darder, *supra* note 1, at 855.

[FN28]. Id.

[FN29]. A person's very soul can be sacrificed to waiting silently for some sort of empowerment that will lead to institutional transformation. See, e.g., Pamela J. Smith, [The Tyrannies of Silence of the Untenured Professors of Color, 33 U.C. Davis L. Rev. 1105 \(2000\)](#) (discussing untenured professors' fear of speaking out).

[FN30]. I would simply note here that Darder's work is different and less prescriptive than the others, but nonetheless even Darder grapples with what an emancipatory pedagogy might look like towards the end of the article. Her point might also be that without first understanding pedagogical structures that oppress peoples, it may be

impossible to forge anything with promise for emancipation.

[FN31]. Francisco Valdes, [Outsider Jurisprudence, Critical Pedagogy and Social Activism: Marking the Stirrings of Critical Legal Education](#), 10 *Asian L. J.* 65 (2003).

[FN32]. [Id.](#) at 86.

[FN33]. See [id.](#) at 94-96 (discussing methods of developing critical legal education).

[FN34]. See Darder, *supra* note 1, at 851 (comparing politics of globalization today with that of 1875 to 1914).

[FN35]. See *id.* at 852-53 (discussing importance of personal experiences in global world).

[FN36]. See *id.* at 847-53 (discussing education).

[FN37]. See *id.* at 847-49 (discussing challenge to race critical scholars).

[FN38]. See Kennedy, *supra* note 16, at 46 (criticizing rights discourse in law school).

[FN39]. See generally Revilla, *supra* note 23 (criticizing rights discourse in law school).