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# A STUDENT POLEMIC<sup>1</sup>

K. C. WORDEN\*

I address this essay directly to my fellow students. Although there is a growing body of exciting critical legal scholarship on the subject of legal education,<sup>2</sup> there is a noticeable lack of student involvement.<sup>3</sup> It's not that what's happening at the professorial level isn't exciting and important, but that the student voice and view have often been neglected. Students possess an important perspective on the state of legal education and present an enormous amount of potential political<sup>4</sup> power. Too often, however, that power is never acknowledged, mobilized, or valued. For too long, students have been insignificant actors in the politics of legal education; for too long, we have been excluded from the forum of law review publication<sup>5</sup> as a means of expression, communication, and debate about the politics of being a law student.<sup>6</sup>

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\*Somerville, Massachusetts.

1. © 1986, K. C. Worden. I'd like to thank James Boyle, John Moon, and Kathy Scheidel for their inspiration, support, and thoughtful comments on earlier drafts. I would also like to thank David Mermelstein for his invaluable help and patience in retrieving this essay from the grips of the computer. Finally, I'd like to express my deep appreciation to the New Mexico Law Review for their willingness to publish this piece. Isolation and lack of communication have been significant factors in the systemic disenfranchisement of law students. By beginning to open up the lines of communication among law students, the New Mexico Law Review "takes a giant step forward for student-kind." I dedicate this essay to law students everywhere.

2. See, e.g., KENNEDY, *LEGAL EDUCATION AND THE REPRODUCTION OF HIERARCHY: A POLEMIC AGAINST THE SYSTEM* (1983); Boyle, *The Anatomy Of A Torts Class* 34 AM. U.L. REV. 1003 (1985); Friedman and Macaulay, *Contract Law and Contract Teaching: Past, Present, Future*, 1967 WIS. L. REV. 805 (1967); Frug, *Rereading Contracts: A Feminist Analysis of a Contracts Casebook*, 34 AM. U.L. REV. 1065 (1985); Kennedy, *How The Law School Fails: A Polemic*, 1 YALE REV. OF LAW & SOC. ACTION 71 (1970); Kennedy, *First Year Teaching as Political Action*, 1 LAW & SOC. PROBLEMS 47 (1980); Kennedy, *Legal Education as Training For Hierarchy*, in *THE POLITICS OF LAW: A PROGRESSIVE CRITIQUE* (D. Kairys ed. 1982); Klare, *Contracts, Jurisprudence, and The First Year Casebook*, 54 N.Y. UNIV. L. REV. 876 (1979); Konefsky & Schlegel, *Mirror, Mirror on the Wall: Histories of American Law Schools*, 95 HARV. L. REV. 833 (1982); Macaulay, *Law Schools and the World Outside Their Doors: Notes on the Margin of "Professional Training in the Public Interest"*, 54 VA. L. REV. 617 (1968); Pickard, *Experience as Teacher: Discovering the Politics of Law Teaching*, 33 U. TORONTO L.J. 279 (1983); Rosenblatt, *Legal Theory and Legal Education*, 79 YALE L.J. 1153 (1970). For an excellent general compilation of C.L.S. scholarship and an example of its use as law school text, see *THE POLITICS OF LAW: A PROGRESSIVE CRITIQUE* (D. Kairys ed. 1982).

3. For a recent and refreshing exception to this general rule of student exclusion from critical legal scholarship, see *A Symposium of Critical Legal Studies*, 34 AM. U.L. REV. 929-1262 (1985) (a compilation of eight articles, five of which are student authored) [hereinafter cited as *Symposium*].

4. Throughout this essay I use the terms "political" and "politics" to refer to the scheming for power and status within any group, rather than merely that associated with governmental activities.

5. For a polemic discussion of the failings and potentials of law review publication as political action, see Boyle, *Dumping: (Colon) On Law Reviews* (unpublished manuscript, 1986).

6. But see *supra* note 3.

Progressive and innovative renovations in legal education are beginning to take place (as this and other symposia demonstrate).<sup>7</sup> As students, we cannot passively wait for “it” to happen “for”/“to” us. We must not let ourselves be lulled into limiting our political struggles to those “out in the real world.”<sup>8</sup> The image of student apathy and cynicism must not rise to thwart the efforts of those on the “cutting edge” of legal education.<sup>9</sup> Students must actively support professors like Karl Johnson and Ann Scales in their endeavors to revitalize the law school experience.<sup>10</sup> We must make known to faculties and administrations that such progressive efforts are necessary and beneficial to law students, law schools, and the legal profession in general.

More importantly, we must also be willing to forge ahead on our own. We must challenge, on a daily basis, the myriad ways in which law schools serve to alienate, indoctrinate, and debilitate students. Law school need not be the most degrading and anesthetizing experience of our lives. It’s *our* tuition dollars, *our* careers, and *our* intellectual and emotional investments that are at stake. We are the “grassroots” of the law schools; we must take part in the struggle against the reproduction of hierarchy fostered by our institutions.<sup>11</sup> If we wait for the renovations and “student empowerment” to be handed down to us from the professorial powers above (no matter how progressive those powers may be) we will only further entrench and legitimate the ultimate systemic powerlessness of students. Passivity on our part will imply that we are not only disinterested, but that we ourselves consider students powerless and insignificant members of the law school community. This can be a dangerously self-fulfilling prophecy.

Gramsci’s notion of hegemony taught us that some of the most effective forms of domination are those in which the dominated, having so thoroughly internalized the dominator’s justificatory ideology, voluntarily participate in their own domination (believing it to be necessary, natural,

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7. See, e.g., *Symposium supra* note 3.

8. I put “real world” in quotes because I completely reject the idea that that which happens inside law schools is any less political (or “real”) than that which happens outside. This law school/“real world” dichotomy is another way in which legal education encapsulates itself from radical criticism and lulls students into educational acquiescence.

9. For an extremely provocative, but disturbing, discussion about student ambivalence towards losing their professor as “central authority figure” and “having to” assume power and control over their class, see Pickard, *supra* note 2.

10. See Johnson and Scales, *An Absolutely, Positively, True Story: Seven Reasons Why We Sing*, 16 N.M.L. Rev. 433 (describing their creative approach to teaching jurisprudence as a required first year course).

11. For a thorough discussion of the concept of legal education as reproduction of hierarchy see Kennedy, *supra* note 2.

and the only way things can be).<sup>12</sup> The works of Marx, Sartre, and Lukás<sup>13</sup> developed into a body of theories explaining how the process of reification<sup>14</sup> promotes this hegemonic "false necessity"<sup>15</sup> by allowing people to create, and then become controlled by, their own ideological constructs. The theories and methodologies of Foucault and Barthes<sup>16</sup> have helped us recognize how this process operates at the level of the ordinary interactions of daily life; they also provide us with a basis for the deconstructive-micro-phenomenological methodology of "local critique."<sup>17</sup> Current critiques of legal education use and develop these themes (which I have blasphemously oversimplified here)<sup>18</sup> to expose (among other things) how the law school experience indoctrinates students into participating in their own indoctrination and debilitation.<sup>19</sup>

12. For a clear and concise discussion of Gramsci's concept of hegemony and its relationship to legal scholarship, see Greer, *Antonio Gramsci and "Legal Hegemony,"* in *THE POLITICS OF LAW* (D. Kairys ed. 1982); see generally GRAMSCI, *SELECTIONS FROM THE PRISON NOTEBOOK* (1971) and BOGGS, *GRAMSCI'S MARXISM* (1976).

13. See generally SARTRE, *ESSAYS IN EXISTENTIALISM* (1965); SARTRE, *CRITIQUE OF DIALECTICAL REASON* (Sheriden-Smith trans. 1976); SARTRE, *BEING AND NOTHINGNESS* (1956); FELL, *HEIDEGGER AND SARTRE* (1956); Marx, *Economic and Philosophic Manuscripts of 1844*, in *THE MARX-ENGELS READER* 66 (R. Tucker ed. 1978); Lukás, *Reification and the Consciousness of the Proletariat*, in *HISTORY AND CLASS CONSCIOUSNESS: STUDIES IN MARXIST DIALECTICS* 103 (1977).

14. Reification is the "thingification" of ideas and the objectification of subjective experience. This process "freezes" existential moments and treats them as if they were natural essences or material things. See Gabel, *Reification in Legal Reasoning*, in *RESEARCH AND SOCIOLOGY* 25 (S. Spitzer ed. 1980). See also, Peller, *The Metaphysics of American Law*, 73 CALIF. L. REV. 1152 (1985); Gordon, *New Developments in Legal Theory*, in *THE POLITICS OF LAW* (D. Kairys ed. 1982).

15. False necessity refers to the way in which existing arrangements appear inevitable, immutable, and necessary. For a discussion about the relationship between the notion of false necessity and critical legal scholarship, see Boyle, *Introduction to A Symposium of Critical Legal Studies*, 34 AM. U.L. REV. 929 (1985).

16. See generally BARTHES, *MYTHOLOGIES* (1972), BARTHES, *ELEMENTS IN SEMIOLOGY* (A. Lavers & C. Smith trans. 1968); FOUCAULT, *DISCIPLINE AND PUNISHMENT: THE BIRTH OF THE PRISON* (A. Sheridan trans. 1977); FOUCAULT, *POWER/KNOWLEDGE* (C. Gordon ed. 1980).

17. By this I mean the methodology of exposing the contingency of existing social relations and the myths used to justify them (with the aim of changing them) within the immediate, contextualized pockets of everyday interactions. For a thorough discussion of local critique, see Moon, *An Essay on Local Critique*, 16 N.M.L. REV. 513 (1986). See also Boyle, *The Politics of Reason*, 133 U. PA. L. REV. 685, 769 (1985). For more about deconstruction, see *DECONSTRUCTION AND CRITICISM* (G. Hartman ed. 1979); Kelman, *Trashing*, 36 STAN. L. REV. 293 (1984). For more about phenomenology, see DALLMAYR, *BEYOND DOGMA AND DESPAIR* 97 (1981); HUSSERL, *IDEAS: A GENERAL INTRODUCTION TO PURE PHENOMENOLOGY* (F. Kersten trans. 1982); SHUTZ, *THE PHENOMENOLOGY OF THE SOCIAL WORLD* (1967); Boyle, *supra* at 714. For a discussion about the political uses of micro-phenomenologies (stories) see Gable & Kennedy, *Roll Over Beethoven*, 36 STAN. L. REV. 1, 3 (1984).

18. I have intentionally omitted from this essay lengthy discussions about the tenets of C.L.S., the current debates within the movement, and the numerous influential theories and theorists out of which C.L.S. grew (including the ones blasphemized above). I chose this approach in part because there already exists an extensive body of articles devoted to that task, and in part because my real objective in writing this essay is to inspire you to *act upon* the critical theories and intuition I assume you to already possess (or can develop through other sources).

19. See especially Kennedy, *Legal Education as Training For Hierarchy*, *supra* note 2.

The theoretical tools are there; we (students) need to grab them and join in on the renovation process. We must realize, however, that it will require effort and risk-taking on our part. To be effective, we will have to relinquish the sometimes comforting anonymity and passivity that accompanies the traditional law student role, for it is the gloss of freedom accompanying that role that entices us into accepting a completely powerless position within the law school community. That gloss of freedom co-opts us into persisting as our own worst oppressors. It is not enough to be silently cynical. Silence is acquiescence and legitimates the status quo.<sup>20</sup>

About now you are probably thinking that this all sounds a little too strong and overstated. You may think of your law school experience as overbearingly mundane and boring, needlessly intimidating and confusing, maybe offensively out of touch with the "real world," a little numbing, or even, just generally a drag; but you wouldn't really consider it "oppressive." You don't always agree with the process or substance of your legal education, but basically, you just want to "do your time" and deal with doing good things with it later.

First of all, when I talk about law school oppression, I'm not referring to "overt" oppression (if I were, identifying the problem and solution would be a much easier task than it is). What I'm talking about is a very complex and subtle array of messages that are embedded in the daily interactions of law school life and that operate to channel us into a particular mode of behavior when participating in law school and the legal profession. Though subtle and often imperceptibly internalized, these messages are very powerful. They shape the way we think, what we wear, the way we speak and write, the kinds of jokes we tell, the way we interact with professors in the hallway, the jobs we seek, etc. Not all the messages are equally powerful, equally apparent, or equally coercive. Nonetheless, they are there, we do internalize them, and they do affect us. Directly and indirectly, these messages obviate alternative approaches to law and enforce a kind of legal/cultural uniformity. It is through these messages that law schools propogate intense pressure to "conform" without seemingly having any identifiable source intentionally initiating it (resulting in the impression that the coercive force is somehow natural and/or necessary). This is hegemony at its strongest! Thus, the fact that we do not consider law school "oppressive" per se is in and of itself part of the hegemonic oppression of legal education.

Secondly, we must not be fooled by the "just doing time" attitude; that's just as much one of the messages and a part of the hegemony as

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20. *But see infra* note 34 (stressing that the outspoken-confrontational approach is neither the only, nor necessarily the best, method of participating in law school politics).

anything else. The message is that it is not only o.k., but good, to divide your "self" into a public (legal) being, and a private (political) one. But, this message operates hegemonically by encapsulating law and legal education from challenge and change, by perpetuating the myth that law is *not* political, by using the public/private dichotomy to make you passive within the legal realm, and by impairing your ability to use law as an effective tool/arena for socio-political struggle (because it relegates law to the purportedly "apolitical" side of the dichotomy).

By "just doing time," you lose the opportunity of learning to work with the law critically and of developing it as a useful political tool; you may also begin to entrench yourself in a pattern of assimilation that will become harder and harder to break. Pressure to assimilate is far stronger "out there" than it is in law school; if you can't/don't challenge it now, what makes you think you'll be able to do so later? It may be that right now you're up for law review, a special job, a moot court competition, or something else that makes you decide to "postpone" your political agenda until later. But when does that time come? First you're occupied with law review, then it's getting a good job, then it's winning a big case, getting a promotion, becoming an associate, a partner, etc.; the next thing you know you've been assimilating your entire legal life and have never "gotten a chance" to question, challenge, and use the law in the way that you wanted to. This is not an inevitable cycle, but it certainly is a distressingly common one. The best way to break free of it is to fight the "postponing" urge and to begin incorporating your critical perspective into your everyday interactions, right now. The "chance" doesn't just come to you; you have to create it. The best time to begin is now. One way of doing so is by taking a critical stance towards your law school experience and by becoming an active participant in the rehabilitation of legal education.

Much of this appears easier said than done. Intellectualizing about challenging hierarchy is one thing; speaking out in a large first year class and making yourself vulnerable to the sneers and ridicule of your classmates seems like another. I'm writing this essay to encourage you to take those risks, to convince you that it's worth it, and to offer some practical suggestions and techniques that might make it easier.

Why bother? I have two lines of reasoning for why adopting a critical stance towards your legal education is worth the extra time and effort. One line is primarily systemic, the other primarily existential. Although I identify these lines as distinct, they are actually so thoroughly intertwined and interconnected that I cannot discuss them separately.

Basically, it is "worth it" because it can be so rewarding on so many systemic and existential levels simultaneously. Not only will it make you a part of the renovation process (systemic), but it can actually make your

own law school experience (existential) intellectually stimulating and fun! By questioning and critiquing the substance and process of what you're learning, you can make the law relate to your own life experience and come alive.<sup>21</sup> By becoming an active member of your class, you can affect the way in which material is discussed and the way in which your colleagues think about the issues and the law. By exposing underlying assumptions, biases, or contradictions, you'll be unraveling the process of indoctrination and hegemony. By denouncing discriminatory treatment, by introducing otherwise excluded issues (class, cultural, moral, political, etc.) or by challenging and changing the tone and language in which the discussion proceeds, you can begin to turn around the forces of alienation and exclusion operating within the class dynamics. On another level, adopting a critical stance towards your education can also enhance your traditional lawyer-like skills: it helps you develop the art of argument manipulation, it improves your oral advocacy skills, and it deepens your comprehension of the basic doctrine (you have to understand what you're talking about before you can effectively argue that it is indeterminate, biased, internally inconsistent, or whatever). And finally, as I said above, it's a way of learning to incorporate your principles and politics into your life and career without relegating them to only one half of your existence.

Yes, it does take more work to be critical; but it is that very work that alleviates the horrors, the boredom, the alienation, and the disempowerment of the law school experience.

What can we actually do? Here are some thoughts and suggestions. They are not meant to be exhaustive or universally applicable. They are meant to inspire you to engage in whatever kind of "local struggle"<sup>22</sup> would be most effective in your own immediate context. These strategies focus on political struggle within the classroom. Although it is extremely important to exert organized pressure on your institution around issues such as minority recruitment, divestiture, becoming a sanctuary, etc., I focus here on individual action within the classroom because I think it the more elusive and commonly neglected form of political struggle.<sup>23</sup>

**\*\*Never hiss or ridicule your classmates for their comments or points of view. We should be resisting the systemic degradation of law students,**

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21. It is my strong belief that using your own life experience and personal value system to analyze and interpret abstract legal doctrine will help you develop a more vivid and lasting comprehension of the concepts. The merits of this approach have been accepted and exploited by lawyers in jury trial litigation for centuries; but, since Langdell "sanitized" the law school "laboratory," it has never achieved legitimacy in legal education. If the most effective way of instructing and convincing a jury is by structuring your presentation in a way that enables them to evaluate the issues through their own personal experience and common sense (the classic trial technique), then why isn't that an equally effective methodology for law teaching? Obviously, I think it not only an effective methodology, but a critically important one. The exclusion of politics, common sense, and the personal perspective from the law school arena is a form of ideological oppression, and a travesty.

22. See Moon, *supra* note 17.

23. The suggestions below are not presented in any particular order of importance or effectiveness.

not joining in. Hisses and laughter usually result from, and reveal, nervous tension caused by a student comment that "goes beyond" the realm of "acceptable" law school discussion matter. Before you laugh, carefully consider what it is about the comment that makes it appear laughably inappropriate. More often than not, you'll find that the "laughable" comments are those that attempt to introduce morals, politics, emotion, or personal experience into the discussion, that directly oppose the professor's point of view, or that expose a student's complete inability to "get it" (usually because the student finds it incomprehensibly contradictory or inconsistent with some notion of "the big picture"). These are legitimate and valuable perspectives. They appear laughable only when you buy into the oldest and narrowest definition of "what law school is all about." If and when you can, introduce these kinds of comments yourself. When another student does so, support her. If you disagree, articulate your reasons why, don't sneer. Sneering is the lowest (and easiest) form of participating in the hegemonic oppression of law students.

**\*\*Challenge class dynamics that serve to humiliate students or dismiss alternative points of view. It's really important to not let critical perspectives be squelched without consideration, to not let implicit or explicit classist/sexist/racist comments go unchallenged.<sup>24</sup> Your silence can connote your implicit approval.<sup>25</sup>**

Speaking out critically is not as difficult or ineffective as it may seem. Law professors are generally so used to never being challenged that when they are the target of your criticism, it often takes very little to "throw them off" and make your point. When your criticism is aimed at another student, a particular legal opinion, or a mode of analysis, you may find that the professor and other students are actually quite interested in exploring your challenge and rather glad that you brought it up. Whatever the aim of, or response to, your critique, developing "support pacts"<sup>26</sup> with like-minded colleagues can usually make it easier and more effective.<sup>27</sup> All it takes is a few students who will agree to back each other up when they go out on a limb. For example, when a professor tries to

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24. I would caution you, however, against incessantly and obtrusively interrupting the class: such tactics usually end up marginalizing you, your comments, and your political potential. All I'm suggesting is that you strategically adapt your approach to each individual situation.

25. By this statement I do not mean to belittle the plethora of emotions that often prevent us from being able to actually articulate all that we'd like to express if we could. See *infra* note 34 for a critique of my bias towards the "speaking out in class" form of law school struggle.

26. For an inspiring discussion about developing and using a progressive study group see Kennedy, *supra* note 2, at 107-19.

27. Two years ago I heard Sheila McIntyre give a brief presentation in a panel discussion on legal education at the 8th Annual Conference on Critical Legal Studies, Georgetown University Law Center, Washington, D.C. 1984. At the time, Sheila was a law student. Although she spoke only briefly, her words and ideas left a deep and lasting impression on me. The few specific suggestions she gave inspired much of my later political activities. This discussion is an attempt to pass along some of her ideas and inspiration. To her I owe a great deal of thanks.



dismiss Student A's comment and "move on with the agenda," that's when Student B can raise her hand and say something like, "Excuse me, but I don't think you can dismiss A's point that easily. . . ." Then Student C can join in and say, "B's right, the issues raised by A are too important to be brushed aside without even being considered. . . ." And so on.

These tactics won't always work. But when they do, you can make significant renovations in the process and substance of what's being taught; it can also be really exciting and empowering. Even when it doesn't work, you've made an important statement about your concerns, you've taken a stance against the indoctrination process, and you may be affecting classroom dynamics more than you realize.

\*\*Lest this slip into sounding too conspiracy-theory oriented, let me reassert that the problem is far more complicated than just "us" the down-trodden students versus "them" the evil professor-oppressors. As I've indicated above, students are just as, if not more, implicated in the hegemonic process as are the professors. Neither the students nor the professors are completely to blame, nor completely blame-free.

Quite frankly (and quite distressingly), however, my experience has been that student-generated coercion is often far more repressive than anything imposed upon us by the professors. It's usually the *students* who want more black letter law, monolithically "correct" answers, more structure, less theory, less history, and less of "that policy-oriented indeterminacy."<sup>28</sup> Furthermore, to my great bafflement, students frequently criticize the less-authoritarian professors for not being "tough enough" rather than criticizing the power-monger professors for being unjustifiably tyrannical.

What gives? Learning by intimidation is a horrible way to learn anything. We must not let our misplaced expectations or the messages we've internalized cloud our common sense and integrity the minute we walk into the law school. We must become aware of both the messages we are receiving and the ones we are sending. Consciously evaluating and shaping these messages is something that we can really do right now to effectuate change.

Again, making these kinds of changes by themselves will not revolutionize the law school environment. But, at least you will not be participating in justifying classroom tyranny (i.e. take away their ability to say, "But that's what students want") and you will be indirectly supporting the more progressive, innovative professors and course models.<sup>29</sup>

28. But let us not forget that it is the professors who are often guilty of perpetuating the myths that make it appear to students that a "correct" answer does exist somewhere, that black letter doctrine is somehow hierarchically more valuable than policy, and that what goes on in the classroom doesn't involve history, politics, or theory (except on those rare and well-defined occasions—e.g. "theory day," the quick history review, the political question doctrine, etc.).

29. This does not remove or replace the importance of also supporting progressive professors explicitly.

\*\*Don't allow your comments to be paraphrased or rephrased against your wishes. I've argued elsewhere that such actions perpetuate hierarchy.<sup>30</sup> Here I would merely like to urge you to take a stand in your own defense whenever it happens. When restatement is used to neutralize or redefine the intent of your comment, don't let them get away with it: raise your hand again and say, "Excuse me, but that's not exactly what I said. What I said and meant was. . . ." If it happens again, or with more maliciousness, raise your hand again and say, "Excuse me, but that's not what I said either, *and you know it*. What I said was. . . ." <sup>31</sup> Again, the value and success of this tactic involves the assertion of student integrity as much as anything else.

\*\*Use outside readings to prepare to present an alternative analysis to the class. Because this approach can take a lot of work, I suggest choosing a few key "target classes" to focus on. Get your support group to pick a topic about which they feel particularly strongly, and then concentrate your efforts on that one class. If you need assistance locating good alternative readings, approach one of the professors you know to be sympathetic to your concerns, or aware of the current literature in the field. If the professor of the target class is at all sympathetic, try approaching her, informing her of your intentions, and asking her for reading suggestions. If possible, try to get her to agree to alter her agenda or class structure for the target day; see if she'll assign the readings you've chosen, let you lead the class (or some portion of it), or let you "officially" present your alternative analysis. You may find professors surprisingly supportive of your efforts and encouraged by your interest. If, however, your professor is completely unsympathetic, or if it seems strategically more effective, then do your preparations on your own and just hit them with it in class.

\*\*When addressing or listening to your fellow classmates, try to face them (turn around in your chair if you have to), address them by name, and talk to them in a "normal" conversational manner. This may not sound like serious radical action, but it addresses one of the most powerfully oppressive and alienating aspects of the law school process: the way in which it dehumanizes and objectifies social interactions and actors. As Gary Peller so elegantly articulates:

[S]tudents enter a classroom and assume a certain mode of behavior, acting like "students." The teacher enters the classroom and assumes the role of "teacher," standing in front of the classroom and teaching to the students. . . . The teacher/student roles, insofar as they pre-exist particular students and teachers, appear to them through the subject/object mode of symbolization as something outside of themselves and not intended by them as individuals; in short, the roles

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30. See Worden, *Overshooting the Target: A Feminist Deconstruction of Legal Education*, 34 AM. U.L. REV. 1141 (1986).

31. Again, I owe these examples to Sheila McIntyre. See *supra* note 27.

appear as otherness, as objective facts within which their intentionality is to be exercised. The roles, consisting of various norms of appropriate behavior for each of the actors, form a structure or grammar for their relations which transcends any particular acting out of the roles.

This social grammar is signified at one level as exterior architecture, in the "matter" of the room itself, where the multitude of students' seats are turned toward the single teacher's place at the center of the room, signifying in the collective consciousness that the students are to "pay attention to" the teacher, to invest the teacher's assertive subjectivity with their own cognitive receptivity. The students also have writing places to confirm their role as absorbers of the teacher's content, while the teacher is given a podium to confirm her role as expressive rather than receptive.<sup>32</sup>

The physical and metaphysical architecture of the classroom thus operates to distance professor from student, to confine classroom interaction into pre-existing, strictly confined modes of behavior, and to perpetuate traditional, hierarchical classroom dynamics. Turning to face your colleagues is not by itself going to upset the hierarchical relations within law school. But, what it can do is help you break free of the anesthetic grip<sup>33</sup> that your objectified student role may have upon you. By speaking directly to your classmates, you upset the pervasive notion that student input is meaningless and "wrong" unless and until it is legitimated by "passing through" the professor. By acknowledging that students have valuable insights they can share directly with each other, you can undermine the process of dehumanization, degradation, and disempowerment.

A more direct way of dealing with these architectural restraints is to lobby your professors into reorganizing the physical arrangement of the class environment. Changes ranging from having the professor sit among the students, to rearranging the desks and chairs, to holding a class in a lounge or at someone's house, can profoundly affect the metaphysics of the class. This may sound too granola-group-encounter for you, but try it, you'll be amazed by what an impact it can have on class dynamics.

I participated in a jurisprudence course in which each class was run by a different group of students. The student leaders were responsible not only for selecting and preparing the readings and leading the discussion, but also for arranging the room. Sometimes we were on the floor,

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32. Peller, from an earlier draft of the article *supra* note 14. For the published version of this discussion, see *supra* note 14 at 1278-79.

33. This notion of an "anesthetic grip" refers to Gary Peller's discussion of how the objectification process operates to entrap and immobilize subjective actors within their objective roles. See Peller, *supra* note 14, at 1285.

sometimes we put the chairs into a circle, sometimes we arranged the desks into a large kitchen-table-like formation and during nice weather we often met outside on the lawn. Sometimes the lights were low, sometimes they were bright. Sometimes we brought in tea and cookies, sometimes beer and chips. These changes in the physical environment always affected the character and substance of class discussion (e.g. the tone, content, number and type of students participating, etc.). The effectiveness of our course model (or changing nature thereof) highlighted for the students and professor alike the general limitations and arbitrariness of the traditional class model as well as the political influence of the physical environment.

\*\*I'm afraid that my desire to make this a polemical essay has made me overemphasize and overrate the outspoken-confrontational mode of classroom politicking. The "argumentative"<sup>34</sup> mode is clearly only one of many modes of individual action. I do not mean to hierarchically rate it above the others.

There are many for whom this approach is totally inappropriate, if not itself alienating and disempowering.<sup>35</sup> It would be unjust and insensitive for me to assert that everyone can or should be a "talker" in class.<sup>36</sup> I happen to be a "talker" so that's the mode in which my theories and strategies tend to develop. "Non-talkers" and "non-confrontationalists" need not adopt my approach; but, they also must not allow their "non" labels to lead them to, or be used to justify, *total* inaction. There are many ways of being politically assertive that do not require speaking out in class. Raising your criticisms in a one-on-one or small group meeting with your professor, circulating a petition denouncing a professor's degradation of students, converting "talkers" over to your critical framework, and expressing your discontentment with class dynamics in an anonymous letter to the class are just a few examples of the ways in which you can take a critical stance towards your legal education without climbing atop a soap box.

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34. The kind of speaking out in class that I advocate, however, even when highly critical, need not be stylistically argumentative or aggressive. Personally, I find that I am most comfortable/effective making biting criticism when I adopt a speculative-innocent-questioning—"hey, let's just talk about it"—kind of attitude. It's a matter of personal choice and personal voice: whatever works best for you.

35. Even for those who engage in it regularly, confrontation can be very painful and frightening to experience. I always get an intense adrenalin rush and pit in my stomach just before raising my hand with a challenge. Sometimes this rush debilitates me and leaves me silently squirming in my seat. Sometimes a failed challenge leaves me feeling completely stupid and humiliated. Sometimes it works wonderfully. Whatever the outcome, I invariably feel better for at least having tried (for me, nothing is worse than the internalized anger and frustration of suffering in silence).

36. It may be, however, that it is just as unjust and insensitive for the "non-talkers" to *always* place all the burdens of talking on the "talkers" (even "talkers" don't always want to talk). Responsibility for "making a class work" must somehow be shared collectively by all.

My point is simply, do something. You'll be pleasantly surprised by how this kind of "risky" critical action actually *alleviates*, rather than aggravates, the anxiety that law school inflicts upon you.

\*\*If you happen to be one of the fortunate few with access to progressive professors and/or courses, *don't* let the opportunity pass you by. It may be one of the most influential opportunities of your legal career; it was for me (I'm sure that my angst and disgust with the system would have made me drop out of law school had I not been exposed to critical legal education halfway through my first year).

Don't be dissuaded by the effort it requires. Personal energy, like power, is not something that exists in pre-defined fixed amounts (it's not a fixed-sized pie and can be *created* (and/or extinguished). And, it is my experience that the creation/extinction process perpetuates itself in a spiralling fashion: the more involved you become, the more energy you seem to have, the more effective your actions, the greater your motivation to continue; the less you do, the less possible it seems to do anything, the less motivation you have to do more. Participating in a progressive course and/or taking a critical stance toward your legal education can put you on the upswing of this energy/power spiral.

I know that to some the approach I advocate may seem trivial, incomplete, and only marginally radical. But, these charges appear persuasive only if you assume that large-scale, organized political action is the only/best way to achieve social change. I patently reject that assumption. My approach is strictly a form of local critique.<sup>37</sup> It does not pretend to be, and should not be taken as, a universally applicable, comprehensive scheme for law school struggle. It is meant to be suggestive and inspirational, rather than prescriptive. More than anything else, its goal is to provoke you into critically questioning and *actively* challenging the political, existential, and systemic influences *your* law school experience is exerting over *you*, *right now*.

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37. See Moon, *supra* note 17.