ENVISIONING REPARATIVE LEGAL PEDAGOGIES

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As numerous reports, student movements, and forms of scholarship-activism have noted, the traditional U.S. law school classroom remains a space of hierarchy, privilege, and unnamed systems of power. Particularly for students holding historically marginalized and minoritized identities, legal education remains both a remnant of and conduit for harmful pedagogies. In recognition of these realities and of those that bring me to legal academia, I believe that my task as an early-career educator is one of advancing repair in/from the profession I now join. By looking to liberatory pedagogies from both the clinical legal context and beyond, this Essay repositions all U.S. legal educators as inheritors to two dissonant lineages: centuries of educational harm and genealogies of pedagogical dreaming. In rejecting the historically harmful pedagogies that are normatively embedded in legal education, this piece implores U.S. legal educators to fulfill our shared duty of pedagogical care by developing collective visions of instruction that are grounded in aims of truth and healing, or reparative legal pedagogies.

INTRODUCTION

"The way to right wrongs is to turn the light of truth upon them."[1]
–Ida B. Wells

In February of 2021, U.S. Congressmembers Barbara Lee and Cory Booker introduced a concurrent resolution, *Urging the establishment of a United States Commission on Truth, Racial Healing, and*

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[1] Ida B. Wells, *Miss Ida B. Wells, A Lecture, in* WASHINGTON BEE (Oct. 22, 1982) at 1; *see* IDA B. WELLS, THE LIGHT OF TRUTH: WRITINGS OF AN ANTI-LYNCHING CRUSADER (Mia Bay & Henry Louis Gates eds., Penguin Classics 2014).

Transformation.[2] Citing the forty countries that have sought to reckon with "historical injustice and its aftermath" through truth and reconciliation commissions, the resolution aligned with the four-hundredth anniversary of the first ships that trafficked enslaved Africans to the U.S.[3] Their measure drew a direct line from the enforcement of racially discriminatory federal and local policies to the embedded racial hierarchy that continues to haunt the country.[4] Of note, the resolution never made it out of its respective committees in the U.S. House and Senate.[5]

I start with this congressional (in)action because of its clarity in situating intersecting, centuries-long harm: the U.S., as a settler-colonial nation,[6] has continually failed "to properly acknowledge, memorialize, and be a catalyst for progress, including toward permanently eliminating persistent racial inequities."[7] As both the congressional resolution and preceding movements for Black liberation[8] and Indige-

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[2] H.R.J. Res. 19, 117th Cong. (2021).

[3] S.J. Res. 6, 117th Cong. (2021) ("This concurrent resolution (1) affirms, on the 400th anniversary of the arrival of the first slave ship, that the nation owes a debt of remembrance not only to those who lived through the injustices of slavery but also to their descendants; and (2) urges the establishment of a U.S. Commission on Truth, Racial Healing, and Transformation to properly acknowledge, memorialize, and be a catalyst for progress, including toward permanently eliminating persistent racial inequities."); *see also The 1619 Project*, N.Y. TIMES ("In August of 1619, a ship appeared on this horizon, near Point Comfort, a coastal port in the English colony of Virginia. It carried more than 20 enslaved Africans, who were sold to the colonists. No aspect of the country that would be formed here has been untouched by the years of slavery that followed. On the 400th anniversary of this fateful moment, it is finally time to tell our story truthfully").

[4] H.R.J. Res. 19.

[5] H.R.J. Res. 19; S.J. Res. 6.

[6] Here, I am intentional to use the language of "settler-colonial nation" to name the ways that imperial violence serves as the base of U.S. legal structures and to insist that we recognize settler colonialism, as Evelyn Nakano Glenn writes, "as an ongoing structure rather than a past historical event." Evelyn Nakano Glenn*, Settler Colonialism as Structure: A Framework for Comparative Studies of U.S. Race and Gender Formation*, 1 SOC. RACE ETHNICITY 54, 54 (2015). This piece joins numerous liberatory writers in acknowledging the reality of settler colonialism by historically grounding our writing and analyses. *See, e.g.*, Angelique Townsend EagleWoman, *The Ongoing Traumatic Experience of Genocide for American Indians and Alaska Natives in the United States: The Call to Recognize Full Human Rights as Set Forth in the UN Declaration on the Rights of Indigenous Peoples*, 3 AM. INDIAN L.J. 424 (2015); Roxanne Dunbar-Ortiz, *The United States Is Not "a Nation of Immigrants,"* BOS. REV. (Aug. 16, 2021), https://www.bostonreview.net/articles/the-united-states-is-not-a-nation-of-immigrants/.

[7] H.R.J. Res. 19; S.J. Res. 6.

[8] *See, e.g.*, The Black Panther Party for Self-Defense, *Ten Point Program*, 1 BLACK PANTHER 3 (1967), http://post-what.com/1967/05/hueys-re-mix-1967-the-first-appearance/ ("We believe that this racist government has robbed us, and now we are demanding the overdue debt of forty acres and two mules. Forty acres and two mules were promised 100 years ago as restitution for slave labor and mass murder of Black people. We will accept the payment in currency which will be distributed to our many communities").

nous sovereignty[9] have identified, truth and reconciliation are needed from this country. But, as history readily reveals, setting the record straight on the history of this nation-state has been continually met with white supremacist, reactionary violence.[10] In fact, it is our continued national devotion to historical revisionism—not unlike fake news[11] or alternative facts[12]—that limits our capacity to teach recorded and lived truths of legal violence in the U.S.

This pattern of educational violence figures most poignantly in the so-called "culture wars" that currently rage across U.S. classrooms.[13] According to the UCLA's *CRT Forward Tracking Project*, a whopping 699 anti-Critical Race Theory bills have been advanced by 214 local, state, and federal entities since September of 2020.[14] Similarly, PEN American, "a U.S.-based nonprofit . . . dedicated to free expression through literature," reports that 1,145 books were banned

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[9] *See, e.g.*, *Truth and Healing Commission on Indian Boarding School Policies Act*, NATIONAL NATIVE AMERICAN BOARDING SCHOOL HEALING COALITION, https://boardingschoolhealing.org/truthcommission/ (last visited June 12, 2023); *Healing U.S. Divides Through Truth and Reconciliation Commissions*, NPR (Oct. 11, 2020, 4:57PM), https://www.npr.org/2020/10/11/922849505/healing-u-s-divides-through-truth-and-reconciliation-commissions.

[10] *See, e.g.*, Kimberle Williams Crenshaw, *Race, Reform, and Retrenchment: Transformation and Legitimation in Antidiscrimination Law*, 101 HARV. L. REV. 1331 (1988); Vivian E. Hamilton, *Reform, Retrench, Repeat: The Campaign against Critical Race Theory, through the Lens of Critical Race Theory*, 28 WM. & MARY J. RACE GENDER & SOC. JUST. 61 (2021). Here, I am intentional to name the intersecting and self-reinforcing sub-structures of white supremacy as a paradigm of violence, including racism, classism, heterosexism and transphobia, ableism, anti-Semitism, and xenophobia.

[11] William Cummings, *'Alternative Facts' to 'Witch Hunt': A Glossary of Trump Terms*, USA TODAY (Jan. 17, 2018), https://www.usatoday.com/story/news/politics/onpolitics/2018/01/16/alternative-facts-witch-hunt-glossary-trump-terms/1029963001/ ("Originally used to describe the false stories promulgated on social media by the Russian government as part of their effort to influence the 2016 election, the term was enthusiastically co-opted by Trump to refer to any news story he finds unflattering or that might hinder his agenda").

[12] *Id.* ("White House counselor Kellyanne Conway . . . explained that White House spokesperson Sean Spicer was using 'alternative facts' to support his demonstrably false claim that the crowd for Trump's swearing-in was 'the largest audience to ever witness an inauguration—period'").

[13] *See, e.g.*, Erin Aubry Kaplan, *Donald Trump Is (Still) President of White America*, POLITICO (Nov. 20, 2022, 7:00AM), https://www.politico.com/news/magazine/2022/11/20/donald-trump-culture-white-supremacy-00069597 ("this culture war is increasingly veering toward actual combat. American history has been written in violence, most often perpetrated by whites against the "Other" — Indigenous folks, Black people, immigrants of color. In today's culture war, though, Trump's opponents are all the indistinguishable Other — the 54 percent of Americans who don't support Trump or Trumpism, according to the latest polling by FiveThirtyEight, and who see democratic progress as the truer American path"); Tim Walker, *The Culture War's Impact on Public Schools*, NAT'L ED. ASSOC. (Feb. 17, 2023), https://www.nea.org/advocating-for-change/new-from-nea/culture-wars-impact-public-schools.

[14] *CRT Forward*, UCLA SCH. L. CRITICAL RACE STUD., https://crtforward.law.ucla.edu/ (last visited June 12, 2023).

in U.S. classrooms and libraries between July 2021 and March 2022.[15] This sharp rise in law-sanctioned social control is mirrored in the context of anti-LGBTQ+ educational policies, with over 540 measures being introduced in the 2023 legislative session alone.[16] This is but a vignette into the mounting forms of subordination that make their way through our systems of law-making, but they make clear that we are bearing witness to linked forms of ideological, structural, and material violence in the name of white supremacy.

By looking to the ways that entrenched white supremacy animates the waves of book-banning, historical revisionism, and identity-based subjugation, we can understand the current moment as both by-product and driver of unacknowledged violence, of persistent white power and of its defense by our institutions.[17] We cannot and will not reckon with the violent lessons of *The 1619 Project* if it is barred from our educational spaces.[18] We cannot center the needs and experiences of historically marginalized communities in this country if our faces, stories, and lineages of survival are wiped from school bookshelves.[19] We cannot heal if we do not learn, and this country remains both reticent and violently reactive to learning its own history.

Critical scholars across the globe have grappled with the question

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[15] Morgan Stevens, *Tracking Banned Books*, CTR. DATA INNOVATION (July 7, 2022), https://datainnovation.org/2022/07/tracking-banned-books/ (citing PEN AMERICA, PEN AMERICA'S INDEX OF SCHOOL BOOK BANS (2021-2022), https://docs.google.com/spreadsheets/d/1hTs_PB7KuTMBtNMESFEGuK-0abzhNxVv4tgpI5-iKe8/edit#gid=1171606318).

[16] Cullen Peele, *Weekly Roundup of Anti-LGBTQ+ Legislation Advancing in States Across the Country*, HUM. RTS. CAMPAIGN (May 2, 2023), https://www.hrc.org/press-releases/weekly-roundup-of-anti-lgbtq-legislation-advancing-in-states-across-the-country-3; *see also* Abby Baggini, *Judge Blocks Arkansas Law Criminalizing Libraries And Bookstores for Providing 'Harmful' Books to Minors*, CNN (July 30, 2023, 8:41PM), https://www.cnn.com/2023/07/30/politics/arkansas-library-book-ban-judge-blocks/index.html (detailing a now-temporarily-halted bill in Arkansas that would have levied criminal charges against librarians for providing minors with materials that appealed to "to a prurient interest in sex"—this a dog whistle for content that is inclusive of sexual and gender minorities).

[17] The surge of state and local school policies that have proliferated in the past few years complement one another in seeking to control the learning and lives of marginalized youth. Transgender actress and activist, Laverne Cox, identifies this alignment of violence, saying that the rise of anti-Semitism and anti-trans legislation are of no coincidence. James Factora, *Laverne Cox: "Trans People Are Exhausted" by Anti-Trans Legislation*, THEM (Jan. 20, 2023), https://www.them.us/story/laverne-cox-anti-trans-legislation. The driving force was and remains white supremacy; *see* discussion of recent legislative efforts in furtherance of the "culture wars" *supra* notes 21-26.

[18] *See, e.g.*, Brittany Luse, Barton Girdwood, Jessica Mendoza, Alexis Williams, Liam McBain, Corey Antonio Rose, Jamal Michel, Jessica Placzek, Veralyn Williams, *Fear, Florida, and the 1619 Project*, NPR (Feb. 24, 2023, 5:13PM), https://www.npr.org/2023/02/22/1158724309/fear-florida-and-the-1619-project.

[19] *See, e.g.*, Maureen Downey, *We Shut Down Pools to Fight Diversity; Now It's Libraries*, ATLANTA J.-CONST. (Apr. 26, 2023), https://www.ajc.com/education/get-schooled-blog/opinion-we-shut-down-pools-to-fight-diversity-now-its-libraries/FX6C5P2QZBESLAYFPOITPLGG5I/.

of what role—if any—educational spaces can play in disrupting these legacies of erasure through processes of truth and reconciliation in the classroom.[20] How might educators not just *interrupt* harms but *envision* a future premised on healing from state violence and naming lasting inequities? It is from this question and with an eye toward developments in reparative pedagogy beyond the law that this piece begins. What role might legal educators play in joining national efforts to redress injustice and to—at last—"properly acknowledge, memorialize, and be a catalyst for progress"?[21]

In threading two complementary theoretical approaches to critical pedagogy, this Essay makes the case that "reparative" and "engaged" pedagogical theories provide pathways for envisioning pedagogical repair for the past, present, and future harms of U.S. legal education. This, I assert, can best be conceptualized as the diverse but joint efforts to forge what we might call "reparative legal pedagogies:" practices and processes of atonement, healing, self-actualizing, and reimagining that disrupt the normative underpinnings of traditional legal education writ large. Despite differing language and theoretical frameworks for critical,[22] social justice,[23] liberatory,[24] anti-racist,[25] and disruptive legal pedagogies,[26] this Essay argues that sustained and emergent efforts to radically reorient U.S. legal education from inside

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[20] *See, e.g.*, Nicholas Biddle & Naomi Priest, *The Importance of Reconciliation in Education*, AUS. NAT'L UNIV. CTR. SOC. RES. METHODS, May 2019, at i; James Miles, *Teaching History for Truth and Reconciliation: The Challenges and Opportunities of Narrativity, Temporality, and Identity*, 53 MCGILL J. EDUC. 294 (2019).

[21] H.R.J. Res. 19; S.J. Res. 6.

[22] *See, e.g.*, Chantal Thomas, *Reloading the Canon: Thoughts on Critical Legal Pedagogy*, 92 UNIV. CO. L. REV. 955 (2021); Karl Klare, *Teaching* Local 1330*—Reflections on Critical Legal Pedagogy*, 7 UNBOUND 58 (2011).

[23] *See, e.g.*, Duncan Kennedy, *The Social Justice Element in Legal Education in the United States*, 1 UNBOUND 93 (2005); Rosa Castello, *Incorporating Social Justice into the Law School Curriculum with a Hybrid Doctrinal/Writing Course*, 50 J. MARSHALL L. REV. 221 (2017); Julie D. Lawton, *Teaching Social Justice in Law Schools: Whose Morality Is It?*, 50 IND. L. REV. 813 (2017); *see* Margaret Martin Barry, A. Rachel Camp, Margaret E. Johnson & Catherine F. Klein, *Teaching Social Justice Lawyering: Systematically Including Community Legal Education in Law School Clinic*s, 18 CLIN. L. REV. 401 (2012).

[24] *See, e.g.*, Natsu Taylor Saito, *A Pedagogy of Liberatory Belonging: Learning from Charles R. Lawrence III*, 44 UNIV. HAW. L. REV. (forthcoming Spring 2022); Hallie Jay Pope, *Liberatory legal design and radical imagination* (Design Research Society Conference Papers, 2022), https://doi.org/10.21606/drs.2022.689.

[25] *See, e.g.*, Norrinda Brown Hayat, *Freedom Pedagogy: Toward Teaching Antiracist Clinics*, 28 CLIN. L. REV. 149 (2021); *see* Anne D. Gordon, *Cleaning up Our Own Houses: Creating Anti-Racist Clinical Programs,* 29 CLIN. L. REV. 49 (2022); Dermot Groome, *Educating Antiracist Lawyers: The Race and the Equal Protection of the Laws Program*, 23 RUTGERS RACE & L. REV. 65 (2021).

[26] *See, e.g.*, Christina John, Russell G. Pearce, Aundray Jermaine Archer, Sarah Medina Camiscoli, Aron Pines, Maryam Salmanova, and Vira Tarnavska, *Subversive Legal Education: Reformist Steps Toward Abolitionist Visions*, 90 FORDHAM L. REV. 2089 (2022) [hereinafter *Subversive Legal Education*].

and beyond the clinical legal context have already taken up this project and can all be understood under a unifying lens of repair.

Reflecting on my own experiences as a law student leader and as a new legal educator, this Essay engages literatures from within/without the law to aid in naming the collective efforts of movements to transform the aim and possibilities of U.S. legal education. A threaded theory and practice—or praxis—of pedagogical repair links these distinct efforts and provides a roadmap for reimagining the transformative and reparative capacity of law schools, for disrupting histories and realities of harm. By naming our profession's *negligent* pedagogical practices and processes of lawyer socialization, this Essay joins the scholarship-activism of fellow liberatory writers in envisioning the unimagining and remediation of educational harm at multiple levels.

This Essay proceeds in three parts. Section I begins by positioning legal pedagogy in relation to the pedagogies of truth and healing that fellow disciplines have taken up to facilitate repair. Formations across clinical legal scholarships and nascent developments in reparative pedagogies outside the law pose serious implications for the reimaginative work of U.S. legal education. To radically reconfigure the underpinnings and aims of legal education, all of legal education—not just clinicians—must grapple with dimensions of truth and healing in order to realize repair.

Section II investigates how a frame of repair might manifest within legal education by reflecting, first, on the student organizing work that brings me to this conversation of pedagogical care. In looking to the ABA accreditation standards that I and fellow law student leaders invoked in our organizing work, this piece seeks to understand what a negligence-type "standard of care" from legal educators might look like. This piece by no means suggests that our profession (or any educational space) would benefit from a robust tort regime to police and surveil the work of educators. Instead, I use the framework of legal negligence to deeply and meaningfully interrogate the ways that legal educators in particular have advanced *dangerous* and *known* pedagogical harms that materially threaten the well-being of the country.

Finally, Section III explores several potential dimensions of repair in legal pedagogy by assessing the multiple, intersecting levels of harm that inhere in U.S. legal education's past, present, and futures.

I. Positioning Reparative Pedagogies

At the start of 2023, I participated in a panel for the American Association of Law Schools' annual meeting, entitled *New Begin-*

nings.[27] The goal of this space was to reflect on concrete classroom practices that had proven successful for each panelist, while providing tips for fellow legal educators on how to enhance our pedagogical practices. I joined the other panelists in remembering and reflecting upon the classroom spaces we had created—the ones that worked, the ones that didn't, and all the ways that we had adapted.

The conference room was teeming with interest and, truthfully, I was more nervous than I'd care to admit, as a first-year legal educator. I'm a storyteller and facilitator of many years, but the formality of the space (and this profession) left me waiting with bated breath, prepared for an attendee to discover my *unqualified-ness* at any point in the session.

At one point, during our question-and-answer, we received an audience question about how to best incorporate "current events" into the law school classroom. As a then-teaching fellow to a clinic centered on the study of Critical Race Theory[28] and as a lifelong subject to its teachings,[29] I had a lot of thoughts on the topic. I began my remarks by saying, "I'm not sure who needs to hear this in the space, but trauma is not a teaching tool." I went on to discuss the importance of centering history and pedagogical intention in our instruction of the law, underscoring the psychological and emotional roadblock to learning we introduce when we haphazardly stitch together violent classroom materials in the name of being "current." What is your goal, I implored, in introducing harmful content, and how can we orient our classrooms by beginning from a presumption that our legal systems produce harm?[30]

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[27] *New Law Professors*, Assoc. Am. L. Schs., https://memberaccess.aals.org/eweb/DynamicPage.aspx?webcode=&ho]SesDetails&ses_key=1f309646-f250-4d57-ae47-4e2d0013cf2a (last visited Jun. 12, 2023).

[28] The Racial Equity in Education Law and Policy Clinic at Georgetown University Law Center employs a lens of Critical Race Theory to engage student attorneys "in policy advocacy on behalf of clients to advance racial equity in education." *Our Work*, Geo. L., https://www.law.georgetown.edu/experiential-learning/clinics/our-clinics/racial-equity-in-education-law-and-policy-clinic/ (last visited Jun. 12, 2023).

[29] U.S. journalist Clarence Page employs this language in their work, *Showing My Color*, to describe the ways that the very vulnerability of potential racism in this country "makes us forever subject to it." Clarence Page, Showing My Color: Impolite Essays on Race in America 60 (1996).

[30] Recorded and lived experiences continue to identify the ways that U.S. legal systems—including legal education—produce harmful outcomes for historically minoritized and marginalized individuals. *See, e.g.*, Aysha Pamukcu & Angela P. Harris, *Health Justice and the Criminal Legal System: From Reform to Transformation*, Harv. L. Petrie-Flom Ctr. (Sept. 10, 2021), https://blog.petrieflom.law.harvard.edu/2021/09/10/health-justice-criminal-legal-system/ (exploring exposure to the U.S. criminal legal system as a social determinant of health for Black, brown, and Indigenous communities); John Lande, *The Law Can Be Hazardous to Your Health*, indisputably (Nov. 4, 2019), http://indisputably.org/2019/11/the-law-can-be-hazardous-to-your-health/; *see also* Lawrence S. Krieger, *Institu-*

As I've processed my feelings from this session, I've come to realize how deeply healing it was to address this room of legal educators as a freshly graduated educator myself. I was granted the time and space to wonder all the things I wish I could have said to my own law school educators—to address all the harms they had ignored and to have my perspectives on legal instruction be taken with a degree of seriousness. It was a type of healing that I'm sure could not have taken place in any other setting; it was *transformative*. These attendees were not my own past professors but releasing the harm I'd navigated in my journey became tied in that moment to the group's collective reworking of what the legal profession could be. My repair was grounded in *communal* and *iterative* processes of reimagining.

Since my participation in this panel, I've worked to understand and name this phenomenon. The closest that I've come to fully capturing the transformative and liberatory nature of this space are what critical scholars beyond the law refer to as "reparative" pedagogies[31] and what Black feminist writer bell hooks envisioned as a practice of "engaged" pedagogy.[32]To best frame this conversation and our discussion of repair in the classroom, let us begin with the histories that bring all of us to the classroom—the ones that insist on being heard and that define our current profession.

A. Envisioning Repair In/From Legal Education

For 150 years now, legal theorists have sought to reimagine the pedagogical practices and potential of U.S. legal education (e.g., the realists,[33] Critical Legal Studies proponents,[34] Critical Race Theorists,[35] and their respective CRT-sub-fields,[36] legal abolitionists[37]). In-

tional Denial About the Dark Side of Law School, and Fresh Empirical Guidance for Constructively Breaking the Silence, 52 J. LEGAL EDUC. 112 (2002).

[31] *Infra* Section I.B.1.

[32] *Infra* Section I.B.2.

[33] *See, e.g.*, Katherine R. Kruse, *Getting Real about Legal Realism, New Legal Realism, and Clinical Legal Education*, 56 N.Y. L. SCH. L. REV. 659, 660 (2011) (reviewing calls from the U.S. Legal Realist movement for the creation of clinical legal education as a means of advancing student training of the "law in action").

[34] *See, e.g.*, DUNCAN KENNEDY, *The Critique of Rights in Critical Legal Studies*, *in* LEFT LEGALISM/LEFT CRITIQUE 179 (Wendy Brown, Janet Halley & Duncan Kennedy eds., 2002); Pierre Schlag, *The Anxiety of the Law Student at the Socratic Impasse - An Essay on Reductionism in Legal Education*, 31 N.Y.U. REV. L. & SOC. CHANGE 575 (2007).

[35] *See, e.g.*, Kimberle Williams Crenshaw, *Toward a Race-Conscious Pedagogy in Legal Education*, 11 NAT'L BLACK L.J. 1 (1988); *see* Frances Lee Ansley, *Race and the Core Curriculum in Legal Education*, 79 CALIF. L. REV. 1511 (1991); Judith G. Greenberg, *Erasing Race from Legal Education*, 28 U. MICH. J.L. REFORM 51 (1994).

[36] *See, e.g.*, Swethaa S. Ballakrishnen, *Law School as Straight Space*, 91 FORDHAM L. REV. 1113 (2023); Christina Payne-Tsoupros, *A Starting Point for Disability Justice in Legal Education*, 6 J. NAT'L CONF. DISABILITY JUST. L. EDUC. 165 (2020).

[37] *See, e.g.*, Amanda Alexander, *Nurturing Freedom Dreams: An Approach to Move-*

deed, our articulations of legal pedagogy have continually diverged from their colonial origins to become critical of oppressive systems,[38] anti-racist in approach,[39] socially just in their goals,[40] subversive to hegemony,[41] aligned with social movements,[42] and prefigurative of utopias.[43] In situating these distinct genealogies of legal pedagogy, we might say that they share a unifying tradition of "pedagogical dreaming," or of joining the work of social movements in envisioning liberation from the very realities and institutions in which we are situated.[44]

This kaleidoscope of legal scholarships, however, highlights the ways that legal education's dreaming has tended to focus on the form and substance[45] of our instruction—not always its purpose.[46] After all, *what is* the purpose of U.S. legal education? The answer, I suspect, largely depends on who you ask.[47] But questions such as these dodge the deeper truth that formal U.S. legal education was not intended

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ment Lawyering in the Black Lives Matter Era, 5 How. Hum. & Civ. Rts. L. Rev. 101 (2021); Marbre Stahly-Butts & Amna A. Akbar, *Reforms for Radicals? An Abolitionist Framework*, 68 UCLA L. Rev. 1544 (2022); Jamelia Morgan, *Lawyering for Abolitionist Movements*, 53 Conn. L. Rev. 605 (2021).

[38] *See* sources cited *supra* note 22.

[39] *See* sources cited *supra* note 25.

[40] *See* sources cited *supra* note 23.

[41] *Subversive Legal Education*, *supra* note 26.

[42] *See, e.g.*, Alexander, *supra* note 37.

[43] *See, e.g.*, Sameer M. Ashar, *Pedagogy of Prefiguration*, 132 Yale L.J. Forum 869, https://www.yalelawjournal.org/forum/pedagogy-of-prefiguration.

[44] *See infra* discussion of reparative pedagogies Section I.B1; *Subversive Legal Education*, *supra* note 26.

[45] We might say that one bucket of scholarship and practice has interrogated "how" we teach law students from a practical and, sometimes, critical perspective. *See, e.g.*, Ronald Tyler, *The First Thing We Do, Let's Heal All the Law Students: Incorporating Self-Care into a Criminal Defense Clinic*, 21 Berkeley J. Crim. L. 1 (2016). Another noteworthy formation of work has grappled with "what" we teach law students. *See, e.g.*, Alexander, *supra* note 37; Crenshaw, *supra* note 35; *see supra* notes 22-26. These are by no means distinct categories of scholarship and it would be naïve to assume that the socio-political manifestations of one (form) does not inform the other (substance) in overlapping ways. *See* Critical Race Theory: The Key Writings That Formed The Movement xiii (Kimberlé Crenshaw, Neil Gotanda, Gary Peller, and Kendall Thomas eds., 1995) [hereinafter Critical Race Theory] ("Critical Race Theory embraces a movement of left scholars, most of them scholars of color, situated in law schools, whose work challenges the ways in which race and racial power are constructed and represented in American legal culture and, more generally, in American society as a whole").

[46] *See, e.g.*, Gerald P. López, *Transform – Don't Just Tinker with – Legal Education*, 23 Clin. L. Rev. 471 (2017); Wayne S. Hyatt, *A Lawyer's Lament: Law Schools and the Profession of Law*, 60 Vand. L. Rev. 385 (2007); Bethany Rubin Henderson, *Asking the Lost Question: What Is the Purpose of Law School?,* 53 J. Legal Educ. 48 (2003).

[47] *See, e.g.*, Etienne C. Toussaint, *The Purpose of Legal Education*, 111 Cal. L. Rev. 1, 9 (2023) ("the study of the way legal systems and political institutions further racism, economic oppression, or social injustice must be viewed as endemic to the purpose of legal education").

for, or to serve, all peoples.[48] To best assess the current purpose of legal education, we must acknowledge that settler law[49] and its gatekeeping[50] are inherently violent. Without a sobering and honest account of the ways that lawyering continues to be a protected practice of legal power,[51] the exclusionary law school journey has little meaning to our profession. After all, why would law school be so difficult if the law and legal power were truly intended to be accessible to all? Without history, the LSAT, traditional 1L exams, and state-level bar exams are normalized as discriminatory mainstays of our profession[52]—rather than aspects of licensure that might be otherwise be changed and adapted with the times. More plainly put: we do harm because it's what we've always done.

1. Reimagining the Purpose of Legal Education

As a professional degree program, the *juris doctor* and our formal training of U.S. law students remains roughly aligned with the subject matter of the bar exam.[53] The required doctrinal courses that our stu-

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[48] See, e.g., Christopher Williams, *Gatekeeping the Profession*, 26 CARDOZO J. EQUAL RTS. & SOC. JUST. 171 (2020) (exploring the politics of racial and social stratification that serve as the infrastructure of U.S. legal education); Emma Plante, *"What, like it's hard?": The Systemic Barriers to Law School Applications*, NE. UNIV. POL. REV. (Jan. 27, 2022), https://nupoliticalreview.org/2022/01/27/what-like-its-hard-the-systemic-barriers-to-law-school-applications/.

[49] Conor Friedersdorf, *Enforcing the Law Is Inherently Violent*, THE ATLANTIC (June 27, 2016), https://www.theatlantic.com/politics/archive/2016/06/enforcing-the-law-is-inherently-violent/488828/ (quoting Yale law professor Stephen L. Carter: "Law professors and lawyers instinctively shy away from considering the problem of law's violence. *Every law is violent*. We try not to think about this, but we should. On the first day of law school, I tell my Contracts students never to argue for invoking the power of law except in a cause for which they are willing to kill. They are suitably astonished, and often annoyed. But I point out that even a breach of contract requires a judicial remedy; and if the breacher will not pay damages, the sheriff will sequester his house and goods; and if he resists the forced sale of his property, the sheriff might have to shoot him") (emphasis added); *but see* Douglas NeJaime, *Cause Lawyers Inside the State*, 81 FORDHAM L. REV. 649 (2013).

[50] Underpinning the modern bar exam are historical accounts of the American Bar Association's desire to keep "pure the Anglo-Saxon race." *See, e.g.*, Lauren Hutton-Work & Rae Guyse, *Requiring a Bar Exam in 2020 Perpetuates Systemic Inequities in Legal System*, APPEAL (Jul. 6, 2020), https://theappeal.org/2020-bar-exam-coronavirus-inequities-legal-system/; Dan Subotnik, *Does Testing = Race Discrimination?: Ricci, the Bar Exam, the LSAT, and the Challenge to Learning*, 8 U. MASS. L. REV. 332, 365 (2013); *see generally* Daria Roithmayr, *Deconstructing the Distinction Between Bias and Merit*, 10 LA RAZA L.J. 363, 396 (1998) (quoting JEROLD S. AUERBACH, UNEQUAL JUSTICE: LAWYERS AND SOCIAL CHANGE IN MODERN AMERICA 114 (1976) (citation omitted)).

[51] *See, e.g.*, Antonio Coronado, *Divine Injustice: Myths of Good Lawyers & Other Legal Fictions*, 14 GEO. J.L. & MOD. CRIT. RACE PERSP. 107, 124-27 (2023) (exploring the role of gatekeeping within the U.S. legal profession).

[52] *See* sources cited *supra* note 50.

[53] *See* Emmeline Paulette Reeves, *Teaching to the Test: The Incorporation of Elements of Bar Exam Preparation in Legal Education*, 64 J. LEGAL EDUC. 645 (2015); Joan Howarth, *Teaching in the Shadow of the Bar*, 31 U.S.F. L. REV. 927 (1997).

dents take (e.g., Civil Procedure, Constitutional Law, Property, Contracts, Torts, Criminal Law, Legal Research and Writing, Evidence, and Professional Responsibility) correspond to core aspects of state bar exams across the country. While significant variance exists,[54] this generalization best describes the current triadic relationship between U.S. law schools, bar authorities, and legal practice. From 1L up until a student's preparation for the bar exam, law schools reinforce the notion that one's bar passage is central to their journey into the profession.

To be sure, this configuration has immediate, recorded, and material implications for the practice of law, namely for our capacity to serve communities and be aligned with movements for liberation.[55] Hardly enough attention, though, has been paid to the educational consequences of our bar-serving pedagogy.[56] What does it mean for our profession that law school course syllabi were not required to include "learning objectives, outcomes, and assessments" until 2016-

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[54] *See, e.g., Curriculum B (Section 3)*, GEO. L., https://curriculum.law.georgetown.edu/jd/curriculum-b-section-3/ (last visited June 12, 2023); *see* Morenike Saula, *Crisis-Induced Innovation in U.S. Legal Education*, 69 J.L. EDUC. 689 (2020); Deborah L. Rhode, *Legal Education: Rethinking the Problem, Reimagining the Reforms*, 40 PEPP. L. REV. 437 (2013); Nancy Vettorello & Beth Hirschfelder Wilensky, *Reimagining Legal Education: Incorporating Live-Client Work into the First-Year Curriculum*, 8 MICH. B. J. 56 (2017).

[55] The normative infrastructure of U.S. legal education has had a profoundly harmful impact on the mental, physical, and emotional well-being of students. As confirmed by a 2022 report from the American University Washington College of Law, U.S. law students are not okay. In their national study of 5,400 of U.S. law students, researchers found that 18% of student participants reported a diagnosis of depression since starting law school, 68% reported needing help with their emotional or mental health in the prior year, 22% reported a diagnosis of anxiety since beginning their journey into legal education, and 11% reported having experienced suicidal ideation in their prior year alone. *See* David Jaffe, Katherine M. Bender & Jerome Organ, *"It Is Okay to Not Be Okay": The 2021 Survey of Law Student Well-Being*, 60 U. LOUISVILLE L. REV. 441, 463-467 (2022). Additionally, scholarship underscores the ways that traditional U.S. legal pedagogy does not prepare students for movement work. *See, e.g.*, Amna A. Akbar, *Toward a Radical Imagination of Law*, 93 N.Y.U. L. REV. 405 (2018)*;* Alexander, *supra* note 37; Touissant, *supra* note 47; John Bliss, *From Idealists to Hired Guns: An Empirical Analysis of Public Interest Drift in Law School*, 51 U.C.D. L. REV. 1973 (2018); Howard S. Erlanger & Douglas A. Klegon, *Socialization Effects of Professional School - The Law School Experience and Student Orientations to Public Interest Concerns*, 13 LAW & SOC'Y REV. 11 (1978) (finding that law student socialization at the University of Wisconsin Law School emphasized "traditional legal forums, . . . at the expense of other, less traditional modes of practice").

[56] *See, e.g.*, Antonio Coronado, *HTTPS://404-Error: The Continued Crash of the Legal Industry*, NE. U.L. REV. FORUM (Sept. 4, 2020), https://nulronlineforum.wordpress.com/2020/09/04/https-404-error-the-continued-crash-of-the-legal-industry/ ("The failures of our model of legal education as mirrored across the industry have never been more transparent, bursting at the seams with calls for accountability and reflection on the law's complicity in maintaining systemic oppression. As a BIPOC law student, I am frequently forced to wonder: 'Who is this model for—who does this model of legal education serve?' But the answer has always been clear"); Touissant, *supra* note 47, at 15-21; s*ee also* Russell L. Weaver*, Langdell's Legacy: Living with the Case Method*, 36 VILL. L. REV. 517 (1991).

2017?[57] What does it mean that racial equity and well-being are only *now* entering the law's lexicon of licensure?[58] From my personal and political position as a multiply marginalized legal educator, as a recent bar examinee, and as someone aligned with the work of movements to realize liberation, I'm often left with more questions than answers.

Of one thing, however, I'm most certain. Legal pedagogy, not unlike the legal precedents of our lectures, is tethered in time to the past. It is bound up in the colonial dreams of its founding architects and the present pedagogical dreams of its inheritors—a dueling *past-present* that we all inhabit. In line with this conclusion, countless legal scholars before me have noted the ways that traditional legal pedagogy is normatively grounded in perspectivelessness[59] and otherizing[60] as linked practices of white supremacy within the law.[61] Law student movements have equally drawn attention to the legacies of structural and pedagogical violence that define our law school experiences.[62] As a

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[57] *See* Laura M. Padilla, *Whoosh - Declining Law School Applications and Entering Credentials: Responding with Pivot Pedagogy*, 39 U. LA VERNE L. REV. 1, 13 (2017) (citing Managing Director's Guidance Memo: Standards, Section of Legal Education and Admissions to the Bar (June 2015) (Mem. at 301-02, 314-15)).

[58] Here, I reference February 2022 revisions to Standards 303(b) and (c), concerning law school curriculum under the ABA Standards and Rules of Procedure for Approval of Law Schools. The revised standards place an explicit emphasis on the inclusion of curriculum that fosters professional identity development, including "well-being practices considered foundational to successful legal practice," and education on "bias, cross-cultural competency, and racism." ABA, Revisions to the 2021-2022 ABA Standards and Rules of Procedure for Approval of Law Schools 1, 2 (2022).

[59] *See* Crenshaw, *supra* note 35, at 2 ("While it seems relatively straightforward that objects, issues, and other phenomena are interpreted from the vantage point of the observer, many law classes are conducted as though it is possible to create, weigh, and evaluate rules and arguments in ways that neither reflect nor privilege any particular perspective or world view").

[60] *See, e.g.*, Sanford Levinson, *Identifying the Jewish Lawyer: Reflections on the Construction of Professional Identity*, 14 CARDOZO L. REV. 1577, 1578 (1992) (discussing the ways that U.S. legal education socializes law students to engage in a "bleaching out" of their identities); Russell G. Pearce, *White Lawyering: Rethinking Race, Lawyer Identity, and Rule of Law*, 73 FORDHAM L. REV. 2081 (2005).

[61] *See, e.g.*, Doron Samuel-Siegel, *Reckoning with Structural Racism in Legal Education: Methods toward a Pedagogy of Antiracism*, 29 CARDOZO J. EQUAL RTS. & SOC. JUST. 1 (2022); Ballakrishnen *supra* note 36; Peter Goodrich & Linda G. Mills, *The Law of White Spaces: Race, Culture, and Legal Education*, 51 J. LEGAL EDUC. 15 (2001); *see also* Bennett Capers, *The Law School as a White Space*, 106 MINN. L. REV. 7, 31 (2021) ("While [race-conscious curricular] endeavors are important, the argument I make here is somewhat different, and perhaps broader. The problem is not that race is absent from the classroom. It is that the whiteness of the curriculum goes unsaid and unremarked upon. It is like the whiteness of the portraits that line law school hallways, or the whiteness of Lady Justice. The whiteness itself is too often invisible").

[62] *See, e.g.*, *Calling All Students Past, Present, and Future: Join in Demanding Change at Northeastern University School of Law*, CALL TO ACTION – DEMANDING CHANGE AT NUSL (2021), https://bit.ly/DemandingNUSLChange [hereinafter CALL TO ACTION]; A Collective of DisOrientation Student Organizers, *DisOrientation: A Call for Self-Preserva-*

law student and now-educator, this has included:

- **The disparate burdening** of marginalized and minoritized law students, faculty, and staff alike with the onus of changemaking to legal education's white supremacist foundations and lasting curricula.[63] Countless scholars have written on this issue, and this piece adds to the scholarship in this area by naming the ways that historically excluded and minoritized members of the legal profession have taken up the mantle of mending a profession that was not built for us.[64]

- **The systematic absence** of cases, classes, or lessons that contextualize violent legal institutions against the violent social realities that produced them. This, in turn, engenders the above-mentioned phenomena, wherein cases, law, and class may exist in a falsely neutral analytical "white" space.[65]

- **The still-dominant testimony model** of the Socratic method,[66]

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tion, HARV. L. RECORD (Oct. 7, 2019), https://hlrecord.org/disorientation-a-call-for-self-preservation/; Richard Delgado, *Liberal McCarthyism and the Origins of Critical Race Theory*, 94 IOWA L. REV. 1505 (2009) (overviewing the distinct but convergent student movements that serve as CRT's origin story).

[63] Antonio Coronado, "Report on the State of BIPOC at Northeastern University School of Law," Commissioned by the Committee Against Institutional Racism at Northeastern University School of Law (Sept. 2020), bit.ly/CAIR-Report [hereinafter CAIR Report]; *see also* Coronado, *supra*, note 56 ("It is irresponsible and devoid of understanding to ask BIPOC to enter the war room that is whiteness and to make white supremacist institutions less violent").

[64] Of note, legal historian Robert Stevens recounts the ways that modern law schools sought to attract young, white men in the middle of the 19th Century by appealing to the ways that U.S. legal education could prepare them to inherit estates, property, and control of the settler-nation's commerce in the lead-up to the American Civil War. ROBERT STEVENS, LAW SCHOOL: LEGAL EDUCATION IN AMERICA FROM THE 1850S TO THE 1980S 21 (2001); *see also* sources cited *supra* note 50. This historical trend necessarily informs the current profession.

[65] Capers, *supra*, note 61, at 58 ("We live in a world built on racialized hierarchies and inequality, and much of the reason we live in such a world is because of what we call the law, from Slave Codes to the enshrinement of slavery in the Constitution to the doctrine of manifest destiny to anti-miscegenation laws to the Chinese Exclusion Act to zoning rules to qualified immunity to racialized highway construction to so much more). For a discussion of the ways that some scholar-educators are working to "stop citing slavery" in their work and curricula, Diane J. Kemker, *Three Steps to Stop Citing Slavery*, 71 J. LEGAL EDU. 348 (2022); *see* Justin Simard, *Citing Slavery*, 72 STAN. L. REV. 79 (2020).

[66] *See, e.g.,* Crenshaw, *supra*, footnote 35 at 6 ("An equally stressful, but conceptually more obscure experience is what I call subjectification. This is experienced by minority students when, after learning to leave their race at the door, their racial identities are unexpectedly dragged into the classroom by their instructor to illustrate a point or to provide the basis for a command performance of 'show and tell.' The eyes of the class are suddenly fixed upon the minority student who is then expected to offer some sort of minority 'testimony'").

> whereby law students are expected to grapple with questions of life, liberty, and law—personal ones that are disparately felt and navigated based on power, position, and place—without transparent and routine pedagogical intention in the creation of their educational space.

Ironically (and painfully), the very legal harms that many of us entered law school to disrupt remain embedded and central to the pedagogies we endure along our way to practice.[67] Both graduates and current law student movements make it clear that U.S. law schools have failed "to properly acknowledge, memorialize, and be a catalyst for progress."[68] Once again, we are reminded that healing cannot happen without meaningfully engaging our personal-political histories.

2. Locating the Limits of Law School

Buttressing our efforts to envision repair in/from legal education as a site of lawyer socialization and social reproduction are the material limitations of the profession. As numerous scholars before me have noted, traditional reforms to U.S. legal education fall short in realizing the potential of law schools as sites for liberatory change, given the legal profession's political economic order and position as an apparatus of the state.[69] Accordingly, the question of what forms of meaningful, lasting social change might derive *in* or *from* legal education has been the subject of countless scholarship interventions to the work of pedagogical repair.

Indeed, many prior liberatory legal scholarships have emphasized the need to build a movement for radical transformation within legal academia while simultaneously accounting for the many careers, cur-

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[67] As a law student leader, my work in coalition with other student organizers sought to name the contradiction of "social justice" values espoused by the neoliberal institution we attended versus the pedagogical harm that they dispensed. *See* CALL TO ACTION, *supra* note 62, at 4 ("We write to express our collective frustration, disappointment, and anger with the lack of change we have witnessed during our time at [Northeastern University School of Law]. The mission to reimagine legal education serves as the very bedrock of Northeastern as a law school—for many of us, it is the very reason we are now students here. Yet, as NUSL receives praise for its place as "number one" in experiential learning, we're left to wonder: Experiencing what exactly? Organizing by NUSL students who are Black, Indigenous, and People of Color (BIPOC) has consistently shown that the answer is *inequity*. The experiential education that we advertise is one of disparate experiences, disparate support, disparate [course] placements, disparate resources, disparate treatment, disparate training, and disparate forms of violence").

[68] H.R.J. Res. 19; S.J. Res. 6.

[69] *See, e.g.*, Duncan Kennedy, *Legal Education and the Reproduction of Hierarchy*, 32 J. LEGAL EDUC. 591, 601 (1982); *Subversive Legal Education*, *supra* note 26; *see* Akbar, supra note 55; LOUIS ALTHUSSER, *Ideology and Ideological State Apparatuses (Notes Towards an Investigation)*, *in* LENIN AND PHILOSOPHY AND OTHER ESSAYS (Ben Brewster trans., New York and London: Monthly Review Press 1971) (1970).

ricula, relations, hierarchies, institutions, influences, and realities of the legal profession that hinder its own reimagining. Across these scholarships, a common practice and belief in movement-based "utopia" locates the liberatory potential of any form of legal work beyond the current manifestation of the law; these works are premised on future worlds that do not yet exist and that are foregrounded by the end of our present oppressive regimes, including modern legal education.[70] They share overlapping visions of snapping the structural synapses of the modern law school and breaking the settler logics of legal education, each as preconditions for our freedom.

Here, with the dream of utopic classrooms in mind, enters the promise of pedagogical repair. By looking to developments beyond the law to advance educational repair, this piece seeks to extend decades of liberatory legal scholarship and experiment with new steps toward freedom by examining the role that theories of "reparative"[71] and "engaged"[72] pedagogies might play in realizing utopic futures in/from legal education. As evidenced by recent and sustained efforts by our colleagues beyond the law to engage in pedagogical dreaming, traditional U.S. legal education has *much to learn* from the work of fellow liberatory instructors in resituating the classroom as a site of healing, not harm.

The following section explores these forms of scholarship-activism beyond the law, with an eye toward the ways that they might aid us in reimagining the purpose and potential of U.S. legal education.

B. Looking Beyond the Law

Before starting law school—or, as I often joke with my partner, what feels like three lives ago—I worked as an academic skills tutor for students at my undergraduate institution. Through our institution's

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[70] This lineage spans countless scholarships and includes those of Amna Akbar, Amanda Alexander, Sameer Ashar, Bennett Capers, Norrinda Brown Hayat, Duncan Kennedy, Russell Pearce, and Etienne C. Toussaint, as non-exhaustive examples. *See, e.g.*, Akbar, *supra* note 55; Alexander, *supra* note 37; Ashar, *supra* note 43; Capers, *supra* note 61; Hayat, *supra*, note 25; Kennedy, *supra* note 69; Pearce, *supra* note 60; Touissant, *supra* note 47; *see also Prefiguring Border Justice: Interview with Harsha Walia*, 6 CRITICAL ETHNIC STUD., Spring 2020, https://manifold.umn.edu/read/prefiguring-border-justice-interview-with-harsha-walia ("prefiguration is primarily an organizing ethic stemming from feminist and trans and disability justice communities of care. The entire logic of capitalism and colonialism, in addition to being extractive and exploitative, is to break communal ways of living, to sever ties to the land especially for Indigenous communities, to foreclose kinship as a political process and instead generate competitive, individualistic, atomized ways of relating to one another. Prefiguration, then, is a communal ethic: everything that I think and say comes not from me as one individual organizer or writer but as one person in a constellation of comrades and mentors").

[71] *See infra* Section I.B.1.

[72] *See infra* Section I.B.2.

tutoring center, I provided workshop-based and individual peer support to students on a myriad of topics, ranging from students' time management to their exam prep, test-taking strategies, distance learning, tending to well-being, and semester goal setting.[73] I had a general understanding of how to hold intentional pedagogical spaces for students, and this knowledge was only further enriched by my tutoring of English as an Additional Language (EAL) learners and my facilitation of an experiential learning course affiliated with the Latinx student cultural center where I worked as a graduate student. (Two lives ago,) I'd had the opportunity to support a law professor and dear mentor in co-developing materials for a tenants' rights community education initiative. In short: I had taught before law school, and they were some of the greatest experiences of my life thus far. Through it all, I learned that I loved practicing critical, experiential, and intersectional pedagogy, and these experiences allowed me to create the space for deep inquiry I wished I'd had from past educators.

You might imagine my surprise and questions, then, upon encountering the form, the substance, and the (very often opaque) goals of U.S. legal education. Why were we teaching cases[74] instead of the generally applicable rules and formations of a given content area (as the bar review companies do[75])? *Because we always have*. Why did I need to make an "outline"[76] in order for my exam prep to be valid? *Because we always have*. Why were these 1L courses the chosen canon of a profession that concerns all areas of life? Why were housing law,

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[73] *Academic Skills*, THINK TANK, https://thinktank.arizona.edu/academic-skills/resources (last visited June 13, 2023).

[74] *See* sources cited *supra* note 56; David Segal, *What They Don't Teach Law Students: Lawyering*, N.Y. Times (Nov. 19, 2011), https://www.nytimes.com/2011/11/20/business/after-law-school-associates-learn-to-be-lawyers.html.

[75] There is a paucity of legal scholarship that addresses the role played and content provided by commercial bar review companies in the U.S. While some scholars have looked to bar review companies in the context of reforming normative legal education, none seem to address what exactly it is that bar companies do as a matter of legal pedagogy. *See, e.g.*, Mario W. Mainero, *We Should Not Rely on Commercial Bar Reviews to Do Our Job: Why Labor-Intensive Comprehensive Bar Examination Preparation Can and Should Be a Part of the Law School Mission*, 19 CHAP. L. REV. 545 (2016); William K. S. Wang, *The Restructuring of Legal Education Along Functional Lines*, 17 J. CONTEMP. LEGAL ISSUES 331 (2008). From my own anecdotal experience with a bar prep company and with sitting for the New York bar exam, case law was not central.

[76] *See, e.g.*, *Outlines: They Can Save or Break You in Law School*, Thomas Reuters, https://lawschool.thomsonreuters.com/survival-guide/outlines-they-can-save-or-break-you/ (last visited June 13, 2023); Jennifer M. Cooper, *Smarter Law Learning: Using Cognitive Science to Maximize Law Learning*, 44 CAP. U. L. REV. 551, 587 (2016) ("While most professors do not teach outlining techniques, most professors do expect students will outline their course materials by extracting rules from cases read for class, synthesizing rules from related cases, breaking rules into elements, including examples, explanations, and policies").

consumer protection and fraud, employment law, civil and social rights, and education law not made doctrinal and required? *Because Langdell and the bar* (I suppose), *but equally because money and our country's values* (I know). Law school was "disorienting" because, as many before me have identified,[77] it didn't make sense in my lived and learned experiences as a multiply marginalized, interdisciplinary student-educator. I didn't grow up knowing any lawyers, and the law felt like a strange space,[78] a liminal one to be sure, that was neither *present* nor *personal*. And it was this *distant* and *impersonal* experience that informed my decision to become a legal educator. I needed to affirm for myself and for those after me that this experience was not a fault or "deficit"[79] of our own, but that it was the visible and violent institutional architecture of a profession sketched from colonial dreams. I did not need to change; legal pedagogy did.

Even if we accept that legal pedagogy must change—*this already being a bridge too far for many of my colleagues in the law*, what and how might we change to meet the realities that our centuries-old pedagogies now inhabit and the students that our lessons were never intended to serve? To this, I propose a frame of "reparative legal pedagogy." In no adjudicated case, publicly available legal scholarship, or published course materials is there such mention of a legal pedagogy that aims in scope or focus to be reparative.[80] The aim of this piece, then, is to disrupt this silence. Through the forging of pluralistic "reparative legal pedagogies," ones that advance repair across multiple, intersecting dimensions of educational harm, I join the greater tradition of pedagogical dreaming in legal education by interjecting a praxis of reparative pedagogy to normative discourses on the purpose and potential of legal education. Reparative legal pedagogies, I contend, thread the liberatory scholarship-practices that have emerged in the clinical legal context as well as beyond the law to ad-

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[77] *See* A Collective of DisOrientation Student Organizers, *supra* note 62; Touissant, *supra* note 47, at 5; *DisOrientation*, NAT'L LAW. GUILD, https://www.nlg.org/disorientation/ (last visited June 13, 2023).

[78] *See* sources cited *supra* note 60 and 61 and accompanying text for an examination of U.S. legal education as a racist, white, and straight space.

[79] RICHARD R. VALENCIA, DISMANTLING CONTEMPORARY DEFICIT THINKING: EDUCATIONAL THOUGHT AND PRACTICE (2010) (exploring deficit thinking as a model of education that pathologizes students based on racist and classist biases). I have previously explored the way that law students are evaluated in their "fitness" to lawyer based on a deficit metric of wielding falsely-objective, neutral forms of legal power. *See* Coronado, *supra* note 51 at 150 (2023) ("To students: Fasten yourself to one another. Hold tight against the currents that churn through augur pipelines. Know that it was never you, or your lack of Latin, or your propensity for [legal] prophecy; it was always about divine injustice").

[80] A simple search of HeinOnline, Google Scholar, and ResearchGate yielded zero exact matches for any theoretical or analytical frameworks of "reparative legal pedagogy."

dress the broader ideological and normative realities of legal education. In making legal education reparative, we might aim to re-ground our pedagogy, severing the hold that past harms have on legal education by naming and healing from the histories that bring us here.

1. Practices of Truth

As seen in the fields of art studies,[81] film and media studies,[82] and curriculum studies more broadly,[83] a frame of "reparative pedagogy" has emerged outside legal academia to subvert the processes that present certain curricula as canonic. As one scholar notes, a pedagogy of reparations "recognizes and diagnoses our current pedagogies as pedagogies of occupation, where white supremacist . . . academic systems enact a colonial and imperial occupation of thought."[84] It demands a form of "clear-eyed accountability" from educators for prior acts of pedagogical harm as a means of envisioning other restorative futures.[85] Such repair, they contend, necessitates community accountability "from all of us" within academia.[86]

Other critical scholars have described reparative curriculum as "education's shaky attempt to make lessons from terrible human history that cannot be saved, will not be redeemed, refuses to be forgotten, struggles for articulation, and must be heard."[87] By their account, reparative curriculum makes no claim to authority or canon and, instead, proposes subjective views to history through suppressed, collective versions of violence.[88] Such an approach closely parallels the legal scholarship-activism of Critical Race Theory and its accompanying practice of counter-storytelling.[89] First formalized by legal scholars Mari Matsuda, Patricia Williams, Richard Delgado, and countless others,[90] CRT's core tenet of counter-storytelling undermines the heg-

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[81] *See, e.g.*, Aliza Shvarts, *Toward a Reparative Pedagogy: Art as Trigger, Art as Repair*, ART J. OPEN (Apr. 7, 2022), http://artjournal.collegeart.org/?p=16702.

[82] *See, e.g.*, Usha Iyer, *A Pedagogy of Reparations: Notes Toward Repairing the Film and Media Studies Curriculum*, 8 FEMINIST MEDIA HIST. 181 (2022).

[83] *See, e.g.*, Aparna Mishra Tarc, *Reparative Curriculum*, 41 CURRICULUM INQUIRY 350 (2011).

[84] Iyer, *supra* note 82, at 184.

[85] *Id.* at 185.

[86] *Id*.

[87] Tarc, *supra* note 83, at 350.

[88] *Id.* at 351.

[89] Richard Delgado, *Storytelling for Oppositionists and Others: A Plea for Narrative*, 87 MICH. L. REV. 2411 (1989).

[90] *Id*.; RICHARD DELGADO & JEAN STEFANCIC, CRITICAL RACE THEORY: THE CUTTING EDGE (3rd ed. 2013); Racquel Armstrong & Cynthia Tyson, *Say Their Name: Early Critical Race Theory Scholars and Their Place in the Debate*, DIVERSE: ISSUES IN HIGHER EDUC. (Jan. 31, 2022), https://www.diverseeducation.com/opinion/article/15287996/say-their-name-early-critical-race-theory-scholars-and-their-place-in-the-debate (extending the

emonic assumptions of the law through processes of truth-telling by the forever subjects (but seldom drivers) of the law.[91] Despite critique from legal institutionalists,[92] counter-storytelling has broadened legal pedagogy's reach and scope, demanding that we, as formally trained legal writers and workers, affirm the "many voices" it will take to get to "a place called justice."[93]

Reparative pedagogies incorporate this aim of truth-telling and go on to explicitly ask that we work in collective, generative ways to reimagine the sites of knowledge production within which we are located. Aliza Shvarts, for instances, explores the ways that the study of art might facilitate profession-wide repair through knowledge (re)production:

> To say that pedagogy can "repair" us is to insist that we can do more with each other than the paranoid work of cataloging the harms that could befall us either inside or outside of the classroom—as important as that task can be. It is to insist that we can use the resources of our field to creatively assemble the disparate pieces of knowledge that our criticality has parsed into something like a whole[.][94]

For Shvarts, these processes necessarily include a reconfiguration of the classroom as a site of inquiry:

> Reparative pedagogy is therefore one that allows students and teachers to creatively and provisionally assemble the resources they find in the course materials, in themselves, and in each other. It is one where neither teacher nor student presumes to know the outcome beforehand.[95]

To the latter of these points, a chorus of disparately positioned legal scholars, educators, and practitioners might share in taking umbrage; the purpose of legal pedagogy likely serves as one of the few areas where they overlap ideologically. *We do know* the outcome beforehand, they might counter, *our graduates must* know x, y, and z in order to practice the law. *Law professors must lead* and *dispense*[96]

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lineage of CRT legal scholars to critical writer-theorists Dr. Carter G Woodson, Ida Wells Barnett, W.E.B. DuBois, and the Black Radical Tradition).

[91] DELGADO & STEFANCIC, *supra* note 90; CRITICAL RACE THEORY, *supra* note 45.

[92] See, e.g., DANIEL A. FARBER AND SUZANNA SHERRY, BEYOND ALL REASON: THE RADICAL ASSAULT ON TRUTH IN AMERICAN LAW (1997); *but see also* Richard Delgado, *On Telling Stories in School: A Reply to Farber and Sherry*, 46 VAND. L .REV. 665, 67 (1993) (exploring the theoretical shortcomings of critiques to "outsider jurisprudence").

[93] Mari J. Matsuda, *Looking to the Bottom: Critical Legal Studies and Reparations*, 22 HARV. C.R.-C.L. L. REV. 323, 324 (1987).

[94] Shvarts, *supra* note 91.

[95] *Id*.

[96] Paolo Freire criticizes this mode of pedagogical thought and what they describe as the "banking" concept of education: "The raison d'etre of libertarian education, on the other hand, lies in its drive towards reconciliation. Education must begin with the solution of the teacher-student contradiction, by reconciling the poles of the contradiction so that

legal knowledge to best prepare students for____ (*fill in the blank*). Whether in preparation for the bar, practice, or work in service of communities, the formulaic structure of legal education as a professional degree program presupposes law school as one of several variables that produce a "fit" and "zealous" advocate.[97]

But our formula equally produced lawyers with visions of capital sieges;[98] it yielded attorneys intent on subverting democratic elections, reprimanded by the profession only after the fact;[99] it's given power to divine legal beasts[100] and horrors that are still largely unspoken by our curricula.[101] If we are to understand legal education as one part of an equation for licensure and law practice, we must also understand the normative values of our courses, our degree's structure, and the stories that we don't teach as (not-so-)hidden variables to lawyer produc-

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both are simultaneously teachers and students. This solution is not (nor can it be) found in the banking concept. On the contrary, banking education maintains and even stimulates the contradiction through the following attitudes and practices, which mirror oppressive society as a whole." PAOLO FREIRE, PEDAGOGY OF THE OPPRESSED (Myra Bergman Ramos trans., Continuum 2000) (1970).

[97] For a discussion of the white supremacist and eugenics interconnections between measures of "fitness" and "zealous" advocacy in the legal profession, *see* Coronado, *supra* note 51, at 127; MODEL RULES OF PRO. CONDUCT Preamble: A Lawyer's Responsibilities (AM. BAR ASS'N 2020) ("As advocate, a lawyer zealously asserts the client's position under the rules of the adversary system"); Robin West, *The Zealous Advocacy of Justice in a Less Than Ideal Legal World*, 51 STAN. L. REV. 973 (1999); *but see also* Jana DiCosmo, *Racism in the Legal Profession: A Racist Lawyer Is an Incompetent Lawyer*, 75 NAT'L LAW. GUILD REV. 82 (2018).

[98] *See, e.g.*, Reuters, *'Let's Have Trial by Combat' over election -Giuliani*, REUTERS (Jan. 6, 2021), https://www.reuters.com/video/watch/idOVDU2NS9R.

[99] *Compare* Austin Sarat, *Trump's Lawyers Will Get Away with Facilitating His Anti-Democratic Antics and They Know It*, VERDICT (Dec. 11, 2020), https://verdict.justia.com/2020/12/11/trumps-lawyers-will-getaway-with-facilitating-his-anti-democratic-antics-and-they-know-it (naming the anti-democratic role that lawyers played in the Trump Administration); *with* Mario Nicolais, *John Eastman Is a Traitor Who Tried to Kill Our Democracy*, COLORADO SUN (June 19, 2022), https://coloradosun.com/2022/06/19/nicolais-eastman-january-6-opinion/ (condemning attorney John Eastman for his role in the January 2022 Capitol Insurrection); *and* David Enrich, *How a Corporate Law Firm Led a Political Revolution*, NY TIMES (Aug. 25, 2022), https://www.nytimes.com/2022/08/25/magazine/jones-day-trump.html (examining the institutional role that law firms played in the January 2022 Capitol Insurrection). *But see also Statement of ABA President Patricia Lee Refo Re: Violence at the U.S. Capitol*, ABA (Jan. 6, 2021), https://www.americanbar.org/news/abanews/aba-news-archives/2021/01/statement-of-aba-president-patricia-leerefo-re--violence-at-the/ (statement of then-ABA President condemning the January 2022 insurrection at the U.S. Capitol).

[100] Here, I refer to disgraced former Trump attorney, Sidney Powell, and her claim of advancing a "Kraken" of an election lawsuit in the wake of the 2020 U.S. Election. *See, e.g.*, Alison Durkee, *Sidney Powell Still Wants Her Election 'Kraken' Case Heard in Court*, FORBES (Apr. 22, 2021, 4:36PM), https://www.forbes.com/sites/alisondurkee/2021/04/22/sidney-powell-still-wants-herelection-kraken-case-heard-in-court/?sh=465f43204863.

[101] *See, e.g.*, Dylan C. Penningroth, *Race in Contract law*, 170 U. PA. L. REV. 1199 (2022); Brant T. Lee, *Teaching the Amistad*, 46 ST. LOUIS U. L.J. 775 (2002); Thomas, *supra* note 8.

tion. Borrowing from theorists beyond the law,[102] we must acknowledge that legal education defines the profession—that the truths we teach (and don't) to lawyers define the truths our laws recognize. Undoubtedly, our courts and law-making institutions designate truth.[103] Why, then, would we not recognize that legal educators have an active hand in preparing law graduates to engage in this law- and reality-defining endeavor?

Reparative legal pedagogies take up the issue(s) of truth-telling in legal education and seek to shatter the colonial lens of imperial truth within which our doctrines are situated. They disrupt the notion that there is a true "canon" to legal education and ask instead how we might facilitate "clear-eyed accountability"[104] in/from a profession that has been instrumental in legitimizing harm. Through practices that (re)position our instruction in the lived realities of historically marginalized, minoritized, and silenced voices, our pedagogy might lend themselves to the broader work of movements to realize truth and reconciliation from the settler nation-state. As not just a co-conspirator but a fully-fledged apparatus of the state in reproducing its ideologies,[105] legal educators inherit a *liability* for the law's past and ongoing socio-legal wrongs. We are *pedagogically liable* for state harms that demand our healing.

2. Practices of Healing

Next, I turn our attention to the work of Black critical theorist, bell hooks, and the writings of fellow liberatory educators committed to pedagogical practices of healing. I begin, first, with the notion that our pedagogy might be "engaged" with the lived realities and harms in which they exist.[106] In *Teaching to Transgress*, hooks describes "en-

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[102] Critical theorists have continued to identify the ways that school spaces are inherently political sites of socialization that reproduce state and social hierarchies of power. *See, e.g.*, BELL HOOKS, *Understanding Patriarchy*, *in* THE WILL TO CHANGE: MEN, MASCULINITY, AND LOVE 17 (2004); Kennedy, *supra* note 69, at 607; ALTHUSSER, *supra* note 69.

[103] *See, e.g.*, Edward D. Cavanagh, *Countering the Big Lie: The Role of the Courts in the Post-Truth World*, 107 CORNELL L. REV. ONLINE 64 (2021-2022) (exploring the role that courts played in giving space for former U.S. President Trump's claims of voter fraud and election illegitimacy to take root in 2020).

[104] Iyer, *supra* note 82, at 185.

[105] *See* sources cited *supra* note 102.

[106] Black critical theorist bell hooks developed a theory of "engaged pedagogy" through reflections on her own experiences in the classroom and the lessons gained from educators before her: "many students still seek to enter feminist classrooms because they continue to believe that there, more than in any other place in the academy, they will have an opportunity to experience education as the practice of freedom. Progressive, holistic education, 'engaged pedagogy' is more demanding than conventional critical or feminist pedagogy"). BELL HOOKS, TEACHING TO TRANSGRESS: EDUCATION AS THE PRACTICE OF FREEDOM 13, 15 (1994).

gaged pedagogy" as a "progressive, holistic" form of education that emphasizes well-being.[107] Reflecting on the teachings of Paolo Freire and Thich Nhat Hanh, hooks situates educators as healers, insisting that we work to recast the role and goal of educators: "teachers must be actively committed to a process of self-actualization that promotes their own well-being if they are to teach in a manner that empowers students."[108] For hooks, self-actualization is necessary for liberatory pedagogy.[109] "Professors who embrace the challenge of self-actualization," she argues, "will be better able to create pedagogical practices that engage students, providing them with ways of knowing that enhance their capacity to live fully and deeply."[110]

As an extension of our prior discussion of truth-telling in education, hooks goes on to note the ways that truth and healing are interconnected:

> [students] want an education that is healing to the uninformed, unknowing spirit. They do want knowledge that is meaningful. They rightfully expect that my colleagues and I will not offer them information without addressing the connection between what they are learning and their overall life experiences.[111]

Healing, by hooks' account, is predicated on our pedagogical commitment to interrogating not just *what* we teach but *how* we teach and *in what ways* we show up as educators in doing so. Healing requires truth.

This politic and practice of healing pedagogy is consonant with efforts within the law to "heal" law students[112] and to center vulnerability in our legal practice.[113] Vulnerability, as legal scholar-activist Camilo Romero argues, is instrumental to lawyers' advocacy "for a more wholesome and inclusive society."[114] Workers within the law

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[107] *Id*.

[108] *Id*.

[109] *Id.* at 16-17 ("The self was presumably emptied out the moment the threshold was crossed, leaving in place only an objective mind . . . . Not surprisingly, professors who are not concerned with inner well-being are the most threatened by the demand on the part of students for liberatory education, for pedagogical processes that will aid them in their own struggle for self-actualization.").

[110] *Id.* at 22.

[111] *Id.* at 19.

[112] *See, e.g.*, Tyler, *supra* note 45 (discussing the successes and theoretical grounding of mindfulness-oriented instruction in the clinical legal context).

[113] *See, e.g.*, Camilo A. Romero, *May It Please the Soul: On the Practice of Law and Vulnerability*, 69 J. LEGAL EDUC. 672, 674 (2020) ("the fact remains that I have privileges that many seek and few attain. Those privileges as advocates must be thoughtfully acknowledged, with oneself and those with whom one communes, to develop trust and truly be proximate. Indeed, this is where proximity makes way for vulnerability. In sharing our own story—its insecurities and incongruities—trust is strengthened and so is our advocacy partnership.").

[114] *See Id*.

must be prepared to show their "full self," to communicate their trauma, and to "reveal our 'othered' side" or "that which makes us human."[115] Healing, in/from legal education, similarly requires that educators view their personal healing as a political matter for the legal profession. How can we expect our law graduates to be vulnerably present in their work and to tend to their well-being in a profession that does not,[116] or when educators are not expected to do the same? Engaged pedagogy reveals that we cannot expect care from members of our profession if we do not practice it as a value in their education and training.

In the past decade especially, an ever-growing cadre of critical clinical legal scholars have taken up the work of building engaged legal pedagogies, albeit without using this exact language.[117] Self-reflection, they emphasize, must be practiced by both educators and students as co-participants to the work of learning and living liberatory futures.[118] Reparative legal pedagogies, I argue, encompass this work and the scholarship-activism of fellow critical writers outside the clinical legal context by demanding that we radically transform, "not just tinker," with legal education.[119] For both truth and healing to be central to any legal pedagogy, we must disrupt the idea that legal educators are anything but neutral dispensers of doctrine; we are either extensions of or interruptions to a lineage of normative ideologies

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[115] *Id.* at 675.

[116] Jaffe, Bender, & Organ, *supra* note 55; *see also* Antonio Coronado, *Beyond Burnout & the Law's Culture of Crisis*, MASS. LAW. WEEKLY (Mar. 10, 2023), https://masslawyersweekly.com/2023/03/10/beyond-burnout-and-the-laws-culture-of-crisis/ (providing an embodied and learned account of the ways that burnout is normatively embedded in the infrastructure of the U.S. legal profession); NATIONAL TASK FORCE ON LAWYER WELL-BEING, THE PATH TO LAWYER WELL-BEING: PRACTICAL RECOMMENDATIONS FOR POSITIVE CHANGE 7 (2017), https://www.americanbar.org/content/dam/aba/images/abanews/ThePathToLawyerWellBeingReportRevFINAL.pdf.

[117] *Compare* Hayat, *supra* note 25, at 165-67 ("Reflection is key. I can and want to do better. I am trying again this semester, ... The point though is not to give up even if these changes do not work the first time. Try again and again"), *with* Alexander, *supra* note 37, at 130 ("It is one thing to describe a utopian set of values and quite another to figure out how to make them real in our society. They require constant practice and *self-reflection*. It helps to keep them present . . . . Better yet, we can use them as a shared language, as guiding questions in our meetings, and to help each other think through our next moves") (emphasis added). *See* Touissant, *supra* note 47; Anthony V. Alfieri, *Rebellious Pedagogy and Practice*, 23 CLIN. L. REV. 5 (2016); Sameer M. Ashar, *Deep Critique and Democratic Lawyering in Clinical Practice*, 104 CALIF. L. REV. 201, 218 (2016) (making the case that the practice and instruction of poverty law requires a "capacity of deep critique" by both educator and student); Harold McDougall, *The Rebellious Law Professor: Combining Cause and Reflective Lawyering*, 65 J. LEGAL EDUC. 326 (2015); E. Michelle Rabouin, *Gifting Children of Promise: Re-Imagining the Academic Margins as Transformative Legal Space*, 3 J. GENDER RACE & JUST. 581 (2000).

[118] *Id*.

[119] *Id*.; López, *supra* note 46; *Subversive Legal Education*, *supra* note 26.

designating who has been harmed and who deserves a remedy.

So, after 150 years, let's interrupt in the strongest of terms. Repair, as a reflective verb of dreaming up the legal pedagogies of tomorrow, aims to do just this by looking in all directions—by situating the classroom in the past and present realities that define it. In the sections that proceed, I explore what duty, if any, legal educators have to reflect on the practices of repair that this piece unearths, beginning with the student organizing that brings me to pedagogical care in legal education.

II. Developing a Duty of Pedagogical Care

My first engagement with a pedagogical "duty" of care began during my work as a law student leader and as a member of my law school's Committee Against Institutional Racism.[120] Astounded by our experiences in the classroom and by the stories of our peers—of the lack of care and intention we collectively felt from our legal educators, we organized as student advocates. One of the ways that we drew attention to what we saw as the *haphazardness* and *careless racism* of our legal education was through an open letter calling for change.[121] The letter was signed by over two hundred members of the school's student body, past, present, and future—a testament to the sheer magnitude of students' frustrations.[122]

Styled as a mock complaint against the law school, the letter alleged four counts of educational harm: i) *fraud*, for the school's mischaracterization of the experiential education that it offered; ii) *breach of contract*, for the lack of performance on the part of our school in its delivery of effective legal education; iii) *unjust enrichment*, through the "continued and unacknowledged exploitation of labor and lived experiences from BIPOC students" that in turn "conferred a financial, emotional, developmental, and pedagogical benefit upon the white student body;" and iv) *negligence*, for a breach of what we identified as the school's duty of "pedagogical care."[123]

Most relevant for this Essay, our claim for negligence proceeded as follows:

COUNT II. NEGLIGENCE

- We reallege and incorporate by reference herein all of the lived

120 "The Committee Against Institutional Racism at Northeastern University School of Law is currently a rotating standing committee of students, faculty, and administrators tasked with developing programs and strategies to eradicate institutional racism and to enhance the overall quality of life for all BIPOC in the law school community") See CAIR Report, *supra*, note 63; *see* Call to Action, *supra* note 62, at 6.

121 Call to Action, *supra* note 62.

122 *Id.* at 1.

123 *Id.* at 6.

> facts contained in the above paragraphs.
>
> • That [the law school's] BIPOC students bring this claim for the mental anguish, emotional pain and suffering, financial loss, lost opportunities, and other damages for the true "experience" of education that occurred as a direct and proximate result of the negligence and breaches of the applicable standards of pedagogical care by [the law school] and through its Professors, Teaching Assistants, Lawyering Fellows, Staff, Faculty, and Administrators.
>
> • That these standards of care are established under Standards 315 and 403(b) of the ABA Standards and Rules of Procedure for Approval of Law Schools 2021-2022. ABA Standards and Rules of Procedure Standards 315, 403(b) (2021).
>
> • That [the law school's] Administration failed to take reasonable efforts to ensure teaching effectiveness . . . across the Law School, despite knowledge of the need for such efforts.
>
> • That [the law school's] Administration failed to make "appropriate changes to improve the curriculum," despite knowledge of the need for such changes.[124]

Furthermore, we alleged that the school had been given actual and physical notice of its past and ongoing pedagogical harm to its BIPOC student populations:

> • That the [the law school's] Administration was given actual notice of the many forms of violence that BIPOC students regularly navigate in their time at the Law School . . . and that they knew or should have known of the "dramatic impact" that ignoring Diversity, Equity, and Inclusion in its many forms at [the law school] continues to have on the well-being of students. *See Massachusetts Supreme Judicial Court Standing Committee on Lawyer Well-Being, A Guide to Preparing Law Students and Rising Lawyers to Thrive in Law School, the Legal Profession, & Beyond* 11 (2021) (citing Report on the State of BIPOC).
>
> • That [the law school's] Faculty continue to deliver class instruction without a comprehensive plan or intention-setting process, directly and proximately resulting in disparate outcomes, disparate experiences, and disparate forms of interpersonal harm between Law Offices.
>
> • That [the law school] has refused repeated demands for structural and curricular change and knew or should have known of the harms that BIPOC students navigate . . . across the Law School.[125]

As we noted in this (ac)count of harm, our claim for negligence was grounded in two of the American Bar Association's *2021-2022 Standards and Rules of Procedure for Approval of Law* Schools, these be-

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[124] *Id*.

[125] *Id.* at 6-7.

ing ABA Standards 315 and 403(b).[126] Our Call to Action made the case that ABA Standards 315 and 403(b), when read in conjunction, imposed a negligence-type duty of care on our legal educators for their pedagogical practices within and beyond the classroom. These standards became a vehicle and organizing tool for the "collective frustration, disappointment, and anger with the lack of change" we had witnessed at the law school.[127]

To be clear, the document was intended as a theorizing and naming of our harm—never as a legal one. We did not have the resources or time (or precedent) to sue our specific law school for the pedagogical harms that are normatively embedded in traditional legal pedagogy. But if we (or other student organizers across this country) did so, would we have a case? Do legal educators actually owe *any* duty of care in their formal training of lawyers? The following subsections explore this question and investigate whether any pedagogical duty might inhere at a national level in either the ABA Standards that our efforts cited or the relevant case law of educational negligence.

A. Interpreting the ABA Standards for Accreditation

For nearly a century, the Council of the American Bar Association Section of Legal Education and Admissions to the Bar ("the Council") has published an annual set of standards and rules that "contain the requirements a law school must meet to obtain and retain" accreditation.[128] Of great relevance to my work as a student organizer and the work of examining pedagogical intention in legal education is Standard 315. First adopted for the 2015-2016 academic year,[129] Standard 315 concerns the assessment of a law school's respective program of legal education:

> The dean and the faculty of a law school shall conduct ongoing evaluation of the law school's program of legal education, learning outcomes, and assessment methods; and shall use the results of this evaluation to determine the degree of student attainment of competency in the learning outcomes and to make appropriate changes to improve the curriculum.[130]

Guidance on the interpretation of Standard 315 notes that assessment methodologies may include "review of the records the law school maintains to measure individual student achievement . . .; evaluation

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[126] ABA, ABA Standards and Rules of Procedure for Approval of Law Schools 1, 25, 28 (2022) [hereinafter 2021-2022 ABA Standards].

[127] CALL TO ACTION, *supra* note 62, at 4, 6.

[128] 2021-2022 ABA Standards, *supra* note 126, at v.

[129] Managing Director's Guidance Memo: Standards, Section of Legal Education and Admissions to the Bar (June 2015) (Mem. at 315).

[130] 2021-2022 ABA Standards, *supra* note 126, at 41.

of student learning portfolios; *student evaluation of the sufficiency of their education*; student performance in capstone courses or other courses that appropriately assess a variety of skills and knowledge; bar exam passage rates;" and outside assessment by prior graduates.[131]

The Council does not prescribe any uniform methods of assessment under this Standard and makes clear that evaluation of "student achievement of learning outcomes" will likely differ from school to school.[132] The open menu of assessment tools provided by the ABA injects a degree of ambiguity that presented a serious problem in discerning what degree and to what level student attainment was being assessed. Previous scholars have noted the difficulty of developing precise qualitative assessment metrics in the context of law school accreditation;[133] Standard 315, I argue, is no exception to this issue. But, if a duty to provide concrete quality instruction did not explicitly inhere in a law school's broader program of study, where else might it lie? To this question, I turned next to Standard 403(b) and the ABA's regulation of individual educators.

The second accreditation standard that our student organizing cited was ABA Standard 403(b).[134] The relevant part of Standard 403 provides that "[a] law school shall ensure effective teaching by all persons providing instruction to its students."[135] The Council provides guidance on the types of metrics and methodologies a law school may use to ensure teaching "effectiveness," including:

> orientation, guidance and mentoring for new faculty members; a faculty committee on effective teaching; class visits; critiques of videotaped teaching; institutional review of student course evaluations; colloquia on effective teaching; and recognition and use of creative scholarship in law school teaching methodology.[136]

Our interpretation of Standard 403(b) might be paired with the language of ABA Standard 401, requiring that law school faculty "possess a high degree of competence, as demonstrated by academic qualifications, experience in teaching or practice, teaching *effectiveness*, and scholarship."[137] While not explicitly explored in the writing of our Call to Action, Standard 401 echoes this language of "effective"

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131 *Id.* (emphasis added).

132 *Id*.

133 *See, e.g.*, Daniel Gordon, *Does Law Teaching Have Meaning: Teaching Effectiveness, Gauging Alumni Competence, and the Maccrate Report*, 25 FORDHAM URB. L.J. 43 (1997) (discussing the difficulty of assessing teaching effectiveness); Gordon Russell, *The ABA Section on Legal Education Revisions of the Law Library Standards: What Does It All Mean?*, 106 LAW LIBRARY J. 329 (2014).

134 2021-2022 ABA Standards, *supra* note 126, at 28.

135 *Id*.

136 *Id*.

137 *Id.* at 27 (emphasis added).

teaching in U.S. legal education and provides a quality standard that diverges from the even more subjective standard of teaching "sufficiency" seen in interpretative language of Standard 315.[138] "Effectiveness," then, seemed to be the closest thing to a cognizable standard of care that our student complaint could cite to.[139] The motion, and the student movement work underlying it, made the case that our legal educators have failed to meet their duty of care in providing effective instruction and that, while not a compulsory metric under the standards, our collective dissatisfaction with the adequacy of the program helped evidence this.[140]

I understood that this claim was significantly more than any mere novel legal argument; it was a theoretical and structural indictment of U.S. legal education writ large using the material arms of the ABA's regulatory structure against itself. But there was a *reclamatory power* in using the language and Latin that had been pressed upon us for three years to make some sense of the harms we were navigating. It was *healing*. And, in many ways, the citations to Standards 315 and 403(b) were as metaphorical as they were literal. It didn't matter if our claim for pedagogical negligence would hold up in court. We sought to provide actual and written notice of the harms inherent to U.S. legal education that are disparately felt by historically marginalized and minoritized students. In all cases, the Standards provided a vocabulary to question the normative assumptions that the canonic case method and legal pedagogy's business as usual were anything but "effective" to our learning. The question remains, however, what exactly "effective" instruction in U.S. legal education looks like.

This uncertainty, I know, is more telling of the country and our values than of legal education specifically. Even as a law student, I had read *San Antonio v. Rodriguez*.[141] I keenly understood (then as now) that U.S. settler law treats education and its quality as a *de minimis* floor, never as a right or a clearly articulated set of stan-

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138 *Id* at 25, 27.

139 CALL TO ACTION, *supra* note 62, at 6.

140 *Id.*

141 San Antonio Indep. Sch. Dist. v. Rodriguez, 411 U.S. 1 (1973) (finding in the context of education that class did not serve as a protected classification warranting equal protection under the 14th Amendment); *see also* Camille Walsh, *Erasing Race, Dismissing Class: San Antonio Independent School District v. Rodriguez*, 21 BERKELEY LA RAZA L.J. 133 (2011) (criticizing the *Rodriguez* court for negating the possibility of intersecting legal frameworks for race and class based discrimination); *but see also* Sarah G. Boyce, *The Obsolescence of San Antonio v. Rodriguez in the Wake of the Federal Government's Quest to Leave No Child Behind*, 61 DUKE L.J. 1025 (2012) ("actions of Congress and the executive branch in the sixty years following the decision have established an implicit federal right to education that is equivalent—and perhaps even superior—to any right the Court might have established").

dards.[142] But, with white supremacist surveillance of our classrooms continuing to permeate and scrutinize all aspects of U.S. classrooms,[143] surely "effective" teaching must mean something in the context of legal education.[144] Can we even define effective legal instruction before it is wrapped up next in the silencing and erasure that grips our country? Faced with an absence of concrete interpretation, the following section looks to the courts for prior legal assessments of educational negligence and what precisely constitutes a pedagogical failing in the classroom.

B. A Tort of Pedagogical Negligence

The case law concerning judicial oversight of educational spaces makes one thing clear: courts are leery of issuing pedagogical mandates.[145] When confronted with claims for negligence, courts have consistently found that state legislatures and their local education agencies are best positioned to stipulate the type of care required in U.S. classrooms.[146] The same deference can be seen in courts' hesita-

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[142] The Supreme Court's 1982 decision in *Plyler v. Doe* and more recent developments out of the 6th Circuit point to literacy as the implicit constitutional floor beneath which a standard of education in the U.S. cannot fall: "The stigma of illiteracy will mark [students] for the rest of their lives. By denying these children a basic education, we deny them the ability to live within the structure of our civic institutions, and foreclose any realistic possibility that they will contribute in even the smallest way to the progress of our Nation . . . . In light of these countervailing costs, the discrimination [against undocumented students] can hardly be considered rational unless it furthers some substantial goal of the State." Plyler v. Doe, 457 U.S. 202, 223 (1982); *see also* Gary B. v. Whitmer, 957 F.3d 616, 655 (6th Cir. 2020) (finding that the right to a basic minimum education is implicit in the concept of ordered liberty and a fundamental right under the Due Process Clause of the 14th Amendment), *vacated en banc* 958 F.3d 1216 (6th Cir. 2020); William R. Blanchette, *Sufficiently Fundamental: Searching for a Constitutional Right to Literacy Education*, 64 B.C. L. REV. 377 (2023).

[143] *See supra* notes 13-16 and accompanying text.

[144] 2021-2022 ABA Standards, *supra* note 126, at 28; *see* sources cited *supra* note 133.

[145] As the U.S. District Court for the Northern District of Illinois once put it: "Educational malpractice is a tort theory beloved of commentators, but not of courts. While often proposed as a remedy for those who think themselves wronged by educators, educational malpractice has been repeatedly rejected by the American courts." Ross v. Creighton Univ., 740 F. Supp. 1319, 1327 (N.D. Ill. 1990); *see* John Elson, *Common Law Remedy for the Educational Harms Caused by Incompetent or Careless Teaching,* 73 NW. U. L. REV. 641 (1978-1979); Stephen D. Sugarman, *The Failed Quest for Equal Educational Opportunity: Regulating Education the Way We Regulate Business*, 50 J.L. & EDUC. 1 (2021); Ethan Hutt & Aaron Tang, *The New Education Malpractice Litigation*, 99 VA. L. REV. 419 (2013).

[146] *See, e.g.*, *Ross*, 740 F. Supp. at 1327 (citing Peter W. v. San Francisco Unified School District, 60 Cal. App. 3d 814 (1976); Hoffman v. Board of Education of City of New York, 49 N.Y.2d 121; Donohue v. Copiague Union Free School District, 47 N.Y.2d 440 (1979); Wilson v. Continental Ins. Co., 87 Wis. 2d 310 (1979); D.S.W. v. Fairbanks North Star Borough School District, 628 P.2d 554 (Alaska 1981); Hunter v. Board of Education, 292 Md. 481 (1982); Tubell v. Dade County Public Schools, 419 So. 2d 388 (Fla. App. 1982)); *see also* Elson, *supra* note 145, at 645-46 (overviewing the rhetoric employed by courts in

tion to disrupt established norms of an individual educator's license to craft pedagogy under academic freedom at the higher education level.[147] In fact, just one U.S. case makes reference to the language of "pedagogical negligence," this being the 2013 case of *Ball v. Board of Education of the City of Chicago*.[148]

Ball v. Board of Education concerns the revocation of tenure and dismissal of a Chicago Public Schools ("CPS") teacher for their negligent abandonment of grade-school students.[149] There, the Board of Education of the City of Chicago and its investigators had concluded that Vera Ball, an elementary school teacher at Paul Revere Elementary School ("Paul Revere"), had violated numerous provisions of CPS' employee discipline and due process policy.[150] Video footage and hearing testimony indicated that Ball had failed to comply with Paul Revere's own internal policy of supervising students at all times and that, as result of Ball's brief abandonment of her students, several students had engaged in sexual intercourse.[151] Ball oversaw a class of nine students, all of various learning and cognitive abilities and ranging in school level from fifth to eighth grade.[152] The record indicates that Ball did not abide by the elementary school's policy of constant supervision and, in fact, was attempting to register for a mandatory training at the time of the incident. When assessing Ball's 30- to 45-minute period of absence from instruction and supervision, a hearing officer found that Ball's conduct "closely constituted pedagogical negligence."[153] On appeal, the Appellate Court of Illinois affirmed the Board's dismissal and revocation of Ball's tenure.[154]

The student identities, overlapping local policies, and posture of this case bear no legal or pedagogical implications for our assessment

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not legislating the classroom as "super school boards"); Laurie S. Jamieson, *Educational Malpractice: A Lesson in Professional Accountability*, 32 B.C. L. REV. 899, 902 (1991) (examining "the public policy elements that have affected courts' recognition of an educational malpractice cause of action"); John S. Elson, *Suing to Make Schools Effective, or How to Make a Bad Situation Worse: A Response to Ratner*, 63 TEX. L. REV. 889 (1985) (exploring the impracticability of judicial review as a form of education reform in the educational malpractice area).

147 Sweezy v. State of New Hampshire, 354 U.S. 234 (1957); Keyishian v. Bd. of Regents of Univ. of the State of N.Y., 385 U.S. 589 (1967); *see also* Victoria L. VanZandt, *The Assessment Mandates in the ABA Accreditation Standards and Their Impact on Individual Academic Freedom Rights*, 95 U. DET. MERCY L. REV. 253, 256 (2018) (overviewing the history of U.S. courts development and treatment of "academic freedom").

148 *See* Ball v. Bd. of Educ. of City of Chicago, 2013 IL App (1st) 120136, ¶ 21.

149 *Id.* at ¶¶ 4-5.

150 *Id.* at ¶¶ 1-4.

151 *Id.* at ¶¶ 6-7, 10-12.

152 *Id.* at ¶ 8.

153 *Id.* at ¶ 21.

154 *Id.* at ¶¶ 36.

of care by legal educators. Indeed, instruction in the special education context carries its own unique standard of care,[155] and the *Ball* court had found a pedagogical duty in the local policies where the school was situated as an administrative matter.[156] Additionally, it's of note that it was an administrative hearing officer—not the Illinois courts—who first made the finding of "pedagogical negligence."[157] Yet I draw our attention to this case to situate my own understanding of care in the classroom. Pedagogical care, in both *Ball* and our mock complaint, can be seen as a sort of extra-legal imagination that attaches to the configurations of negligence law in the education context to name harmful educational practices. It was Paul Revere's and CPS' policies prohibiting negligent employee conduct that produced a duty against pedagogical negligence, not the common law tort of negligence.[158] In recognition of this, the *Ball* hearing officer determined that she was liable for negligent acts, not *negligence*.[159] The notion of pedagogical negligence, then, is limited to this singular legal instance.

By contrast, a sizeable body of scholarship since the 1970s has grappled with the shared doctrinal and policy question of what a tort regime of educational malpractice might look like.[160] One of these early pieces is John Elson's *A Common Law Remedy for The Educational Harms Caused By Incompetent or Careless Teaching*.[161] There, Elson traces the remedial possibilities and judicial limitations of a cognizable cause of action for educational negligence.[162] In surveying the case law of educational malpractice claims at the time, Elson maintains that the courts would be unlikely to legally impose any uniform standard of care to classroom educators:

> both the lack of empirical evidence on effective and ineffective pedagogical practices and the discretionary or judgmental nature of the

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155 The Individuals with Disabilities Education Act (IDEA) provides for free, appropriate public education (FAPE) for all children with disabilities. Education for All Handicapped Children Act of 1975., 20 U.S.C. § 1400. Since IDEA's passage, the exact quality of education owed to disabled students has been clarified by amendment and by the courts as being whether instruction confers a "meaningful benefit" to disabled students. *Id.* (superseding Bd. of Educ. v. Rowley, 458 U.S. 176 (1982)); N.B. v. Hellgate Elem. Sch. Dist., 541 F.3d 1202 (9th Cir. 2008). *See also* Jennifer C. v. L.A. Unified Sch. Dist., 168 Cal. App. 4th 1320 (2008) (articulating a standard of care for educators of students with disabilities in California that rises above that owed to non-disabled students); Drew Millar, *Judicially Reducing the Standard of Care: An Analysis of the Bad Faith/Gross Misjudgment Standard in Special Education Discrimination*, 96 Ky. L.J. 711 (2007).

156 *Ball*, 2013 IL App (1st) at ¶ 25

157 *Id.* at ¶ 21.

158 *Ball*, 2013 IL App (1st) at ¶ 34.

159 *Id.* at ¶¶ 34, 36.

160 *See supra* notes 145-46 and accompanying text.

161 Elson, *supra* note 145.

162 *Id.* at 693-97.

> teaching process make it unlikely that teachers can be held accountable in negligence to any predetermined, mechanically applied standard of necessary teaching skills or procedures.[163]

While scholars note that empirical developments since the time of Elson's writing have seriously invalidated or at least weakened the first of these points, the latter of Elson's forecasts continues to hold up in the classroom and courts.[164]

In the past decade, legal scholars have urged our "rethinking" of educational malpractice claims, arguing that education reform and data-driven standards in teaching methodologies have provided "new legs" to a cause of action for educational negligence.[165] By adopting a frame of quality assurance to the input of educators and their institutions, some scholars contend that recognition of "claims for educational malpractice based on institutional negligence could play a vital role in promoting the quality and accountability of educational institutions."[166] An implementation of this theory can be seen in the case *Ambrose v. New England Association of Schools, Inc.*, in which graduates unsuccessfully brought suit against their alma mater's accrediting association for "inadequate or nonexistent investigation of the 'quality of [their] program [of study] or its conformity with the accreditation standards."[167] Still, other scholars note the ways that adversarial legalism fails outright as a regulatory regime for advancing meaningful equal educational opportunity in U.S. schools.[168] In any case, the fact remains that educational malpractice remains a "tort theory beloved of commentators, but not of courts."[169]

But if there is no true duty of pedagogical care in education—as the courts and a lack of precision from legal interpretations suggest—we are left with dreams of what such standards of care in our teaching might be. One such vision, I argue, is to advance truth and healing through a practice of constant and reflective pedagogical repair for the realities that situate U.S. law schools: to envision *reparative legal pedagogies*. Like the mock complaint and student organizing that

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163 *Id.* at 744-45.

164 *See, e.g.*, Hutt & Tang, *supra* note 145 at 427 (arguing that education reform and data-driven standards in teaching methodologies provide "new legs" to a cause of action for educational negligence); Sugarman, *supra* note 145 (discussing the failure of adversarial legalism as a regulatory regime for equal educational opportunity in primary and secondary education).

165 *Id*.; Stijepko Tokic, *Rethinking Educational Malpractice: Are Educators Rock Stars*, 2014 BYU EDUC. & L.J. 105 (2014) (applying a quality assurance frame to revitalize a theory of educational malpractice).

166 Tokic, *supra* note 165, at 108.

167 Ambrose v. New Eng. Ass'n of Sch. & Colls., Inc., 252 F.3d 488 (1st Cir. 2001).

168 Sugarman, *supra* note 145.

169 *Ross*, 740 F. Supp. at 1327.

brings me to this work, this Essay is a naming of harm—a locating of the violent pedagogical assumptions that have become commonplace to, expected from, and otherwise characteristic of legal education.

The following section takes up the work of pedagogical dreaming by providing potential points of reflection on the intersecting dimensions of harm that uniquely constitute U.S. legal education.

C. Forging Futures of Pedagogical Care

In the glaring absence of any exact legal or theoretical framework through which to advance truth and healing in U.S. legal education, this Essay suggests instead that we embrace the messy, the difficult, and the deeply unsatisfying conclusion *that it will always and forever depend.* In drawing from hooks' notion of engaged pedagogy and the liberatory writers whose shoulders I now stand upon, I propose that we conceptualize reparative legal pedagogies as addressing any number of considerations across axes of *truth-fiction*, on the one hand, and *healing-harm* on the other.

This is to say that, in seeking to advance goals of truth and healing from legal pedagogy, I implore legal educators to more meaningfully, clearly, and intentionally engage in a multivariate analysis of who and/or what to prioritize and in what settings or ways as we co-create educational spaces. As historically marginalized and minoritized law students are all too aware,[170] unfiltered legal histories in the classroom can be as psychologically triggering or harmful as they are truth-advancing. The below chart visualizes this point, along with the dimensions across which repair must be actively and constantly assessed:

[170] *See, e.g.*, Crenshaw, *supra* note 35; CAIR Report, *supra*, note 63.

	Healing	*v.* *Harm*
Truth	**Repair** Reparative legal pedagogies aim to advance practices of healing and truth-telling to atone for and reckon with violent legal histories.	**Example: Pedagogical Triggers** Law student-activists know too well that lessons can be as truthful as they are harmful. Educators must assess whether the risk of harm is outweighed by the power of truth-telling in a given moment-context.
v.	**Example: Psychological Safe Lessons** It is a historical and legal fiction to erase the foundations of U.S. settler law and the law courses that are co-constituted by chattel enslavement, genocide, and racial capitalism. But educators equally owe a pedagogical duty to their students to ensure a shared level of psychological safety in the classroom, even if our lessons are an incomplete account of harm.	**Hegemony & Canon** When neither truth nor healing are prioritized, we are left instead with fictional and harmful accounts of past lived and embodied harms. Here, at this intersection, is where reparative legal pedagogies depart from their predecessors: they aim to break the normatively colonial mold of legal pedagogy along with the cases and methods we've deemed canonic.
Fiction		

But not all pedagogies are created equal. As the above matrix explores, legal educators negotiate a multitude of truths and harms in the classroom in crafting their own pedagogical practice. As further illustration of the calculus that pedagogical repair requires from us, the below case studies ask that we reflect on how *truth-fiction* and *healing-harm* manifest in each of our classrooms:

- **Nascent CRT Bans** – In seeking to ban and erase the stories of racial and ethnic minorities, these policies and resulting classroom spaces are historical fictions that harm all students, generally (in learning ahistorical settler narratives), and racially marginalized and minoritized students, specifically (in being both subject to and of settler violence).

- **Historically Accurate Case-Based Lessons** – The incorporation of cases and class materials that more accurately or fully depict the violent legal realities underlying a given legal doctrine undoubtedly advance truth in/from legal education. Such an approach, however, runs the constant risk of either overemphasizing or under-characterizing the historical role of U.S.

legal violence, with each disparately harming either marginalized or identity-privileged students in any discussion of harm.[171]

- **Abolitionist Texts** – As a healing but fictive pedagogical practice, abolitionist materials invite the classroom to imagine a reparative future that does not yet exist. They are, by definition, utopic forms of fiction that bring about healing in grappling with present truths.

International campaigns to advance processes of truth and reconciliation make it clear that novel educational efforts to advance repair will not be infallible; they, like our institutions, are subject to the same legacies of oppression, biases, and material limitations as any other form of justice-making.[172] In line with such a conclusion, reparative legal pedagogies must be crafted with the utmost care and caution for the ways that they might *unintentionally* or *unapologetically* generate harm. So, too, must educators assess the ways that *truth* and *healing* vary by place, time, position, power, and context. Accordingly, the following section of this piece extends the preceding discussion of truth and healing to explore how and when legal educators might advance pedagogical repair.

III. Without Duty, There Are Dreams of Care

The morning before my *New Beginnings* panel, I participated in a conversation on the political polarization of U.S. education.[173] As a way of engaging legal educators on the rise of anti-CRT local school measures, transphobic school policies, and book bans that have proliferated in the past few years, I joined the conversation by offering my perspective on the unifying elements of white supremacy that animate these policy developments.

One of my co-panelists, in reflecting on the landscape of the "modern day" classroom, expressed their own fears of pedagogical surveillance, saying that "anyone" can record classes nowadays and that such a reality brought them great fear as an educator. I responded

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171 CAIR Report, *supra*, note 63, at 9-14 (discussing the unique forms of mental, emotional, physiological exhaustion that BIPOC college students, and law students specifically, navigate).

172 *See, e.g.*, Mahmood Mamdani, *Amnesty or Impunity? A Preliminary Critique of the Report of the Truth and Reconciliation Commission of South Africa (TRC)*, 32 Diacritics 33 (2002).

173 *Education Law*, Assoc. Am. L. Schs., https://memberaccess.aals.org/eweb/DynamicPage.aspx?webcode=&ho]SesDetails&ses_key=18ac8d69-e0a6-467b-b291-8ba76fb6e865 (last visited June 14, 2023).

to this comment by reiterating several points from my presentation. First, I emphasized that Black and Indigenous pedagogies have always been under violent scrutiny—that U.S. anti-literacy laws pushed the education of enslaved Black peoples to steamboats beyond state jurisdiction,[174] that Indigenous teachings have always been criminalized, undermined, and delegitimized,[175] and that these racist realities have entrenched a caste system of education in this country.[176] A regime of scrutiny, like a true tort of pedagogical negligence, will not save us. Second, I added that every educator, in any place or classroom, should be prepared to name the pedagogical goals and methods of their teachings—that novel surveillance should not prompt heightened levels of attention by educators; the inherent violence of legal pedagogy *demands* heightened attention each time we teach. The anti-CRT bans and recent web of white supremacist local school policies,[177] I argued, provide an entry point for necessary conversations on academic freedom in legal education, a space that remains an ideologically conservative institution at the national level.[178]

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174 From 1730 to the mid-1800s, a series of anti-literacy laws were advanced across the U.S., prohibiting the instruction of reading and writing to enslaved Black peoples. Janet Cornelius, *"We Slipped and Learned to Read": Slave Accounts of the Literacy Process, 1830-1865*, 44 PHYLON 171 (1983). In the face of these bans, Reverend John Berry Meachum established what was termed the "Floating Freedom School," a steamboat on the Mississippi River that provided instruction to enslaved Black peoples as a school site beyond the jurisdiction of state law. *See* Dennis L. Durst, *The Reverend John Berry Meachum (1789-1854) of St. Louis: Prophet and Entrepreneurial Black Educator in Historiographical Perspective*, 7 N. STAR: J. AFR. AM. RELIGIOUS HIST. 1 (Spring 2004); Peri Stone-Palmquist, *Still Not Free: Connecting the Dots of Education Injustice*, DIGNITY IN SCH. (Feb. 13, 2020), https://dignityinschools.org/still-not-free-connecting-the-dots-of-education-injustice/.

175 *See, e.g.*, Melissa Mejia, *The U.S. History of Native American Boarding Schools*, INDIGENOUS FOUND., https://www.theindigenousfoundation.org/articles/us-residential-schools (last visited June 14, 2023); Smithsonian, *Chapter 3: Boarding Schools*, NAT'L MUSEUM AM. INDIAN, https://americanindian.si.edu/nk360/code-talkers/boarding-schools/ (last visited June 14, 2023); Heather Benson, *Keepers of the Canton Indian Asylum Share History*, S.D. PUB. RADIO (updated Nov. 7, 2019), https://www.sdpb.org/blogs/arts-and-culture/keepers-of-the-canton-indian-asylum-share-history/; *see* sources cited *supra* note 20.

176 *See, e.g.*, W.E.B. DU BOIS, BLACK RECONSTRUCTION IN AMERICA, 1860–1880 (The Free Press 1998) (1935) (examining the ways that white supremacy and anti-Blackness have enshrined a tiered system of education in the U.S.); Clayton Pierce, *W.E.B. DuBois and Caste Education: Racial Capitalist Schooling from Reconstruction to Jim Crow*, 54 Am. Educ. Res. J. 23S (2017); Michael J. Dumas, *Against the Dark: Antiblackness in Education Policy and Discourse*, 55 THEORY INTO PRAC. 11 (2016); Gloria Ladson-Billings, *Landing on the Wrong Note: The Price We Paid for Brown*, 33 EDUC. RES., 3 (2004).

177 *See supra* notes 13-16.

178 Touissant, *supra* note 47, at 5 (discussing the ways that U.S. law students across the country have organized "to challenge the doctrinally conservative, racially homogenous, and socially hierarchical culture of legal education"); *but see also* Adam Bonica, Adam Chilton, Kyle Rozema, & Maya Sen, *The Legal Academy's Ideological Uniformity*, 47 J. LEGAL STUD. 1, 32 (2018) (finding "that the liberal [political] tilt of the legal academy is primarily the result of the relative scarcity of conservatives as opposed to a more leftward

This article makes the case that pedagogical repair, as a practice and process of transforming and reimagining legal pedagogy, explicitly recontextualizes U.S. legal education as a violent arm of the settler-nation and as an ideological state apparatus.[179] Reparative legal pedagogies recognize this material and ideological manifestation by *disrupting* and *subverting* the normative assumption that our teaching must perpetuate harm. Reparative legal pedagogies seek to advance inter-temporal and multi-level restoration for the past, lasting, and continued harms of legal education. Like other reparative approaches to education, a politic of reparative legal pedagogies makes no claim to canon or authority. It is a forever-ongoing process that is expansive to account for the realities of our profession while equally specific to the personal-political position of each educator. Rather than identify any one set of classroom methods or pedagogical practices, this Essay proposes a non-exhaustive inventory of reflection questions that might serve as points of intervention for our collective imagining of repair as an roadmap to classrooms premised in freedom. As with all aspects of repair, this work must begin by confronting our histories.

A. Atoning for the Past Profession

As American poet and critical theorist James Baldwin once noted, "[t]he great force of history comes from the fact that we carry it within us, are unconsciously controlled by it . . . history is literally present in all that we do."[180] Both theoretically and materially, the past and all of its preceding legal horrors are bound up with the present and continues to define our futures.[181] In the context of U.S. legal education, this necessarily has implications for the work and political-personal position of legal educators. We are the profession that legitimized Jim Crow,[182] the one that imposed a doctrine of genocidal discovery,[183] the people who sanctioned caging and still do,[184] and we are

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shift in liberal faculty").

[179] *See* sources cited *supra* note 102 and accompanying text regarding education as a site of social reproduction.

[180] JAMES BALDWIN, *The White Man's Guilt*, *in* JAMES BALDWIN: COLLECTED ESSAYS, 722, 722-273. (Library of America 1995).

[181] *Id*.; Rob Hunter, *Critical Legal Studies and Marx's Critique: A Reappraisal*, 31 YALE J.L. & HUMAN. 389, 392 (2021) (arguing that "[t]he systematic critique of political economy must include an account of the legal constitution of commodities, production relations, and money. It must also include a thorough consideration of how law is mutually constitutive with other forms of capitalist social relations").

[182] *See, e.g.*, Rachel D. Godsil, *Race Nuisance: The Politics of Law in the Jim Crow Era*, 105 MICH. L. REV. 505, 510 (2006) (chronicling the ways that southern state judges in the era of Jim Crow enforced racially restrictive covenants, as they "allowed the judges to see themselves as simply enforcing private agreements" while upholding the "legal ideal of equal treatment").

[183] *See* Johnson v. M'Intosh, 21 U.S. 543, 576-77 (1823) (locating a "doctrine of discov-

the ones at the forefront of fascism.[185] The legally violent actions of our profession are a shadow, stain, and centralized history to any changemaking work that we seek to advance pedagogically.

I do not mean to suggest that any one legal educator is individually responsible for the choices and harms of Rudy Giuliani, of the justices that decided the *M'Intosh* decision,[186] the *Plessy* attorney general that opposed integration,[187] or any of their students who may go on to wage violent legal wars in the name of lawyering. But if we are to understand pedagogical negligence in legal training as a societal and civil wrong—as this piece suggests, we might understand the harmful conduct of law graduates as imputing a form of liability to our entire profession. Legal workers, one could argue, are the product of formal legal education and of a harmful infrastructure of pedagogy and values that exist before their minting as attorneys. Are legal educators, then, not liable for submitting the fruits of our defective design into the stream of commerce?[188]

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ery" that legally sanctioned the claim of Christian colonial powers to the North American continent); Jedediah Purdy, *Property and Empire: The Law of Imperialism in Johnson v. M'Intosh*, 75 GEO. WASH. L. REV. 329 (2007).

184 *See, e.g.*, MICHELLE ALEXANDER, THE NEW JIM CROW: MASS INCARCERATION IN THE AGE OF COLORBLINDNESS 2 (2011) (drawing a historical link from chattel enslavement to the current regime of mass incarceration); ANGELA Y. DAVIS, ARE PRISONS OBSOLETE? 18 (2003) (linking the logics and aims of chattel enslavement that carry on through practices of incarceration).

185 *See* sources cited *supra* notes 99 and 100 regarding lawyers' current role in advancing antidemocratic aims.

186 *M'Intosh* was unanimously decided by the justices of the Marshall court. *M'Intosh*, 21 U.S. 543.

187 Homer Plessy's now landmark lawsuit challenging the constitutionality of racially segregative public accommodations was initially brought against the Honorable John H. Ferguson, judge of the criminal District Court for the parish of Orleans, for Ferguson's enforcement of Louisiana's 1890 segregation law. Plessy v. Ferguson, 163 U.S. 537 (1896). On *writ* to the U.S. Supreme Court, Ferguson and the state of Louisiana was represented by Attorney General Milton Joseph Cunningham, an attorney who served in the Confederate Army and was barred in Louisiana. Gabrielle E. Clark, *The Southern and Western Prehistory of "Liberty of Contract": Revisiting the Path to Lochner in Light of the New History of American Capitalism*, 60 AM. J. LEGAL HIST. 253, 266 (2020); *Milton J. Cunningham (1842-1916)*, LA. DIGITAL LIBR., https://louisianadigitallibrary.org/islandora/object/lasc-nonjusticesportraits%3A14 (last visited June 14, 2023). Of note, Plessy was pardoned for his "crime" by the Governor of Louisiana 126 years after the fact. The Associated Press, *126 Years After the 'Separate but Equal' Ruling, Homer Plessy Is Pardoned*, NPR (Jan. 5, 2022, 1:36PM), https://www.npr.org/2022/01/05/1070593964/homer-plessy-posthumous-pardon-plessy-v-ferguson-separate-but-equal. But 127 years later, will we hold Cunningham and similarly situated legal actors to account for their/our role in legal violence?

188 Here, again, I borrow from torts principles to explore an educator's obligations through a lens of enterprise liability in the context of defective products. In products liability cases, an actor might be held liable if their implementation of a defective product design caused injury when said product was "placed into the stream of commerce." Restat 3d of Torts: Products Liability, § 2; Richard C. Ausness, *Sailing under False Colors: The Continu-*

Whether imposed by law or through our commitment to healing, pedagogical repair recognizes our collective responsibility for the violent profession we *willingly* inherit. To advance truth and healing, we might ask:

- *How can we as educators be accountable for the past educational negligence, structural harms, and socio-legal violence advanced by our law schools, our institution(s), and our colleagues?*
- *Who are we accountable to for these past harms, and what does meaningful accountability look like from legal educators?*
- *Does your classroom room extend or disrupt a history of pedagogical violence in perpetuating white supremacy?*
- *In what novel and reparative ways can our classrooms be a space of healing—not harm?*
- *And what role do we play in facilitating pedagogical truth and reconciliation?*

B. Healing the Past Self

As bell hooks recognized, a liberatory pedagogical practice requires that an educator reflect on their respective personal-political position relative to the work they engage in.[189] This necessarily includes a prioritization of our well-being as educators and a legitimization of holistically caring for ourselves in a profession that does not. Educators, hooks insisted, must heal in order to best facilitate co-learning.[190]

For the legal profession, this is a tall order. There is tremendous lived and recorded evidence of the adverse well-being culture that our profession imposes and navigates.[191] Law students, educators, and professionals alike continue to report record levels of adverse mental and emotional health.[192] Early on, law students experience unforgiveable levels of stress and psychological pain from our profession.[193] As educators and co-learners seeking to advance pedagogical repair, we either continue or interrupt that legacy of harm at a personal level.

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ing Presence of Negligence Principles in Strict Products Liability Law, 43 U. DAYTON L. REV. 265, 277 (2018). As we look forward to the ways that we might re-configure the practice of law in this settler-nation, we must center the possibility for harm and importance of care in our work of justice-making.

189 HOOKS, *supra* note 106, at 16-17, 22.

190 *Id.* at 15.

191 *See* sources cites *supra* 116 cataloging the adverse mental and emotional well-being of the U.S. legal profession.

192 *Id*.

193 *See* Jaffe, Bender, & Organ, *supra* note 55, at 463-467.

In order for legal education to advance a politic of truth and healing, pedagogical repair must be understood to include legal educators as one of the first points of contact for students in entering this profession. Pedagogical repair urges us to dream of the supportive educational experience we may have craved in our own journey and to find ways of realizing such a reality each and every day. It implores us to reflect on the normative lessons and educational wounds that bring us to the work of teaching. It asks, first and foremost: in what ways do you still carry the harms of your own legal (mis)education? An assessment of self in this work might seek to unearth:

- *In what ways did you navigate harm in your law school/educational experience; what did those experiences teach you about yourself and the values of our profession?*
- *How can we heal the parts of ourselves that never recovered from law school?*
- *How are we upholding the same harmful narrative scripts that were employed against us (e.g., "I had to do it and so do you; students today have it so much better than I did; the law is harmful, so I have to be harmful to best prepare my students")?*
- *Are we committed to reinforcing or reimagining the level of pedagogical care we may have experienced from legal education?*

C. Addressing the Past Student

Next, I turn our attention to the aspect of repair in legal education that has likely received the most attention of those enumerated by this piece. Through the institutional and movement-led work to advance diversity, equity, and inclusion ("DEI") in U.S. law schools, there has been a steady effort to redress exclusion in legal education.[194] A practice of pedagogical repair would ask that we join and uplift these movements to atone for the harms inflicted against prior formally designated law students and organic jurists, or "legal scholars without traditional educational prerequisites."[195]

As a step toward the abolition and unimagining of legal education's current manifestations of exclusion and power, we might start

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[194] *See, e.g.*, *Findings on Racial Justice and DEI Efforts at U.S. Law Schools and Legal Employers*, NAT'L ASSOC. L. PLACEMENT (Oct. 2020), https://www.nalp.org/1020research (finding that "[a]s of early August 2020, nearly 90% of law schools had implemented new anti-racism and/or DEI efforts and initiatives since the murder of George Floyd"); *Exploring Diversity in Legal Education*, UC DAVIS SCH.L. (Mar. 29, 2023), https://law.ucdavis.edu/deans-blog/exploring-diversity-legal-education; *but see* Williams, supra note 48 (discussing the ways that gatekeeping are entrenched in U.S. legal education).

[195] *Subversive Legal Education*, *supra* note 26, at 2092.

by asking:

- *Who was not allowed to teach at and attend my law school?*
- *How have I benefited from processes of exclusion in legal education?*
- *What structures were created for exclusion and in what forms do these structures remain?*
- *What can I do to desist from serving as a gatekeeper to this profession and how do I work to reverse patterns of exclusion?*

D. Accounting for the Present Self & Classroom

Related but distinct from our assessment of the past self is a critical reflection of the ways that we show up in and beyond the classroom. In positioning the continued rise of white supremacy in education and associated scrutiny of learning at all levels, the need for educators to lay bare their methodologies and pedagogical goals has never been clearer.

This is not, by any means, to insinuate that the CRT bans have value beyond ideological violence. I mean only to say that this moment may force us all to reckon with the reality that educators and classroom are never neutral, that our classrooms have never been anything short of political spaces. From the lessons we teach to the syllabi and guest speakers that make up our courses, our facilitation of learning is—as critical writers have always held[196]—an inherently political process.

Accordingly, pedagogical repair urges us to account for the personal-political position that we occupy within the broader ecosystem of the legal profession and the ways that our choices as educators lend to the co-construction of an infrastructure that socializes lawyers. By engaging in this form of deep self-reflection, we might seek to account for the ways that we have failed as a profession to be present in our teachings and to name the normative underpinnings of the doctrine we dispense. Questions in this area of care might include:

- *How might our healing allow us to be more intentional in pedagogical development?*
- *In what ways are we reflecting on the normative lessons and cultures we are creating through course design (e.g., attendance policies, DEI and positionality statements, inclusion of mindfulness practices in our classes, ensuring our courses are inherently accessible, etc.)?*
- *Are we transparent about the pedagogical goals and methodol-*

[196] *See* sources cited *supra* note 102.

ogies that our courses employ or prioritize?

- *Are we disrupting the assumption that legal education is a neutral site of consumption?*
- *Are we truly accountable to our students and the broader legal community for the lessons we teach?*
- *Does our pedagogy align with the values we hope to see in our profession?*

E. Supporting the Present Student

Through active reflection on the classroom spaces that we hold and make, pedagogical repair equally looks to the ways that legal educators can identify and address the unique needs of our students. Complementary to any efforts we make to be *engaged* in our pedagogy should be a politic of *engagement* with the lived realities of our students.[197] As has become clear in my practice as a legal educator, it is *negligent* for educators to suppose that their own pedagogical dreams align with those of their students. The things that I most craved in my journey through formal training in settler law *are not* identical to those of my students, and it would be egotistical for me to assume otherwise.

The resources, information, and support I needed in legal education (or expect that law students may need) are specific to my own personal-political position. If my students are to be co-educators in the classroom, their position must be addressed too. Reparative legal pedagogies, then, seek to locate the needs of our students and to assess the how we might serve them in our facilitation of knowledge sharing.

Taken together, questions at this dimension of care seek to investigate the educational and professional relationship between *myself*, as an educator, and *my students*, as inheritors and future stewards of law-sanctioned justice. Our shared development of reparative legal pedagogies aims to repudiate the negligence, vacate the violence, and reimagine the level of care owed in legal education. We might do this by asking:

- *How can I best serve my students' particular needs in resisting the DisOrientation*[198] *that law school has demanded of them?*
- *How can I understand the distinct and shared goals of my stu-*

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[197] Tiffany D. Atkins, #*ForTheCulture: Generation Z and the Future of Legal Education*, 26 MICH. J. RACE & L. 115, 154 (2020) (exploring the ways that incoming law students, and Gen Zers in particular, expect their legal educators "to stay engaged, expect to experience discomfort, speak truth, and accept a lack of closure").

[198] *See* footnotes cited at *supra* note 62.

dents in navigating a profession that has rarely supported them?

- *How can I support my students' own visions of future legal work while demonstrating the importance of an anti-oppressive lens?*
- *How am I decentering my own vision of legal pedagogy and allowing for a plurality of pedagogical dreams?*

F. Centering Present Community Legal Workers

As previous scholar-activists have noted, the expertise of community legal advocates and of public intellectuals has historically been delegitimized by our legal institutions.[199] From this normative understanding of legal knowledge, law students (and their professors, by virtue of pedagogy) have been centered in our formulation of U.S. legal education. This is to say that students with the resources and access to formal legal training are prioritized in our profession's provision of legal information and research at a national level. What might be otherwise understood as a public right that should be afforded to all, as some scholar-activists have argued,[200] continues to be figured as a benefit conferred upon those whom we have professionally deemed worthy of the practice of lawyering. Legal work, in many senses, persists as a closed practice of power.

But, in an overwhelmingly white and privileged profession,[201] such a structure must be seen as operating at the express exclusion of informally trained and historically minoritized legal advocates. A frame of pedagogical repair interrogates the subjects and recipients of our legal lessons and asks, above all, who they serve in material and institutional ways. Radical reflection on this dimension of reparative legal pedagogies might ask:

- *How can we, as educators, be accountable to the communities within which we exist (e.g., the personal-political position of us as educators, of our campus, our law school, our students, our staff and faculty)?*
- *What might a pedagogical duty to contextualize our classroom*

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199 *Community Legal Advocates*, DETROIT JUST. CTR., https://www.detroitjustice.org/community-legal-advocates (last visited June 13, 2023); *see Subversive Legal Education*, *supra* note 26, at 2092.

200 *Subversive Legal Education*, *supra* note 26, at 2115-17.

201 As of January 2022, the ABA reports that 81% of all U.S. lawyers identified as white and that 61.5% identified as male. ABA, *Demographics*, https://www.abalegalprofile.com/demographics.php (last visited June 14, 2023). At firms specifically, the ABA provides data indicated that 98.78% of lawyers identified as non-disabled and 96.3% did not identify as LGBT. *Id*.; Atkins, *supra* note 197, at 115.

look like?

- *Who do our lessons serve and in what ways have community legal advocates been excluded from this vision of legal education?*
- *Are communities centered in our legal pedagogy and, if not, what concrete steps can we take to ensure their compensated inclusion in our work of legal knowledge sharing (e.g., guest lectures, compensated panelists, community partners)?*
- *Are we dismantling the false assumption that grounded learning is limited to the clinical legal context (e.g., centering communities, lived realities, and lived experience experts in doctrinal courses)?*

G. Envisioning the Future Profession

Lastly, and perhaps most importantly, repair invites us to dream of a legal profession that does not yet exist—one that is free from the pedagogical pains of the past and premised in collective liberatory futures. As a point of interrogation that is linked to all others, an assessment of how we might contribute to the future of the profession is grounded in our recognition of the *past-present* that we occupy; our acknowledgement or ignorance of the past defines the future we will help foster as educators.

The development of reparative legal pedagogies requires that we look beyond any one semester or syllabus and that we work in coalitions across institutions, across siloes, and across time to ask in earnest how we might realize futures premised in freedom. It asks us to imagine the eventual abolition of the modern law school as an institution of settler harm and, as we build and dream toward this future, that we ask one another:

- *How can we be accountable to members of the legal profession, given that legal educators serve as entry points to the profession?*
- *How are we disrupting the perceived inevitability of pedagogical precedent in law schools (e.g., "I had to do it and so do you; this is just the way the law is; we've always had ___ so we need to keep it")?*
- *How are legal educators helping shape the profession of tomorrow?*
- *Do we understand that our classes co-construct the culture of tomorrow's courts, cases, and legal realities?*
- *How might communities dictate the goals of legal education and in what ways can our pedagogy lend itself to a goal of com-*

munity sovereignty?
- *How are we contributing to a movement of legal education that goes beyond the law school as a site of harm and toward a future of community legal power?*

The Urgency of Reimagining Legal Pedagogy

For several years now, I've started each class, event, or conference space that I participate in with a mindfulness activity to help ground participants in the presence of the moment. "Mindfulness," for me, is a way of (re-)connecting to parts of self that are often severed and discouraged in traditional legal spaces. As I tell fellow legal educators, I believe exercises like this aid our students in cultivating a competency of radical self-reflection. This practice, I argue, invites folks to check into a space physically and includes closing our mental and emotional "tabs"—not unlike the closing of computer windows, tabs, and screens—to connect with the physical or virtual space we're in. Before beginning, I typically start by acknowledging several things:

- First, I share that my mindfulness practice comes from the mentorship and lessons of women and femmes of color, queer and trans* storytellers of color, and multiply marginalized folks.
- Second, I acknowledge that closing your eyes during these types of activities can be triggering for survivors of trauma and navigators of harm, so I encourage participants to engage at their own level of comfort. I always note that I'll keep my eyes open throughout but that I invite folks to close theirs if they feel comfortable doing so.
- Lastly, I always name that practices like these will look different for each of our bodies, classrooms, spaces, and selves, and that participants should feel free to engage at their own level of comfort and in whatever way best serves them.

We breathe together for several moments while I ask a short set of guiding questions. One that I typically ask includes: *Who are you beyond the degrees and work that you do?*

Here, usually, I get some smiles (maybe smirks) at the notion of delinking work from oneself. But, in a profession that ties one's position to legal power, this response is expected. My practice asks us when—if not now—will we be present in the work we do? When will we be aligned in our intentions for a space, if not from the start? As a legal educator, I aim to be *engaged* in the creation of educational spaces; I prioritize truth and healing. This self-imposed duty to myself

and others is the dream of reparative legal pedagogies.

The work of pedagogical repair—of forging collective futures with better ways of sharing educational space—has never been more urgent. In a personal-political moment where history and its truth-telling in classrooms are under fierce attack at every level, it is incumbent on all educators to assess what role they will play in bringing truth and healing to a nation engrossed in harm. As waves of ideological violence make evident, educators can and must dispel the myth that classrooms are anything but neutral sites of learning. Our books, syllabi, stories, and practices are conscious political articulations of our values as instructors and serve to either interrupt or continue a history of educational harms.

While law school clinics might, at first, seem uniquely positioned to take up this mantel of repair,[202] this Essay identifies the ways that all of U.S. legal education is structurally liable for intergenerationally negligent pedagogical practices.[203] No matter how tempting under our neoliberal institutions, this labor of (un)learning cannot fall to one clinic, one department, or one person. All agents of legal education—doctrinal, clinical, administrative, and otherwise—must take on a heightened duty of care in our work if we are to intentionally shape the profession of tomorrow. By joining the lineage of pedagogical dreaming that comes before us, we can collectively work to adopt a practice of reparative legal pedagogy and to at last address the countless people, cases, places, harms, and horrors that bring us to the classroom.

In seeking to reimagine legal education, reparative legal pedagogies aim to *unimagine* legal pedagogy's current form by centering truth and healing in the work we do. Carrying on with legal pedagogy's normative form and substance serves neither us nor our students. As countless others have said before me, reform of legal education will not remedy the interlocked violence that ties law schools to the past and future harms of our legal systems—to white saviors

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202 *See, e.g.*, SpearIt & Stephanie Smith Ledesma, *Experiential Education as Critical Pedagogy: Enhancing the Law School Experience*, 38 NOVA L. REV. 249 (2014) (exploring the ways that "[e]xperience-based teaching is more than training students in particular legal competencies but also, a means of empowering students professionally and helping them achieve greater justice); @ClinicalLegal, Twitter (Nov. 3, 2021, 5:40AM), https://twitter.com/ClinicalLegal/status/1455832183306965009 (arguing that law school clinics are uniquely situated to provide students with the "opportunity to work alongside clients and community partners" in the environmental justice context).

203 *See, e.g*, Russell Engler, *The MacCrate Report Turns 10: Assessing Its Impact and Identifying Gaps We Should Seek to Narro*w, 8 CLIN. L. REV. 109 (2001) (writing that the burden to improve the teaching of "fundamental lawyering skills" is borne by all of law school curricula); *see* discussion *infra* Section I.A.

and supremacists and to patterns of imperial harm.[204] Only through collective and active forms of dreaming might we unimagine the educational harms that inhere in law schools, while working in service of liberation movements to reimagine the personal and political context of learning in this country. We must commit to this work anew each day.

And so, with questions of dreamwork and repair in mind, it's my hope that you leave this piece with the same hope, the same fervor, and the same joy for reimagining U.S. law schools as I felt in writing it; I hope you share in my eagerness to lending our classrooms, our energies, and our time to the work of imagining freedom. If you leave with nothing else from my writing, it's my sincere hope that you enjoyed this space to dream.

[204] *See* Coronado, *supra* note 51, at 137, 141 (exploring the ways that white saviorism and prophecy are normatively, rhetorically, and ideologically embedded in the U.S. legal profession).