45 Stan. L. Rev. 1807

Stanford Law Review
July, 1993

Symposium on Civic and Legal Education
Panel Four: Legal Pedagogy

RAISING PERSONAL IDENTIFICATION ISSUES OF CLASS, RACE, ETHNICITY, GENDER, SEXUAL ORIENTATION, PHYSICAL DISABILITY, AND AGE IN LAWYERING COURSES

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Over the past four years I have been teaching in Stanford Law School's Law and Social Change (LSC) curriculum. The curriculum means different things to different people, but in general the curriculum is intended to attract students who want to work with subordinated or disadvantaged communities or in public interest law.

While the curriculum does include one major theoretical course-Subordination: Traditions of Thought and Experience-most of the curriculum consists of courses which apply theory to specific lawyering skills. For example, in Community Law Practice, students under the supervision of a staff attorney at the East Palo Alto Community Law Project work with clients on issues involving housing, education, public entitlements, or economic development. Contemporaneously, these students examine the cultural, social, and political structures that frame life in East Palo Alto, explore the promise and limits of potential strategies such as negotiation, coalition building, lobbying, litigation, and mobilization, and undergo simulated training, particularly training for administrative hearings.

The Legal Strategies for Social Change course explores the roles lawyers have played and should play in trying to bring about social change to benefit disadvantaged or subordinated groups. Through case studies, students examine how lawyers view themselves and their clients, how lawyers select strategies, and how various public interest law organizations have attempted to spur social change. In Criminal Defense Lawyering, the focus is on developing the skills necessary to represent indigent clients in the criminal justice system from arrest through sentencing, with an emphasis on developing relationships of trust with clients from subordinated communities and developing strategies of defense to be used at each critical stage of representation. The Workshop in Teaching Self-Help and Lay Lawyering is designed to ***1808** train students to teach groups of low income people to draw on their existing problem solving skills to represent themselves (self-help) and others (lay lawyering) in day to day situations. This course encourages and equips students to conceive of group work, and group mobilization more generally, as an important dimension of their own future practice of law.

The Subordination course is a prerequisite to upper division courses and aims to eradicate the tendency of activist lawyers to intervene without knowing much about, let alone regularly studying, the groups with whom they work. The course explores the question: What knowledge of social and political subordination, particularly as it affects historically oppressed groups in this country, informs a lawyer's conviction that professional intervention, much less intervention of a particular sort, seems justified? Case studies draw on a wide range of literature, including theoretical accounts of the political economy of urban redevelopment and wage-labor migration, empirical studies of living on welfare and confronting job discrimination, ethnographic descriptions of communities and support systems, first person explorations of the making and remaking of sexual and cultural identity, and popular portrayals of social conflict and social change.

In the LSC curriculum, I teach three courses. The first is Lawyering Process for Social Change, which is a first year course designed as an in-class simulation clinical course and also serves as a prerequisite for many upper division LSC courses. The second is the Immigration Clinic, in which students represent actual clients in deportation proceedings. The third, a course which I am developing and teaching for the first time at Boalt Hall this semester, is Asian Pacific Americans and the Law,

which explores issues in representing poor and working class Asian Pacific Americans today.

The LSC curriculum gives me an opportunity to train students to be "good" community oriented lawyers. Good community oriented lawyers, I believe, are humble, not paternalistic, identify and work with other allies in the community, respect the client's own talents and skills, work in partnership with the client, respect the client's informed judgment on case strategies, strive to demystify the law and procedure for clients, engage in substantial amounts of community education, consider an array of alternative approaches to legal problems, and get to know the community, much like a community anthropologist. In teaching about good community lawyering, I stress that lawyers need to be conscious of the class, race, ethnicity, culture, gender, sexual orientation, possible physical disability, and age of the attorney, the client, their allies, their enemies, and other institutional players. I refer to these characteristics and traits as personal identification differences.

This paper describes how personal identification issues are raised in my three lawyering classes, discusses the reactions of some students to these issues, and provides some suggestions as to how issues of identification difference can be raised more effectively. Students generally react favorably when I raise these issues in discussion and simulation courses, but the live clinical ***1809** setting is a more effective teaching method. Pedagogical approaches from the clinical setting can be implemented in the discussion or simulation settings in order to make raising personal identification issues more productive.

I. WHY AN EFFECTIVE COMMUNITY LAWYER MUST BE CONSCIOUS OF AND SENSITIVE TO THE CLASS, RACE, ETHNICITY, GENDER, SEXUAL ORIENTATION, PHYSICAL DISABILITY, AND AGE OF THE VARIOUS PLAYERS IN THE LEGAL ENVIRONMENT

As I stated above, an effective community lawyer must be aware of the personal identification differences of the various players involved in a case. Imagine the following situation: I am a twenty-seven-year-old male, Chinese American lawyer who is hired as the housing attorney for the East Palo Alto Community Law Project, located in East Palo Alto, California. East Palo Alto is a poor, small, incorporated community located adjacent to several affluent communities. In 1950 East Palo Alto had fewer than 2,000 residents and almost no African Americans. The population grew to 15,000 by 1960, with about 3,300 African Americans. By 1980, the city of 18,850 was about 64 percent African American and 13 percent Latino. Today, almost a third of the population is Latino. The Law Project is a community poverty law office which handles housing, public benefits, and education related cases. Suppose that one of my first clients is Ms. Pierce, a 30 year old, single, African American woman who has two children. She has sought my help because her apartment is in terrible shape. There are plumbing problems and roach infestation, not all the burners on the stove work, and plaster is falling away in certain parts of the unit, and she cannot get the manager of the building to fumigate and make necessary repairs. In addition to the manager, there are an array of possible players in this case. Other tenants, the building owner, the health inspector, tenant rights advocates, rent board officials, Ms. Pierce's children, and media reporters come to mind.

In order to be sensitive to personal identification differences in the case, I must consider several factors while representing Ms. Pierce. The class, race, and gender differences between Ms. Pierce and me have a definite impact on our rapport.[1] Certainly, most clients experience some difficulty in confiding in a stranger-lawyer, but here, that difficulty may be exaggerated, as I am of a different class than Ms. Pierce, a low income client. This class difference is likely to be apparent even if I were from a poor background myself, because my poor background would likely be different from that of Ms. Pierce's and, in reality, my education has changed me, especially in the eyes of Ms. Pierce. I must be conscious of my manner of speech and the setting in which the interview is conducted. In attempting to develop a rapport with Ms. Pierce, I must be aware of the subject matter of any small talk. The difference in ***1810** our racial and ethnic backgrounds may also make it more or less likely for her to open up to me. Our gender difference is a variable in our rapport as well. However, by knowing more about her race and culture and by being cognizant of our differences, I may avoid making inappropriate assumptions and establishing false expectations and thereby improve my ability to communicate with her.

This attorney-client hypothetical illustrates why training in dealing with personal identification differences is important to the success the community lawyer. Every client is unique, and the effect of identification differences will vary from client to client. However, I am convinced of the need to be conscious of and sensitive to these differences in the development of all attorney-client relationships.

An attorney who differs from a client in personal identification terms can be effective, but must be conscious of these differences and work towards developing the necessary rapport. This rapport can be critical to the success of the relationship and the outcome of the case. An attorney who is out of touch on these issues may be able to get by and even achieve good results for clients.[2] However, learning about identification differences and understanding their potential significance can only

enhance the attorney-client relationship and the attorney's effectiveness. Even if one is skeptical of their significance, most people will recognize the value of being tactful when confronting at least one of the following issues: class, race, ethnicity/culture, gender, sexual orientation, disability, or age difference. For example, most attorneys realize that sensitivity to gender difference with the client can help the relationship. Practicing and learning how to deal with that difference is the honing of a skill helpful to the practice of law. Similarly, developing an approach in the case of racial or cultural differences is also useful, especially when the client may have strong separatist feelings and the attorney would benefit from understanding the source of that sentiment.3

Some individuals may view all this as a matter of common sense. But the truth is that most young community lawyers need training on how to respond to personal identification issues. We all have opinions on these matters, but we have had little opportunity to review these issues in the critical format of the classroom. Common sense, without training, is dangerously fashioned by our own class, race, ethnicity/culture, gender, and sexual background. What we think of as common sense may make little sense or even be offensive to someone of a different identification background. Thus, the ***1811** opportunity to learn and discuss different approaches with the help of different perspectives from readings, the opinions of others, and self-critique is unique.

Continuing the hypothetical example of the Chinese American attorney and the African American client, one can imagine that personal identification differences with other players will impact the case as well. In the interaction of lawyer and/or client with the manager, the apartment owner, the health inspector, other tenants, tenants' rights advocates, and rent board officials, these differences will affect the cooperation, ability to communicate, and receptivity to unique perspectives. For example, if one strategy which Ms. Pierce and I conclude is worth pursuing involves contacting other tenants in the building in order to form a tenants group, the fact that some tenants are Spanish speaking, undocumented immigrants will be quite important to the success of such organizing. Communication problems have to be solved if those tenants don't speak English and neither Ms. Pierce nor I speak Spanish. Ms. Pierce and I will have to deal with the fact that some tenants may be biased against undocumented workers or non-English speakers. All tenants who are asked to organize may fear retaliatory eviction by the owner, but undocumented tenants might also fear being reported to immigration officials. In addition, suppose that two tenants supportive of a tenants' organization are a lesbian couple who has been ostracized by many other tenants in the building. Ms. Pierce and I would need to sensitize other tenants to accept homosexual lifestyles.

In short, understanding personal identification differences and how to manage them is integral to my vision of good community lawyering and my approach to the Lawyering for Social Change curriculum at Stanford. Similar to training in alternative approaches to legal problems, training on identification issues, working in partnership with the client, working with community allies, and respecting the client's own talents contributes to establishing an attorney-client relationship that is not simply another subordinating experience for the client, but is productive.

II. HOW PERSONAL IDENTIFICATION ISSUES ARE RAISED IN MY THREE LAWYERING CLASSES

A. *Lawyering Process for Social Change*

The Lawyering Process for Social Change course is designed for second semester, first year students, who are interested in eventually working with subordinated communities. In the four times I have taught the course, the class size has ranged from twenty-five to forty students. Many students enroll in the course because they intend to practice public interest law. Others may have a different intent, but enroll in the course because they believe that they will (1) someday be a full time public interest lawyer, (2) handle pro bono cases for low income clients, (3) do volunteer work in a subordinated community after graduation, (4) do community work during law school, or ***1812** (5) benefit from the class even though they are unsure what they will be doing after law school.

The focus of the Lawyering Process course is on the visions of lawyering that inform progressive law practice. Personal identification issues are not the main focus here. My hope is that students will get a feel for different ways of looking at lawyering-organizing, client self-help, administrative resolution, litigation, negotiation-and learn about respecting the client, working with the client, and working with other allies in the community. A goal is to provide an atmosphere in which students can get a feel for different styles and techniques and determine what options to use in their practice. The class is an opportunity to practice and experiment through simulations and class discussion.

The first week of Lawyering Process is spent conducting a brief biographical interview of each student before the entire class. These sessions provide a foundation for the course goals of teaching respect for clients of varying backgrounds and in

recognizing that different lawyers have different styles. While Stanford students certainly don't represent the diversity of the country, the degree of diversity is somewhat surprising to most students. In spite of the limitations, invariably the students are diverse along personal identity traits of class, race, ethnicity, gender, sexual orientation, and age. I have also had three students who were physically challenged. Moreover, although this is a second semester course, most students do not know much about the class, ethnic backgrounds, and motivation of their classmates and usually find these preliminary classes quite informative and interesting. These diversity revealing, in-class interviews also provide a foundation for raising personal identification issues during the semester. Even the limited diversity of the class provides the opportunity to explore whether a student with a particular background might be more effective than a student with a different background in a particular situation.

By the second week, the personal identification issues are placed squarely on the table. Students are asked to assume they have a job in a community which is new to them and to write a description of how they would get to know the community. Their responses generally include such things as driving and walking around, shopping and eating at restaurants, talking with people in the park or laundromat, interviewing people relevant to the particular field of law, and playing pickup basketball with others at a neighborhood playground. In class, several students act out some of these scenarios together. Class discussions follow on how these scenes feel, how they might be done differently, and their effectiveness.

During the discussions, the question invariably is raised as to whether or not an attorney of color has a particular advantage coming into a community of the same color or ethnicity, and the corollary, more sensitive question of whether a white attorney could ever be effective and/or accepted in a community of color. It is not uncommon for two extreme positions to be expressed by students on this latter issue: one that argues the impossibility ***1813** of a white attorney to be truly effective and accepted in a community of color, and the other that submits that so long as you have good legal abilities you will be accepted and appreciated.[4] I challenge what appears to be an obvious yes to the first question of whether or not an attorney of color has a particular advantage coming into a community of the same color or ethnicity. I raise the question of how class, language, and other identification differences may raise challenges to the attorney of color as well.

Over the course of the third and fourth weeks of class, one of the readings assigned is Lucie White's Driefontein piece, which discusses her observations of the Legal Resource Centre in South Africa and its work.[5] This piece is included in a group of articles that are specifically intended to raise consciousness on different approaches to legal problems, especially those approaches that are not litigation oriented.[6] But White's piece, because it tells of white lawyers helping black South Africans, naturally raises the issue of how the racial, ethnic, and cultural differences between the lawyers and the community affect the relationship and the legal work. Her piece serves as an example of how identification differences can be overcome with conscientious attention to these differences and cooperation on the legal work between attorneys and clients.

In the fifth week of class, I introduce the facts of a simulation which will remain part of the class for the rest of the semester. The hypothetical facts involve those of Ms. Pierce which I set forth above, and are introduced through a videotaped interview of an African American actress playing the role of Ms. Pierce, and an actual young, white, female attorney with limited housing law experience. The attorney's resume includes Yale Law School and an upper middle class background. It is an awkward interview, in part due to the class and racial differences between the pair. There are assumptions as to availability of child care, convenient meeting times, the accessibility of the apartment building to outsiders, and use of public transportation versus a private car. Other critiques of the interview have to do with interviewing technique.

After watching this video interview, each student engages in two video-taped interview exercises in which another student plays a tenant with problems similar to that of Ms. Pierce. I review the exercises and select a few samples for showing in class. Much of the discussion is focused on the general performance of each student, interviewing styles, and differences in clients. The review also provides me with an opportunity to focus students on personal identification differences by showing videos involving lawyers ***1814** and clients of various gender and racial mix. Invariably, it becomes apparent that interviewers of similar identification backgrounds are able to pick up on subtle cues or signals from the interviewees that others might miss. Even a seemingly simple matter of whether or not it is appropriate to touch a client can be dependent on personal identification considerations.[7] It becomes fairly obvious to students in this exercise that sensitivity to these issues can be useful and beneficial in interviewing and developing rapport with clients.

In week seven I show a tape of Ms. Pierce and her attorney speaking with the local rent board administrator who is an articulate, educated African American woman. Since this is the first time the attorney has met the administrator, many students wonder if it is a good idea for her to be investigating and learning procedures with Ms. Pierce present. Engaging in

such a process with the client does have the benefit of including her in important work and demystifying much of the rent board procedures. While the principal purpose is to consider whether the strategy of joint factfinding is effective or not, personal identification issues also surface in this video. For example, does the fact that Ms. Pierce and the administrator are both African American contribute to their rapport, and do class differences detract from that possibility? Indeed, while the administrator appears to be quite courteous and helpful to Ms. Pierce and her attorney, it does not appear to be attributable to racial similarities between the administrator and Ms. Pierce. The procedural and legal explanations provided by the administrator are pervaded with so much legalese and complicated jargon that it appears that class differences between Ms. Pierce and the administrator are detrimental to Ms. Pierce's understanding of what is happening. The white attorney begins to be seen in a different light by some of the earlier, more skeptical students because she takes the time to ensure that Ms. Pierce understands what is being said, serving as a translator of sorts, in a respectful, nonpatronizing manner.

The eighth week features a video of the young Yale-educated lawyer interviewing a longtime Latino community activist and tenant organizer. The organizer is quite nice to the attorney and provides a good deal of helpful information and suggestions for the Pierce case. Perhaps, as an educated person with a masters degree from Stanford, the class similarities with the attorney help their rapport, in spite of the fact that the organizer is an immigrant from Mexico. Of course, he may be nice to her because he sees in her the possibility of a new ally.

During weeks eight, nine, and ten, students explore strategies of contacting other tenants in the building with similar problems, calling and conducting a tenants meeting, and organizing the tenants. This elaborate tenant exercise is intended to give the students the feel for organizing and for the ***1815** group approach: a type of legal strategy that is hardly considered in law schools, yet often proves effective in the real world. By providing descriptions of two sets of other tenants, one a Spanish-speaking Latino client and the other a lesbian couple, the process also provides another good opportunity to learn how to deal with personal identification issues.

Inclusion of a Spanish-speaking tenant provides the opportunity to conduct an interview exercise with an interpreter as well as to raise immigration issues. Usually a few different students conduct an interpreter assisted interview to get a feel for the experience as well as to have the class observe different interviewing styles. Discussion on seating arrangements and how to best use interpreters is filtered into the critique of each demonstration.[8] Another possible scenario is having one interviewer proceed in broken Spanish, or with an unsophisticated or child interpreter, for comparative purposes.[9]

The facts provided also reveal another cultural issue: an undocumented relative is in the household and fears being reported to immigration authorities. Assuming a legal strategy is available on the immigration point, the class discusses how to counsel the undocumented relative, addressing the real cultural fear of immigration authorities that the person may have developed.

Before revealing the sexual orientation of the lesbian couple, I pause the videotaped interview session during an awkward and tense moment and urge students to determine what is happening.[10] The tenant reveals that she and her partner have been harassed by the manager as well as by some of the other tenants. This information raises a challenge to the possibility of organizing as many tenants as possible if the lesbian couple participates in the tenant group.

By now the students have been divided into two or three groups, depending on the size of the class, and will role play a tenants meeting. All groups have to deal with the main challenges of how to organize and conduct a meeting: who is in charge, what issues can be anticipated, how should one respond to different tenant personalities, what role should the attorney and the tenant activist play, should there be an agenda, and what is the goal of the meeting. One group is asked to deal with the fact that many tenants may not speak English, and is confronted with the logistical problem of how to ***1816** conduct a group meeting in more than one language, with the goal of giving all participants the sense of inclusion. Another group is asked to deal with the issue of homophobia. That group must anticipate and attempt to ease tension, hopefully with an eye towards getting participants to see that they all have a common goal, the cleanup of the building, and a common enemy, the owner and/or manager.

During week eleven, the class focuses on working with allies and client counseling, reading a piece on a fictional community in southern California by Jerry Lopez, which raises some personal identification issues with respect to working with allies.[11] Part of the story involves a white, female investigator who succeeds in learning a lot about the small town of Zalaipa. She develops a rapport with folks who seem to be of a different class and garners quite helpful information for the case. A gender issue is raised when a smart, white, female attorney deals with a Latino client, yet for some reason leaves the client's Latino wife out of much of the dialogue and discussion even though the scenario implies that she is in a position to provide much

relevant information and input. In this context, a new issue is raised: When and how is it appropriate to resist personal identification related values of the client that are offensive? Students realize that attorneys, in being sensitive to personal identification issues, may feel pressured into overlooking or accepting certain cultural practices and beliefs, in this instance sexism, although those practices and beliefs might be offensive. Most students agree that a client's racist or sexist comments should be commented on tactfully at some point.[12]

As to client counseling, I use David Binder's materials related to client autonomy along with works by Lucie White and Bill Simon.[13] In Simon's piece, for example, an elderly, African American woman raises a claim with the attorney about racist motivation on the part of an arresting officer. Her counsel seems to dismiss the claim, and that seems to bother most students, even if the outcome of such a claim is obvious. In White's work, after the attorney prepares and practices testimony with the client for an administrative hearing, the client tells a different story of how insurance money is spent on something which may not be deemed a necessity for welfare eligibility purposes. Students tend to wonder whether or not the attorney or we fully comprehend the client's class situation when pondering why she changed her story in the hearing.

***1817** Even though personal identification issues are not the primary focus of the course, this brief discussion highlights how these identification issues are nonetheless raised in Lawyering Process.

B. *Immigration Clinic*

The Immigration Clinic course is a clinical course which is housed in the East Palo Alto Community Law Project. Students are required to represent real clients who are facing deportation proceedings and to engage in a community education project related to immigration or refugee work.[14] Students hold regular office hours during which they work with clients and meet individually with supervising attorneys on case and trial preparation or plan for the community education project.[15]

Students meet weekly in a group as well as individually with the supervising attorneys and me to discuss their work.[16] The group meeting is conducted in a case review/discussion format, and all students, supervising attorneys and I attend. These group meetings generally last for three to four hours, with the first hour devoted to a topic such as interviewing with interpreters, interviewing clients who are in custody, ethical considerations, preparing witnesses, investigating the case, organizing trial notebooks, opening statements, direct examination, and/or closing statements, client counseling, and advanced immigration law topics. The remainder of the time is devoted to group discussion, evaluation, and critique of casework and community education work.

While the general focus of the course is on developing good counseling and trial advocacy skills, I do review several of the personal identification issues from Lawyering Process in topics presented in the first hour of the group meeting. However, the primary opportunity for raising such issues, and the portion of the course that students, supervising attorneys, and I uniformly find the most rewarding, is the case review discussion of the students' actual work.

The most obvious personal identification issues that surface during discussion ***1818** relate to class, gender, race, ethnicity and cultural differences that exist between the students and the deportation clients.[17] Clients are often older than the students as well. Students who may have forged ahead without much consideration report a variety of problems. Students realize that if they understand the client's culture and can communicate that understanding to the client in some fashion, the client will be more comfortable in his or her dealings with the student. The clinic experience provides a continuous relationship, at least for one semester, between the student and the client. Thus, strategies regarding communication and rapport with the client that develop during case review discussions can be applied and the results described in the next class meeting.

Gender issues are quite commonly raised in the immigration clinic simply because students of one gender represent clients of the other gender. I always raise these comparisons and students readily recall some event or statement which relates to gender roles and client expectations. On the one hand, students have seen how a female client in her teens has been more responsive to a kindly female law student than a kindly male supervising attorney, and how a young male asylum applicant seemed to be more at ease with a male law student rather than the female law student also working on the case. When clients are resistant to representation by a person of a particular gender, students are encouraged to act sensitively and attempt to dispel unreasonable notions of gender roles. Rather than conclude that a male attorney cannot adequately represent a teenage girl or that a female attorney cannot do a good job on a male's asylum case, the students are urged to see what they can do to be effective in spite of the gender differences, knowing that the difference can also be conducive to candid conversation or a good working relationship.

Generally on race, ethnicity and cultural differences, the clinic provides a real opportunity to compare the effectiveness of Latino students with Latino clients with that of non-Latino students with Latino clients. Often Latino students discern an advantage with Latino clients who may initially be more receptive. However, smart, sensitive, and skilled non-Latino students who devote some time to the study of the cultural backgrounds of the clients and practice dialogues during weekly case discussions generally do quite well. In fact, a student's ability to speak Spanish appears to play a bigger role in the development of good rapport than does ethnic background. Even so, students trained in using interpreters effectively can accomplish remarkable things with non-English speaking clients. The actual process of using interpreters in legal cases, from initial interviews to testimony preparation through the actual hearing, is eye-opening for all students.

The Immigration Clinic also provides a good basis for comparing cultures of different clients and how those differences interplay with the various ***1819** backgrounds of Stanford law students. For example, in a given semester two different clients may be applying for the same relief, such as asylum, but they may be from vastly different cultures, e.g., China, Iran, Guatemala, the Philippines, or El Salvador. In another type of case, suspension of deportation, the deportation client is required to demonstrate that he or she or a lawful relative would suffer extreme hardship if deported. Here the client's culture is important not only to how the student works with the client, but also to what information can be used to demonstrate and substantively support the hardship claim. In suspension cases, immigration judges are also impressed by any conventional efforts at Americanization that the client may have made, such as learning English. Yet, different immigrants respond differently to suggestions of Americanization,[18] and the student representative must be sensitive to how cultural background affects this response in formulating an approach on these issues.

Each semester students are also required to represent persons at bail hearings who have been arrested by the immigration authorities. This entails each student interviewing between two and five individuals in an INS holding facility under stressful time pressures and often with the assistance of an interpreter.[19] In preparation for this experience, students are placed in a simulated setting in which they must quickly deal with substantive and procedural issues. They are also urged to keep personal identification considerations in mind and remain sensitive to such issues in spite of the brief time for formalities.

In order to insure that the various lawyering techniques considered in the Immigration Clinic have sunk in, students keep a journal of their reflections on the development of the relationship with their deportation clients. Part of those reflections are devoted to the personal identification differences they confronted in each case.

C. *Asian Pacific Americans and the Law*

Asian Pacific Americans and the Law provides a background for students who are interested in lawyering in an Asian Pacific American community after graduating, either in a legal services program or through pro bono work. In preparing the materials for this course, I surveyed community groups and a variety of legal services programs established in part to provide legal services to low income Asian American communities[20] and spoke with ***1820** private Asian Pacific American practitioners. Based on the survey, I developed a list of current major issues that groups in the Asian Pacific American communities were addressing. The topics included anti-Asian violence and hate crimes, criminal justice, voting rights, redress issues for previously interned Japanese Americans, bilingual education, affirmative action in education, employment, housing, and immigration. The course is conducted entirely in a discussion format. The readings consist of news accounts, pleadings, legal memoranda, and law review articles, and occasionally students view videotapes on particular topics.

The main goal of this class is to aid students in developing an array of approaches to issues arising in the various Asian American communities. However, I do emphasize effective lawyering, including consideration of personal identification differences. Although all but one of the students in my first offering of Asian Pacific Americans and the Law is Asian or Pacific American, differences in race, culture and ethnicity are important given the current diversity of Asian America. Today most Asian Pacific Americans are foreign born. According to the 1990 census, the largest community is Chinese Americans (1,645,472), followed closely by Filipinos (1,406,770), Japanese (847,562), Asian Indians (815,447), Koreans (798,849), and Vietnamese (614,547).[21] Thus, for example, a young, American born, Chinese American lawyer practicing with the Asian Law Alliance in San Jose might find herself representing Filipino immigrants and Vietnamese refugees with vastly different racial, cultural, and ethnic backgrounds from her own.

Personal identification issues are initially addressed in this course during the second meeting. In preparing students for that meeting, I assign materials on the demographics of Asian America and some reading relating to Asian American identity.[22] One of the purposes of this meeting is to get students to realize that, although they may be Asian Pacific American, their backgrounds may be quite different from those of their clients. This consideration serves as a backdrop for the remainder of

the course.

As opportunities arise during the semester, we discuss personal identification issues further. For example, in reviewing the sordid accounts of anti-Asian violence over the past few years, one of many questions I raise is whether or not the Asian Pacific Americans in the class react differently to these accounts than to hate violence directed at other racial groups or gays and lesbians. This leads to a discussion of whether or not we can actually relate to those incidents in the same manner we relate to incidents directed at Asian Pacific Americans, and if so, whether that would help us build bridges to other communities and social change movements. Of course, those Asian Pacific Americans of mixed racial background or who are gay or ***1821** lesbian have special experiences that may give them an advantage in certain circumstances, at least initially.

In a discussion on hate crimes in which Asians are victimized by other people of color, for example African Americans attacking Korean merchants, I ask whether or not our Asian Pacific American identity helps or hurts us in coalition building efforts with African Americans or other historically subordinated groups. In another incident discussed in class, a student described her work at the Asian Law Caucus helping Cambodian refugees placed in predominantly African American populated public housing. The Cambodians had been assaulted and robbed repeatedly and lived in an environment of fear.[23] However, in meeting with the housing authorities over issues of security and transfer requests, the attorneys and the student had not brought tenants to the meetings to articulate their own demands. We discussed how this may have stemmed not only from legal elitism, but also from cultural bias and expectations on the part of both the attorneys and the clients. Such expectations may have been far different if the clients were not foreign born or if the attorneys had given the situation more thought.

In one class I focus on the use of legislation as a legal strategy by presenting a study of the redress movement for Japanese Americans who were interned during World War II. During the movement, the organizers were given little encouragement by attorneys and by two Japanese American members of Congress. I posit the question of whether or not this miscalculation on the part of the attorneys and Congressmen was a result of class or cultural differences between the client/organizers and the attorney/congressmen. This raises the issue of how we as lawyers or public officials are now part of a culture or class that is quite different from that of most clients, even though we may have the same ethnic or racial background as the community we now work with and counsel.

Cultural and class issues arise repeatedly in the course. For example, on considering advocacy for bilingual education, those who are monolingual English speakers might wonder about the importance of bilingual education or misunderstand the need for bilingual education that is felt by immigrants. Also, personal identification differences between attorneys and clients may affect perspectives on such issues as affirmative action in admissions or faculty hiring/retention. The largely Chinese and Japanese dominated Asian American Bar Association of the Greater Bay Area may need sensitizing on the demographic changes and life circumstances in the Filipino and Vietnamese American communities to understand their affirmative action needs.

Asian Pacific American attorneys, in facing employment and housing issues with low income Asian Pacific Americans, will generally confront class and possibly age differences with their clients. Comprehending what it is ***1822** like to work at a minimum wage sweat shop, where most garment workers are immigrant women, or to live in dilapidated housing is not easy for someone who has not experienced it. However, good lawyering on such a client's behalf demands an understanding of the situation.

III. REACTION OF THE STUDENTS

Longtime professors of law can attest to how often we come across a former student who says something like, "Gee, remember when we talked about this particular thing in class and you said that these particular issues had to be considered? Well, I didn't really believe you until it happened to me in the real world." Or, "Gosh, I wish I had paid more attention to the particulars because when I was confronted with the real situation I was at a loss." Or a former student calls to relay a real life situation and ask for advice. The issue is something you definitely covered in class but the former student acts as is she never received this basic information.

In contrast, the reactions from former Lawyering Process students, usually 2L students returning from their first summer's work, is encouraging: "I'm glad we covered that approach in Lawyering Process, because right away this summer I could see the need for its application." Or "I was a little skeptical during the course, but this summer I really saw the need for this

perspective and I appreciate having had the course."

Insofar as lawyering experiences go, the comments from former Immigration Clinic students are even better. Quite frequently I am told that the Immigration Clinic was the best class they had, even though the most demanding, in law school. This is largely, they say, because of the practical experience, the responsibility, and the immediate results they saw in a real case. They appreciated the close supervision and constant discussion about strategies and the student-client relationship, which they now try to duplicate in their current jobs. The nature of their questions are much more sophisticated: "I gave a community education presentation the other night, and it went well. I tried something new that I'd like to get your reaction to." Or "I have a Mandarin-speaking client and I find that the interpreter we use is not very sensitive to the client or to me. Can you give me the name of someone who is experienced with whom I can establish a relationship?"
I am generally pleased with the results of all three of these course experiences in that they raise alternative visions of lawyering and establish a broader, proactive, community oriented, and respectful approach to working with subordinated groups. Students are open to these ideas, which make sense to them, and students want to adopt and implement many of the ideas when they start working with clients after graduation. The students' main skepticism is whether there is enough time in the busy schedule of a community lawyer to implement many of the ideas while carrying a full caseload. Working closely with other community allies, engaging in community education, and working with clients to organize others is time consuming. Relatedly, they wonder if the old guard of legal services programs are open to ***1823** fresh approaches.[24]

With respect to the personal identification issues, students readily accept the premise that consciousness and sensitivity to class, race, ethnicity, gender, sexual orientation, disability, and age differences in the legal environment contributes to good lawyering. Students realize that in order to communicate, develop trust, and establish rapport with clients, they must be aware of such differences. Because of the real life setting of the Immigration Clinic, students more easily grasp the relevance of all the lawyering issues, including the personal identification issues. The Immigration Clinic course is successful because it involves a semester long, ongoing relationship between students and clients that can be studied and experienced, experimented with and enhanced. Unlike the simulation/discussion setting (Lawyering Process) or pure discussion setting (Asian Pacific Americans and the Law), students see the need for learning skills to deal with personal identification differences, are more eager to learn such skills, and work harder at developing them.

Although students in the Lawyering Process class are open to the notion that being sensitive to and conscientious about personal identification differences makes for good lawyering, on more than one occasion some students have expressed dissatisfaction with the direction that some discussions have taken, and occasionally feelings have been hurt. Contributing to this dissatisfaction may be the fact that almost everyone, irrespective of personal background, feels that they have had some experience with personal identification differences and, therefore, have an opinion as to how such differences relate to interpersonal relationships. For some students, although not all, the basic philosophical approach of being sensitive and sensible about these differences makes sense. However, when Student A hears something Student B espouses along lines that suggest the approach contemplated by Student A may be wrong, Student A can find it hard to accept. Tension surfaces when two extreme positions are taken.

While disagreements can occur in any group situation, some students are particularly thin skinned over challenges on personal identification issues because their beliefs stem from very personal experiences. For example, I have heard some students of color express utter skepticism about whether or not a white person should try to work with a community of color or would be accepted by a community of color. On the other hand, I have heard white students talk about an experience they, a parent, or a friend has had in which the perception is that they have been totally accepted and effective in a community of color and thus they conclude that any white person could do the same without much difficulty. Some students may think that everything turns on race, while others think that everything is a matter of class differences. ***1824** When these perceptions collide, some student dissatisfaction may arise.
Again, while these incidents have been few and represent a fraction of the overall class discussion or focus, they do stand out. I view my job in these circumstances as urging all students to see the complexities involved in interpersonal relations and how we can neither overgeneralize nor exaggerate them. My personal position is that lawyers with differing personal identification backgrounds can be effective, but only with full consciousness, sensitivity, and constant work. In urging both sides to listen and remain open minded on these issues, most students usually understand.[25]

Relating discussions to specific, real life incidents contributes greatly to students' perception of the complexities underlying personal identification issues.[26] In addition to concrete examples, the fact that many students enrolled in Lawyering Process

are also volunteering in client self-help clinics adds invaluable personal experience.[27] These students often have student-client relationships to which they apply many of the personal identification factors. Every student involved in client self-help clinics reports how helpful the class has been to them in this regard. Not coincidentally, they are generally the students who have never taken the polarized positions discussed above.

In the Lawyering Process class offered during the Spring of 1992, a particularly polarized situation over the effect of racial differences surfaced. In general terms, one student was perceived as maintaining a position that everything turned on race and that white attorneys could not be as effective as attorneys of color in communities of color. Another student who often took umbrage with the first student was perceived as discounting race as a factor in all circumstances.[28] Toward the end of the semester the verdict in the first Rodney King beating case was announced and, as with much of the world, it seemed that every student in the class, including the student who was perceived as regularly discounting race as a factor, was shocked, appalled, and horrified by the verdict.[29] In the class the morning after the verdict, that student seemed almost apologetic for previous positions she articulated in class, ashamed of the institutionalized racism the judicial system ***1825** seemed to exemplify in the case. The student on the other end of the debate did not assume a validated attitude, yet statements during that class certainly embraced the perception that race was everything.

In retrospect, during the South Central Los Angeles uprising, many teachers probably articulated sentiments that could be construed in a race-is-everything manner. In my view, the perceived race-doesn't-matter student should not have abandoned her position entirely, and the race-is-everything student should not have felt completely validated. Racism might have determined that first verdict, and racism unfortunately pervades all of our society. Yet, to conclude from this one verdict that race determines outcome in all contexts is to discount the complexity of our society.

The verdict's aftermath in South Central Los Angeles stirred other race and ethnic discussions in the Lawyering Process class. While most students discussed the continued subordination of African Americans in the country, a few wanted to raise concerns about the attack on Korean merchants. There was some dispute about how these concerns should affect our training to be community lawyers. Obviously, race relations need to be a central focus of such training if diverse ethnic or racial communities were ever to come together again. But as more information emerged about South Central, for example that as many or more Latino-owned businesses were destroyed as Korean-owned, and some African American-owned businesses were destroyed as well,[30] the intersection of race and class differences stood out as a factor worthy of more consideration.

Although I have taught the Asian Pacific Americans and the Law course only once, I was pleased at the reaction of my students to this class and the materials, and the discussions all went extremely well.[31] Most students were not aware of the level of diversity among Asian Americans, nor had they considered how this diversity might impact their effectiveness as lawyers for an Asian Pacific community. When lawyering questions are covered in each class, the lessons seem to take hold more easily when they are related to real situations. As in the other courses, students often raise the personal identification issues before I do. For example, in discussing voting rights cases and representation, the discussion turned to Asian Pacific American candidates. One issue raised was the perception that some voters, including students in the class, have of candidates relevant to gender, namely that Asian American women were more progressive and less inclined to favor business interests than their male counterparts.

***1826** I have reflected on my perceptions of what the students learned regarding personal identification issues. However, it will also be insightful to let the students themselves tell you of their experiences.

IV. STUDENT JOURNAL REFLECTIONS

Students enrolled in the Immigration Clinic are required to keep a reflection journal during the semester. They are instructed to make entries once a week which document their reactions to their experiences in terms of their training to be community lawyers. They are asked to pay special attention to how their relationship with clients and community groups develop. I inform the students that I am particularly interested in how they attempt to demystify the law, work with the client as a partner, and give the client responsibility, and how the client reacts to those efforts. I encourage students to recall specific conversations they have had with clients related to the development of the case and their relationship. As part of those reflections, I ask the students to consider personal identification differences that are at play in the legal environment. A few examples from their journal reflections are illustrative.[32]

One white male student who had many years of prior counseling experience working with Mexican Americans in San

Antonio said:
My Texas experience (especially with Mexican Americans) led me to believe that Gordon [a Salvadoran asylum applicant] would be outgoing and initially very trusting. I was shocked that he was not as expressive (emotionally, verbally, and body language) and open. In a sense, I stereotyped Gordon based on what I thought was my own "informed" experience....

The class issue ... probably was the greatest divide between Gordon and [me]. I have a car, stable income, access to all kinds of resources. Gordon was constantly scrambling to make ends meet; the loss of the job during the [case], the hour and a half bus rides each way to come for the interview, his unfamiliarity with the train. However in his scrambling, he had a resourcefulness that I will never have. I doubt that I would be able to adjust to a "foreign" situation as quickly and successfully as he has here....

We told Gordon that Judge Smith was a woman but never asked him if that would make a difference. I did notice that when [the volunteer student] Maria Gomez translated that Gordon worked more easily, I think trying to please her. I have tried to think back on Gordon's response to Judge Smith, especially when she asked several follow up questions and was trying to clarify what really happened at [the Salvadoran] airbase. My innate sense is that Gordon probably unconsciously would try more diligently to respond to a woman than a man and that may have made a difference in his deference and even facial response to the judge. I do not want to overstate this hunch, for it is based more on what I perceived happening with Gordon and Maria than with Gordon and the judge.

I think Judge Smith's familiarity with Spanish also put Gordon at ease- ***1827** gave him a greater confidence that she would understand. This could have reinforced what I perceive as a positive gender relationship.

In another asylum case involving a young man from El Salvador, two students, an African American woman and a Mexican American man, conducted the representation. First the African American female student:

Our perception and attitude toward Pablo made us insensitive in our treatment of him. We kept asking him over and over again to explain more fully some of the tragic events in his life. Although we knew, objectively, that most people would have trouble reliving their past, we weren't worried about it in Pablo's case. From the way he had been telling us his story, we assumed that he didn't have a problem with it. Not until Pablo was evaluated by the psychologist... did we know that Pablo was really "messed up." Based on the image that we had of Pablo, pleasant, sportily dressed, etc., it never really occurred to me that he had so much stuff going on inside him. He just seemed so "chulo" [cute little boy]. (In this regard, I think that I was pretty condescending, I always thought of and called our client "little Pablo.")

Our image of cute little innocent Pablo changed toward the end of our relationship with him. Shortly before his hearing, Pablo started crying while we were practicing the direct examination. [My co-student, the supervising attorney] and I were all taken aback when this happened. We had never expected it and didn't know what to do. I felt really bad for Pablo and almost began to cry myself. [The supervising attorney] gave him some tissues while [the other student] and I just sat there not knowing what to say or do. After he had stopped crying, Pablo apologized for getting so emotional. We assured him that it was all right to cry and apologized for making him go through the questions....

Another indication of our treating Pablo differently from other clients is seen in our responses, or lack thereof, to comments made by Pablo that were borderline racist. On a number of occasions, Pablo said things that I would have questioned him on if he had been anyone else. Most of Pablo's comments concerned his job at a car wash... or living in Oakland. Referring to his job, Pablo once mentioned that he didn't like working in the sun because he didn't want to become too "morenito" [dark brown]. He also said that he wanted to change his shift so that a white woman would be his supervisor. He said that he would rather have her as a supervisor than either a Black or Chicano man. During that same conversation, Pablo told us that he hated Guatemalans for some reason. However in this case, I didn't think it was appropriate to try to talk about or attempt to change his attitudes.

I never said anything to Pablo about his comments for two reasons. First, what he said was not all that bad. I worried that if we got into any kind of discussion about it, he might say something worse and at that point, I personally didn't want to get into it or learn what his real attitudes might be. Second, I didn't pursue Pablo's comments because I thought that it would be counterproductive. Our main concern with our relationship was to encourage Pablo to trust us and to open up to us. I thought that talking about racial attitudes at that point would not help us achieve those goals. Even though I kind of wimped out on an important social goal of challenging ***1828** people's attitudes about race, I [subordinated] that goal to the more pressing one

of establishing a good relationship with our client.

Looking back, I think I was wrong to keep quiet about my real feelings about Pablo's comments. Regardless of Pablo's special vulnerabilities, I think I should have said something because what Pablo said made me angry. I am not sure what I could have said, but I should have said something. I remember thinking to myself that "this little guy had some nerve-who is he to believe that he is better than anybody else." Pablo at that point symbolized so many other immigrants who come here and complain about African Americans. In any other situation I would have let my opinion be known. Indeed, since I had the added advantage of being in a relatively close relationship with Pablo, I should have voiced my opinion. Maybe if I had done so, in the future Pablo might think twice about his attitudes about race.

Next the Mexican American male student:

Pablo broke down and shared with us how depressed he gets when he's reminded of what he's lived through. He's spent most of his life trying to forget the sight of his uncle embedded on a stake, finding his cousin with his hands and ears chopped off....

Hearing this, I froze up; I didn't know what to say or do. I remained silent as he spoke. I don't remember exactly what [the supervising attorney] said, but at least he said something-unlike me. [The supervising attorney] told Pablo that he should feel comfortable calling us if he just needed someone to talk to. I don't know why I was at such a loss for words....

[W]hy didn't I act more supportive towards Pablo? Is it that Pablo was closer to me in age? Is it that I felt uncomfortable showing affection towards a guy I had just met? It probably was a combination of all these reasons....

I just wanted to reach over to him and hug him and tell him we were going to do everything possible for him to win his case. I wanted to tell him that we believed his story. But I didn't; I felt stupid....

On the drive to the bus stop, he apologized for what he told us during the meeting. He was embarrassed but also thankful that we had listened to him. He said he didn't have anyone to talk to [where he was staying]. He didn't feel like he could trust anyone. I assured him that there was nothing to worry about. It was important that he feel comfortable expressing his feelings to us given that we would be working together on his case....

I want to make sure Pablo doesn't think that we will forget or ignore what he told us and what he's feeling. I think that's the worst thing we can do. So we have to be conscious not to do that. Although it may be awkward to talk about his feelings and the pain he's experiencing, we may have to. We can try to do this by getting to know Pablo outside of our meetings. I'm going to ask Pablo to come an hour early to our next meeting so we can have lunch. I'm also going to try to call him once a week to see how he's doing....

Another problem surfaced when Pablo made some comments that were racially insensitive. When we asked him whether we could schedule a night meeting, he responded that it was too dangerous at night to walk home because he was afraid of "los morenos" [meaning African Americans]. He ***1829** said, "los morenos son feos y malos" [they are ugly and bad]. Both times [the other student] and I were present, and we both ignored the comments.

When Pablo left, I asked [the other student] whether she had heard what Pablo said. I told her I did not know what to say. She said she was going to say something but decided not to because we needed to ask him many more questions about his story. Another time, while on the phone, Pablo again told me he didn't like Blacks. He said that a black man had robbed his watch on his way home from work earlier that day. A drunk black woman had yelled at him when he couldn't understand what she asked him. He also had problems with black teenagers teasing him. He felt that he was taken advantage of because of his height. He felt that if he were taller and bigger he would have said or done something to defend himself.

I told him it was unfortunate that he had been robbed but that it could have happened to anyone of us in any city by anyone. It could have been another Latino, a White, or an Asian. I explained that Black [people] are no more prone to this behavior than any other group and that there were "bad" people in every community.

He agreed but he was still angry and hurt that these incidents happened to him. He didn't hate all blacks, just those who hung out next to [where he lived]. I thought of saying more to try to uncover any racism, conscious or unconscious. But I didn't

want to challenge him further and thought I had said enough for the time being.

The final example is written by a female Puerto Rican student who was teamed with a female Mexican American student to represent a Mexican woman. They were supervised in part by a male volunteer attorney. The Puerto Rican student was a native Spanish speaker who was completely bilingual in Spanish and English. The other student and volunteer attorney were not native Spanish speakers, but considered themselves bilingual.

All throughout our case, the difference in language levels in the working group was a source of frustration for me.... Maybe I shied away from facing [the other student and volunteer attorney] because I did not want to hurt their feelings and because they did act somewhat defensive about their language abilities. I think, however, that language was a real limitation....

Resources [for Spanish speakers] are very scarce [and] I have come to realize that very often, the people that are interested and willing to work with Spanish speakers are not native Spanish speakers themselves and they are very often, yet unknowingly, ill-equipped to work with monolingual Spanish speakers.... I admire their dedication and recognize that they have a lot to offer to the Latino community. However, we did not deal with the inadequacies of their spoken Spanish because we do not want to hurt them and do not want to seem ungrateful....

Not realizing how much language affects your relationship with your client results in a disrespect for the language that is perplexing to me.... [T]here are so many different simple technical exercises that you can do to safeguard against the most common language mistakes among non-native speakers, that it is unforgivable not to make that sort of exercise part of your general training as a lawyer interested in working with the Spanish speaking community.

***1830** [The other student and volunteer attorney refused to talk about their deficiencies because they either thought their Spanish was fine or were too embarrassed. I should have written a memo to them and stated the following types of things]: I have noticed that both of you make some of the same mistakes in Spanish. I think these mistakes are very common among non-native Spanish speakers and I have also noticed it in many of my friends. [Let me share some solutions that have worked with others]. I have noticed that you get confused when either the client or I conjugate verbs in the third person when using "usted." On several occasions you have both expressed that it is easier for you to use "tu." I do not think the client would mind if we all used "tu" from now on. I usually prefer to use "usted" because it is the respectful way to address someone with whom you are establishing a professional relationship and it is the common way for clients and attorneys to refer to each other both in Mexico and in Puerto Rico.... [A]nother thing we need to watch out for is how flexible we can be during our meetings considering the language limitations. If one of our goals is to include the client in our discussions as much as possible, we have to realize how preparing scripts for our meetings will hinder the client's ability to influence the discussion. If you feel like you have to prepare most of what you will say during the meeting in advance, we have to think of other ways in which we can allow the client to have some say in framing the agenda.

V. LESSONS TO BE LEARNED

One lesson from the lawyering courses, particularly with respect to personal identification considerations, is that students need more live clinical experience. However, given the realities of law schools and their pedagogical and curricular priorities, alternatives to such clinical courses are necessary. In learning about personal identification differences in the legal environment, there is a significant difference in understanding depending on whether the course involves discussion and/or simulation alone or includes live clinical settings. Thus, we should think seriously about how we teach in our non-live clinical courses. To be more effective in simulation or discussion classes, we have to work harder and be smarter pedagogically. If we cannot infuse legal education with live clinical experience, then we should at least import lessons from the live clinical setting into other courses.

In order to raise personal identification issues in a meaningful manner, we must look for ways of making simulation and discussion classes more realistic. To build a challenging and critical environment in the classroom with respect to personal identification issues, we have to devise ways of bringing the community into the classroom. Since all students have identification related opinions based on personal experiences, challenging and criticizing their experiential beliefs and assumptions without bruising egos or hurting feelings can be difficult. While such a risk is always present in the classroom setting, many students take views on identification issues much more personally because they touch on self-identity. Students often generalize from their own experiences if no other reality checks are present. Certainly many students are quite capable of recognizing that every client is ***1831** different and understanding that the way one interprets one's own experiences has to

be viewed critically as well. However, most of us are not inclined or trained to be self-critical on such personal opinions.

Based on my experiences, observations, and attempts at raising personal identification issues effectively in lawyering courses, I have the following suggestions for non-live clinical courses:

(1) Use hypotheticals or examples that are based on believable facts or facts which are familiar to students. For example, in my Lawyering Process simulation, I encourage students to drive around East Palo Alto. I also distribute photographs of actual dilapidated housing units so students can start getting a feel for some real class differences they may have with Ms. Pierce. In the Asian Pacific Americans and the Law course, I include interviews and trial transcripts with the actual words of the victims.

The effect of the first trial of the officers who beat Rodney King and the verdict's aftermath underscored the importance of trying to bring the community into the classroom in order to effectively discuss personal identification differences in the context of good lawyering. Vivid, concrete examples can help make a simulated clinical or discussion class more meaningful because students are better able to relate to something real and to see the complexities of what actually happens. Any examples used in the classroom must be replete with information. Thus, if the trial or the South Central aftermath is to be used, as much information as possible needs to be provided, not just the results. For example, in studying the trial, students should have good descriptions about the setting, the individual jurors, the judge, the legal requirements, the various attorneys, and the defendants. In evaluating the reaction to the verdict in South Central Los Angeles, we need to know how the community evolved, how the ethnic demographic profile emerged, and what economic, social, and political life is like there.

(2) Use major news events of the day to discuss personal identification issues. Often high profile events reported in the media provide an excellent basis for raising these issues. The various trials surrounding the Rodney King beating and the South Central Los Angeles aftermath are only one set of examples. The Zoë Baird/Nannygate controversy raises all sorts of issues related to race, class, gender, culture and ethnicity. Hate violence cases are also a source for discussions.

(3) Use videotape to bring the community into the classroom. In Lawyering Process, I show quite revealing interviews of actual landlords, a couple in their fifties, from East Palo Alto who disclose class and race prejudices that they bear against their tenants. I also show the interview of a Latino tenant organizer. In the Asian Pacific Americans and the Law course, I show a video of an interview of an experienced housing activist in San Francisco's Chinatown, and also a video of working class grass roots organizers of the Japanese internment redress movement.

(4) Use the experiences of the students. Prefaced with a major dose of how it is dangerous to generalize from anecdotal personal experiences, encourage ***1832** students to talk about their own experiences from a critical perspective. Before having other students comment, encourage students to be self-critical in their description. If students are working on real cases outside of class, I ask them to report back periodically about the progress of the case in terms of lawyering skills, including personal identification issues. For example, those students in Lawyering Process who are doing self-help projects with real clients at the East Palo Alto Law Project seem to appreciate the personal identification lessons more readily. They often follow cases over a period of weeks and are able to see the need for and the effects of much of the simulated lessons in a real setting.

(5) Ask students to prepare a reflection piece or keep a journal. Although class discussions on personal identification issues can be tremendously enlightening and helpful, I have found that students in the Immigration Clinic, and to a certain extent those in Lawyering Process, further benefit from preparing a written reflection piece on all lawyering issues. In the words of one student's reflections:

It is easy to talk about [race, gender, and class issues] and even dismiss our own stereotyping. In a class situation it is easy to talk about the people as over there or not me that do the terrible stereotyping. I have only come to see some of my own stereotyping in the process of working with a client and working with another student. However, unless asked to do the type of reflection you requested I doubt I would have seen what I have.

Professional trainers of teachers provide five other suggestions that can be applied in the development of personal identification difference skills:
(1) Assign group work and collaborative learning activities. I have found that having students meet and talk about personal

identification issues, as well as other lawyering issues, in small groups is very helpful. Many students who are hesitant to participate in a larger classroom appreciate the opportunity that small discussion groups afford. Regardless of the subject matter, research shows that students working in small groups tend to learn more of what is taught and retain it longer than when the same content is presented in other instructional formats.[33] Students report achieving their greatest understanding of diversity as "side effects" of meaningful educational or community services experiences.[34]

(2) Draw all students into the discussion. Since all students have some view on personal identification issues, everyone should be encouraged to participate. More students can be involved by asking if they agree with what has just been said or if someone can provide another example to support or contradict a point: "How do the rest of you feel about that?" or "Does anyone who hasn't spoken care to react to Joe's conclusion?"[35]

***1833** (3) Speak up promptly if a student makes a distasteful remark, even jokingly. Since sensitivity to personal identification differences is a lawyering skill to be learned, do not let disparaging comments pass unnoticed. Be tactful and explain why a comment is offensive or insensitive. Let students know that racist, sexist, and other types of discriminatory remarks are unacceptable in class. For example, "What you said made me feel uncomfortable. Although you didn't mean it, it could be interpreted as saying ...."[36]

(4) Rectify your own language patterns or case examples that exclude or demean any groups. Refer to parallel groups using terms of equal weight: "men and women" rather than "men and ladies." Use both "he" and "she" during lectures, discussions, and in writing (e.g., by alternating "he" and "she" throughout a lecture), and encourage students to do the same. Refrain from remarks that make assumptions about your students' experiences, such as, "Now, when your parents were in college...." Avoid comments about students social activities that tacitly assume that all students are heterosexual. Try to draw case studies, examples, and anecdotes from a variety of cultural and social contexts.[37]

(5) Determine whether students understand each other. Often, students listening hear one thing when the student speaking means another. This duality can make sensitive discussions on personal identification issues even more problematic. One approach to improving students' understanding of each other is to ask students to agree that no one will express an opinion on a subject until that person has (1) indicated an understanding of the previous speaker's views by briefly restating them to the latter's satisfaction, and (2) inquired whether the speaker had something further to add.[38] This discussion ground rule can decrease the likelihood of misunderstandings.

Knowing how to deal with personal identification differences with our clients in the legal environment is not simply a matter of common sense. However, such knowledge can be developed with serious training and can greatly enhance the lawyering experience. Similarly, teaching these skills cannot be reduced to a simple matter of common sense. We have to think hard about our approach because this is a skill which takes much sensitivity, and an area in which people often base strongly held opinions on their personal experiences. The danger of over-generalizing is great. Following the above outlined suggestions is one way to successfully teach students effective community lawyering skills.

Footnotes

a Associate Professor of Law, Stanford Law School. Many thanks to Lenora Fung, Angela Harris, and Heidi Rodriguez for their reactions to the ideas reflected in this piece. I also appreciate the many students who have encouraged me to raise issues related to class, race, ethnicity, gender, sexual orientation, physical disability, and age differences in the legal environment.

1 Of course personal identification differences are not the only factors that will influence the relationship between Ms. Pierce and me. Her status as a parent is also relevant, as are my legal knowledge, technical ability, and confidence.

2 For that matter, many attorneys who "get by" in other ways, for example, those who are poorly prepared or have little legal knowledge, can still (fortuitously) achieve good results for some clients.

3 I write about separatist sentiment in Bill Ong Hing, *Beyond the Rhetoric of Assimilation and Cultural Pluralism: Addressing the Tension of Separatism and Conflict in an Immigration-Driven Multiracial Society*, 81 CAL. L. REV. (forthcoming July 1993). Another broad reason for teaching personal identification issues in lawyering courses is that lawyers, as people who deal with the public professionally, should demonstrate leadership and set examples of tolerance and pluralism. This can be especially important for public interest lawyers whose clients are from subordinated communities, as these communities stand to gain the most from respect of difference and diversity.

4 A good deal of discussion takes place on these questions as I challenge both sides and express my own view that, generally speaking, it is possible for a white lawyer to be fully accepted and effective through much hard work, sensitivity, and humility.

5 Lucie E. White, *To Learn and Teach: Lessons from Driefontein on Lawyering and Power*, 1988 WIS. L. REV. 699.

6 The articles include Steve Bachmann, *Lawyers, Law, and Social Change*, 13 N.Y.U. REV. L. & SOC. CHANGE 1 (1984-85); Stephen Wexler, *Practicing Law for Poor People*, 79 YALE L.J. 1049 (1970). In addition, I assign GERALD P. LOPEZ, REBELLIOUS LAWYERING: ONE CHICANO'S VISION OF PROGRESSIVE LAW PRACTICE, ch. 1 (1992).

7 For example, most students find that a male attorney touching a female client in a consoling manner is conceptually less advisable than a female attorney touching a female client in a consoling manner. Some students believe that, except for a handshake, touching any client is too personal of a gesture. Other students believe that this depends on the client's cultural background.

8 If possible, I also have students conduct an interpreter demonstration in a language other than Spanish, such as a Chinese dialect, in order to study differences.

9 The comparison with a child interpreter is important because non-English speaking clients often bring their young children to help interpret. This creates problems in addition to the fact that the children are generally not skilled interpreters; the interviewer has to be sensitive about discussing topics that the parents may not want the children to hear.

10 Prior to class I have assigned readings on gays, lesbians, and homophobia. They include Janet E. Halley, *The Politics of the Closet: Towards Equal Protection for Gay, Lesbian, and Bisexual Identity*, 36 UCLA L. REV. 915 (1989); Gregory M. Herek, *The Social Psychology of Homophobia: Toward a Practical Theory*, 14 REV. OF L. & SOC. CHANGE 923 (1986); *Fear and Loathing in L.A.*, L.A. HERALD EXAMINER, Feb. 20, 1989 (editorial); Joan Smith, *A Gay Basher Asks: Why?*, S.F. EXAMINER, June 7, 1989, at A11; and Jacqi Tully, *'Mom, I'm in Love with Her. I'm Gay'*, S.F. EXAMINER, June 4, 1989, at B4.

11 Gerald P. López, *Reconceiving Civil Rights Practice: Seven Weeks in the Life of a Rebellious Collaboration*, 77 GEO. L.J. 1603 (1989).

12 Similarly, students believe that discussing other offensive personal identification statements made by a client at an appropriate time and in an appropriate manner is necessary. In Part IV, *infra*, I include reflections of two students who worked with a client who made racist remarks.

13 DAVID A. BINDER, PAUL BERGMAN & SUSAN C. PRICE, LAWYERS AS COUNSELORS: A CLIENT CENTERED APPROACH 32-45, 258-315 (1991); William H. Simon, *Lawyer Advice and Client Autonomy: Mrs. Jones's Case*, 50 MD. L. REV. 213 (1991); Lucie White, *Subordination, Rhetorical Survival Skills, and Sunday Shoes: Notes on the Hearing of Mrs. G.*, 38 BUFF. L. REV. 1 (1990). I focus on what went wrong in the Mrs. G case, using Simon's perceptions on this issue, and raise the question of whether or not class, race, and gender issues could have been at play.

14 The deportation cases are selected from a variety of cases available from nonprofit immigrant rights organizations that are scheduled for trial during the semester. A few cases are those that the clinic has picked up through community work which the immigration court is generally willing to schedule during a particular semester.

15 Immigration clinic students have engaged in a wide variety of community education projects including: outreach and education on immigration rights; development of do-it-yourself, self-help packets for certain immigration procedures; assistance in establishing

a local grassroots, newcomers' service center; preparation of bilingual videos and materials on immigration rights and procedures; planning of a series of community events to commemorate certain historical immigration laws in order to increase community awareness of immigration issues; and assistance in the organizing of community groups interested in immigration law reform.

16 The supervising attorneys are staff attorneys of the Immigrant Legal Resource Center, a nonprofit legal services support center with offices in San Francisco and East Palo Alto which I direct as a volunteer. The two staff attorneys in East Palo Alto are housed at the East Palo Alto Community Law Project. Some of the community education projects that the students work on relate to the work of the Immigrant Legal Resource Center. Occasionally, experienced private immigration lawyers volunteer to sit in for the semester-long Immigration Clinic and supervise students.

17 We have only had one client who was openly gay, although several students have been gays and lesbians. In the latter situations, we have frequently discussed what these students could do if their sexual orientation was to initially impair their rapport with a client. However, the actual issue has never surfaced in a case.

18 Hing, *supra* note 3.

19 Students have a little over an hour to interview the clients, perhaps call friends, relatives, or employers of the clients, and prepare to argue that the client should be released without bond or that the current bond amount should be lowered. BILL ONG HING, HANDLING IMMIGRATION CASES 261-66 (1985).

20 The community groups I spoke with were the Japanese American Citizens League, Chinese American Citizens Alliance, Chinese for Affirmative Action, Filipinos for Affirmative Action, and the Center for Southeast Refugee Resettlement. The legal services programs I contacted included the Asian Law Alliance in San Jose, the Asian Pacific American Legal Center in Los Angeles, the Asian American Legal Defense and Education Fund in New York, and the Asian Law Caucus in San Francisco.

21 Release CB 91-215, Bureau of Census, U.S. Dept. of Commerce News, June 12, 1991, tbl. 1; BILL ONG HING, MAKING AND REMAKING ASIAN AMERICA THROUGH IMMIGRATION POLICY 4, tbl. 2 (1993). While most Asian Pacific Americans reside in the West, every community is geographically dispersed. Some have thriving residential and/or economic enclaves, and gender and age distribution varies.

22 HING, *supra* note 21, at 168-83.

23 Steven A. Chin, *Asians Terrorized in Housing Projects*, S.F. EXAMINER, Jan. 17, 1993, at B1.

24 In response to that concern, I often invite legal services directors and staff attorneys to the Lawyering Process class to demonstrate how flexible they can be. Fortunately, at least in the classroom settings, the guests have expressed great openness to new ideas and approaches which are community oriented, respectful, and in some cases more efficient.

25 Occasionally students are intransigent on these issues and may be dissatisfied with what they perceive as my middle of the road position. I do not believe I have staked out a middle of the road position. Rather my position acknowledges the complexities and rejects the oversimplification of particular polarized views.

26 I cull examples from my former legal services days, accounts from others, situations from the Immigration Clinic, and the like.

27 Students involved with the East Palo Alto Clinic volunteer in one of the following three areas: small claims, domestic violence and the issuance of temporary restraining orders (TROs), or guardianship.

28 In truth, I think the perceptions that other students had of both these students were overstated, but their occasionally strident demeanor reinforced these perceptions.

29 *See, e.g.*, Dianne Klein, *Riots a Warning to Quit Ignoring the Wrongs*, L.A. TIMES, May 5, 1992, at E1 ("I thought the charges filed against four cops for brutalizing King were as good as slamdunked through.... I figured the cops would serve some jail time for such flagrant abuse."); Tom Shales, *The Whole World Was Watching*, WASH. POST, May 1, 1992, at C1 (citing Bryant Gumbel's astonishment at the verdict and a CBS correspondent's "stunned" look).

30 Bill Bogarsky, *Korean-Americans Ask Why Recovery is Black and White*, L.A. TIMES, Mar. 14, 1993, at B1 ("[M]ore than 2,000 Korean American businesses were destroyed."); Chuck Johnson, *Things We Do Come from the Heart*, USA TODAY (final ed.), May 8, 1992, at A1 ("[B]lack owned businesses were not spared. One news report showed a black man, whose computer store had been looted, in tears and screaming at the top of his lungs, 'I'm from the ghetto, too,' and telling those in the crowd what they had done 'was not right.'"); Diego Ribadeneira, *Hispanics Say Plight Ignored in Crisis: L.A. Verdict Aftermath*, BOSTON GLOBE, May 9, 1992, at 1 ("Between 35 percent and half of the businesses destroyed in the riots were owned by Hispanics.").

31 This success may be largely attributable to the high level of interest in Asian American issues by this self-selected group.

32 I have changed the names of students, clients, and attorneys.

33 BARBARA GROSS DAVIS, *Collaborative Learning: Group Work and Study Teams*, *in* TOOLS FOR TEACHING 85 (on file with the *Stanford Law Review*).

34 BARBARA GROSS DAVIS, *Diversity and Complexity in the Classroom: Considerations of Race, Ethnicity, and Gender*, *in* TOOLS FOR TEACHING 33 (on file with the *Stanford Law Review*).

35 BARBARA GROSS DAVIS, *Encouraging Student Participation in Discussion*, *in* TOOLS FOR TEACHING 48 (on file with the *Stanford Law Review*).

36 DAVIS, *supra* note 34, at 32.

37 *Id.* at 29.

38 BARBARA GROSS DAVIS, *Leading a Discussion*, *in* TOOLS FOR TEACHING 40 (on file with the *Stanford Law Review*).

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