



## ARTICLE

# The Power of Vulnerability in Promoting a Sense of Belonging: The Perspective of a First-Generation American

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## 1. Vulnerability in the Classroom

Students who feel vulnerable because of their backgrounds may struggle in law school. Even smart and competent students can be defeated by a lack of self-confidence caused by a feeling that they do not belong in a world dominated by a more privileged class. I have found that being vulnerable and sharing my own experience with exclusion can help bridge the gap between students from different backgrounds and foster inclusivity and a sense of belonging. Further, through the use of a First Amendment assignment tied to current controversial events, students are challenged to think through not only what they think they know about free speech but whom they think deserves that right. By facilitating honest dialogue and sharing vulnerabilities within the context of an assignment that can evoke personal passions, students are better able to enhance their perspective about themselves and their peers.

It begins with being vulnerable about my story. As the child of post-World War II European refugees, I have always been attentive to distinctions based on class and status. Although many are now romanticizing the 1950s and European immigration as the foundation of what made America “great,” my

family and I experienced a different world.<sup>1</sup> My parents' journey was not one in which their presence was celebrated by the community to which they arrived.<sup>2</sup> In fact, the opposite was true. They were told often enough to "go back where you came from," and that they were taking good jobs meant for "Americans." They were lectured at work on personal hygiene, told that they smelled, and issued deodorant.<sup>3</sup> My parents' languages and later their accents were ridiculed so much that my father was too embarrassed to attend social events for the rest of his life. Several of my parents' acquaintances committed suicide early on, and others spent their lives mourning their countries of origin.

Thus, as I was growing up, I always saw myself as not belonging. I felt part of a lower, unworthy caste. Peers openly mocked my mother's thick German accent and ridiculed how I dressed. They teased me because I was rarely allowed to attend play dates or sleepovers. This was true of even those I considered my best friends. I was so embarrassed by every aspect of my parents' appearance and interactions with others that I often did not tell my parents about school events, like Open House. I never told my mother when the school might be looking for volunteers for field trips out of a fear that I would have to explain her, or that my peers would make fun of her. I was a prime target for bullies, and even friends often unthinkingly shared jokes not fully understanding that they were denigrating to me.<sup>4</sup>

When I began teaching in 1990, I closely identified with those who felt that they did not fit in. Fortunately, I found myself in exactly the right place: an urban school in a multi-racial community with a mission to achieve social justice and positively contribute to the community. Our school has proudly proclaimed and publicized its status as the first law school in the state to admit women<sup>5</sup> and African-Americans. Alumni include not only the first African-American judge in

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<sup>1</sup> Kevin Klinkenberg, *Dangerous Nostalgia: Why Romanticizing the 1950s and 1960s Won't Get Us Anywhere*, STRONG TOWNS.ORG (Sept. 4, 2019), <https://www.strongtowns.org/journal/2019/9/3/dangerous-nostalgia-why-romanticizing-the-1950s-and-1960s-wont-get-us-anywhere>.

<sup>2</sup> Brandon Simeo Starkey, Commentary, *White Immigrants Were Not Always Considered White – and Acceptable*, THE UNDEFEATED (Feb. 10, 2017), <https://theundefeated.com/features/white-immigrants-werent-always-considered-white-and-acceptable/>.

<sup>3</sup> They even had to pass a "smell" test to start the work day.

<sup>4</sup> I had friends who often tried to "help," by teaching me the "proper" way to dress, act, or speak. I became a project for many friends who thought they were doing me a favor.

<sup>5</sup> Elizabeth Williams graduated from Cleveland Law School in 1908, see C|M|LAW TIME-LINE 120 YEARS OF LEGAL EDUCATION, <https://www.law.csuohio.edu/alumnigiving/120th-anniversary/timeline> (last visited Aug. 15, 2022, 3:45 PM).

the state but also multiple mayors of color.<sup>6</sup> It is also the alma mater for Congressman Louis Stokes; the first African-American federal judge in Ohio, Benita Pearson; and the first African-American to serve on the Ohio Supreme Court, Justice Melody Stewart.<sup>7</sup> Many of our students (like me) were the first in their family to go to college. I found myself at a school that believes that anyone can be a lawyer, not just those from privileged backgrounds.

However, even in law schools that promote diversity, the environment may not promote belonging. Because legal education is steeped in traditions developed by a majority culture that didn't include diverse voices and perspectives, many students experience law school feeling left out.<sup>8</sup> As the legal community becomes more diverse, it is important to investigate these traditions and update them to ensure all students feel as though they belong.

The classroom setting, in particular, may feel like an intimidating place in the first year. Students with relatives who have undergone the law school experience may receive an automatic leg-up, as these students have had exposure to the legal field for most of their lives. However, first-generation students do not receive this benefit and may feel immediately out of place, knowing that others already have some experience in the field. Students do not yet know each other, and as they look around the room, they initially have preconceived notions about where they do or don't fit in. Minority students, or those who are the first generation to attend college, may fail to fully participate in classroom dialog out of a fear that they will confirm "negative stereotypes" and reaffirm beliefs they do not belong in law school.<sup>9</sup> This may especially be true in class discussions about matters that reflect many of today's charged issues, such as removing Confederate statues, teaching Critical Race Theory, abuse of immigrants being held at the southern border, and even the offensiveness of team mascots.<sup>10</sup>

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<sup>6</sup> WIKIWAND, [https://www.wikiwand.com/en/Cleveland%E2%80%93Marshall\\_College\\_of\\_Law](https://www.wikiwand.com/en/Cleveland%E2%80%93Marshall_College_of_Law) (last visited Aug. 15, 2022, 3:44 PM).

<sup>7</sup> C|L|LAW HALL OF FAME, <https://www.law.csuohio.edu/alumnigiving/hof/members> (last visited Sept. 9, 2021).

<sup>8</sup> For example, the Socratic Method, which has always been used in law schools, is more than 2,400 years old. See Eric Westervelt, *50 Great Teachers: Socrates, the Ancient World's Teaching Superstar*, NPR ED (MORNING EDITION) (OCT. 29, 2014).

<sup>9</sup> See generally Russell A. McClain, *Helping Our Students Reach Their Full Potential: The Insidious Consequences of Stereotype Threat*, 17 RUTGERS RACE & L. REV. 1 (2016).

<sup>10</sup> Even some of the most liberal students have a problem understanding how anyone might consider Chief Wahoo to represent racism. See Peter Pattakos, *The Curse of Chief Wahoo*, CLEVELAND SCENE, Apr. 25, 2012, <https://m.clevescene.com/cleveland/the-curse-of-chief-wahoo/Content?oid=2954423&showFullText=true>.

## 2. Fostering Inclusivity in the Legal Writing Classroom

The Legal Writing classroom is an ideal place in law school to foster an environment of acceptance and belonging while addressing potentially polarizing legal issues. Through subtle and overt efforts by professors, students can begin to understand differences, to be respectful of differences, and to empathize with peers and others in the world around them.

Respecting differences can start with subtle curricular changes. Most Legal Writing professors are sensitive to the power of names in exercises and take care to ensure that names (even in citation exercises) do not promote stereotypes. Hypotheticals should also avoid tracking stereotypical tropes, such as suggesting that all doctors are Caucasian males, focusing on undocumented Mexican migrants who happen to pick fruit, or even giving drunken brawlers Irish surnames.

Inclusiveness and belonging can also be facilitated in more “overt” ways. My assignments, to the extent possible, involve contentious, contemporary situations that force students to confront issues and prejudices that they may not have encountered previously. I encourage students to discuss their perceptions with one another, while I facilitate conversations between students representing opposing viewpoints and encourage a respectful sharing of those viewpoints. Below is a description of how I use these exercises.

## 3. The First Amendment as a Tool to Foster Discussions About Vulnerability Leading to Inclusivity

Although the first semester is often limited to learning the “nuts and bolts” of legal analysis and legal writing, it provides the building blocks for the depth of discussion and discovery that can occur in the second semester. Thus, I view the second semester of my own course as the opportunity to build upon the groundwork I laid in the first semester. I shift from the “nuts and bolts” of legal analysis to an environment where my hope is to have students start thinking about the world in a way that they had not done so when they began law school. As a result, each year I incorporate a contemporary and contentious legal issue for my final project.

### 3.1. *Why the First Amendment?*

One of my most-used exercises is a First Amendment public school issue, usually situated in a high school. First Amendment school scenarios provide the opportunity for many teachable moments. Firstly, the concept of free speech in schools hits home for almost all students because all have very firm beliefs about

what they think freedom of speech means, especially as their own personal right or as a universal, fundamental right. Secondly, First Amendment public school scenarios, if appropriately crafted, force the students to challenge their own perceptions regarding how much “others” should have freedom of speech and whether that speech should be restricted when it causes harm. Thirdly, issues involving the First Amendment are very contemporary as the country struggles with its own balancing of what we should consider hate and intimidation speech versus what most consider one of the most fundamental rights of our country. Finally, even if students have not yet taken Constitutional Law, I believe the First Amendment is so engrained in media and culture that all students will have had some exposure to the topic, allowing students to feel like they may have a valid opinion.

Although some students initially feel wary about tackling a First Amendment issue in the first year, they soon discover that learning the law is not as insurmountable as they first thought. Once they make this discovery, they achieve a level of self-confidence that enables them to focus more on developing the individuality of their ideas as they develop their own theories of the case. Furthermore, choosing a topic which is familiar to all students, but not one in which anyone is an expert puts everyone on equal footing. This can contribute to a student’s sense of belonging as everyone works on a problem together without intrinsic advantages. The classroom discussion enables them to enhance the depth of their understanding of the issues, especially once they enter discussions where their views are shaped by the differing views of their peers.

### *3.2. Why Contemporary Issues?*

I believe that it is important to utilize contemporary issues because they are accessible and don’t make any student feel a lack in their educational background. Students come from a variety of educational institutions; it is important to not assume that all students will understand a historical reference. By beginning a conversation from a historical vantage point, you may alienate certain students from the beginning. As the discussion continues, professors can contribute historical context and explain how the prejudices of the law and history have affected today’s issues.

### *3.3. What Kind of Hypotheticals Do I Use?*

My hypotheticals are written with a bit of a devil’s advocate twist. After the students make their feelings about the First Amendment known, I try to write a hypothetical where the students’ philosophical views about freedom of speech come into direct conflict with the harm caused.

### *3.3.1. Example 1*

In 2020 (the year the pandemic forced classes to be on Zoom), my hypothetical had a high school student use a Confederate Flag as his Zoom backdrop while he tacitly wore anti-BLM t-shirts and a MAGA hat. He did this while attending school in a district that was primarily black, with a majority of black teachers and administrators. Most students (at least in my school), had no problem initially villainizing a pro-Confederate, anti-BLM student wearing a MAGA hat, but their initial reaction was tempered by their firm belief in the sanctity of the right to free speech. I found that most students were reluctant to write on the side of the school's right to restrict the display that was traumatizing many of the students despite, as one would hope, not supporting the message.

### *3.3.2. Example 2*

In 2022, I changed the hypothetical slightly in order to change the concept of what the students might find worthy of protecting. In this scenario, the complainants were the parents of a black male from Mozambique who both advocated seemingly violent means to achieve "black power," and disapproved of non-Christian religions and LGBTQ+ rights based on his religious convictions. After being warned that his attire and Zoom backgrounds were upsetting to others, as well as denigrating to the LGBTQ+ community, the student was expelled. I hoped the students would recognize their own conflicting emotions about a minority student who was being disciplined both for promoting his opinions about his race and heritage but denigrating a group of peers based on religious views.

## *3.4 What is the Purpose of the Hypotheticals?*

The fact patterns themselves provide interesting material for discussion, but the object of my hypotheticals is to introduce students to issues that are conflicting and that they may not have thought about prior to law school. This conflict, or cognitive dissonance, is a long-held educational theory which helps to strengthen thought processes and to aid in understanding other perspectives.<sup>11</sup> Where the First Amendment is concerned, there are no color lines, and one can't pick and choose that some speech is okay but the rest is not. Those who came into law school believing that the First Amendment should have no restrictions

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<sup>11</sup> Steven Mintz, *Leveraging Cognitive Dissonance to Enhance Student Learning*, INSIDE HIGHER ED (Aug. 15, 2022, 3:36 PM), <https://www.insidehighered.com/blogs/higher-ed-gamma/leveraging-cognitive-dissonance-enhance-student-learning#:~:text=Cognitive%20dissonance%20occurs%20when%20our%20predictions%2C%20preferences%20and,can%20harness%20this%20concept%20to%20improve%20student%20learning.>

might feel differently if they personally find the speech reprehensible. Those who want to be supportive of a minority's right to speak about "black power," must think about whether hateful speech aimed at other minorities should be restricted in a learning environment.

### 3.5 *How Do You Cultivate Discussion in the Classroom?*

It is my hope that I am able to successfully create a dialogue about our differences through a carefully contrived path of discussion rather than merely talking the dry application a legal test derived through finding a series of "correct" cases to be analogized. I like to personalize the discussion so that the First Amendment does not remain an abstract concept, but becomes relatable to what the students have both experienced and witnessed in their lives. I would like them to understand that learning the law is not merely about finding the "right" cases and applying set rules, but about how the law itself is very personal. Furthermore, working collectively on a challenging problem may increase the students' sense of belonging and camaraderie.

This "carefully contrived path of discussion" tends to be the greatest challenge, partially because my goal is for no one to notice that the path of discussion is not contrived at all. My first obstacle is that most students are reluctant to engage and share their opinions in an open forum. Students do not want to be "wrong" in relation to what they believe I want to hear. Thus, my first challenge is conveying that I do not have a side that I prefer in the problem, and that both sides of the argument are equally supported by both law and policy.

Secondly, students do not want to risk confrontation or embarrassment in front of their peers. This is especially true for students who might believe their opinions or experiences would go against what they believe is the majority position. Although this group often includes ethnic, religious, and racial minorities (as well as members of the LGBTQ+ community), the reality is that almost all students fear their opinions and experiences might be subject to condemnation by what they perceive is the "majority." Conservative students are often reluctant to reveal their viewpoints fearing they are in an overly liberal environment, and very religious students are often reluctant to "out" themselves. Even older, non-traditional students fear they are outliers and often do not want to speak up. This is not to shortchange the fear that the students from more traditional minority groups have. This fear is very real and the product of a lifetime of experience where reticence has been cultivated for purposes of survival.

Thus, my "carefully contrived path" must make students feel safe to share their opinions within the context of discussion. I have found that I have

best been able to accomplish this by prompting students to relate personal situations from their pasts, and I have found students more willing to share experiences if I first share my own vulnerabilities. I find that once I share my own experiences of what has happened or been said to me, students are more open to sharing experiences that have happened to them. As a first-generation law student, child of immigrants, and woman in the predominately male legal field, I find that I have a wealth of experiences to draw upon. Once these “floodgates” have opened, the students often carry forward the discussion with little need for my intervention except to ensure that everyone who wants to speak has the opportunity.

Given that this project is the final one of the year, I have the added luxury to have a continuing conversation that lasts for four-to-six weeks. During that time period, my focus during class time is not directed toward the formalities of the paper or the structure of the writing, but on the emerging thought-process regarding the subject matter.<sup>12</sup> I often start the class with a conversation starter such as, “What do you think now? Have your thoughts changed given the research you did? Do you think you will write on the same side as you first thought?”<sup>13</sup> I also introduce news articles regarding freedom of speech issues and ask students their opinions on what is happening. The more invested the students become in the issue, the more open they are in classroom discussions, and the more they learn about the feelings of their peers. Students often learn that their peers have overlapping opinions and shared experiences viewed through a different lens.

## 4. Conclusion

It is my intention that the students teach each other through really getting to know one another and finding commonality in each other’s experiences. Most of us live in a social bubble, partially because we feel vulnerable in worlds where we perceive that we do not belong. By sharing vulnerabilities, we are able to expand our world to not only understand our commonalities, but to get a new view of what we thought was inalterable. By sharing my own experience as an outsider, I am better able to encourage students to consider more deeply the opinions of others and to learn from those opinions. Furthermore, as practicing lawyers, these students will need to apply their thinking and listening skills to their future clients. Try as we might, three years of law school does not include every

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<sup>12</sup> I do not ignore the writing completely. Students have a draft requirement that TAs review, and I hold conferences with students who are struggling with format and legal substance.

<sup>13</sup> I do not assign the students a side to write on.



single facet of the law. Understanding that multiple perspectives exist will improve all aspects of writing and, as an added benefit, increase empathy making the legal world a more inclusive place.