

Talking About Race to Advance Racial
Justice:
Building on the Five Habits

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Habits

- (1) practice of self-awareness & self-improvement
 - creating thoughtful observers in cross-cultural lawyering interactions
 - addressing critical issues of bias and difference individually and interpersonally, and
- (2) creating a common vocabulary for discussion of this practice with others in individual, group and classroom settings.

Build Better Relationships with Clients Across Culture

Understand & Meet Client Goals

Develop Cultural Self- Awareness Essential to Challenging Assumptions

Less – thinking systemically

Despite the Habits, Flatfooted in Practice

- Jean in Court; pre- ACY trial
- Open, thoughtful, helpful DCF official, potentially a witness
- Gateway to providing some key services
- Already helpful, transparent about key information
- Plenty of Time (1.5 hours)
- Question points out different racial makeups of two key drug treatment teams
- Answer: “I don’t see race.”

Building on the Habits

- Reflection Alone is not Enough
- Missing Conceptual Frameworks, History, Factual Data in Practice Areas
- Talking about Race is Difficult
 - Given Commitment to Equality - Disagreeing about race is difficult
 - Experiences of Discrimination and Privileges are different across student body
 - “Answers” are perplexing
 - “a nation of cowards”

Growing the Difficult Conversation

- Removing Rocks
 - Judgment
 - Resistance
 - Distrust
- Seeding
 - Explicitly Inviting From Beginning
 - Normalizing Inquiry
 - Building Conceptual Understanding
 - Providing Data
 - Moving from a place of Comfort – the 5 Habits
- Principles & Techniques For Growing

Removing Rocks of Resistance & Distrust

- Recognize and Address Resistance
 - Students & Teachers Resist for Different Reasons –
Recognize and Plan for It
 - Communicate Importance to Being A Good Lawyer
 - Watch for shifts OFF race—observed in rounds
- Build Trust in Ordinary Work for Hard Conversations
 - Expectations for Conversations

Removing Rocks: Promoting Non- Judgment For Self & Others

- Self
 - Observe, Create Awareness of Judging
 - Step back
 - Recognize inadequacy of data—what am I privileged to NOT see?
 - Search for facts and delay conclusion
- Others
 - Focus on Facts, Ideas, not Person
 - Communicate Openness, create space to continue to talk
 - Adopt Inquiry mode

Seeding

Include from Day One

- Syllabus, learning goals, early classes

Normalize Race Inquiries

- “How is Race Affecting this Case?”
- Include Race as facts in all cases

Build Conceptual Understanding & Knowledge

- Implicit Bias
- Microaggression, Power & Privilege
- Intersectionality & Anti-essentialism (Victor Laszlo)
- Formal Equality & Material Inequality, History

Move from Habits, if that is a Place of Comfort

Growing The Conversation: Three Principles

PRINCIPLE ONE: Embrace Tension and Difficulty as an Inevitable and Constructive Part of Learning

PRINCIPLE TWO: Employ Nonjudgment & Isomorphic Attribution, Giving Everyone an Opportunity to be Heard.

PRINCIPLE THREE: Choose and Cultivate a Direction for Conversation That Furthers Racial Justice; Take Responsibility For Your Choice.

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PRINCIPLE THREE: CHOOSE AND CULTIVATE A DIRECTION FOR CONVERSATION THAT FURTHERS RACIAL JUSTICE; TAKE RESPONSIBILITY FOR YOUR CHOICE.

Jean's Example:

- Was there an opportunity for a constructive conversation about race?

If so, how could I have started it?

If not, why not?

Techniques: an Example

PRINCIPLE ONE: Embrace Tension and Difficulty as an Inevitable and Constructive Part of Learning

1. **Acknowledge** difficulty
2. Craft a clear discussion **prompt**
3. Take time out to **write**

PRINCIPLE TWO: Employ Nonjudgment & Isomorphic Attribution, Giving Everyone an Opportunity to be Heard.

4. Co-reconstruct the **facts**
5. Use **Methodological Belief** and Doubt
6. Require all to be able to **restate** fully the positions of others.

PRINCIPLE THREE: Choose and Cultivate a Direction for Conversation That Furthers Racial Justice; Take Responsibility For Your Choice.

7. Consider **Rounds**
8. Try **Except When/Especially When**
9. **Plan Action**
10. **Reflect**

In Practice: Five Questions and a Promise?

STEP ONE: CONTINUE AMID CONTROVERSY

STEP TWO: CO-RECONSTRUCT THE FACTS

STEP THREE: CAREFULLY LISTEN

STEP FOUR: COMPREHENSIVELY RESTATE THE OTHER'S VIEW

STEP FIVE: CLARIFY CHANGES AND CONFIRM CHOICE:

STEP SIX: COMMIT TO REFLECT

CALLING YOU TO YOUR BEST TEACHING

- Very few ideas are new
- You may navigate very difficult conversations in other realms—import in from those successes
- Novelty: the sequence, combination, and transparent choicemaking—but we already do it!

Feedback For Us

- Concepts missing
- Sources missing— e.g., from negotiation and pedagogical literature
- Techniques you use
- Resistance
- Hard to Imagine