FROM TRAUMA TO TRANSFORMATION: TRAUMA-INFORMED PEDAGOGY IN LAW SCHOOL

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In this essay, we seek to expand the meaning of “trauma” by aligning trauma-informed pedagogy with principles of disability justice and progressive critiques of legal education. We argue first that the existence of trauma is not a sign of individual brokenness or deficiency, but rather should be taken as a warning about broken or deficient social institutions or practices. This approach to trauma recognizes the potential of those who experience trauma—whose bodies and minds bear the marks of both subordination and resilience—to contribute to institutional and structural transformation. We use as an example the trauma too often experienced in law school by students and faculty with stigmatized identities. Second, we argue that a disability justice approach to trauma calls us not only to embrace trauma-informed pedagogies for individual healing, but also to transform law teaching to accommodate the full spectrum of the human condition, using holistic pedagogical models that acknowledge the needs and capacities of human beings. Our call for structural transformation aligns with similar calls issued by feminist, critical race, and humanist critics of U.S.-style legal education.
I. INTRODUCTION

Today, the discourse of trauma\(^1\) is everywhere, entering public awareness through popular culture,\(^2\) psychiatry,\(^3\) biomedical research,\(^4\) therapy,\(^5\) self-help books\(^6\) and—more recently—in anti-subordination movements such as #MeToo and Black Lives Matter.\(^7\) Law schools are no exception to the increasing social awareness of trauma, particularly in the wake of the COVID-19 pandemic. For example, Professor Sarah Katz observes that, because of the COVID-19 pandemic, law professors “no longer have to wonder whether our law students have been exposed to trauma, but rather how our

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\(^1\) The prevalent definition of trauma comes from the field of psychology, which views trauma as an embodied psychic response to a disruptive experience. See, e.g., Trauma, Am. Psychological Ass’n, https://perma.cc/5BS5-9TD2 (last visited Sept. 6, 2023) (defining trauma as “any disturbing experience that results in significant fear, helplessness, dissociation, confusion, or other disruptive feelings intense enough to have a long-lasting negative effect on a person’s attitudes, behavior, and other aspects of functioning”); see also Am. Psychiatric Ass’n, Diagnostic and Statistical Manual of Mental Disorders, 5th Edition: DSM-5 271 (2013) (defining a “traumatic event” as an exposure to actual or threatened death, serious injury, or sexual violence). However, efforts to view trauma as a response to “social and cultural classification systems” and to “ruptures in lived experience and transformations of self and being” have emerged from the field of critical trauma studies. See, e.g., Monica J. Casper & Eric Wertheimer, Within Trauma: An Introduction, in CRITICAL TRAUMA STUDIES: UNDERSTANDING VIOLENCE, CONFLICT, AND MEMORY IN EVERYDAY LIFE 1, 5–6 (Monica J. Casper & Eric Wertheimer eds., 2016).

\(^2\) See, e.g., E. Ann Kaplan, Trauma Culture: The Politics of Terror and Loss in Media and Literature (2005) (analyzing how trauma affects the individual and an entire nation); Cathy Caruth, Trauma: Explorations in Memory (1995) (examining how trauma implicates psychoanalytical theory); Elaine Scarry, The Body in Pain: The Making and Unmaking of the World (1985) (analyzing physical suffering and its relationship with religion, politics, philosophy, and other aspects of culture); see also Parul Sehgal, The Case Against the Trauma Plot, The New Yorker (Dec. 27, 2021), https://perma.cc/K8WL-AC5W (arguing that reliance on trauma to drive plot and explain character in the arts and entertainment has become a lazy, hackneyed trope).

\(^3\) See, e.g., Judith Herman, Trauma and Recovery: The Aftermath of Violence—From Domestic Abuse to Political Terror (Basic Books, 2015) (connecting the post-traumatic experiences of war veterans with those of survivors of intimate partner violence); Bessel Van der Kolk, The Body Keeps the Score: Brain, Mind, and Body in the Healing of Trauma (2014) (proposing a general theory of complex post-traumatic stress syndrome and multi-modal strategies to heal the mind, brain, and body).


\(^5\) See generally Mark Wolynn, It Didn’t Start With You: How Inherited Family Trauma Shapes Who We Are And How To End The Cycle (2017) (exploring the generational effects of trauma and how to end them); Stacey Haines, The Politics of Trauma: Somatics, Healing and Social Justice (2019) (promoting the use of “somatic practices” to transform trauma and cultivate resilience); Van der Kolk, supra note 3 (exploring an approach to trauma that links the mind, brain, and body); Schnarch, supra note 4.


\(^7\) Noa Ben-Asher, Trauma-Centered Social Justice, 95 Tul. L. Rev. 95, 95 (noting that trauma has become a central tenet in twenty-first century social justice movements seeking gender, racial, and climate justice—including #BlackLivesMatter and #MeToo); see also Christopher Paul Hariss, To Build a Black Future: The Radical Politics of Joy, Pain, and Care 174 (2023) (“In many ways, at its essence BLM is a response to the persistent and historical trauma Black people have endured at the hands of the State. This trauma and pain, unresolved and unhealed lives on in our bodies, in our relationships and in what we create together….”).
students have been, and will continue to be, impacted by trauma.” Katz argues that trauma is a useful framework for understanding the experience of COVID-19 and, in particular, the unique traumatic impact the pandemic had on Black and Brown students who experienced higher rates of rates of family and friends dying from COVID-19. Katz refers to the impacts of COVID-19 as a “collective trauma” that will continue to affect law students’ ability to learn, be present, and be engaged in the classroom.

While COVID-19’s traumatic impacts on law students may be visible in law school, the discourse of trauma within this space is limited. It is usually clinical legal education, not traditional classroom instruction, where students are taught about trauma. Such students may learn “trauma-informed lawyering” while working in various clinical settings such as family law, immigration, criminal law, juvenile law, and veterans’ rights law. Through the “trauma-informed teaching” of clinical staff, law students learn how to identify and center the trauma experiences of their clients, and thus reorient the lawyer-client relationship and litigation strategies accordingly. Students in such clinics may also be taught to identify and address the “secondary” or “vicarious” trauma lawyers may experience through exposure to their clients’ trauma. We applaud the emergence of trauma-informed law teaching, and we believe it belongs not just in clinics, but in podium courses—including in required courses. However, this essay introduces an expanded frame for recognizing and addressing trauma in


9 Id. at 21. Katz adds that the murders of Ahmaud Arbery, Breonna Taylor and George Floyd likely exacerbated existing trauma for Black and Brown students. Id; see also Monika Batra Kashyap, U.S. Settler Colonialism, White Supremacy, and the Racially Disparate Impacts of COVID-19, 11 CAL. L. REV. ONLINE 517 (2020) (noting the racially disparate health impacts of COVID-19 and offering a settler colonialism framework as a way to understand these impacts).

10 Katz, Trauma-Informed Law Classroom, supra note 8 at 21–22; see also David Jaffe et al., ‘It is Okay to Not Be Okay’: The 2021 Survey of Law Student Well-Being, 60 U. LOUISVILLE L. REV. 441, 483 (2022) (documenting a 2021 study of law student well-being that included questions explicitly referring to trauma and finding, disturbingly, that nearly 70% of the law students surveyed thought they needed help in the last year for emotional or mental health problems; 33% had a diagnosis of depression at some point in their lives; 40% had a diagnosis of anxiety; and 11% had thought seriously about suicide in the past year, compared to 6% in 2014); Meera E. Deo et al., Annual Report: The Covid Crisis in Legal Education, LAW SCH. SURV. OF STUDENT ENGAGEMENT (2021) https://perma.cc/HP5F-AQ7Z (finding that nearly half of law students reported averaging five or fewer hours of sleep per night, including weekends; 43.6% of respondents reported five or fewer hours of relaxing or socializing per week; and an additional 32.1% of respondents reported only six to 10 hours of relaxing or socializing per week). These numbers were even worse among students of color. In the Director’s Message of this report, Professor Meera Deo observed with concern: More than one-quarter (29%) of law students had increased concerns about eviction and housing loss. Almost two-thirds (63%) were more worried this past year about their ability to pay their bills, including even higher percentages of women and students of color. Perhaps most troubling, food insecurity affected over forty percent of our students and a deeply disturbing one-half (50%) of our students of color. Law students also reported elevated levels of loneliness, depression, and anxiety. Id. at 5.

11 See generally Sarah Katz & Deeya Haldar, The Pedagogy of Trauma-Informed Lawyering, 22 CLINICAL L. REV. 359, 362 (2016) [hereinafter Katz, Pedagogy] (arguing for law school clinics to train students in the skill of “trauma-informed lawyering”). The authors argue that teaching trauma-informed lawyering in law school clinics in particular “makes sense” because it “furthers the value clinical legal education places on teaching social justice principles and the notion of client-centered lawyering.” Id. at 362, 373–79.

12 Id. at 382–93 (setting forth the foundational hallmarks of trauma-informed lawyering: (1) identifying trauma; (2) adjusting the lawyer-client relationship; (3) adapting litigation strategy; and (4) preventing vicarious trauma).

13 Id.

14 See, e.g., Katz, Trauma-Informed Law Classroom, supra note 8 (advocating for the adoption of trauma-informed lawyering into law school pedagogy beyond the clinic classroom).
legal education.

Existing trauma-informed pedagogy tends to identify clients, not the lawyers who represent them, as the subjects of trauma (as the terms “secondary trauma” and “vicarious trauma” indicate).15 More broadly, the popular understanding of trauma tends to absorb the individualizing language of victims and perpetrators. As in the criminal legal system, traumatized people are conceptualized as individuals who have been damaged or broken by encounters with other individuals, and who need expert help in order to heal.16 In this narrative, clients are the people who have been traumatized, and lawyers and law students are expected to protect and represent them while escaping collateral damage.

In this essay, we seek to expand the meaning and relevance of “trauma-informed teaching” in law schools to include the traumatic harms inflicted on law students by law school itself—especially on students who are socially stigmatized and structurally disadvantaged. We call for trauma-informed teaching that recognizes the structural violence inherent in the law school hierarchy, a hierarchy that is compounded by structural oppression in society writ large.17 Using a more capacious approach to trauma, we call for trauma-informed pedagogy that recognizes the harms inflicted by the political, economic, and cultural institutions and practices of Anglo-American legal education.

This essay proceeds as follows. In Part II, we take inspiration from the “social model” of disability to argue that trauma is a systems failure, not an individual failure. In Part III, we use the experiences of those who identify their law school educations as traumatic to diagnose failures in legal education itself, bringing the discussion of law school trauma into alignment with long-standing progressive critiques of legal education. Finally, in Part IV we encourage the use of holistic pedagogical frameworks that acknowledge the links among the structural, the institutional, the interpersonal, and the personal in order to transform legal teaching across classrooms and clinics alike.

II. LEARNING FROM THE SOCIAL MODEL APPROACH TO DISABILITY

“If [law schools] routinely generate[] students who feel insecure, disengaged, and fatalistic about the world and their future in it, one must look to the institution itself for an explanation.”18

One danger of the new social visibility surrounding trauma is a flattening and trivialization of the term.19 Like the disabled individual, the traumatized individual is too often imagined as broken and vulnerable, in need of fixing or caretaking.20 In order to disrupt this understanding of trauma, we can learn from the work of disability justice advocates.

15 Katz, Pedagogy, supra note 11.
16 See Angela Sweeney et al., A Paradigm Shift: Relationships in Trauma-Informed Mental Health Services, 24 BJPSYCH ADVANCES 319, 319, 323 (citation omitted).
17 See, e.g., Lawrence S. Krieger, Institutional Denial About the Dark Side of Law School, and Fresh Empirical Guidance for Constructively Breaking the Silence, 52 J. LEGAL EDUC. 112, 117 (2002) [hereinafter Krieger, Institutional Denial] (outlining structures in law school, such as class rankings, that perpetuate a “zero-sum message about life[.]”).
19 See, e.g., Sehgal, supra note 2.
20 SAMUEL R. BAGENSTOS, LAW AND THE CONTRADICTIONS OF THE DISABILITY RIGHTS MOVEMENT 6 (2009) (noting that the disability rights movement in the U.S. took shape in the 1970s to mobilize against the then-prevalent policy response to disability, which focused on providing individuals with disabilities medical treatment, physical rehabilitation, charity, and public assistance).
In the 1970s, disability advocates began to challenge the “medical model” of disability, under which disability is treated as a catastrophe for medical experts to cure, prevent, or eliminate. Under the medical model, disability is located in the suffering person, leading to a focus on fixing, supporting, or eliminating people with disabilities. Against this conception, disability advocates argued for a “social model” of disability, which understands disability as a product of the built environment, social expectations and norms, and the economic, political, and social institutions that prevent people from developing their full human capacities. Disability studies scholar Michael Oliver defines disability as “all the things that impose restrictions on disabled people”—from individual prejudice to institutional discrimination, inaccessible public buildings, unusable transport systems, segregated education, and rigid work arrangements. The social model does not “reject the obvious existence of corporeal differences among people,” instead, it locates the import of those differences within “disabling environment[s]” that have been “hostilely built and organized” with “debilitating social arrangements.”

A second wave of disability advocacy, emerging in 2005 and moving under the name of “disability justice,” has expanded the social model of disability. Disability justice advocates seek to integrate disability within other forms of subordination, and thus center the voices and policy priorities of disabled people who are “intersectionally targeted” based on their race, gender, sexuality, class, immigration status, or other identities. For disability justice activists, the “disabling environment” is the product of both ableism and interlocking oppressions.

21 See Mary Crossley, The Disability Kaleidoscope, 74 NOTRE DAME L. REV. 621, 650 (1999) (explaining how, under the medical model, the disabled individual’s problem lies in their impairment).
24 Id.
25 Id.
26 Anita Silvers, Reprising Women’s Disability: Feminist Identity Strategy and Disability Rights, 13 BERKELEY WOMEN’S L. J. 81, 105 (1998) (noting that the social model attributes the “dysfunctions of people with physical, sensory, and cognitive impairments” to their being situated in “hostilely built and organized environments” and construes the isolation of people with “disabilities” as the product of “stigmatizing social values and debilitating social arrangements” rather than as the outcome of their impairments).
27 Doron Dorfman, Afterword: The ADA’s Imagined Future, 71 SYRACUSE L. REV. 933, 935 (2021); Patty Berne, Disability Justice—A Working Draft by Patty Berne, SINS INVALID (June 10, 2015), https://perma.cc/5BAP-34L5 (explaining that disabled activists of color coalesced to consider a “second wave” of disability rights and ultimately created the framework of disability justice).
28 Natalie Chin, Centering Disability Justice, 71 SYRACUSE L. REV. 683, 692–96, 705–712 (2021) (discussing the emergence of “disability justice” as a movement that emerged in response to the “white single-issue narrative” that defined the experience of disability by presuming a white, heteronormative racial identity; see also LEAH L. PIEPZNA-SAMARASINHA, CARE WORK: DREAMING DISABILITY JUSTICE 15 (2018) (noting that “disability justice” emerged to “center the lives, needs, and organizing strategies of disabled queer and trans and/or Black and brown people marginalized from mainstream disability rights organizing’s white-dominated, single-issue focus.”).
29 See Berne, supra note 28. (noting that a disability justice framework understands that “able-bodied supremacy” has been formed in relation to intersecting systems of domination and exploitation including heteropatriarchy, white supremacy, colonialism and capitalism—each co-creating an “ideal” body built upon the exclusion and elimination of a subjigated “other”); SINS INVALID, SKIN, TOOTH, AND BONE: THE BASIS OF MOVEMENT IS OUR PEOPLE 18 (2d ed. 2019) (linking heterosexism, eugenics, settler colonialism, capitalism, and white supremacy to ableism by noting how these interconnected systems are rooted in disability oppression). Disability justice overlaps with Disability Critical Race Theory (DisCrit), an analytical framework that recognizes
Inspired by the social model of disability and the insights of disability justice, we suggest that “trauma,” like “disability,” should be understood as a dynamic, multilayered interaction between an individual and their social environment. From this perspective, the presence of trauma is not a sign of an individual needing to be fixed, but rather a warning to look for a “traumatizing environment.” For example, people whose experience of trauma is linked to racism, sexism, and other forms of subordination are canaries in the coal mine: their bodies and minds bear the visible marks of broken or deficient social institutions and practices. This understanding of trauma makes it a social responsibility—not solely the obligation of experts or the traumatized individual—to ameliorate.

In the law school context, we suggest that trauma discourse should be expanded beyond clinical education and the concept of secondary or vicarious trauma. The reports of law students who identify their law school experiences as traumatic—or who display the symptoms of trauma without identifying them as such—should lead us to investigate the possibility of harm being caused, sustained, or exacerbated by the law school environment itself. In the next section, we will demonstrate how this systems-focused understanding of trauma dovetails both with emerging empirical evidence of law school as a site of major psychological distress, and with a long tradition of progressive and political critiques of legal education.

III. LAW SCHOOL AS A SITE OF TRAUMA

“Something distinctly bad is happening to the students in our law schools.”

A. Law School as an Anti-Human Environment

In an article published in 2020, Victor Quintanilla and Sam Erman wrote:

[1Ls] arrive on campus invested in learning, ready to work hard, and eager to participate in class. But trouble brews soon thereafter. Students worry whether they have what it takes to do well, whether they will fit in, and whether they belong in law school. Answering questions in class, many sense (rightly or wrongly) that their professors and peers think that they aren’t smart and that they will not do well. . . . Worse yet, discussions in class lead many to lose sight of why they chose to go to law school and the important role that lawyers play in serving the public. These experiences erode confidence in their abilities and their engagement in law school, and they cause distress and undermine well-being.

A significant and growing body of empirical evidence shows that law students experience

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31 For a popular framing of this idea, see BRUCE D. PERRY AND OPRAH WINFREY, WHAT HAPPENED TO YOU?: CONVERSATIONS ON TRAUMA, RESILIENCE, AND HEALING (2021).

32 Victor D. Quintanilla & Sam Erman, Mindsets in Legal Education, 69 J. LEGAL EDUC. 412 (2020); see also Dean Spade, For Those Considering Law School, DEANSPADE.NET (Oct. 26, 2010), https://perma.cc/9VPQ-KSLZ (“The traditional pedagogy of law school relies on humiliating students if they bring in other ways of thinking or knowing about the world, thereby whittling them down to a shadow of their former selves and reshaping them to make them think inside a very narrow box.”)

https://scholarship.law.upenn.edu/jlasc/vol27/iss1/2
DOI: https://doi.org/10.58112/jlasc.27-1.1
“major psychological distress” during their education, beginning in their first year. This research shows a rapid decline in law student well-being across several metrics, including positive affect, life satisfaction, self-determination, and intrinsic motivation. The research concludes that the law school environment impedes student well-being by causing toxic levels of stress, anxiety, loss of self-esteem, isolation, and depression. Furthermore, recent research shows that this distress is exacerbated for marginalized law students who live at the intersections of systems of oppression—who are less likely to feel valued by, like they belong at, or like they can be themselves at their law school. We will explore this point further in the section that follows.

Although this research is new, the findings are not. The account of law student unhappiness that began this section could have been written in 1990, 1970, or even 1900. Down the decades

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34 See Krieger, Institutional Denial, supra note 17, at 114. Unsurprisingly, studies find that law students disproportionately experience mental health and substance use issues compared with other graduate students or the general population. See G. Andrew H. Benjamin et al., The Role of Legal Education in Producing Psychological Distress among Law Students and Lawyers, 1986 AM. B. FOUND. RES. J. 225, 228 (1986) (finding that “law students have higher rates of psychiatric distress than a contrasting normative population or a medical student population.”); Jerome M. Organ et. al., Suffering in Silence: The Survey of Law Student Well-Being and the Reluctance of Law Students to Seek Help for Substance Abuse and Mental Health Concerns, 66 J. LEGAL EDUC. 116 (2016) (documenting the results of a 2014 study surveying 15 law schools, which reported that roughly one-quarter to one-third of respondents reported frequent binge drinking or misuse of drugs, and/or reported mental health challenges).


36 See Rachael Field & Sally Kift, Addressing the High Levels of Psychological Distress in Law Students Through Intentional Assessment and Feedback Design in the First Year Law Curriculum, 1 INT. J. FIRST YEAR HIGHER EDUC 65, 66–67 (2010) (concluding that legal education may tend to exacerbate “depression, obsessive compulsive behavior, feelings of inadequacy and inferiority, anxiety, hostility, paranoia, and social alienation and isolation,” and finding that law students’ rates of psychological distress are 20% higher than those of non-law students).

37 See, e.g., Meera E. Deo et al., Diversity & Exclusion: 2020 Annual Survey Results, LAW SCH. SURV. OF STUDENT ENGAGEMENT (2020) (collecting data about whether students from different backgrounds feel supported and included by their law schools and finding that students from more marginalized groups are less likely to feel like they are part of the community at their respective law schools).


39 See, e.g., SCOTT TUROW, ONE L (1977); see also JOHN OSBORNE, THE PAPER CHASE (1971) (a fictional account of a student’s first year at Harvard Law School, featuring a villainous professor, Kingsfield, who emotionally abuses his students in the name of the Socratic method). The Paper Chase was made into a popular film starring Timothy Bottoms. See THE PAPER CHASE (20th Century Studios 1973).

40 Edward Rubin argues that by the beginning of the twentieth century, Christopher Langdell’s casbook method was already obsolete and harmful to students’ intellectual and emotional development. See Edward Rubin, What’s Wrong with Langdell’s Method, and What to Do About It, 60 VAND. L. REV. 609, 611 (2007) (“The great irony of modern legal education is that it is not only out of date, but that it was out of date one hundred years ago.”); see also Edward Rubin, Curricular Stress, 60 J. LEGAL EDUC. 110, 110–11 (2010) (describing the ideological, pedagogical, and ethical stresses imposed on law students by the conventional...
ever since Christopher Langdell pioneered the “Socratic” teaching method, stories have filled legal journals and popular culture bemoaning the casebook method,\(^41\) the demoralization and disorientation caused by the first-year classroom experience, the overly large class sizes, the insufficient focus on teaching skills, and the unnecessarily hyper-competitive atmosphere focused on grades and class rankings.\(^42\) Periodically, empirical studies appear confirming these anecdotal accounts. For example, over a decade ago, two reports on legal education issued the same dismal conclusion: law schools could be doing a much better job training young lawyers.  

*Educating Lawyers: Preparation for the Practice of Law* (hereinafter the Carnegie Report), issued by the Carnegie Foundation for the Advancement of Teaching,\(^43\) appeared in 2007, and *Best Practices for Legal Education* (hereafter *Best Practices*), published by the Clinical Legal Education Association (CLEA), appeared the same year.\(^44\) The Carnegie Report identified three “apprenticeships” that make up the law school curriculum: intellectual training in legal analysis (the familiar “how to think like a lawyer”); practical training in how to carry out the tasks of lawyering; and the work of developing a professional identity. The Carnegie Report observed that most law schools focus on the first apprenticeship, provide some access to the second (largely through clinical education and “skills” courses such as Legal Research and Writing), and ignore the third.  

*Best Practices* was even more sharply critical of existing legal education, criticizing law professors for failing to “study and practice effective educational philosophies and techniques,”\(^45\) for lacking sufficient opportunities for productive assessment,\(^46\) and for permitting an environment that is “actually harmful to the emotional and psychological well-being of many law students.”\(^47\)

In the decade since these two reports appeared, many law schools have experimented with new courses, new forms of assessment, and greater attention to skills training and clinical education.\(^48\) Yet these changes have been less than effective in changing the overall experience of most law students. Students continue to complain that law school “breaks people” and that “nobody comes out of law school feeling better about themselves”—instead, they come out feeling “caustic, paranoid, and overly

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42 Id.


44 See ROY STUCKEY ET AL., BEST PRACTICES FOR LEGAL EDUCATION (2007).

45 Id. at 79.

46 Id. at 178 (“[E]xcept perhaps in legal writing and research courses, the current assessment practices used by most law teachers are abominable.”).

47 Id. at 82; see also Sheldon & Krieger, Negative Effects, supra note 35.

competitive.”

Empirical studies continue to confirm the negative impact of legal education on students. Lawrence Krieger and Ken Sheldon measured values, motivation, and well-being in students just after they entered law school, again toward the end of the first year, and, lastly, during the following fall semester. The arriving students showed healthy well-being, values, and motives—stronger, in fact, than a large undergraduate sample. Within six months, however, the law students’ well-being and life satisfaction markedly diminished, as depression, negative affect, and physical symptoms manifested. Perhaps more revealing, law students’ overall motivation and valuation patterns shifted in undesirable (external/extrinsic) directions, with particular increases in the valuing of image and appearance and decreases in altruism and community orientation. These changes predict continuing declines in life satisfaction and happiness, and they are fully consistent with the reports of distress, dissatisfaction, and loss of ethics and values among practicing lawyers.

As many scholars have also observed, law school achieves these goals by design. Like the practice of hazing in a fraternity, the practice of breaking down students in the service of teaching them to “think like lawyers” continues, despite the harms it causes—justified by tradition, cost-effectiveness, ideology, and simple inertia. Trauma is baked into legal education.

B. Subordination and Legal Education

As the preceding section documents, since the invention of contemporary legal education in the late nineteenth century, attending law school constitutes a demoralizing experience for many students, regardless of their social positions. But the experiences of marginalized students call attention to a more subtle but perhaps more troubling problem: the complicity of law schools with structural subordination.

Elite law schools in America, and the professional associations whose interest they serve, notoriously embraced social norms of exclusion and stigma until very recently—taking active steps to marginalize working class-students and faculty, female students and faculty, students and faculty of color, and students and faculty with other stigmatized identities. Today, despite improved student body diversity, sociologist Wendy Leo Moore argues that U.S. legal education remains a “white institutional space” embedded within and buttressing the social structure of racial domination. Moore argues that both American law and education are institutions that perpetuate and justify highly unequal societies; yet U.S. legal education simultaneously teaches students to perceive the legal system, and their

49 DOUGLAS LITOWITZ, THE DESTRUCTION OF YOUNG LAWYERS: BEYOND ONE L 30 (1st ed. 2006). Indeed, the 2007 Carnegie Report was preceded by a similar report published in 1972 that made many of the same observations. See HERBERT L. PACKER & THOMAS EHRlich, NEW DIRECTIONS IN LEGAL EDUCATION (1972).

50 See Krieger, Institutional Denial, supra note 17.


52 WENDY LEO MOORE, REPRODUCING RACISM: WHITE SPACE, ELITE LAW SCHOOLS, AND RACIAL INEQUALITY 17 (2008) [hereinafter MOORE, REPRODUCING RACISM].
own educations, as neutral, objective, and unaffected by domination. For Moore, this training in domination-blindness works to the benefit of existing hierarchies of privilege and power. Legal training also serves, in her view, as “the tacit shelter of support for the microlevel, everyday racialized interactions and discourses within the schools.”

Moore’s ethnographic research at two U.S. law schools—one with a high percentage of students of color and one with a low percentage—revealed that students of color “find their very presence continually questioned.” Students of color are liable to feel like outsiders in law school, a situation that requires them to constantly manage their emotions and the impressions they are making on others. Moore’s research reveals that law students of color feel simultaneously invisible and hyper-visible: “invisible because their perspectives, histories, and life experiences are not represented or respected in the law school curriculum or discourse,” and hyper-visible because “[t]he words and actions of individual students of color become representative of all students of color.” Recounting her experience as a first-year law student, Adrien K. Wing explains, “If I were found wanting, it might be that the white males would think all people of my race or gender were lacking. If one of them failed to handle the grilling, it would just be regarded as his personal failure.” Students caught in this situation, however, often work collectively to make space for themselves and others. Moore found herself “continually amazed by the amount of work that students of color were doing to create a space in which issues of race, racial inequality, and positive representations of people of color were presented.” In addition to bringing speakers to the law school to augment the curriculum’s lack of attention to issues of racial power and privilege, she found that organizations run by students of color took on placement work, helping students of color find jobs. At one school, student law school associations helped mentor fellow law students and local high school students of color to bolster the pipeline into law school. This is socially valuable work that nonetheless remains undervalued by the institutions that reap the benefits. Moore concludes: “in order to resist white institutional space, students of color expend a great deal of emotional and other forms of invisible labor that their white counterparts do not have to perform. This labor is silently and institutionally expected of students of color, yet it is valued neither the law schools nor the profession at large.”

53 Id. at 17 (“[T]he very institution that trains the people who will be most influential in creating and interpreting the legal structures that organize U.S. society socializes them not to problematize the connection between law and domination.”).
54 Compare IBRAM X. KENDI, HOW TO BE AN ANTIRACIST (2019) (arguing that challenging racism requires positive action because the status quo maintains racism).
55 MOORE, REPRODUCING RACISM, supra note 52, at 29.
56 Id. at 31.
57 See, e.g., Adrien K. Wing, One L. Redux, 78 UMKC L. REV. 1119, 1120 (2010) [hereinafter Wing, One L. Redux]; see also Brian Owsley, Black Ivy: An African American Perspective on Law School, 28 COLUM. HUM. RTS. L. REV. 501, 539 (1997) (quoting Owsley’s journal from his 1L year: “I am bored (with law) and fed up with being a token, told that I am stupid and don’t belong and then when I get upset told that I shouldn’t be so sensitive . . . . [The professors] make all the rules and draw all the lines . . . . We are clearly told that our existence at this fine University (and others too I imagine) is tolerated but by no means welcome. It’s their school not ours and they make sure we don’t forget that.”).
58 MOORE, REPRODUCING RACISM, supra note 52, at 129.
59 Id. at 130.
60 Wing, One L. Redux, supra note 57, at 1120; see also MOORE, REPRODUCING RACISM, supra note 52, at 105. See also Claude Steele & Joshua Aronson, Stereotype Threat and the Intellectual Test Performance of African Americans, 69 J. PERSONALITY & SOC. PSYCH. 797, 797 (1995) (referring to this phenomenon as “stereotype threat,” a form of stress that threatens to impair student performance).
61 MOORE, REPRODUCING RACISM, supra note 52, at 158.
62 Id. at 167.
Indeed, students of color perform this work in an environment where their perspectives “are dismissed via rhetoric that asserts that they are there because of ‘preferential treatment’ or that labels them as ‘angry’ or ‘overly emotional.’”63

Students of color are not the only ones who carry burdens heavier than those of the average law student; students with other socially stigmatized identities share similar experiences in law school. In *Becoming Gentlemen*, for example, Lani Guinier and her colleagues interviewed law students who identified as women and discovered “a dynamic in which they feel that their voices were ‘stolen’ from them during the first year.”64 Some complained they could no longer recognize their former selves, which had become submerged inside what one author called an alienated ‘social male.’”65 Queer students, disabled students, and students at various intersections of domination, reported similar experiences.66

This research not only suggests that U.S. legal education systematically traumatizes its students, but that such trauma is maldistributed—compounded onto those with marginalized identities and those who aspire to use their legal educations toward social transformation.67

### C. Trauma as a Symptom of Subordination

Understood as a purely psychological problem, law student distress calls for better access to mental health resources. Some law schools have accordingly instituted relationships with campus mental health facilities, particularly in the wake of the COVID-19 pandemic.68 Understood as a professional issue, law student distress has prompted generation after generation of reports on the profession to recommend more skills training, more access to clinical education, and more “practice-ready” graduates. Understood as a pedagogical issue, law student distress has prompted new organizations such as the “Balance Section” of the Association of American Law Schools, which promotes courses and seminars on mindfulness as well as better law student training around substance

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63 Id. at 163.
65 GUINIER ET AL., *BECOMING GENTLEMEN*, supra note 64, at 48.
67 For example, Lani Guinier and her co-authors argue that law school creates the most internal “dissonance” for law students “who identify with the lives of persons who suffer from existing political arrangements.” GUINIER ET AL., *BECOMING GENTLEMEN*, supra note 64, at 47.
abuse. These initiatives are important. But if we see law student distress from a disability justice perspective, we are led to a deeper critique, which directly addresses the complicity of legal education with systems of subordination. We are led, that is, to a political critique.

Like the pedagogical and psychological critiques of law school, political critiques of legal education are rich and robust, emerging from traditions such as humanistic legal education, Critical Legal Studies, Critical Race Theory, and Feminist Legal Theory. Critical scholars and activists have long railed against legal education as “education for hierarchy” and as a source of the total “subordination of self.” When viewed from a disability justice perspective, we can understand the isolation, alienation, internal dissonance, theft of voice, and subordination-of-self experienced by law students not only from a moral and ideological perspective, but also as symptoms of a traumatizing law school environment that is complicit with systems of structural subordination. A disability justice approach to trauma organically connects the need for individual healing with a call for structural transformation of the systems and institutions that cause trauma in the first place.

As a result, a disability justice perspective calls upon law teachers to embrace systems-focused trauma-informed pedagogies that recognize the links between the personal and the systemic—not just for individual healing, but also for transforming legal pedagogy to accommodate the full spectrum of the human condition. In the next section, we offer three frameworks and strategies that can help teachers engage in transformative trauma-informed pedagogy.

IV. Transformative Systems-Focused Trauma-Informed Frameworks

In this section, we set forth three pedagogical frameworks that can help law teachers cultivate —both within themselves and within their students—a disability justice-inspired systems-focused approach to trauma. The incorporation of these frameworks into legal teaching will not only help heal individuals, but will also help effect structural change within the system of legal education.

A. Racial Trauma Theory and Race-Based Traumatic Stress

The concepts of “racial trauma” and “race-based traumatic stress” (RBTS) represent two systems-focused trauma-informed frameworks that recognize the links between the systemic and the personal—and how systems of oppression take root in the body and soul. The concepts of racial trauma and RBTS first emerged from the field of psychology to describe and identify the unique form of psychological harm that results from both individual and systemic racism. Psychology scholars argue that racial trauma and RBTS result not only from verbal and physical assaults on people of color, but also from “chronic, systemic, and invisible assaults” such as stereotyping, microaggressions,

71 Derrick A. Bell Jr., The Law Student as Slave, 11 STUDENT LAW 18, 18 (1982) (articulating a connection between with the “subordination of self” that occurs in legal education with the “total physical domination of a people” that occurred with slavery).
73 Sanchez-Huëles, supra note 72, at 72.
workplace isolation, and denial of promotions. Among the symptom manifestations of racial trauma and RBTS include anxiety, anger, rage, depression, compromised self-esteem, shame, guilt, irritability, hostility, lack of trust in people, and self-blame.

The concept of racial trauma has recently been embraced by lawyers and legal scholars as an important strategic framework for advancing civil rights and challenging structural racism. For example, the lawyers in *P.P. v. Compton Unified School District* employed racial trauma theory by arguing that student plaintiffs needed specific accommodations due to traumatization from routine exposure to the consequences of systems of oppression based on race such as discrimination, racism, homelessness, deportation, and incarceration—as well as to the systemic causes and consequences of involvement in the foster care system. Pointing to *P.P. v. Compton* as an inspirational model, critical race legal scholars Angela Onwuachi-Willig and Anthony Alfieri argue that in order to “truly and fully” serve clients, civil rights lawyers must understand the individual psychological traumas a client has endured as well as the “collectively and culturally traumatized communities from which the client has come and lives.” They recommend that lawyers and law students interested in advancing civil rights be trained to employ racial trauma theory as a litigation strategy not only to help heal affected communities, but also to create structural changes in law, policy, and government.

By embracing the systems-focused frameworks of racial trauma theory and RBTS that acknowledge the links between the personal and the systemic, legal educators can begin the work of becoming “truly and fully” trauma-informed in their pedagogy in two ways. First, these frameworks can help legal educators recognize the traumatic impacts of racism—both individual and systemic—on law students. In other words, these frameworks can help law teachers better identify the “multiplicative effects” of racial trauma for those who are impacted by both individual trauma and the collective traumatization of their communities. Indeed, an awareness of racial trauma and RBTS would help legal educators better recognize the multiplicative impacts caused incidents of state-sponsored racialized violence on law students of color.

Second, by exposing students to the systems-focused trauma-informed frameworks, legal

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74 Carter, *supra* note 72, at 84, 89–90, 92.
75 Id. at 90, 92.
76 See generally Angela Onwuachi-Willig & Anthony V. Alfieri, Racial Trauma in Civil Rights Representation, 120 MICH. L. REV. 1701 (2022) (promoting the use of racial trauma theory in civil rights litigation and discussing examples of its use by civil rights lawyers).
77 *P.P. v. Compton Unified Sch. Dist.*, 135 F. Supp. 3d 1098 (C.D. Cal. 2015) (alleging the system-wide failure of the Compton Unified School District to respond to the trauma-induced needs of its students whose trauma is linked to living in a community with high rates of poverty, violence, and racism).
80 Id. at 1713 (“By developing the talents to both understand and persuasively recite trauma narratives, law students and lawyers can build the capacity to create the type of structural changes in law, policy, and government that can help to bring their clients relief beyond the customized relief sought in individually litigated cases.”).
81 See, e.g., Thema Bryant-Davis, *Healing Requires Recognition: The Case for Race-Based Traumatic Stress*, 35 THE COUNSELING PSYCHOLOGIST 138 (2007) (arguing that “one must consider how race-based violence at the hands of systems and institutions can add and sometimes multiply the traumatic stress of survivors of other forms of trauma.”).
educators can help law students recognize the traumatic impacts of systemic racism not only on law students and faculty of color, but also on clients with marginalized identities. As a result, students will be more poised to becoming “truly and fully” trauma-informed lawyers with a deepened understanding of the experience of systemic and institutional racism. These students will be better trained to employ racial trauma theory as a litigation strategy in their legal careers, thereby facilitating transformative structural change.

B. Social Change-Oriented Lawyer Theory

Over the past several decades, new modes of social change-oriented lawyering have emerged, such as “community lawyering” and “rebellious lawyering,” which offer a systems-focused approach to lawyering on behalf of marginalized communities. Similar to the social model view of disability, these modes of lawyering view community disempowerment as the product of “long-standing systems of class and racial discrimination and oppression.” Accordingly, rather than viewing clients as “broken people” who need comprehensive social and legal services in order to be “fixed,” these social change lawyers perceive their clients as leaders and community members with shared experiences who can teach lawyers about the impact of multiple, intersecting systems of oppression in ways that can help craft strategies and solutions to systemic injustice. Social change lawyers view their clients as having the capacity to participate in, contribute to, and lead efforts to effect systemic social change. As a result, these lawyers believe that social change can only be lasting when it is, in fact, led and directed by communities who are impacted by systems of oppression.

Moreover, social change-oriented approaches to lawyering also recognize the links between personal, interpersonal, and systemic-level transformation. For example, these lawyers recognize how the traditional lawyer-client relationship is rife with hierarchy and power dynamics that can further disempower the client. They seek to disrupt the power structure that supports this relationship with a reimagined cooperative partnership in which knowledge and power are shared and in which lawyers recognize the leadership capacity, expertise, resilience, and determination of their clients. These lawyers understand that by reconfiguring the lawyer-client relationship in this way, they can help build

83 These modes of lawyering have had many incarnations, each with similar contours and tendencies such as community lawyering, rebellious lawyering, cause lawyering, political lawyering, social-change lawyering, third-dimensional lawyering, collaborative lawyering, revolutionary lawyering, movement lawyering, and law and organizing. See Monika Batra Kashyap, Rebellious Reflection: Supporting Community Lawyering Practice, 43 N.Y.U. REV. L. & SOC. CHANGE 403, 404 (2019).
84 Purvi Shah & Chuck Elsesser, Community Lawyering, CONVERGENCE (June 1, 2010), https://perma.cc/2QX9-PNZV.
85 See id.
87 Id.
88 CHARLES ELSESSER, COMMUNITY LAWYERING—the Role of Lawyers in the Social Justice Movement, 14 LOY. J. PUB. INT. L. 375, 384 (2013) (describing the community lawyering theory of social change as one that “is led and directed by the people most affected.”).
89 Id. at 400; see also Angela Harris et al., From “The Art of War” to “Being Peace”: Mindfulness and Community Lawyering in a Neoliberal Age, 95 CALIF. L. REV. 2073, 2127 (2007) (citing substantial literature examining the imbalanced power dynamics of lawyer-client relationships where “social hierarchies such as race, class, gender, disability, or sexual identity divide a lawyer and her client.”).
90 López, supra note 86, at 50 (noting that rebellious lawyers treat clients as “capable, with a will to fight, and with considerable experience in resisting and occasionally reversing subordinated status.”).
the community power required to effect social change.\textsuperscript{91}

We argue that legal educators can expose students to such social change lawyering approaches to inspire the embrace of a systems-focused approach to trauma. Together, these approaches entail the same awareness of the impacts of systems of oppression on subordinated communities and individuals with stigmatized identities. These approaches recognize the connection between personal and systemic transformation. And these approaches recognize the potential of those whose bodies and minds bear the marks of subordination to contribute to institutional and structural transformation.

Legal scholars have already begun this important work. For example, Laila Hlass and Lindsay Harris offer “critical interviewing pedagogy” as a pedagogical method for training law students to communicate with their clients with an eye towards disrupting existing power disparities and with the goal of leveraging their clients’ strengths.\textsuperscript{92} Hlass and Harris explain that in order to train students in critical interviewing, legal educators must first ensure that students have a foundation for understanding the systemic biases and historical inequities that continue to burden clients and communities—as well as “the multifaceted dynamics of accumulated disadvantages” that clients may encounter.\textsuperscript{93}

C. Systems-Focused Mindfulness Practice

Legal scholars have started to promote the integration of mindfulness practices into legal education in order to deepen the awareness of systemic oppression and encourage critical institutional analysis. In her recent book, The Inner Work of Racial Justice, Rhonda V. Magee argues that by helping lawyers expand their awareness of the personal, interpersonal, and systemic dimensions of racism, meditation opens the door wider for lawyers to respond to patterns of systemic oppression.\textsuperscript{94} Similarly, Angela Harris, Margareta Lin, and Jeff Selbin write that the mindfulness trainings of “engaged Buddhism” can help lawyers focus on “social relations of privilege and subordination, the needless suffering that they create, and the responsibility to end them.”\textsuperscript{95} Thalia González foregrounds the principles of yoga—namely, the “Eight Limbs of Yoga”—as a practice that can help lawyers develop the awareness required to broaden understandings of how to collectively challenge systems of subordination.\textsuperscript{96} Finally, Monika Batra Kashyap proffers the practice of “deliberate reflection” as a practice that helps lawyers view clients as partners and collaborators, and which also helps them recognize the impacts of systemic oppression and the maldistribution of power and privilege on clients and communities.\textsuperscript{97}

\textsuperscript{91} See, e.g., Shah & Elsesser, supra note 84, at 1 (noting that community lawyers use legal advocacy to build the power of communities to challenge and eradicate systems of oppression in order to further the struggle for change).
\textsuperscript{92} Laila L. Hlass & Lindsay M. Harris, Critical Interviewing, 2021 UTAH L. REV. 683, 715 (2021).
\textsuperscript{93} Id. at 715 (quoting Anthony V. Alfieri, The Poverty of the Clinical Canonic Texts, 26 CLINICAL L. REV. 53, 74–75 (2019)).
\textsuperscript{95} Harris et al., supra note 89, at 2128.
We encourage the continued integration of these systems-focused mindfulness practices and philosophies into legal education in order to support the development of a systems-focused analysis of trauma. We offer an additional trauma-specific mindfulness practice that comes from the field of somatic psychology. Somatic therapy has been used to help trauma survivors by creating awareness of inner physical sensations, which are seen as the carriers of traumatic memory. Somatic practices survey the inner self by listening to signals the body and nervous system send about areas of pain, discomfort, or imbalance.

In her recent book, *The Politics of Trauma: Somatics, Healing and Social Justice*, somatic practitioner Stacie Haines builds upon somatic therapy to present a framework, “somatics with a social analysis,” which specifically connects the individual experience of trauma to the social conditions, structural inequities, and systemic forces of oppression that create trauma in the first place. Haines argues that we must recognize the “shaping power of institutions, social norms, economic systems, oppression, and privilege” in order to fully understand trauma and learn how to heal from it. For Staines, then, the goal of somatic practices is to bring attention to the body and nervous system in order to deepen the awareness of how institutions, social norms, economic systems, oppression, and privilege impact the body state. “Somatics with a social analysis” represents a systems-focused approach to trauma that locates trauma in systems rather than individuals and reaffirms that individual healing is inextricably connected to social transformation. By exposing law students to the “somatics with a social analysis” framework—in addition to the systems-focused mindfulness practices of meditation, engaged Buddhism, and yoga—legal educators can effectively support the development of a systems-focused approach to trauma in their students.

V. CONCLUSION

The frameworks introduced in Part IV differ widely in the extent to which they may be familiar to legal educators. What each framework shares is a commitment to contextualizing trauma. In alignment with the social model of disability, all three frameworks attempt to place individual suffering in a wider interpersonal, institutional, and structural context, acknowledging the complex and multilayered nature of oppression. They therefore resist the cultural inclination to treat disability, and trauma, as individual phenomena.

98 See generally *Peter A. Levine, In an Unspoken Voice: How the Body Releases Trauma and Restores Goodness* (2010) (explaining how the use of somatic exercises that focus on emotions or physical sensations can inform people about past traumatic experiences); *Van Der Kolk*, supra note 3.

99 See *Van Der Kolk*, supra note 3.

100 Id.

101 Id.

102 Id.

103 Id. at 19.

104 For a more extensive account of the nested levels of oppression moving from internalized oppression within an individual psyche to structural oppression linking, for example, housing, employment, and education, see Aysha Pamukcu & Angela P. Harris, *The Civil Rights of Health: A New Approach to Challenging Structural Inequality*, 67 UCLA L. REV. 758, 784–787 (2020); see also William Wiecek, *Structural Racism and the Law in America Today: An Introduction*, 100 KY. L. J. 1 (2011); John A. Powell, *Structural
Each of the three frameworks surveyed in Part IV also carries the potential for transformative institutional change within legal education and, given the privileged position of law and lawyers in our political economy, the potential for societal change. Teaching law students to breathe and be present, as Rhonda Magee notes, can be a radical act when it provides a stable base for challenging racism.\(^{105}\) Understanding the impact of a law school’s institutional history of racism on its current students aligns the research on intergenerational trauma with the long history of critical legal scholarship aimed at dismantling unjust hierarchies. And treating marginalized students and their experiences in law school as carriers of important information about the need for and importance of transformation expands the potential of “trauma-informed teaching” far beyond its current focus on clients.

However, while these frameworks can help individual law teachers see and teach their students differently, a truly trauma-informed pedagogy requires transformation at the institutional level. One opportunity for such transformation became evident in February 2022, when the American Bar Association revised its Standard 303 for legal education to require all law students to receive instruction regarding “the development of a professional identity,” defined as “what it means to be a lawyer and the special obligations lawyers have to their clients and society.”\(^{106}\) Law schools must also now educate law students about bias, cross-cultural competency, and racism at least twice: at the start of the program of legal education and at least once again before graduation.\(^{107}\) The revision of Standard 303 presents an opportunity for law schools to, once again, do nothing to change their practices. But for those motivated to make legal education truly humane—to bring its norms, practices, and ideologies into better alignment with justice, fairness, and the basic need of human beings to be seen, respected, and to grow—it presents an opportunity.

An expanded notion of trauma-informed pedagogy sets the stage for students, critical legal theorists, clinical faculty, podium faculty, progressive administrators, donors, and alumni to work together to finally address the “iatrogenic harms” of law school.\(^ {108}\) This work can benefit from an understanding drawn from disability justice advocacy that personal trauma is never just personal. Reorienting legal education with universal human needs and desires also means identifying law schools as institutional spaces that welcome and nurture all people, including those with stigmatized identities. This, in turn, requires challenging the law’s story about itself: its illusory rhetoric of objectivity,
disembodied rationality, and the inevitable triumph of justice.\textsuperscript{109} The language of trauma invites us to ask not “what’s wrong with you?” but “what happened to you?”\textsuperscript{110} The traumatization of legal education beckons us into the protracted struggle to elevate the law’s commitment to justice above its commitment to order. And it inspires those who join the struggle to celebrate the collective resistance of those on the margins—those whose unsung work benefits us all.

\textsuperscript{109} See Harris & Shultz, supra note 41.