

Incorporating Race into Your Legal Research Class

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¶1 As head of reference and instructional services, one of my responsibilities is to share my instructional materials with our newer teaching librarians. For years, I have used the following asylum prompt as a homework assignment in my first-year legal research class.

and you were allowed to sit in on the meeting to take notes. Mr. Ahmad is a citizen of a small country named Halassam. At present, Halassam is in the midst of a civil war. The government of Halassam is fighting an organized antigovernment rebel group for control of the country. Recently, both groups have stepped up recruitment efforts. Last month, two antigovernment rebels knocked on Mr. Ahmad's door and asked him to pledge his allegiance to the group. Mr. Ahmad told the rebels that he was not interested in politics and declined to pick sides. The rebels beat Mr. Ahmad for his response and told Mr. Ahmad that he had one week to change his mind "or else." After he spent a few days in the local hospital, recovering from his wounds, Mr. Ahmad returned to his home in the capital of Halassam, packed a bag, and fled the country. He landed on the shores of south Florida three days ago and seeks asylum in the United States.

The partner asks you to research the requirements for seeking asylum in the United States. The partner is particularly concerned with whether Mr. Ahmad's refusal to choose sides between the government and the rebels is considered enough of a political opinion to earn¹asylum.

¶2 This spring, one of our new librarians came to me, unsure whether she should use the asylum prompt in the wake of the travel ban signed by President Trump that same week. Understandably, many of our students were visibly disturbed and fearful that their family members could be deported. At the time, I told her that she should do whatever she felt comfortable with, but later I thought, "Why is it so difficult to talk about issues such as race, sexual orientation, religion, gender, and immigration status in the classroom?" and "How can we incorporate sensitive diversity issues into our legal research course?" These questions formed the basis of my idea for this column.

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1. This hypothetical was written by Loren Turner, a former colleague and now the Foreign and International Librarian at the University of Minnesota Law Library. The country in this hypothetical does not exist.

¶3 Our nation has been forced to address various diversity issues over the past five years. We have dealt with the senseless killing of unarmed African Americans at the hands of the police, racial gerrymandering, unequal pay for women, the unfair treatment of Muslims due to our fear of terrorism, and a campaign to build a wall to keep immigrants and refugees out of the United States. Citizens have led nationwide protests to express their frustration and outrage over these injustices, eerily reminding some of the Los Angeles riots in the 1990s.

¶4 Over the years, the role of a law librarian has evolved to include the title lecturer or professor. Many of us teach first-year legal research, advanced legal research, and other specialized legal research classes. In the nation's current climate, I think we have an unique opportunity and obligation to help train students to become culturally competent legal researchers by incorporating research assignments that address many of the injustices described above. While I encourage you to incorporate all diversity topics into your research assignments, I chose to focus on race in this column for two reasons: (1) race is the most emotionally charged and polarizing diversity topic, and (2) race is the topic I believe educators are most hesitant to discuss in the classroom.

¶5 For decades, educators have tried to figure out what race means and how to “unravel the intertwining nature of race and education.” Race is about much more than skin color. Race was created in the modern era as a way to divide people such that some benefit at the expense of others. The bias, inequalities, and consequences of race were developed and constructed by human beings, not by scientific law or genetics. One's perception about race is based on four constructs.

1. Physical—People have constructed ideas, biases, and belief systems about others based on skin pigmentation. Many of these constructions are inaccurate, but nevertheless they exist. The physical construction of race varies from one society to the next. The physical construction of race in Europe, Asia, and even Africa differs from that in the United States.
2. Social—The social construction of race is linked to preferences, worldviews, and how groups of people perform. People categorize themselves and others based on a range of societal perspectives drawn from interpretations of history and law.
3. Legal—The U.S. legal system plays a huge role in the construct of race. Infamous cases such as *Plessy v. Ferguson* and *Brown v. Board of Education* have influenced and defined the construction of race in America.
4. Historical—Historical realities, such as Jim Crow laws, slavery, and racial discrimination, also shape the way people conceptualize race. The way we understand how people have been treated in a society based on the color of their skin shapes how we understand, talk about, and conceptualize race.⁷

2. Laurence Ralph & Kerry Chandler, *Legacies of Fear: From Rodney King's Beating to Trayvon Martin's Death*, 113

¶6 Furthermore, the discussion of race is not only about people of color. White is a racial category as well, and it is important to critically examine whiteness or white privilege just as we examine the experiences of nonwhite people.

Race and Education

¶7 When in a diverse group, many of us tend to avoid the topic of race for fear of discomfort, hostility, and embarrassment. This “code of silence” reflects our society’s denial that cultural factors such as racism and whiteness exist. The history of racism in the United States is both “intensively intellectual and an extremely emotional issue triggering deep feelings about identity and self-worth.”¹⁰ White Americans feel guilt and even shame about the inhumane treatment of minorities. Many Whites acknowledge that white privilege exists, but they are unsure what to do about it. Meanwhile, people of color face subtle or obvious racial projections daily and have to deal with how other cultural groups “question their worth and judge them to be less qualified.”¹¹ With these conflicting emotions, it is easy to understand why we avoid conversations about race.

¶8 In Western academic tradition, emotions are held to be “irrational and unnecessary for intellectual pursuits.”¹² Faculty are trained to focus on cognitive processes and not emotions in the classroom. Faculty are experts in subject matter, but many lack intercultural competence. Due to the “inextricable emotional dimension of race”, faculty hesitate to discuss race, not wanting to reveal their lack of knowledge on the topic and expose their vulnerability.

¶9 In 2014, I attended a faculty brownbag discussion hosted by University of Florida (UF) College of Law’s Diversity and Community Relations Committee. There professors openly discussed their fears and hesitation to talk about race, and shared techniques for discussing race in the classroom. Having graduated from a Historically Black College and University (HBCU), where race is discussed on a daily basis, I found it eye-opening to hear White law professors share their hesitations to talk about race. Professors expressed some common fears: fear of not being politically correct, fear of being judged and deemed prejudiced, fear a student may

Sharing Our Experiences at Levin,” open to all students as a forum to discuss diversity barriers that exist at UF Law.

¶11 At the beginning of the program, we asked students to form groups and share their own experiences dealing with diversity at the law school. After the small-group discussions, we reconvened and students shared what they thought was missing in the discussion about diversity issues in the classroom. One of the comments I heard repeatedly was that students wanted to talk about race and valued its importance. Students mentioned reading cases in which racial injustices were clearly looming, but shared that their professors did not discuss these in class. When professors ignore or deny that racial issues exist, they communicate that students’ knowledge and experiences about race are not worth academic attention¹⁵

¶12 As instructors, it is our responsibility to train students to be “conversant

best: “Showing an interest in racial justice and issues of race helps to break down barriers, expose as false perceived misunderstandings, and shed light on commonly held perceptions of a race-infused reality.” Choosing to incorporate race in your class will also make students of color feel more welcomed and understood, and it will “unmask the truth that even those of us who are white can have a common understanding of how race impacts us all daily.”

¶15 As for the second question, I do think there are ways that we can incorporate race in our lectures, hypotheticals, and classroom discussions. When I discuss the process of generating search terms, I make it a point to remind students that African Americans and Latinos have not always been called by those names. Throughout society, we have changed the terms we use to identify minority groups in a quest to be “politically correct.” If race is a pertinent element of a legal issue, I tell my students to be mindful and include all synonyms (yes, you may even have to type in the word “Negro”) for a particular minority group to ensure the search yields cases from the 1940s and 2000s.

¶16 I also incorporate race in my “Expand and Update Your Research” lecture. I use *Loving v. Virginia*²⁶ as a nod to “love week” in February. I do not require students to read the case, but I do give them a brief synopsis, and we look at the thousands of cases that have cited *Loving v. Virginia*. I explain that even though *Loving v. Virginia* is about interracial marriage, lawyers have used the language from the case to advocate for the legalization of same-sex marriage.²⁷ Then I show them how to use the search filters to narrow by jurisdiction, relevancy, and keyword searches.

¶17 Another opportunity to incorporate race into the classroom is through in-class exercises and homework assignments. Below are three hypotheticals that I plan to use this year in my advanced legal research course.

Hypothetical Example # 1—Employment Discrimination

Assume that you just started working at an employment law firm in Jacksonville, Florida. Tyrone Bennett, a thirty-two-year-old African American male, comes into your office for a consultation with you and your boss. Mr. Bennett has worked in the kitchen of a local restaurant for the past five years. He worked his way up from dishwasher to line cook to sous chef. At age of twenty-one, Mr. Bennett had to stop shaving his facial hair due to a medical condition called pseudofolliculitis barbae, which causes severe shaving bumps.²⁸ When he works at the restaurant, he wears a sanitary beard cover.

Recently, the head chef position at the restaurant became vacant, and Mr. Bennett was promoted to that position. On his first day as head chef, Mr. Bennett’s supervisor explained that the new position required him to deal directly with the customers, skre shen he

Mr. Bennett is at your office to find out what his rights are and whether he can sue the

dispatcher that he observed a suspicious person walking with their hands hidden inside a black UM hoodie about to burglarize a home. He did not want to spook the “burglar,” so he

legal research instructors, we should not be afraid to create legal research hypo