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KEEP THE PATELS: HOW CULTURALLY COMPETENT TEAMWORK CAN ALLEVIATE THE LAW'S DIVERSITY RETENTION PROBLEM

*Danisha Brar**

INTRODUCTION

In the midst of an argument with law school classmates, I once remarked that I felt simultaneously invisible as a woman of color, or more specifically as a South Asian woman. A well-intentioned friend offered consolation in the form of an assurance: she had never viewed me as not-white, and in fact had always thought of me as white. This statement was not intended to insult me—in fact, I immediately knew what she meant: she had always thought of me as a person first—her vision of me was free of any overt racism. But I did not want to be seen as white. To me, being seen as neutral or white felt like another form of racism. By excising the cultural component of my identity, my friend had been trying to do me a favor. She had not meant to insult me. Instead, she had inadvertently failed to recognize that the cultural component of my identity cannot and should not be excised. I am first and last a South Asian woman—this identity permeates every aspect of my being.

This Essay will use the lens of the experience of the South Asian woman in the law to explain why the legal community should not bleach out the individual cultural identities of its members. The legal workplace should do its best to welcome new peers holistically, leaving cultural identities intact. Cultural competency should be integrated into already-existing legal teamwork training—such a change won't be a panacea, but it's a step in the right direction. This Essay seeks to advance the conversation about how best to recognize and embrace the value of cultural identity in the legal workplace.

I. MEANINGFUL DIVERSITY

A spectre is haunting the legal community: a lack of meaningful diversity. As more and more associates of color join law firms, earn clerkships, and become a part of the legal community, the legal workplace

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must change. Unfortunately, the entrance of attorneys of color to the law does not guarantee a professional workplace that always embraces its growing diversity.¹ In fact, the legal workplace seems content to add more lawyers of color to its ranks without meaningfully diversifying itself.² Diversity and Inclusion (D&I) initiatives saturate the recruiting environment (legal or otherwise) but are often poorly managed and shallow indicators of true diversity or inclusion in the workplace.³ In the legal workplace specifically, this is problematic for attorneys of color and the people employing them.

This Essay argues that one solution to this lack of real diversity involves the integration of cultural competency in the legal workplace. Just as cultural competency training has been an effective tool to help lawyers work with *clients* of different backgrounds, so too could it function as a tool for lawyers to deal with *each other* when they are of different backgrounds. An emphasis on the development of cultural competency skills will serve the interests of the legal community as a whole.

This Essay will discuss general workplace trends but focus on the experience of one particular group: South Asian women. As a group that is both underrepresented in the law and rarely discussed, South Asian women provide a particular, unique, and often overlooked insight into the larger phenomenon at play here.⁴ To begin, this Essay will broadly discuss minority

¹ This Essay seeks to make a larger point about how minority entrants to a culture often end up adopting the traits of the majority culture in order to “fit in.” This can be good sometimes, but it can also be detrimental when it compromises effective representation and work performance in the name of stability and normalization.

² Superficial attempts at diversity result in negative phenomena such as “diversity fatigue,” which are a direct result of poorly managed Diversity & Inclusion programs. *Diversity Fatigue*, THE ECONOMIST (Feb. 3, 2016), <http://www.economist.com/news/business/21692865-making-most-workplace-diversity-requires-hard-work-well-good-intentions-diversity?>.

³ D&I programs are frustrating to diverse recruits, who are starting to feel more like prize cows at the state fair than potentially valuable employees. See Ciara Trinidad, *How Most Companies Get Diversity Recruiting Completely, Embarrassingly Wrong*, LINKEDIN (May 5, 2016), <https://www.linkedin.com/pulse/how-most-companies-get-diversity-recruiting-wrong-ciara-trinidad?trk=hp-feed-article-title-hpm>. Further, attempts at retaining associates of color are failing: 85% of female attorneys of color quit large firms within seven years of starting their practice. See Liane Jackson, *Minority Women Are Disappearing from BigLaw--and Here's Why*, ABA J. (Mar. 1, 2016), http://www.abajournal.com/magazine/article/minority_women_are_disappearing_from_biglaw_and_heres_why.

⁴ In 2010, three percent of ABA-licensed attorneys were classified as Asian Pacific American, although it is impossible to tell what percentage of this three percent is South Asian. *ABA Lawyer Demographics Year 2015*, AM. BAR ASS'N, <http://www.americanbar.org>

participation and professionalism in the legal workplace. As the Essay continues, it will explore the relevance of cultural competence in the workplace through the lens of my own experience, and the experiences of other South Asian women, in the law. The Essay concludes with a discussion of solutions applicable to South Asian women specifically, but also to the legal community as a whole.

A. *Minority Reports*

The legal workplace is slowly but surely diversifying its ranks. In 2000, the American Bar Association (ABA) reported that four percent of licensed attorneys were Black, three percent were Hispanic, and two percent were Asian Pacific American.⁵ Compare this to the 2010 survey, which stated that five percent of licensed lawyers were Black, four percent were Hispanic, and three percent were Asian Pacific American.⁶ More importantly, the ABA reports that total minority enrollment at law schools in the United States is up from 25,753 in 2000 to 34,584 in 2013.⁷ Although the percentages are moving up slowly, law schools' increased efforts to diversify will eventually give way to a more diverse group of licensed lawyers.⁸ Additionally, many employment trends indicate that the number of attorneys of color will continue to uniformly increase.⁹ As people of color increase their presence in the law, it comes as no surprise that Asian Americans are a part of this increase. From 1982 to 2002, the percentage of Asian Americans earning law

/content/dam/aba/administrative/market_research/lawyer-demographics-tables-2015.authcheckdam.pdf (last visited Mar. 4, 2017).

⁵ *ABA Lawyer Demographics Year 2016*, http://www.americanbar.org/content/dam/aba/administrative/market_research/lawyer-demographics-tables-2016.authcheckdam.pdf (last visited Mar. 4, 2017).

⁶ *Id.*

⁷ *Statistics*, AM. BAR ASS'N, http://www.americanbar.org/groups/legal_education/resources/statistics.html (follow "Total Minority JD Enrollment" hyperlink) (last visited Mar. 4, 2017).

⁸ The Law School Admission Council has instituted programs to increase diverse student enrollment in law schools, including the "Pre-law Undergraduate Scholars" program. DISCOVERLAW.ORG, <http://www.discoverlaw.org/diversity/plus.asp> (last visited Mar. 4, 2017). The American Bar Association has also attempted to diversify the field with different programs and committees. *Diversity and Inclusion Portal*, AM. BAR ASS'N, <http://www.americanbar.org/diversity-portal.html> (last visited Mar. 4, 2017).

⁹ See EEOC, *DIVERSITY IN LAW FIRMS 6* (2003) (explaining that a variety of underlying data sources, such as the number of law degrees conferred, seem to indicate that the participation of women and minorities in the legal profession will continue to increase over time).

degrees increased from 1.3% to 6.5%.¹⁰ The following section will compare this rise of Asian Americans in the law to the rise of women in the law.¹¹

B. *Ladies First*

It is helpful to analogize the entry of attorneys of color into the legal profession by examining the entry of women into the same space. To be clear, this is not to say that women and minorities entered the legal profession in a staggered line, in which women entered first and minorities followed. Nor is it to say that there is no intersection between the experiences of women and minorities entering the law. Rather, the well-documented experiences of women entering the legal profession can provide a helpful framework for analyzing the less-documented experiences of other minority groups entering the legal profession.

The entry of women into the legal field has risen as slowly and surely as that of minorities. As previously stated, from 2000 to 2015, the percentage of women that were licensed lawyers rose from 28% to 36%.¹² The entrance of women into the legal profession understandably led to changes and adjustments. Any environment that undergoes a significant change in demographics will experience a shift of some sort, but it is not necessarily the environment itself that experiences this change. As some women in the law have realized, the legal workplace does not always change. Instead, as discussed below, some women are asked to adapt to the legal profession by normalizing to the standards of professionalism set by men.

In 1997, in their book *Becoming Gentlemen*, Lani Guinier, Michelle Fine, and Jane Balin advance the theory that law school effectively rewards women who become more like men in order to become effective attorneys.¹³ In essence, the profession rewards women who perform in a masculine manner and ignores those who do not. The authors posit that the legal profession does little to truly diversify itself when it considers the answer to gender underrepresentation to be “add women and stir.”¹⁴

¹⁰ *See id.* at 13.

¹¹ The overlap of people that are entering the legal workplace that are *both* people of color and women complicates this comparison and these statistics.

¹² *ABA Lawyer Demographics Year 2016*, *supra* note 5.

¹³ *See generally* LANI GUINIER ET AL., *BECOMING GENTLEMEN: WOMEN, LAW SCHOOL, AND INSTITUTIONAL CHANGE* (1997).

¹⁴ *Id.* at 21.

Moreover, the authors' research showed that women in law school felt excluded, were excluded, and were negatively affected by gender issues psychologically or in a job search.¹⁵ This exclusion is complemented by a change in behavior: a shift in exhibited characteristics to embody the norms of the legal workforce. In fact, the anecdote that inspired the title of the book is the most insightful incident of all. There, the authors tell a story of a law professor who greeted his class each morning with "Good morning, gentlemen":

In his view, this was an asexual term, one reserved for those who shared a certain civilized view of the world and who exhibited a similarly civilized demeanor. While the term primarily referred to men, and in particular, men of good breeding, it assumed "men" who possess neither a race nor a gender. If we were not already members of this group, law school would certainly teach us how to be like them. That lesson was at the heart of becoming a professional. By this professor's lights, the greeting was a form of honorific. It evoked the traditional values of legal education: to train detached, "neutral" problem solvers, unemotional advocates for their clients' interests. It anticipated the perception, if not the reality, of our *all* becoming gentlemen.¹⁶

To be sure, the legal community has evolved since the time *Becoming Gentlemen* was written. Several examples of gender inequality no longer ring true; for example, law school enrollment is now almost equally divided between men and women.¹⁷ Further, the authors' position that women were underrepresented in prestigious positions and extracurricular activities is similarly no longer true.¹⁸ Although not dispositive, the increase in numbers

¹⁵ *Id.* at 29.

¹⁶ *Id.* at 85. Please see my own anecdote on page one of this Essay for an example of how this applies to attorneys of color entering the legal profession.

¹⁷ *A Current Glance at Women in the Law May 2016*, AM. BAR ASS'N, http://www.americanbar.org/content/dam/aba/marketing/women/current_glance_statistics_may2016.authcheckdam.pdf (last visited Mar. 4, 2017). This is in sharp contrast to 2000, when only 28.9% of attorneys were women. *A Snapshot of Women in the Law in the Year 2000*, AM. BAR ASS'N, <http://www.americanbar.org/content/dam/aba/migrated/women/reports/snapshots.authcheckdam.pdf> (last visited Mar. 4, 2017).

¹⁸ GUINIER ET AL., *supra* note 13, at 41. Women comprise 46% of leadership positions in Law Reviews at law schools ranked in the top 50. *A Current Glance at Women in the Law May 2016*, *supra* note 17.

is a helpful indicator of progress in the arena of equitable treatment. Regardless, the parallels between women entering the law and people of color entering the law are clear: both groups are entering a legal workplace that is increasingly and earnestly focused on diversity, but is not managing this diversity as well as it could.¹⁹ For women, this lack of inclusion may have led to pressure to manifest more masculine traits in order to meet the norm. For attorneys of color, this lack of inclusion may lead to a similar pressure to conform to white norms.

The current definition of professionalism will not sustain a productive, multicultural, diverse workplace. In order to dissect the current definition of professionalism, we must first dispel the myth that workplace professionalism is codified without bias, culture, or gender.

C. *Professionalism as Whiteness*

Although diversity in the law is steadily increasing, the legal profession is 88% white.²⁰ As the original stalwarts of this profession, white lawyers have necessarily set the standards of professionalism in the workplace. These standards do not necessarily present an issue by themselves: any workplace has standards and codes of conduct that encourage its employees to adopt a professional, working identity.²¹ However, these standards of legal professionalism have a cultural component—they embody the cultural aspects of the white lawyers who created them. Simply put, professionalism in the legal workplace still seems to be, for the most part, *white* professionalism.²²

To the extent this is true, legal professionalism can be seen as an extension of white culture. This notion contravenes the popularly held idea

¹⁹ This is a problem that is highlighted by the fact that women of color rarely remain at big law firms. Jackson, *supra* note 3.

²⁰ *ABA Lawyer Demographics Year 2016*, *supra* note 5.

²¹ Devon W. Carbado & Mitu Gulati, *Working Identity*, 85 CORNELL L. REV. 1259, 1260–62 (2000).

²² For a comprehensive breakdown of how “whiteness” is embedded in legal professionalism, see generally Russell G. Pearce, *White Lawyering: Rethinking Race, Lawyer Identity, and Rule of Law*, 73 FORDHAM L. REV. 2081 (2005). Another problem with highlighting the presence of white culture in the legal workplace is that it is often characterized as race-neutral or as having no particular racial identity. *Id.* at 2087.

that professionalism is objective, sterile, and without bias.²³ Professionalism inevitably incorporates the ideas that a particular group finds appropriate; in this case, it incorporates the views of a predominately white group of people who have held sway in the legal profession since its inception in this country. It is common for legal professionals to think of whiteness as a neutral norm rather than a racial identity, which is what leads some legal professionals to demand assimilation with this supposed neutrality.²⁴

It is markedly difficult to parse out white cultural influence in the professional standards of the law. The current standards of the legal workplace are so deeply entrenched that it is challenging to see where neutrality ends and influence begins. In his article, *White Lawyering: Rethinking Race, Lawyer Identity, and Rule of Law*, Russell G. Pearce supports the idea of professionalism as an expression of whiteness with intergroup theory.²⁵ According to Professor Pearce, intergroup theory suggests that group identities influence individual conduct within organizations:

Within these organizations, individuals “are shaped by at least three sets of forces: their own unique personalities, the groups with whom they personally identify to a significant degree, and the groups with whom others associate them--whether or not they wish such an association.” The two major groups in organizations are “identity groups and organization groups.” As I noted in an earlier article, “[p]rofessional socialization as a lawyer is an organizational group identification.”²⁶

After establishing the ways in which group identity plays into conduct, Professor Pearce goes on to point out that being part of the dominant racial group means that white lawyers often see themselves as having no particular racial identity.²⁷ Furthermore, white lawyers are often uncomfortable or poorly equipped to acknowledge the issues or privileges of

²³ This is in keeping with the idea that professionalization sterilizes one’s identity and the idea that one’s racial identity is separate from professional identity. Consequently, one’s professional identity is neutral. *Id.* at 2089–90.

²⁴ *Id.* at 2083.

²⁵ *Id.* at 2083–84.

²⁶ *Id.*

²⁷ *Id.* at 2087.

their own race.²⁸ Consequently, white lawyers can be ill-disposed to discuss racial issues because they see those issues as being of specific concern to people of color rather than themselves.²⁹ Accordingly, some white lawyers see themselves as outside of racial issues and outside of race in general. This makes it difficult for white lawyers to acknowledge their own racial identities and the influences those identities can have on conduct and expectations of professionalism.

Professor Pearce rounds out this theory by intertwining whiteness and legal professionalism.³⁰ To begin, the dominant theory on professionalism suggests that lawyers leave any group-identity biases at home: “Under this view, all lawyers should be—and in most instances are—fungible. Not only should race play no role in how a lawyer approaches her work, but with few exceptions it will play no role.”³¹ Professor Pearce refers to this standard as the “bleaching out” of racial differences among lawyers.³² Coupled with the belief that they have a racially neutral identity, this idea of “bleaching out” leads some white lawyers to conclude that their racial identity is irrelevant to their understanding of professional conduct. As a result, some white lawyers are reluctant to discuss and acknowledge the role that racial identity can play in developing expectations for workplace professionalism and cultural identity.

Consequently, we should dispel the myth that legal workplace standards of professionalism are neutral or without cultural identity: they are simply part of an identity that is so prevalent and ingrained that it seems neutral. Diversity in the workplace is not sufficient to alter these archaic standards of professionalism—as a cohesive professional body, we cannot alter what we refuse to acknowledge. The current standards stifle the willingness of attorneys of color to offer their diverse perspectives on issues of professionalism in the workplace. The current standards of professionalism are not objective or without bias, nor are they free from cultural influence. To say that legal professionalism is without group identity ignores the clear group identity it currently embodies—white group identity.

²⁸ *Id.* at 2088; Peggy McIntosh, *White Privilege: Unpacking the Invisible Knapsack*, WELLESLEY CTRS. FOR WOMEN 1, 3 (2010), http://www.wcwoonline.org/images/pdf/Knapsack_plus_Notes-Peggy_McIntosh.pdf.

²⁹ Pearce, *supra* note 22, at 2088.

³⁰ *Id.* at 2089.

³¹ *Id.*

³² *Id.*

Since legal professionalism is not neutral and does incorporate group identity and culture, legal professionalism should change and grow in order to incorporate a more diverse group of attorneys in a holistic and meaningful way. One way this change could be facilitated is through increased cultural competency training in the legal profession.

II. CULTURAL COMPETENCE

Cultural competence is not an alien concept to attorneys. There is a body of legal scholarship that discusses the importance of cross-cultural competence in lawyer-to-client relationships.³³ Less common are articles about cultural competence in lawyer-to-lawyer relationships. In the lawyer-to-client context, there is an assumption that cultural competency training can help white lawyers understand their colored clients better. However, limiting the scope of cultural competency training to the lawyer-to-client relationship misses an opportunity to seek out meaningful diversity in lawyer-to-lawyer relationships. Cultural competency training should exceed these bounds and include lawyer-to-lawyer training, not just lawyer-to-client training.

A. *Do We Even Need to Talk About This?*

To some, a dearth of articles on cultural competence might suggest a general lack of interest in this issue. But cross-cultural competence training in the lawyer-to-lawyer context merits discussion because its absence from the legal workplace leads lawyers of color to normalize and suppress those key elements of their identity that stand out (i.e., portions of their identity that are not immediately identifiable as white).³⁴

As detailed above, the fact that the legal workplace has long been homogeneous is not unique to the legal workplace: many professional workplaces invite normalization and uniformity. In their article, *Working Identity*, Professors Devon W. Carbado and Mitu Gulati point out that people of color often feel pressured to counteract negative stereotypes by making changes to their identities to counteract these stereotypes.³⁵ On the other

³³ For a comprehensive list of scholarship focused on cultural competency in legal practice, see Ascanio Piomelli, *Cross-Cultural Lawyering by the Book: The Latest Clinical Texts and a Sketch of a Future Agenda*, 4 HASTINGS RACE & POVERTY L.J. 131 (2006).

³⁴ See *supra* Part I; *infra* Part III.

³⁵ Carbado & Gulati, *supra* note 21, at 1262.

hand, workers who do not subvert their identities of color may be penalized by their superiors and colleagues.³⁶ As a result, employees often defensively battle stereotypes by fitting into expected workplace norms and actively subverting elements of their identities.³⁷

Professors Carbado and Gulati give a hypothetical example of a lesbian employee who does not disclose her sexual orientation to her colleagues because of concerns about harassment.³⁸ She may even display a picture of a male friend at her desk and suggest that their relationship is more than just a friendship.³⁹ At the very least, her lesbian identity remains sequestered and closeted in the interest of preserving workplace normalcy.

Similarly, a South Asian woman may scrub the henna off her hands before going back to work after a wedding. While it may be true that societal pressure to do so is declining, many South Asian women may still feel like they need to mask or disguise that aspect of their cultural identity in order to maintain the homogeneous status quo.⁴⁰ An example of this need to remain unnoticed-if-different is present in the actions of any woman that has ever hidden a tampon up her sleeve on the way to the bathroom.⁴¹

B. *Colorblindness Can Lead to Invisibility*

It might be tempting to assume that the lack of protest with respect to this issue means that culturally separate workers are not interested in engaging their colleagues in a discussion about cross-cultural communication. To test this assumption, I conducted a small, informal survey

³⁶ *Id.* at 1262–63 (explaining that those unwilling to subvert their cultural identities in an effort to be collegial might be passed over for promotions).

³⁷ The definition of one’s “identity” may inspire a philosophical discussion about the true nature of identity, but Professors Carbado and Gulati acknowledge that identity is inherently performative and is a social construct. *Id.* at 1277.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ Compare KENJI YOSHINO, COVERING: THE HIDDEN ASSAULT ON OUR CIVIL RIGHTS (2007) (explaining a practice known as “covering,” which involves hiding portions of identity in order to better blend with the mainstream), with Cheryl I. Harris, *Whiteness as Property*, 106 HARV. L. REV. 1709, 1710–13 (1993) (providing an example of another phenomenon known as “passing,” where one is mistaken for another race entirely).

⁴¹ See Julie Beck, *Don’t Let Them See Your Tampons*, THE ATLANTIC (Jun. 1, 2015), <http://www.theatlantic.com/health/archive/2015/06/dont-let-them-see-your-tampons/394376/>.

of six South Asian women in the San Francisco Bay Area.⁴² While individual experiences varied, the respondents were united in feeling set apart from their peers in the legal workplace and in law school. These divisions are nuanced but nonetheless pervasive.

Each participant surveyed indicated they felt distinct from their peers in the legal workplace in some unique way. For example, one participant felt that she was pigeonholed into public interest work by her fellow law students, while another mentioned that she felt pigeonholed into big law work by her family. Further, every participant acknowledged that she felt confused about her experiences but thought that there was no sounding board, literature, or mentor available to help her feel a little less confused.⁴³ For example, one participant mentioned that she had never heard of “On-Campus Interviews,” a process by which second-year law students often procure post-graduate employment. She stated that she thought it was because her family did not have the contacts to guide her, that it was difficult to find mentors, and that she felt a little adrift in law school in general. The common bond among the survey participants was a feeling of alienation during law school. Beyond these law school frustrations, each participant also conveyed that they felt somewhat invisible within the profession after graduation as well.

While not necessarily ubiquitous, this invisibility presents many problems for the legal profession. Though often motivated by the laudable goal of promoting diversity and inclusion, some in the legal community tend to ignore the unique cultural identities of their employees or students in a misguided effort to make them feel more included. One practitioner mentioned that the cultural component of her identity was never acknowledged unless it was acknowledged negatively. This feeling was echoed across the survey: many participants felt singled out only at times

⁴² I compiled data for the survey by interviewing six South Asian women, who attended University of California, Hastings College of the Law and University of California, Berkeley, School of Law. I used a list of questions that asked about their experiences and requested their general feedback. For privacy purposes, I have omitted attributing the results of the survey to the names of the specific women.

⁴³ The lack of mentorship is related to the lack of attorneys of color in leadership roles in the legal profession. Less than one percent of law firm partners are Asian women. *Women and Minorities at Law Firms by Race and Ethnicity - An Update*, NALP (Feb. 2014), <http://www.nalp.org/0214research>. Peggy McIntosh’s article also implies that white mentorship is often taken for granted by white professionals. McIntosh, *supra* note 28, at 3 (“I can be pretty sure of finding people who would be willing to talk with me and advise me about my next steps, professionally.”).

when their culture made them stand out in a bad way. Most participants cited examples of their culture being in the foreground during some sort of negative experience. In one such example of a negative experience, a South Asian woman was told she should consider immigration work over other legal work due to her background. Another was told she should attach a picture to her employment application because she looked “exotic.”

These examples show that the legal community is still struggling to meaningfully embrace diversity in ways that positively, or even neutrally, acknowledge the value of the different cultural traits that these attorneys possess. In another example, one survey participant reported a time when she was asked to attend a client pitch because the client required diversity on its legal team. She was the only attorney that qualified as diverse in her practice group. The attorney’s cultural characteristic was only relevant when it came in handy for, ironically, a supposedly progressive diversity initiative in which corporate clients require the law firms they hire to have strategically diverse teams.⁴⁴

The experiences shared by the survey participants also diverged in ways that invite new conversations about cultural identity in the workplace. For example, one participant expressed concerns about South Asian women being perceived as part of a “model minority” and consequently not a person of color in any meaningful sense of the word.⁴⁵ The same student also lamented that very little has been written about the experiences of South Asians in the law.⁴⁶ This reluctance to recognize the value of South Asian cultural identity may also have the ancillary effect of less targeted assistance for South Asian lawyers in the workplace.

There were other interesting, compelling, and heart-wrenching answers to this survey that brought to light the very real experiences of women in a profession that was previously unattainable, discouraged, or unrealistic for them, due to both extrinsic (the homogeneous nature of the

⁴⁴ This is supposed to result in greater diversity at law firms, but in this example it resulted in an attorney of color being invited to a client pitch meeting and nothing more—she was not invited to work with the client; rather, she was merely invited to be a diverse face at the pitch meeting.

⁴⁵ Being viewed as a “model minority” can be more harmful than not. See Pat K. Chew, *Asian Americans: The “Reticent” Minority and Their Paradoxes*, 36 WM. & MARY L. REV. 1 *passim* (1994).

⁴⁶ Few pieces have been written explicitly about South Asian law students or lawyers. For a rare example, see Jasmine K. Singh, “*Everything I’m Not Made Me Everything I Am*”: *The Racialization of Sikhs in the United States*, 14 ASIAN PAC. AM. L.J. 54 (2009).

profession itself) and intrinsic (South Asian culture) forces. Many women who noted a lack of attorneys in their families also noted a lack of female professionals of any type in those same families. This only furthers a sense of invisibility in such lawyers and highlights the lack of mentorship for female South Asian attorneys.⁴⁷ My own family comes chock-full of attorneys—all male, and all genuinely concerned about my ability to succeed in a profession they consider best suited for men. At the very least, the survey indicated that cross-cultural communication among South Asian female lawyers and their colleagues is a topic worthy of discussion and a topic that female South Asian attorneys are interested in broaching.

C. *Important Lessons from Cross-Cultural Lawyering Texts*

Clearly, a discussion of cross-cultural lawyering is needed. Diving into details, we can now examine what cross-cultural lawyering among lawyers actually entails. There are many skills taught in cross-cultural texts for lawyer-to-client interactions that would be equally beneficial in lawyer-to-lawyer interactions. Using the framework of lawyer-to-client cross-culture training, it is possible to see what cross-cultural competency could look like amongst lawyers.

The Five Habits: Building Cross-Cultural Competence in Lawyers is the seminal scholarship on cross-cultural lawyering.⁴⁸ This article was the first to outline important steps law students can take to increase their cultural competence in lawyer-to-client interactions.⁴⁹ These methods are intended to increase the students' ability to bridge cultural gaps in client representation so that they can better understand the cultural perspectives of their clients.⁵⁰ The methods themselves entail:

- (1) identifying areas of similarity and difference between lawyer and client (and reflecting on their potential significance for the relationship);
- (2) identifying areas of similarity and difference between the client and legal system

⁴⁷ See generally MALCOLM GLADWELL, *OUTLIERS: THE STORY OF SUCCESS* (2008) (explaining that a lack of mentorship has been proven to put professionals at a disadvantage to other, mentored professionals).

⁴⁸ Susan Bryant, *The Five Habits: Building Cross-Cultural Competence in Lawyers*, 8 CLINICAL L. REV. 33 (2001).

⁴⁹ *Id.*

⁵⁰ *Id.* at 42.

and between the attorney and legal system; (3) brainstorming multiple alternative explanations for client conduct; (4) anticipating and planning for potentially problematic aspects of cross-cultural communication; and (5) becoming non-judgmentally aware of one's own biases and stereotypes and learning to detect and minimize their impact on interactions.⁵¹

Each of these Habits are applicable to the topic at hand.

In Habit One, Professors Bryant and Peters recommend articulating similarities and differences between the two parties involved and determining how those differences affect the representation.⁵² In the process, the parties diagram their similarities and differences and explore the significance of these characteristics for their relationships.⁵³

Habit One applies neatly to cross-cultural communication between lawyers. By making a detailed list of similarities we may be able to reveal connections between two seemingly different people in the workplace.⁵⁴ Similarly, by making a list of differences we may expose previously undiscovered biases or misunderstandings.⁵⁵ As in a law school clinic environment where student attorneys are often put into teams, attorney teams in law firms, government agencies, and public interest agencies would benefit from a comprehensive understanding of their similarities and differences.

Consider an associate and partner team in a law firm in which the associate is a South Asian woman and the partner is a Caucasian woman. Articulating similarities and differences early in the client engagement may reveal sources of bias and misunderstanding between the two lawyers. For example, let us assume the law firm's client is also South Asian. Without employing Habit One to better understand each other, the Caucasian partner may assume that the South Asian associate is better suited to take the lead in communicating with the client. Although the South Asian associate may welcome this increased responsibility, it is not necessarily true that she is "better suited" to do so simply because she is also South Asian. As such, Habit One can help illuminate and shed biases and stereotypes that attorneys were not even aware they harbored.

⁵¹ Piomelli, *supra* note 33, at 179.

⁵² Bryant, *supra* note 48, at 67.

⁵³ *Id.* at 64.

⁵⁴ *Id.* at 64–65.

⁵⁵ *Id.* at 64.

Next, using Habit Two, students are asked to identify differences and similarities between the client and the legal system and between the student and the legal system.⁵⁶ Students then work to see how these similarities and differences can influence their client interactions.⁵⁷ By asking students to compare themselves and their clients to the legal system, Professors Bryant and Peters partially seek to create awareness of the biases of both student and client toward or against the legal system.⁵⁸ Though Habit Two appears to assume that the student is biased *toward* the system while the client is likely biased *against* it (which unfortunately, in turn, assumes a white lawyer/minority client dynamic),⁵⁹ Habit Two offers sound guidance for lawyer-to-lawyer interactions. Rather than viewing the three rings of Habit Two as the lawyer; client; and judge, jury, or justice system, a lawyer may compare her own relationship to the legal system to that of her peers or opposing counsel to explore ways in which culture may influence a case.

Habit Three asks students to look for alternative interpretations of their clients' potentially troubling behaviors.⁶⁰ Labeled as "parallel universes," Habit Three teaches students that there may be multiple reasonable explanations for a client's behavior.⁶¹ In the lawyer-to-lawyer paradigm, attorneys can use Habit Three to explain another attorney's workplace behavior.

⁵⁶ *Id.* at 68.

⁵⁷ *Id.*

⁵⁸ See Bryant, *supra* note 48.

⁵⁹ *Id.* at 68–70. The obvious counterargument to this is that law students are more in line with the legal system as they are training to be a part of it. However, the text as a unified body is highly suggestive of the white lawyer/client of color paradigm. "Students might also begin to understand why clients are prone to view the lawyer as part of a hostile legal system when there is a high degree of overlap between the lawyer and the legal system but only a small degree of overlap between the client and legal system." *Id.* at 70.

⁶⁰ *Id.* at 70–71.

⁶¹ *Id.* In *Five Habits*, Bryant explained that:

In another example, the student-lawyer of a client who fails to keep appointments can explore parallel universe explanations for the student's initial judgment that: "My client does not care about the case." Encouraged to think of alternatives, the student may attribute the behavior to a lack of carfare, failure to receive the letter scheduling the appointment, or losing her way to the office. Maybe the client had not done what she promised the lawyer to do before the next appointment or simply forgot about the appointment because of a busy life.

Id. at 71.

Consider the story of one of the participants in my informal survey who was worried about how her South Asian identity was going to play out in the workplace, because her culture and family expected her to take care of her parents as they aged. She was concerned about explaining to her employer that she would need to attend doctor's appointments with her mom. She could have been saved the anxiety if only the people at her firm understood that South Asian culture expects this sense of family responsibility, akin to having to attend a child's ballet recital or soccer game. Applying the principles of Habit Three, a non-South Asian attorney could consider a "parallel universe" in which a South Asian attorney's need to leave work early to attend her mother's medical appointments is better understood. An increased focus on cultural competence need not be a large-scale upheaval; it may merely be a shift in perspective that allows for small changes that cumulatively make a big difference.

Habit Four asks students to anticipate and plan for the more problematic aspects of cross-cultural communication by promoting conversation and building a rapport with clients.⁶² This can be done by focusing on client understanding and culturally specific information about a client's problem.⁶³ Habit Four encourages students to listen attentively in an effort to understand their client's perspective.⁶⁴ Habit Four also posits that cross-cultural interactions generate anxiety for both parties, partially because each party is concerned that the other will not understand their position.⁶⁵ While it may be impractical for attorneys to prepare for their interactions with other attorneys, Habit Four is relevant in lawyer-to-lawyer interactions because it encourages attorneys to actively listen to their colleagues and build a rapport based on mutual understanding. Moreover, one of the most useful lessons for an attorney to glean from Habit Four is that cross-cultural interactions can often be uncomfortable for either party, not just the party in

⁶² *Id.* at 74–75 (“Each culture has introduction rituals or scripts as well as trust-building exchanges that build rapport and promote conversation. Students are encouraged to consult translators and to pay careful attention to cues from the client in the beginning stages of the interview. For example, students are encouraged to think about what kind of exchange of information early in an interview is likely to build confidence and connection.” (internal citations omitted)).

⁶³ *Id.* at 73.

⁶⁴ *Id.*

⁶⁵ *Id.* at 75.

the minority culture. Bearing Habit Four in mind, attorneys can alleviate this anxiety by sharing culturally-specific information with each other.⁶⁶

Habit Five encourages student awareness of individual biases and stereotypes in hopes of minimizing the negative impact of bias on interactions with their clients.⁶⁷ Habit Five and Habit One work together to ensure that one's own biases play a smaller role in cross-cultural communication.⁶⁸ Students are also encouraged to create settings in which their personal biases are less likely to govern or are sometimes eliminated altogether.⁶⁹ For lawyer-to-lawyer interactions, attorneys can also self-reflect in an effort to understand their own biases and prejudices, which may influence their interactions with colleagues. They can then employ strategies to de-bias or control those factors that impact their interactions in a negative way.

Through structured group activities and training, attorneys could work to apply these Habits to foster a more cohesive work environment that appropriately recognizes individual cultural identity. Training processes, like those found in *The Five Habits*, can help peers work through these barriers to create more collaborative work environments. The next Part will compare this approach with some of the existing methodologies currently being applied in law schools and the legal community.

III. TEAMWORK IN THE LAW

As a law student or an attorney, it may be difficult to conceive of yourself as a team player. The profession is inherently competitive—many law schools grade on a curve, and most law students begin their careers by competing for jobs with their colleagues.⁷⁰ The real world of lawyering is no different, as litigation is often constructed as a competition for who can best

⁶⁶ *Id.*

⁶⁷ *Id.* at 77.

⁶⁸ *Id.* at 75 (“Habit Five depends on the analysis of similarities and differences from Habit One and on recognizing some of the more pernicious effects of bias and stereotyped thinking.”).

⁶⁹ *Id.* at 77.

⁷⁰ There is a movement in academia to reform this culture, but this reformation has yet to take roots in all schools across the country. *See generally* Susan Sturm & Lani Guinier, *The Law School Matrix: Reforming Legal Education in a Culture of Competition and Conformity*, 60 VAND. L. REV. 515 (2007) (discussing law school reform measures and the prospects for creating a less-competitive law school environment).

and most vocally prove her worth.⁷¹ Consequently, it is no surprise that teamwork is not always valued in the legal workplace, even amongst colleagues who are supposedly on the same team.

However, a change in this paradigm may help increase the success of diversity initiatives in the workplace. The legal profession would benefit from the cultural competency training discussed in Part II of this Essay. At the very least, it would bring us a step closer to creating more culturally inclusive, diverse, and open work environments in the legal community.

A. *The Workplace is Not Culturally Neutral: Workplace Behavior is Largely White*

As briefly discussed in Part I of this Essay, groups that have traditionally formed the workplace largely dictate workplace behavior by setting performance norms used in hiring and promotion decisions.⁷² However, professional behaviors based on these norms do not always conform to an objective standard of professionalism. Some traditional norms of professionalism do not always consider the diverse cultural identities of all those in the workplace. The legal profession needs to take a critical look at how the gap between existing professionalism norms and culturally competent professionalism norms can create poor working environments for competent attorneys that do not fit comfortably into the existing paradigm.

Take, for example, a scene in a judge's chambers where the judge is discussing his childhood with his clerk. The judge is happy to discuss his childhood experiences growing up Catholic on the East Coast (with which the clerk can identify), but both men grow silent and a little uncomfortable when the South Asian extern ventures to collegially mention her own childhood growing up in New Delhi. It is a slight shift in mood, but one that illustrates how some white men in legal workplaces may feel out of their

⁷¹ See generally Carrie J. Menkel-Meadow, *When Winning Isn't Everything: The Lawyer as Problem Solver*, 28 HOFSTRA L. REV. 905 (2000) (discussing the black and white win-or-lose world that litigation often creates for lawyers, and how this affects a lawyer's ability to truly be a problem solver and engage in more optimal solutions for clients).

⁷² This preference for traditional norms in the legal profession has been falsely equivocated with perfection. For example, Mallun Yen argues that the "idea of 'perfect' is the enemy of diversity," implying that, in order to diversify, the legal profession must forego perfection. Mallun Yen, *Why Perfect Is the Enemy of Diversity*, THE RECORDER (Oct. 2, 2015). This is a dangerous thought process, as it equates augmented diversity with a lapse in perfection, which then cheats diversity out of a chance to be a positive and professionalism-neutral addition to the legal workplace.

depth in situations like these. Diversity in the workplace may lead to discomfort on both sides in a way that is not intentionally malicious but merely scared, confused, or unsure. Racial tension can be caused by well-meaning people who lack the capacity to overcome discomfort and confusion.

It can be challenging to integrate cultural competence into the workplace because some believe it is not the proper place for culture. As briefly discussed in Part I, this presupposes the idea that culture is something people should leave at home. But the truth of the matter is that many white employees do not have to check their cultural identities at the door because their workplaces embody it. In contrast, employees of color may often feel pressure to suppress their individual cultural identities in an attempt to fit in at work. The problem is that some teamwork initiatives in the workplace ignore this discrepancy.

For instance, in my survey, I asked the respondents if they felt their cultural identity was a problem or barrier in the workplace. Every single South Asian woman responded that her cultural identity had posed some type of obstacle in the workplace: whether it was because of what was expected of her and what was not, or because of what was ignored about her and what was not. In each case, the South Asian woman felt that her cultural identity was simultaneously ignored and in the foreground of her workplace identity. This might manifest itself in many ways, such as an explicit expectation that a South Asian woman act in the same manner as her white male partners, or an invitation to participate in a client pitch because she was the only attorney of color in the practice group. To the extent that these practices still persist in the legal workplace, cultural competency training can help.

The discomfort and confusion of some lawyers, coupled with the colorblind behavior of others, can lead to an insecure and sometimes uncomfortable workplace for the lawyer of color.⁷³ This insecurity may be the greatest problem with increased diversity in the workplace, because some lawyers do not know how to appropriately respond in situations where a sensitivity to diverse peers would be beneficial. Culturally competent teamwork training in law schools and law firms (and other legal settings) can help solve this problem.

⁷³ See Pearce, *supra* note 22, at 2088 (tackling the argument that colorblindness is a valid or effective way to combat racist behavior); see also OSAGIE OBASOGIE, *BLINDED BY SIGHT* (2013).

B. *Traditional Teamwork Training Neglects Cultural Components*

Teamwork creates efficient and productive work environments.⁷⁴ In *Teaching Teamwork to Law Students*, the authors identify benefits of teamwork, such as the development of interpersonal and social skills, which include communication, organization, conflict resolution, and even personal satisfaction.⁷⁵ Employer and employee interests converge here because organized and satisfied employees directly benefit their employers.

Though lawyering can sometimes be an individual endeavor, the reality of legal work is that many workplaces are cooperative in nature, requiring several people to work on the same projects and oversee each other's work due to the scale of projects and the need for accuracy. Lawyers may find it necessary to work with one another whether they like it or not. However, in some work environments, teamwork remains on the margins. Some within the legal profession remain self-motivated, self-directed individuals who view client control as singular control.⁷⁶ Although these are not necessarily bad qualities, this type of attitude creates work environments that are not cohesive to teamwork or team building.

Part of the problem may start with legal education. Some law schools prioritize individualism and competition over teamwork. Teamwork is taught to some law students, such as students that participate in clinics or other experiential initiatives. Professor Weinstein and her colleagues submit a model for teaching teamwork that is often taught in clinical settings.⁷⁷ Acknowledging that law students often feel hesitant about working together, the authors set out to encourage teamwork by discussing its goals and benefits.⁷⁸ While the discussion stops short of looking at how teamwork applies to those with cultural differences, this framework provides a possible

⁷⁴ There are several examples of teamwork leading to success in the legal workplace. See, e.g., John D. Russell, *Five Lawyers and a Baby*, 67 OR. ST. B. BULL. 32 (2007). Further, the effects of teamwork have been shown to increase time management and workplace enthusiasm. See, e.g., Dolly M. Garlo, *Creating a Collaborative Law Office*, 64 TEX. B.J. 904 (2001).

⁷⁵ Janet Weinstein et al., *Teaching Teamwork to Law Students*, 63 J. LEGAL EDUC. 36, 38 (2013).

⁷⁶ Edward Poll & Lawrence M. Kohn, *Structure Compensation to Stimulate Team Lawyering*, 24 FLA. B. NEWS 18 (1997).

⁷⁷ Weinstein et al., *supra* note 75.

⁷⁸ *Id.* at 36.

template to build on when designing culturally competent teamwork training for the legal profession.

Furthermore, teamwork is not always taught to lawyers as a valuable skill after law school. Some law firms are disinterested in management and do little to encourage teamwork in the workplace.⁷⁹ Lawyers are trained to be independent problem solvers, and this comes with limited training about how to work together.⁸⁰ While some firms doubtlessly emphasize teamwork and collaboration in an effort to build workplace cohesion, the verdict is still out as to whether this will become standard practice among law firms. As law firms grow more and more diverse due to globalization, diversity initiatives, and a more level playing field, the possibility of different types of people working together becomes increasingly likely.⁸¹

Although some literature does stress the importance of teamwork in a global market—an emphasis that implies that cultural boundaries will be breached—there is little connection made between teamwork and individual members' cultural identities.⁸² To the extent that teamwork models neglect to include cultural issues into their models, some may assume that lawyers are not culturally different enough to merit a focus on culturally relevant teamwork models. This can encourage the assumption that everyone in the law should conform to white professional norms, and that consequently the only teamwork issues attorneys need to deal with are the traditional ones—being too individualistic, not being team players, etc. Neglecting cultural issues in teamwork training makes it easier for some to believe that everyone comes from the same cultural background. This gap helps perpetuate the myth that the legal workplace is culturally neutral and that cultural identity

⁷⁹ See Allen M. Terrell, Jr., *Managing the Big Firm*, 19 DEL. LAW. 24, 25 (2001) (“Rarely have managing partners been trained in management or in business. In a sense, law firms worth millions of dollars are managed by amateurs.”).

⁸⁰ See *id.* (“[T]he manager of a firm deals with lawyers who are not easily persuaded and who are accustomed to emphasizing the problems in a situation.”).

⁸¹ See Michael M. Boone & Terry W. Conner, *Change, Change, and More Change: The Challenge Facing Law Firms*, 63 TEX. B.J. 18, 24 (2000) (“[L]aw firms composed of monochrome lawyers will be displaced by diverse organizations that can offer a wider array of skill sets by virtue of education, race, gender, language capabilities, and technical background. In that regard, having strong women and ethnic minority lawyers will be a key factor in competing in a global economy. To compete for global business, successful law firms will find it necessary to attract and retain personnel that reflect their global clients. Women and ethnic minorities will increasingly emerge as law firm leaders.”).

⁸² Several pieces fall victim to this, but see Steven A. Lauer & Kenneth L. Vermilion, *An Efficient, Effective Team Maximizes Value*, 35 OF COUNSEL 7 (2016).

should be left outside of the workplace.⁸³ It also hampers the ability of lawyers of color to use teamwork tools within their workplace.

C. *Teamwork + Cultural Competency = More Inclusive Workplace*

In an effort to foster more inclusive work environments, the legal community must focus on teamwork and cultural competency training together. As discussed above, cultural competency training focuses almost exclusively on lawyer-to-client interactions. But as workplace demographics and power structures change, it will become more likely that cultural competence will involve lawyer-to-lawyer interactions as well. Cultural competency and teamwork training in the workplace can have positive effects on both lawyer-to-client and lawyer-to-lawyer interactions.

Some type of cultural competency or awareness training could easily supplement the teamwork training programs already in place in the legal community. As discussed above and in *Five Habits*, cultural competency involves an active effort by participants to understand each other's culture and use that understanding to facilitate positive interactions.⁸⁴ This process involves awareness of the role that culture plays in behavior: knowledge of specific and general cultural information that plays into this behavior; cross-cultural analytical skills that assess facts based on judgment (not bias); and communication skills that allow cross-cultural communication.⁸⁵ These concepts could be integrated with teamwork training that aims to efficiently use the skills and strengths of each individual team member, and in turn combat the ways in which implicit bias negatively affects lawyer-to-lawyer interactions.⁸⁶

However, as useful as these methods may be to law firms,⁸⁷ it may be idealistic to expect law firms (and other legal professional organizations) to

⁸³ It also contributes to the "covering" problem where attorneys of color feel pressured to act "white" in order to fit into the professional norms established by law firms or other legal organizations. See Yoshino, *supra* note 40.

⁸⁴ See Bryant, *supra* note 48.

⁸⁵ *Id.* at 50–56.

⁸⁶ *Id.* at 77–78 ("Habit Five asks the student to acknowledge his every thought, including the ugly ones, and find a way to investigate and control for those factors that influence lawyering in unacceptable ways.").

⁸⁷ Other potential strategies that could be employed by law firms (and in other legal settings) includes installing a managing partner or senior leader focused on instilling a more team-based atmosphere at the firm, using the individual skills of each attorney in an efficient manner, see Terrell, Jr., *supra* note 79, at 24–26, or rewarding teams rather than individuals

initiate workshops or creative exercises for the sake of promoting a more inclusive culture. Pushing aside the previously cited concerns of competition and division, it is impractical to think of law firms as good places for cultural competency training because so few attorneys of color are in positions of power or influence in law firms.⁸⁸ Consequently, it seems far more appropriate to institute culturally competent teamwork training in law schools, which may provide better opportunities for such training.

As it is the uniform gateway to the legal profession—all must pass through those gates in order to become attorneys—law school is the most natural fit for culturally competent teamwork training. As they are tasked with educating students on *how* to be lawyers, law schools are the best forum in which to emphasize the importance of cultural competency and teamwork training. Whether such training is infused in law student orientations, success skills coursework, or through clinical or other experiential learning curricula, it is a necessary skill that should be part of every law student's education. To the extent that law students can learn to work together with the changing faces of the law, they will be better equipped to handle some of the changing realities within the legal profession.

IV. CONCLUSION

For me, law school was difficult for many reasons—I do not want to conflate academic rigor with systemic oppression. Nonetheless, I had many negative, awkward experiences in law school that could easily have been avoided if my peers had been more culturally competent. My experience was tolerable, but rife with conversations and experiences I would have preferred to avoid. One purpose of this Essay is to help others feel understood by fostering a discussion about ways that well-meaning attorneys and law students (like the friend that told me she always thought of me as white) can avoid creating negative, isolating environments for others.

with origination credit when bringing new clients or business into the firm, see Joan C. Williams & Veta Richardson, *New Millennium, Same Glass Ceiling? The Impact of Law Firm Compensation Systems on Women*, 62 HASTINGS L.J. 597, 665–66 (2011) (“Reward teams, not individuals. The point of a law firm is to build teams of lawyers that, together, can serve a client’s interests better than a sole practitioner could.”). Focusing on a team-based approach will naturally increase the need to infuse cultural competency training as a means of developing stronger, more effective teams.

⁸⁸ In 2014, 7.1% of partners were minorities, and only 2.26% were female minorities. *Women and Minorities at Law Firms by Race and Ethnicity - An Update*, *supra* note 43.

The reason I felt out of place was not just because I was one of a handful of South Asian women on campus—it was because I felt out of place unless I acted “white.” By the beginning of my third year of law school, the constant necessity to act “white” had grown tiresome. I was no longer willing to pretend to be someone or something else. I was no longer willing to hide certain pieces of my identity in the name of neutrality.

While I am sure many of my peers will tell you that my cover as a “white girl” was not a good one, I beg to differ.⁸⁹ I strongly believe that many of the professional opportunities I have been presented with are partially attributable to the fact that I have acted “white” for the majority of my academic career. My desire to stop this performance was partially choked by fear. Knowing that this performance has gotten me to where I am means that any changes I make might rob me of opportunities in the future.

Attorneys of color should be encouraged to present a holistic—but still professional—version of themselves at work that does not require them to deny or conceal portions of their identity in the name of neutrality. As a starting point, the legal profession must abandon the idea that its work environments are culturally neutral and must acknowledge that merely including more attorneys of color in the workplace and hoping for the best will not be sufficient to attain true diversity in the legal profession. Rather, law schools (as well as law firms and other legal organizations) should focus on cultivating attorneys that are culturally competent and willing to engage in culturally competent teamwork with the goal of creating a symbiotic work environment. A focus on cultural competence, combined with a team-building atmosphere, could help break down cultural barriers and create a work environment in which attorneys of color do not feel pressured to act “white” in order to feel like professionals. The impostor syndrome felt by attorneys of color today will only lead to failures in diversity initiatives as more and more attorneys of color quit or feel pushed out of the legal profession. The legal field will only be truly diverse once it decides that diversity is worth the effort of opening up the profession in deeper, more substantial ways.⁹⁰ Culturally competent treatment training will equip

⁸⁹ See Yoshino, *supra* note 40.

⁹⁰ *Diversity Fatigue*, *supra* note 2 (“Companies will find it hard to make a success of diversity if they refuse to recognise [sic] that it brings challenges as well as opportunities. And they will find it impossible to confront these challenges if they dismiss any reasonable

attorneys with the tools they need to meaningfully welcome attorneys of color into the legal practice and will negate the ineffective approach of “add diversity and stir.”⁹¹

question that is raised about diversity policies as if it were a plea to go back to the age when white men ruled the roost.”).

⁹¹ GUINIER ET AL., *supra* note 13, at 21 (describing the inclusion of women in the law as an ineffective approach that simply requires legal institutions to “add women and stir”).