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The Elephant in the Room

Marcie Neff†

I remember when I first heard about the dramatic decline in minority enrollment at Boalt. It was some time in late July 1997. Up until that point, I had heard little about the affirmative action debate in California or the University of California ("UC") Regents’ intent to eliminate affirmative action programs in UC admissions through Resolution SP-1. Then, it made the front page of the New York Times: only one African American would be enrolling in my law school class. My rather impulsive decision to attend Boalt over New York University—trading in the snow for some rays and $20,000 less in tuition—suddenly took on decidedly negative implications.

Having gone to a nearly all-White undergraduate institution where the lack of diversity was hotly contested during my senior year, I had developed a commitment to, and an appreciation for, diversity in higher education. When I was selecting law schools, I was impressed by the high minority enrollment numbers reported by Boalt and reflected in law school review books. Those reviews, the money, and the genuine down-to-earth feeling that I got from the people I met while visiting Boalt in the Spring, mitigated my concerns about attending an "elite" school with all of its trappings and tipped the scales in Boalt’s favor. By August, I found myself on the way to traditionally radical Berkeley—well-renowned lefty heaven of the 1960s—riding the great White tidal wave of de facto segregation. For several weeks after the racial composition of Boalt’s Class of 2000 was announced, I seriously considered withdrawing my acceptance of admission. I decided not to withdraw for many politically sound, ultimately self-justifying reasons. However, I resolved that if I was going, I was not going to do so happily or quietly.

When I arrived at the Boalt campus on August 18, I immediately began seeking out like-minded people. It did not take long to find them and for organized protests to be planned. Those protests, the walk-ins on first-year classes, and the sit-in at the Registrar’s office that transpired on October 13, 1997, constituted the best and the worst of the experiences I

† J.D.cand., Boalt Hall School of Law, University of California at Berkeley.
have had so far dealing with the aftermath of SP-1 and Proposition 209. These experiences were the best because they definitively broke the administrative silence surrounding affirmative action and because they created a wonderful sense of solidarity and community for those of us who participated. Yet, they were the worst because they crystallized the truly entrenched nature of what may be the real issue in the affirmative action debate: the inability and lack of desire on the part of many Whites to recognize and disavow White-skin privilege. In my opinion, this privilege is the proverbial elephant in the room. It is the underbelly of racial relations in the United States: easily ignored or simply invisible to those who have it, although it is, quite literally, staring us in the face.

I have observed many indications of the pervasiveness of White-skin privilege in my first year law school classes. In my criminal law class, the professor, a White male, adamantly refused to view the reasonable man standard, created by Anglo-Saxon men, as a cultural standard. In my elective, Race and American Law, a White male student argued that a southern state’s post-Civil War “Black Codes” were merely severe labor extraction regulations. Most poignant, however, were the reactions of many White first-years to the protests that occurred on October 13. Their disparagement of the protests, particularly the anger directed at the walk-ins by students of color, evidenced the ramifications of the near complete loss of racial diversity in an already skewed academic environment. Some White first-year students expressed distress at losing twenty minutes of their class time, and at least one student said that she felt violated by the action. Students of color seeking to assert their rights to an education were thus considered hindrances or unwelcome intruders on an education that had quickly come to “belong” to an overwhelmingly White class. But there was something more than mere selfishness behind such reactions. In essence, the elephant in the room could no longer be ignored.

If you ask the average White law student if racism is a problem in the United States, they will probably say yes. If you ask them if they consider themselves to be racist, do not be surprised if a vehement denial ensues. This is somewhat paradoxical since racism only continues to be a social problem due to our society’s adherence to a White-skin privilege that all Whites benefit from and now perpetuate. When I use the term “racism” in this context, I do not mean more overt forms of race-based bigotry or prejudice that can be the province of any race with respect to another. Rather, I mean the institutional, systematic oppression of people of color that is so inherent in American society as to be unrecognizable to most Whites.

Given the pervasiveness of White-skin privilege, most Whites can and do experience a version of American reality which never, or only superficially, questions the status of race relations in our country. Why
would one question what surrounds them so completely as to seem only natural? When all of your government leaders and television heroes are White, virtually all of the professionals you are told to emulate are White, and nearly all the high achievers in school are White, it must be because it was meant to be that way—right? This one-sided indoctrination leads to considerable hostility and fear of ideas or actions that challenge the validity of that reality. This is particularly true since their reality—due to privilege and segregation—encompasses what most Whites see as their “rightful” place in society. It seems probable that such hostility and fear is at least in part responsible for the negative reactions of White students to the demonstration on October 13 that questioned the inalienability of their rights to be sitting in those law school classrooms.

It is, after all, an unsettling proposition that what you have grown up believing—that the concept of merit is neutral and your achievements or failures within that framework are entirely attributable to you and you alone—is merely an elaborate social construction, designed by people like you to benefit people like you. Such a confrontation with one’s own privilege is certainly less attractive than the now popular rhetoric that affirmative action is no longer necessary or is even a form of “reverse racism.” As a high-achieving White student, it is much easier to swallow the notion that programs that may take away your seat at a school like Boalt are based on undeserved racial preferences than it is to acknowledge the racial preferences you have benefitted from since kindergarten.

Yet, this critical analysis of individual experience and the potential restructuring of racial realities is absolutely essential to making any real headway in race relations. Only through challenging our individual socializations as Whites in a racist society—the stereotypical media images of people of color, the jokes of relatives at family gatherings, the visceral reaction to a group of young Black or Latino men standing on a street corner, the White-washing of history in our elementary school textbooks—can we be part of a collective struggle to correct American society’s inequalities and injustices. We do not take positive steps toward this goal by passively allowing our law school classrooms, nearly vacant of Blacks, Latinos, and Native Americans, and with a significant decrease in Asian enrollment, to become further evidence of “the way things should be.” We do not promote just laws and fair social policy by eliminating from our law schools those students who can see the elephant in the room just because we are afraid to look.