

It's Not Over:

Empowering the Different Voice in Legal Academia

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As we live farther and farther from the truth of our wholeness we become ignorant of that wholeness and live as though we are separate and alone.
- Amy Weintraub¹

I. OH DEAR, I REALLY AM THE ONLY ONE HERE WHO LOOKS LIKE ME

On a hot July 16, 1991, I drove into Central Texas on a four-day trip from New York City, hauling my overweight cat, clothes, books and the sundry personal items that I could fit into a beat-up 1976 Volvo station wagon, forest green, with a bent hood, no air conditioning, and a dying battery. The car petered out down the road from a gas station and a road sign that read “Austin, 16 miles.” Today that sign has probably come down or been absorbed into a larger network of new interstate highway signs, bearing witness to the phenomenal growth of the city I now consider my permanent home. The laid-back college town that gave birth to an indie film titled *Slacker*² is now filled with the mansions of wealthy ex-Californians, movie stars, celebrities, and real estate investors who steadily build more skyscrapers in the downtown area and ever bigger ranches in the hill country. But in 1991 it was a smaller Austin, a college town defined by the presence of the flagship University of Texas campus nestled amidst hilly landscapes of mesquite, live oak, lantana, and desert cacti. I called friends back East, laughing as I remarked on the immense size of the state, of the campus in a city that struck me as incredibly small in comparison to the big New York City where I’d begun law practice, teaching, and a post-graduate program in American History. I remember being both nervous and excited to start my new

[†] Professor of Law, Northern Illinois University. Mil Gracias! (1000 thanks) to Carmen González and Angela Harris, who, as editors, found women of color in the legal profession willing to share their stories about facing institutional opposition and thriving, despite the resistance to our presence.

1. AMY WEINTRAUB, *YOGA FOR DEPRESSION* 13 (2004).
2. (Detour Filmproduction 1991) (a comedic view of diverse types of bohemian Austin residents).

job.

Later, it was not easy to say yes to the question, “Would you tell your story?” It meant revisiting memories and feelings; remembering how briefly the excitement over my new job lasted and how quickly it turned into dread. I was one of five hires, four women and one man. It was a huge faculty. There was only one other law professor of color, a man who had been tenured elsewhere. The week I arrived I was invited to lunch by two recently tenured faculty, a married couple with progressive leanings. “We wanted to let you know” Apparently there had been quite a furor on campus over my hiring—an open forum on affirmative action held at the law school. Claims of a battle over whether I should be hired instead of the white man who had clerked for Justice Clarence Thomas on the Supreme Court. I was not a former Supreme Court clerk, and so on. The Dean had cut a deal. In the name of peace he found money to hire us both. “You may hear things” But during that lunch I began not to hear anything. I disassociated. My body was there but my soul, for several long seconds, might as well have been astral traveling. I do recall thinking, “Why are they telling me this? What are they saying?” I was already drowning out all the talk with the blood rushing through my body, my heart thumping so loudly it was the only thing I could hear. Anxiety. I had had so many offers to explore, other possible places for employment. And now, here I was, feeling trapped.

Memories like this, how I had understood so little about the politics of tenure and how I had managed ultimately to navigate the troubled waters, would be lurking behind telling my story. True, I had not entirely given up, but for weeks I had desperately wanted to pack my bags and leave. Success or just plain survival?

I write as a contributor to *Presumed Incompetent* to reflect on my journey of healing from the difficulties surrounding the start of my career as a law professor in the early 1990s. My essay, *No Hay Mal Que Por Bien No Venga*,³ used a yoga-therapy based approach to the process of healing the psychic wounds from deeply traumatic events, like being denied tenure at an institution. I seek to continue the silent conversation I have with anyone who reads my essay. I am grateful to the many people who have read it and said that it has helped them. Because I have already told major parts of my story in the book, in this essay I will primarily reflect on the questions posed and the discussion we had on the topic of “The First Generation” of women of color law teachers at the *Presumed Incompetent* Symposium.⁴ I hope to simply share perspectives, based on my personal experience, on what might help one survive and thrive in the

3. Elvia Arriola, *No Hay Mal Que Por Bien No Venga: A Journey to Healing as a Latina, Lesbian Law Professor*, in *PRESUMED INCOMPETENT: THE INTERSECTIONS OF RACE AND CLASS FOR WOMEN IN ACADEMIA* 372 (Gabiella Gutierrez y Muhs, Yolanda Flores Niemann, Carmen G. González & Angela P. Harris eds., 2012).

4. Berkeley Journal of Gender, Law & Justice Symposium: Presumed Incompetent (Mar. 8, 2013).

academy. The Symposium proved that our work has barely begun; *Presumed Incompetent* will be an important resource for women in academia for generations.

It is my sincere hope that writers and readers of these essays, whether in *Presumed Incompetent* or in other anthologies, or hopefully in blogs or on websites,⁵ will come together regularly as members of a community committed to staying connected through our activism, through our conviction that we absolutely deserve to have a strong presence as women of color in the academy, and especially through our stories. The sharing of wisdom and experience on so many panels demonstrated how stories and narratives are not only powerful transformative tools for critical scholars, but can also be sources of personal empowerment for the listener.⁶ We need each other and our stories. They are what will nurture us into the wholeness we need for our work and remind us that we are not alone.

The editors of *Presumed Incompetent* and organizers of “The First Generation” panel, Carmen González and Angela Harris, provided us with insightful and sometimes very emotionally charged questions for us to reflect upon. We were on this panel because we represented a time when we were among very few women in the academy and sometimes were literally the first person of color hired at a particular law school. Presumably we had survived sometimes very hostile environments and had managed to transcend the troubled years, going on to personal and professional success. On paper, it sounds so easy. The question, “How did you do it?” is, however, much more loaded. This is why our panel was intended to offer some of our experience to those at the beginning of their careers who may be feeling, as we did once, too much like a token and utterly alone. Professor González and Professor Harris posed other, more difficult questions—asking us to comment on the painful reality that many women of color just don’t achieve their goals, that there are women of color who drop out and are never heard from again, that there are those who make it but then internalize the abuse they were dealt, and actually turn around to inflict the same disrespect on their junior colleagues.

Presumably we were on this panel representing those persons who had survived the fire, with “heart and soul,” and were willing to talk about it. As Carmen González wrote in her e-mail to us: “Sometimes the women who survive remain silent about what happened to them. Sadly, this means that future generations are deprived of this vital information and may feel shame and drop out rather than fight back when they are confronted with obstacles on the road to

5. The editors of the book wisely created a *Presumed Incompetent* page on facebook.com to facilitate this process. See *Presumed Incompetent*, FACEBOOK.COM, <http://www.facebook.com/PresumedIncompetent> (last visited Mar. 11, 2014).

6. See Margaret E. Montoya, *Celebrating Racialized Legal Narratives*, in CROSSROADS, DIRECTIONS, AND A NEW CRITICAL RACE THEORY 243 (Frank Valdes, Jerome McCristal Culp & Angela P. Harris, eds., 2002).

tenure.”⁷ We were being asked to share directly some of those difficulties, some of those moments when we did think of dropping out or returning to law practice. We were the ones who stayed and somehow bounced back. A final set of questions asked: *Is the presumption of incompetence still here? Does it look the same now as it did when we started?* Of course it does not look as it did for those of us who started in the late 1980s or early 1990s. But there is enough that remains the same that our wisdom of experience may be useful to the next generations of women of color entering law teaching. My hope is that we will continue to share the stories we need for healing ourselves, that our sharing will forge a sense of community, and that we will experience solidarity, and not isolation and separation. There are experiences I know I will never have again. But many of the lessons I learned remain relevant to my work every day.

Presumed Incompetent is so important because it has opened the door to many others who might have stories they also need to share and wounds they need to heal. Or others who need to reflect on the realities connected to abstract terms such as “systemic sexism and racism” in the hiring and retention of people of color, rather than giving up on the dreams of their career goals. For me, contributing to *Presumed Incompetent* presented an opportunity to return, with a more healed perspective, to my physical and emotional archives from the dark years of my first job in legal academia. From the moment I stepped onto the campus, I found myself in a political battle for which I was unprepared. By the fourth year of my employment I laid down my arms after consulting a feminist lawyer and took myself off of the tenure track. I could not stay in the status of assistant professor but I also was unprepared to leave, so I managed a deal—continue to teach, get a new title as senior lecturer, and leave in two years.

During that period, I unsuccessfully tried to write about what had happened. I had a file into which I placed pieces of evidence that would help me not to forget. The label on that file read: “The Revolving Door Syndrome.” The phrase captured what had happened not only to me but to other women of color throughout the university where I started teaching. Women/of color⁸ were hired but they were not retained. Every year the door swung open and in came a new hire, a new face that would briefly diversify a department, and out would go another. The profiles of those exiting were marked by questions, self-doubt, challenges to a woman’s scholarship or teaching abilities, appeals from denials, resignations, internal departmental wars, and sometimes lawsuits or quiet settlements. The look of diversity did not last. A former student of mine had

7. E-mail from Carmen G. González to panelist professors Pat Chew, Gloria Valencia-Weber and Elvia Arriola (Feb. 6, 2013, 12:46) (on file with author).

8. The term “women/of color” is intended to include white women. I am also taking note of the historical nature of the “not fitting in syndrome” and how it first applied to white women being hired on to law faculties dominated by white males. See, e.g., Stephanie M. Wildman, *Gender Integration of the Legal Academy: The Role of the AALS Section on Women in Legal Education*, 80 UMKC L. REV. 801, 802 (2012) (discussing her experience as a white female law professor, beginning in the early 1980s).

stayed in touch and became aware of the challenges I was facing after she graduated. As she took in the details of my story, she said to me, "If you leave, it'll be another headstone in the cemetery of dead careers for so many wonderful women professors I have known there." So do I have advice or wisdom to share? Oh, yes I do.

1. *It's All Political.* I recall one bit of advice a senior female colleague gave me in order to warn me. I had gone to her for comfort after realizing that an article had been published about me, a diatribe by two protégés of a law professor with a national reputation for his anti-affirmative action views. The authors included details about me that could only have been found by acquiring copies of my résumé from sources inside the law school. My colleague was blunt: "It's all political," she said. "If you didn't have the qualifications to be here you would never have been hired." So I pass on her wisdom to newcomers in the legal academy: Know that the system is political. For me, this meant knowing and understanding that if you are going to achieve certain goals in a political environment then you have to learn to negotiate relationships that are difficult. Some colleagues may be friendlier than others; some may turn out to be outright hostile. These are still relationships you must learn to negotiate. At the time, I did not heed well enough my colleague's advice, but I remembered it later when I was at a different institution.

Knowing what I know today, I would do a better job at learning the gentle politics of forming internal alliances. When I looked back at my own experiences with as much objectivity as I could, after much healing of the wounds, I saw that I did have some friends on my faculty, and a few enemies. But I also had to see that I was on a large faculty that was very complex. The friends I chose did not have political clout; the enemies did. But the fence-sitters did not know me. I did not nurture those friendships. And because I did not nurture other friendships, I had a longer and more difficult time finding a new academic home. I did not exactly burn bridges, but I also did not try building any. That is something I would definitely do differently.

2. *Trust Your Gut.* At signs of resistance to your presence, you may need to affirm to yourself every day that you are deserving of the job you were hired to do, that you are talented and able. This is very important because if, in fact, there are people who are not thrilled to have you as a new colleague, it is up to you not to internalize all the ways in which your presence is questioned.

3. *Ask Yourself What You Really Want.* Is this the job you truly desire? Is this the path toward your highest development? Examine carefully how you go about achieving your goals. Which of your goals came about easily? What factored into the process? Ambition? Social networks? Faith? While I have come to believe that some of the things that just fall into place easily are meant to be, we also have the capacity to self-sabotage if we do not believe we deserve our success.

4. *Keep a Journal.* Find a tool that allows you to engage in the honest task of self-discovery. Many people may find this in their spiritual communities.

Others may keep a private journal. I recall a precious moment I had in my first semester of teaching when I was able to meet the late Professor Derrick Bell, founder of the Critical Race Theory movement.⁹ As I stood next to his tall shoulders and introduced myself as a recent hire at the law school, he said, “So how’s it going?” My face must have revealed something because the next thing he said was, “Keep a journal.”

The intimate sharing of one’s deepest thoughts and fears in a private journal can be akin to prayer, or just keeping the hand moving, suggests author Natalie Goldberg,¹⁰ or it can be the “morning pages” tool invented by the inspirational writer Julia Cameron.¹¹ Writing as surrender is a meditation with the self, an embrace of internal conflict and an opening to the letting go, to unblocking that which stands in the way of our creativity.

In my meditative journal writing I may take a moment to reflect, to imagine what may be thought of as the feminine face of the divine, a goddess-imagined higher power that graces my most silent and personal moments. It is a tool that allows for a personal or spiritual use but it is also an empowering experience of the imagination, of that which we are discouraged to express in a male dominant culture—the right to embrace feminine-centered archetypes of both power and grace. I have drawn strength in creating these mental images, whether they are of the achieving, competent, and competitive Artemis, or the strategic and wise Athena, from the writings of Dr. Jean Shinoda Bolen in her treatise on the goddess culture in every woman.¹² By engaging in the meditative exercise, almost like prayer to a goddess, I can reflect and therefore draw strength from embracing the qualities of an unabashed woman’s way of knowing, behaving, and working, which counters the influence of male supremacist environments in which I have had to survive. At the most practical level, when I am deeply disturbed in my emotional center because of the strident

9. Much can be learned from Professor Bell’s courageous and prolific scholarship and the tribute created in his honor upon his death. See DERRICK BELL OFFICIAL SITE, <http://professorderrickbell.com> (last visited Mar. 11, 2014).

10. See NATALIE GOLDBERG, *WRITING DOWN THE BONES: FREEING THE WRITER WITHIN* 8 (1986) (“Keep your hand moving . . . Don’t cross out . . . Lose control.”).

11. I first learned about the tool of recovery for those feeling blocked in their creativity called “morning pages” from reading JULIA CAMERON, *THE ARTIST’S WAY* (2002). Cameron offers her Artist’s Way teachings online where she defines morning pages:

Morning Pages are three pages of longhand, stream of consciousness writing, done first thing in the morning. *There is no wrong way to do Morning Pages*— they are not high art. They are not even “writing.” They are about anything and everything that crosses your mind— and they are for your eyes only. Morning Pages provoke, clarify, comfort, cajole, prioritize and synchronize the day at hand. Do not over-think Morning Pages: just put three pages of anything on the page . . . and then do three more pages tomorrow.

Julia Cameron, *Morning Pages*, JULIA CAMERON LIVE, <http://juliacameronlive.com/basic-tools/morning-pages/> (last visited Mar. 11, 2014); see also JULIA CAMERON, *THE VEIN OF GOLD: A JOURNEY TO YOUR CREATIVE HEART* 13-17 (1996).

12. See generally JEAN SHINODA BOLEN, *GODDESSES IN EVERY WOMAN: POWERFUL ARCHETYPES IN WOMEN’S LIVES* (1985).

manifestations of masculinist value systems, when I need *fortaleza*, strength from within, it is like taking the time to talk or even to write a letter to *la diosa*, to the otherworldly “serpentine movement . . . of creativity,”¹³ in a safe space or in my journal. The writing itself is part of the healing.

5. *Create A Support Network.* One of the things that helped me survive the hostile environment in which I started my career was friendships outside of my law school. Survival requires creating connections that help you not just survive but allow you to thrive. For me personally, those people turned out to be sober women. For over twenty-five years I have been in and out of support groups based on the twelve steps of recovery, which have a strong record of offering commonsense approaches to dealing with life’s difficulties. The emotionally safe space of women’s meetings has been a place where I come home to myself.

Of course, this may not be the kind of scenario you can imagine for yourself. You may legitimately ask, what does this mean in practical terms for me? I am simply talking about creating a network of support for yourself. This means finding a place where you can talk about what is going on with people who are not invested in giving you advice on how to succeed. It’s about having people who just listen. Sometimes the sharing of the troubled feelings can be enough. I have found the act of listening and being heard to be essential to the healing journey into wholeness. The Co-Counseling Movement,¹⁴ for example, has long advocated the process of expressing one’s feelings and having them reflected, acknowledged, and made a part of a path to personal empowerment. The powerful need of the human being in pain to be recognized, to be heard, is met, and there begins the process of becoming clear and balanced. For those who are more spiritually inclined, the community can be one’s church, or a social justice service group, or simply taking the time to share intimately with a good friend or one’s spouse or life partner.

One of the other reasons I have found sustenance from women’s support groups has to do with acquiring perspectives and shared wisdom that have helped remedy the effects of growing up in a home where strong moral values collided with the impact of the family disease of alcoholism. So while I was learning to work and pray hard, the intermittent crises caused by drinking, conflict, shame, and secrecy, or covering up the problems, influenced my views of the world and relationships. As an ACOA, the adult child of an alcoholic home, I’ve had to recognize that some of my earliest learned life skills were not always the best tools for achieving long term happiness in work, play, love, and intimacy. We ACOAs sometimes have a hard time asserting exactly what we want out of life and believing that we are entitled to be happy, joyous, and free,¹⁵

13. GLORIA ANZALDÚA, *BORDERLANDS/LA FRONTERA: THE NEW MESTIZA* 57 (2d ed. 1999).

14. See CO-COUNSELING INTERNATIONAL, <http://www.cci-usa.org> (last visited Mar. 11, 2014).

15. For example, the “laundry list” of characteristics identified by the world service organization for Adult Children of Alcoholics includes tending to judge ourselves harshly and having a low sense of self-esteem. See ADULT CHILDREN OF ALCOHOLICS WORLD

because at a cellular level we're stuck with the memories of times when crisis got in the way of joy. Self-sabotage is common if a person does not believe that she truly deserves a good job, a nice career, and for people to treat her with respect, based on her talents and qualifications.¹⁶

So, ask yourself, are there ways in which you self-sabotage? Do you overwork? Do you say "yes" to tasks when you should be saying "no"? In doing so, do you undermine your own progress on more important things, whether they be work or family?

6. *Confront What You Cannot Control.* Survival with the goal of thriving requires learning and being willing to negotiate difficult and hostile relationships and situations. While I do encourage this, I also believe we should not compromise our core values. This is where the listening by others can bring support and perspective in taking the steps you may need for your own particular environment. If you have answered "yes" to the question, "Is this the job you really want?" and if you have begun to affirm, "Yes, I am talented and I deserve to have this job," then you now must confront what you cannot control and what you cannot change. You probably cannot change the minds of those who never wanted you hired. I recall a woman professor at my first institution who in all the years I was there never once acknowledged my presence or looked me in the eye, not even when we were in places reserved only for professors, like the faculty lounge. Okay, it was easy to write her off the list, but there were so many other people I could have made an effort to get to know. Yes, a group of very conservative colleagues were resistant to my presence. But not everyone was opposed to my presence. My naiveté about the politics of hiring kept me from understanding that the opposition from those who voted *not* to hire me probably continued. It's true I was in shock about the resistance. I can warn the next generation not to make my mistakes and isolate behind your office door, trying to avoid the pain or trying to pretend that the resistance to who you are and to your full participation as a member of the faculty is not even happening.

We need to establish or maintain friendships out of the workplace because the community that we have joined for our career may not be the community that helps us with the basic support we need for all of the challenges of life in general. My women's meetings kept me sane and sober when I was in the craziness of, "Am I going to be tenured or not? Should I quit? Should I just give up on being a law teacher?" These are the places where I can be myself as I am processing the big hurts and struggles we encounter as a part of life. I get to walk through them, feeling hurt but not feeling alone. In this community I have made friends with people of diverse backgrounds, people who don't condition getting to know me on whether I have advanced degrees or a wealth of publications. The

SERV. ORG., http://www.adultchildren.org/lit/Laundry_List.php (last visited Mar. 9, 2014).

16. Wray Herbert, *Roots of Self-Sabotage: Seduced by the 'Devil We Know,'* ASS'N FOR PSYCHOL. SCI. (Mar. 9, 2011), <http://www.psychologicalscience.org/index.php/news/full-frontal-psychology/roots-of-self-sabotage-seduced-by-the-devil-we-know.html>.

sense of community helped me define my strong sense of self-worth and vision for humane goals for living and for engaging in my work with a sense of purpose.

Surviving hostile environments does come with a price, but it can also bring gifts of self-knowledge that are empowering. I suppose my overall advice to those in a difficult situation at the start of their careers is to *stay human* and *stay connected* to your inner self and to others who love or care enough about you to support you through everything. Don't shut down your feelings. And from my own experience, I further say this: Know that while bad feelings are real, they are not all of reality and they do not have to dictate your future. Become a witness to those feelings, let them pass through you in the courageous journey of self-discovery, because hanging on to the resentments will only block the energy you need for your work and for your personal and professional growth and empowerment.

II. HAVING THE COURAGE FOR SELF-DISCOVERY AND CHANGE

The questions that Professors González and Harris asked about how and why some women have not succeeded, or if they have succeeded have kept silent, or have gone on to be just as abusive to others, were extremely difficult to read. Those questions are about asking ourselves: What are we not telling each other? What is the pain we are holding within and how can we open that door and find the lessons that can and must be shared with the next generations? We should not perpetuate the harm with our silence. The questions reminded me of Gloria Anzaldúa's book *Borderlands/La Frontera* where she wrote about confronting the Serpent.¹⁷ Anzaldúa encouraged the journey of self-discovery, a surrender to confront that which "tears the fabric of our everyday mode of consciousness and that thrusts us into a less literal and more psychic sense of reality . . ." ¹⁸ When we confront the fears, when we do what may initially terrify us (teaching, writing our first publications) we actually sharpen our senses. Anzaldúa said: "Fear develops the proximity sense aspect of *la facultad* [sensing, knowing] . . . [The] shift in perception deepens the way we see concrete objects and people . . ." ¹⁹

When I look back at the period when I saw my dreams for a career dissolving before my very eyes, when I understood that I had no sense whatsoever of how to manage academic politics, I knew and felt fear. I wanted to run from myself. I was tempted to abuse alcohol, but I did not. I was tempted to throw myself into activities that would allow me to not think about the next steps in my career. I had to directly confront all of the self-sabotaging ways of thinking and behaving that might have kept me from continuing to nurture and

17. ANZALDÚA, *supra* note 13.

18. *Id.* at 61.

19. *Id.*

express my creativity and my desire to use my talents for good in the world. I had to pierce through my denial in order to convince myself that somehow everything would just work itself out without too much effort on my part. Denial in people who have to work hard, like law professors, can easily turn us into workaholics. Workaholics who are also perfectionists make for a deadly combination.²⁰

The questions Professor González and Professor Harris posed pertaining to the health consequences of our struggles for inclusion in the academy were especially difficult to answer. So many of us who have been challenged as women/of color in the academy have indeed paid the price for success with our health. Our intimate partners and families may see us disappearing into long hours of writing and research or class prep, and sit by, helpless to stop our maddening driven pace. On the road to my decision to resign from the politics of tenure at my first academic home, I threw myself into work, work, work. And it still did not help me. The overwork affected my health. The year I confronted the greatest resistance to my tenure candidacy, my doctor told me, "You really should have these fibroid tumors removed now." It was the late fall. I said, "No, I can't." I made the job more important than my health. I postponed the surgery and scheduled it for the first day available after the official end to the semester. Meanwhile, I was prescribed hormones to help at least reduce the size of the fibroid tumors that were sucking the blood out of me and making me severely anemic.

By making that choice, one against my best interest in terms of health, I sabotaged my ability to do my best in the classroom, which showed up in the evaluations for my larger class. The medication was powerful; the exhaustion I felt was reflected in my classroom performance. It has not been easy recognizing that there were some things I probably had some control over. Again, this does not in any way excuse the disrespect with which I was treated, or the behavior of colleagues that was unsupportive of my development or progress as a new teacher. Beware of going into denial; beware of letting your fear of the resisters sabotage your basic right to be healthy and free.

I had another opportunity to learn the lesson of self-care in 2008 when, after a campus shooting at Northern Illinois University left six people dead and many more injured,²¹ I turned once again to unhealthy coping skills to deal with the crisis and stress visited upon the whole campus and I ignored the messages from my body to take care. I picked up a viral flu that attacked my pancreas and I became a full-blown diabetic. How's that for a lesson? Yes, there is illness connected to our failure to take care of ourselves. So if you are facing the

20. It is part of the affliction of the ACOA to struggle with perfectionism. Author Melody Beattie writes wisely: "Messages of perfectionism are tricks because we can never achieve their goal." MELODY BEATTIE, *THE LANGUAGE OF LETTING GO* 175 (1990).

21. *6 Shot Dead, Including Gunman, at Northern Illinois University*, CNN (Feb. 14, 2008, 11:03 PM), <http://www.cnn.com/2008/US/02/14/university.shooting>.

challenges of a tenure process, remember this—workaholism and perfectionism are a deadly combination. Along with the basic stress that accompanies our jobs, there are other forms of stress that do cause illness.²²

It is ironic to be asked, “Was there a time when you wanted to quit?” I did quit the battle of the tenure track. But after consulting with a lawyer, I negotiated a temporary change in status from assistant professor to senior lecturer so I never quit law teaching or writing. Probably the biggest boost to my bouncing back and deciding to stay in law teaching was finding a community of scholars with whom I could connect about my work and my interests. I remain forever grateful to the critical and progressive scholars I stay connected to through LatCrit²³ and the Society of American Law Teachers (SALT).²⁴ Some of those friendships that support us can be with law professors who teach at other institutions. I am immensely grateful that destiny put those friendships in my path.

Another good fortune for me was meeting my spouse and life partner during these troubled years. She was wise to the clever and nefarious ways of the “scoundrels,” the colorful group of Texas politicians who comprised the state legislature, because she had been a lobbyist in Texas for many years. She saw through the politics of my situation immediately and told me that the scoundrels on my Promotions and Tenure Committee would just keep moving the target so that I could never reach it. It was an old political trick, used by people who had decided they were going to deny you what you were after, and would just keep redefining the rules and changing the game until they made it impossible for you to play. That is exactly what my committee was doing. At that point I could see the writing on the wall, so I resigned from the tenure track and did my best to move on, thus saving my future career.

22. Considerable research exists on the nature and impact of stress on physical and mental health, whether from single traumatic events or from long term and ongoing forms of stress related to one's work and life responsibilities. For definitions and voluminous citations to the scholarly research in the field of psychology, see generally Joseph A. Boscarino, *Posttraumatic Stress Disorder and Physical Illness: Results from Clinical and Epidemiologic Studies*, 1032 ANNALS N.Y. ACAD. SCI. 141 (2004); see also DONALD MEICHENBAUM, STRESS INOCULATION TRAINING (Arnold P. Goldstein et al. eds., 1985). For examples of narratives and analysis of how racism and sexism intersect to produce an emotionally challenging and stressful environment for women of color law professors, see Paulette M. Caldwell, *A Hair Piece, Perspectives on the Intersection of Race and Gender*, 1991 DUKE L.J. 365 (1991); or the acclaimed legal memoir PATRICIA J. WILLIAMS, *THE ALCHEMY OF RACE AND RIGHTS* (1991). For more recent reflections on the continuing challenges faced by law professors whose sex, race, ethnicity, sexuality, or gender identity stands out uneasily amidst the professional and social expectations of a white-male-hetero-normative workplace, see Robert S. Chang & Adrienne D. Davis, *Making Up Is Hard to Do: Race/Gender/Sexual Orientation in the Law School Classroom*, 33 HARV. J.L. & GENDER 1 (2010); and responses by Darren Rosenblum, *A Little More Mascara: Response to Making Up Is Hard to Do*, 33 HARV. J.L. & GENDER 59 (2010); Dean Spade, *Be Professional!*, 33 HARV. J.L. & GENDER 71 (2010); Adele M. Morrison, *Straightening Up: Black Women Law Professors, Interracial Relationships, and Academic Fit(ting) in*, 33 HARV. J.L. & GENDER 85 (2010) (responding by introducing the concept of “straightening”).

23. LATCRIT, <http://www.latcrit.org> (last visited Mar. 9, 2014).

24. SOC'Y AM. L. TCHRS., <http://www.saltlaw.org> (last visited Mar. 9, 2014).

Professor González and Professor Harris asked for commentary on the reality that among those who survive there may be persons who bury the pain so much that they turn around and hurt others. As research now confirms, abuse is a learned experience and victims of abuse have the potential for becoming abusers themselves.²⁵ That may be the case for women who bury their hurts, finally succeed, and instead of reaching out to mentor junior faculty, turn around and pass on the same misery to the next generations. Or they won't speak up on behalf of those who are getting unnecessary heat from senior colleagues about their teaching style, their writing agenda, the timing of their applications for promotion, their service, and so on. Sad, and likely, very true.

It took me a long time to let go of the hurt from a certain older female professor who was never going to try to interact with me. In her eyes, I didn't merit inclusion. In her eyes, I truly was an inferior species. Maybe how she ended up being on our faculty revealed some of why she was not an advocate for a new, different, and vulnerable junior female member of the faculty. The story was that the faculty did not hire her with open arms. Another department really wanted her husband and she was part of the package deal. So a long time ago another group of male colleagues, who, in her time, were 99 percent of the faculty, either did not welcome her or made her feel less than them. To reach out to another female professor would mean facing the deep, old hurts. Some people do not have that kind of courage. Therefore, yes, sometimes the cycle of abuse is perpetrated by those who were once hurt by the masculine power systems that continue to define the rules and expectations for succeeding in the legal academy.

Speaking our truth is an act of courage. Only when we stand naked in our truth can we move forward to joy. I am thinking here of the painful truths we heard throughout the opening and closing panels of the *Presumed Incompetent* Symposium. I could sympathize because I knew the panelists' pain even if the circumstances were different. I knew their stories because they felt too familiar.

In 1996, I opened up for the first time about my own story at the first LatCrit conference in La Jolla, California. It was just a few months after I had signed a letter to the Dean of the law school confirming my resignation from the tenure track. My talk was healing and empowering; and the response was amazing and supportive.²⁶ At that conference, I formed connections that helped me find another academic home. It was a turning point that moved me toward a much more lively and real engagement with my scholarship. Because of the

25. The groundbreaking work of Dr. Walker on the cycles of abuse in the domestic battering relationship laid the foundation for exploring the intergenerational aspects of learned abuse and victimization. See LENORE E. A. WALKER, *THE BATTERED WOMAN SYNDROME* (3d ed. 2009); see also DONALD G. DUTTON & SUSAN K. GOLANT, *THE BATTERER: A PSYCHOLOGICAL PROFILE* (1995).

26. The essence of that talk is in Elvia R. Arriola, *Welcoming the Outsider to an Outsiders' Conference: Law and the Multiplicities of Self*, 2 HARV. LATINO L. REV. 397 (1997).

honesty with which I had described the experience of discrimination, I could move on to research projects where I could engage my mind and my heart. I talked about closing the door for a career path at a particular institution but I opened up the door to a fulfilling way of doing my job, even if it was going to be at a school that didn't have the money, prestige, or ranking of my former employer. I was nervous and afraid, but I did it anyway. The gifts from the exposure of my deepest hurt put me on the path to a sharpness of insight, intellectual curiosity, and scholarly passion. I am currently working on a book project that originated in the period immediately following my first engagement with what became the LatCrit scholarship movement.²⁷ This is why I encourage junior faculty to keep sharing their experiences in safe spaces. The sharing of how we have been hurt, confused, and challenged keeps us sane and moving forward. I never expected that I would be asked repeatedly to tell my story. At times I wanted the invitations to stop. But now, I know it is part of my journey to share the story. The culture of silence is a death sentence, a lesson many progressives and activists learned in the 1980s amidst the efforts to break the silence about AIDS in communities of color.²⁸ To identify the wrongness of an issue and to work through our fears and speak, even while we are trembling in our suits and heels, is part of our work. If we are silent, the institutional misconduct will only continue.

I absolutely do not believe the presumption of incompetence has diminished. I had a disturbing realization of this when I recently served on the Promotions and Tenure Committee at my institution. I witnessed behavior on the part of fellow committee members that shocked me. I often wondered, "Am I really hearing this?" Countless times I wanted to run out of meetings, or shake someone's shoulders and say to them: "Stop! Do you not see how your words are coming across?" Evaluations in the context of promotions are rife with subjectivity, especially for an institution that is demanding objectivity. But what is objectivity? And how do we achieve objectivity within institutions that aren't even aware of how the system they have created is premised upon definitions of success created by white men in power? After some weeks in the process I realized that I was probably witnessing an example of the ugliness that had surrounded the fights over my own tenure candidacy in 1995 in which the progressives on the committee lost. In time I understood I was on another life course, a final chapter in my own healing, one that made me realize how cunning

27. See Elvia R. Arriola, *LatCrit Theory, International Human Rights, Popular Culture, and the Faces of Despair in INS Raids*, 28 U. MIAMI INTER-AM. L. REV. 245 (1997).

28. See Gerald A. Gerash, *Silence Equals Death!*, THE BODY (Summer 2011), <http://www.thebody.com/content/62518/silence-equals-death.html> (explaining the history of the phrase "Silence Equals Death," and arguing for its revival in light of the lack of funding for HIV/AIDS research). See generally Margaret E. Montoya, *Silence and Silencing: Their Centripetal and Centrifugal Forces in Legal Communication, Pedagogy and Discourse*, 33 U. MICH. J.L. REFORM (2000) (discussing silence in legal discourse as a mechanism for racial control).

and powerful and enduring the societal illnesses of unconscious racism and white privilege are.²⁹ A lesson that told me, "Don't forget." Did I want to run again? Of course I did. But if we do not stay, we betray our supposed values; we surrender to systems perpetuated by small minds, enormous egos, and politics that are mean, vindictive, and crush the hopes and dreams of others.

Senior faculty members need to commit to the task of mentoring junior faculty. The work we do on personnel committees can be thankless and grueling. On the other hand, I have more often felt gratitude from those junior colleagues I've been able to mentor. My work with them helps me stay out of the disabling emotions of anger and resentment because we all need each other. The junior faculty with whom I have been able to share my experience, strengths, and hope for their own promising futures make me feel incredibly grateful for what I was able to achieve despite the big hurts I experienced at my first job.

Pondering the questions pertaining to infighting, posed by Professor González and Harris, saddened me. I think about how hard we had to work on last year's Promotions and Tenure Committee and about how alone I often felt, as the lone woman/of color and now as the lone senior female full professor on my faculty. I often had a very difficult time making my voice heard. One time, when I challenged a colleague, he played the victim and acted as if I had personally attacked him because I dared to ask him to reconsider his views on a particular promotions file. When I walked out of those meetings, exhausted and frustrated, I understood the importance of increasing our numbers. I need friends. I need to see other women/of color who are examples of power, clarity, and balance in positions of authority. I don't want to be in the tiny minority of women who get to the top. It is too damn cold up here.

Infighting happens when people don't see each other as allies, working for a common goal. But I know from my experience that solidarity has to be taught. We have to teach each other the difference between trying to rescue someone who is struggling and supporting them in their own journey toward empowerment. I have learned these lessons from the activists I have met, the working women whose stories I am using in the book I am writing.³⁰ They have difficult lives, and they sometimes experience periods of such incredible stress from the blacklisting of troublemakers or the loss of jobs, or from losing battles to democratize their unions, that it leads to bitter infighting. It often seems like

29. See STEPHANIE M. WILDMAN, *PRIVILEGE REVEALED: HOW INVISIBLE PREFERENCE UNDERMINES AMERICA* (1996); Charles R. Lawrence III, *The Id, The Ego and Equal Protection: Reckoning with Unconscious Racism*, 39 *STAN. L. REV.* 317 (1987).

30. My book project, *THE SACRIFICIAL FEMALE BODY: HOW NAFTA BETRAYED WOMEN AT THE MEXICAN BORDER* (forthcoming), expands upon my previous works that were inspired by my participation in *LatCrit.*: Elvia R. Arriola, *Voices from the Barbed Wires of Despair: Women in the Maquiladoras, Latina Critical Legal Theory, and Gender at the U.S.-Mexico Border*, 49 *DEPAUL L. REV.* 729 (2000) and Elvia R. Arriola, *Accountability for Murder in the Maquiladoras: Linking Corporate Indifference to Gender Violence at the U.S.-Mexico Border*, 5 *SEATTLE J. SOC. JUST.* 603 (2007).

too much to handle because they are barely surviving on miserly wages and their employers are huge multinational corporations that don't think of them as human. But they work on staying connected even when they are tired and when petty jealousies arise.

We still have lots of work to do in truly creating communities of support and empowerment. There are places where one can practice forging stronger support systems. SALT became a place where I could find sustenance. Although it is hard volunteer work, it is so worth it to have professional connections with real people who care about good causes. These professional communities can be the joyful part of doing our work as law professors, especially if we are interested in social justice agendas. I do hope that the connections we began to make at the *Presumed Incompetent* Symposium in Berkeley can lay the foundation for a social network of empowerment for years to come.

III. ENVISIONING A FUTURE WITH HOPE AND CHALLENGES

Undoubtedly, there are challenges going forward. For example, pay equity remains a significant problem and one that poses extreme challenges. Throughout the profession, the consequences of the latest economic crisis have yet to be remedied.³¹ The academy was, and remains, very hierarchical and divisions based on gender and race persist. At my own institution, for example, I recently discovered that there are shocking differences in pay on the basis of sex and race between professors supposedly holding the same rank. This is just wrong. But taking action to produce needed change requires time, money, analysis, and even lawyers. And sometimes we have to choose our battles. Throughout higher education, especially at state universities, there is a growing perception that there is not enough money to support education. This perception is based on a lack of political will to change our economy, which sacrifices living wages and domestic industries to the pressures of corporate globalization. Society is witnessing those pressures as education gets turned into a commodity or service, subject to the demands of the market, rather than a public right for all citizens.³²

My closing words return to my first-listed advice. Knowing what I know today, I would do a better job about learning the gentle politics of forming internal alliances. On the other hand, the painful experiences that led me to

31. In 2012, a class action lawsuit brought by female faculty at a state university who claimed systemic unequal pay and benefits based solely on sex discrimination resulted in a multi-million dollar settlement after ten years of litigation. See Kelly Heyboer, *Female UMDNJ Professors Settle with School for \$4.65M in Sex-Discrimination Lawsuit*, STAR-LEDGER, Dec. 7, 2012, http://www.nj.com/news/index.ssf/2012/12/female_umdnj_professors_awarde.html.

32. See Johnson Muchunguzi Ishengoma, *The Myths and Realities of Higher Education Globalization: A View from the Southern Hemisphere*, ESCOTET, <http://escotet.org/in-focus/open-forum/the-myths-and-realities-of-higher-education-globalization-a-view-from-the-southern-hemisphere> (last visited Apr. 24, 2014).

resign also moved me forward in personal growth. Maybe I needed that pain so that I could grow, so that I could come with my open and wounded heart to the first LatCrit, so that I could leave there feeling as if I'd just found myself—a strong Latina Lesbian who only wanted to combine my given talents with doing a little good in the world.

When I started writing this essay I had two strong feelings. One had to do with age. I am utterly surprised that it has been over twenty years since I entered the teaching part of my legal career and that I am now a senior professor, on the other side of the tenure battles. The other was a strong feeling of urgency to become more politically active. I am profoundly aware that the battles with white male supremacist values, the attitudes and the assumptions that want to keep us out of the profession in greater numbers, are just not over. We are witnessing a societal backlash that may hurt progressive agendas on behalf of women/of color.

Over the summer of 2013, when I began writing this essay from my home in Austin, Texas, I witnessed the emergence of a powerful, anti-progressive movement, as a group of conservative politicians enacted legislation that shut down most of the state's abortion clinics. The movement to return us to the days before *Roe v. Wade*³³ reeks of misogyny. While the Supreme Court recently announced a constitutional barrier against denying same-sex couples the benefits of the historically gendered institution of marriage,³⁴ the issue is not totally resolved, which means that conservative opposition will be strong. The continuing challenges to affirmative action,³⁵ and the Supreme Court's disappointing decision on voting rights,³⁶ warn us not to be myopic in whatever we are doing to address the status of women/of color in the legal academy. We also need to be in coalition with broader movements to preserve our right to be here and to stay here. I believe we have yet to see the full extent of the political backlash against major progressive agendas. We need to take these cultural shifts seriously. For the vulnerable, untenured teachers in the academy, it signals a time to be wary and careful, and to stay connected to a support system.³⁷ In other

33. 410 U.S. 113 (1973).

34. *See* U.S. v. Windsor, 133 S. Ct. 2675 (2013); *Hollingsworth v. Perry*, 133 S. Ct. 2652 (2013).

35. *Fisher v. Univ. of Texas at Austin*, 133 S. Ct. 2411 (2013) (vacating and remanding the case on the question of whether the admissions program which uses race as one of many factors is narrowly tailored to address the need for diversity).

36. *Shelby Cty. v. Holder*, 133 S. Ct. 2612 (2013) (striking down Section 4 of the Voting Rights Act of 1965, which defines the formula for subjecting state and local jurisdictions to the preclearance provisions of Section 5).

37. I have often thought that the rising spirit of anti-progressivism that emerged nationally in 1994 fueled the few conservative members of my faculty in their campaign against my progress on the tenure track. This period was marked by the Republican Party's Contract with America and associated with the sensational rhetoric of Congressional Minority Whip, Newt Gingrich. In this same period, the movement to abolish affirmative action found many of its self-appointed leaders at the University of Texas at Austin's law school and supporters of the plaintiffs who directly challenged affirmative action in admissions in *Hopwood v.*

words: Be Aware.

We, who were lucky enough to be in the first generation that survived, cannot abandon those who have followed. We need to make our experiences available not only as warnings that masculinist values are as strong as ever in the legal profession, but also as examples of strength and hope. Yes, there is often pain in telling our stories, in reliving moments when we felt the deep hurt of rejection. But narratives are part of the needed social change and part of the healing process for those who have been deeply wounded psychologically and spiritually.³⁸ Because we, as women of color, represent a subset of the different voices historically silenced or not heard,³⁹ it is even more important that we listen to each other so that our narratives can serve as resources for creating and strengthening the bridges so essential to our success in our professions, our communities, and our personal lives.

I end with a note of gratitude, again, to the courageous editors and to the organizers of the *Presumed Incompetent* Symposium. The journey from the difficult experiences surrounding my first job as an assistant professor ultimately led me to where I am today: willing to be a mentor, willing to speak up and encourage junior faculty. To them, I say, do not give up on your dreams to teach and to write. As my favorite inspirational writer, Julia Cameron, said: "Give of yourself to those activities that light you up. The world needs your vision, your light, your voice. Your creativity and inspiration await you."⁴⁰

Texas, 78 F.3d 932 (5th Cir. 1996). In retrospect, I eventually saw how I represented the worst example of an "affirmative action hire" in the eyes of some of my very own colleagues, likely the 4 percent who had voted against my being offered a job as an assistant professor.

38. See Margaret E. Montoya, *Mascaras, Trenzas y Greñas: Un/Masking the Self While Un/Braiding Latina Stories and Legal Discourse*, HARV. WOMEN'S L.J. 185 (1994).
39. See CAROL GILLIGAN, *IN A DIFFERENT VOICE: PSYCHOLOGICAL THEORY AND WOMEN'S DEVELOPMENT* (1982) (reporting on the view of a specific female/woman's psychological development as applied to moral thought and action).
40. While on sabbatical leave in the fall of 2007, I was lucky enough to receive this message as an enrollee at Julia Cameron's workshop at the Kripalu Center based on her book *The Artist's Way*. See KRIPALU CENTER, <http://kripalu.org> (last visited Mar. 22, 2014).