Teaching Social Justice and Legal Change in Legal Writing

LegalWriting institute

ASU Sandra Day O'Connor College of Law
Arizona State University

LWI One-Day Workshop, December 1, 2022, Hosted by Arizona State University Sandra Day O'Connor College of Law (online)
9 a.m. – 4 p.m. MST (8– 3 PST, 10 – 5 CST, 11 – 6 EST)
Register through www.lwionline.org to receive the Zoom link information

9:00 - 9:15 **Welcome** (Mary Bowman, Arizona State University Sandra Day O'Connor College of Law), **introductions** (participants)

9:15 - 10:30 **Introducing Critical Lenses & Clinical Collaborations**

Melissa Weresh, Drake University Law School, *Balancing Predictive Analysis with Critical Inquiry* (20 mins)

First year law students typically begin their legal writing instruction learning predictive analysis. Our course mirrors the analytical skills students must refine in their doctrinal courses, but in legal analysis and communication the instruction regarding predictive analysis is more transparent. Legal educators are increasingly asking students to engage in a critical inquiry as to who benefits (and who does not) in light of existing doctrine. This presentation addresses how legal educators can balance instruction in predictive analysis in light of existing precedent with instruction asking students to think critically about how some legal doctrine undermines social justice.

Margaret Hahn-Dupont, Northeastern University School of Law, *What We (Don't) Talk About When We Talk About Law: Challenging Majority Perspectives* (20 mins)

Judges are master storytellers, although many would object to being described as such. And their stories are often those suffused with a majoritarian viewpoint, despite the counter-majoritarian role that courts are supposed to occupy. Using various Supreme Court and circuit court opinions (including Bell v. Wolfish (8th Amendment) and Kennedy v. Bremerton School District), I will talk about how greater attention should be paid to the conflicting facts in dissenting opinions and how students can be taught to utilize those facts in their writing to be agents for social justice.

Courtney Beer, Angela Arey, Sara Wolff, Anna Welch, University of Maine School of Law, *Clinical Collaboration: Transferring Legal Writing Skills Into Practice* (20 mins)

> Our 1L legal writing faculty has reflected on how to incorporate additional lawyering skills, realism, and inclusivity into the course's "Preparing for Practice" and client communications lessons. To bring more awareness to client considerations and client-centered communications, LRAC and clinical faculty collaborated on a lesson plan and the clinical faculty facilitates a simulated client consultation exercise with LRAC students as the critical precursor step to writing a post-consultation client letter. We propose presenting this collaboration and discussing additional ways to bring the skills learned in LRAC into practice.

15 minutes Q&A/Discussion

10:30 - 11:20 New Courses, New Audiences Part 1

Mary Bowman, Arizona State University Sandra Day O'Connor College of Law, *1L Foundation & Elective Legal Change* (20 mins)

> I have developed and taught an upper level legal writing class on Creating Legal Change that introduces legislative and regulatory advocacy, ballot measures, and amicus practice. I've also incorporated legal change concepts into my 1L legal writing class. I'm looking forward to describing how what I've done could be adapted to other classes and schools.

Ruth Anne Robbins, Rutgers Law School, *Teaching Legal Writing to a Legislative Audience* (20 mins)

> Legal writing courses focus primarily on judicial or private-party audiences. The tight time constraints most often must leave out legislative and administrative foci. But it's important to know how to write for these law-making audiences. This presentation will discuss a pathway to doing just that. I work with small groups of 2L/3L students, and we choose projects that are likely to have bipartisan support. Willing mentors for this work are everywhere—some of our own students have experience that we can draw upon. There's a space in the legislative world for our work.

10-minute Q&A/Discussion

11:20 - 11:30 Break

11:30 - noon Lunch/Coffee – Eat & Chat

Susan McMahon (Arizona State University Sandra Day O'Connor College of Law) will facilitate a discussion on *Keeping the Momentum Going: Institutionalizing Change Theory within Legal Writing*

> The last few years have seen a wealth of legal writing scholarship on critical theory and rhetoric, social justice, and legal change. To keep this momentum going, we need to create institutions within legal writing that will support and promote this work. This session will ask participants to brainstorm different pathways forward to ensure that these seeds planted within legal writing scholarship continue to grow and bloom.

12:00 - 1:15 p.m. New Courses, New Audiences Part 2

Randall Ryder, University of Minnesota Law School, *Topical Legal Issues as Moot Court Problems* (20 mins)

> How to successfully utilize challenging and topical legal issues in upper-level moot court courses. The presentation will include discussion of recently designed problems at the U of MN Law School, how to consult with relevant stakeholders inside your law school, and coordinating with local legal experts to highlight the importance of topical legal issues.

Regina Lambert Hillman, University of Memphis Cecil C. Humphries School of Law, *Gender & the Law: Combining my Scholarship Focus on the Progression of LGBTQ+ Legal Rights with my Academic Focus on Legal Writing* (20 mins)

> My presentation will focus on my inaugural Spring 2023 legal writing seminar. Gender & the Law addresses the evolution of LGBTQ+ legal rights by exploring constitutional issues, federal statutory protections, and current/future legal challenges. As future leaders, students will explore how to positively impact social/legal issues and the professionalism required when addressing conflicting opinions and beliefs. Students will complete a 25-30 page in-depth research project on a class-related topic to satisfy Memphis Law's Advanced Writing Requirement, ultimately improving research and writing skills while gaining an understanding of this dynamic, rapidly-evolving area of law.

Kim Holst & Mary Bowman, Arizona State University Sandra Day O'Connor College of Law, *Reading Seminars: A Format Fit for Conversations* (20 mins)

> Reading Seminars are a class format that is well-structured for thoughtful conversation about important issues. This presentation will discuss the format and its benefits.

15 minutes Q&A/Discussion

1:15 - 1:25 Break

1:25 - 2:40 pm Other Teaching Ideas to Integrate Social Justice

Joy Herr-Cardillo, University of Arizona James E. Rogers College of Law, *Using Companion Peer Review Exercises to Introduce Students To Timely (and Controversial) Issues in the Law* (20 mins)

> In my presentation, I would share how I use a series of peer review exercises that I have created over the past several years to reinforce the concepts we are teaching in the classroom but in the context of social justice legal issues that are currently being debated in the legal community. For example, I have had my students complete writing and review assignments where they are asked to reflect on the future of stare decisis in light of Dobbs, discuss the pros and cons of Supreme Court reform, or draft a legal discussion that demonstrates how qualified immunity can prevent police accountability.

Claire Robinson May, Cleveland State University, Cleveland-Marshall College of Law, *Law, Inequality, and Everyday Life: A New Course for Justice-Seeking Law Students* (20 mins)

> Law students ask, "Why aren't we talking about what's going on right now?" Most of their classes seem disconnected from current events and long simmering issues. Yet many of today's law students desire to work for justice in their legal careers. This presentation introduces a new advanced level writing course, Law, Inequality, and Everyday Life, that seeks to engage students with inequalities experienced by marginalized individuals in their daily lives. Attendees will learn about a pedagogy drawn from both legal writing and creative writing practices, as well as suggested literary non-fiction and scholarly texts, and flexibility in writing assignments.

Danielle Tully, Brooklyn Law School, *Transformative Legal Analysis: De(constructing) Facts* (20 mins)

> How we teach is as important as what we teach. The Langdellian model systematized the law, flattening it into the pages of bound books. But law, its practice and evolution, is messy. Law is human. "Reading" a legal source requires complex decoding skills. And applying the law is no less complex. This presentation provides one approach to situating law within its socio-historic context. Through collaborative case development and fact "finding" students experience law as contingent and situational.

15 minutes Q&A/Discussion

2:45 - 3:35 pm Racial Justice and Law Schools

Jennifer Cooper, University of Denver Sturm College of Law, *Teaching Race-Conscious Problems in Legal Writing* (20 minutes)

> Teaching Race-Conscious Problems in LRW. In the Spring, I use real cases from Washington state where I was a public defender for many years. I use race-based materials to simulate real practice requiring students to engage in race-conscious thinking, storytelling, and analysis. I previously used a Pretrial Identification issue where race - skin tone, racial bias, and colorism - were central themes. I am currently developing a Fourth Amendment issue centering on implicit bias in policing and reasonable suspicion. This presentation will discuss realistic race-conscious materials and preparing students for race-based discussions through community partnerships.

Maureen Johnson, University of Connecticut School of Law, *Rebranding Affirmative Action: How Law Schools Can Use Their Platforms to Promote Diversity, Regardless of the Outcome in the Pending UNC and Harvard Admissions Cases* (20 minutes)

> Imagine a world where the demographics in a classroom match the demographics of the population at large. Institutions of higher education long have worked toward achieving that goal, only to be stymied by Supreme Court decisions log-jamming the Fourteenth Amendment's equality mandate. "Affirmative action" is not "reverse discrimination." Diversity admission policies permit universities to draw from a wide range of demographics, such as geographic origins, undergraduate majors, and participation in sports or a debate team. Doesn't taking racial demographics out of the equation constitute discrimination based on race? At UConn, we're empowering students to make that case to the world.

10 minutes Q&A/Discussion

3:35 pm - 4:00 -   Sarah Ricks, Rutgers Law School - wrap-up, closing comments by all conference participants, networking