Chapter Fifteen

Reflecting on the Habits: Teaching about Identity, Culture, Language, and Difference

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Introduction

Fifteen years ago, in our Habits of Cross-Cultural Lawyering,¹ we began a conversation about what clinical law students needed to know about lawyering across difference to provide excellent representation to their current and future clients and to address injustice in the legal system. This Chapter extends that conversation by updating what we know about teaching the Habits and adds a new tool, Doubting and Believing, to the repertoire of cross-cultural lawyering.

In Part One, we reflect upon our teaching the Habits, by first briefly reviewing the Habits, and then illustrating ways we teach and employ them in supervision, rounds, and seminar. In Part Two, we extend the Habits, by identifying an additional approach for surfacing assumptions in the lawyer/client relationship: the Doubting and Believing scale. We illustrate how the Doubting and Believing scale can be used to develop insight into a lawyer’s assumptions about a case or matter. We also show how lawyers can use the scale in their practice to employ an intentional process of belief and doubt that helps them think beyond their assumptions, an especially necessary ability when working across cultures.

In Chapter Sixteen, Talking About Race, we focus on a more specific teaching challenge. As successful as the Habits are, they do not move us forward enough. Because they rely primarily on reflection on experience for learning, they focus on improving relationships with an individual client and reducing bias in an individual practitioner. Yet our students enter a profession where poor clients continue to experience unequal, unfair treatment by under-critiqued systems. In our reflections on the Habits, we have become convinced that our students need additional study and approaches to confront these remaining inequities and acquire the skills to do so as they enter practice.

Our years working with the Habits and talking with other colleagues convince us that the Habits do work to build awareness and skills for working cross-culturally. Indeed, they form a base from which the racial justice work set out in Chapter Sixteen can occur. The Habits work because they create: 1) a practice of self-awareness and self-improvement, day-to-day, in cross-cultural lawyering interactions and 2) a common vocabulary for discussion of this practice with others in individual, group, and classroom settings. The Habits initiate and entrench life patterns for a professional life, in which professionals and
Moving Ahead: Methodological Belief, Methodological Doubt, and the Doubting/Believing Scale

This section offers another practice which, like the Habits, offers concrete and revealing ways for the practitioner and the clinical law student to observe their thought processes in practice and surface assumptions, particularly about race, gender, sexuality, and other forms of difference that affect their day-to-day lawyering.

This additional practice offers lawyers ways both to reflect more on their patterns of doubting and believing, as they currently manifest in daily work, and also to make conscious adjustments of those patterns of doubting and believing in service of better self-understanding and greater transparency with collaborators and clients. The practice rejects the idea that doubt and belief in any given context is a fixed, unchanging, and unmovable part of the lawyer’s mind, and invites a playful investigation and tinkering with doubt and belief in many daily life contexts. By asking the doubting mind to believe, or the believing mind to doubt, the lawyer can identify assumptions which might be contributing to doubt and belief, as well as expanding her understanding of those who assess credibility differently than she does. By suggesting that at all times, we can find ourselves assessing experiences, data, or behavior on a Doubting/Believing Scale, we can name and observe in the foreground what has often been hidden: the ways in which we credit and discount the thousands of experiences and inputs of our days, and the ways in which bias may contribute to those crediting or discounting conclusions.

These ideas have evolved in conversations with two other close collaborators. Jean was first introduced to the concepts of Methodological Belief and Methodological Doubt, phrases coined by writer and English teacher Peter Elbow, by her collaborator, Mark Weisberg, with whom she has worked on presentations and retreats and, has published a book for teachers reflecting on their teaching. Jean and Mark have published related materials in their book and another article, *Experiments in Listening.* Jean began using the Doubting/Believing Scale, described below, in her clinical teaching with her students representing refugee and child clients, and, in weekly conversations, Jean and Sue regularly began to incorporate some of these ideas into their presentations relating to the Habits. In 2007, Jean, Sue, and our colleague, Munee Ahmad, presented Methodological Doubt and Methodological Belief at a plenary session entitled “Teaching Our Students to Challenge Assumptions: Six Practices for Surfacing and Exploring Assumptions, and Designing Action” at the annual AALS Conference on Clinical Legal Education held in New Orleans, Louisiana. Sue and Munee have continued to present these ideas at other Clinical Legal Education venues since 2007; Jean has also presented them to asylum, refugee and international operations officers and supervisors in the Department of Homeland Security.

This section introduces both 1) Elbow’s concepts of Methodological Doubt and Methodological Belief, along with 2) the Doubting/Believing Scale. Throughout our discussion, we will refer to the general practice of using either or both of these two framings as “Doubting and Believing.” The section then discusses the specific connection of doubt and belief to cross-cultural lawyering and briefly outlines various teaching contexts in which we have used these doubting and believing concepts. Before concluding, this section briefly ponders the relationship between Doubting and Believing and the Five Habits.
A. Elbow’s Concepts of Methodological Doubt and Belief

In his essay entitled “Methodological Doubting and Believing: Contraries in Inquiry” in *Embracing Contraries: Explorations in Learning and Teaching*, Elbow provocatively asks: “How shall we describe the mental activity that permits us while operating alone to see that we are wrong and come to a new and better conclusion?” He argues that “we can improve our understanding of careful thinking or reasoned inquiry (and therefore improve our practice) if we see it as involving two central ingredients: what I am calling methodological doubt and methodological belief.”

Elbow defines Methodological Doubt as the “systematic, disciplined, and conscious attempt to criticize everything no matter how compelling it might seem — to find flaws or contradictions we might otherwise miss.” But this intellectual work also “helps explain the tendency toward critical warfare in the intellectual and academic world — the fact that intellectuals often find it surprisingly difficult simply to hear and understand positions they disagree with.” Thus, Methodological Doubt is “only half of what we need.” For “thinking is not trustworthy unless it also includes methodological belief: the … systematic, disciplined, and conscious attempt to believe everything no matter how unlikely or repellent it might seem — to find virtues or strengths we might otherwise miss.” These are both “methods, [because] they help us see what we would miss if we only used our minds naturally or spontaneously.”

Because Methodological Doubt pervades the intellectual life, Elbow, as we will do, focuses more on Methodological Belief. “Indeed I cannot resist sometimes arguing against methodological doubt.” Elbow regrets that “[w]e tend to assume that the ability to criticize a claim we disagree with counts as more serious intellectual work than the ability to enter into it and temporarily assent.” Methodological Belief is a process in which “we are not trying to construct or defend an argument but rather to transmit an experience, enlarge a vision.” Methodological Belief “forc[es] us genuinely to enter into unfamiliar or threatening ideas instead of just arguing against them without experiencing them or feeling their force. It thus carries us further in our developmental journey away from mere credulity.” Elbow finds that Methodological Believing safeguards trustworthy knowledge: “A belief is a lens and one of the best ways to test it is to look through it.”

Elbow describes “the believing game” as “the disciplined procedure of not just listening but also actually trying to believe any view or hypothesis that a participant seriously wants to advance.” Elbow proposes that a group adopt a “five minute rule” in which “[a] group can simply agree that whenever any participant feels that some idea or view is not getting a fair hearing, she can invoke the rule: for five minutes no criticism of the idea is permitted, and everyone should try to believe it.” Elbow suggests three questions are useful in the believing game:

- What’s interesting or helpful about the view? What are some intriguing features that others might not have noticed?
- What would you notice if you believe this view? If it were true?
- In what sense or under what conditions might this idea be true?
B. The Doubting and Believing Scale

Along with Mark Weisberg, Jean has described a “Doubting and Believing Scale” in teaching and writing about teaching and listening. In Jean and Mark’s earlier article, they proposed to move from Elbow’s binary approach juxtaposing Methodological Doubt and Methodological Belief to a scale called the Doubting and Believing Scale. This is related to, but conceptually distinct in important ways from, Elbow’s methodology. Related to the same core ideas of doubting and believing, it, for now, abandons Elbow’s methodology and creates poles, instead, of “pure doubt” and “pure belief,” as they may appear in the world. While Elbow proposes that a purely doubting stance be adopted as a methodology in certain learning and discussion contexts, the Doubting and Believing Scale can also be used to track actual experienced doubt and belief, with some level of nuance. While the content of both “methodological” and “pure” doubt are the same, the Doubting and Believing Scale can be used to track doubt and belief as they occur in the world, especially retrospectively. Here is the scale, and then a few examples:

<table>
<thead>
<tr>
<th>Complete/Pure Belief</th>
<th>Complete/Pure Doubt</th>
</tr>
</thead>
<tbody>
<tr>
<td>If you prefer, you can add units of belief to the scale:</td>
<td></td>
</tr>
<tr>
<td>100</td>
<td>0</td>
</tr>
</tbody>
</table>

Think about your own life experience: When do you encounter pure doubt and pure belief in your life? Which do you encounter more often? Here are some examples of pure belief, gathered in our conversations and presentations:

- sympathetic conversations with a grandparent;
- listening on a crisis hotline;
- listening by a therapist;
- early lawyer-client or doctor-patient interviews;
- a student attempting to learn a brand new theory or material from a teacher;
- a friend listening to another friend in a time of utter distress;
- listening to an expert consultant like an accountant, financial planner, etc.

And examples of pure doubt:

- law teaching through the Socratic method;
- teachers listening to colleagues at a workshop on a paper in progress;
- listening to a politician you do not trust;
- listening to someone with a credibility problem;
- arguing the negative side in a debate tournament;
- when a friend comes and asks you specifically to be a reality tester and asks you to find everything wrong with something they’re thinking or have written;
- cross-examining a witness who is doing you harm.38

Below, we will describe in more detail concrete applications of all of these concepts. But here, the terms “Methodological Doubt” and “Methodological Belief” will be used
in their extreme forms only; for instance, that a teacher conduct a portion of a class requiring Methodological Belief about a new or perhaps provocative idea, brooking during that period no skepticism or critique. The scale is used retroactively or in the moment to track the lawyer’s or law student’s current level of actual belief or doubt, which may be graduated along a continuum, and generally will never be used at the extreme poles. It is also used prospectively or in the moment to choose a mixed level of doubt and belief to experience and/or display, for instance, at a moot event of a client’s testimony or administrative interview.

C. How Do Methodological Doubt and Methodological Belief, and the Doubting and Believing Scale, Relate to Cross-Cultural Lawyering?

Because we are unaccustomed to looking closely at our own patterns of doubting and believing, lawyers may often treat their doubt, belief, and their client’s credibility, as a fixed and objective reality in the world. Methodological Doubt and Belief, and the Doubting and Believing Scale, confront lawyers with the reality that doubt and belief are subjective, part of the lawyer’s inner process, and as such, potentially fraught with assumption and bias. The methods and the scale equip the lawyer to treat doubt and belief as items of reflection retrospectively, objects of choice in the moment, and complementaries to be balanced out in the future, helping lawyers to destabilize bias and patterns of their spontaneous doubting and believing. This matters even more in cross-cultural encounters, where privilege, stereotype, class, and the like can easily shape what narratives we find credible or dubious.

Jean remembers vividly a meeting with a West African asylum client who mentioned, as part of her narrative of captivity, an incident of cannibalism by her captors. Jean’s immediate reaction was doubt and denial — surely this was outlandish, impossible — and she began to wonder about the credibility of her client’s story, both in this detail, and globally. Later that week, the students showed Jean U.S. government reports clearly and extensively documenting cannibalism in the very context described by the client. In retrospect, Jean is sure that her doubt was a shield, protecting her from a world of violence that she was not ready to confront. Left unchecked, that doubt would certainly have jeopardized quality representation for the client, poisoned the lawyer-client relationship, and compounded the client’s isolation and trauma.

One special note on the critical nature of believing, and the balance of doubting and believing, in clinical law teaching: Methodological Doubt closely resembles the default style of academic discourse in many of our law schools, reflecting the value that “rigor” can only be achieved by subjecting ideas to the white-hot fire of aggressive negative scrutiny. Lawyers often argue that the conflict of ideas, and the intensity of hostile cross-examination, is the way to surface the finest, strongest ideas and stories. For clinical law students, this double-barreled endorsement of Methodological Doubt alone risks skewing their entire approach to balanced legal thinking and thorough legal representation. This is particularly insidious, because doubt can also dovetail with our desires to confirm our comfortable views and reject others. In doing so, we would miss the learning that comes from suspending
disbelief and believing an idea, broadening our universe of imagination to include narratives foreign or troubling to our own.

D. Concrete Uses of Methodological Doubt and Belief and the Doubting and Believing Scale in the Law School Clinic

We regularly use these two Doubting/Believing methods with students and clients to monitor and reflect on spontaneous doubt and belief; choosing a mode of doubt and belief during a particular event; and seeking to refine ideas through methodological use of doubt and belief. In general, we play with Doubting and Believing as a child plays with a ball—as many ways as possible, with as much fun as possible. Elbow himself has alternately called Methodological Doubting and Believing the “Doubting and Believing” game and that playfulness is the essence of the practice. Encourage your students to play with doubt and belief on multiple levels: in tracking their own spontaneous reactions; in complementing those tendencies with disciplined undertaking of the side of the scale to which they do not gravitate; in listening; in projecting skepticism or credulity to another; in assessing credibility and gullibility. We have so far explored retrospective, in the moment, and prospective analysis of doubt and belief; systematic attempts at Methodological Belief and Doubt; group engagement in one or the other; individual self-reflection about doubting and believing tendencies. We have also created moods for our clients using the scale. We hope to continue expanding this list to make Doubting and Believing comfortable and quotidian inquiries and modes of conversation in our clinics and practices.

Here are a number of examples of use of these methods in the clinic:

(1) With the Client

Jean has used Doubting and Believing as a thread throughout discussions of client interviewing and mootings. Of course, these same methods can be adapted for other non-client (e.g., witness preparation, collateral party interviewing) contexts.

a. Client Interviewing

Jean introduces the Doubting and Believing scale in the first discussion of client interviewing, which takes place in the first week of the semester, hours or days before the first client meeting. In class discussion, the students ponder where they want to locate themselves on the Doubting/Believing Scale in their first encounters with their clients, on a number of levels. First, how do they externally project themselves to the client when hearing the client’s account of her / his concerns and life experience? Many students conclude that they want to build trust by adopting a believing posture (often around 80%) with their clients, to make sure they fully understand and embrace the client’s narrative.

The students generally agree, also, that this believing posture must be balanced out later in the semester with equally vehement doubting, when mooting for court, asylum interviews, and negotiation takes place. Second, Jean asks the students to reflect on how this highly believing posture compares to what they might characterize as their own personal default tendencies about doubting and believing, in all aspects of their daily life? This reflection and discussion is often helpful for students and teachers in partnership, who can be alerted to the variety of default postures on doubting and believing within
their working group. For groups with diverse defaults, we can identify which of us might be more comfortable and uncomfortable during the highly believing initial phase; we can also be confident that, in our debriefing, a variety of doubting and believing perspectives will be demonstrated, perhaps spontaneously achieving much of the balance Elbow advocates. For groups with common defaults lacking that variety, we can strategize ways to balance out the unopposed doubting or believing, by deploying the Methodological Doubt or Belief, involving complementary others from the firm, or other strategies. A group of believers might make sure a more spontaneous doubter is involved in early decisions; a group of doubters might recruit a default believer onto their email string or early drafts.

Over the course of the representation, Jean and the students return to the scale regularly. After the first couple of meetings, it often makes sense to move to a more central location on the scale, seeking clarification, probing puzzling parts of the story without the default of strong belief. We also discuss the way in which extremely sensitive, traumatic, or dramatic events may require particular care, often more sustained believing over a longer period of time.

b. Mooting

Jean now regularly uses the Doubting/Believing Scale in mooting clients. For instance, in preparation of asylum clients for asylum interviews or court testimony, we regularly moot our clients multiple times, simulating the interview based on our over one hundred previous asylum interview experiences. At the first moot, whenever the client can participate in this decision, Jean offers to act like an officer designed by the client along a number of personality vectors.

We present the Doubting and Believing Scale, along with a number of other scales (cold–warm personality; unfamiliar with their home country–very familiar with their home country; odd social skills–expected social skills; impolite–polite; disrespectful–respectful). Our clients participate readily in defining the kind of simulated official they want to practice in front of. The vast majority of the time the clients request the hardest on every scale, even when we ourselves inform them based on our experience that, in one context, the large majority of adjudicators are relatively polite, respectful, relatively knowledgeable about a country, etc. In general, we honor the client’s choices; often the clients find it interesting to “dial up and down” levels of skepticism, respectfulness, and the like. We sometimes suggest to clients that we do the grueling, heavily doubting and interpersonally very uncomfortable moot that they requested this time, and that a later moot might feature an officer closer to the norm we’ve observed.

For some clients, this transparency of moot design, and even the simulations themselves, can be very confusing. Still, in our experience, nearly all of our clients believe that practicing “what they are going to do on that day” would be helpful, and a similar majority feels relieved after surviving a very negatively judgmental moot. Jean’s clinics regularly incorporate moots before each important stage in a case: filing affidavits and briefs, and of course trial. This leads to a familiar refrain the day of the actual interview, in which Jean’s clients regularly tease her for being “so much harder than the real thing!”
(2) **In the Classroom**

We offer here two ideas for classroom use of Doubting and Believing, and, again, invite readers to refine these concepts for their own classroom use.

**a. Introduction of New Theory**

We have usefully employed Methodological Doubt and Methodological Belief in classroom discussion in the seminar portion of our clinics, in much the way that Elbow originally described in his articulations of this method. Jean’s students, for instance, regularly read Goldstein, Solnit, Goldstein and Freud’s *Best Interests of the Child* book which contains both foundational and deeply provocative views about child placement after state intervention. Asking students who object vehemently to some parts of the framework to engage in Methodological Belief for some portion of the class discussion allows a full understanding of the author’s ideas; the discussion then moves out of Methodological Doubt into a discussion of the students’ spontaneous reactions to and assessment of the ideas. In another context, during the Elian Gonzales controversy involving a young child both applying for asylum and subject to a complex custody dispute between family members, Jean led a class whose explicit purpose was to equip students with as full an understanding as possible of all of the perspectives in this hotly contested and emotional case. This required various students to take on roles and engage for a portion of the class in Methodological Belief of the position they found most repugnant.

In Chapter Sixteen below, we describe the way that Methodological Doubt and Belief can help a class briefly but intensively explore a position strongly held by a few in the group. In the same way, a teacher can use Methodological Doubt and Belief to balance out a class with largely uniform views. The teacher can also use Methodological Belief to focus attention on a particular important view, before taking the class in a different direction.

**b. Case Rounds**

Sue and Elliott Milstein have written about and convened many clinicians to discuss issues related to a staple of the clinical method: case rounds—the case discussion class.41 Chapters Six and Seven discuss rounds in detail. Both Sue and Jean regularly use Doubting and Believing in structuring case rounds. Jean draws the Doubting/Believing Scale on the board before case presentations and asks the students who are presenting case materials, including draft briefs, affidavits, and similar documents, to specify what level of mixed doubt/belief about the merits of the client’s case that they are requesting that their classmates and teachers show during this presentation. For instance, a confident student on the eve of trial may ask for highly pointed doubting, with very little belief; a student presenting her first draft of an affidavit may ask for heavy believing as she seeks fully to inhabit and understand her client’s narrative. At least once, a student changed her request in mid-class; as she sat through her classmate’s presentation and the doubting reaction, she realized that she was not yet ready to subject her initial draft to that level of critique. At the end of another discussion which the presenter wished to be highly doubting, a number of listeners asked to be relieved of their “duty to doubt” so that they could express their spontaneous high level of belief in the claim.

(3) **In Supervision**

Doubting and Believing is also a useful tool in supervision, between student partners, and among all team members during case discussion and planning. Like Parallel Universe
Thinking, it can be undertaken at any time to take conversations out of stuck places, or ruts, when various team members feel entrenched in fixed viewpoints. For instance, a team fielding an array of reactions about a client’s puzzling behavior could engage together, or individually, in Methodological Belief about the client’s explanation for the behavior. Believers on the team could be asked, or ask themselves, to engage in Methodological Doubt concerning the client’s case prospects before planning an action strategy. Making Doubting and Believing a normal, regularly expected part of the supervision conversation allow lawyers to make important decisions only after considering the issue through the balance of Methodological Doubting and Believing. We believe in the clinical context that this further translates into a need to consider important questions and facts along the full range of the Doubting and Believing spectrum.

Openness to, and valuing of, Doubting and Believing can change relationships. For instance, Jean has found one valued interdisciplinary colleague to regularly inhabit complementary parts of the Doubting and Believing spectrum to her. Earlier in the collaboration, this was confusing; they always saw things differently; they never agreed; and it could get frustrating. Now, Jean sees him as a wonderful asset to her clients—one who will often see arguments, pro and con, which she would naturally miss. Knowing that he is a person who will round out her doubting and believing, she seeks out his counsel more and more!

E. How Doubting and Believing Connect to the Other Habits

Doubting and Believing methodologies, like the Habits, include strategies that we suspect thoughtful clinical law teachers have been using in various forms for years. They are independent of the Habits and can be used productively even by teachers who for any reason decline to use the Habits.

They can also function usefully with the Habits. Perhaps, as with the Habits, identifying and isolating Doubting and Believing can allow us to deepen discussion, identify common approaches and techniques, and refine these ideas in conversation with each other. Doubting and Believing analysis practices nonjudgment, by converting doubting and believing experienced by the lawyer into a fact to be observed in the world or into adopted action. Doubting and Believing analysis undercuts the perhaps, inordinate power our natural, unexamined tendencies to doubt or believe may have seemed to wield as judgment, conclusion, or spontaneous and unshakeable truth. Disciplined believing can open possibilities, spark new insights, and assist different perspectives, generating creative ideas for arguing for extension of the law or asking for legal remedies that reflect the client’s deeply held truths. Disciplined believing can also cultivate greater empathy in the lawyer for the client and her situation and move the lawyer closer to the client’s authentic story. The discipline of regularly examining and reflecting on one’s doubting and believing can also keep either extreme doubt or extreme belief in check.

Believing and Doubting pair well with each of the Habits. For instance, in Habit One, a student who finds very little overlap with or commonality with the client’s world should treat his own doubts with some skepticism, recognizing that the client’s largely divergent life experience could easily and wrongly look unmeritorious through the lawyer’s unaccustomed eyes. Similarly, a student who identifies closely with the client should treat his belief in the client with skepticism, aware that he may be invested in crediting a story with so many resonances to his own.
In Habit Two, lawyers representing clients with weak legal claims must understand fully the perspectives of a totally doubting forum; this is a critical complement to a stint of Methodological Belief, in which the lawyer explores deeply claims to extend or alter the law’s view of merit. Habit Three can be enriched by demanding both Doubting and Believing parallel universes in times of minimal information.

Similarly, Habit Four brainstorming, which is so steeped in parallel universe thinking, would benefit from a balanced strategizing about communication; communication styles of the client that provoke negative instinctual responses should be explored with explicitly client-believing parallel universes, and correctives should be brainstormed in that spirit. In Habit Five, a lawyer struggling to think nonjudgmentally about himself after a cross-cultural breakdown can engage in Methodological Belief about his commitment to cross-cultural respect and his attempts to do his best in complex cultural situations, to help generate constructive ideas for bettering his conduct in the future.

Conclusion

We are delighted that the Habits of Cross-Cultural Lawyering continue to help clinical students and teachers explore their own assumptions in their client work and discuss their insights productively together. In addition, the Doubting and Believing Scale and Methodological Doubt/Methodological Belief are practices that we believe many thoughtful and cross-culturally competent practitioners already use in their daily work; we hope our ideas about incorporating exploration of Doubting and Believing will encourage you to play with these ideas daily in your work and develop new ways to employ the scale in service of stronger, less biased cross-cultural work. We continue to invite scholars and practitioners to develop and name other useful practices to help surface assumptions and confront our own bias to continue steady improvement of our professional service and cross-cultural competence. We strongly believe that naming these practices, discussing them, refining them in conversation and use, and making them part of quotidian lawyering remains a key priority for cross-cultural practitioners.

Notes


2. We are each thankful to have had the opportunity to work on these issues with a thoughtful group of colleagues in preparation for the 2010 Clinical Teacher’s Conference. Jean’s work with Ann Shalleck and Sue’s work with Sameer Askar, Tirien Steinbach, Mary Lynch and Margaret Montoya sharpened our thinking about the issues in this chapter. In the plenary at this conference, Margaret Montoya introduced a ladder of inference and Tirien Steinbach introduced an exercise to illustrate what we see and do not see as a metaphor for working with clients. In the small group on critical theory, in the AALS plenary and in her numerous writings, we learned important lessons from Margaret Montoya.
both about the substance of critical race theory and its importance for pursuing racial justice.

3. Well over 300 law review articles about legal education and practice have cited the Habits with several articles talking about how teachers use them in their teaching. We have collected these at the LegalED website where we have gathered our teaching materials on the Habits as well as Talking about the race, the subject of Chapter Sixteen. http://legaledweb.com/practical-lawyering-skills. In addition, two amici curiae in Grutter v. Bollinger, the landmark affirmative action case, cited the Habits and cross-cultural lawyering to demonstrate the importance of diversity in the legal profession. Brief for New Mexico Hispanic Bar Association, et al., as Amici Curiae Supporting Respondents, Grutter v. Bollinger, 539 U.S. 306 (2003) (No. 02-241); Brief for Hilary Browne, et al., as Amici Curiae Supporting Respondents, Grutter v. Bollinger, 539 U.S. 306 (2003) (No. 02-241).


5. We invite you to share your ideas, reactions, and teaching tips about the Habits to us on the Habits website, supra note 5.

6. Introduction, supra note 1; we do not typically assign Sue’s Five Habits law review article because it is written for teachers. Instead, we prefer the Sage Chapter or Jean’s Chapter both of which are written for lawyers.

7. For a description how to use and construct critical incidents see Chapter Four.


9. As we noted there, Bill Hing’s article pointed out that research shows that shared language is even more important that shared culture. Bill Ong Hing, Raising Personal Identification Issues of Class, Race, Ethnicity, Gender, Sexual Orientation, Physical Disability, and Age in Lawyering Classes, 45 STAN. L. REV. 1807 (1993).


11. In Six Practices, supra note 1, we identify narrative inquiry as a way to promote a gathering of a more authentic, client-focused narrative.

12. Listening mindfully is one of the six practices in the Six Practices chapter. Id.


14. See, Chapter Sixteen for a fuller explanation of why and how to teach about bias.


16. LegalEd, supra note 3.


20. Sue and Muneer have continued to present these ideas at other Clinical Legal Education venues since 2007; Jean has also presented them to asylum, refugee and international operations officers and supervisors in the Department of Homeland Security.

21. In an article written for the 2008 New Orleans Conference on College Composition and Communication, Elbow describes how the development of these concepts came from an attempt to justify

22. Embracing Contraries, supra note 17, at 255.
23. Id. at 257.
24. Id.
25. Id. at 257.
26. Id. (emphasis added to "methodological belief").
27. Id. at 258.
28. Id.
29. Id.
30. Id.
31. Id. at 261.
32. Id. at 263.
33. Id. at 283.
34. Id. at 273–76.
35. Id. at 260.
36. Id. at 274.
37. Id. at 274–75.
38. Peters & Weisberg, supra note 18 at 72.
39. See Chapter Sixteen for a discussion of using Belief and Doubt in discussions about race.
40. Clients may have social skills or politesse very differently from us. The scales may send the subtle message that 'doubting' is bad and 'believing' is good, when compared to the other scales. Jean promises in the future, "a more nonjudgmental poles for these other scales."