

# Microaggressions in the Context of Academic Communities

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## Introduction

I first heard the word “microaggression” at the 1987 Critical Legal Studies Conference where the topic was CLS and Problems of Race. The evening before the program began, Richard Delgado circulated a letter saying that one of the things that made it difficult for minorities to participate in CLS was the repeated use of microaggressions. In the letter, he gave a number of examples, one of which stands out in my mind. It was a quotation from an article authored by a prominent member of the critical community. It said:

(Law) teachers are overwhelmingly white, male, and middle class; and most (by no means all) black and women law teachers give the impression of thorough assimilation to that style, or of insecurity and unhappiness.<sup>2</sup>

Richard suggested that we discuss this and the other examples in the small groups before the formal opening of the conference. The discussions that followed were extremely illuminating. Most of the women and minorities in the small groups immediately perceived why these words could be called “microaggressions,” although few of us had a clear idea about what the term meant. On the other hand, almost all of

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<sup>2</sup> Duncan Kennedy, *Legal Education as Training for Hierarchy*, in David Kairys (ed.) *The Politics of Law: A progressive Critique* (Pantheon Books, 1982) at p. 56. See also, “The teacher sets the tone – a white, male middle class tone.” Id.

the white men<sup>3</sup> in the group were dumbfounded. They noted that this comment appeared in the context of an argument for racial and gender parity and that it would be perverse indeed to interpret the statement as racist or sexist.<sup>4</sup> Obviously, the statement was not the kind of hate speech that is frequently associated with these terms. On the other hand, such a statement has a number of negative consequences for women and minorities and these became apparent as the discussion progressed.

In trying to explain why the statement was offensive, we asked the white men: “How would you feel if one of your colleagues publicly described you as insecure and unhappy?” They replied:

**It’s not personal. Don’t take it personally.**

But, it is not hard to see why those of us who were women and minorities would take it personally. At that time, the phrase “black and women law teachers” denoted a small group of individuals who were, because of their race and/or their gender, highly visible to the intended audience. Thus, while those on the privileged side of race and gender distinctions understood the phrase “black and women law teachers” as an abstraction, the rest of us took it personally as identifying a group of individuals of which we were a part. To us, such an “abstraction” not only referred to us directly, it also singled out race and gender – the two characteristics that had made our participation in the community most problematic. Nor did the particular attributes ascribed to us – “insecure” and “unhappy” – have a sympathetic tone. Calling someone insecure and unhappy attributes a subjective state to that person, while at the same time remaining non-committal as to whether the

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<sup>3</sup> In general I dislike using the term “white men,” but there is no more accurate way to describe those who defended the remark. As discussed below, microaggressions have a way of polarizing the community along racial and gender lines.

<sup>4</sup> As we shall see below, the words “racist” and “sexist” add to the confusion about microaggressions.

subjective state is the result of external circumstances. In addition, publicly identifying someone as “insecure and unhappy” is particularly harmful in a community, such as law teaching, where everyone understands that self-assurance and positive energy are crucial to success.

The white males in the group made another response that also deserves attention.

This was the question:

**Are you really saying that no one can comment on the sorry state of women and minorities in law teaching without offending you personally?**

To which the answer seems obvious enough, although perhaps not in the heat of the moment. There are many ways to express the thought that the law school environment is disempowering to women and minorities without calling **us** unhappy and insecure. The point that needs to be made is not something about women and minorities, but about the environment that oppresses us. This is easily said without saying anything personal about us individually or as a group. For example,

- This is a hostile environment for women and minorities.
- Women and minorities report that they experience this community as being hostile to them.<sup>5</sup>
- We don't really create room in this community for women and minorities to talk about the ways in which their experience might be different from our own.

Indeed, if the author had been pressed to describe the problems encountered by women and minorities as problems with the community itself, it might have prompted him to inquire further what it is about the community that makes it so unwelcoming.

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<sup>5</sup> Someone who says this must be careful to consider whether women and minorities actually do report this or whether he is simply putting words in their mouths for his own purposes. Often times a microaggression consists of an attempt by well meaning individuals to speak on behalf of women and minorities when they are in fact present and able to speak for themselves.

The final response also deserves discussion. Some thought that even if the remark was “theoretically” objectionable, they wondered:

**Does it really make any difference?**

This question was asked despite the fact that several people stated that their feelings had been hurt by this characterization. Interestingly, in the discussion, these statements were almost entirely overlooked or treated as irrelevant. In fact, several discussants noted that no harm had been intended in order to show that no harm had resulted. This was not, they argued, hate speech, and indeed it was not. Totally overlooked in this approach, however, was the assaultive nature of the comments themselves. Suppose, for example, in the course of a discussion, I illustrate my point by sweeping my hand within inches of your face. You recoil; you lose concentration; and perhaps you have a sense of physical violation. Nevertheless, no harm is intended; the conduct is not particularly violent; and no physical contact is made. But even so, the gesture itself invades your space and places you at a disadvantage. It is similar with microaggressions. A microaggression may surprise you, stun you, enrage you or even hurt your feelings. Even trivial microaggressions can put you off balance and distract you from the task at hand.

The fact that microaggressions place the subject at a disadvantage is especially harmful because the aggression itself is often invisible to those who witness it. As the CLS discussion showed, a microaggression may pass entirely unnoticed by those in the dominant community. Even those who notice it may say that the recipient should let it go because it was unintended; because it was harmless; or because confronting the issue “plays the race card” – a move viewed by many in the dominant community with such dread that discussions of racial issues are limited to abstract consideration of other

people's practices. Indeed, in ordinary circumstances, one is well advised to ignore microaggressions and let them pass. Because of this, there is little opportunity to think clearly about the meaning of microaggressions and to consider their impact not only upon women and minorities, but also upon the communities in which we live.

My aim in this essay is to begin a different kind of conversation about microaggressions. Much of what has been written about microaggressions has addressed one of two audiences. Those in the first audience – the audience for feminist scholarship and critical race theory – have themselves experienced microaggressions and are eager to share their analysis with one another. The second – largely consisting of those who by virtue of a privileged status rarely experience microaggressions – see the problem of political correctness. They ask to what extent individuals should be required to moderate their speech on account of the sensitivities of other members of the community. This division is understandable given the polarization that I discuss later in the essay. But I believe we can do better. I believe that there are many people who are on the privileged side of microaggressions who would like to learn more. I also believe that people who are not on the privileged side would gain something by hearing from the other side. For these reasons, I am addressing my paper to both audiences recognizing that the possibility that what I am saying will prove irritating to both. Those on the non-privileged side may find my approach insensitive to their injuries, while those who are privileged side may feel that I am making a big deal out of nothing.<sup>6</sup> Because it is so easy to seem wrong to both sides, it is difficult to talk about microaggressions in “mixed” company.

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<sup>6</sup> The people who have read or heard about this essay have fallen into two camps. Those who have been frequent targets of microaggressions have felt that my condemnation of them should be more forceful and those who have not been targets, wonder whether I have not overstated their importance. As I discuss below, part of the harm caused by microaggression is this kind of polarization.

Nevertheless, I think it is extremely important that we do so. The problem of microaggressions is important because most of us still work in semi-integrated (or inadequately integrated) communities. Microaggressions make these communities more stressful than they need be. All of us – not just women and minorities but *all* of us – would live better and work more productively if we could learn to avoid them. In the remainder of this essay, I will discuss three questions:

1. What are microaggressions?
2. Can we learn to avoid them?
3. What kinds of harm do they cause?

It is my hope that an open and frank discussion of these questions will motivate each of us to think about the role microaggressions play in our respective communities and to consider how the harms they cause might be mitigated.

## **1. WHAT ARE MICROAGGRESSIONS?**

Since the conference in 1987, critical race theorists and feminist legal scholars have used the concept of microaggressions to describe the social and verbal cues that make them feel unwelcome in traditional white society. They understand microaggressions as comments or actions that single out an individual as being different from other members of the group by relating that individual to certain negatively valued racial or gender stereotypes. One set of authors puts it this way:

Microaggressions are subtle verbal and non-verbal insults directed toward non-Whites, often done automatically and unconsciously. They are layered insults based on one's race, gender, class, sexuality, language, immigration status, phenotype, accent, or surname.<sup>7</sup>

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<sup>7</sup> Daniel Solorzano, Ph.D., Walter R. Allen, Ph.D., and Grace Carroll, Ph.D.: “Keeping Race in Place: Microaggressions and Campus Racial Climate at the University of California, Berkeley” 12 *Chicano-Latino L. Rev.* 283, Spring 2002

And they give the following examples – “being ignored for service, assumed to be guilty of anything negative, treated as inferior, stared at due to being of color, or singled out in a negative way because of being different.”<sup>8</sup> Most authors recognize that microaggressions can cause substantial injury. For example, Tayyab Mahmud considers them, “affronts to human dignity and self-respect; they are behaviors that impact not only the social existence of the victims but also potentially leave scars on their psyche.”<sup>9</sup>

It is wrong to think of microaggressions as “subtle” forms of racism or sexism. There was, after all, nothing subtle about the racism and sexism reported in the Bell-Delgado survey. Here is an example:

A respondent, the only black woman teaching at a major southern university, reported that many of the law students had never seen a black woman ‘out of uniform’ – outside of domestic service. She said that although she dresses impeccably, visitors to the law school often mistake her for a maid and call spills and messes to her attention.<sup>10</sup>

Such microaggressions are a common ingredient of professional life both for women and for people of color. Their pervasiveness has been well documented in the literature and their effects on women and people of color have been widely discussed.<sup>11</sup> The

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<sup>8</sup> Id.

<sup>9</sup> Tayyab Mahmud: “Citizen and Citizenship Within and Beyond the Nation,” 52 *Clev. St. L. Rev.* 51, 2005.

<sup>10</sup> Richard Delgado and Derrick Bell: “Minority Law Professors’ Lives: the Bell/Delgado Survey” *Harvard Civil Rights-Civil Liberties Law Review*, 24 *Harv. C.R.-C.L. L. Rev.* 349, (1998). Unfortunately this seems to be a common theme. See, e.g. Anita Allen, : “On Being a Role Model” *Berkeley Women’s Law Journal* (“Once an eminent white scholar with whom I was dining suddenly took my chin into his hand to inspect my face. He told me, approvingly, that I resembled his family’s former maid.”)

<sup>11</sup> See, e.g., Leslie G. Espinoza, *Masks and Other Disguises Exposing Legal Academia*, 103 *Harv. L. Rev.* 1878 (1990); Margaret Montoya, *Mascaras, Trenzas, y Grenas: Un/Masking the Self While Un/Braiding Latina Stories and Legal Discourse*, 15 *Chicano-Latino L. Rev.* 1, 25 (1994). Daniel Solorzano, Ph.D., Walter R. Allen, Ph.D., and Grace Carroll, Ph.D.: “Keeping Race in Place: Microaggressions and Campus Racial Climate at the University of California, Berkeley” 23 *Chicano-Latino L. Rev.* 15, Spring 2002; Tayyab Mahmud: “Citizen and Citizenship Within and Beyond the Nation,” 52 *Clev. St. L. Rev.* 51, 2005; Lu-in Wang: “Race as Proxy: Situational Racism and Self-Fulfilling Stereotypes.” 53 *DePaul L. Rev.* 1013, Spring 2004; Amy L. Wax: “Discrimination as Accident” 74 *Ind. L.J.* 1129, Fall 1999; Charles R. Lawrence III: “The Id, the Ego, and Equal Protection: Reckoning with Unconscious Racism” 39 *Stan. L. Rev.* 317, January 1987; Charles R. Lawrence III: “If He Hollers Let Him Go: Regulating Racist Speech on

undeniable effect of microaggressions has been to form a barrier against inclusion that has persisted long after more formal barriers have disappeared. Microaggressions impede integration and therefore the concept of microaggressions deserves further analysis

### **A. The “Micro” Aspect of Microaggressions**

The “micro” in “microaggression” suggests that microaggressions inflict only minor pains and bruises, and, in some cases, this is true. For example, I hear the following types of comments and their effect on me is quite minimal:

- “We shouldn’t lower the standards by recruiting women and minorities.”
- “She reminds me of my mother in law.” – A comment made by a colleague as an explanation for his negative vote on a female candidate.
- “Is there any way a white male can get into teaching?” – A comment made by a student who attended a school where 92% of the faculty was white and male.

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Campus” 1990 Duke L.J. 431, June 1990; Trina Grillo: “Tenure and Minority Women Law Professors: Separating the Strands” 31 U.S.F.L. Rev. 747, Summer 1997; Peggy C. Davis: “Law as Microaggression” 98 Yale L.J. 1559, June 1989; Richard Delgado and Derrick Bell: “Minority Law Professors’ Lives: the Bell/Delgado Survey” 24 Harv. C.R.-C.L. L. Rev. 349, Spring 1998; Anita L. Allen: “On Being a Role Model” Berkeley Women’s Law Journal; Russell G. Pearce: “Rethinking Race, Lawyer Identity, and Rule of Law” 73 Fordham L. Rev. 2081, April 2005; Jodi David Armour: “Gender and Race in the Evidence Policy: Color-Consciousness in the Courtroom” Southwestern University Law Review: 28 Sw. U.L. Rev. 281, 1999; Patricia J. Williams: *The Alchemy of Race and Rights: Diary of a law professor.* Harvard University Press, 1991; Jill Nelson: *Volunteer Slavery: My Authentic Negro Experience*, The Noble Press, Inc. 1993; Catherine Weiss and Louise Melling: “The Legal Education of Twenty Women” 40 Stan. L. Rev. 1299, May 1988; Lucinda Finley: “Women’s Experience in Legal Education: Silencing and Alienation” 1 Legal Education Review 101, 1989; Kevin R. Johnson: “Melting Pot” or “Ring of Fire”?, Assimilation and the Mexican-American Experience, 85 Calif. L. Rev. 1259, October 1997; Cheryl I. Harris: “Legal Education II: Law Professors of Color and the Academy: of Poets and Kings” 68 Chi.-Kent. L. Rev. 331, 1992; Jerome McCristal Culp, Jr.: “Autobiography and Legal Scholarship and Teaching: Finding The Me in the Legal Academy” 77 Va. L. Rev. 539, April 1991; Christine Haight Farley: “Confronting Expectations: Women in the Legal Academy” 8 Yale J.L. & Feminism 333, 1996; John A. Powell: “The Delimitation of Harmful Speech in a Democratic Society” 16 Law & Ineq. J. 97, Winter 1998; Angela Harris: “Women of Color in Legal Education: Representing La Mestiza” Berkeley Women’s Law Journal; Kathleen S. Bean: “The Gender Gap in the Law School Classroom – Beyond Survival” 14 Vt. L. Rev. 23, Summer 1989; Paula Gaber: “Just Trying to Be Human in This Place”: The Legal Education of Twenty Women 10 Yale J.L. & Feminism, 1998; Marc R. Poirer: “Gender Stereotypes at Work” 65 Brooklyn L. Rev. 1073, Winter 1999.



To me, these comments betray ignorance and confusion; they are irritating but do not constitute a particular threat to my sense of well-being. There are other comments, however, that cause real pain. Here is a description of what it feels like:

When I entered my colleague's office, I was already deeply in pain. It was a very rough beginning. I was battle weary, bone tired. And when he began to talk, I sank into my pain which embraced me with rough, razor sharp arms. As he talked, I sensed that invisible cuts would hasten my death. I wondered if he saw my pain. He did not. As he continued to talk, I felt small and unsure<sup>12</sup>.

Obviously, there is nothing “micro” about these feelings. It is not an extreme case. It represents a set of feelings that are familiar to me and to many others who have experienced microaggressive conduct.

The term “microaggression” is somewhat misleading when looked at from the victim’s perspective. A microaggression is only “micro” when it is compared to acts of outright sexism or racism. If someone calls me a c\*nt or calls my black friend a n\*gg\*r, that is hate speech and everyone will recognize it as such and agree that it is unacceptable in civil society. A microaggression is not “micro” in the sense that it is less disturbing and less hurtful than this kind of hate speech. It is only “micro” in the sense that privileged members of the community will regard it as trivial, if they notice it at all. This makes such a remark truly dangerous. If I were shot in the arm, no one would be surprised if I grabbed the wound, screamed in pain, or fell to the ground. But if the bullet were invisible, these same responses would seem overwrought and hysterical. Thus, a

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<sup>12</sup> Reginald Leaman Robinson, *Teaching from the Margins: Race as a Pedagogical Sub-Text, a Critical Essay*, 19 *W. New Eng. L. Rev.* 151, 175-76 (1997). The microaggressions in this case were part of an extended discussion of Prof. Robinson’s teaching and scholarship. When I have described this incident to people who are not of color, they have suggested that this might simply have been “honest feedback.” Without knowing anything about the merits of the case, I am confident that telling someone that they are “distinctly sub-par,” as the white colleague did in this case, is a particularly blunt assessment that would not normally be conveyed in a conversation between two people of the same race. Honest feedback is important, but under “normal” circumstances, most of us recognize the value of tact.

microaggression does not just bring injury, but also the practical need to pretend that the aggression never happened. If one is left angry, speechless, or hurt, one must hide that fact as best one can. Better to be seen as stumbling and inarticulate than to be seen as sensitive in irrational ways.

### **B. The “Aggressive” Aspects of Microaggressions**

It is also important to be clear about the aggressive impact of microaggressions. We can see this more clearly by drawing a comparison between microaggressions and the tort of assault. Like an assault, a microaggression produces fear, stress, and emotional harm. In addition, it may have material consequences; it may intimidate the victim and deter her from pursuing her own interests.<sup>13</sup> When made in public, a microaggression may also embarrass the victim, undermine her credibility, or expose her vulnerability. It may also isolate the victim and leave her unable to communicate effectively with the wider community.<sup>14</sup>

There are, however, important differences between a microaggression and an assault. The tort of assault requires intent, but most microaggressors have no conscious intent to harm the victim;<sup>15</sup> nor, in most cases, do they even realize that such harm can occur. Indeed, as the CLS example indicates, those who share a racial or gender identity with the perpetrator may not perceive the harm even after it is explained to them. This is not surprising. Race and gender often act in unconscious ways to alter social relationships,<sup>16</sup>

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<sup>13</sup> See section II(B) below.

<sup>14</sup> See section II(C) below.

<sup>15</sup> In tort law, one can meet the intent requirement for intentional torts by showing that the act was intended and that it was substantially certain that the harm would result from the act. *Garrett v. Daily.*, cite. From the point of view of the target, intent is present since it seems substantially certain that harm will result; however, as the CLS discussion indicates the likelihood of harm is not apparent to those who share the race and/or gender of the aggressor.

<sup>16</sup> Charles R. Lawrence, III, *THE ID THE EGO And EQUAL PROTECTION: Reckoning With Unconscious Racism*, 39 *STAN. L. REV.* 317 (1987).

and it is also true that being on the privileged side of a microaggression is – like most privileges – least visible to the holder of the privilege.<sup>17</sup>

Second, microaggressions often consist only of words and it is black letter law that mere words do not constitute an assault. Tort law requires more than words because it recognizes that there must be a limit to judicial intervention in private disputes – not every argument should find its way up the courthouse steps. But, even though most microaggressions are entirely verbal, they do not represent mere personal disputes. Instead, they reflect a history of racial and gender practices that have resulted in oppression and discrimination. Thus, microaggressions are, in some ways, even more serious and consequential than an individual assault.

Third, an assault is only actionable if creates a fear of physical harm. Microaggressions do cause fear but rarely a fear of physical harm. Furthermore, from the victim’s perspective, the fear is reasonable. In assessing the issue of reasonableness, the tort law has recognized that circumstances are extremely important, and the notable fact about microaggressions is that the circumstances look different to the victim than they do to a member of the dominant majority. In effect, there is a divide between men and women (and in the case of a racial microaggression, between white people and people of color) in their ability to discern microaggressive conduct and judge its severity. Thus, the question arises: Whose reality should be considered in determining whether a microaggression has occurred. As a matter of practical fact, in most groups, it will be the holders of race and gender privilege who establish group norms and this means that their view will come to dominate. As a result, those who complain about microaggressions

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<sup>17</sup> Stephanie M. Wildman & Adrienne D. Davis, Making Systems of Privilege Visible, in Stephanie M. Wildman et al., *Privilege Revealed: How Invisible Preference Undermines America* (1996).

will be seen as too sensitive, and victims will be further isolated as people “watch what they say” around them – not out of respect or consideration, but simply to avoid the irrational outbursts of someone who they believe will never be satisfied.

## **2. HOW CAN WE RECOGNIZE MICROAGGRESSIONS?**

It can be difficult to recognize microaggressions. First, if you are not part of the target class, they will not be apparent to you. We have seen that microaggressions often remain invisible to those who are not affected. In addition, there is no general rule that applies in all cases. Microaggressions need not mention race or gender. They may not even be negative in tone. “You have beautiful eyes,” written on a teaching evaluation, is microaggressive<sup>18</sup> despite the fact that it is a positive appraisal of a characteristic that seems unrelated to the gender of the professor. Thus, avoiding microaggressions requires more than just keeping our feet out of our mouths; it requires us to think more deeply about our relations with people different races and genders. In this connection, the following questions are worth considering.

### **A. How would you feel if someone said this to or about you?**

In most situations, this is a useful question. It guides our empathy and helps us to avoid unintentional insults. With microaggressions, however, the question will be practically useless unless the questioner works at supplying a context. In the CLS discussion above, it would not have helped for a man to ask: “How would I feel if

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<sup>18</sup> It is microaggressive because the student is attempting to redefine the relationship between the parties in a way that diminishes the professional stature of the female professor. In effect, the student is trying to replace a teacher-student relationship – a relationship in which he is relatively powerless – for a male-female relationship – one in which he might expect to dominate. This is not only disrespectful to the teacher; it also undermines the success of the teacher student relationship. A student who is busy admiring your eyes is not a student who is getting very much out of the class that it is your job to teach.

someone wrote – Many but not all of the men in law school teaching seem unhappy and insecure.” One can imagine that most men would respond to such a statement by thinking, “What a stupid thing to say.” It seems stupid because the number of male law teachers is very large and it is unlikely that any such personal characterization would apply to all of them. In fact, because men are a dominant group, we tend to individuate them and hesitate to make generalizations about them. There is no similar restraint when it comes to women. Therefore, for a white male teacher – call him Professor A – to get the microaggressive aspect, he has to reformulate the statement in this way: “Prof. A is one of a small group of people in law teaching who seem unhappy and insecure.” He will also have to assume that the statement defines the small group as one that has often suffered discrimination. For example, he may be from a poor family; he may be short; he may be Irish, Italian or Greek; or he may not have gone to a top tier law school. Imagine then the comments:

- Men who come from poor families often don’t have the charisma required for law school teaching.
- Short men often have trouble commanding the classroom.
- Men who don’t go to a top tier law school often seem insecure in the classroom.

Comments about women and minorities must be considered in this light. It is not enough to ask whether you yourself would have been offended. The challenge is to recreate the situation as it might appear to the person who might have been harmed. To do this, you have to imagine the real vulnerability, the enhanced visibility, and the history of exclusion that define token participation in traditionally white and male communities.

**B. Would you say this to someone who shared your race and gender?**

The problem with many microaggressions is that they represent things that would never be said to someone of the dominant race and gender. Recall, for example, the African-American law professor who was always summoned to do housekeeping chores. Similarly, we might consider the fact that men often assume that women are available for secretarial or administrative tasks.<sup>19</sup> There are two problems with these kinds of microaggressions. First, they are demeaning. The African-American law professor was treated as a servant rather than an educator; women in general may be treated as assistants rather than as free agents in their own right.<sup>20</sup> The second problem is that they interfere with the kind of effort that a professorial job requires. Whether I am preparing a class or writing an article, the task requires concentration and a sense of one's own expertise. An interruption – particularly an interruption that is demeaning – interferes with both and, if such interruptions are frequent, they seriously interfere with the completion of the task at hand.

Personal comments are another area where microaggressions are likely to occur. Every relationship has its own particular level of intimacy. With some people I am simply polite; with others I share personal experiences; and with still others I struggle to be as authentic as I can. When one person has a higher status than another, the inevitable rule is that the person with higher status can dictate the level of intimacy. An extreme form of this is the sexual license that existed during slavery. Lesser forms of this license,

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<sup>19</sup> Here are two examples from my own experience. First, I have often watched someone – a student or a visitor – walk down a corridor of open office doors and then poke his head in mine to ask directions or the whereabouts of one of my colleagues. Second, in one work environment, I was often interrupted by requests for proper spelling and grammar by men who would not have dreamed of interrupting their male colleagues with similar requests.

<sup>20</sup> It is difficult to complain about these things without sounding as though you think you are better than servants and secretaries. In an ideal world, I would not feel demeaned by the fact that someone mistook me for a secretary. However, in a hierarchical world, it is difficult to overlook the fact that such conduct is, in fact, a sign of disrespect.

however, are still plentiful. In most environments, the boss sets the terms of his relationship with an employee. Some bosses choose to be very personal; others treat underlings like robots. In either case, the level of intimacy will be calibrated to suit his needs rather than hers.<sup>21</sup> Many men invoke this privilege with women of the same professional stature. Such men will make personal comments to a woman that they would never make to a man with whom they share the same level of intimacy. For example, most men would not comment on the dress of another man unless they were reasonably good friends, but nevertheless feel free to make such comments to women colleagues that they barely know. Another example of this is a certain type of advice that women sometimes hear from male colleagues. It starts out with the phrase:

**“I think that the men here would be more comfortable with you if ...”**

The presumption of such advice is evident. It assumes, for example, that it is the woman’s job to make the men feel more comfortable, and that, for her, the community is a popularity contest rather than a workplace. And it also overlooks the fact that, among equals, good relationships are based on mutual respect, not on the willingness of some to overlook the impositions of others.

### **C. What would it mean for you to treat each person as an individual rather than as a member of a racial or gender group?**

We all want to be treated as individuals and most of us want to treat others with the same respect. This can be hard to achieve when we live in a society that is dominated by racial and gender stereotypes. In such a society, stereotypes will distort our perception of

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<sup>21</sup> As workplaces have become more informal, this is not universally true. Thus, some readers who have been bosses will say that this is not true. In fact, we can all think of notable exceptions. But in view of the fact that we most remember what is most exceptional, our memory is not really the issue. The issue is better understood by considering what pressures exist in the workplace and how they affect the disempowered people within it.

the individual. Equally, our perception of the individual may be obscured by our well meaning efforts to avoid such stereotypes – as, for example, when a man goes out of his way to think of a woman as one of the guys. Either way, we interact with the category rather than the actual person. It is difficult to avoid this. Stereotypes construct our sub-conscious categories and it is difficult to simply banish them from our perceptions.

Nevertheless, we can work in that direction. Most stereotypes bespeak ignorance and the way to cure ignorance is well known. We do not do it by avoiding the subject. I am not treating someone as an individual if I ignore an important part of what constitutes that person's identity. Instead, we must educate ourselves about people's differences. Only in that way can we look at someone who is different, acknowledge that she or he is different, and, at the same time, have some idea of what that difference means to the individual.

My own ignorance in these areas has been prodigious. I went to a girl's high school and a woman's college, and therefore was in my twenties before I had a close male friend. I was equally ignorant about race – it was not until I was thirty five that I had a good friend who was not white. I have managed to lessen this ignorance with the generous help of many friends. However, I have also been helped by an honest effort at self-education. There is an incredibly rich literature that describes the experience of racial and gender differences from a variety of perspectives. There are novels, memoirs, statistics, psychological and political studies. Learning about differences can change attitudes. While I may never know what it is like to suffer racial discrimination, I can certainly learn more about it, and the more I learn, the less likely I am to engage in it.



Even if we lessen our ignorance, we are still prone to committing microaggressions. Sometimes they just seem to sneak up on us. For example, one day at the store, I had selected my purchases and was heading towards the cash register. I noticed that the person at the cash register was talking to a friend, and, since I was in a hurry, I resolved to interrupt them. Fortunately, I took a second look. This time I could see that the person at the counter was a customer and the store employee was waiting on her. In fact, I am embarrassed to say, the only reason that I assumed the conversation was social was that both women were African-American. I am sure that this is not an uncommon mistake. It was triggered not only by the surreptitious operation of racial assumptions, but also by my own self-important rush and my general sense of entitlement. Thus, relinquishing microaggressions requires more than just a conscious decision. It requires a slower, more thoughtful way of life.

### **3. WHAT KINDS OF HARM DO MICROAGGRESSIONS CAUSE?**

Microaggressions can cause harm in a number of ways.<sup>22</sup> For the target of the aggression, they represent not one problem but several. To illustrate this, I shall use the following example. One day, I was having lunch with several of my male colleagues. Prof. X asked: “Why doesn’t anyone discuss the sexual harassment of men?” In the ensuing discussion, Prof. X emphasized two things: first, that it was exactly the same

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<sup>22</sup> The fact that microaggressions operate on a number of different levels is one of the things that makes them so difficult to handle. See, Walter R. Allen, Ph.D., and Daniel Solorzano, Ph.D.: “Affirmative Action, Educational Equity and Campus Racial Climate: A Case Study of the University of Michigan Law School” 12 *La Raza L.J.* 237, Fall 2001. (“Any one stereotype or microaggression may contain various layers of discrimination. The stress related to deciphering these layers and responding or not responding to each microaggression falls on the (woman or person) of color.”)

thing if a female student makes unwanted advances to him as it would be if he made unwanted advances to the student; and second, that, in his experience, it was more common that the woman student was the predator. I bit my lip. I knew better than to express my opinion. After fifteen minutes, however, I could stand it no longer. I asked “Why is it so important to you to show that men and women go through exactly the same thing?” His reply stunned me: “I would hate it,” he said: “if I had to wipe out half the human race.”<sup>23</sup> Perhaps on another day I would not have found his remark so threatening but on this day I really did. I heard a tone of menace – what I understood from his remark is that it would be dangerous to express difference. If I was “just like him” I could live peacefully within the community. If not, I would be “wiped out.”

This incident affected me in a number of ways. First, his comment felt like a threat and, as such, it caused me great distress. Second, there was an implied warning that I should not make an issue of difference. And third, there was the question of our male companions. I had heard a threat, but what had they heard? Microaggressions are not simply personal insults. They have consequences that stretch far beyond the immediate circumstances. Microaggressions demoralize and inflict losses on the target group. They also polarize the wider community. In this section, I will discuss each of these effects.

### **A. Distress and Demoralization**

Microaggressions can ruin your day. They remind you of your outsider status and do so in a way that undermines your sense of well being. Such feelings are amplified when one is in a vulnerable position. Consider the example above. I was literally frightened.

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<sup>23</sup> It is not clear what this remark was supposed to mean. I think he meant that if we all did not share the same experiences then there was no use in our trying to communicate. In any case, I heard this but I also heard a much more alarming and threatening interpretation of what he said.

For hours, I was preoccupied with the remark.<sup>24</sup> I had to sort out what was actually said, what had been intended, and how other listeners would have heard the comment. I had to deal with my anger, and think about all the things I should have said at the time.

I know, as I recount this, that many readers will think that my response on that day was way over the top. On the other hand, anyone who has experienced tokenism will not have trouble understanding my reaction. Being a token makes it difficult to interpret what people are saying to you. Imagine that you are the only untenured woman at a school where the tenured faculty has a ratio of thirty five men to two women. Imagine also that you received numerous comments on every single working day that made some point – often a negative one – about your gender. Consider that, in the light of such comments, you feel yourself sticking out like a sore thumb in every faculty meeting and discussion. And consider also that Prof. X was well known within the community for his sexual predation and his hostility to women. Under these circumstances, the seeming metaphor felt real – I would be “wiped out” if I expressed difference.

If one is in a safe position, it is easier to ignore a microaggression and to view it for what it is– an indication of the speaker’s own ignorance. When I practiced law, most of the microaggressions I heard came from people who had little power to shape my destiny. I could safely ignore them and go about my business. When I entered teaching, however, the situation was different. I knew that tenure took a vote of the faculty and, from the moment I walked in the door, I heard an endless drumbeat of comments that reflected ambivalence about women. Some of my colleagues seemed to agree with Professor X, in his feeling that women are only human if they are just like men. Others seemed to feel

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<sup>24</sup> My response to this may seem almost paranoid. If so, it was a paranoia shared by the men who had been hired with me. They also would agonize over ambiguous remarks and lived in real fear that the tenure process would be unfairly skewed by the idiosyncrasies of individual members of the tenured faculty.

that women were fundamentally different and that their stereotypical differences might make them ill-suited to an academic life. Still others treated the women on the faculty as exceptions, glad that we shared all the good male traits. These varying viewpoints were expressed day in and day out in a variety of ways.

- I would often be asked for a “woman’s perspective” on some particular matter.
- There were frequent requests for reassurance that comments made to women students were not objectionable and that, had they been made to me, I would not have responded to them “in the wrong way.”
- My conversations with other women were often interrupted by the question: “What are you plotting now?”

I could go on and on in this vein. There is an old saying about sticks and stones and words that never hurt, but these words were hurtful. Microaggressions have the systematic effect of devaluing and demoralizing members of the group who are defined as different. Furthermore, their frequency adds to the distress. It is one thing to laugh off a single comment; it is another to withstand a virtual onslaught of negative messages.

In addition to their frequency, some microaggressions are particularly harmful because they resonate powerfully with the painful aspects of racial and gendered experience. There has recently been a lot of comment about the word “articulate” as it is applied to African-American speakers.<sup>25</sup> Unfortunately, I must confess that “articulate” is a word I have often used in describing people of color. My conscious purpose in using the term is quite benign. Sometimes, in a conversation about race, an African-American speaker will help me to understand something I have never understood before. For me, this is the very essence of being articulate and, until recently, I never dreamed that the comment could cause offense. After all, people have sometimes called me articulate, and

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<sup>25</sup> See, Adam Nagoury, “Biden Unwraps ’08 Bid with an Oops! New York Times, January 31, 2007.

I have been pleased with the compliment. The recent discussion, however, has made me realize that I had overlooked the context in which such a “compliment” might be received. I was not ambivalent about being called “articulate” because I have never been on the receiving end of stereotypes such as “primitive,” “poorly educated,” and “poorly spoken.” It had never been a crime for my ancestors to be educated and literate. If this had been my history, I might have understood how condescending such a compliment could seem and how deeply the condescension would resonate with centuries of remembered injustice.

### **B Strategic Loss**

The term “microaggression,” was coined by Chester Pierce, the first African-American psychiatrist to join the faculty of the Harvard Medical School. He wrote an article on the subject soon after he finished a stint as an assistant coach to the Harvard football team.<sup>26</sup> I believe that this timing is important. It suggests that microaggressions have strategic consequences. A football game is all about territory. Field position is everything. Teams gain field position by means of aggression. Sometimes, this takes the form of pushing someone out of the way. Other times, it is simply a matter of being there first. If we think about social relations in these terms, then it is not hard to see why traditional forms of privilege dominate the field. First, those who are traditionally privileged are inevitably there first. Second, even when those who are not privileged

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<sup>26</sup> . Chester **Pierce**, *Stress Analogs of Racism and Sexism: Terrorism, Torture, and Disaster*, in *Mental Health, Racism, and Sexism* 277 (1995). Peirce’s article emphasizes the extreme nature of the harm that microaggressions cause: “In and of itself a microaggression may seem harmless, but the cumulative burden of a lifetime of microaggressions can theoretically contribute to diminished mortality, augmented morbidity, and flattened confidence.”

have staked out their territory, microaggressions can be used to surreptitiously push them out of the way.

The football analogy will help us to understand why microaggressions are so important. When A tackles B, B falls to the ground and suffers a momentary injury. But that is, in some ways, the least important effect of the tackle. If B was carrying the ball, the tackle will define field position. If B was trying to sack the quarter back, the tackle may clear the way for a touchdown pass. Similarly when Prof. A says something to or about Prof. B, it may have an effect on their standing in the community. For example, if Prof. A says -- “there are only a few women on this faculty and they are effectively marginalized.” – it will have the effect of further marginalizing the women on the faculty. This may not be the speaker’s intention, but it will be the result.

Similarly, recall Prof. X’s comment about having to wipe out half the human race. At the time he said it, feminist jurisprudence had become an important topic of discussion. Some feminists claimed that gender differences resulted in different ethical structures;<sup>27</sup> others saw legal norms as tools that defended male power from the claims of disempowered women.<sup>28</sup> Put in its simplest form, feminist jurisprudence was based on two claims: 1) the law treats men and women differently by overlooking the legitimate needs of women; and 2) that is important to pay attention to this difference. When Prof X indicated that his preferred way of dealing with difference was to “wipe out” those who were different, it suggested to me that doing feminist jurisprudence might be dangerous. Thus, Prof. X’s comment had a very concrete and practical effect: I lost something – I became conflicted about doing a form of scholarship that interested me, and he gained

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<sup>27</sup> See, e.g., Carol Gilligan, “In a Different Voice,”

<sup>28</sup> See, e.g., Catharine MacKinnon, *Feminism Unmodified*.

something – freedom from an unwanted discussion about the effect of gender differences on American law.

Another area where microaggressions have important practical consequences is student evaluations. There is a great deal of evidence – both scientific and anecdotal – that student evaluations are laden with microaggressive comments<sup>29</sup> and that they exhibit a clear bias against women and people of color.<sup>30</sup> Nevertheless, most schools accept these evaluations as an accurate indicator of a professor’s skill in the classroom. In doing so, most readers assume that they can look beyond the “occasional” racism and sexism that these reports convey. This assumption, however, needs scrutiny. Some comments are so blatant that they can be readily discerned and discounted, but many, if not most microaggressions remain invisible to members of the dominant majority.<sup>31</sup>

Finally, if one is skeptical about the strategic value of microaggressions, one should ask the political experts. Consider for example, the effectiveness of the Willy Horton advertisement that appeared in the 1988 Presidential race, the “call me” ad that was deployed against senatorial candidate Harold Ford, or the “black rapist” ad that ran against Massachusetts Governor Deval Patrick.<sup>32</sup> Such examples make it plain that when

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<sup>29</sup> See, e.g. Deborah J. Merritt, *Bias, the Brain and Student Evaluations of Teaching*,” Ohio State Public Law Working Paper #87, available at SSRN.com. Articles discussing the effects of race and gender on teaching evaluations are collected at n.2.

<sup>30</sup> *Id.*

<sup>31</sup> Once, when a faculty committee was investigating whether it wished to make faculty evaluations public, there was a question as to what should be done about those evaluations that made overtly racist or sexist comments. It was suggested that the best way to deal with this problem was simply to excise the offending remark. This was a remedy that would only enhance the microaggression by allowing the student his say, but allowing him to say it on a supposedly race neutral basis. When I protested this arrangement, the argument was that it would save the faculty member from embarrassment. I was thus left to wonder why a sexist remark should be embarrassing to me rather than to the student who wrote it.

<sup>32</sup> Deval Patrick is an African-American who ran for governor of Massachusetts. Kerry Healy was his white, female opponent. Here is an ad she ran:

The scene is set in a deserted parking garage. A woman is walking slowly to her car. You can hear her footsteps and there is scary music playing in the background.

we look at microaggressions as merely random bits of bad behavior, we are missing something important

### **C. Polarization**

Microaggressions look different depending upon whether the viewer identifies with the aggressor or the target class. When a microaggression relates to race or gender, this difference in perception deepens a divide that already exists. Microaggressions have a cumulative effect. As there are more of them, and as targets become more aware of them, there will be a growing perceptual divide between the men and women of the community. The men are viewed by the women as meaner and more hostile; the women are viewed by the men as too sensitive and too quick to take offense. Even if the women choose not to confront the microaggression, it still has a divisive effect. For example, when Prof. X made his comment about “wiping out” half the human race, I said nothing. The response of my lunch-mates was laughter. They probably did not agree with Prof.X. Unlike him, they found some measure of difference between human beings not just tolerable but agreeable. In their view, Prof. X was sometimes ridiculous – just a little bit

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#### **Woman’s voice:**

Here’s a question: If a teacher at your kids school, or a friend or a coworker or if anyone you knew actually praised a convicted rapist, what would you think? Deval Patrick did. Here’s what he said about brutal rapist Ben Laguerre.

#### **Deval Patrick’s voice:**

“He is eloquent and he is thoughtful. There is no doubt about that.”

#### **Woman’s Voice:**

Here’s another question: Have you ever heard a woman complement a rapist? Deval Patrick –t he should be ashamed not governor

A naïve analysis of this would be that Kerry Healy is tough on crime and Deval Patrick is not. Healy gets to occupy the anti crime space – a five yard pass. If, however, you add in the racial stereotype of the black rapist, the field looks different. Kerry-Healy gets to occupy the “safe and sane” space, while Deval Patrick represents terror and fear for women voters. If this ad had worked – which thankfully it didn’t – the connection with a racial stereotype would have elongated a five yard pass to a touchdown.



over the top, but they liked this about Prof. X, who was brilliant in so many other ways. Certainly, had I confronted Prof. X, they would have felt that I lacked humor and perspective. Later – much later – I recounted this incident to one of my senior, male colleagues. He was a sensitive man and a good listener, and he could see that, from my point of view, the comment would feel threatening. He pointed out, however, that at the time the comment was made, Prof. X was going through a particularly litigious divorce and that this, no doubt, had contributed to his hostility.<sup>33</sup> No doubt this was true, and it was no doubt true that the laughing response of the men who heard Prof. X was an appropriate response to his comment. The trouble is that neither were responses that I could very well share, and, as time wore on and the number of unshareable moments accumulated, I came to feel that I did not belong to “their” community. This was painful to me and to others similarly targeted. It was also disruptive to the wider community. It was what none of us wanted, but equally something that none of us knew how to prevent. This is why it is so important for everyone to take microaggressions seriously. As individuals, we need to work at diminishing their number; and, as communities we need to find ways to mitigate their effects.

## Conclusion

Microaggressions are not just about misbehaving men and victimized women. We live in a society where it is difficult to escape the sharp elbows of difference, and this is an on-going challenge for all of us. As a woman, I have often been harmed by

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<sup>33</sup> The idea that microaggressions had “little to do with me” was, in fact, a common theme. When I mentioned to another one of my colleagues that Prof. Y, whom I liked a lot, had seemed hostile to me recently, he speculated that this was because Prof. Y’s wife had recently had a baby and was suffering from post-partum depression. “It’s a situation,” he said, “that would make any man feel a need to avoid female companionship.”

microaggressions. But I am also white and, as a white person, liable to the same kind of privileged obliviousness that I sometimes see in my male colleagues. All of us in academic life enjoy some forms of privilege. We are well educated, well compensated, and mostly well treated. Our communities are in various stages of integration. These stages can be painful. It is hard to learn that our intellectual heritage does not have a monopoly on truth. But these stages can be joyful as well.

I worked for ten years at the University of Southern California. One day, I walked across campus with a group of African-American students. As we walked, they exchanged greetings with every Black person they saw, and suddenly the campus seemed alive with color. Prior to this I had seen the campus with very limited vision. Given the university's location and reputation, it had been easy to assume that the white people were the important players – the students and faculty who were at the center of University life. My eye responded to this assumption by centering my gaze upon the white people I encountered. As I came to this realization, I felt embarrassed by the racism it revealed. But I also felt impoverished. I like the campus I saw that day and struggle now to see it wherever I go. Whether this will become easier or not is the question of our age. If we want it answered in the affirmative, then we all need to be concerned about microaggressions and their effect on community life.