

[HOT TOPICS]

CONVERSATIONS WITH THE DEAN



ROUGEAU AND PINDERHUGHES discuss the impact of cultural understanding on the legal and social work professions.

KERRY BURKE/BC NTS

Color Still Matters

BC Law Dean Vincent Rougeau and Elaine Pinderhughes, professor emerita of the BC Graduate School of Social Work, sat down recently to discuss the evolution of diversity in their professional and personal lives. Here's an excerpt. Read or watch the full interview at <http://www.bc.edu/hottopics>.

They began by discussing how racial dynamics have changed since 1989 when Professor Pinderhughes published the seminal Understanding Race, Ethnicity, and Power: The Key to Efficacy in Clinical Practice.

ELAINE PINDERHUGHES: How culture and diversity were viewed was very different back then. If you asked a white person, "What does it mean to be white?" they would say, "I don't know, I never think of myself as white. I think about myself as Italian, or Irish, or some ethnic group." Today, race is everywhere. We talk about it a great deal, even more so now that we have an African American president. There is more clarity about what it has meant to be white and to be a person of color. People of color have been lumped together as not being white, when they actually have very strong identity ethnically. Some

white people still have their ethnic culture, but others, who have been in the country, say, four or more generations, are less fundamentally connected to their ethnicity of European origin. We also have become very aware of the complexities involved in understanding cultural backgrounds. There is more readiness today to come to grips with it.

VINCENT ROUGEAU: The whole dynamic of white and black in the United States has done so much damage. My father's family had strong ethnic identity as French-speaking Louisiana Creoles. They understood their position as part of a broader black

community, but that didn't really explain anything about their language, their religion, their traditions. They were often in this tug-of-war between sharing a broader black identity, which had very important aspects and implications for their lives, and being proud of their ethnic identity, which they felt they weren't allowed to celebrate to the same degree. When they did, it was often seen as trying to disengage from their black identity. It created confusion and separation.

PINDERHUGHES: I understand exactly what you're saying because my mother was from Louisiana. People from that background, who were also African American, often felt that they didn't want to be African American because they wanted to honor their cultural heritage. And that is totally not understood about a lot of people. I just came from a conference where one woman described herself as Taínos—a blend of native South American, Spanish, and African—and she identified as all three. "I am Puerto Rican," she said, "and when I came to this country, I could not believe what confronted me. Here, I'm a person of color; that is my designation. They say we are Latinos, but we are not descendants of Spanish only, we are descendants of three different streams, and so this is very confusing for us, and very oppressive."

ROUGEAU: In order to fight discrimination and segregation, we had to aggregate people of color to produce a political coalition to get white people to see, at least in the political sense, that there was a problem that needed immediate attention. Now that some of the most basic problems have been solved, and we start to celebrate these other identities, will we fall into the trap that some other nations have fallen into that, "Well, we don't have racial problems because we all celebrate our multiethnic pasts"? Indeed, when you look closer, you see that racial problems remain, and color does still matter.

How can privilege interfere with effective professional practice?

PINDERHUGHES: People with privilege often don't know its true significance. They might not understand what privilege means to those over whom they have privilege because privilege tends to segregate itself; in interaction there can be pain, guilt, fear. It's not just white people who are privileged; African Americans have privilege in some ways. If you are a professional

service provider, you are in a privileged role—you have power—so you are doubly privileged in that encounter. That means you have to think on two levels about what the privilege means.

ROUGEAU: Some law students will end up only dealing with people of privilege and it can become a real distortion in their lives. They leave a relatively privileged home environment, to go to school in a relatively privileged environment, to enter into practice, say, with a large corporate law firm, where their clients are people of privilege for the most part. But in the best of cases, students have opportunities during school to think about these questions and have experiences that are transformative. I recall how a student working in a neighborhood legal services clinic was upset that his client was always late. One day she missed an appointment and he hit the roof; he was trying to help her and she wasn't showing up. He did have the presence of mind to sit down with her and ask why. It turns out that she was about to be evicted from her apartment. Every time she had an opportunity to ride a bus for the appointment, she collected rent money from friends and relatives along the way. When the student understood that maintaining a place to live is for some people the core focus of their day, his view changed.

PINDERHUGHES: Social workers deal with people with those kinds of realities all the time. Their behavior has meaning; it represents their effort to get along, to survive. A fundamental thing in social work has been respecting the right of the client to determine his life. Often social workers think they are helping the client to become independent when, in fact, they are labeling him, diagnosing him, telling him what he needs rather than listening to what he says he needs and giving him information to help him solve his problem. We work very hard not to do for people, or do to people, but to do with them.

How else do issues of race, ethnicity, power, and privilege play out in legal education and practice?

ROUGEAU: Issues of race and power and privilege are everywhere in educational settings. They can be a source of great stress and turmoil as well as great opportunities for learning. I recall that from my own law school experience in, say, a criminal law class about race. Assumptions would suddenly become obvious and sometimes

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students would react with rage over what they heard their classmates saying. That's gotten better; students are more aware of the different types of communities in our society. Just yesterday I was part of a panel at the Law School on the Trayvon Martin case organized by the Black Law Students Association. The story about how the law deals with cultural views of the "other" and the recognition that there is an "other" never goes away. It was hard for many of the white students in the audience to realize they made assumptions about Trayvon Martin that troubled them. It was interesting for me to tell the students how I, as an African American man and the parent of three African American boys, still, in 2012, have to school them on their behavior in public. That's because of the fear all people of color have that someone will judge them purely on their look and perhaps do something lethal or fatal to them. That's the worst case scenario, but getting students to recognize that people live in these realities that affect how they view the law or how the law deals with them is incredibly important.

PINDERHUGHES: I see lawyers as trained to be adversarial and to win. When I'm in trouble, I want a lawyer who can do that. But I believe that if you're taught to be adversarial, when it comes to listening to the other person, empathizing with the other person, trying to see what their experience has meant to them, it's very hard to do when you've been trained to be adversarial.

ROUGEAU: The adversarial nature of the
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law goes directly to the issue of cultural competence because some of the ways we view the legal professional are rooted in a certain cultural vision. As the culture has changed and as people from different backgrounds are entering into roles that had heretofore been barred to them, the idea of who a lawyer is, how a lawyer works, and what a lawyer is supposed to do has started to change. One thing we're seeing is a request for lawyers who are trained in dispute resolution techniques that do not involve adversarial tactics. As the makeup of corporations changes, more international issues become a part of every lawyer's practice, and as the communities in which we live change in their ethnic and racial makeups, we have to understand the different ways that people engage in dispute resolution or problem-solving.

How do we prepare social workers and lawyers for competent practice?

PINDERHUGHES: We have to marshal the information about people's realities and their history. Our history books have never told the truth about what has happened to people in this country. For that reason there has not been the national will to marshal the resources and the programs that will free them to meet their own needs and live effective lives in this society.

ROUGEAU: I would like us take a closer look at the power represented by our increasing diversity and see what kind of nation we can become in the 21st century. I read recently that more and more young people who come from ethnic identities or are connected to recent immigration in their family, see opportunities for themselves in the countries from which their parents came, but also see themselves as strongly rooted to the United States. That represents a wonderful opportunity for the future—that this would be a country where people would come and be part of the fabric of society and recognized in all their dignity and diversity, and who also would provide a bridge to other societies. That can be the beginnings of a more healthy dialogue between the United States and other parts of the world. The demographic change that we see in our country, a change that so many people are reacting to with fear, is a change loaded with possibility and hope. If we could tap into that potential and present a story more in line with the possibilities that would help

this country maintain and perhaps even increase its greatness as a nation, we would be doing a great service to everyone.

—*Interview abridged by Vicki Sanders*

In Closing

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the basis of the Chinese government.

The first time I went to oral arguments with Nina and saw the justices emerge from behind the red velvet curtains, a tingle of electricity ran through my body. The proceedings are the same before every session: If there are opinions, the authoring justices read them. If there are new members of the Supreme Court bar, they are admitted. Then, without any small talk or pleasantries, oral arguments begin. It's easy to get lost in the grandeur on display and forget the very real stakes involved in the cases.

Sometimes these stakes were broad constitutional issues that had enormous implications for society. For instance, the arguments over healthcare, the immigration law in Arizona, or the constitutionality of juvenile life sentences without parole for homicide crimes. Other cases seemed much more personal: whether a child born through in-vitro fertilization after his father's death qualified for Social Security Survivors Benefits or whether an Idaho couple could challenge an EPA determination that the site of their dream home was designated wetlands.

After regularly attending Court for four months, hearing arguments, analyzing opinions, and reading countless briefs, I had the chance to see Supreme Court justices, prominent legal advocates, and respected journalists approach the arguments with a clinical precision that left little room for emotions or sentimentality. When I considered the lower courts in my research, it was to see if there were clues as to whether the Supreme Court would uphold or strike down the previous decision. I rarely thought about the people who had spent money and years bringing litigation in those lower courts to challenge some wrong they couldn't fix themselves. I found myself identifying and discussing each case by its legal issues because that was how the briefs were written and how the justices asked questions during oral argument. But the dispassionate language of the law often hid the human struggles and conflicts lying just underneath the surface.

One such case we covered involved a

Palestinian man who immigrated to the United States in the 1970s, started a family, and became a US citizen. In 1995, when he went to visit his home village in the West Bank, he was taken into custody by Palestinian Authority intelligence officers and allegedly imprisoned, tortured, and killed. Nina interviewed two of his sons, who had traveled with their father to the West Bank. After several days of searching, they found the father's beaten body, which had "burn marks of cigarettes ... [on] the bottom of his feet, his chest, his stomach, his hands." The surviving family members sued the Palestinian Authority and the PLO under the Torture Victim Protection Act, a 1992 law authorizing lawsuits against "individuals" who commit acts of torture overseas against US citizens on behalf of a foreign government.

In mid-April, the Supreme Court unanimously decided against the family, saying that organizations, such as the Palestinian Authority, could not be sued under the law because they did not fit under the definition of "individual." As Nina prepared her story for the afternoon broadcast of "All Things Considered," she asked me to get the reaction of one of the sons we had interviewed before the oral arguments. So I called.

He was in a good mood, and we made some small talk before the son told me he hadn't heard about the decision yet. He asked me to tell him the result over the phone.

Over the past month, I had spent hours reading the merits briefs for both sides of the case, and even though I had heard the difficult facts directly from this son, the case was, at its essence, still a legal argument to me. So I told him the result, explaining the legal technicalities that drove the Court's decision.

He was silent, and in that silence, I heard years of litigation pursuing justice for his father crashing down.

In that phone call, I realized that despite the traditions of the Supreme Court and the accomplishments of its justices and advocates, at its heart, it is a very human institution with very human outcomes. And as I end my time with Nina, I am considering what my contribution to the intern guide will be. I'll probably add a few things about how to operate some of the technology, and I might include some of the new lunch spots in the area. But the most important lesson is one I can't explain in words. I am only grateful that I had the chance to experience it.