

July 31th, 2020

*A century from now, when almost all of us are dead, if we don't act with urgency and boldness, I can only imagine what our descendants will be saying about us. **How could we allow the evil of racial inequity to live another hour? How could we not support a scorched-earth policy to eliminate racial injustice?** The revolutionaries of today will age well, as those revolutionaries of yesterday aged well.*

*To be anti-racist is to believe in the word **now**. **Patience** is a dirty word to those incarcerated by inequity. **Patience** is a **nasty** word to those with injustice kneeling down on their neck.*

Ibram X Kendi, "John Lewis and Danger Gradualism," The Atlantic (July 23rd, 2020)<sup>1</sup>

Dear Dean Clark,

This letter is submitted on behalf of the undersigned members of the Executive Board of Seattle University's Black Law Student Association ("BLSA"). We urge the Law School to act in the now and to not be patient with their actions. The ensuing discussion will address the following proposals:

- I. Diversity Programming**
- II. Intentional Coursework**
- III. Pursuing and Retaining BIPOC Talent**
- IV. An Emphasis on Creating an Infrastructure that Supports our BIPOC Colleagues**

### **Background:**

Since its inception, anti-BIPOC policies have plagued America and its institutions. According to the late John Lewis, this is in part why we have yet to complete the revolution of 1776.<sup>2</sup> The widespread broadcasting of the social injustices of today has made the incompleteness ever more evident. As a result, our country is currently experiencing an unparalleled level of social unrest. BLSA released an official statement on June 1st, 2020, in lieu of the ongoing social revolution. The School of Law and its faculty, the Seattle Journal for Social Justice, and other distinguished organizations on our campus issued their own responses in the subsequent days. After releasing our statement, BLSA began to work on ways we can address the inequalities present in our Law School community.

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<sup>1</sup> Ibram X Kendi, *John Lewis and Danger Gradualism*, THE ATLANTIC  
[https://www.theatlantic.com/ideas/archive/2020/07/john-lewis-and-danger-gradualism/614512/?utm\\_campaign=the-atlantic&utm\\_source=twitter&utm\\_medium=social&utm\\_term=2020-07-23T13%3A38%3A48&utm\\_content=edit-promo](https://www.theatlantic.com/ideas/archive/2020/07/john-lewis-and-danger-gradualism/614512/?utm_campaign=the-atlantic&utm_source=twitter&utm_medium=social&utm_term=2020-07-23T13%3A38%3A48&utm_content=edit-promo).

<sup>2</sup> Adam Serwer, *How John Lewis Founded Third American Republic*, THE ATLANTIC  
<https://www.theatlantic.com/ideas/archive/2020/07/how-john-lewis-founded-third-american-republic/614371/>.

In this letter to the administration, we begin with the aforementioned timeline to acknowledge three truths: these are unprecedented times affecting people and institutions alike; second, Seattle University and its law school have undoubtedly made an effort to adapt and support its student body. However, it is not this simple; on the contrary. There exists an underlying third truth which our faculty acknowledges: there is more work to be done. If the revolution of 1776 is in fact incomplete, then there is more work to be done. If we truly want to create powerful advocates for justice, then there is more work to be done. Our institution's mission is to prepare students who are committed to contributing to the common good by shaping an equitable legal system. As an institution, there is more work to be done. We must wholeheartedly champion equitable change in the legal system.

The goals of this letter are outlined below. Portions of these recommendations have been raised in the June 16th letter from the faculty addressed to the Law School community. We hope these proposals can serve to supplement the objectives listed by our faculty and staff.

### **Goals:**

BLSA exists as a byproduct of oppression. Even so, BLSA has formed to articulate and promote the professional needs and goals of Black and minority law students. The specific goal of this document is to facilitate discussions. Discussions which will lead the School of Law to create a stronger organizational infrastructure to support its BIPOC students. Students who will become the next generation of lawyers and practitioners in our community.

While crafting this document, the following thought loomed large: How can we create an environment which garners a more holistic student experience? An environment which exceeds the ambitions outlined in our mission statement. Because the current state of our legal education continues to fail minorities in staggering numbers.<sup>3</sup> There are countless research studies and articles highlighting minority law graduates having lower bar-exam-passage rates, employment rates, and income levels.<sup>4</sup> These issues – like many involving diversity, equity, and inclusion – call for innovative and impactful solutions. Equally important is us remaining mindful of the vast majority whose journey to these halls are being constantly stymied. Which highlights the overarching goal of this letter. We hope after reading this you ask yourselves the following questions posed by Dr. D-L Stewart.<sup>5</sup> In doing so, whatever policy changes are made moving forward will be grounded in the following framework:

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<sup>3</sup> [National Association for Law Placement | Women and Minorities at Law Firms – What Has Changed and What Has Not in the Past 25 Years](#)

<sup>4</sup> Erin Thompson, *Law Schools Failing Students of Color*, THE NATION [https://www.thenation.com/article/archive/law-schools-failing-students-color/#:~:text=On%20average%2C%20minority%20students%20end,employment%20rates%2C%20and%20income%20levels.](https://www.thenation.com/article/archive/law-schools-failing-students-color/#:~:text=On%20average%2C%20minority%20students%20end,employment%20rates%2C%20and%20income%20levels.;); see also Gregory Yang, *How Legal Education Fails Minority Students*, TIPPING THE SCALES (citing NALP, *NALP: Diversity Infographic: Minorities* <https://www.nalp.org/uploads/Membership/DiversityInfographic-Minorities.pdf>).

<sup>5</sup> Dafina-Lazarus Stewart, *Language of Appeasement*, INSIDE HIGHERED <https://www.insidehighered.com/views/2017/03/30/colleges-need-language-shift-not-one-you-think-es-say.>

- Who is trying to get into the room but can't? Whose presence in the room is under constant threat of erasure.
- What conditions has the Law School created that maintain certain groups as the perpetual majority?
- Whose safety is being sacrificed and minimized to allow others to be comfortable maintaining a dehumanizing view?

## **Proposal:**

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**The following list is by no means an exhaustive enumeration of tangible ways we can support our Black students and future attorneys. However, it contains examples of some of the many necessary courses of action the Law School should take if we are truly committed to listening and learning from our Black Law Students and Alumni:**

### **I. Diversity Programming**

In the June 16<sup>th</sup> letter to the community, our faculty acknowledged several areas of opportunity for improvement. One of which is the need to develop co-curricular programs to better prepare our white students to be more effective allies.<sup>6</sup> The following suggestions are inspired in part by the foregoing reflection and builds upon national trends.<sup>7</sup>

The Law School should institute a mandatory law & critical race theory or race equity seminar for every 1L student. Discussions would be centered around exercising and cultivating legal tools for racial justice. For example, programming could include but should not be limited to: Discrimination at work; Constitutional law cases; the Crime Bills of the 90s; over policing; the War on Drugs; and the rapid industrialization of the Cannabis industry. The Seminar could be modeled after our legal writing program, in it is a smaller cohort, and broken down into 6-7 parts spanning across the Fall and Spring semesters. Ideally, instructors would be professors or practitioners with backgrounds in Race studies, African American History, American History, and related studies. This is a seminar designed to educate students about the codification of a legal system designed to control BIPOC bodies. Therefore, it is critical the educators have the academic background necessary to provide the historical context. Curbing just the reiteration of black letter law in the process. This Seminar could eventually turn into an intersession course or more.

Additionally, at the culmination of the annual microaggression workshop, the Law School should mandate each incoming student sign an oath pledging to not partake in discriminatory rhetoric. As a byproduct, students will hold other students accountable for maintaining the integrity of their oath. The University would work with the different affinity groups to establish behavioral guidelines for students and faculty who engage in offensive and hateful speech towards others. Those who fail to adhere to the definite policies should be required to partake in

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<sup>6</sup> Email from Dean Clark, to Seattle University School of Law Students (June 16, 2020) (on file with author.)

<sup>7</sup> We surveyed the recommendations of similarly positioned student organizations across the country. One of which was a student organization from the University of Baltimore School of Law.

mandatory sensitivity training. More egregious violations could result in a mark on their academic record, suspension, etc.

## **II. Intentional Coursework**

Our distinguished Legal Writing program is well suited to equip our students with the skills to become more effective allies. An example being the choice of law in our writing assignments. We're asking our legal writing professors to create fact patterns generating critical dialogue around social inequities and injustices. Exploring topics pertaining to local statutes such as the Washington Law Against Discrimination. As well as federal level scenarios discussing topics not limited to the 13th amendment and immigration and 14th amendment violations. Issues highlighted could also consist of environmental racism, like water contamination from state-owned facilities, and voter disenfranchisement.

Likewise, the Law School should require certain classes, such as Criminal Law, Employment Discrimination, Constitutional Law, etc. to have a dedicated class or unit focused on how this area of the law disproportionately affects BIPOC communities. The Law School should also continue to add more classes specific to race and poverty to the course offerings. Furthermore, professors should seek to integrate course material highlighting the tangible effects of certain laws and policies on BIPOC communities. Material specifically exploring systemic racism and its influence on the outcomes of similarly situated plaintiffs and defendants.

## **III. Pursuing and Retaining BIPOC Talent**

When crafting dedicated pipeline goals, we believe the Law School should start with targeted community outreach. Adopting innovative initiatives, such as this California Pathways to Law School Program, which aim to diversify the legal profession.<sup>8</sup> To elaborate, the California Pathway initiative targets members of historically underrepresented populations, which make up sizable segments of community college enrollment.<sup>9</sup> Participating law schools provide community college students with early exposure to the law school experience, one-on-one academic advising and mentoring, financial aid counseling, LSAT preparation and waivers of the standard application fees for admission to the participating law schools.<sup>10</sup> We believe, alongside the Minority and Justice Commission, there is an opportunity for collaboration with the different law schools in our state to create a similar initiative.

Furthermore, we urge the school to continue to seek BLSA's involvement in its recruitment practices. Working in concert to create our own unique events specific to local Community Colleges and regional High Schools. At the Community College Level, an opportunity for investment is establishing a presence at the annual Black and Brown Male Summit hosted at Highline CC.<sup>11</sup> Additional avenues for involvement include the Young Educated Ladies Leading<sup>12</sup>,

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<sup>8</sup> Lydia Lum, *Pathways to Law School Program is Yielding Success Stories*, *Diverse Education* (Feb. 8, 2019) <https://diverseeducation.com/article/137984/>.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> [Black and Brown Summit](#).

<sup>12</sup> [Young Educated Ladies Leading: YELL](#).

which Highline also hosts, and the GSA Student Leadership Summit.<sup>13</sup> We all take unique paths to reach Law School. If we truly value representation, then it is vital we focus efforts on creating and expanding innovative pathways to our institution.

But we can still reach prospective students sooner. BLSA can collaborate with the Law School to create value adding initiatives for regional High Schools. Initiatives which would provide HS Seniors/Juniors the opportunity to engage with our institution early on. Examples include arranging for students to attend a Mock Trial Competition or to experience “A Day in the Life” on our campus. Such experiences cultivate mentorship opportunities between our communities. Opportunities for educating students on not only the law school experience, but also dispelling myths which may prevent their journeys from beginning. As mentioned by the faculty, potential areas could include but should not be limited to the South Puget Sound. Eventually, this model could be used for more targeted recruitment throughout the region. Additionally, the Law School should pursue hosting a workshop during an intersession or Spring Break to help prospective law students develop study plans using resources such as Khan Academy. Not only will this help the law school interface with prospective students, but also mitigates a financial barrier of pursuing commercial LSAT prep.

We have already alluded to this, but representation is key. While advocating for increased funding and support for the Office of Diversity & Inclusion is vital to our black students, the same can be said for the Center for Professional Development. Apart from efforts to diversify the faculty, having a diverse, ideally black, CPD staff member who can speak to and address the diverse experience in the legal profession is indispensable for our students.

Moreover, the Law School should further develop retention strategies for faculty in consultation with current faculty members of color. These strategies, goals, and outcomes should be listed on the website as means to hold the university accountable in their efforts to diversify their staff. While also doubling down on our selling point as one of the most diverse law schools in the region.

#### **IV. An Emphasis on Creating an Infrastructure that Supports our BIPOC Colleagues**

Law Professor, Brian Tamanaha, wrote, “perversely, the United States has an oversupply of law graduates at the same time that a significant proportion of the populace—the poor and lower middle class—go without legal assistance.”<sup>14</sup> Research suggests this “Justice Gap” will only continue to grow with the rising economic inequality.<sup>15</sup> The issue is further exacerbated by the increasing costs of legal education. “As with all things, student loan reliance and indebtedness are not distributed evenly,” writes Aaron N. Taylor, Executive Director of AccessLex Center for Legal Education Excellence.<sup>16</sup> Black and Latinx populations have the highest rates of borrowing and the highest expected student loan balances.<sup>17</sup> On the Law School Survey of Student

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<sup>13</sup> [LGBTQ Programs, Curriculum and Support](#).

<sup>14</sup> Brian Z. Tamanaha, *Failing Law Schools*, 137, (The University of Chicago Press) (2012).

<sup>15</sup> Robert H. Frank, *How Raising Inequality Has Widened the Justice Gap*, THE NEW YORK TIMES

<sup>16</sup> Aaron N. Taylor, *The Marginalization of Black Aspiring Lawyers*, 13 FIU L. Rev. 507, 489-511 (2019). DOI: <https://dx.doi.org/10.25148/lawrev.13.3.8>.

<sup>17</sup> *Id* at n.91.

Engagement, 95 percent of Black respondents and 92 percent of Latinx reported relying on student loans to cover the costs of law school.<sup>18</sup> Although reliance among Asian and White respondents was high as well, at 77 percent and 81 percent respectively, they are tangibly lower than their counterparts.<sup>19</sup> “With less of their tuition discounted,” Taylor writes, “legal education is more expensive for Black and Latinx students.”<sup>20</sup> Absent other mitigating factors, this leads to the overreliance on loans by Black and Latinx populations. With 40% of our student body identifying as a POC, undoubtedly many of our colleagues are adversely impacted by these implications.<sup>21</sup> We position ourselves as an institution preparing the next generation of powerful legal advocates. Professor Erin Thompson notes, “Even those who went to law school to help members of their community regularly find themselves unable to afford to do so—if they want to meet their monthly loan payments.”<sup>22</sup>

While the Access to Justice Institute and the Diversity Scholarship are good starts, the School of Law, or the University, should reconsider innovative measures to attack student loan debt. Presently, the conditional scholarships offered by the university arguably hurt BIPOC students more than they help.<sup>23</sup> We suggest the Law School work with the University to establish a quasi-endowment fund specifically to help mitigate the financial burden faced by our BIPOC colleagues. Upon creation, a portion of any unspent earnings from the pre-established University endowment would be placed in the new quasi-endowment account. Indiana University, renowned for its debt programs, has implemented a similar policy and could be used as a framework.<sup>24</sup> The money generated will be used to fund additional merit and need based scholarships.

Public Service Loan Forgiveness (PSLF) is available for students who choose to go into the public sector. PSLF forgives the remaining balance on Direct Loans after 120 (10 years) qualifying monthly payments under a qualifying repayment plan while working full-time for a qualifying employer.<sup>25</sup> What about those who will find it harder to find employment in today’s economy? Events surrounding COVID-19 have made extremely apparent the uncertainty which awaits our future graduating classes. We suggest the Law School pursue additional initiatives to tackle this uncertainty. A plan which will assist recent graduates who pursue positions in the private sector which pay less than \$85,000 per year, as well as graduates who are unemployed as a result of extended job searches. Under this plan, the University would offer one year of loan interest forgiveness to those who meet the requirement. The benefit period will begin six months after graduation -- the month student loans enter repayment -- and continue for up to 12 months. Modeled after Northwestern’s “Interest Freedom Plan”<sup>26</sup> this plan would be open to all Juris Doctorate candidates, potentially beginning with the Class of 2023.

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<sup>18</sup> Taylor, *supra* note 12.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.* at n.92.

<sup>21</sup> Facts and Figures, Seattle University School of Law, [Admission Facts & Figures](#).

<sup>22</sup> Thompson, *supra* note 3.

<sup>23</sup> Paul Caron, *ABA 509 Report Data: 27% Of Law Students Lost Their Conditional Scholarships*, TaxProf Blog (Jan. 7, 2020) [TaxProf Blog](#).

<sup>24</sup> *IU-Held Endowments and Quasi-Endowments*, Indiana University, <https://policies.iu.edu/policies/fin-tre-180-quasi-endowment/index.html#policyStatement>

<sup>25</sup> See *See Federal Student Aid webpage*, [Public Service Loan Forgiveness](#)

<sup>26</sup> [Northwestern Law Announces Innovative Plan to Reduce Student Debt](#).

## **Conclusion**

Your students are eager to work with you in order to create a better future. From our programing and coursework to our recruitment and retention practices. It is imperative for as long as we continue to hold ourselves out as an institution which prides itself on social justice, we take the advice of Ibram<sup>27</sup> and ask ourselves: Do our anti-racist policy solutions match the scale of the problem. Will we get big, think big, and act big?

Respectfully,

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<sup>27</sup> Kendi, *supra* note 1.