Learning to Disagree

THE SURPRISING PATH TO NAVIGATING DIFFERENCES WITH EMPATHY AND RESPECT

John Inazu

Illustrations by John Hendrix

Praise for
Learning to Disagree

This wonderful, deeply personal, highly entertaining book takes readers inside the brilliant mind and loving heart of an outstanding legal scholar who wants us to grow genuine friendships, even when we have principled disagreements. Here John Inazu shares everyday encounters from law classrooms, faculty offices, local coffee shops, and life at home with his family to illustrate how challenging it is to show empathy, pursue reconciliation, and offer forgiveness in today's polarized society. Rather than demonizing people who think differently or backing away from hard conversations on divisive moral issues—the way many people do—Inazu shows us how to move into today's cultural conflicts with greater charity.

Philip Ryken, president, Wheaton College

A wonderful, quirky, beautifully written, and often quite funny ode to learning how to live with deep differences. I absolutely loved this book. John Inazu writes with the kind of verve, personality, and attention to character that made me feel like I was reading a novel. Unlike most books, this one might actually change how you argue, fight, love, and even hope. It's that good.

Shadi Hamid, columnist and editorial board member, *Washington Post*; author, *The Problem of Democracy*

Not only helpful, but an absolute delight to read. In a time when there are so few examples of nuance and compassion, John Inazu's voice is one to pay close attention to.

Justin Whitmel Earley, business lawyer; speaker; bestselling author, *Made for People* and *Habits of the Household*

Using his law school classroom and personal anecdotes, John Inazu highlights the values of empathy, compassion, forgiveness, and looking for the good in others as some of the most important tools for navigating disagreements in ways that do not dehumanize those whose viewpoints may be different from one's own. As a college president whose role is to cultivate a campus environment that welcomes and supports a multitude of perspectives, I find *Learning to Disagree* to be a valuable resource for institutional leaders, as well as for professors who wish to enhance their classroom learning environment and those who facilitate professional development workshops related to dialogues across differences.

Lori S. White, PhD, president, DePauw University

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Foreword

It is now almost a cliché to speak of America's increasing polarization. Multiple studies have shown that Americans have a growing disdain for those who differ from them politically and ideologically. A 2020 Brown University study found that the US is polarizing faster and more intensely than other democratic nations. More and more, we deride our political, religious, and ideological opponents as dangerous or evil and retreat to digital foxholes, lobbing insults at the "other side" to the applause of those who already agree with us.

In my work as a weekly Opinion writer at the *New York Times*, it became clear that a significant number of people truly do divide the world neatly into good and bad, liberators and oppressors. They do not want people with beliefs they find abhorrent to exist in the public square. They feel the only way forward as a nation is to stamp out those with whom they disagree. Compromise and understanding then are often seen as weakness or lack of commitment to a cause or belief. But this is folly and taken to its conclusion will inevitably lead to violence. We need a better way to live together amid irreconcilable views of God, truth, morality, and justice.

There are also people—I believe, many of us—who feel sorrow and worry over increased civic animosity, polarization, and heated rhetoric. We want a better way. Americans are increasingly lonely. We don't know our neighbors. Many of us are concerned about the future of our society. We want—and desperately need—help figuring out how to move forward and repair our fraying social fabric. We need guides to help us learn to nurture relationships and coalitions across differences, to practice civic grace.

My friend John Inazu is such a guide. In this volume, he offers a way of being in the world—a way that takes convictions seriously and takes our differences seriously, but also makes space for humility, friendship, good humor, and curiosity.

Amid the deep divisions in our world, what's clear is that it is not enough to merely extol the virtues of pluralism and loving our neighbors. We can't merely think our way to a better, healthier society—a society in which we know how to disagree well. Embracing convictions with both confidence and humility is a skill and a habit, a way of being that is practiced and grows over time. Learning to be a good neighbor, friend, and coworker across deep differences is often more like learning to walk than it is learning a creed. It is an embodied art of relating to others and to the world around us. It requires us to embrace empathy in practical ways, to allow others to have the last word, to show kindness to those who may not even like us, to seek and find our common humanity in the warp and woof of daily life. It is a practice, a craft, a dance, a vibe, a mode of living. We therefore must learn to practice civic virtues in our own context and everyday lives.

Because of this, John doesn't just tell us that a convicted and kind pluralism is vital to the health of society; he brings us into the ordinary and mundane rhythms of his life as a legal scholar, a public thinker, a professor, a dad, a friend, a coworker, a church member, and a neighbor. In the granularity of these relationships and conversations, he shows how healthy disagreement is not only possible but is, in fact, the very path to wisdom, virtue, and love.

If my friend John has one gift, it is the gift of "complexifying" things we tend to make overly simple. As his buddy, this drives me crazy at times. I will call John, full of self-righteous indignation and overconfident in my own views of an issue or idea, and he immediately asks hard questions that make me think. He cites two law cases and three personal stories that make me less sure I'm right. He deflates my ego like a sad balloon—this is a good thing if one is after wisdom, truth, and grace, though not so fun if you are after that piquant feeling of smug, superficial sanctimony.

In *Learning to Disagree*, John's gift is on display. His expertise; longtime work on pluralism; profound understanding of law, policy, and justice; and the complexity of his own family history make him well-equipped to challenge us in ways we need to be challenged. John calls us to think more deeply, to ask better questions of ourselves and others, to shed worn presumptions. He wades into the complexity of divergent ideologies he encounters every day in his classroom and work and graciously invites us to have a front-row seat. In doing so, he challenges each of us to think more deeply about what we believe and about the limits of each of our knowledge and perspective. He offers us a thoroughly accessible guide to a

better civic life. These pages are a field guide to the joyful, hopeful, and necessary task of learning to disagree in a way that, in the end, teaches us to flourish.

Tish Harrison Warren,
author of *Liturgy of the Ordinary*
and *Prayer in the Night*

Preface

The book you are about to read takes you through a year of my life as a law professor. But this isn't just a book about law or legal education. It's about finding nuance and empathy in some of our country's most divisive issues. It's about holding together clarity and ambiguity, tolerance and judgment, confidence and uncertainty. It's about what each of us confronts in our daily encounters with beliefs and viewpoints we find unfamiliar, off-putting, or even dangerous.

This book won't tell you what to believe, but it does aim to change the way you engage with disagreement. The stories and vignettes are meant to complicate your assumptions, introduce arguments from "the other side," and illustrate how people can recognize good faith disagreements without surrendering their most strongly held beliefs. Millions of Americans think that politics and people are more complicated than the talking points of partisans. *Learning to Disagree* gives voice to the tone and substance of the kinds of conversations most people actually want to have.

Each chapter asks a question that emerges through a mosaic of experiences inside and outside the classroom—the

cases and concepts I teach my students, my interactions with colleagues, and various life encounters outside of my day job. The classroom stories draw from my twelve years of researching and teaching Criminal Law, Law and Religion, and the First Amendment. The extracurricular stories occurred over these same years but draw from my everyday interactions with colleagues, neighbors, and friends. In this sense, this book explores not only the challenges of legal education but also the challenges all of us face in our daily lives—the complexity of people, the importance of compassion, and the pitfalls and possibilities of living in a diverse society.

The stories are true, though in reality they unfolded across several different years. Most of the characters are composites; the coffee shops are real. The stories raise difficult issues, like how we punish people who have committed unspeakable crimes, how we navigate religious diversity, and whether forgiveness is possible. They also raise fundamentally human inquiries, like searching for empathy, struggling to discern what's fair, and asking what happens when compromise isn't possible.

You can use the reflection guide at the end of this book to explore how these inquiries apply to your own life. You might work through the guide with a friend or a group of friends. The questions are meant to spark conversations more than point you toward answers. I hope you will read slowly and linger on the stories that challenge you and the claims that irritate you.

More importantly, I hope this book provides ideas and tools to navigate the differences and disagreements you encounter in our world. That's part of the goal of legal education. And while law school isn't for everyone, you may find that the lessons in this book have a surprising relevance to your own life.

How Do We Learn Empathy?

Empathy is seeing with the eyes
of another, listening with the
ears of another, and feeling
with the heart of another.

Alfred Adler

August is absurdly humid, but the mornings offer some momentary respite, especially with a light breeze like the one I feel today. I am sitting in my favorite chair on my screened porch, a coffee mug in one hand and my cell phone in the other. If I bothered to look up from my phone, I would probably notice leafy trees and bright goldfinches. Instead, my attention on this Monday morning is fixated on the glowing screen in front of me. A lengthy social media thread about abortion is unfolding between two of my colleagues who have very different views of the world. Both of them teach constitutional law, and they both know something about the underlying legal issues in the Supreme Court's abortion cases. Social media sufficiently masks their expertise.

I really should be at my office putting the final touches on my first class of the semester. Tomorrow I'll meet eighty first-year students for their introduction to law school, and my last few pages of notes aren't going to write themselves. Plus, the short walk from my house to campus usually puts me in a good mood as I stroll past Gothic architecture and really nice grass. But the heated abortion thread keeps me planted in my chair.

I tell myself I'm scrolling through social media to catch up on the latest news. After all, my job requires some basic awareness of what's going on in the world, and the Supreme Court has certainly made its share of news in recent

months. On the other hand, if social media were really about professional development, I would be much better at skipping past the sensational and snarky exchanges. You've probably been there too. You hop online to check a sports score or read your favorite columnist, and twenty minutes later you're swimming in a sea of celebrity gossip, useless factoids, and political outrage.

In addition to its unending distractions, social media also makes it harder to empathize with others. Depersonalized wars of words mediated through these two-dimensional screens obscure the complexity of other human beings. Worse still, the bots and other artificial accounts now flooding the zone mean that some of our interactions are not even with other people. If we don't pay attention, we will find that algorithms reflecting our worst impulses condition us toward animosity rather than empathy.

Some of my colleagues are less worried. They share quite a few of their opinions and feelings online—tirades against Supreme Court justices, exuberant celebrations when their team scores a political victory, despondent laments when the other team wins. I understand the impulse. I feel it too. But our students are watching. And we're training lawyers, not activists.

Legal education is not flashy. It involves exhaustive research, precise writing, and attention to language—not witty one-liners and clever retorts. This detail-oriented work is not for everyone. And—spoiler alert—legal practice is more of the same. I'm impressed that the geniuses in Hollywood keep pumping out movies about lawyers solving exotic mysteries or tracking down evil villains. Most lawyering is more mundane. Yes, some people get to channel their inner thespian every

so often in the courtroom. But even trial lawyers spend most of their time in an office writing briefs, filing motions, and reviewing documents. My ten-year-old son, Sam, often reminds me of the nature of legal work: "All you do is read and write, read and write, read and write. It's so incredibly boring."

Teaching law means teaching clarity and precision, and parts of that *are* boring. But teaching law also means teaching empathy. And that's why I find the professor social media rants so jarring. They model empathy for allies and hatred for adversaries. Good lawyering requires empathy for adversaries. You don't have to *like* the other side, but you do have to understand them. How can you anticipate your opponent's reactions and next moves? And how are you going to persuade a judge or other decision maker that you have the better story?

This kind of empathy is not just for the courtroom. You can also apply it to everyday disagreements with the people you encounter in your life. Find out what motivates them. Examine how their arguments get off the ground. Ask why the conclusions that seem so obviously correct to you seem so obviously wrong to them.

Law school complicates these questions by pushing for empathy in the midst of uncertainty. These three years of education will introduce ambiguity into everything from ordinary words to deeply held beliefs. Life is suddenly full of uncertainty. Is that a legal contract? It depends. Is it murder? It depends. Is today Tuesday? It depends.

This ambiguity is especially hard for students who studied math or science in college. I majored in civil engineering, where "It depends" is rarely the right answer. The bridge either bears the load or it doesn't; the flood zone handles the water

surge or it doesn't. There are plenty of unknowns and risks in engineering. But the answers to these uncertainties are usually found in mathematical equations. The law's answers to uncertainties are based on human judgment, which is why law is more art than science and why some legal decisions are politicized or biased. Some, but not all. It depends.

This uneasy world of gray is difficult to grasp after a bunch of classes in multivariable calculus and organic chemistry. The English majors who lost sleep over the meaning of Dickinson poems are much better positioned for the vagaries of law school. But college majors don't really matter that much. In a few weeks, most of these students will be equally disillusioned and dejected.

Okay, maybe not *dejected*. It's not like we're putting them through military basic training. Most of us are not yelling at them. Most of the pressures are self-imposed. And there is very little physical exertion, unless you count keeping your eyes open through endless amounts of reading.

The first year of law school does, however, resemble basic training in its indoctrination. Our slightly immodest goal is to get you to think differently and to see the world differently.

My contribution is teaching Criminal Law. It's a required course at most schools, and it's often the only first-year course that teaches statutory interpretation—how to read, understand, and argue about laws on the books. It's also a course with a lot of disturbing content. Most of the people who make their way onto the pages of Criminal Law textbooks have done awful things to other people. And my students and I will spend a semester walking through their actions and the consequences of those actions.

I glance up at a chirping goldfinch just outside my porch and realize I have now been pondering the dynamics of law school for quite some time. At least I have put down my phone to notice the goldfinch. But it is about time to head into the office.

Today is the first day of classes. I have spent the past few hours in my office reviewing the opening cases. I head down to a large room with stadium seating filled with nervous bodies and faces. A few minutes before the start of class, I walk up to the podium to set up my notes. Occasionally I look out at the anxious chatter in front of me and am greeted by quick glances and half smiles.

Once we get under way, I share a few welcome announcements and attempt a few jokes. The half-hearted nervous laughter assures me the jokes are not funny enough to ease the tension. I then turn to the dreaded "cold call." This time-honored tradition means that rather than asking for volunteers, I pepper an unlucky student with a series of pointed questions. I am part of a kinder, gentler generation of law faculty who don't find the cold call as magical as some of our predecessors did—I'm not Professor Kingsfield in *The Paper Chase* or Annalise Keating in *How to Get Away with Murder*. Still, a few light cold calls here and there are useful to hold attention spans. Besides, all of my colleagues do at least a bit of cold calling in their first-year classes. Indoctrination works best with reinforcement.

I tell my students not to lose sleep over cold calls.

Yes, they're awkward and nerve-wracking. And yes, you'll probably always remember your first one. But by the end of the semester, nobody else is going to remember what you said. Most of your classmates are too busy worrying about whether they understand the case, trying to figure out why I asked a particular question, or pretending to take notes while squeezing in some online shopping.

My first cold call falls on Stephanie Jenkins, a short blonde woman with a slight Southern accent. She's sitting six rows back in the middle of the room. Stephanie hides her nerves well, leaning back a bit in her seat and twirling a pencil with her fingers. I've learned from my preclass survey that she graduated from Davidson with a political science degree and spent two years with Teach for America.

"Stephanie, tell us the facts of *Dudley and Stephens.*"

Dudley and Stephens is nearly a rite of passage in law school. It involves a nineteenth-century murder prosecution in England: four guys on a boat get lost at sea and run out of food and water with no rescue in sight; they are all very hungry; three of them kill and eat the fourth, a poor soul named Parker.

My opening question to Stephanie is a total softball. After all, how could you forget *those* facts? Some cases are hard to keep straight, but most of these students will remember *Dudley and Stephens* for the rest of their lives. Stephanie remembers the facts and stumbles admirably through her first law school cold call.

After Stephanie sets the stage, we dig a little deeper. Are all three men equally culpable? Or is the guy who hatched the plan better or worse than the guy who took the knife to

Parker? And what about the third guy who just watched it all go down but admittedly partook of the body? Think about it for a minute. Put yourself in that boat and pay attention to who is doing what around you. How should the law assign responsibility to the people who have committed these awful deeds?

Then we take it to another level. What if these actions aren't even blameworthy? "Stephanie, is there any way to *justify* the actions of these three men?"

At this point in the semester, it's important to finesse my question. So after a slight pause, I add, "In other words, is there an argument that these men did the right thing by eating Parker? Or at least that their actions were tolerable?"

"Well," Stephanie offers tentatively, "perhaps we could argue for the greater good—that it's better to sacrifice one life to save three."

"Maybe," I respond, "but how do we determine the greater good? What if Parker were a Nobel Prize researcher on the brink of curing a major disease and the other three were violent terrorists?"

"And," she adds, already second-guessing her initial answer, "it's probably never a good idea to describe killing an innocent person as a morally good action."

A few others chime in, and it soon becomes apparent to the class that there is no easy formula to tell us that killing and eating Parker was the right thing to do.

Dudley and Stephens is a wild case, and I have to remind myself that not everyone in the room has read it as often as I have. The first time through can be a bit jarring. That's one reason some Criminal Law professors have cut it from the

curriculum. The other reason is that these days, there just aren't many cases of cannibalism on the high seas. Wouldn't our time be better spent on something more commonplace, like drug possession crimes? Maybe so, and in any event, we'll get to some of those later in the course. But I'm not giving up on *Dudley and Stephens*. I like the case because it takes us to the limits of empathy.

At first glance, these limits come from intuition. Killing and eating people is bad; good people don't do those things; we would never do those things. But I want my students to wrestle with a more unsettling question: *How do you know?* I get grumpy when I skip lunch. Some of my students have experienced greater hunger, but most of them haven't missed more than a few meals in a row. And I'm fairly certain that none of us have been stranded in the ocean for days without food and water.

This brings me to another question for Stephanie. "Even if these three men are morally and legally blameworthy, could we conclude that they should nevertheless escape punishment?"

Stephanie pauses for a moment, twirling her pencil and curling her lip before speaking.

"Maybe they've already been punished enough."

It's a smart insight. Maybe this particular situation is so extraordinary, so impossible to comprehend, that we really have no idea how normal people—people like us—would respond. These poor guys have been through hell and back. They lost their ship, nearly starved to death, and then killed and ate a guy in a very small boat.

The truth is that we have no idea what we would have done in their shoes. Stephanie's answer suggests why the limits

of our own experiences might cause us to question—or at least slow down—some of our judgments. Rather than launching into an immediate critique of how someone else has handled an unfamiliar or impossible situation, we might pause to imagine the distance that divides our experiences. We may find after a little reflection that we aren't as sure as we initially thought. Sometimes a drop of empathy can restrain a flood of needless words and thoughtless commentary.

Law school provides plenty of opportunities to practice this restraint through a series of clashing perspectives that emerge from different experiences. What happens when a white student from rural Missouri and a black student from Chicago find themselves debating police shootings? How do students of different faiths and no faith navigate difficult questions about the limits of religious practice? How do students discuss the legal contours of abortion, immigration, and affirmative action with peers across the political spectrum? Law school teaches a set of professional skills, but it also teaches students how to relate to one another—how to find empathy across differences.

You don't have to be wired like a lawyer to learn these skills. Empathy is not rocket science. It's hearing an unfamiliar or off-putting argument, pausing to think about what's been said, and responding with an appropriately engaged question. It's giving people the benefit of the doubt because you may not know what battles they are fighting. It's treating others the way you would like to be treated. Empathy is the simple stuff that's hard to put into practice.

Law school highlights another reason for empathy—the better you understand the other side of an argument, the better

you can critique it and the more strongly you can defend your own position. If all you do is reflexively dismiss the other side ("Those idiots—how could anyone think that way? What a stupid idea!"), you will never really understand the argument someone is making or why they are making it. Attributing bad arguments to people you think are dumb is easy, but it usually misleads you. Empathy lets you see that smart and well-intentioned people can also make bad arguments.

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The next afternoon, I am giving a welcome talk to the first-year class. The dean has asked me to speak about free speech norms. The school has crammed all three hundred first-year students into a lecture hall with seats that look like they're built for middle schoolers. Despite our tight quarters, the students seem more relaxed for today's talk, probably because they know there won't be any cold calls and none of this material is showing up on an exam. Still, I am glad we have these talks in the first few weeks of the semester. It's good to lay a common foundation.

After a relatively quiet start to my presentation, I get a few laughs with a slide about halfway through that reads, "Don't be a First Amendment hero." The point is simple enough. Yes, you are legally permitted to say almost anything to almost anyone. The First Amendment protects your right to say all kinds of terrible, life-destroying words. But just because you can say whatever you want doesn't mean you should. Making the most offensive or outlandish comment to prove a point or test a

principle is seldom going to win you supporters, to say nothing of friends. And lawyers—including lawyers-in-training—should know the importance of persuasion.

Unfortunately, law school has no shortage of First Amendment heroes. Sometimes they're conservative agitators trying to "own the libs" by pushing speech norms to the brink of acceptability—mocking gay people, feminists, or whatever other group they think is most privileged in higher education. But conservatives don't have a monopoly on incivility. I have heard plenty of liberal rants around the law school that fail the test of basic decency—tirades against police officers, conservative religious believers, and Republican voters, among others. In these cases, it's as though liberal tolerance reaches its limit when it comes to nonliberal views.

My challenge to these first-year students to speak charitably is complicated by their diverse backgrounds. They come from different communities and ways of life. Some of them have rarely interacted with people of different races, religions, or political backgrounds. Some of them laughed comfortably a few months ago at jokes they wouldn't dare share publicly now; others are more emboldened to say things they carefully suppressed back home. Over the next three years, these students will confront the limits of their own experiences through interactions with peers in and out of the classroom. Sometimes these limits will come to light through harsh words or emotional reactions. At other times the signals will be subtler—the raised eyebrow, the tensed shoulders, the glistening eye. Some of these students will worry about being ostracized by their peers; others will muster the courage to challenge unquestioned assumptions. They will all wrestle

with striking an appropriate balance between lamentable self-censorship and laudable compassion.

I suggest to the students in front of me that the right approach lies at the intersection of civic responsibility and civic grace: don't be afraid to express your honest opinions but treat others kindly. I want these students to care about their words and take seriously the responsibility that comes with free speech. But I also want them to question orthodoxies and engage when others are too intimidated to do so. Some corners of law school cultivate the First Amendment heroes we don't need; others suppress speech because they can't imagine reasonable disagreement with their own viewpoints.

Many of us encounter these same competing pressures in our daily lives. In some contexts, we are too flippant with our words, not realizing how our choice of language or attempts at humor affect others in the room. Elsewhere, we are too conscious of what we say, too worried that forgetting the currently fashionable language norms will lead to critical glares and hushed condemnations.

I illustrate these ideas in my talk with the debate over gender pronouns. These days, some people want to be called by their preferred pronouns, a reflection of rapidly changing understandings of gender in our society. Other people feel that doing so will force them to speak untruthfully about the world. Recognizing the underlying tension is a good first step toward discerning what to do in these circumstances. Sometimes language itself gives us a way out of challenges that come from language. When it comes to the pronoun showdown, proper names can often go a long way toward sidestepping controversy. Instead of worrying about my pronouns, you can

just call me "John"—or if you are my student, the gender-neutral "Professor" works fine. You don't always have to engage in the culture fight. And every time you choose to interact with someone in a way that neither downplays your own beliefs nor raises their hackles, you have made a small step toward building a kinder and gentler world around you.

After my First Amendment presentation, a couple of students walk to the front of the room to introduce themselves. I guess correctly from their mannerisms that they are both military veterans. Staff Sergeant (retired) Patricia Smith and Ensign Joseph Villario discovered their common connection at last week's orientation. Smith is a former Army helicopter mechanic, medically retired after a training accident crushed her arm. She's trying law as a second career. Villario is here on a Navy-funded program before returning to active duty as a military lawyer.

I'm drawn to the veterans in part because I am one, which is rare among law professors. I went to college on an ROTC scholarship and spent four years as an Air Force lawyer at the Pentagon. My son Sam regularly reminds me that this isn't actually cool. "It's not like you flew jets, Dad. You just worked a desk."

Less than one percent of law professors are veterans, and that rate probably holds across other academic disciplines. It's a noticeable shift from faculty demographics a few generations ago. Even as higher education has rightly diversified across a number of categories, we've become less diverse when it comes to veterans. It's true of Congress as well, and the veteran gap skews socioeconomically too. You may have sensed this watching the news or seeing who shows up for military funerals in your own community.

Smith and Villario share a few stories and make their obligatory jabs about the Air Force being the cushier service. Then they invite me to join them on a morning run with the student veterans club. A good rule of thumb is never to run with people half your age, unless you're a really good runner. I politely decline the invitation, fumbling through some excuse about having to prepare for classes. "No problem, sir. We'll be sure to reach out on some other occasion." The veterans are the only people who call me "sir" anymore. And if "some other occasion" means "not running," then I'm in.

Talking with Smith and Villario reminds me of the unique perspective veterans bring to law school. Smith spent nine months in the Middle East and had her base hit a couple of times by insurgents. Villario lost a couple of guys working for him when a fire broke out on his ship. These kinds of experiences put into perspective some of the pressures of reading cases and writing briefs.

On the way back to my office, I bump into my colleague Brenda Williams—a tall black woman in her late thirties. Brenda's main research area is tax policy and housing inequality. She has been on the faculty for fifteen years after completing law school at Yale, a fancy appellate clerkship, and a few years at the Department of Justice. Law professors are generally high on ego and low on social skills. Brenda has her share of ego but hides it well with above average social skills. We are friends, but we don't spend much time together outside of work.

Brenda, as it turns out, is on her way to give her own orientation talk to the first-year students; hers is on understanding bias. The basic gist of her message is that our

experiences and assumptions create bias, and many of us are prone to act on that bias in unhelpful ways. Sometimes bias manifests as overt prejudice. I have seen enough outright bias to know that it knows no ideological bounds. It is most acute when I find myself *passing* as part of the in-group—the white people at the fancy restaurant who don't pick up that I am half-Japanese, the secular colleagues who can't imagine I actually believe in God, the conservative religious neighbors who assume I share their politics. I am amazed at the things people say when they think everyone listening is just like them.

Maybe you've experienced this too. Maybe you have a hidden or less visible identity regarding your faith, politics, or sexuality, and you've found yourself in rooms where nobody seems to realize you might be different. It's worth remembering how you felt about the careless words and thoughtless jokes you heard.

If we're honest with ourselves, most of us could work toward greater consistency between what we say publicly and what we say privately. That doesn't mean we have to censor ourselves all the time or hold back our true beliefs in trusted circles—that would be an exhausting way to live. But it might mean that we pay more attention to our words and our jokes even in the more informal parts of our lives, realizing that doing so could help us lead more authentic and integrated lives. In fact, if we use greater care and compassion in our informal conversations, we may find ourselves worrying less about "saying the wrong thing" in more public settings.

These issues of bias are extremely important, but I am not convinced that bias training is the right way to address them. Judging from some of the recent research, I'm not alone. In addition to questions about its efficacy, much of this training

feels rote and performative. I've been in meetings where everyone in the room has clearly been through dozens of these, and some of my colleagues still offer public laments at the end of our time:

> **Jill from Political Science:** *"I realized anew, much to my horror, that I still have bias."*
>
> **Ben from English:** *"I thought I had overcome my biases, but this important training makes me realize how far I still have to go."*
>
> **Laurie, no idea what department she's in or why she's at this meeting:** *"I hope we can all do better with our bias in the future."*

Brenda's talk to the law students differs from the standard bias training and draws more from her own life experiences. Her stories are powerful, and she is also a captivating speaker. But even the best talk only scratches the surface. Working on bias is going to take pushing through abstract categories to get to actual people whose contradictions and imperfections defy stereotypes and labels.

Like the stereotypes and labels I am now realizing I projected onto Smith and Villario a few minutes ago. In sizing up the two of them, I assumed that veterans will not feel the pressure of law school as intensely as others around them. But while some veterans arrive at law school strong and resilient, others are traumatized and disoriented. Some veterans navigate academic pressures with ease; others struggle and even despair. Empathy, I am reminded, attaches to people, not abstractions.

I have modest confidence that my students will learn something about empathy during their time in law school. They will have the luxury of exploring nuance and difference with each other for the next three years. It's not life in the foxhole, but it's closer quarters with a diverse group than many of them will experience in other parts of their lives.

Legal education at its best teaches the tools of disagreement and provides plenty of opportunities to put those tools into practice. But you don't have to be in law school to learn these skills. You can begin to recognize the complexity of the people around you and the empathy this complexity can bring to you. You can start by assuming the best of someone—or at least not assuming the worst—to open the door to deeper understanding and an opportunity to learn from those who see the world differently.