

AT THE INTERSECTION: A CONVERSATION WITH THREE LAWYERS ABOUT LEGAL PRACTICE, PURPOSE AND THEIR PURSUIT OF PASSION

By Tina Parbhakar, Wei William Tao and Linda Guang Yang*

We are three young lawyers. Viewed intersectionally, we are racialized, gendered and from socio-economic classes that make us unlikely law firm officemates. All of us came from families (including extended ones) with no other lawyers. We are well aware of the barriers to practice that, historically and now, make lawyering a privilege and a corresponding responsibility.

What is intersectionality? Professor Kimberlé Crenshaw, who currently teaches at Columbia Law School and directs the school's Center for Intersectionality and Social Policy, coined the term in 1989.¹ Intersectionality is an analytic framework that attempts to identify how interlocking systems of power impact those who are most marginalized in society.² Under this framework, various forms of social stratification—such as class, race, sexual orientation, age, religion, disability and gender—do not exist separately from each other but are interwoven. Through this lens, we can be more cognizant of the intersecting vectors of privilege and oppression and aim for a more contextual and nuanced understanding of each other's situation and position. Further, using this framework to interrogate the premise of universality and consider the (often unacknowledged) history and reality of differential impacts, we can attempt to make better policy and law.

Intersectionality also ties into recent efforts to address reconciliation as decolonization. Continued power over Indigenous peoples and lands by institutions operating with white supremacist underpinnings inhibits the possibility of safety and standing in one's culture on an ongoing basis, par-

* The authors' names are abbreviated in the "Q&A" portion of this article as "TP", "WT" and "LY", respectively. In addition to the more conventional biographies that we include on the "Contributors" page at the end of this issue, we have retained at page 479 the authors' informative descriptions of their histories and approach.

ticularly for low-income women, gender non-conforming persons and those with disabilities. That is why Dr. Robin DiAngelo's *White Fragility: Why It's So Hard for White People to Talk About Racism*³ marks a turning point in equality, diversity and inclusion work in various sectors and should permeate everyday conversation. In this book, Dr. DiAngelo raises several common situations that cause racial stress to white identity and notes that a recurring issue is an inability to listen to and validate others. We want to acknowledge these two scholars' works before we articulate our lived experiences.

In the following piece, we engage in collective writing that aims to speak truth to power, knowing that many local Indigenous communities tell stories in oral collective form, in contrast to the individualism and ego that animate legal narrative. Today, we take off our respective organizational hats and write as a form of reflection, coping and awareness-raising. This piece is similar to the type of conversations young intersectional lawyers are having across the profession and that all lawyers should champion and seek to better understand.⁴

Q: What made you pursue the law?

LY: My parents and I came to Canada in the early 1990s as refugees. I grew up listening to my family's stories about those years of upheaval in China: tragedies imbued with resilience. While at UBC, I heard about the International Justice Mission ("IJM") through a speaker sharing his organization's joint efforts with IJM that led to the rescue of children trapped in a Cambodian sex trafficking ring and the arrest of a Canadian who abused them. I was intrigued that an NGO was doing what governments have often done poorly: bringing perpetrators to justice, caring for survivors and reforming institutions to enforce laws properly. That led me to Dalhousie for law school, articling and working as an associate at a national firm in Vancouver, and now a two-year legal fellowship with (as you might have guessed) IJM.

TP: My path has not been as clear-cut as Linda's, yet our paths do share some common aspects. Unlike her, I did not plan to become a lawyer. I pursued law due to a decent LSAT score, the need for practical skills and the momentum created by law school admission. I was interested in human rights and good governance, globally, due to my family and diasporas' experiences and my own desire to make change. Fortunately, UVic Law offered international law summer and exchange opportunities. I have since practised civil litigation, while keeping an eye on international development ideas and trends. Litigation has made me more skeptical and rigorous. Presently, I plan to bring my legal, public administration and international experiences together.

WT: Unlike Tina, I always wanted to be a lawyer. What I did not know at the time was that the impetus came from me grappling with my identity as a Chinese Canadian. After several adolescent years being ashamed of my cultural heritage, I studied migration history at university. Through cultural community engagement projects and working with migrant communities, I saw the law's power to change lives, both positively and negatively. On this journey, I lost my way a few times, including pursuing a Big Law position at a now-defunct firm. Looking back, I wanted that position for the wrong reason: prestige. Eventually, I returned to my roots in Canadian immigration and refugee law and recently shifted from a business immigration practice to one focused on families, international students, workers and vulnerable clients. I am a publicly vocal and passionate advocate for immigration policy reform.

Q: How do you find the practice of law as a racialized lawyer?

LY: I had the good fortune of landing that coveted Big Law position as a litigation and immigration associate. Another version of myself would have been content with this career trajectory and the fact that I was making a dent in my crushing student debt. However, my family's refugee journey, in addition to my progressive Christianity, made me yearn for a different life, one that did not relegate the pursuit of justice to the margins (i.e., a few pro bono hours here, a donation there). In the end, I asked myself if I wanted to continue serving the private commercial sector. The answer was a resounding "no". So I resigned from the firm and took an unpaid legal fellowship position with IJM in its Cebu, Philippines field office. Through the generous support of family, friends and colleagues, I am now in my second year as a volunteer lawyer, supporting Filipino authorities who investigate and prosecute the online sexual exploitation of children (a broad term encompassing human trafficking and child pornography usually with an international angle) and driving public justice system reform in the Philippines. For the first time in my legal career, I feel genuinely fulfilled by my work.

WT: Early on, I treated practice like it was law school: reading, absorbing and regurgitating. This model works for simple, clear-cut cases (and a good business model), but the complexities of litigation, especially constitutional litigation, require a deeper dive. While client management and business development come more naturally to me, less natural are contending with enforcement authorities, dealing with highly-traumatized clients, and the hypercritical, academic study of the law that I now need to do. I need to develop a whole new set of skills, and it is humbling.

I have begun to examine the “why” behind my practice. Professor Constance Backhouse refers to Canadian immigration law as the aggrandization of white power.⁵ Does my work perpetuate a system of neo-colonialism that allows settlers to come in complete ignorance of this land’s Indigenous history? Do I create an illusion that I am the one responsible for a client “gaining residency” through tips and tricks? In my opinion, we cannot decolonize without indigenizing, so that decolonization is not merely a metaphor for social change or a settler’s move to innocence.⁶ However, I cannot indigenize without listening and ceding power, opportunity and physical space to Indigenous leadership and lived experience. Engaging respectfully is the aim of my practice moving forward, while reflecting on my privileges and using them to create space for and champion others.

TP: As much as I enjoy legal analyses and was an avid student, the imposter syndrome starts early and increases when policies and practices signal that being culturally different is a character flaw. The idea that diverse lawyers need to “work twice as hard” to pass is tiring and breeds resentment. Only the most privileged and aligned to the normative culture among “equality-seeking groups” may feel fulfilled by this mode of existence. The onus (of inclusion) needs to shift. Most institutions are silent on their providence and do not acknowledge a different worldview (i.e., non-Western and non-English) unless such acknowledgment makes them look good or more lucrative. I have observed that a stiff hierarchy (subject to the nepotism and biases of privileged cliques within it), a lack of appropriate formal mentorship and vague expectations without signposts for growth leave lawyers from marginalized communities feeling isolated and unable to achieve their potential. At some point, re-engagement with core values and choosing one’s authentic self is worthwhile or necessary or both. As they become more economically secure, many lawyers start to seek allies to build a more inclusive vision of human experience in the law. I commend their integrity and strength and am buoyed by their efforts.

Q: What challenges do racialized lawyers face in practice today?

WT: Once the firm I was at collapsed for economic reasons and “spin-offs” formed, it was clear that who was kept on depended on power politics and existing relationships (nepotism, as Tina said), rather than dedication and merit. For many racialized lawyers, practice is isolating, and building strong relationships within that context is challenging. We are given limited “face time” with clients and are encouraged to view col-

leagues as competition. Yet, for many of us without a family lineage of lawyers, these are the very relationships critical to our professional lives. Recently, at a panel for Asian law students, I encouraged them to build stronger bonds and watch out for each other as they advance. As a diverse legal community, we need to mentor and be mentored in honest and meaningful ways.

LY: It's no different from what racialized people operating in white supremacy culture deal with generally. One example is microaggressions: the "Where are you *really* from?" or "You speak good English" type of snubs. Accumulated over time, racialized people are confronted with a lot of hostile messaging that says we do not belong in this society based solely on our membership in a particular group. This message is sent when a female lawyer gets asked if she is the legal assistant or the court reporter, when a lawyer of colour is asked to join a client meeting to be a diversity token, or when equity and inclusion efforts seem to fall disproportionately on the shoulders of BIPOC (black, Indigenous and persons of colour) and LGBTQ2S+ (lesbian, gay, bisexual, trans, queer, two-spirited, plus) lawyers.

TP: In discussing with lawyers like Will and Linda, I have learned that my experience is not unique. Racialized lawyers are often made to feel exceptional and uncomfortable, as many authority figures see raising diversity issues as a direct threat or suggestive of a harassment incident. Evidence supports the need for top-down change to address systemic bottlenecks. Ignoring race and socio-cultural background impedes, among other things, meritocracy, performance, teamwork and realistic succession. To date, our Ontario colleagues have better acknowledged that racialized lawyers face more barriers, stress and mental health challenges than their non-racialized counterparts.⁷ B.C. legal authorities express concern about outsourcing and technological pressures on the justice system, yet often apply approaches that neglect our shared future. Specifically, an overlap exists between ignoring Western supremacy (often casting it as "neutral") and too strong a focus on left-brain thinking. Incorporating other cultures and the right brain are essential to achieving accessible and effective legal services in Canada in the 21st century.⁸

Q: How do you see intersectionality affecting women lawyers?

LY: This is not original but needs to be said: not all women are white. When we talk about women's issues in the legal profession, we need to be conscious when the experiences of women of colour are being erased

in the larger conversations dominated by (white) women or (male) racialized groups. As Kimberlé Crenshaw says in a recent interview, “Intersectionality is a lens through which you can see where power comes and collides, where it interlocks and intersects. It’s not simply that there’s a race problem here, a gender problem here, and a class or LGBTQ+ problem there. Many times, that framework erases what happens to people who are subject to all of these things.”⁹

TP: I agree with Linda. Women with intersectional identities are among the least represented in legal leadership and most vulnerable to exploitation, yet are rendered invisible by blanket language. While some may reach positions of power, it takes tremendous sacrifices and dedication. The U.S. National Association for Law Placement indicates that minority women continue to be the most dramatically under-represented group at the partnership level.¹⁰ We still have insufficient data to understand the issues facing women with disabilities and who are LGBTQ2S+. Openly identifying as having a non-normative sexuality or gender still has significant repercussions for many and thus the pressure to affix labels can be problematic.

WT: As men, we need to be more conscious of when we are exhibiting gender-biased behaviour or having heteronormative conversations. I have heard senior male lawyers predicting who would be the next to go on maternity leave and suggesting that a female associate’s appointment to an important board was to fill a “diversity quota”. I have also witnessed men of colour calling women of colour “race traitors”, accusing them of rejecting their ethnicity to get ahead. Deeply harmful, these examples reflect the need to challenge the legal sector’s overwhelmingly patriarchal structure. I echo Linda in highly encouraging lawyers to read Crenshaw’s work to use intersectionality to examine our society structurally (our institutions and laws), politically (diverse communities) and representatively (media portrayals).¹¹ The concept of intersectionality gives us a lens into these three areas without necessarily having to categorize or devalue individual experiences.

Q: What would you tell a young lawyer reading the *Advocate* and wondering, “How do I become a better advocate”?

TP: Find lawyers who can become confidants. Ask the stupid questions once you have researched them and remain unclear. Do not take what is given, especially when it inhibits your growth. At least identify the issue and keep a record. If possible and relevant, ask for a mentor who identi-

fies as you do. Build routines that work for your body and personality, and then monitor to see whether you are feeling exhausted or energetic, unhappy or happy. No one else can put the oxygen mask on you, and you cannot help others (clients, colleagues, loved ones) without it. That said, these suggestions may take years to actualize and require upkeep.

LY: I agree that it takes time. Be brutally honest with yourself. I know the road to practice feels like you're just jumping through yet another hoop that they (whoever "they" are) set in front of you. I jumped through them too. Once I stopped to examine what I really wanted to use my productive years for, I knew a change was imperative. That's the moment I needed trusted mentors and, as Tina said, confidants for wisdom. Seek out trusted people inside *and outside* the profession now, so that, if or when that moment comes for you, you already have the support network in place to guide you.

WT: The first Chinese Canadian lawyer was called to the bar in 1945; that was only one or two generations ago. We are slowly but surely making our way to positions of power and influence in the profession. We are also changing minds about what a traditional "advocate" looks like. These are positive and hopeful steps. Yet, we need to not only celebrate the few of us that become successful, make partner, or are appointed judges, but also those working diligently to serve our communities. We need to, on a grassroots level, support mentorship of diverse, BIPOC lawyers. We need to encourage those platforms that traditionally have forgotten us—boardrooms of Big Law, mainstream legal publications and oft-inaccessible courtrooms—that we are here. Finally, we should acknowledge that we can be advocates in different ways and that there is no such thing as a perfect advocate. We're all learning, still.

About us:

Tina Parbhakar is a Punjabi woman with the privileges of being Canadian and living on unceded, traditional Indigenous territories. She was previously a civil litigator for the Province of British Columbia and is the equality representative for the CBABC. She is channeling her elder brother—an educator, feminist and one of the most intelligent and strong individuals she knows and looks to for guidance.

Wei William Tao is a second-generation Chinese Canadian. He serves as a Canadian immigration and refugee lawyer practising with Edelmann and Co. Law Offices and was formerly chair of the City of Vancouver's Cultural Communities Advisory Committee. His Chinese name Wei refers to Victoria, the

city where he was born. In writing this piece, he channels his late father, the hardest-working person he has even known, who always had a caring heart for all those who needed assistance and was humble and generous to a fault.

Linda Guang Yang is a 1.5-generation Chinese Canadian, currently a legal fellow for the Cebu field office of the IJM and a Women of Color Advancing Peace & Security-listed expert on illicit trafficking. She grew up speaking Mandarin with her parents and English with her sister. In all things, she channels her late grandmothers (one who died before she was born and the other with whom she had too little time), two fierce women educators ahead of their time.

ENDNOTES

1. See Columbia Law School, "Center for Intersectionality and Social Policy Studies Established" (12 October 2011), online: <www.law.columbia.edu/media_inquiries/news_events/2011/october2011/Intersectionality>.
2. See Fray, "What Is an Analytical Framework?", DEEP (2018), online: <deephelp.zendesk.com/hc/en-us/articles/360006969651-What-is-an-Analytical-Framework->.
3. (Beacon Press, 2018).
4. Our writing similar is similar to that used in Paulette Brown et al., "Advocacy in Practice: Women of Color and Our Allies" (2018) 36:1 Columbia Journal of Gender and Law, online: <academiccommons.columbia.edu/doi/10.7916/D8G74WZM>. We acknowledge that terminology preferences may vary and that we sometimes use terms interchangeably.
5. See Constance Backhouse, *Colour-Coded: A Legal History of Racism in Canada, 1900–1950* (Toronto: published for the Osgoode Society of Canadian Legal History by the University of Toronto Press, 1999).
6. See Eve Tuck & K Wayne Yang, "Decolonization Is Not a Metaphor" (2012) 1:1 Decolonization: Indigeneity, Education & Society 1, online: <www.latrobe.edu.au/staff-profiles/data/docs/fjcollins.pdf>.
7. See Alexia Kapralos, "Racialized Lawyers Face Additional Struggles with Mental Health", *Canadian Lawyer* (29 November 2018), online: <www.canadianlawyermag.com/author/alexia-kapralos/racialized-lawyers-face-additional-struggles-with-mental-health-16553/>; Lisa Yeung, "Racism Is Wreaking Havoc on Our Mental Health, Says Policy Expert Uppala Chandrasekera", *Huffington Post* (10 December 2017), online: <m.huffingtonpost.ca/2017/12/10/racism-mental-health-uppala-chandrasekera_a_23302542/>.
8. See the Right Honourable Beverley McLachlin, "Racism and the Law: The Canadian Experience" (2002) 1 JL & Equality 7; Daniel H Pink, *A Whole New Mind: Why Right-Brainers Will Rule the Future* (New York: Penguin Group, 2006).
9. Columbia Law School, "Kimberlé Crenshaw on Intersectionality, More than Two Decades Later" (8 June 2017), online: <www.law.columbia.edu/pt-br/news/2017/06/kimberle-crenshaw-intersectionality>.
10. National Association for Law Placement, *2018 Report on Diversity in U.S. Law Firms* (January 2019), online: <www.nalp.org/uploads/2018NALPReportonDiversityinUSLawFirms_FINAL.pdf>. For Canadian sources, see Law Society of British Columbia, *The Business Case for Retaining and Advancing Women Lawyers in Private Practice* (July 2009), online: <www.lawsociety.bc.ca/Website/media/Shared/docs/publications/reports/Retaining-women-business-case.pdf>; Law Society of British Columbia, Equity and Diversity Advisory Committee, *Retrospective Analysis of Gender in the Legal Profession in BC (1992–2017)* (March 2018), online: <www.lawsociety.bc.ca/Website/media/Shared/docs/publications/reports/Gender-analysis-2018.pdf>; Law Society of Upper Canada, *Retention of Women in Private Practice – Status Report (Spring 2012)* (2012), online: <lawsocietyontario.azureedge.net/media/lso/media/legacy/pdf/e/equity_retention_status_report_english_aug_2012.pdf>.
11. See also Kimberlé Crenshaw, "Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color" in Martha Albertson Fineman & Roxanne Mykitiuk, eds, *The Public Nature of Private Violence: The Discovery of Domestic Abuse* (New York: Routledge, 1994) at 93–118.