

DISABILITY AND EDUCATION

This is a verbatim transcript of the March 29, 2019 symposium panel. The video of the panel is available at: http://bit.ly/Education_ADAAA.

Speaker names are in bold, followed by the minute and second marks in parenthesis to indicate the location at which the remarks begin on the corresponding video.

Lauren Onkeles-Klein¹ (moderator) (00:00)

So. Hi. My name is Lauren Onkeles-Klein and I am the director of the Juvenile and Special Education Law Clinic and a visiting professor here at UDC. We are so so, so happy to have you all here. Thank you all for coming. And I also just want to thank, for a brief moment, the UDC LAW REVIEW and UDC Legislation Clinic for putting on such a terrific symposium. They've really done a great, great job.

What we're here to talk about today is disability and education. And when folks outside of the disability community discuss disability and education, one of two things generally comes to mind for them. One, issues of physical accessibility like ramps or railings or elevators. And on the other side, there's some amorphous idea of special education--without a clear sense of what that might mean. However, the lived experience of students with disabilities and the systemic impact a disability has on children in education generally is often different and is always far more complex. Today, we are truly honored to have a range of panelists who can talk about disability and education using a number of different lenses. I am going to briefly, briefly, briefly introduce them, and then they are pretty much going to talk for the rest of the time, thankfully. So. Yes?

Lydia Brown² (01:33)

Can I just ask the person who is taking photographs not to use flash? Just for everyone in general in the room, please don't use flash when taking photographs. Because there's some photo-sensitivities. Thank you.

¹ Visiting Assistant Professor of Law and Director of the Juvenile and Special Education Law Clinic, UDC Law.

² Justice Catalyst Fellow, Judge David L. Bazelon Center for Mental Health Law.

Lauren Onkeles-Klein (01:44)

Perfect, yes. So, please. And if anyone else, as this panel is going forward, requires any other accommodations, please do not hesitate to let us know so that we can ensure that we are meeting everyone's needs. OK.

So, I am now going to start just going down the panel and I'm going to start with Adrian Alvarez. He is a practitioner-in-residence at American University and their Disability Rights Law Clinic. As a practitioner, Professor Alvarez is working on a wide range of disability rights issues, although his scholarship is currently focused on disability and unaccompanied minors. He was previously a senior attorney at Children's Law Center, working in a medical legal partnership, where he was based in a community health center to address nonmedical barriers to health. Prior to his work as CLC, Professor Alvarez clerked for a senior U.S. District Judge David--Oh, no I spelled his last name wrong. How do you pronounce it? Oh no, I totally spelled it right--Briones. [*Laughter*] Providing humanitarian aid in Sri Lanka and Sierra Leone with Catholic Relief Services, and then also provided research support for Justicia Global, a human rights organization out of Brazil.

To his, oh I'm terrible at left and right so. I have to do the "L" with my hands--so, to Professor Alvarez's left is Lydia Brown, the Justice Catalyst fellow at the Bazelon Center for Mental Health and the Law. Brown is a lawyer currently working on defending and advancing educational civil rights of Maryland students with psychosocial, intellectual, and developmental disabilities who are facing various forms of disproportionate discipline, restraint, seclusion, and school push out--something that is very close to my heart as well since in the Disability Rights Law Clinic we work a lot on the school to prison pipeline. They are also supporting the Amplifier Foundation's We the Future Project, which is bridging cultural activism and youth empowerment by bringing truly, truly radical social justice education to schools across the United States with a focus on disability justice.

Outside of their work with Bazelon Center, Lydia has worked extensively as a policy advocate, community organizer, a strategist and educator focusing largely on issues of violence against multiple marginalized, disabled people especially institutionalization, incarceration, and policing. She also has a great Twitter feed, just in case anyone is interested. [*Laughter*]

To her left, we have Tara Miles. Ms. Miles is a family educator here in DC, at Gallaudet Kendall Demonstration Elementary School. It is a demonstration school of the Laurent Clerc National Deaf Education Center at Gallaudet University, and she's been working in education for 18 years. For those of you who don't know, the Clerc Center is a federally funded National Deaf Education Center that ensures a diverse population of deaf and hard of hearing students, birth through age 21, are educated and empowered, educating a whole child, with a focus on both ASL, which is American Sign Language, and English proficiency as integral to the deaf and hard-of-hearing student development.

And last, but definitely not least, is Ms. Professor Katherine Perez. Professor Perez is the Executive Director of the Coehlo Center on Disability Law, Policy, and Innovation, and a visiting professor of law at Loyola Law School in L.A. She is a lawyer and finishing her doctorate on Disability Studies at the University of Illinois at Chicago. Right, I know, yay. [*Laughter*] Her dissertation is a qualitative study of the experiences and opinions of undocumented Latinx college students with disabilities regarding immigration law and policy. Katherine is also co-founder and president of the board of the National Coalition for Latinx's with Disabilities.

So, as you can see, we are very excited to have this panel and I just want to direct a question to the panel: you all have gravitated toward working on issues of disability and education with a lens toward the multiple and intersecting identities that students with disabilities bring to the classroom and the community. So briefly, could you all just provide us with a bit of background about what brought you to this work?

Adrian Alvarez³ (06:22)

So, thank you Lauren for that very warm introduction. What she didn't tell you is that she was my first supervisor at Children's Law Center when I served at the medical legal partnership and has been a tremendous mentor since I feel like I am following her. She was also my predecessor as a practitioner-in-resident of the Disability Rights Law Clinic, so, I learned from the best for those of you who have her now as a professor.

I think the way that I, as I'll talk a little bit further about my research, I think the way that I became interested in the rights of unaccompanied minors with disabilities really came from my work at Children's Law Center working to represent the parents of students with disabilities here in the District. And seeing the struggles, especially that next students faced, not only because they had disabilities, but also because they had come as immigrants. Some, because of the journeys that they had traveled alone, had years of interrupted education because the journey itself or because of the violence in the--in the home countries that they were leaving. So, I was able to see that they had unique challenges to some of the other groups that I had served through my work at Children's Law Center. So, it really, it really grew out of frustration of not being able to have the right tools to adequately provide them or help them get access to the education that all children deserve.

Lydia Brown (08:10)

Hi, my name is Lydia Brown and I've been invested in and committed to disability rights and disability justice work for about a decade, and people ask me that often. I notice that one of the most common things that folks, hopefully not in this space, this seems like it might be a different space. But oftentimes people respond to that and say, "Oh so you must know kids who have some kind of disability right, and you know kids, is

³ Practitioner-In-Residence, Disability Rights Law Clinic, American University Washington College of Law.

that what happened?" And there is a number of levels of assumptions in that question. One of which is, that we as disabled people, and I'm a multiply disabled person, cannot be involved, let alone at the forefront of doing disability justice work and that's false. Disability justice was a framework created by black, indigenous, and other people of color, and disabled communities.

I have always been striving toward justice, in everything that I thought about everything that I've tried to work on since I was a very small child. I always believed that with each, every single one of us, whatever resources any of us has, and resources mean literally everything, emotional resources, skills, knowledge, ability, access to places of power, access to privilege, whatever that any one of us individually have, we are obligated to use those resources to combat injustice and violence in every imaginable way that we can. And I have always strived to do that. I'm not so arrogant as to claim that I think I've always been successful, but that's always what I have tried to do in my work. And it comes out of very personal lived experience. There are many ways in which I have lived in a world that is literally not designed for me as a non-binary, trans-person, gender-queer, non-gendered, and all, as openly queer, as the disabled, East Asian, transitional adoptee. There are so many ways that this world is built to traumatize and re-traumatized me, and people like me.

And at the same time, there's so many ways that I could just think about a conversation that I've been immensely privileged. I had a lot of privilege, a lot of resources, and a lot of power. I'm here, like we are here, as people who have educations, who went through higher education. Yeah I survived it and it was awful. But I came out with a fuck-ton of privilege and that has always illustrated for me my responsibility to hold myself accountable to the communities that I come from and communities that I don't belong to, communities that I do not come from, but are also living and surviving at the margins of the margins. For me personally, when I was in school, I remember going through a charter school and then a Christian school in which it was not acceptable to be queer, it was not acceptable to be disabled. If you had one of those labels you were probably likely to be kicked out of school. I was privileged in that I wasn't, and then I ended up finding myself falsely accused of planning a school shooting, so that was great. [*Laughter*]

And by great, I mean obviously the opposite of great. And you know there's a lot to unpack in that, there's a lot that happened through that experience before, during, and after it. But how I got into this work is a question that there's not a simple or direct answer to because the work that I'm doing is literally work for my own survival and for the survival of people that I deeply care about. People who are living alongside me, who are struggling alongside me, and for the hope that in the future that the world that we will exist in, that the people that come after us will exist in, won't be one in which each and every one of us is so repeatedly and constantly assaulted by violence and trauma and re-traumatization and that that's not the reality we're living in.

And that's not linear, it's not something that it's possible to simplify, and it's not something that I'm doing because it's prestigious, or it's a career choice, or it's

something that makes me feel good. It's something that I have to do, because we all know as people who are at the margins of the margins, that if we don't work toward our own liberation, absolutely nobody else is going to do that for us. We cannot rely upon people who have immensely more power and privilege than we do to do it for us. They're not, it's not going to happen. We will literally die waiting for it if that's what we're anticipating. And so, we have to do this work for ourselves and that's why I'm still in this struggle and will be. It is my struggle, and it is the struggle of people that I'm working alongside every single day and that's not going to end until we get to a world that's much freer than the one that we're in right now.

Tara Miles⁴ (13:11)

Hello everyone. Hello. Hello. First off, thank you for allowing me to be here on this great panel, with these awesome people. Thank you, Chris, Chris Tsoupros, is under my school and they invited me here and I want to thank you so much, I really appreciate it. So, as you already mentioned, I'm a family educator. I work with families and also, I have a master's degree, I teach education. I also have another Master's degree in social work, so you know I have a lot of things under my belt. But mainly, I educate families. Only because when I look back on my past my experiences growing up as a deaf person, I come from a family of all hearing people. My father, he's considered hard of hearing and he grew up oral and didn't use sign language at all. And so, as my brother, he's deaf as well. A lot of people in my family have deaf children. So, as I look back, I see how much I missed in my past. Growing up as a child, I went to a public school, I didn't go to a deaf institute. In fact, we were actually banned to even go to school like that. But where I'm from in Ohio, they didn't believe, "Oh that's cool, no, no, no, let's listen, boy, that's not good. It's better to go to mainstream school, that's better."

And I didn't realize back then, but now I do, and as become older and more mature, and learning a lot about myself and my needs, it's you know, I'm just taking it all in, and actually when I work with families and teaching parents. It's really becoming an advocate for their children. So, a lot of times, it happens so often, when they have a deaf child that comes into the family, "Oh my goodness I'm so sorry. The child is deaf. What are we going to do?"

So, it's like no real option for the parents to provide for them. So, what do we do if we have a deaf child? You know, we don't always have the parents who you know are well-versed. We have all types of parents'--poor, open mind, young. It's all types of parents that experience different things in their life. So, you know, dealing with parents and my job as an educator, I really, really am motivated and passionate that parents are more advocates and learning of how to support and advocate for their deaf children. And the big thing for me, is you know, children. You know the parents, you know, they try to force the deaf kids to "fit my needs, fit my hearing world, fit my needs."

⁴ Family Educator, Laurent Clerc National Deaf Education Center, Gallaudet University.

But they can't, they can't actually do that. It's very important, you know, that we want to expose them to the language--American Sign Language, and also being an advocate, and also, you know, know their rights. Not just to say, follow everything that your parents say, or follow what they say. But my mom, she was actually one of those people and she told me, "well okay." So, I really want to challenge myself and do a lot of research and you know, know the law and take it into my own hands. And so that's why I really want the parents to be a part and involved in what I do. It's this point to be an advocate for the families and the kids. And I've been doing it for 18 years now and I really, really enjoy it so much. I can't imagine doing anything else in my life. I really love my job. I love working with people. I love families. You know it's just, I just can't imagine doing anything else.

Katherine (Kat) Perez⁵ (16:56)

Hi I'm Michael Barbaro. [*Laughter*] This is, "The Daily." Today we are talking about people with disabilities and the education system screws them over. Just kidding, I really wanted to do that. [*Laughter*]

Thanks for sharing with me. I had the accent better last night. Should I try again? No. Okay.

Hi, I'm Kat Perez and my sense of disability justice formed at a very young age. Like a lot of folks here, because I grew up with psychiatric disability. But actually, I would say my sense of disability justice really formed first because my sister, who's a year younger than me, has an intellectual disability and she went through special education and all the hell that that produced. I actually didn't identify as someone with a disability nor did I receive any accommodations. It was never in the education system until law school pointed out, as someone who would even need an accommodation.

So, it took until my adulthood and studying law, disability law, studying disabilities studies, I figure out that, oh people with psychiatric disabilities are part of the disability community and identify as someone with psychiatric disability intentionally. Instead of saying for example, mental illness or mental health issues because I like tying myself to the disability community and I sort of reject the cure and well-and-well model that mental illness sort of produces, which is really interesting to, side note. Sorry, I go on lots of tangents. It's going to be two minutes, I swear.

I was at the Sax Institute at USC School of Law, their conference earlier this week, and the Sax Institute is on Mental Health, Law, Policy. I don't know if you all know about that. But they had a symposium, and all their panelists were people with mental illness and it was really great to be in community with folks who have mental illness. But it was also very interesting that the entire time they kept using mental illness, mental health, low and high functioning. Talking about cures and there was never mention of

⁵ Director, Coelho Center for Disability Law, Policy, and Innovation, Loyola Law School.

disability, disability community, psychiatric survivors, or mad pride or anything like that. So, I thought that was really interesting that we have some way to go, in terms of bringing in more folks into and letting them identify with the larger disability movement. I think this plays out certainly in education as well.

So when I was getting my Ph.D. in disability studies, I had just finished my law degree and I wanted to do some like very esoteric critical analysis of the law, and just like be buried in my corner and not have to interact with people ever again. But I'm also Latina, which I know shocker, I'm the whitest Latina you'll ever see, and therefore like the only person of color in my Ph.D. program. So, when it was time to give out a diversity fellowship in my Ph.D. program, I didn't even have to apply, they sort of just handed it to me. So, I said, OK. Well, I'll work on Latinos with disabilities because that's my personal experience. That's what I'm passionate about, when I'm not doing the esoteric, critical analysis of the law.

And that six-month fellowship ended up turning into the National Coalition for Latinx's with Disabilities, and also changed my entire dissertation. I realized really quickly getting to know more of the activist space, all of this truly exists in the academic space as well. All disability spaces that hashtag "#disabilitytoowhite," and that there really is a fraction between communities of color and the disability community or academics and even law, disability law. Right now, they're having a tenBroek Law Conference, and if you guys are following along a lot of people of color. My friends and colleagues are tweeting that they have one person of color on their whole. So you know, I'm really glad that this conference did better. Where was I going with that?

So, I shifted, I call my benefit my burden. Like it's a benefit to help my community. But it always feels like a burden, always being the only woman of color. Realizing that I have really white skin, but Latina, the only Latina in all these spaces that I enter like post high school. You know, I become the person that folks look to as being like the voice of Latinas. So, a benefit to help my community but also sort of it's like a large burden.

And even more so within that space, our coalition works on a number of issues that work on the intersection of lativeda and disability. But we came into existence three years ago, not that disabled immigrants just came about three years ago, but it seems like public consciousness was on the raise that we have disabled immigrants. The Rosa Maria case. I don't know if you guys remember the Rosa Maria case, where they chased her ambulance, look it up. So our Coalition ended up putting a ton of work in the immigration space. So now my dissertation is on, like you said earlier, undocumented, Latinx, college students with disabilities and actually, we have a big Ford Foundation grant. So, this is just a tiny piece of the large study that our coalition is working on immigrants with disabilities generally. Sorry, did I talk too much?

Lauren Onkeles-Klein (23:06)

No. Perfect. Okay. Lovely, I have to steal the mic again. Ok. Is it on? Can we get a little wave in the back that it's on? Alright. Thank you all. Ok.

So, what I found so interesting about what everyone on the panel was talking about is, it seemed like two sort of themes emerged. One was a theme of kind of journey, right, journeying either through spaces, being pushed to the margin and having to force your way back into spaces or essentially finding safety in the margin and the lenses which, with which you all see the work that you're doing and also the lenses that other people are using to see you. And I'm wondering whether we can talk a little bit about how that affects students in an educational space and the ways in which we can improve those spaces.

For students, and I'm sort of mushing a number of the questions together because you all are just so wonderful that they all kind of coalesced, but one of the lenses that was brought up was the different human medical model and a social model of disability. So to speak, right, the idea that disability is something to be cured, that is away from the norm, as if there were any kind of a norm that we have got to recognize-- I'm blocking everyone over here as is this--as though there was any kind of a norm, the social model of disability is that. Disability means you cannot access things and that is a social construct. Right, so we cannot access, I mean if you think about it at its most basic, curb cutouts. Right? Curb cut outs are thought of as an accessibility issue. But the thing about curb cut outs is it just makes it so that everybody who is mobile in whatever way, can get where they're going. And I know folks at tenBroek, I assume this imagery is already being used, which is bright lights, are an accommodation for those of us who need them to see. Other people are able to move through the world without needing lights to light their way. And so I'm wondering if you all can talk about how that influences the areas in which you work. Both the idea of marginalization and the lenses that are being used and the way in which disability is essentially being analyzed by those in power within the spaces that you work. And anyone can jump in.

Adrian Alvarez (26:00)

So, the paper that I'm writing right now is, sort of trying to understand the implications of denying unaccompanied migrants, unaccompanied children protection under the Individuals with Disabilities Education Act, which is the federal special education act, while they're in government custody.

By show of hands, does anyone need a short background on how the federal government processes unaccompanied minor migrants when they first come into the US? OK. So. The Department of Homeland Security apprehends people at the border. Either they come into port of entry or come in between ports of entry. So, I'm from El Paso, Texas, which is right on the border. There are several bridges that connect El Paso to our sister city Juarez, but a lot of people come outside of the official ports of entry and so the Border Patrol will detain them and apprehend them. They can only stay

in because of a lawsuit, the *Flores* case, which resulted in a settlement. They can only stay in DHS custody for at most 72 hours and then they have to be, the majority of them, from putting aside kids from Mexico and Canada, they go under separate regime. But the majority of the kids from El Salvador, Honduras and Guatemala go into custody of an agency called the Office of Refugee Resettlement (ORR), which is a division under the Department of Health and Human Services. And they're put into shelters until they are able to be reunited with a sponsor here in the United States that can care for them until their, while their immigration cases go forward.

So, I'm talking about while they're in these ORR shelters, the thing that they're doing most throughout the day, five days a week for about six hours a day is going through education. Yet children with disabilities, do not have access to the kinds of accommodations or the kinds of special education that they otherwise would have access to once they are released from ORR shelters and are reunited with their family members in this country. And so, I started that research because I was representing, I'm going to just give you sort of an understanding of where this is inquiry, this, the word in Spanish is inquietudes, or curiosity that I had, for these children came from.

About a year ago, I was representing the mother of a young man who was 16 at the time, I'm going to call him Lorenzo. Lorenzo was a freshman in high school at a local D.C. high school, and Lorenzo just wasn't going to school and had...The Mom had thought you know, maybe he had a disability that was preventing him from accessing his education. So, she retained us to try to get the school to evaluate him. Well as I was going through the records, I realized he'd been in the United States at least since he was 13, and he had really serious educational deficits.

One of the things that really stuck out to me is that he'd been in United States since he was 13 and yet hadn't really learned much English at all. Usually at that age, children would have picked up more English than actually he was able to speak. He had older siblings that had come to the country too and were already speaking English so much better than he was. The only thing that sort of stuck out to me is that he had very low English scores but that could have been because of his, you know, lack of knowledge. He also had very, very, like very, very low math scores. He was testing in the like in the kindergarten level of math, despite the fact that his records show that he got at least to the fifth grade in El Salvador. So, he did have schooling in El Salvador.

But what I found out was that, while he was coming through Mexico he was coming with his little brothers, he was abducted by some drug traffickers and the drug traffickers held him for ransom. And called his mother, who was living here in Washington, and asked for payment. Well, during the course of his kidnapping, because he was the older brother he decided that he was going to stand up to the traffickers, and as a result the traffickers tortured him and he suffered horrible abuses at the hands, which left him incredibly, profoundly traumatized.

One of the theories that my students and I have thought is that, "OK, maybe one of the reasons why he is not going to school is because this sort of school avoidance is

a manifestation of his disability.” And we had fought for the school to give us an independent evaluation to conduct an absenteeism assessment to understand the underlying causes for his absenteeism and wanted to lead back to the trauma, the anxiety, and depression that he was suffering as a result of what he experiences in El Salvador and on the way to the United States.

But he just, he wasn't engaged, and what I found out was that he was showing manifestations of this trauma. And also, of perhaps a learning disability since he was, you know, in middle school when he first came to the United States. The school district here didn't evaluate him. I mean there were signs when he first arrived that he should have been on their radar that they should have done comprehensive assessments. And when we met with the school, they flat out told us “oh no we have a policy that we don't evaluate kids who are immigrants. For at least a year until they...So we know whether or not their, their, their inability to access their education is actually a result of a disability or is a result of not knowing the language or as a result of having interrupted education.”

And so then, I thought, Wow. Well one, he should have been evaluated since he came to D.C., but he should have also, I mean he's going to school while he's in ORR custody, he should have been evaluated back then as well. So, I did some research and it turns out that about a little over 10 years ago, the Department of Education has started a series of these informal guidance letters that first started with kids that are in Bureau of Prison custody. Bureau of Prison is a Federal Bureau. And they interpreted the statute in such a way that because the obligations under the IDEA go to the recipients of funds and the majority of the fund recipients are states that kids in federal custody are not entitled to services, they're not, they're not residing in a state under the statute. And so, they're not covered by the protections. And it just seems ironic that they wouldn't be covered because, one, what we know about trauma and how trauma affects the brain, and toxic stress and how it impairs not only sort of our social-emotional well-being but also our cognitive functioning.

And what we know about the trauma that many of these children have suffered not only in their home country because of the violence, but also the violence that they face coming to United States, that a higher than average number would, if they were actually tested, would qualify for services because of impairments to their ability to access their education.

But, as I started doing more research, I realized that this sort of this inability, or this, this, this special education no-man's land was just like one example of how children with disability in ORR custody are at-best, an afterthought. And at worst, are just completely ignored in the system. Starting with the framework for caring for unaccompanied minors, the word “disability” is almost virtually absent from the myriad of statutes that govern their care and custody. It's mentioned a few times. One time is when it, when under the Trafficking Victims Protection and Recovery Act that requires that kids with disabilities have to undergo a home study before they're released to their sponsor. But what we see is that because now they have to go through this home study,

kids with disabilities are actually getting punished and are staying in ORR custody for longer periods of time because they have to go through this very burdensome home study.

The other thing that I wanted to mention is that instead of using the *Flores* settlement, which was sort of the catalyst for this, for the legal framework that we've now inherited, it doesn't use the word "disability." Instead, it uses the word "special needs," which you know from a disability rights perspective in itself, the term itself, is problematic. It's paternalistic and it's not precise because special needs in the *Flores* settlement doesn't mean disability. It just means, I'll read you the definition, "a minor mental or physical condition requires special services and treatment by staff" and then it says "due to drug, or alcohol use, serious emotional disturbance, mental illness, or retardation," which now, of course, we call intellectual disability "or a physical condition, chronic illness".

But it also includes stuff like neglect or abuse, and it's all framed within the context of requiring special services and treatment because of this special need. I think one concern that I have about this is, one, it's too over inclusive. And so, each of these different categories of people that it's talking about have very unique needs that I think to your point, Katherine, it sort of reflects a very medical model of disability. This idea that your only, the focus is only on your deficiencies, your impairment and not sort of barriers that society has created to prevent you from being an included member of society.

There's other ways that the statutes don't consider disability. One, when I said that next that Mexican and Canadians are in a separate category. One of the things that the Department of Homeland Security has to do when children from contiguous countries come across them, mostly we're talking about Mexicans--there aren't many unaccompanied Canadians coming to the United States. When children come across, the Department of Homeland Security, which is essentially a Border Patrol agent, has to do a quick screening to tell whether these kids are susceptible to be trafficked, if they're repatriated back to Mexico.

Well, the United States government has long recognized through the Department of State, through the Department of Justice that people with disability unfortunately are often, are more likely to be trafficked than other people. And yet the screening mechanism has no way to screen for whether the child has a disability, nor are the agents that are applying this screening competent to determine whether or not the child has a disability that would put them at risk for trafficking. So, I think there's a lot more work and more to study. I think there's probably room for an analysis of the kind of you do through sort of a critical lens to look at the immigration system more broadly about how the immigration system, what people disability into the greater immigration system are virtually absent. They're not, they're not counted. They're not considered, they're not.

Lauren Onkeles-Klein (38:39)

Just keep going. That's fine. We will. I'll stop at some point and give our audience a chance to chime in.

Kat Perez (38:46)

Ok. In addition to—sorry, I have a lot of anxiety. In addition to [*inaudible*] Are you guys law students? Who is in audience here?

Lauren Onkeles-Klein (38:50)

Oh yeah Civ Pro II, woo!

Kat Perez (39:07)

Civ Pro. [*Laughter*]

OK, so another term that we really need to throw out there is ableism and ableism is beliefs, attitude, practice, structures that create this fictional idea of a “normal perfect person.” That's like very intrinsic to a species like, this is the perf--everyone else is just, is weird, everyone doesn't fit this norm.

And so, ableism is this, is a system that perpetuates this falsehood that there is this perfect ideal person that everyone else is therefore, what's the word I'm looking for? Defective, I guess. And then disableism is the system of oppression that follows from ableism. That therefore treating people with disabilities as inferior, as poor, as less-than, than non-disabled folks.

And ableism, education is a really ripe area for you guys to incorporate ideas of social medical model and ideas of ableism, because it helps you really and critically analyze how the education system creates these norms. For example, standardized testing or certain ways of teaching and folks who don't fit into those norms are therefore identified as divergent, as disabled, as less than. So, if we can continue to apply those lenses in the education realm, and contest them we really get, you know, the push toward more universal education and ideas of multiple goals of teaching. For those of you who are in the education field here, I'm sure this is, you know, and you're all yawning at me. But I just want to lay down that groundwork.

Another important thing that I wanted to plug on the theory side, especially with my experience and in activism and being on the ground is the idea of intersectionality--an idea that people suffer multiple forms of oppression at the same time because we possess multiple identities. So, for example I'm disabled but also, I'm Latina. And intersectionality, snaps Kimberly Crenshaw. I'm sure folks--I had her for civil procedure. She wasn't actually that great of a professor, but she's brilliant. Sometimes, she

wouldn't show up, but like she's is so awesome that it's cool she didn't show up. Like, whatever, we forgive you. Anyway.

OK, so what is my point? So, one thing that I also push for as we're analyzing education law is the combining of a disability legal studies perspective. And folks who don't know disability legal studies--there's like only a handful of people across the country who really do this. Disability studies has been going on for like 20 years, but it's kind of finally just trickling into the legal side. So, Arlene Kanter was the first person, for example, who coined the phrase disability legal studies.

But I take it even further, following along the line of all these great intersectional scholars that we have now. We can't really do disability legal studies unless we combine it with critical race studies and other forms that address intersectionality.

I know I don't have a lot of time, but I just wanted to plug some scholars who are doing really great work in education on intersectionality. Subini Annamma, how many folks know that name? So, she created a new framework or lens called "DisCrit" disability critical race theory. And that whole book is on education.

And another- another person I want to plug, because he's part of our coalition as well, is Federico Waitoller. He's Argentinian. And he just came out with some really cool articles, he does some stuff on charter schools in Chicago and he has this like framework or this theory called "The Irony of Rigor" and how black and brown students in Chicago are getting, well there's like a push for charter schools, so I'm not going to do his work justice, but there is a push for charter schools and they deplete all the funding and the regular schools get run down and then the problem with charter schools too, he says--this is irony of rigor--is that we want to put our kids in there because we think they have really strict practices but then when you put black and brown kids into these spaces their, their punishment practices are actually, like even more disabling to these students. So, it's just you you get what I'm saying. I probably have more to say, but...

Lydia Brown (44:47)

This is Lydia. Tara, I'd like to hear from you also about perhaps your experience of the phenomenon that I've spent a lot of time thinking about--there's many layers to it. But when we're talking about race and disability and education. There are folks both within racial justice and disability rights spaces who don't really have an understanding of intersectional disability justice, who will say either oh here's a problem is that black and brown kids are not being diagnosed or identified with disabilities when they should be; and on the other hand, we'll have folks, often people of color who are doing racial justice work without a disability justice saying, well, actually it's really racist how often especially black and brown and native kids are being labeled with various disability diagnoses, pushing to segregated classrooms, pushed out of diploma seeking programs, and because of disability labels that were just put onto them out of racism.

And you know, there's a million and one possible layers that. There's the layers of both racism and ableism and how they combine with each other and on top of the fact that we get screwed no matter what. We know that as anyone marginalized communities, more of us are disabled than people who come from the most powerful privileged and resourced communities. Because we live with trauma, because we live with environmental racism, because we live with the toxic stress that came up earlier of surviving racism and ableism throughout our entire lives, generational and intergenerational trauma. We are actually more likely to be disabled and yet we will fail to be identified. But then, if we were identified, what happens, coercive services, services in air quotes. Or we are in fact labeled with a disability that may or may not actually even be accurate and that's weaponized against us. And I feel like both you and I have dealt with that kind, all of this mess of fuckery, of ableism and racist fuckery. I don't have any of the words describe it. That's what it is. And I was wondering if you would also share about this because we haven't really heard from you very much.

Tara Miles (47:00)

Well, so, I'm trying to organize my thoughts here. I don't want to say the wrong thing. Like you mentioned, disability, I'm thinking specifically deaf people, oftentimes especially with people of color who have disabilities as well, they have more trauma. And I'm only speaking from my experience and what I've seen over the years through my work. My professional work. I've worked in both deaf institute and mainstream settings and I've seen various sets of trauma in both these settings. Children who are deaf and also persons of color experience more of, you know, that lack of belief or lack of faith that they can be successful as well. So often times, especially in the educational field, a lot of those children get overlooked or they're not supported as much unless they have, unless they are given some type of special support.

But often like deaf kids with disabilities and other various needs they actually experienced a lot of lack of those needs. So, you have deaf people and persons of color who are lacking a lot of those needs and supports. There's a lot of focus on other children who are perceived as normal or maybe deaf kids who are perceived as "normal, and who are perceived as developing appropriately are OK, and so a lot of those are kind of getting a lot of supports and other kids are getting overlooked. And we see this and a lot of students, students of color, 60% of them, and a lot of them are on a similar functioning level, but they're not functioning at a level that they maybe could be functioning on had they had those supports.

So, we have like an eighth grader who is functioning at more of a kindergarten level. He has trouble reading among other areas, and so oftentimes we get the parents. You know there's, you know there's a perspective from the parents and the teachers as well, and they are pushing for the kids to get these supports and working to try to work with the families as well. And oftentimes they might get overlooked or think, oh no they're fine, and then, sometimes you get students who are well supported and so it's unfortunate that this is happening, it's not just here but it's all over the country. They think a lot of times these kids are perceived as being you know, fine and functioning

“normally.” And we have some parents who are, they’re not grasping the unfortunate, they’re not grasping the idea that okay, my child has a disability. They need A, B, and C or et cetera supports and so they’re not able to take the steps necessary to give them supports.

Whether it be acquiring language, or you know if the child is neglected in school, just trying to make an effort to figure out what kind of accommodations that their child might need. And you know there are a lot of options I've heard of parents may not be aware of.

You know when they're kids born and they're deaf, the doctor, maybe or maybe not, the doctor will provide the resources that they can for the parents on how to raise their deaf child. But a lot of the times, the parents are lost and they don't know what to do. They're, you know, they're just following the first thing that their told. Some children, oftentimes it's 80% of deaf children are in mainstream schools. It's only a small number of deaf students are actually able to get into deaf schools and receive deaf education and that's due to the in part, that a lot of parents' lack knowledge and lack of education there.

There 220 children who identify as deaf, but a lot of schools are unaware and that may be because the label was removed or the diagnosis was removed. They weren't getting IEP services when they should be. There's just a lot of incidences that are occurring within this industry and I think a lot of it is a lack of education, a lack of knowledge from the parents, what the parents are given. But people who are also in the field and how we interpret the law and you know a lot of people are saying, well this means this thing and this means that way, and so a lot of parents are, looking at, they're saying, well, I'm looking to the doctors to get this information--and maybe some of them don't have that knowledge.

And so again back to my point of children and students of color, lot of them are kind of lost and it makes me feel like no one really pays attention to them. They don't pay attention to their needs and what supports they need. The child might be doing everything they can, but I feel like a lot of times they go unnoticed and they might be the attention is more focused on maybe, other groups of students or even white students.

And sometimes we have children who come from a background where the parents are hearing, and this is often, this is a common occurrence. We have children who are hearing, and there are the children who are deaf, and they have deaf parents, and so deaf parents of course have this knowledge in their own experience that they are able to expose to their children that can provide them with language. Whereas hearing parents may not have that direct resource from the parents, the parents may be hearing or they might come from another country where their parents are hearing and there was a lack of language there, you know language deprivation, where they didn't get any language for several years, maybe not even they didn't start learning that they were 6 or 7. So, there are some parents in other countries who are hearing who have deaf children who want to try to bring their kids here to get a better education. They might not

have services over there for them, and so some of them are really trying to seek out those services.

There is a lot of work left to do and I'm trying to improve on that within my own work and try to educate children and parents. Again, you know this is happening all over and I'm trying to reach out and educate people everywhere. It's hard work. It would be nice if we could get everyone to recognize this problem so we can continue to see these absences where the lack of services are, you know, where deaf are unable to find deaf children will thrive because of this. You know in Gallaudet University, you know there are a lot of white students there and so I'm thinking, you know, where are the students of color, where are the children better able to be connected to these services.

A lot of them are being ignored and they're not able to get the support that they need and so a lot of them are, you know, what are we supposed to do, and the families need the support as well. You know thinking it's not just the school, it's about the families-- the whole families. They need to know, we need to collaborate together to educate these families and make sure they are provided the necessary tools they need to, whether it be workshop or classes or anything so they can. We see this deaf education so that they can thrive. I also feel like it's really important for individuals to reach out to each other and talk to people and have these conversations. There's not enough of that going on and so with this, this needs to really become standard in the education field.

Lauren Onkeles-Klein (55:38)

I see some people doing this *sign for clapping* Right, so I have a million questions but would like to see if at least we can get, if anyone has a question for the panel or any one of our panelists. Yes.

Audience Member #1 (56:01)

Just a comment. Hello, hello, hello Tara, I know her personally because my grandkid goes to her school. But I actually want to mention it's definitely significant. Well, let me clarify, I have a problem with the deafness [*inaudible*] in general, I do. Because this racism and ableism, but the Kendall Demonstration School, they tried to accommodate the culture, the language barriers. Not talking about just deaf and signing, but the language of their parents that they don't have, like many parents who moved from another country or maybe the family and themselves. They're not Christians or different religions that they practice but you know sometimes they try, and sometimes I feel the school administration, they don't understand intersectionality. They don't understand the deaf, like deaf education is just based on whiteness. It's a white system, and I think if we get hearing people who, you know, are bilingual or who have a disability, then we can show each other what gaps are missing, what culture gaps are missing. You know the whole spectrum, not just deaf and hearing. You know, it's not just the deaf/hearing thing. We need to be together. It's not just deaf education for deaf,

it's deaf education for everyone. But anyway, I just want to say thank you to you, to Tara.

Lauren Onkeles-Klein (57:38)

Thank you, Alright we're going up.

Audience Member #2 (57:43)

I just wanted to ask, one concern I have is that in terms of all the problems that each of you has identified, I worry and wonder sometimes if stakeholders and shareholders across the spectrum, if it's too much division or too much sort of division of energy and effort to Miss Perez's points about intersectionality and things and not enough. Or is there enough effort to sort of unify and identify economies of scale and sort of direct very focused efforts, because especially in this city, you need a unified show of effort to get change on the Hill, to get change within an administration, to get policy changes. I just wondered what each of your thoughts were relative to sort of where the trend is going.

Lydia Brown (58: 43)

This is Lydia. I'm not actually completely sure I understand your question and I don't know anyone else has access to the captions. But I've been relying on them and I think our capture is about seven to eight minutes behind where we are at this point. They've been getting more and more delayed, actually they might be like ten minutes behind where we are right now seeing where it looks like the capture is happening, so that's an interesting disconnect. I don't know if we having remote captioning, do you know?

Lauren Onkeles-Klein (58:15)

Our captioner is here.

Lydia Brown (58:18)

Oh. You're here, so I think there's a delay in the device I'm looking at. Yeah, there's a delay in the feed because I am very behind and that's interesting.

Lauren Onkeles-Klein (58:45)

Great and so thank you for pointing that out.

And then also, I think and maybe to paraphrase slightly or kind of move it into an area, I think the question a little bit and let me know if I'm okay, but there is well, it dovetails into the idea that there's an education system and we expect students to meet the education system where it is. And we provide accommodations to students that they

can meet the education system where it is and then there's this idea that maybe the kids, the education system should move to meet children, to meet students, students where they are. We're talking about education. We can apply this--map this onto any system whatsoever, but we're talking about education.

And I think the question was a little bit about economies of scale, in terms of how to move forward on a policy perspective. When you don't have that economy of scale, there are systemic issues for why we expect students to meet education on some, right, meet the education where it is versus an idea that we move the education to where the students are and how do we make that happen.

Lydia Brown (1:01:07)

This is Lydia. For one thing, our entire educational system needs to be completely overhauled and thrown out. The entire educational system as it exists has about 51 million different things wrong with it systematically, structurally, and add its individual impacts. I don't have even a fraction of the amount of time necessary to unpack every possible aspect of why. It is not broken, it is functioning as designed, but as to how that design is so profoundly damaging, dangerous, and violent.

So I guess in response to the part of the question that on what does that mean in terms of policy, I've spent time doing policy work and policy advocacy and sometimes there are ways in which we need to be working on developing and implementing policy in our current system. And I see that frankly as a form of harm reduction to interrupt the most dangerous and harmful policies where they are, and at least attempts to mitigate that harm as much as we can in that moment. But at the same time, we cannot forget or act as though that is the ultimate goal or that somehow we just rewrite laws enough times and we rewrite regulations enough that, that will free us in any way because it won't. Because that our entire body of laws only exist because of violence, that's the only reason that exists and it exists to enact violence.

And so when I'm thinking what does it mean to actually transform education in a way that respects students' humanity, in a way that actually set our students as teachers and learners all at once. That's a set of questions that our current policies are literally not capable of addressing. And no amount of reform is capable of addressing. And so, I don't see the response to be OK, let's change the policy and then that will be how we get to a solution. It's not we can change policy, I see that like I said as a form of harm reduction, as interrupting the most immediate and pressing violence. But it's not a long-term solution. Nor is it part of work toward, toward what we will often talk about as liberation.

And what that means for me is, the work of getting to and creating now a world in which we are in fact free of all forms of oppression and violence and fear of violence. In which we are free of constantly being re-traumatized and expected to be, and expecting to be re-traumatized, and our current educational system is just a site of trauma and violence. That's all it is. Whether we're looking at children at early education or whether

we're looking at higher education that is all that our education system is currently structured to do is enact more and more trauma on people who live at the margins of the margins and, in turn, even pass that trauma onto people who have more privilege of power and resources. And, of course, that's the only way that people with the most power are willing to listen anyway, is when they suddenly feel like it affects them, when it feels new, like there's a crisis that they can now address and feel like they might be able to empathize with--then they care.

But the reality is, those of us that are at the margins of the margins are already doing the work of creating pedagogical practices that are actually access-centered that are based upon doing freedom work, and that understand multiple, multiple cultural and community histories, and knowledge and wisdom that you won't find in textbooks, that you won't find in academia, and you're certainly not going to find discussions about policy here in Washington, D.C. And we're already doing that work in our own communities and neighborhoods, often outside of the spotlight, outside of press access, outside of what's recognized and researched. And it's that work that we and people in our community that are doing that needs to be "scaled up." But the only reason it's not is because we lack the power and resources to take our work to spaces where those who currently have power and privilege and resources would ever even consider it possible to conceptualize, let alone to respect it. Because they're not going to respect and let's be honest about that.

Lauren Onkeles-Klein (1:05:32)

All right. One more question and then I want to let everyone know: the next event is starting at 3:00 in the symposium, as is my civil procedure class. [*Laughter*] So, we're going to take one more question and then you can speak with our panelists, who were wonderful and important. Alright a hand was there.

Audience Member #3 (1:06:02)

Hey. Thank you. My question kind is coming off of Lydia's comment in terms of higher education and how it is structured. As someone that fights for accessibility and advocacy in law schools, specifically in the D.C. area, how do we break the cycle of institutions of higher learning not taking accessibility seriously because people are so conditioned by the ableism and the stigma of self-identifying with their disability, especially neurodiverse and invisible disabilities, in the legal profession? How? Because it's a cycle, right, that you want accommodation and accessibility for people. But then people don't use them because they are afraid of the stigma and of being outed. So how do we break that cycle and convince people that it's okay for them to use their accommodations and to use the accessibility that they deserve as human beings?

Kat Perez (1:06:57)

This is not an answer, but this is a plug. So, in addition the coalition, I'm also the Executive Director of the Coelho Center for Disability Law, Policy, and Innovation at

Loyola Law School in Los Angeles. And one of our missions at the center is to develop a pipeline of law students with disabilities to then go on and populate the bench and the bar, be politicians, etc. And I realize a lot of the programming that I'm starting to do, reflecting on Lydia's comments, are a lot of damaging. So really, we need to just blow up the entire legal system. But I'd love for you to reach out and work with me.

Audience Member #3 (1:07:41)

Oh yeah, I'm A.J. We talked via email.

Kat Perez (1:07:45)

Oh, yeah? Oh, A.J.! Hi! Shoot, you already know about me. The rest of you didn't know about me. So we, I think you're part of that too, we've gotten together. We need to continue--law students and attorneys with disabilities across the nation to sort of engage in dialogue, see what we're going to do. I'm starting a fellowship program, I know there's a lot of diversity scholarship programs to go into law schools, but none are specific to college students with disabilities. So, I'll be starting one this year and I'm really excited about that.

Tara Miles (1:08:27)

I wanted to add also I believe that we as professionals [*sneeze*] we have to teach and plant that seed to the children to know that it's OK. That we are OK. That teach our kids how to advocate for themselves, so that's a big part of it.

I am speaking from experience, for myself. As a person growing up, I was ashamed, I was embarrassed to be deaf. I didn't want anyone to know I was deaf, wore my hair long to cover my hearing aids.

So, I wanted to advocate, for myself, but it was obvious that I need it. And people who. We need to teach other individuals with disabilities how to advocate, but to be proud of who they are, and not be ashamed, and not be ashamed of that.

I know often happens, all the time. I know I struggled going to a hearing university, cause we had accommodations. We had to go back and forth, run around. Finally, after school started two weeks later, I finally got what I needed. And so that's part, I didn't know what I needed. So, I think it starts with the youth. Learning how to advocate for themselves. That's my point. My comment.

Lauren Onkeles-Klein (01:09:50)

So, I just want to thank our wonderful panel and we can applaud like this for folks who may have some sensory issues. Thank you and thank you all so very much. Thank you all for coming again. The symposium continues. The next event is at three o'clock in the moot court room, unless you're going to be with me in 515.