



**Wednesday, Sept. 16, 2020**

**Leadership of Differences**

Co-Sponsored by: Baylor Law's Diversity in Law Association

This panel discusses the importance of diversity, inclusion, and equity in the legal profession. Diversity also impacts the important conversations about access to justice initiatives. This panel also discusses the benefits of creating an inclusive environment within a law firm or organization to help lawyers assemble better teams, improve lawyer/client relationships, and achieve more positive outcomes.

**Moderated by:**

**Kellye Y. Testy**

President and Chief Executive Officer, Law School Admission Council

**Panelists:**

**Garry Jenkins**

Dean and William S. Pattee Professor of Law at the University of Minnesota Law School

**Degna Levister**

Associate Dean for Enrollment Management and Access Initiatives, City University of New York School of Law

**Kathy Seward Northern**

Associate Dean for Diversity and Inclusion, Ohio State University Moritz College of Law

Leah Teague:

Thank you again for joining us today. Many of the discussions this week are going to address challenging times that we face, not only as citizens in this country but as members of the honorable profession that we know to be the law. With these challenges come opportunities for lawyers to make a positive difference. Because of our legal education and our training and our obligation to live and to work with honor and integrity, we, lawyers, have the ability and the [00:00:30] opportunity to influence and impact the world around us.

So, as we continue this conference ... and, I've talked about the traditions. This is a four year annual tradition of this leadership conference to be hosted by the LLS and moved around the country as different law schools host it. One of the other traditions that we have started is to continue the conversations from one year to the next, and from one leadership conference to another. [00:01:00] So this next panel is a continuation of a conversation that was just an engaging, insightful, inspiring conversation. There were many of us who gathered in New York last fall for a conference that was entitled Leading Differently Across Differences: A National Conference on Training Lawyers as Leaders.

But it's so interesting, all of the conversations that we have focused on this spring and summer around diversity, [00:01:30] equity and inclusion initiatives and those conversations have been ongoing, and this conference highlighted those. I want to quickly read to you the description so you'll understand the context and the background for this conversation today. The legal profession and law schools exist in a time of profound changes in the culture and in lawyering across fields. This conference asks and seeks to provide answers to these questions. How do we promote leadership [00:02:00] training in law schools in a more inclusive and forward thinking manner?

How do the profession and the academy confront the need to develop cultural competence, deal with gender, race and other identities affect full participation? And, address generational differences? Why have we not done better in equity and inclusion? I thank our moderator and our panelists for continuing these important conversations. So, as with [00:02:30] each of our sessions, we will take precious little time to introduce our speakers knowing that extensive bios are available to you at the click of a finger by going to the links on our website. Please do take time to read about their accomplishments and their many, many accolades.

But, I want to quickly highlight a little bit about our presenters. I'm going to introduce Dean Gary Jenkins, but also tell you that he's not with us yet. In order [00:03:00] to juggle this extremely busy panel, we were able to get him but he cannot join us until a half hour in, depending on your time zone. So, he is not with us but he will join us just as soon as his other important decanal duties conclude. He'll switch over as quick as he can.

But I want to tell you just a little bit about Dean Jenkins. He is currently the 11th Dean at the University of [00:03:30] Minnesota, but that's not how I met him. I met him when he was back at Ohio State University, the Moritz College of Law, and associate dean there. But, for our purposes today, very importantly he was a co-founder of their leadership initiatives. This morning, Dean Polden talked about the small handful of individuals who were teaching leadership development years ago. Dean Polden being

one of those. Well, [00:04:00] Dean Jenkins and his crew at Ohio State Law, they were also doing it much earlier than the rest of us so he is also a pioneer in this effort.

Speaking of Ohio State Law, the Moritz College of Law, another panelist, Kathy Stuart Northern, is currently their Associate Dean for Diversity and Inclusion, and she is also well respected within her field, her deep care for her students [00:04:30] and for all things related to diversity, equity and inclusion initiatives. She comes from that tradition of well steeped in leadership development programming, so we are thrilled to have her as well.

Our last panelist is Degna Levister. I am so sorry, Degna. I'll get it right. She's currently the Associate Dean for Enrollment Management and Access Initiatives at the CUNY, [00:05:00] City University of New York. She also cares so deeply. I think her background in nursing, combined with her experience of on the ground representation to those that are in need of representation but unable to afford lawyer fees, I think it's that combination that makes her so dedicated not only to her students, but to helping her students develop and to find ways that they [00:05:30] can make a difference and define their own social justice initiatives that they are passionate about and to equip them and inspire them to go out into the world and to make a difference.

So, we have excellent panelists joining us. It's now my honor and my personal privilege to introduce Kellye Testy. We all know her as President and Chief Executive Officer of LSAC, the Law Schools Admission Counsel. [00:06:00] Before that, she has much experience in the academy including she's a former president of the American Association of Law Schools. That is the capacity of which I first met her and was first inspired by her. I remember going to an annual conference, listening to her, and then visiting with her about leadership development and the need for more of it in law schools. So she has been a big supporter and an encourager to me [00:06:30] personally, but to all of us, Debra [Roady 00:06:32], all of those that have been working on these initiatives from the very beginning, including Dean Polden and Dean Jenkins, who are with us today, and so many others.

So, I so appreciate her early encouragement. We wouldn't have this section but for a lot of work going in and support and encourage by a lot of folks. I also want to note that we've added to our schedule to the website right under this [00:07:00] a link to a monthly show that I strongly encourage you to participate. It is a livestream. I think it's called The Kellye and Ken Show. Certainly that's what I call it. But each month, both Dean Emeritus, Kellye Testy and then Ken Randall, who's currently the president of iLaw, they lead an expert panel of law school deans and other

industry experts. It's just a delightful and engaging [00:07:30] discussion about important topics surrounding legal education and leadership, so we appreciate all that she does.

She's an engaging and delightful moderator so we appreciate her being with us. And with that, Kelly, I'll turn this over to you with a reminder to the audience, please send us your Q&A, your questions in the chat so that we can engage in a Q&A at the end. Thank you so much.

Kellye Testy:

Thank you so much, Dean Teague. It's just a delight for me to be with you all today and [00:08:00] I want to thank you for your leadership on leadership. It's just terrific to see the section moving forward and to have this conference at this time in our history when legal education and our world are facing so many challenges but also so many opportunities. At its heart, that's really what leadership does. It tries to distinguish between those roads we should take and those we shouldn't and how to bring everyone together toward a common cause.

And it's certainly my [00:08:30] belief that if legal education had been better at leadership education, it would also be better at equity and inclusion and diversity, because those two things to me go very much hand in hand. I often say that leadership isn't something that just exists out there in the abstract. It's leadership for values and toward values and toward ideals that we all hold dear like equal justice. So, [00:09:00] I really commend everyone who's working to help bring leadership education more fully into law.

I think it will be a very critical difference maker for all of us who want to see law continue to move towards the promise of equal justice. I also want to say as a framework this morning as we start, as Dean Teague noted, Dean Jenkins will be joining us just a little bit later so we're going to bring him into that as soon as he's [00:09:30] in. To him, and to really everyone who's been an early adopter of trying to help all of this legal education understand the importance of leadership, I want to thank you for that and certainly thank my co-panelists, Dean Levister and Dean Northern for being with us today. We're looking forward to a good discussion among us and then also with all of you.

What we've planned for you today is to start with some opening remarks by each of the three panelists and [00:10:00] then to open that up for questions that I'll help moderate among us and with you for the things that you'd like to explore more fully. As we do that, I want to share just one other framing comment, and that comment really is about risk taking. There are a lot of quotes about risk and one of the ones that I like most actually comes from a poet. I'm a big fan of poetry, as well. T.S. Eliot said

that only those who risk going too far can possibly [00:10:30] find out how far they can go.

I love that quote because it really challenges us to ask always let's move out of our comfort zone. Let's understand that not acting is also risky, and that in understanding risk and as leaders helping our organizations, our people and our causes, negotiate risk and respond to change. That's so much of what is really called for [00:11:00] when we call for leadership capacity. I think it's really important especially at a time now where we see a renewed vigor around anti-racist work that we understand that silence and not asking is also its own risk and a tremendous one.

I hope that as we go forward today, we can also bring that calculus of risk into our discussion of leadership. With that, I want to [00:11:30] invite Dean Levister to begin. Dean, you've noted many times how much the project of educating lawyers to be great professionals is bound up in leadership education so I want to turn it to you for your opening comments and thank you for being with us.

Degna Levister:

Thank you so much, Kellye, and thank you so much everyone for attending this panel and this conference. It's really a privilege [00:12:00] for me to be able to share some of my thinking and some of my thoughts on this particular topic. I love the quote, the T.S. Eliot quote, Kellye. Thank you so much for sharing that.

I am one of the people who was on a panel last November in New York City for the conference, Leading Differently Across Difference, a national conference on training lawyers as leaders, and for this talk, I have [00:12:30] a theme, which is about conveying my vision of leadership development for lawyers, and my goals for these remarks really is to share some of the way I see the what, the why and the how for leadership training for our students.

I started in thinking about what I wanted to say and what I wanted to share, and thinking about this critical need for leadership training in law schools by asking myself [00:13:00] some questions. I want to share some of those questions before I move to the three main things I'd like to share because I think it's important that we each engage in a critical thought process, our own critical thought process, so we can connect our actions to our own understanding of why this is important to us.

I asked myself a couple of questions and noticed a couple things about our field, our profession. [00:13:30] The first question I asked myself was our students are going to be leaders. There's something that comes with the job, so what kind? What kind do we want them to be. Another question I ask myself is have I assumed that my students know what being a leader

actually means? I think I certainly have spent [00:14:00] some of my time teaching where I made some assumptions about that and it's become more clear to me over time that that's not a fair assumption to make. Another question, I think we know this, the law itself is often seen as reactive but as Kellye mentioned, leadership is not. It's proactive.

Lawyers learn, and we commonly teach students to be risk adverse in this particular way [00:14:30] because of our role often, but leadership requires some risk taking. How am I teaching my students about taking risks when they're in a professional role? Am I aware and are those of us who teach students or mentor students in our workplaces aware that we are modeling something? And, what is that? Is what I'm modeling in line with the values [00:15:00] and commitments to society, to justice, to access and to the equity I wish to see in the future in my communities and in our nation?

How do we promote leadership training in law schools in a more inclusive and forward thinking manner? Stated another way, that same point, how will the academy I love confront its need to develop cultural competence, deal with gender, race, identity, age and ability exclusions [00:15:30] that impact the ability of students to fully participate in law school and beyond it in professional environments, the ones that they choose for themselves?

I have three categories of responses and thoughts that I wanted to share around this. The first is I think that we need to normalize the difficulty of law school. I think that's a first point. If we normalize [00:16:00] this struggle, and it's hard for everyone ... and we might help students internalize the reality that struggle comes with the territory. Our most marginalized students are the hardest hit by this sense the academy can sometimes convey that if you're smart, you just get your way through law school. And as educators, we all know better. We really all know better that intelligences are manifested [00:16:30] in many different ways. Are we seeing the range of that and not limiting ourselves by the manner in which that is expressed cultural based in difference?

Our academic support community has really led the way for us in this, and if students come to expect these challenges, they may begin to feel more confident and then they may be willing to take the risk to [00:17:00] engage in and lead something that feels important to them. So, building student confidence leads to student competence and leadership. I think we could do better, all of us, all schools across the country, to identify leadership opportunities for students very, very early on in their program of study and convey to them the importance of taking advantage of these opportunities, but more importantly making [00:17:30] explicit the connection between engaging in those opportunities which tends to be

extracurricular and professional success. Really tying what they're doing in that and promoting that to what it means to be a successful professional.

My second area of thought about this is really the question about have we and how have we embedded the need to develop [00:18:00] the ability to deal with differences solidly in every law school program as a core value, as a core value to even understanding what the law is? Do we highlight how human connection and effective communication are central to our role as professionals? I think we tend to. As somebody who worked as a clinical law professor for many years and someone now who works in access to education in a pipeline program as well, having [00:18:30] taught learning, I think we do communicate that communication and how we do it is important.

But I think we could do a lot more around that. One is just to rest for a moment in the reality of that the communication aspects that we work with, they're so often for all us the source of joy in our work. We get to meet people we haven't met before and learn about difference and that really [00:19:00] is something quite important. And, it's a part of each person's professional journey. We might do this also by showing that we have our own intersectional identities and demonstrating how these are apart of our own professional journey and evolution, and so of course should be a part of our students' journey as well.

We might do this by tying basic [00:19:30] cultural competencies with the fundamentals of professional practice and professional growth. We might do this by really sharing our own vulnerability and our own ignorance in this struggle as educators. We don't have all the answers, right? If we share this, and admit that while we recognize how critically important this work is, we don't have the answers and we cannot [00:20:00] get them without our students. We must do this work together. It's going to be uncomfortable and perhaps given this, we might provide students with a framework ... I've done this in some of my classes ... for dialogic engagement in the classroom and invite them to co-create professional best practices for engagement with us.

And the last point I have on this with regard to enrollment is that non-traditional students feel alienated [00:20:30] in the process of applying to law school and engaging in law school study because let's face it, we still are the minority, right? We still are and at least on the front in, they know the academy tends to place numbers above people over and above the endeavor to provide access to professional school, education for folks traditionally underrepresented. This seems to be true even though we all know it.

We recognize the institutionalism of all kinds. [00:21:00] We've done some things. We've made some progress. We start to look at something like the ultimate bar pass rate, which is wonderful instead of a first time. I'm still not quite sure what's so magical about the first time about anything. I don't want a lawyer whose first thought is what they're going to do for my case, so I don't get the power of first time anything anyway. And, non-traditional, we know that's code for non-white, non-cis gendered, non-straight. We know that and we succeed [00:21:30] at because of resilience, so if we move to enrollment processes that were really about making real or understanding about how to build resilience in students and recognize it, I would bet we would see a more diverse law school environment, more diverse law students, more diverse law professors and leaders in the future.

In closing, lawyers as the guardians of the rule of law continue to play a very important role in society. I've attempted [00:22:00] to share some of my own thoughts how in legal education we might begin to take on the role of training our students to lead in what I hope we all see as a professional obligation to serve society in this particularly important way. We're presented with a unique opportunity right now to positively impact communities and societies, so my hope is that we take this on with passion, with [00:22:30] vulnerability and with open hearts. Thank you.

Kellye Testy: Dean Levister, thank you for getting us started with that and your comments have really helped us see how vital it is that we think about that journey of the student holistically, really from pre-law coming into the profession, and that's something that we work so hard on now at LASC is opening up the doors wide and reaching out to help people understand how they can make that journey, and then into enrollment, [00:23:00] education itself, licensure, a core part of that pipeline and then on into practice. So, thank you very much for getting us started and helping us see how that journey has to fit together.

I want to welcome Gary Jenkins. Dean Jenkins, from the University of Minnesota has joined us and I'm glad you were able to come in, Gary, even earlier than we thought. It's great to have you with us.

Garry Jenkins: Glad to be here.

Kellye Testy: Thank you. I want to now invite Dean Kathy Northern to share some of her [00:23:30] opening reflections and in doing that, just thank you so much Dean Northern. You've been such a strong leader for equity in working with us at LSAC many years in pipeline building and just in so many ways you've contributed to that journey so let me turn it to you for your opening reflections.

Kathy Northern: Good morning, Kellye, and I just want to thank Dean Teague and Baylor for inviting me to join in this Vision for Leadership conference and to be able to serve on a panel [00:24:00] with three individuals who I consider to be both close friends and stewards in leadership in the field. I want to especially, I think, give a shout out to Dean Jenkins with whom I shared ... We had offices next to each other for a number of years and I had a wonderful opportunity to learn about leadership, both in talking [00:24:30] with him and just observing him over time, so it's a delight to join with he and Degna today.

So, I want to spend my opening remarks encouraging us to think deeply and specifically about what diversity, equity and inclusion mean within the law school context and within our day-to-day roles as [00:25:00] leaders within that context, and what we're preparing our students to do. We often come to conversations with different concepts of what diversity, equity and inclusion might mean, and we don't always take the time to sit and make sure that the group that we're working with are all coming with the same understanding, or at least an understanding of the range of [00:25:30] ways in which we think about it.

I'm just sharing with you what I think those things mean in a law school context. Secondly, I want to explore for a moment as faculty, staff and administration why it's important to ... The preparation that Dean Levister was talking about in terms of our students, why is it important that we focus [00:26:00] our resources to build and sustain a diverse and equitable and inclusive community while our students are in law school and how are we preparing our graduates to have that level of cultural awareness, cultural competency if you will, that will serve them, their clients and public, to serve them well throughout their career.

I suggest that first of all we begin to have the conversations among our faculty and with our staff and students about [00:26:30] what it means to be diverse within our environments. As a broad way of thinking about it, diversity includes all the way in which an individual within a setting contributes a wide variety of cultural and demographic characteristics that distinguish that individual or group from another. Dean Levister referenced, and I think it's useful to note, that in the United States, cisgender, male, citizens of Anglo-European descent [00:27:00] from a Christian upbringing who are not significantly impacted by mental or physical health challenges are the implicit normative reference from which diversity is most often measured.

When we hear the term diversity, a person may often think primarily in terms, or in reference to race, ethnicity, gender, religion or national origin, the protected [00:27:30] class orientation or definition of diversity. But over time, the definition has really broadened. So depending upon the

context and the conversation, certainly as we think about our faculty and student bodies at law schools, that term can also include age, disability, sexual orientation, gender identity, educational attainment, socioeconomic background, veteran [00:28:00] status, our physical appearance, health status and just a range of demographic characteristics or markers.

It's important for us to first understand what that composition is, what the diversity is with respect to our faculty and students, and understand it beyond simple race, gender, or national origin kind of [00:28:30] measures. When referencing a desire for a diverse community, one aspect of that is certainly representational in nature. Dean Levister talked about efforts to diversify the profession, to diversify the student body and understanding the role that different decision making policies and approaches have [00:29:00] on whether or not we have a diverse environment in law school.

So, there's a representational aspect. There should be within the legal profession persons who reflect the broader society. This representational diversity facilitates members of the broader community to identify with the legal system, to see that persons who are like them are a part of the legal structure of the country, allows [00:29:30] a sense that they have representation in ways that allow individuals to be actively represented within the system, not just acted on by the system.

If we don't see ourselves reflected in the system, then it's just a system that acts on us and not one that serves us in more us or represents us in more specific [00:30:00] ways. But beyond representational diversity and just in terms of demographic make-up of a group, we also need to understand that that demographic make-up and at least part of our desire to have a diverse demographic make-up is that will to a diversity of thought, of expression, of ideas, perspectives and values that will lead to a richer educational experience for everyone.

It's important to recognize that this [00:30:30] kind of ladder concept of diversity should be understood to occur not only within a demographic descriptor, that is not all women, not all African-Americans, not all persons who identify with a particular religion or whose sexual orientation is a specific part of their identity. Not everybody within that demographic category [00:31:00] approaches or thinks about things in the same way. It's also important to note Dean Levister talked about intersectionality. Nobody has a single identify. Each of us identifies with multiple groups and are affected by other's perceptions of our multiple identities.

I go into detail here because this is part of what we have to help our students to understand and to learn in terms of developing their own sense of belonging [00:31:30] both within the institution and what role they will

have in leading in a society that is diverse but is often not equitable or inclusive. My multiple identities, I identify as a cisgender African-American boomer who's a mother, an academic, a lawyer and a first gen college graduate, and that's only a small readily identifiable aspect of who I am.

But each of those things [00:32:00] provides the lens through which I interact with others, that I understand legal problems, that I understand the values and systems in which I am both teaching about the law and in which I practice the law and in which I'm hoping to educate students.

That's a little bit about the term diversity. One might also encounter the term marginalized populations. [00:32:30] They're groups of individuals for who a range of reasons are denied involvement in mainstream economic, political, cultural or social activities. Systemic exclusion from full participation in our society. Now while there's significant disparities that exist within every aspect of individuals who are part of a marginalized community ... This can be healthcare, housing, educational preparation, employment, access to services ... [00:33:00] there's also often stereotypes associated with those who are a part of a marginalized community, both explicit and implicit bias are implicated in this marginalization. This is true for students and for faculty, whether they identify as having living a marginalized existence or not.

And while marginalization and demographic difference often correspond, those who are homeless, who've [00:33:30] experienced significant trauma, who have emotional or psychological challenges occur within all demographics populations. Now, like Dean Levister and Dean Testy, I have spent close to 20 years now in working with admissions in the admissions field in addition to diversity, equity and inclusion and we have students from all marginalized populations within our law schools.

So, it's important [00:34:00] for us to recognize in order to attain the goals that Dean Levister talked about to recognize that in order to successfully negotiate that law school and a legal profession, we have to provide resources within the law school environment because students may not have access to important support mechanisms outside of our four walls, outside of our institution. Or, may have vastly different resources available to them that in order [00:34:30] for them to reach their full potential, we need to work toward providing.

It's that sense of equity. In thinking about and referencing equity in the context of our legal education environment, we're talking about fair treatment, access to opportunity and advancement, and recognizing and identifying the barriers to our students for participation in our educational, [00:35:00] political and community structures. We have to focus on not

just do we have a diverse group of students and a diverse faculty and staff within our law school. But our individuals from a wide range of backgrounds having access to the range of curricular and extracurricular opportunities, [00:35:30] the leadership opportunities, the employment opportunities that we want for all of our students.

It's not enough for a student to be present if they don't have access to all the things our schools have to offer. It's important to realize that equity and inequality are not the same things. It's often felt that [00:36:00] all of our students have the same kind of programming and courses and faculty as every other student, so within our four walls they're equal. But just having equality doesn't allow for equity in it of itself. Treating individuals who have vastly different resources available at the beginning of not only their life journey, but of their journey [00:36:30] through law school in exactly the same way may represent equal treatment but it does not represent equitable treatment.

In order to strive for equity within an institution, there has to be an understanding of the root causes of outcome disparities within the society and the backgrounds of our students, how those disparities affect law school experience. Some of our students have had lifetime access to lawyers in terms of their family [00:37:00] or their family connections. For other students, entering into the law is a very unique experience and what they learn about the culture of the law and of the profession has to come from within the law school environment.

So, we need to ask, "Do our students have equitable access to faculty to have opportunities both inside and outside the classroom to interact? [00:37:30] Are there barriers that may be present because of background or experience that make it less likely that students will, without significant encouragement, engage with faculty?" Career services, student organizations, we need to look at access to these things. Scholarships and financial aid are externships, whether or not [00:38:00] individuals have access to be research assistants, to get letters of reference, to alumni mentoring and so on. It's not enough that students are present. We have to work very consciously and very actively to ensure that there's access to all the resources that the law school has to provide.

We need to be aware of things like food insecurity among our student populations. One of the challenges we've had in a time of COVID [00:38:30] is recognizing that a lot of ... It's always a joke with student organizations about how often pizza is available in the context of student organization meetings. We have students that rely upon those kinds of meal opportunities to spread out their resources in terms of having food security. We don't think about that some of those things very often, but

[00:39:00] being aware of the ways in which students may have differing levels of access.

Are we meeting our budget goals on the backs of marginalized students who are surviving on exorbitant loans rather than having been recruited through significant scholarships and other advantages? The ways in which we shape our class and provide financial aid resources has significant equity components and equity consequences.

[00:39:30] Finally, in looking at what is an inclusive environment, it's one in which all individuals regardless of their demographic identity, location within a dominant or marginalized population, can feel respected, accepted and valued within the community. Is there a sense of belonging? Inclusion is an act of creating an environment in which an individual or a group can feel welcome and respected [00:40:00] and supported in a way that allows them to fully participate in the institution. Does the curriculum include courses that focus on the myriad of ways in which the law reflects, creates and sustains marginalization and inequity, or conversely, can serve the goals of building a more equitable and inclusive society.

Are we signaling to all of our students the importance of inclusion? Do our colleagues embrace differences of personal expression and identity? [00:40:30] Do they offer respect in words and actions to each member of the institution? That can be as simple as making sure that our faculty and staff take the time to learn how to pronounce a student's name and demonstrate respect for who they are and their cultural identity and background in that way.

Do we respond in thoughtful and supportive ways to macro or micro aggressions that take place inside and out of the classroom? Do we acknowledge the ways in which race, gender, orientation [00:41:00] are relevant to the development and application of our legal rules and doctrines? Do we recognize contributions of the diverse groups within the community? Are ideas that they contribute integrated and implemented in our day-to-day operations? It's not enough that we have people present if we're not fully engaging people in aspect and respecting [00:41:30] the engagement that they bring to the institution.

It's important to remember that an inclusive group is necessarily a diverse group, but a diverse group is not necessarily inclusive and it takes extensive effort. I'm going to stop there and give it back to you Kellye.

Kellye Testy:

Thank you, Dean Northern. You've really helped us understand so much some terms that often get [00:42:00] conflated and helping understand the differences when we talk about diversity, equity and inclusion. I think that's just so critical so we understand each of those pieces and how they

can reinforce each other or not. So, thank you for setting up that framework. It's so helpful.

Dean Jenkins, I want to turn to you now and in doing that, I want to give you a big thanks because I know that as I've been working with Dean Mark Alexander at Villanova and teaching law and leadership there, your work [00:42:30] and teaching has certainly help me think through how to do that and I certainly hope that teaching law and leadership is something that takes hold in all of our law schools. I know many of us, including myself, are in gratitude for you for your leadership and teaching in this field. Let me open it to you for some opening remarks, and it looks like we have let the audience know, too, that we do welcome their questions after your remarks and we can circle back to all [00:43:00] of the panelists and engage those.

Thank you for being with us, Dean Jenkins, and also thank you for your service on the Law School Admissions Council's board and as chair of our assessment committee. We really value your time and appreciate it.

Garry Jenkins:

Thank you so much, Kellye. First let me also begin by thanking Baylor for organizing this conference, especially my friend and colleague in the emerging field of law and leadership studies, Leah [00:43:30] Teague, for organizing this and it's great to be on a panel with Dean Levister who I've just gotten to know but also with you, Kellye, and serving on your board is a great honor and privilege. So, I'm happy to do so and as Dean Northern mentioned, we are dear friends and I was just thinking back. I think our offices were next to each other for seven years so spent a lot of time [00:44:00] in and out of each other's office in discussions so it's wonderful to continue these discussions.

I'm going to start a little bit broader and take this conversation to where our students actually end up going when they're out once they've graduated and then come back down to the law school, and talk a little bit about diverse teams and really why they matter [00:44:30] and what that means for leadership and what that means for law schools and law students. In the real world, so to speak, certainly in large corporations, diversity is a strategic priority now. There's no question about it, and for them, it's about five things.

It's about talent, it's about decision making, it's about innovation, it's about performance [00:45:00] and reputation. This is especially true for the service economy. If you think about jobs that are driven by knowledge and skills, certainly law included, but lots of areas where big corporations are. Anything with a highly dimensional, complex, team oriented work. These are critical issues. Maybe less so if you're packing boxes or serving coffee, [00:45:30] although I think we can argue about the value there but

certainly at least some of the themes that I'm going to talk about are related to these knowledge jobs.

Let me start with talent. In almost any organization, talent is key. The level of talent you can recruit, that you can hold on to can make an enormous difference for the [00:46:00] organization, and right now there's a war for talent. Diverse organizations are more successful at recruiting and retaining talent. There are studies that demonstrate lower turnover, higher job satisfaction, higher employee motivation and those things are all especially true even more important for employees of color connected to diversity [00:46:30] there. So that's one reason, one aspect why it matters to organizations.

The second is decision making. There's a lot of evidence to suggest that the quality of decision making improves when you have diverse teams, that non-homogenous teams are simply smarter, that working with many people who are different challenges the brain to overcome [00:47:00] stale ways of thinking, and this is a great example what I think Dean Northern was talking about broadening that scope of what we mean by diversity. Here in age, and perspective and regional backgrounds as well as many of the protected class areas, I think are at work here.

Again, there's research that supports this. There's one social psychology study that compared mock jury panels [00:47:30] whose members were in this case either all white or included were four white individuals and two black participants, so slightly diverse, I would say. Not even enormously diverse. Just slightly more diverse. And it turned out that the diverse panels raised more facts that were related to the case than the homogenous panels. They made fewer factual errors while discussing [00:48:00] available evidence, so just an example of the research that really supports the fact that diverse teams are more likely to constantly reexamine facts, remain objective and that encourages greater scrutiny and reduces the risk of what you might think of as group think in organizations.

That's really a value to organizations, to corporations. Innovation [00:48:30] is the third thing, and there's one CEO in a Harvard Business Review article that said this ... This is a quote, "People with different lifestyles and backgrounds challenge each other more. Diversity is necessary for deep inquiry and breakthroughs." I think when you think about that, that's critical in business, the deep inquiry, the breakthroughs. Diverse teams can be especially important for consumer insights [00:49:00] and understanding markets and looking for new and innovative ways.

And then performance. There are studies that have linked diversity to indicators of profitability and financial health. A 2015 McKenzie Report

on more than 350 public companies found that those in the top quartile for ethnic and racial diversity and management were 35% more likely to have financial [00:49:30] returns above the industry mean. And those that were in the top quartile for gender were more than 15%, were 15% more likely to have returns above the industry mean.

And lastly, reputation. Organizations with diverse perspectives and practices have improved reputations which are of value to the organization. So I lay all [00:50:00] that out as a background as to I think part of what should support our emphasis, our movement, our thinking of how do we prepare students to enter to provide value and be successful in their careers in ways that the organizations are thinking about that. And as Kellye mentioned, I've been teaching a course [00:50:30] called Lawyers as Leaders for a long time, really since I began in academia, so I want to talk a little bit about how we might think about operationalizing some of this and incorporating some of these issues into a classroom on leadership.

One of the things I do is I really start by reading with students, and of course deeply discussing with them, some conical articles that lay out [00:51:00] some frameworks and key themes. David Thomas and Robin Ely's Making Differences Matter, a classic Harvard Business Review article that explores the importance of enabling employees' differences to impact how the organization works. It's about presenting different paradigms so that students can begin to really [00:51:30] think critically about language, about strategies and approaches and what it means to have messages of, "We're all the same, isn't that great?" versus "We celebrate differences and isn't that great?" versus a framework which really deeply values the difference that people bring and actually finds way to listen and lift up those differences [00:52:00] as opposed to washing over or giving lip service university but not actually allowing people of different perspective to bring those to work with them, which is a common problem.

On the gender side, there's a great piece, Women in the Labyrinth of Leadership, Alice Eagly's piece that really debunks the glass [00:52:30] ceiling metaphor and offers a whole variety of strategies and really complicates that story about women, for example, advancing in leadership. I just give those as examples and say that they can provide lots of opportunities for really rich understanding and engagement in developing a sense of what I call organizational awareness skills and an ability for students to really understand the [00:53:00] challenges that they might actually encounter, particularly if we're talking about students of color or women, or other students, they're going to encounter it in their organization as a leader and it's about really how do you create a culture that actually addresses those sets of issues, even if you may not be directly impacted.

Some of the things that we do [00:53:30] is study a set of case studies and models. Again, part of I think the value of that, again as Dean Northern mentioned earlier, there's a variety of demographics and intersectionalities and important understanding that there's no one monolithic experience for fill-in-the-name group. I think the case study method allows [00:54:00] one to see that and to experience that. Yet, at the same time also invites opportunities for us to discuss with students things like students of color, what are the strategies that people may use to deal with stereotypes that they may encounter in the workplace and how have some people navigated that? Women that, of course, deal [00:54:30] with a variety of issues regarding gender expectations or double binds or other family demands that impact careers, and we can really use the case studies to talk about those issues, talk about the strategies that different leaders have employed to address those.

And for [00:55:00] white students as well, yes it's understanding how leaders can make a difference in organizational culture choices that can be made that can affect an organization in thinking about interventions that allies can make, but it's also about remembering that every individual has stories to share about feeling like an outsider, [00:55:30] and I think that those actually can be just as powerful in connecting all students to the work of diversity and inclusion. I think that in those cases, it can allow people to see difference more broadly than just some of the things that are on the surface and if you do that, [00:56:00] I hope that for many people what it does, it allows them to recognize the value of diversity in different ways.

So, that's certainly something that I try to do in the classroom when you're moderating in many ways discussions of these complicated, personal issues [00:56:30] but that are really important to our students today and to the leadership that they're going to bring to organizations throughout their career.

Now that I'm dean, I'm not in the classroom as much as I used to be and of course, I miss that but one of the things that I do is talk to employers [00:57:00] a lot more than I ever did, and there are a couple things I hear from employers. One is that they're looking for diverse candidates. There's no question about that, but also if you dig deeper in these conversations, what I hear is a desire for all new lawyers, all employees, everyone from our school, [00:57:30] at least, that they're looking for people that have a set of skills of dealing with being on, working with diverse teams. Have experience and an ability to navigate being parts of a diverse organization and really thriving in that environment.

Those are learned skills. That's experience that does that, and I [00:58:00] think really helping the institution understand and students understand the

value of that, I think, is really important. I do here a speakers project where I invite in a speaker and we get to have a ... The Deans Leadership Round Table, it's called. We do a couple a semester, invite a prominent leader usually [00:58:30] from the community or an alumnus and we have a small group discussion. It's intentionally not a big lecture that we normally do ... Well, used to do. Fill up the lecture halls before COVID, but we sit around a table, and I look forward to the day where we can do this again, but sit around a table, have lunch together, really engage in a discussion of some of these issues.

And, I think that that has been [00:59:00] one of the most important and critical ways in which the alumni or the leaders can talk directly about the lessons that they've learned, the experiences that they've had that often incorporate diversity and inclusion because as I mentioned earlier, it's an important part of the modern business story and can bring that into the co-curricular, [00:59:30] if you will, educational program through the speaker's project that we have. It's been important. I think that there are lots of ways that leadership education can contribute to the full education that students need, and that includes building up a set of skills, a set of frameworks, a set of strategies and an ability to think critically about [01:00:00] the entire set of diversity and inclusion issues, no matter who you are and no matter your background, in order to really be successful as a lawyer, as a leader in the future.

So with that, I'll stop.

Kellye Testy:

Thank you, Dean Jenkins. Really appreciate the remarks that you and Dean Northern, Dean Levister made. It's a wonderful framing and just so much there that we all [01:00:30] can reflect upon. I want to bring Dean Levister back into the conversation to provide any brief reflections she may have on your comments or Dean Northern's, and before I do that, I also just want to note that another issue that's so discussed right now, and really should be in legal education and our profession, is wellness. I really want to argue here that leadership education is also part of that.

When I teach [01:01:00] law and leadership, I use a book called Leadership and the Self-Deception that students really love because it asks them to really reflect on who they are, what they stand for, what they want, what drives them. It doesn't allow them to hide behind easy shields. Our students crave this work, and it's part of leadership because it's so easy to say we want to be generous as leaders. We want to say we're doing it for others, and we are, but leadership [01:01:30] is also about us because unless we're whole people and we can be centered and be whole in what we bring forward, there are going to be issues that are created from that lack of wholeness, that lack of wellness so helping students understand how to take responsibility for wellness in their own authenticity in work is

I think also a core part of what you're all talking about and can help our entire project [01:02:00] of legal education move forward.

Dean Levister, with that, any reflections you want to add to this before we open it up for some audience questions? I'm seeing some of those start to come in.

Degna Levister: Yes. Thank you so much for the opportunity, and really thank you both to Dean Jenkins, Dean Northern. It's really wonderful to hear the depth of understanding conveyed. I think we [01:02:30] really need this. There's a lot in a nuance. They say the devil is in the details, and really, really that's true, right? We have these concepts, and I don't think anyone would say they're against the basic concepts of diversity, equity and inclusion, but there's a lot of misunderstanding. Dean Northern, your definitions ... We're attorneys so really foundational concepts of what the words mean. Very, very important. One of the things that I [01:03:00] thought of as you were speaking, too, was how important I think it is for us to continue to unpack these terms that we throw around all the time because of the implications.

I really appreciated how you really identified, "Hey, when we use this word, it actually means this. When we use that ..." I think that's really important. We are all so busy in doing the kinds of work that we love. It's such a privilege to be part of legal academia and to work [01:03:30] with students, and we're all rushing because we've got too much content to cover in too small a period of time. I do think there are times when it's really important for us to remember, even in our professional roles. We teach the students this, but we forget sometimes. Slow down. What are our operational definitions? What are we talking about? Because so much conflict can be worked through by starting off by understanding what is it we are talking about.

Dean Jenkins, I really appreciated how you [01:04:00] concretized some of the things we actually do, some of the things you've done, but also some of the things that we do in the classroom. And I had some other thoughts about that that I wanted to ... And, probably people do this but I wanted to lift it up a little bit. Legal academia does have a tendency ... In my remarks, I talked about it in a sense of how leadership is considered really forward thinking and proactive and law, [01:04:30] there's a lot of ways in which we teach as reactive because we don't want the law too willy-nilly to change every five minutes, so there's an aspect of that that's quite real.

But I wanted to suggest to that some of how we teach law is really wrapped up in this debate paradigm, right? My job is to change your mind that you're right. To change your mind. Your job is to change my mind, [01:05:00] a truthful out as a result of this conflict. I would like to suggest

there are multiple paradigms for working in a professional role and one of them is dialogic. Instead of the model of, "Let me convince you and you convince me," which is so embedded, I think, in the way that we understand and teach the law, imagine the reality of teaching and learning and [01:05:30] practicing that was about, "Hey, you've got an understanding of something and I have an understanding of something, and together we're building knowledge. Together we're building growth. Together we're building understanding."

That kind of paradigm seems to naturally flow, I think, in the favor of inclusion in the way that Kathy Northern spoke about it, and in equity. So, in order for me to win, I need to be [01:06:00] right thing, not sure that that is what we need to continue to promote. We might have other ways of going about that. Kellye, wellness, it's huge, right? Our profession is filled with people who are struggling in their personal lives because of the demands of the profession. In many ways, our suicide rate, our mental health rate, addiction and substance abuse, those are real issues [01:06:30] for folks who enter the profession and we need to do as much as we possibly can to promote wellness.

Pre-law school, let students know even when they're thinking about law school that it's an environment that's going to help them promote wellness as they practice, and then really include that. Some of the things schools are doing are meditation classes. Even the bar prep courses understand that mindfulness and ways of thinking about self-care, it's just that paradigm [01:07:00] we've heard a million times on airplane, right? Put your oxygen mask on first before you go and assist the next person. We must do that. Self-care is not anathema to professionalism or leadership. It really is not. It's integral, intrinsic, important. How are we sending that message in legal academia?

Those are some of the thoughts that I had in response to that.

Kellye Testy:

That's really helpful, Dean Levister. I [01:07:30] love that analogy, and it really is true. I coach and mentor a lot of leaders, and I often say when I first will see them, "Your eyes look pretty dark there. Are you taking care of yourself?" That's something that we need to have that strength and resilience ourselves to be able to be leaders, especially in challenging and complex times.

Well, let me say panelists that we have a lot of questions coming in so I'm going to ask you each to respond [01:08:00] briefly so we can get through a number of them. A minute or so response each. The first one is this, the first question, and Kathy, I'll start with you, is what do you do if you're at a school where you want this to move forward, more leadership education, more discussion of different but there's just deep resistance? Is there any

advice, a first order of business that you would give someone who's trying to move this forward at their institution but [01:08:30] seeing some resistance there?

Kathy Northern: So, I think one of the sources of resistance is often a sense that a person is being ... Or, that the faculty as a whole is being told that they're in some ways less [01:09:00] than or inadequate or not actually on the right side of history. Or, there's concern about how do I incorporate these ideas in terms of what goes on in the classroom? How do I think about these things? One of the things that we've tried to do and I think has been effective is we have a teaching innovation group among the faculty [01:09:30] that talks on a regular basis, sometimes brings in speakers, sometimes have individuals from within the college, talk about how they have tackled some of these issues. How do we talk about race? How do we talk about gender difference? How do we talk about trauma that people have experienced? How do we within the context of a class and particularly [01:10:00] in which trauma may be a central element of the classroom, assault within the context of a criminal law classroom could impact communities or individuals who've experienced that in very different ways.

Telling them to suck it up is just not the response that is helpful to their education. So, framing things in the context of [01:10:30] we are preparing our students to be successful in understanding who they are, how their own backgrounds influence how they think, how do cultural differences influence the development of the law, to think about how do we incorporate these things because it's necessary to better prepare our students for the society that [01:11:00] they are going to practice in. How do we help them to develop as professionals? I think we all hold our responsibilities to preparing students to be excellent members of the profession very seriously, and first of all helping our faculty to understand that whatever world we may have practiced in, or whatever world we may find ourselves in academia, our [01:11:30] students are going into a environment that is not very inclusive.

There are a lot of challenges to equity in the country. There is a lot of division and if you're going to be a lawyer whose primary role ... Our primary role in serving society is to help solve problems and it's to help provide leadership. It is to make sure that the law serves the purposes [01:12:00] of the common good and not just the good of some. If part of that is understanding in a more deep way how issues of difference affect the law, how we need to understand embedded systems of racism and sexism and other things to better explain outcomes and to think about how the law should apply, that that may help with some of the resistance.

I think sometimes we introduce efforts [01:12:30] of equity and inclusion in a way that just succeeds in marginalizing a different group of people and that really should not be the goal of inclusion, and it's certainly not a successful way of going about it.

Kellye Testy:

So true, Kathy. Thank you for that. It's something that I hope all of us remember because I've often said that I'm not going to use power against someone just because it was used poorly against [01:13:00] me. Someone's got to break that cycle and really act in that inclusive way and with equity. So that is very helpful. Garry, I want to get your thoughts on this. You've mentioned an awesome way to help people understand the importance of this, which is the employers where students are going value it and want it, and that's what we're all about, helping our students in their professional formation. But any other [01:13:30] reflections on how you might move through some resistance or important first step for an institution?

Garry Jenkins:

I think that that's certainly one of the key pieces is helping people understand the value, and I often position it ... And, this is a term that Dean Northern uses is cultural competence and framing it in that way as it's about skilled development and the [01:14:00] skill is a cultural competence, an ability to do that. So, understanding that it's a skill and that it's important to organizations that are ultimately going to hire, where our students will ultimately work, and for that reason ... But, it's also important for our students now. For the students in part of what they want, and I think that what people have to understand, [01:14:30] this is what real inclusion looks like. This is what real inclusion means is you're changing. You're evolving to deal with the reality that you're more diverse, and that's why inclusion and belonging requires work and effort.

If you're just inviting people in and being more diverse but saying, "We're not willing to change. We're not willing to do anything," then you might have achieved diversity, right, but as Dean Northern [01:15:00] walked us through the terms, certainly that may not be contributing to inclusion or sense of belonging and it's trying to have people really understand that and certainly I think it's not uncommon that as organizations become more diverse, that's why there are issues. There's more work to be done around inclusion and belonging. It actually becomes a challenge in a way that simply isn't when [01:15:30] there isn't that diversity, so it's really helping, I think, people try to understand that that requires change and this is change that's important to a large portion of our students who are expressing a desire for it.

And, I think important for all students that if we think long term for career success.

Kellye Testy:

That's a great point. Boy, if there's any example right now of our world craving the ability [01:16:00] of people to come together and work across difference with complex issues, it's now. I see this so vividly. I'm in Seattle, I'm in the west where the fires and the smoke are really having terrible impacts, and there's just so much finger pointing, "Oh, you didn't respect climate change. You didn't manage the forest." Meanwhile, everything's in flames. There's just issue after issue example where we have to be able to move away from polar and into the dialogue [01:16:30] to really solve complex problems and that's something that legal education, I think, prides itself on is helping our students become those complex problem solvers.

So, this is a piece of that. Dean Levister, I want to go to you again and ask for just a slightly different spin on this question because we have in the audience the question of should an institution hire a doctrinal professor in this area to move forward, or is [01:17:00] there any other specific suggestions you might have to an institution that wants a quick way to move it forward or a good way to get some traction.

Degna Levister:

Thank you. I appreciate your question. Briefly on the last question, I'm going to be candid and say that resistance is an expression of arrogance and entitlement to maintain the status quo. As educators, we cannot be communicating [01:17:30] to students and the next generation of leaders that this is a static reality. It cannot be so, so it seems inconsistent with our role.

With regard to the question you specifically asked about doctrinal professors, I have some specific thoughts about how we do this and how some of my colleagues are doing this at CUNY Law School. The first is we need enough time to be able to do this, so I'll put that out there before I make this suggestion. But, [01:18:00] it's absolutely appropriate to do this doctrinal or what you may call podium classes, and in some of the ways that we might do that is if we're using case method, or even just appellate text. We might take some class time and actually stop for a moment and locate the case in time position in a political climate. Just stop for a moment. Yes, there's this doctrine and we need to understand that but one [01:18:30] of the things we noticed in teaching students I would say in the last maybe six years or so more than when I first started in legal academia in 2001, really students really wanting the time to process the inequity in the history of the law.

Recognizing who that plaintiff was and if that plaintiff looked differently or was a different gender, how [01:19:00] the outcome might be different. What about the trier of fact? Where did this happen in the nation? When were misogyny laws taken off the books? There are a lot of things that we could do in a doctrinal class as well with our substance that we're

teaching. It wouldn't throw us far off track, that would allow us to actually raise some of the complexities of these things.

The appellate method we all know has a tendency to just [01:19:30] move us ahead very quickly, but I think that if we slow ourselves down a little bit, we create the opportunity as professors to say, "Wow, let's just take a moment now and look and see this plaintiff was a woman, she was white. What if she had been Native American? What if this had happened in 1960 versus 1942? What was happening in the political climate then that you would want to change? Let's stop for a moment and [01:20:00] think about maybe how far we've come." We might actually even get more juice and love for the law and it's ability to evolve and help students think in terms of what it means to promote change in the legal profession.

And the other thought about that is the policy stuff that's going on behind the scenes in those times. Lifting that up and making this real means testing on it. If you're going to talk [01:20:30] about this in class, then are you asking the question on your midterm or final exam that's about discussing the policy implications of that particular thing and awarding academic credit for students in some way making real that it's valued? Has to have some kind of weight to it, some kind of teeth. Those are my thoughts about doctrinal.

Kellye Testy: Great. Very helpful. I want to also pose another question, Garry, maybe to you on this [01:21:00] from the audience. We just have a couple minutes left in our time, but maybe we can get a couple of these in. Have you found law firms receptive? Is there any way to partner with law firms in moving this forward?

Garry Jenkins: Yeah, absolutely. I think a lot of my comments, I start with corporations. That's because a lot of the literature is written around that way, but I think it's really true for law firms and I think that part of the dealing with the resistance or feeling like there's not a community or feeling [01:21:30] like you maybe get discouraged or this is hard, I think that law firms in town ... maybe not every single one, but I'm guessing in most towns there are going to be some folks at those firms who are natural allies, who then see the future. Look, many of them are under enormous pressures, if you're a corporate firm in particular, to provide more diverse teams, [01:22:00] to engage in these issues from the corporations that they serve. So, there are certainly natural allies, I think, there that can really be useful.

Kellye Testy: Very good. Thank you. Kathy, I think we've got about 30 seconds to hit another really important question. You may be the only one uniquely who can do that. The question is just how do we all keep our energy when we're working in these places where sometimes there is deep resistance

and there's so much [01:22:30] to be done? Any quick words of advice for how to sustain our own resilience?

Kathy Northern: Two. One, find your people. Those people may be broader at the university, they may be in the law firms, but they may be at other institutions in terms of being able to share resources and knowledge. I've begun the conversation and will continue to press on the conversation with [01:23:00] ABA about we have list serves for associate deans, and deans and leadership and admissions, and student services at the academic dean level but not with respect to diversity and inclusion. So, it is very difficult to identify by title ... This work tends to be spread among everybody from an assistant director, or it's a piece of somebody's job.

There aren't as many associate deans that are specifically for diversity and inclusion ... [01:23:30] to really think about how do we develop those networks through the ABA, through AALS and others so that we have people that we can call and/or just send out questions on the email that may or may not be the kind of questions we want to send out broadly to a broader list serv and to be able to have those kinds of ongoing communications. And then there are meetings, or annual meetings, among diversity professionals in [01:24:00] law school that I have found to be very supportive and very helpful in this work and to provide that kind of resource.

Kellye Testy: Good. Well, and I want to encourage everyone who is watching today that if you don't know where else to start, please get ahold of one of us. I put my email in the chat. It's KTesty@LSAC.org. Always happy to talk to anyone trying to make some progress in this area. Leah, with that, I want to turn this back to you and thank [01:24:30] Kathy Northern, Degna Levister and Garry Jenkins. You all were awesome today and we appreciate the work you're doing for leadership education and education for equity and justice. Keep up the great work. Leah, back to you.

Leah Teague: Thank you panelists, and yes, Kellye, thank you as well. You are always such a delight when you're moderating. As we all know, we have so much work to do but I think the message is loud and clear. We need to broaden the community and we need to support those of us within the community so that we have [01:25:00] the energy to keep this fight going, and we are making a difference. It's just not happening near as fast as any of us want. So with that, we'll have just a couple minutes of break and then quite honestly, this conversation will continue next with the Beyond the Statements. So, we'll see you back in just a couple of minutes. Thank you.