

# ESSAY

## TEACHING POSTHUMANIST ETHICS IN LAW SCHOOL: THE RACE, CULTURE, AND GENDER DIMENSIONS OF STUDENT RESISTANCE

By  
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*This Essay challenges laws' hegemonic humanist boundaries by analyzing the challenges involved in mainstreaming posthumanist subjects into the legal curricula. Posthumanist subjects in legal education are perceived as marginal and unworthy of serious discussion and scholarship. The author identifies the problems that can arise in introducing posthumanist critical content through her experience of teaching animal law as an optional course and as a part of a compulsory first-year course on property law and in advising on an upper-year student-led conference. She argues that the biases related to gendered, racialized, and otherwise differentiated norms inher-*

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ited by the legal education system as a whole preclude students from embracing non-hegemonic legal discourses that challenge their perception of law and its role. These biases lead to resistance and challenge to the posthumanist discussions of law even by marginalized, or “outsider,” students. The author argues that these internalized biases that constitute the worldview of the students could be addressed through innovative and sensitive pedagogic formulation in the teaching of posthumanist subjects like animal law.

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I. INTRODUCTION

The debate over the moral and legal status of animals has accelerated in the last few years. Within legal scholarship, the issue of animal oppression has been termed a “frontier of justice,”<sup>1</sup> and an increasing number of law school professors have contributed to this momentum through their course offerings.<sup>2</sup> The presence of courses in Canadian law school curricula focusing on animal law and the legal treatment of animals is not as unusual as it once was. As of 2008, seven law schools out of more than thirty nationwide offered a course on animal law or the legal treatment of animals.<sup>3</sup> While courses on environmental law introduced posthumanist perspectives into law schools decades ago, they typically did not focus on animal-centered interests or conceptualize animals individually, separate from their species membership. Animal law courses are different since they tend to provide a critique of theories and perspectives, both humanist and not, that do not dispute the speciesist dimensions of the law and the impact of these dimensions on animals. Animal law courses have a vision of pos-

<sup>1</sup> See Martha C. Nussbaum, *Frontiers of Justice: Disability, Nationality and Species Membership*, 323–415 (Belknap Press 2006) (stating that denying animals a “dignified existence appears to be an issue of justice”).

<sup>2</sup> See generally Peter Sankoff, *Charting the Growth of Animal Law in Education*, 4 J. Animal L. 105 (2008).

<sup>3</sup> Tim Wilbur, *Animal Law: From the Classroom to the Real World?*, <http://www.lawyersweekly.ca/index.php> (Mar. 21, 2008) (last accessed Mar. 16, 2010).

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thumanism that extends beyond environmentalism to focus on the suffering and treatment of individual animals.

This trend in Canadian law schools, which follows even more rapid developments in American law schools, is promising from a posthumanist perspective.<sup>4</sup> The status that lawyers and law schools carry in the general public extends to the subject material they offer; animal law and the legal treatment of animals appear more credible as serious topics to the mainstream when law schools adopt them into their curricula.<sup>5</sup> However, there can be a cost to these posthumanist offerings that their growing trend does not make visible. This is the cost to the instructors and students who put forth posthumanist critique that can result from resistance from students, and sometimes administrators, to the critical thinking posthumanism prompts of fundamental legal and cultural practices as well as humanist critiques of the Othering effects of law. Posthumanist content challenges mainstream legal and law school culture as well as traditional feminist, anti-racist, postcolonial, and other critiques of the law. The impact can be destabilizing for adherents of both types of worldviews.

This Essay discusses how posthumanist intervention in legal education is complicated and resisted by not only those students that fit easily into the mainstream of legal culture and adopt its values, but also by those who identify as marginalized by law school and legal institutions along feminist, anti-racist, and similar Othered lines. Part of this resistance is generated from including posthumanist critique in the curricula outside of designated self-selected courses on animal law. It also emerges from the social space inhabited by gendered and racialized students who encounter interrogations about their meat-eating and other everyday social and cultural practices from their posthumanist-minded peers. Through the methodology of personal narrative based on my own experience teaching about animals in my faculty of law, I chart a variety of tensions that can arise when attempting to integrate posthumanist animal-centered material into law school learning outside of specialized, self-selected courses on animal law.<sup>6</sup> I argue that the teaching of posthumanist perspectives is adversely af-

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<sup>4</sup> In the United States, the number of law schools offering such courses is about 100. Animal law has been called “one of the fastest-growing fields in the legal profession.” Associated Press, *Animal Cruelty Laws Among Fastest-Growing*, <http://www.all-creatures.org/articles/ar-animalcruelty.html> (last updated Feb. 11, 2009) (last accessed Mar. 14, 2010). In 2007, the United States was third in the world in terms of the percentage of law faculties offering a course on animal law, at 38%. Canada came in a somewhat distant fourth at 25%; Israel led the way with 50% of its faculties (two out of four faculties) offering courses on animal law, with New Zealand following at 40% (two out of five faculties). Sankoff, *supra* n. 2, at 119; see generally Diane M. Sullivan, Holly Vietzke & Michael L. Coyne, *Animal Rights Advocacy Programs: Champions For Animal Rights*, 3 *J. Animal L. & Ethics* 173 (2009) (discussing the growth of animal law programs).

<sup>5</sup> Sankoff, *supra* n. 2, at 106–07.

<sup>6</sup> While resistance can also exist within animal law courses, my experience teaching seminars on animals is that the students who elect to be there are keen to learn about posthumanist perspectives and embrace the airing of these perspectives if not the per-

ected by the larger gender, racial, class, and cultural dynamics of law school faculties. Specifically, this Essay traces the twin and paradoxical ways in which (1) the premium on reason, objectivity, and the human subject in law, including within human rights legal discourses; and (2) the feminist, anti-racist, and postcolonial critiques of this hegemonic positioning pose a particular challenge to fostering critical thinking on nonhuman animals in legal education. This Essay analyzes how this resistance emerges through debate over the meaning of meat-eating within social justice agenda and the collapse in the capacity for critical thinking that can occur when progressive-minded students are asked to question animal consumption—a deficit itself facilitated by the power dynamics within legal institutions occasioned by the critique of law’s disembodied norms. The effect is a doubled rendering of animals as absent referents, to borrow from Carol Adams, first, as fragmented objects of consumption, and second, as disempowered justice claimants.<sup>7</sup>

Part II of this Essay briefly reviews the literature regarding outsider courses and outsiders in law school and connects the experience of teaching animal law and encountering resistance to it. Part III then discusses the various challenges that arise in pursuing posthumanist teaching and learning in law schools shaped by multiple axes of social difference. This Part explores the scope of resistance that can arise from students resistant to posthumanist perspectives in general and the particular challenges that surface when teaching about animals to students who are interested in outsider courses and perspectives but have not broached posthumanist perspectives. Finally, Part IV suggests some strategies to make the teaching of animal law a smoother process and a more rewarding experience for instructors and students alike.

## II. OUTSIDERS IN LAW SCHOOL

This Part reviews the literature on outsider/critical pedagogy within legal education, focusing on the components of outsider course content and instructor identity to document the resistance and even backlash that outsider/critical pedagogy can generate. This Part defines the concept of outsider/critical pedagogy and explains its relationship to traditional law school curricula.

### A. *Outsider Pedagogy*

Natasha Bakht and her co-authors helpfully define “outsider pedagogy”:

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spectives themselves. My attention in this Essay is to the integration of posthumanist content in law schools outside of this seminar context.

<sup>7</sup> Carol J. Adams, *The Sexual Politics of Meat: A Feminist-Vegetarian Critical Theory* 1, 14–15 (Continuum Intl. Publg. 2000).

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We use the term outsider to describe those who are members of groups that have historically lacked power in society or have traditionally been outside the realms of fashioning, teaching, and adjudicating the law. Outsider pedagogy denotes approaches to teaching by members of these groups, including critical race and post-colonial theorists, Aboriginal scholars, feminists, those concerned with class oppression and subordination based on disability, and those broadly characterized as queer.<sup>8</sup>

As these feminist authors note, outsider pedagogy promotes perspectives that counter the typical stories that liberal legalism tells. Liberal legalism refers to a set of values animating the law that implicitly imagines and privileges human individuals with capacities for reason and independence, disavows embodiedness, and promotes the institution of private property.<sup>9</sup> Uncovering these assumptions in the law and the way its norms operate to exclude and its values colonize and discriminate has been the focus of feminist legal theory, critical race theory, and postcolonial legal theory of recent years.<sup>10</sup> In law schools, for example, outsider courses ask students to suspend their belief in the certainty, legitimacy, knowability, objectivity, and universality of law. Students are quickly socialized to ascribe these traits to the law and legal system upon their entry to law school. The courses that challenge this conception of the law are thus perceived as outside the norm and center of law school curricula. Often, as Bakht and others note, outsider pedagogy is taught by instructors who identify as outsiders themselves, thus amplifying the perception among the student body as a whole that these courses are outside the core of so-called “real” law.<sup>11</sup>

While outsider courses certainly promote critical thinking, they also go further into the public sphere by fostering a type of pedagogy, often called “critical pedagogy,” that is directed at social change and the undoing of power imbalances.<sup>12</sup> Linda Keesing-Styles explains the differences between the two types of critical inquiry:

Critical thinking encourages an analysis of situations and arguments to identify faulty or unreliable assertions or meanings. While it may well encourage discernment in relation to the social and human condition, it does not specifically demand social action. Critical pedagogy, however, is preoccupied with social injustice and examines and promotes practices that have

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<sup>8</sup> Natasha Bakht et al., *Counting Outsiders: A Critical Exploration of Outsider Course Enrollment in Canadian Legal Education*, 45 *Osgoode Hall L.J.* 667, 672 (2007).

<sup>9</sup> Carol Smart, *The Woman of Legal Discourse*, 1 *Soc. & Leg. Studies* 29 (1992).

<sup>10</sup> For classic samples of each type of critique, see Catharine A. MacKinnon, *Feminism Unmodified: Discourses on Life and Law* (Harvard U. Press 1987); Patricia J. Williams, *The Alchemy of Race and Rights: Diary of a Law Professor* (Harvard U. Press 1991); *Critical Race Feminism: A Reader* (Adrien Katherine Wing ed., N.Y.U. Press 1997); Patricia A. Monture-Angus, *Journeying Forward: Dreaming First Nations' Independence* (Fernwood Publ. 1999); Sherene H. Razack, *Looking White People in the Eye: Gender, Race, and Culture in Courtrooms and Classrooms* (U. Toronto Press 1998).

<sup>11</sup> Cf. Bakht et al., *supra* n. 8, at 681–82.

<sup>12</sup> Linda Keesing-Styles, *The Relationship between Critical Pedagogy and Assessment in Teacher Education*, 5:1 *Radical Pedagogy* 5–9 (2003).

the potential to transform oppressive institutions or social relations, largely through educational practices.<sup>13</sup>

We learn that critical pedagogy is a politicized form of critical thinking, connecting individual insight to broader social issues and praxis. Through their aim of disrupting substantive norms by attempting to unlock patterns of social domination and empower Othered groups and students, outsider courses are typically repositories of the more social-justice-oriented critical pedagogy.<sup>14</sup>

Depending on what we think of the overall aspirations of law students, it may be of no surprise that outsider courses are not as popular in law schools as “core” courses.<sup>15</sup> Bakht and others conducted a study of seven English-speaking law schools throughout Canada that charted student attitudes toward outsider courses in law school curricula.<sup>16</sup> Employing a targeted survey methodology and motivated by an anecdotal sense that student enrollment in feminist-legal-theory courses had decreased in recent years, the authors set out to ascertain whether enrollment in outsider courses had been declining.<sup>17</sup> While characterizing their research as “exploratory,”<sup>18</sup> they make several interesting findings based on more than 1,100 student responses.<sup>19</sup> One finding is that students prefer doctrinal courses.<sup>20</sup> While they found that students favor doctrinal courses as their electives in their second and third years of law school for multiple reasons—such as concerns regarding legal skills training, preparation for the bar, pre-law exposure to the topic, or partial coverage in first-year law<sup>21</sup>—ideological positions and negative associations ascribed to outsider content were oft-cited reasons for not electing to take outsider courses.<sup>22</sup> Importantly, the study included animal law courses within the purview of outsider courses.<sup>23</sup>

While the study focused on upper-year electives, outsider content can also reside in first-year courses, usually in efforts to situate law within its social, cultural, economic, and historical context.<sup>24</sup> The theo-

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<sup>13</sup> *Id.* at 2.

<sup>14</sup> *Id.* at 6, 10.

<sup>15</sup> Annie Rochette & W. Wesley Pue, “Back to Basics”? *University Legal Education and 21st Century Professionalism*, 20 Windsor Y.B. Access Just. 167, 184 (2001).

<sup>16</sup> Bakht et al., *supra* n. 8, at 679–81.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at 731.

<sup>19</sup> *Id.* at 701 (Of the 3,623 surveys distributed to students at seven law schools across the country, 1,164 students responded.).

<sup>20</sup> *Id.* at 710–11.

<sup>21</sup> *Id.*

<sup>22</sup> Bakht et al., *supra* n. 8, at 714, 722, 725.

<sup>23</sup> *Id.* at 673.

<sup>24</sup> *Id.* at 679 n. 38; Brenna Bhandar, *Always on the Defence: The Myth of Universality and the Persistence of Privilege in Legal Education*, 14 Can. J. Women L. 341, 348 (2002); Roxanne Ng, “A Woman out of Control”: *Deconstructing Sexism and Racism in the University*, 18:3 Canadian J. Educ. 189, 197 (1993). Resistance to critical perspectives has been well documented both in and out of law schools. While the proportion of

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retical perspectives canvassed typically include a mixture of feminist, critical race, postcolonial, indigenous, and queer theory.<sup>25</sup> It would not be unusual for the aversion to selecting outsider courses documented in upper years to operate in first-year classes in the form of resistance. This may be especially so because students typically are without choice in their mandatory first-year curriculum. The following section discusses how outsider identities complicate attitudes toward outsider courses.

### B. *Outsiders*

To the extent that learning law and inhabiting the space of a law faculty are brand new experiences, we may imagine that all first-year students could legitimately feel like outsiders upon entering law school.<sup>26</sup> While some students may quickly adjust and experience law school positively, there is growing evidence that the cultures of typical North American law schools adversely affect student well-being in the

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students interested in outsider content will vary given different school cultures, resistance can still accumulate even at so-called “progressive” schools. From my experience teaching various types of outsider content in first-year courses at a faculty known for its social justice orientation, a resistant minority can nevertheless be vocal and influential on the mainstream within a class. Those students who start off on their first day committed to pursuing social justice aims through the law face an enormous amount of pressure from their less-socially-inclined peers and conventional law school content and pedagogy to conceive of law as a system of rules and principles which are fixed and objective. The terminology of black-letter quickly seeps into collective consciousness, and instructor attempts to integrate non-black-letter law (e.g., outsider content) into core courses are perceived as policy rather than real law. Indeed, discussions on a normative plane—what the law ought to be rather than what it is—is largely viewed as policy. As external stressors increase for law students due to competition, exam times, and career anxiety, there seems to be decreasing tolerance, much less acceptance and respect, for outsider content in the first year. Again, from my experience, this intolerance and resistance is amplified when there are two or more sections of the same first-year course and the content of the sections diverges along outsider content. For example, in teaching property law, when I used different materials than my colleague teaching another section of students, the resistance to the materials was more notable. This reached acute proportions in the fifth year of instruction since my colleague and I differed so sharply in both our pedagogical styles and outsider content. In that year, after a class looking at the idea of whiteness as property through Cheryl Harris’ classic article of the same name, two students from the other course section came to my class unannounced and sat in the back together, apparently (based on discussions with one of them after the fact) to witness the difference of my pedagogical style and to learn about the topic of the day: animals. This fairly benign version is not how I experienced the class, given the resistance to the previous day’s materials and the buzz building among the first-year students about the differences in the courses and generally high anxiety level due to imminent exams. See Cheryl I. Harris, *Whiteness as Property*, 106 Harv. L. Rev. 1707 (1993).

<sup>25</sup> Bakht et al., *supra* n. 8, at 671–72.

<sup>26</sup> Susan Grover, *Personal Integration and Outsider Status as Factors in Well-Being*, 47 Washburn L.J. 419, 420 (2008).

course of their three years.<sup>27</sup> Despite this commonality of first-day experience and malaise affecting law students due to the alienating norms of legal education, it is possible to draw a distinction between mainstream and outsider students in law school. A possible shared unity among all students collapses when the privilegings and exclusions embedded in law and law school practices are factored into their first-day outsider sensibility. This results from the impact that one's identity in the classroom, and the privileges or lack thereof it may command, has on how information is received and learning proceeds both in and out of class.<sup>28</sup> A non-paradigmatic legal identity—someone who is not white, male, able-bodied, heterosexual, and middle-class—can complicate the ability to learn in law school.<sup>29</sup> It can also complicate the ability to teach. This is particularly the case when the material taught is perceived as marginal and engages students in critical pedagogy.

Within law schools, the work of critical race theorists and feminist legal scholars has been particularly instructive in highlighting these dynamics and the difference that difference makes for instructors. Derrick Bell's and Richard Delgado's bodies of work stand out in this regard.<sup>30</sup> Both have convincingly demonstrated the significance of an instructor's race to the way she experiences the classroom, colleagues, administrators, and the way students treat her.<sup>31</sup> Feminists have done the same for gender, sexuality, and age,<sup>32</sup> noting, for example, that

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<sup>27</sup> *Id.* at 426–29. Grover discusses various reasons why law school negatively affects well-being. These include relinquishing (1) spirituality, (2) collegiality and the capacity for intimacy, (3) personal ethics, (4) work ethic, and (5) perspective.

<sup>28</sup> Bakht et al., *supra* n. 8, at 723; Grover, *supra* n. 26, at 430–32; Jen Marchbank, *Still Inside, Still "Out"—A Decade of Reflection on Exposure, Risk and Survival*, 28 *Women's Studies Intl. Forum* 139, 141, 146 (2005); Ng, *supra* n. 24, at 190.

<sup>29</sup> For a detailed discussion of these effects for Othered groups in law schools, see Nancy E. Dowd et al., *Diversity Matters: Race, Gender, and Ethnicity in Legal Education*, 15 *U. Fla. J.L. & Pub. Policy* 11, 25–33 (2003).

<sup>30</sup> Derrick Bell, *Faces at the Bottom of the Well: The Permanence of Racism* (BasicBooks 1992); Richard Delgado, *Legal Storytelling: Storytelling for Oppositionists and Others: A Plea for Narrative*, in *Critical Race Theory: The Cutting Edge* 64 (Richard Delgado ed., Temple U. Press 1995); Richard Delgado, "The Imperial Scholar" Revisited: *How to Marginalize Outsider Writing, Ten Years Later*, in *Critical Race Theory: The Cutting Edge* 401 (Richard Delgado ed., Temple U. Press 1995); Richard Delgado, *When a Story is Just a Story: Does Voice Really Matter?*, 76 *Va. L. Rev.* 95 (1990).

<sup>31</sup> Bell, *supra* n. 30, at 144–45; Richard Delgado, "The Imperial Scholar" Revisited, *supra* n. 30, at 401–02.

<sup>32</sup> bell hooks, *Teaching to Transgress: Education as the Practice of Freedom* (Routledge 1994); Sheila McIntyre, *Backlash Against Equality: The "Tyranny" of the "Politically Correct,"* 38 *McGill L.J.* 1, 5 (1992–1993); Sheila McIntyre, *Gender Bias Within the Law School: "The Memo" and Its Impact*, 2 *Can. J. Women & L.* 362, 374 (1986–1988); Beverly I. Moran, *Trapped by a Paradox: Speculations on Why Female Law Professors Find It Hard to Fit Into Law School Cultures*, 11 *S. Cal. Rev. L. & Women's Stud.* 283, 292 (2001–2002); Mary Jane Mossman, "Otherness" and the Law School: *A Comment on Teaching Gender Equality*, 1 *Can. J. Women & L.* 213, 214 (1985–1986); Ruthann Robson, *Lesbian (Out)law: Survival Under the Rule of Law* (Firebrand Press 1992).

female faculty seem to bear the brunt of student resistance, with the effect being sharpened for racialized female faculty.<sup>33</sup> One of the real and imagined student critiques is that female faculty have an agenda to push if they discuss feminism or that racialized faculty are self-serving if they critique systemic racism.<sup>34</sup> This is due to the difficulty in recognizing the mainstream groups that law privileges since privilege operates invisibly.<sup>35</sup>

These types of institutional dynamics are present when the critiques of law's organizing tenets and principles emanate from humanist theories such as feminism or critical race theory. As the next section discusses, it is these very humanist critiques that complicate the challenges instructors, especially marginalized instructors in law schools by way of their race, gender, sexuality, ability, etcetera encounter when they add posthumanist critique to the repertoire of critical theory in the law school curricula.

### III. POSTHUMANIST INTERVENTION

#### A. *Resistance from the Mainstream*

The resistance experienced by instructors teaching outsider perspectives in first-year classes extends to posthumanist content. Despite its impressive rise in the United States since 1999 and continuing rise elsewhere,<sup>36</sup> animal-related posthumanist content is still perceived as marginal to the law school learning curriculum.<sup>37</sup> Peter Sankoff arrived at this conclusion after surveying the experiences of animal-law instructors worldwide.<sup>38</sup> In my own teaching, I have incorporated animal ethics into my first-year course on property for three out of the five years that I have taught this full-year course. I introduced posthumanist perspectives most robustly in my fifth year of teaching property, offering a full module—one week of the spring semester consisting of two eighty-minute classes—asking students to consider the critique of the legal thinghood of animals. The module was positioned at the end of the year and as a third example of current

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<sup>33</sup> Cheryl Harris, *Law Professors of Color and the Academy: Of Poets and Kings*, 68 Chi.-Kent L. Rev. 331, 346 (1992–1993); Ng, *supra* n. 24, at 197; Williams, *supra* n. 10; Tracey Lindberg, *What Do You Call an Indian Woman with a Law Degree? Nine Aboriginal Women at the University of Saskatchewan College of Law Speak Out*, 9 Can. J. Women & L. 301, 314 (1997).

<sup>34</sup> Cheryl Harris, *Law Professors of Color and the Academy: Of Poets and Kings*, 68 Chi.-Kent L. Rev. 331, 346 (1992–1993); Ng, *supra* n. 24, at 197; Williams, *supra* n. 10; Tracey Lindberg, *What Do You Call an Indian Woman with a Law Degree? Nine Aboriginal Women at the University of Saskatchewan College of Law Speak Out*, 9 Can. J. Women & L. 301, 314 (1997). For similar problems for lesbian academics, see Ruthann Robson, *Sappho Goes to Law School* (Columbia U. Press 1998) and Marchbank, *supra* n. 28, at 146.

<sup>35</sup> Grover, *supra* n. 26, at 431.

<sup>36</sup> Sankoff, *supra* n. 2, at 123–26.

<sup>37</sup> *Id.* at 108, 135.

<sup>38</sup> *Id.*

controversial debates regarding property law (the first being matrimonial property division and the second being feminist debates over commodification in human bodies). The posthumanist module was one of two engaging the divide between personhood and property in liberal legalism. After discussing whether the law should recognize more property in our human bodies (commonly thought of as uncommodifiable to respect our personhood), we segued into a discussion of the converse question of whether the law should recognize more personhood in animal bodies (commonly thought of as commodities and bereft of personhood).

I explained the conceptual connection to the modules to give a sense of the care taken to situate the discussion within larger debates about commodification and the meaning of property. This made the resistance to the topic all the more distressing once experienced. While there was clearly a handful of students in the class keenly interested in a posthumanist critique of the law (three of whom took my *Animals, Culture and the Law* upper-year seminar in their second year), the level of disruption in the lecture I gave during the first day to set out the issues was unparalleled in any class I had given during my previous five years of teaching. I do not attribute this solely to the posthumanist nature of the outsider content but also recognize the influence of resistance to the general importance placed on outsider content accumulating during those last few weeks as exams approached. Nonetheless, there was a palpable disregard for the materials that I have not experienced in relation to any humanist outsider critiques, including an article on examining whiteness (in a largely white class taught by a racialized women—me) as property.<sup>39</sup> This disregard, typically exhibited by white male students, took the form of openly talking when another student or I was talking, walking in and out of class, leaving class, and laughing audibly and incredulously at some parts of posthumanist theory while I was explaining it. These were all behaviors that the class had not exhibited collectively before.<sup>40</sup>

While one worries that students will see outsider perspectives as marginal or irrelevant and thus be reluctant to engage with these perspectives as a serious part of their education, this concern is amplified for posthumanist content. I can only wonder if, similar to humanist outsider material, the topic would receive more respect and be seen as more legitimately belonging within a law school curriculum if I were more of an insider in terms of my gender, race, and age and thus more

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<sup>39</sup> Harris, *supra* n. 24.

<sup>40</sup> The idea that posthumanist content is laughable is not unique to this class. When I gave the standard course blurb for my new seminar in *Animals, Culture and the Law* that all instructors are asked to do during lunch-time sessions before students choose their courses, I used the adjective “nonhuman” whenever I used the word “animal.” This terminology elicited an audible guffaw from one of the students assembled that I resolutely talked through. This type of disbelief at the seriousness of the topic extends, as we have seen, to the actual course setting.

closely cloaked with the trappings of legal authority. I am tempted to comment that it would, but not fully, because the posthumanist critique impugns the core of liberal legalism's values—humanism—and for many students exposure to the critique can be the first time they have been asked to think about their ethical relationship with nonhuman animals. It would be illuminating to hear more about posthumanist teaching experiences by marginalized and mainstream instructors alike. In the next section, I explore how the critique of humanism that is comparatively more familiar when lodged on behalf of anthropocentric justice claims and related social movements (such as race, culture, etcetera) is resisted when it applies to animals.

### B. *Resistance from Outsider Students*

The challenges to teaching posthumanist content are not limited to the mainstream classroom where subversion of law's primary humanist narratives is at stake. Paradoxically, it is precisely the depth of the subversion of posthumanist critique of law's humanism that can animate resistance by those outsider students who are not resistant to some or all of (humanist) critical theory. Posthumanism, being a quite new addition to critiques of modernism and the diversity and equity critical theoretical spectrum,<sup>41</sup> is not only new for insider students, but may provide a new perspective to outsider students previously only familiar and comfortable with humanist understandings of diversity and equity and their attendant concepts of equality and anti-oppression. When a common project of outsider content is envisioned in law school spaces (through adoption of certain readings, the funding of certain student clubs, etcetera), there is no simple, shared consensus of what falls within the purview of diversity or equity, anti-oppression, or social justice issues. This is particularly the case when posthumanist content is at issue. Consider that the definition of "outsider courses" by the authors of the Osgoode Hall study discussed *supra*, Section II(A), was also a matter of debate.<sup>42</sup> Perhaps it comes as no surprise that whether to include animal law courses was a feature of that debate.<sup>43</sup>

#### 1. *Resistance in Anti-discrimination Organizing*

What I see as a very telling example of this fraught terrain is student planning of a law school conference that the law faculty at which I teach held recently. The conference succeeded in its purpose of engaging all constituents of the law school community, including students, staff, and faculty. It was designed as a one-day, student-led but faculty-sponsored affair. While the theme changes from year to year, the aspiration is to address topics that are vital to the public interest. In the year that I was involved with the conference planning, the

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<sup>41</sup> Carrie Rohman, *Stalking the Subject: Modernism and the Animal* 9–13 (Columbia U. Press 2009).

<sup>42</sup> Bakht et al., *supra* n. 8, at 673.

<sup>43</sup> *Id.*

theme was anti-discrimination, and the plan was for student clubs to design conference sessions, with the format completely open, on topics relating to their club mandates and anti-discrimination. All student clubs, not just outsider ones, were invited and encouraged to participate. Student participation was led by student co-chairs, three racialized women, for whom I was the faculty advisor.

An issue that emerged during the planning concerned the vision of anti-discrimination that our local chapter of the Student Animal Legal Defense Fund (SALDF) presented. SALDF's vision was not shared by some of the other students. SALDF advised the student co-chairs that their participation would be conditioned on the conference being a vegan conference, a relatively new concept for the law school.<sup>44</sup> This request was resisted; the student co-chairs instead offered to provide catering with vegan options. SALDF's members did not want to participate in a conference on anti-discrimination that did not take SALDF's mandate of the non-instrumental status of animal lives seriously. They took the position that they would boycott the conference and participate in peaceful political protest should the conference go ahead as a non-vegan event. From the perspective of non-SALDF students reluctant to hold a vegan event, agreeing to SALDF's request appeared to be an exclusive act since, according to their view, only vegan food would be available. They wanted SALDF to agree to what they and the larger law school administration perceived as a compromise: an event where vegan options were abundant but not the only items on the menu.

Dissatisfied with that proposal and upset with what they felt was the dismissive treatment of its views on the meaning of anti-discrimination, SALDF raised the issue with the chair of the faculty's Anti-Discrimination Committee, a group composed of an equal number of faculty and student representatives, who placed the issue on the agenda for one of its meetings. Operating according to its normal procedures, the Anti-Discrimination Committee passed a resolution to support the vegan-only proposal for the conference. This resolution upset the students who were not in favor of a vegan-only event, who then felt pushed into a corner by a decision on which they were not consulted.<sup>45</sup>

As the faculty advisor for the conference, I was called on to offer advice about how to resolve the student contestation over food by the student co-chairs. I was immediately wary that I would be (erroneously) perceived as incapable of handling this task because I myself was a vegan and an animal advocate through my posthumanist research and teaching, a factor known to many within the law school

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<sup>44</sup> When I received an award to hire a student under a summer student fellowship for a posthumanism-and-the-law, animal-related project, the event celebrating the student that I hired for the fellowship was vegan at the student's request.

<sup>45</sup> My knowledge of these facts stems from my meetings with the student co-chairs as well as conversations with the then Anti-Discrimination Committee chair.

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community. It was for this reason especially that I did not raise the issue of food and SALDF's vision of equality myself when conference organizing and planning were underway. When the matter was raised by students involved in SALDF, the student co-chairs updated me about the issue in our regularly scheduled meetings. My advice for them was to seriously consider SALDF's request as an invitation to broaden the parameters of equality thinking and to consider the impact a boycott and protest would have on the conference from a public relations perspective. It turned out that my anxiety about raising the issue myself was well-founded and my resulting caution a prudent response.

The discussions I had with both students and administrators trying to resolve the food issue revealed to me the perception I had anticipated: As someone interested in thinking, writing, and researching about posthumanist critiques of law and society and a vegan myself, I was perceived as suffering from a bias about the food issue and lacking the ability to properly advise the students. Indeed, without informing me, the co-chairs had spoken to the associate dean of student relations about my perceived inability to advise them properly about the food dispute. Further, there was speculation by at least one of the co-chairs that I was working behind the scenes with other like-minded individuals of influence in our law school community to engineer a particular result favoring the position of SALDF. The students leading the SALDF request were also characterized as bullies by other students, a characterization that did not appear to be contested by the administration who became involved in the issue.

The contestation over the food issue peaked in November, and organizing turned to the substantive academic content of the conference. The issue was finally resolved by an acquiescence to the SALDF request by the other students, although the controversy spilled over to some extent to the larger student body with other students approaching the school administration to query the vegan parameters for the food, which the administration defended in the end. The result was a successful vegan conference where SALDF participated, praise for the gourmet vegan catering was abundant, and many students interested in equality issues participated.<sup>46</sup> The cost of this success to the law school community and individuals, however, was intense student division for a period of time, stigmatization of students in SALDF, hurt feelings for students all around, and breakdown in communication and organization. The cost of the issue to me as the faculty instructor was a period of sustained anxiety dealing with accusations and innuendos of bias while trying to manage student conflict.

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<sup>46</sup> It also turned out that our keynote speaker was delighted to see soy milk, his preferred complement to coffee, at the beverage table.

## 2. *Exclusion Anxiety—Liberal Choices*

What theoretical insights may be gleaned from this overall painful experience? First, it may be noted that the conference is a prime illustration of Bernice Johnson Reagon's insight that coalitional work is not easy<sup>47</sup> and Audre Lorde's famous exhortation not to assume that coalitional spaces are "safe."<sup>48</sup> Both sides of the vegan debate viewed their position as the desirable anti-discrimination position. To the SALDF students in favor of vegan-only catering, an anti-discrimination conference that perpetuated animal exploitation and instrumentality would be working at cross-purposes to SADLF's stated aim. For the racialized student organizers used to viewing anti-discrimination in a more conventional, anthropocentric way, the SALDF request was extreme and uncompromising. Moreover, it was seen to be exclusive.

There were two levels of understanding that led to this latter characterization. First, for those operating under a traditional liberal framework, providing only vegan catering was exclusive because it excluded the choices of non-vegans. I call this a classic liberal understanding because it places the majority and minority on the same power plane in analyzing the impact of a decision on their preferences and interests. The fact that vegan food is within the diet of the majoritarian and hegemonic non-vegan community does not preclude the "exclusive" label from being attached. That a vegan event might instead be seen as inclusive for that very reason—providing food that likely everyone can eat—is also a difficult point to adopt under this liberal perspective that anchors a norm and struggles with centering differences. Here, the liberal principle of anti-discrimination is meant to treat everyone the same and does not account for hegemony in food or any other normalized choices that makes invisible the culturally dominant status of meat. That veganism might require affirmative action to gain an equivalent cultural status to non-veganism does not easily resonate in a liberal paradigm that struggles with identifying difference and the cultural hegemonies that subordinate.<sup>49</sup> Thus, denying non-vegans their ability to eat animal products (even for one day) presents as discrimination and the unjustified imposition of values by a group on the rest of the community rather than subversion or political resistance.<sup>50</sup>

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<sup>47</sup> Bernice Johnson Reagon, *Coalition Politics: Turning the Century*, in *Race, Class, and Gender: An Anthology* 503, 506 (Margaret L. Andersen & Patricia Hill Collins eds., 6th ed., Wadsworth Publ. 2006).

<sup>48</sup> Audre Lorde, *The Master's Tools Will Never Dismantle the Master's House*, in *Feminist Postcolonial Theory: A Reader* 25, 27 (Reina Lewis & Sara Mills eds., Routledge 2003); Ng, *supra* n. 24, at 202.

<sup>49</sup> Ratna Kapur, *New Cosmologies: Mapping the Postcolonial Feminist Legal Project*, in *Erotic Justice: Politics of Postcolonialism* 14, 26 (Glasshouse Press 2005).

<sup>50</sup> When asked about what a possible response to this conceptualization of exclusivity might be, I would often analogize the position to the request to have a green event. People were less inclined to see a green event as excluding the choices of non-green people or constituting an imposition because of their acceptance of the desirability of

### 3. *Exclusion Anxiety—Gender, Race, and Class Identities*

The second understanding of exclusivity transcends liberal ideology, but not a humanist one. It was voiced in the conference example from a space very much committed to the politics of difference and a progressive identity politics but also firmly invested in the human-animal boundary and surrounding hierarchy. From this perspective, the vegan request was exclusive because it marginalized students who came from farming backgrounds and whose parents or other relatives might still be involved in raising animals for slaughter. While not explicitly stated to me at any time, given the demographic of our law school, this could be reframed as a concern about offending white students from low-income, rural backgrounds. When students voiced this concern, my response was again to try to see the SALDF position as an equality-advancing one: Just as the equality claims of groups most of us recognize as legitimate under the umbrella of diversity and equity concerns (e.g., people with disabilities, racialized peoples, white women, etcetera) may conflict with the values of some students and the upbringings that they had, this conflict has not been a reason to avoid the pursuit of substantive equality as a goal.

But the exclusivity charge proved to be more complicated by also extending to race and culture differences. Another reason substantiating the exclusive claim was that the vegan event disrespected and implicitly impugned the eating practices of ethnic cultural groups, many of them non-white, who favored a diet rich in animal flesh and other animal products. While this claim is a misguided one, it is nevertheless articulated with some frequency in progressive organizations when the issue of catering and food choices are, literally, put on the table. Marti Kheel discusses a very similar episode she encountered with respect to an academic feminist conference.<sup>51</sup> In response to a proposal that the food at future conferences be vegan, some feminist members, particularly those from marginalized racialized and cultural groups, objected because they felt disrespected in their food choices.<sup>52</sup> Kheel observes that the presumption operating in that response was the belief that vegetarian and vegan practices could be coded as white while the consumption of animals could be coded as racialized.<sup>53</sup> Thus, the request, similar to the one made by SALDF, was seen to perpetuate racist and colonial dynamics.

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going green, even for a day. While environmental protection still has quite a way to go to be a mainstream value, its greater public acceptance when compared to animal rights seems to immunize green initiatives from exclusion claims.

<sup>51</sup> Marti Kheel, Presentation, *Toppling Patriarchy with a Fork: The Feminist Debate Over Meat* (Natl. Women's Studs. Assn. 26th Annual Conf., Orlando, Fla, June 9–12, 2005; revised presentation to the Pacific Division meeting of the Socy. for Women in Philosophy, Cal. State U. at Chico, Sept. 24–25, 2005) (copy on file with *Animal Law*).

<sup>52</sup> *Id.* at 8.

<sup>53</sup> *Id.* at 8–9, 14.

It is important to take a moment to note the bizarre and, ironically, colonial nature of this claim. Sheri Lucas captures the illogic of it:

However thunderous our hubris, the West does not have a monopoly on ethical vegetarianism. To suggest otherwise silences the diversity of ethical vegetarians and suspiciously ignores Western traditions as though they are irrelevant to the feminist-vegetarian debate. But they *are* relevant. We have turkeys for thanksgiving, ice cream with our birthday cakes, “chicken soup for the soul,” and summertime barbeques. At our conferences, weddings, and cafeterias, in our lunch bags and homes, most of the foods we eat contain flesh, eggs, or milk products. To treat ethical vegetarianism as an ideal that Westerners want to force on the rest of the human population is to lose hold of reality. In reality, it is *we* who would have to change the most if humans became a vegetarian species. And it is *we* who would most disparage the loss of nonhuman animal foods. Most of the human population would not feel the pinch. They live it.<sup>54</sup>

As Lucas emphasizes, a cursory survey of global food practices reveals that the western, affluent diet is one of, if not the most, animal-centered diets in the world.<sup>55</sup> To suggest that ethical veganism is a western idea new to non-westerners is simply inaccurate. As Lucas intimates, the reverse is true: Meat-eating is every bit integral to Enlightenment-based Western culture that defines the human through abjecting and sacrificing the animal.<sup>56</sup> Europeans came to know of vegetarianism through exposure to India.<sup>57</sup>

Despite this history and contemporary reality, the cultural imperialism/racism claim is often made in progressive circles.<sup>58</sup> Indeed, it appeared on one of the few written student comments in the survey we distributed after the conference. We should not be surprised by this politicization of food and the complicated feelings food invokes for people. As Cathryn Bailey has stressed, “the deconstruction and reproduction of racial, gender, and class identity depends upon eating practices” (among other factors) and clarifying these connections “is critical for developing viable theories related to vegetarianism.”<sup>59</sup> She gives examples of how our identities are so constructed as follows:

We should not minimize the attachment of working-class people of all races to meat eating either. If the steak dinner is reserved for the master or regarded as the upper-class person’s mark of distinction, then a claim to class privilege can reasonably be thought to require a claim to meat. After all, foodways are themselves a significant part of culture; part of how one takes

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<sup>54</sup> Sheri Lucas, *A Defense of the Feminist-Vegetarian Connection*, 20 *Hypatia* 150, 165 (2005) (emphases in original).

<sup>55</sup> *Id.*

<sup>56</sup> Rohman, *supra* n. 41, at 21, 66.

<sup>57</sup> Tristram Stuart, *The Bloodless Revolution: A Cultural History of Vegetarianism from 1600 to Modern Times* 40 (W.W. Norton & Co. 2007).

<sup>58</sup> Lucas, *supra* n. 54, at 164.

<sup>59</sup> Cathryn Bailey, *We Are What We Eat: Feminist Vegetarianism and the Reproduction of Racial Identity*, 22 *Hypatia* 39, 40 (2007).

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on or claims a cultural identity is through the adoption of foodways. This helps explain why vegetarianism has sometimes been dismissed as a bourgeois lifestyle choice, one deeply reflective of a privileged identity. Certainly, to be able to turn away nourishment of any kind often says something about one's level of privilege. Paradoxically, this can also help explain the reclamation of black "soul food," which was traditionally made with the parts of animals that white masters did not want to eat.<sup>60</sup>

Bailey explains why eating animals is implicated in class and race politics. Where hierarchies are partly constructed through access to animal flesh, as ours is, animal bodies become a marker of privilege, entitlement, and corresponding marginalization. Partaking in animal flesh consumption can be a way of claiming, then, a higher social and cultural status that has been long denied as well as a reclaiming of a stigmatized cultural practice.<sup>61</sup> Further, if it is true, as Carrie Rohman argues, that disavowing animal subjectivity through the material practice of eating animals is a prerequisite step to constituting oneself as fully human in Western cultures,<sup>62</sup> then what was figuratively and literally at stake in the catering choice for the racialized students was of a great magnitude indeed. As Rohman goes on to note, "becoming human requires passing through a field of discourse that defines the human subject as not-animal."<sup>63</sup>

Also important to bring into view is how the legitimacy and superior status of cultures rely on the value assigned to certain cultural uses of animals, including food practices, by the majoritarian culture. Glen Elder, Jennifer Wolch, and Jody Emel discuss how "[a]nimal practices are extraordinarily powerful as a basis for creating difference and hence racialization" through the normalization of the majoritarian culture's uses of animals and the stigmatization of different minority uses that conflict with the former or hold no value in the eyes of the majoritarian culture.<sup>64</sup> Elder, Wolch, and Emel cite multiple examples of the targeting of minority cultural uses of animals as "barbaric" and "savage."<sup>65</sup> Although the pretext for the targeting is animal suffering and welfare, the authors argue that the motivation is xenophobic since the majority culture is full of animal uses that entail horrific levels of animal suffering.<sup>66</sup> Yet, the latter are normalized and can even be constitutive of a celebrated nationalist or regional identity (think rodeos,

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<sup>60</sup> *Id.* at 46.

<sup>61</sup> *Id.* Bailey also makes a similar point for gendered meanings of eating animals. In a culture that associates masculinity with eating animals and casts vegetarian men as effeminate, women may see the adoption of a carnivorous diet as a route to social, cultural, and economic power. *Id.* at 45–46; see generally Adams, *supra* n. 7, at 36–42, 46–47.

<sup>62</sup> Rohman, *supra* n. 41, at 15.

<sup>63</sup> *Id.*

<sup>64</sup> Glen Elder et al., *Le Pratique Sauvage: Race, Place, and the Human-Animal Divide* in *Animal Geographies: Place, Politics, and Identity in the Nature-Culture Borderlands* 72, 73 (Jennifer Wolch & Jody Emel eds., Verso 1998).

<sup>65</sup> *Id.* at 73, 80.

<sup>66</sup> *Id.* at 80.

Thanksgiving feasts, and barbecues), while the former are markers of cultural and racial differences and civilizational inferiority to be contained and even eradicated before majoritarian identity is threatened.<sup>67</sup> The authors note a shift in this process of racialization through animals from previous imperial discourses. There, non-westerners were racialized through associations with the body and animality, whereas now non-westerners are racialized through their uses of animals.<sup>68</sup> In both instances, the animal-human boundary creates a colonial encounter that permits the dominant culture to Other subordinate cultural groups through a discourse of dehumanization/animalization.<sup>69</sup>

Turning back to food practices and the negative response of the racialized and culturally marginalized students I supervised for the conference, we can speculate that the insistence on a vegan conference by SALDF (and its primarily white members) was read by the non-SALDF student Community Conference organizers and other students as an elitist judgment of the inferior food practices of non-Western cultures at the law school, and thus of the cultures themselves. This, in turn, may have been experienced as a dehumanizing judgment and an assault on the human dignity that marginalized cultural groups have fought to obtain in a cultural context that makes animal abjection central to qualifying as “civilized” and “human.”<sup>70</sup> Of course, groups like SALDF do not harbor imperialist intent and are genuinely motivated by compassion for animals. Much like Elder and others, many animal advocates display a commitment to object to all “barbaric” uses of animals, applying equivalent standards to all cultures as well as denouncing Othering practices against marginalized humans.<sup>71</sup> Yet, reaching this point of view about posthumanist intervention is complicated by other Othering. Understanding the symbolic potency of animal flesh consumption to define, differentiate, and stigmatize in these ways helps illuminate responses by individuals marginalized by their gender, race, and/or class to respond defensively to posthumanist advocates who urge (in a non-imperial way) an ethical vegetarianism and draw comparisons and connections between marginalized humans and animals.<sup>72</sup> It may also help make intelligible the perception, albeit inaccurate, of vegetarianism as an elite practice by these groups.<sup>73</sup> It makes less peculiar how a request for vegetarianism or veganism has

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<sup>67</sup> *Id.* at 73.

<sup>68</sup> *Id.* at 81.

<sup>69</sup> *Id.*

<sup>70</sup> Rohman, *supra* n. 41, at 52–53.

<sup>71</sup> *Id.* at 74.

<sup>72</sup> *See generally* Bailey, *supra* n. 59, at 45.

<sup>73</sup> While many racialized and indigenous communities consume animals, the greatest per capita consumption is by Europeans and affluent westerners and non-westerners alike. Also, as mentioned above, the majority of people outside affluent countries are vegetarian either by choice or necessity. *See* Lucas, *supra* n. 54, at 164.

been resisted by critical scholars, even feminists, on anti-racist and postcolonial grounds through “defensive and reactionary dismissals.”<sup>74</sup>

The “elitist” argument has generated a lively and ongoing debate over whether feminists—and, by extension, other critical scholars—should be vegetarian.<sup>75</sup> While I am inclined to support the view that feminists should strive for non-violent and thus vegan living, my purpose here is not to resolve the debate, but to note the tensions that can arise with posthumanist academic advocacy even within *progressive* spaces of learning. These tensions have tangible consequences. Had I anticipated that a request for a vegan event would generate accusations of cultural insensitivity and racism, even I, as a racialized female, would think twice before I made it, not because of the plausibility of such a charge, but because of the personal stress and fallout that such a debate would necessarily visit on its minority participants. These feelings are discouraging but illustrate the impact of the marginalization of posthumanist views and the trauma that may result for animal advocates in the educational context.<sup>76</sup> In the next Part, I consider some strategies for avoiding this negative impact in the educational context for instructors incorporating posthumanist critique and for turning student resistance into productive engagement.

#### IV. RESPONDING TO RESISTANCE TO POSTHUMANIST CONTENT

The practice of critical pedagogy and its goal of “teaching to transgress,” as bell hooks would put it, is one that is ongoing and difficult.<sup>77</sup> As Roxana Ng tells:

Teaching and learning against the grain is not easy, comfortable, or safe. It is protracted, difficult, uncomfortable, painful, and risky. It involves struggles with our colleagues and our students, as well as within ourselves. It is, in short, a challenge.<sup>78</sup>

To presume that easy solutions exist to change these dynamics would be overly hopeful and would also suggest a relative uniformity

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<sup>74</sup> Rohman, *supra* n. 41, at 20; see Lucas, *supra* n. 54, at 164 (noting that “cultural imperialism . . . is perhaps the most cited and robust challenge to the feminist-vegetarian connection”).

<sup>75</sup> For an example, see Sheri Lucas’ response to Kathryn Paxton George’s negative response to this question. George adduces many more reasons, other than the tenuous anti-racist and postcolonial link, to answer her question “Should Feminists Be Vegetarians?” with a negative response. In her reply, Lucas methodically refutes each of these reasons to argue for a vegan praxis among feminists. See Kathryn George Paxton, *Animal, Vegetable, or Woman: A Feminist Critique of Ethical Vegetarianism* (St. U. New York Press 2000) and Lucas, *supra* n. 54, at 164. See also Lori Gruen, *Empathy and Vegetarian Commitments*, in *The Feminist Care Tradition in Animal Ethics* 334, 334–35 (Josephine Donovan & Carol J. Adams eds., Columbia U. Press 2008).

<sup>76</sup> Taimie L. Bryant, *Trauma, Law, and Advocacy for Animals*, 1 *J. Animal L. & Ethics* 63 (2006).

<sup>77</sup> hooks, *supra* n. 32, at 20.

<sup>78</sup> Ng, *supra* n. 24, at 201.

to resistance manifestations that may not exist.<sup>79</sup> Indeed, academics have put forward a wide variety of methods and solutions that range from completely avoiding student opposition to allowing and encouraging student resistance. Despite continued debate about the efficacy of different techniques, it is useful to review some of the strategies that others endorse to make at least some learning communities more resilient to the reactive potency of transgressive material. While not a guarantee of a harmonious and engaged classroom receptive to critical posthumanist pedagogy, the strategies in this Part are presented to offer some guidance and inspiration as more and more instructors enter the posthumanist area.

### A. *Insider Strategies*

The literature on resistance to posthumanist pedagogy is scant. I have been able to locate only two works within the social sciences and human pedagogical literature. Echoing the importance of non-dichotomous thinking above, one author's experience of teaching a posthumanist class emphasizes the role a diversity of viewpoints plays in learning both from members within a posthumanist class as well as external guests who are sharply against the prospect of posthumanist content.<sup>80</sup> María Elena García's seminar was framed as an examination of human relationships with animals rather than an animal-centric course *per se*.<sup>81</sup> This framing of the course in the university calendar at a well-known liberal arts college in the United States appeared to attract a number of students who wished to defend their uses of animals as well as those more readily identifiable as animal advocates.<sup>82</sup> While García has taught other courses on controversial humanist issues dealing with debates implicating gender, race, culture, etcetera, in which she exposed her students to the destabilizing insights of critical thought and pedagogy, she classifies her posthumanist teaching experience as unparalleled in the level of disruption it can cause to long-cherished beliefs and lifestyle practices. She writes:

From the very beginning, I had to revisit and revise my ideas about why people worried, or did not worry, about animals. More than any class I had taught before, the questions that arose in the seminar resisted confinement to the classroom. I was seeing my home, the supermarket, my closet with a new set of eyes. This was a powerful and unsettling experience, as it challenged some of the foundations of home and happiness. Having grown up literally and figuratively in the kitchens of my Peruvian grandmother and mother, I felt that this new familiarity with animal suffering called into question an entire way of life. The consequences of the questions we were

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<sup>79</sup> Keesing-Styles, *supra* n. 12, at 4.

<sup>80</sup> María Elena García, *Politics, Pedagogy, and Passion: Tensions in the Teaching and Study of Animal Rights*, in 2008 ISAZ Conference (Toronto Aug. 13–15, 2008).

<sup>81</sup> *Id.* at 4.

<sup>82</sup> *Id.* at 5.

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pursuing were palpable, daily, and life altering, not only for me, but also for many of my students. I remember one student calling me from the dairy section of her local supermarket in tears, no longer able to buy a carton of milk and wrestling with the guilt of having bought so much milk in the past. Rarely are academic readings accompanied by such personal and political upheaval. Yet it was these kinds of challenges that created an extraordinary dynamic in the seminar, one in which, as the old feminist insight has it, the personal and the political were inseparable.<sup>83</sup>

Due to the amplified challenges in this posthumanist pedagogical context, García underscores the importance that her own transitional identity—as someone coming to posthumanist critique for the first time—played in permitting students to feel comfortable expressing their own contradictions and honest feelings and, we may assume, feel respected and valued.<sup>84</sup> She writes that they were all very much on the “voyage” of learning together,<sup>85</sup> facilitating the productive expression of the students:<sup>86</sup>

I found that one of the most difficult things for students to embrace was the simple notion of changing their minds. There seemed to be a sense among students that once you made a statement in class, it was set in stone; there was no room to push that thought in different directions, and to possibly mold it into something different. There was also the idea that there was a “right” answer, one particular way of viewing the world and engaging the questions raised. While these kinds of challenges were present in other courses, in this class the tension and passion that enveloped student responses to readings and to each other intensified seminar dynamics in a way that was entirely new to me, and to my students.

Part of my response to this atmosphere was to share my own contradictions and uncertainties. Perhaps this seems like making a virtue out of vice, as unlike my other courses I was encountering many authors and texts for the first time, and my own views were very much in formation. Yet, there was a clear advantage to not having arrived at a final conclusion, of not having found a firm place to stand. This helped others question their own positions, and thus helped foster a dynamic in which people were not defending claims that they had staked, but were rather looking for new ways to go. We were all, in an important sense, fellow travelers.<sup>87</sup>

García identifies the clear advantages of appearing to be in “formation” of her views and thus inhabiting a subject position that allies her with many of her students—a fact of which her students were aware. While she admits the politically problematic dimensions of this insider strategy, given the intensity with which personal practices involving animal exploitation are implicitly laid bare by the course, she notes the utility of this transitional identity in forging a more positive class experience than otherwise might have occurred.

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<sup>83</sup> *Id.*

<sup>84</sup> *Id.* at 7.

<sup>85</sup> *Id.*

<sup>86</sup> García, *supra* n. 80, at 10–11.

<sup>87</sup> *Id.* at 6–7.

Another type of insider strategy is one that I deployed in my first-year property class. While I expected some level of resistance to the animal content, I did not expect ridicule. The immersion in these issues with students that I was gratefully experiencing in my concurrent upper-year seminar on Animals, Culture and the Law had created some naïveté perhaps on my part to the reception I would receive with my first-year students. Thus, I responded in a strategic although fundamentally insider way: I cited and brought in books of leading legal scholars at Ivy League law schools who were thinking and writing about animals.<sup>88</sup> I refer to this as an insider tactic because it uses legal insiders, primarily well-known white men, to lend credibility to the outsider topic. Interestingly, this setting up of the second day's discussion and the increased reading of the materials that had transpired by the second class made for more serious questions, listening, and engagement overall and thus a more respectful class than the first one.<sup>89</sup>

I think it is important to mention the insider tactic for the impact it had above and the problem of identity it reveals. Arguably, had I felt strongly that the students perceived me as a legal insider, I would not have felt compelled to fortify my comments and the value of posthumanist outsider content with the power of (male) academic stars. As a racialized female faculty member in a predominantly white faculty, I felt that most of my students saw me as an outsider. The resistant stance to outsider instructors who teach outsider content assumes a particularly interesting trajectory when that content is posthumanist in nature. The standard concern that students will perceive

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<sup>88</sup> I cited the works of Cass Sunstein, Martha Nussbaum, and Laurence Tribe, in particular, and told the students where each of them taught. *See generally Animal Rights: Current Debates and New Directions* (Cass R. Sunstein & Martha C. Nussbaum eds., Oxford U. Press 2004); Nussbaum, *Frontiers of Justice*, *supra* n. 1; and Laurence H. Tribe, *Ten Lessons Our Constitutional Experience Can Teach Us About the Puzzle of Animal Rights: The Work of Steven M. Wise*, 7 *Animal L.* 1 (2001).

<sup>89</sup> Although I felt this particular class had gone well compared to the first, events that transpired after the class constituted the most negative experience I have encountered in terms of student resistance to outsider content. That was also the day for student evaluations after the full-year course. I entrusted one of the students to collect the evaluations and hand them in to the administration office. I left the classroom as soon as the evaluations were being handed out. I realized upon approaching my office that I had left my keys in the classroom. I waited about a half hour to go back to the classroom so that any students who might have gone into the lunch break with their written evaluative comments would be finished. I really did not expect to see any students still there a half hour after they were handed out. When I entered, I found three students, including the one entrusted to return the completed evaluations, looking through the written comments on the evaluations while smiling and laughing.

This was, by far, the lowest point of my teaching career and exemplified the height of student resistance (not to mention violation of academic and professional ethics) to the critical pedagogy I employed. This was the motivation of at least one of the students, who confirmed that to me himself. After a series of events involving the associate dean's office, the students came to apologize to me. In one of those meetings, the student who had been entrusted to return the evaluations confessed to me that he had acted in this way to "get back at me" for the critical pedagogy on issues of gender, race, culture, class, and species throughout the course.

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the instructor to have an agenda and be self-serving does not materialize in this context since, obviously, the professor is not an (nonhuman) animal. The concern about resistance and backlash that nonetheless may materialize emphasizes, as García notes, the benefit of appearing to be an undecided instructor in exploration of ideas rather than a committed vegan instructor whose research and teaching interests lie in posthumanist legal studies.<sup>90</sup>

### B. *Outsider Strategies*

This overlap between instructor and student positions, however, does not always exist to smooth resistant response, as we have seen above. Julie Andrzejewski writes of her experience teaching an elective course where she, as an instructor, is clearly more developed in her posthumanist consciousness than most of her students.<sup>91</sup> Perhaps because of her enhanced awareness when compared to a first-time instructor uncovering the full extent of animal exploitation, Andrzejewski structures her delivery of the materials with an acute sense of cultural hegemonies and how they have affected the knowledge most students have of animals upon entering the class.<sup>92</sup> She takes care at the outset to inform students that “both sides” of animal ethics debates will not be presented since students are already well aware of the dominant cultural attitudes, perceptions, and knowledge of animals.<sup>93</sup> Rather, she advises her students, the course will be their opportunity to explore marginalized posthumanist representations.<sup>94</sup> In addition to offering a sample course description setting the stage for this counter-hegemonic framework and getting to know her students early on,<sup>95</sup> Andrzejewski discusses numerous strategies to reduce resistance and ease tension when teaching about posthumanist studies in academia.

It is Andrzejewski’s goal to be critical of animal exploitation and to develop her students’ critical-thinking faculties.<sup>96</sup> She also hopes the class will lead to a transformation in the lives of her students toward a more compassionate and socially just world.<sup>97</sup> To do so in the context of teaching, she implements strategies to maintain a positive learning environment for all students and to prevent individuals from interfering with other students’ ability to learn.<sup>98</sup> A summary of her proposals are:

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<sup>90</sup> García, *supra* n. 80, at 7.

<sup>91</sup> Julie Andrzejewski, *Teaching Animal Rights at the University: Philosophy and Practice*, 1 J. for Critical Animal Studs. (2003) (available at <http://www.teachkind.org/pdf/teachinganimalrights.pdf> (last accessed Mar. 14, 2010)).

<sup>92</sup> *Id.* at 2.

<sup>93</sup> *Id.*

<sup>94</sup> *Id.*

<sup>95</sup> *Id.* at 2, 4.

<sup>96</sup> *Id.* at 2, 3, 7.

<sup>97</sup> Andrzejewski, *supra* n. 91, at 2, 3, 7.

<sup>98</sup> *Id.* at 2–5.

“1. ESTABLISH THE PARAMETERS OF THE CLASS IMMEDIATELY TO GIVE PEOPLE CHOICES.”<sup>99</sup>

Andrzejewski believes that “students should be given the chance to change classes if they decide they do not want to study what [she is] proposing to teach.”<sup>100</sup> Additionally, she informs students on the first day that the class materials will subject them to ideas and information that may challenge their beliefs, views, and behaviors.<sup>101</sup>

“2. INCLUDE WRITTEN GROUND RULES ON THE SYLLABUS.”<sup>102</sup>

Andrzejewski puts classroom ground rules on the syllabus in order to help students understand what is expected of them and also to stop potential cynics from disrupting class.<sup>103</sup> The rules also serve to remind students how the class will deal with conflict should it arise in the duration of the course.<sup>104</sup>

“3. IDENTIFY THE VALUES ON WHICH THE CLASS IS BASED.”<sup>105</sup>

Andrzejewski puts forward a statement of values that stresses aspects of cooperation, compassion, biodiversity, and the right to life and freedom from torture.<sup>106</sup> The statement also indicates that the focus of the course is to “encourage[] people to become well-informed, knowledgeable, active, respectful, non-violent, democratic citizens with a focus on working to eliminate all forms of violence and oppression for the benefit of everyone.”<sup>107</sup>

“4. TEACH PEOPLE HOW TO INTERACT WITH KINDNESS AND RESPECT, ESPECIALLY WHEN THEY DISAGREE.”<sup>108</sup>

In order to avoid the hostility that often arises through disagreements when learning about controversial topics, Andrzejewski seeks to teach students how to explore these topics in constructive ways and how to introduce new information to friends and family without engaging in angry and harmful arguments. She does this by engaging students in discussions in order to practice the skills necessary to develop conversations that are both respectful and educational to others.<sup>109</sup> She also reminds students inclined to judgment about their peers of the process-oriented nature of education.<sup>110</sup> Similar to García,<sup>111</sup> Andrzejewski views everyone as being on a learning path toward investigating his or her own impact on animal exploitation.<sup>112</sup>

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<sup>99</sup> *Id.* at 2.

<sup>100</sup> *Id.*

<sup>101</sup> *Id.*

<sup>102</sup> *Id.* at 3.

<sup>103</sup> Andrzejewski, *supra* n. 91, at 3.

<sup>104</sup> *Id.*

<sup>105</sup> *Id.*

<sup>106</sup> *Id.*

<sup>107</sup> *Id.*

<sup>108</sup> *Id.*

<sup>109</sup> Andrzejewski, *supra* n. 91, at 4.

<sup>110</sup> *Id.*

<sup>111</sup> García, *supra* n. 80, at 5.

<sup>112</sup> Andrzejewski, *supra* n. 91, at 6–7.

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“5. KEEP IN TOUCH WITH PEOPLES’ REFLECTIONS AND FEELINGS REGULARLY.”<sup>113</sup>

In order to monitor student reactions to the emotionally charged course materials, Andrzejewski has students write weekly reports called “Reflections, Challenges, and Actions” in response to questions that she asks them to reflect upon.<sup>114</sup> The questions ask students to address the learning objectives and emotional challenges they have faced as well as provide suggestions on how the professor can better facilitate their learning.<sup>115</sup> She gives “supportive and encouraging comments on each paper” and responds when students offer suggestions for change.<sup>116</sup>

“6. TEACH PEOPLE TO ANALYZE INFORMATION, INCLUDING MY OWN.”<sup>117</sup>

Andrzejewski recognizes that many students have never questioned corporate media and have no experience with media analysis.<sup>118</sup> In order to engage students in analysis of the motivations and values of information sources, Andrzejewski has students complete a “media analysis assignment” that requires them to identify hidden biases when comparing corporate news with news from nonprofit animal rights organizations.<sup>119</sup> The assignment helps students “discover the differences in the underlying values and begin to understand the myth of objectivity and to assess credibility for themselves.”<sup>120</sup>

“7. USE VIDEOS AND MATERIALS THAT DOCUMENT THE ATTRIBUTES OF ANIMALS AS WELL AS THE VIOLENCE AGAINST THEM.”<sup>121</sup>

Andrzejewski uses videos of animal torture and mistreatment as well as materials that document animal intelligence, joy, and courage as compelling tools to educate students about the myths and disinformation put forward by industries and governmental agencies.<sup>122</sup>

“8. HELP PEOPLE EXPLORE THEIR OWN MOTIVATIONS FOR CHANGE AND EXAMINE THE INTERRELATIONSHIPS BETWEEN ANIMAL RIGHTS AND OTHER ISSUES.”<sup>123</sup>

Since students have different motivations for their interest in the class and particular attraction to certain issues involving animals, Andrzejewski seeks to model a “non-hierarchical, nonjudgmental approach toward motivations” that “helps students communicate more

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<sup>113</sup> *Id.* at 4.

<sup>114</sup> *Id.*

<sup>115</sup> *Id.*

<sup>116</sup> *Id.*

<sup>117</sup> *Id.* at 5.

<sup>118</sup> Andrzejewski, *supra* n. 91, at 5.

<sup>119</sup> *Id.*

<sup>120</sup> *Id.*

<sup>121</sup> *Id.*

<sup>122</sup> *Id.* She finds that students are often so moved by the materials that they decide to show them to friends and family, which helps perpetuate the education of others in the community on topics surrounding animal rights. *Id.* at 8.

<sup>123</sup> Andrzejewski, *supra* n. 91, at 5.

effectively with those who may not share the same motivations.”<sup>124</sup> She finds that, once students realize that others have different motivations, it helps in their efforts to educate others.<sup>125</sup>

“9. HELP PEOPLE SEE CONNECTIONS BETWEEN HOPE AND ACTION.”<sup>126</sup>

Andrzejewski teaches students about the priorities of global capitalism in order to heighten student awareness of the motivation of these industries and “their efforts to manipulate, propagandize, and mis-educate people for their own ends.”<sup>127</sup> Andrzejewski recognizes that such information regarding animal abuse can be overwhelming and may lead students to feel powerless in their ability to enact change.<sup>128</sup> She tries to encourage students to change their everyday actions, to transform their lives and ways of thinking in order to create a “ripple effect” that leads to the education of family and friends.<sup>129</sup> She emphasizes that taking personal actions that reflect personal values can lead to feelings of empowerment and hope.<sup>130</sup>

“10. HELP PEOPLE DIFFERENTIATE BETWEEN SOLUTIONS ADDRESSING THE ROOT CAUSES OF ANIMAL OPPRESSION AND BAND-AID SOLUTIONS.”<sup>131</sup>

Andrzejewski believes in radical change rather than reform agendas and focuses students on questions of speciesism and capitalism to look for the root causes of animal abuse. She accepts, however, that students will make their own decisions reflecting their values and need to be supported in the choices they may make in their own lifestyles even if incremental.<sup>132</sup>

“11. SHARE VEGAN MEALS TOGETHER IN CLASS”<sup>133</sup>

To add another dimension to learning, as well as to create class community, Andrzejewski brings in a vegan meal for students in one of the first few classes.<sup>134</sup> She then invites students to take turns preparing vegan food for the class and encourages students to share and compare recipes in order to further enhance their learning to live a compassionate life.<sup>135</sup> She has found that this prospect of sharing food is positively received as it stimulates student interest in learning how to integrate more compassionate practices into their lives.<sup>136</sup>

“12. PROVIDE NUMEROUS OPTIONS FOR PRACTICING ACTIVE CITIZENSHIP SKILLS AND GIVE STUDENTS COMPLETE CONTROL OVER CHOICES”<sup>137</sup>

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<sup>124</sup> *Id.*

<sup>125</sup> *Id.*

<sup>126</sup> *Id.* at 6.

<sup>127</sup> *Id.*

<sup>128</sup> *Id.*

<sup>129</sup> Andrzejewski, *supra* n. 91, at 6.

<sup>130</sup> *Id.*

<sup>131</sup> *Id.*

<sup>132</sup> *Id.*

<sup>133</sup> *Id.* at 7.

<sup>134</sup> *Id.*

<sup>135</sup> Andrzejewski, *supra* n. 91, at 7.

<sup>136</sup> *Id.*

<sup>137</sup> *Id.*

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Andrzejewski assigns a “personal citizenship project” to have students practice life-changing habits such as becoming a vegetarian or changing their everyday use of language about animals.<sup>138</sup> She has them try actions that are unfamiliar to them, but also acknowledges that they will make their own final decision as to whether they will continue this practice in their lives.<sup>139</sup> She finds that personal investment increases the likelihood of transforming lifestyles toward social justice.<sup>140</sup>

“13. DISCUSS THE ETHICS AND EFFECTIVENESS OF VARIOUS METHODS OF COLLECTIVE ACTION.”<sup>141</sup>

To assist students in the examination of various types of activist groups and the strategies that they use, Andrzejewski uses materials published by organizations such as People for the Ethical Treatment of Animals, the Humane Society of the United States, and the Animal Liberation Front to “stimulate discussion and consideration of these varied approaches.”<sup>142</sup> Through analysis of these strategies, students learn about the ethics and effectiveness of many different types of activism.<sup>143</sup>

“14. BASE ASSIGNMENT AND COURSE EVALUATIONS ON DEMONSTRATED UNDERSTANDING OF THE MATERIALS, NOT BELIEFS OR SPECIFIC ACTIONS.”<sup>144</sup>

Andrzejewski believes that it is important not to grade students on their opinions, beliefs, or actions, but on how well they followed the assignment and their depth of understanding of the materials.<sup>145</sup> She allows students to revise and resubmit assignments on which they did not do well the first time, not only to help them learn from their mistakes, but to alleviate student anxiety about grades and thus permit them to be more open to challenging material.<sup>146</sup>

As we can see, Andrzejewski adopts a combination of the strategies to develop critical thinking, activism, and a receptive learning environment to take in unfamiliar and potentially emotionally destabilizing material. She is clear with students about what to expect—laying out parameters, ground rules, and the values of the class, and emphasizing compassion, kindness, anti-oppression, and respect in particular. She also uses multiple strategies to develop critical thinking faculties through conducting their own media analysis and exposing students to counter-cultural sources. Another set of techniques appears to respond to the short-term destabilizing impact these critical video or text sources may have. She provides supportive outlets

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<sup>138</sup> *Id.*

<sup>139</sup> *Id.*

<sup>140</sup> *Id.* at 6–7.

<sup>141</sup> Andrzejewski, *supra* n. 91, at 8.

<sup>142</sup> *Id.* at 9.

<sup>143</sup> *Id.*

<sup>144</sup> *Id.*

<sup>145</sup> *Id.*

<sup>146</sup> *Id.*

for students to process these materials constructively through honest expression and reflection as well as encouragement for personalizing course teachings into their lifestyles however they think is best (writing about feelings, instilling hope, action, and active citizenship). Andrzejewski also communicates her value of students' views by soliciting frequent feedback about their learning experience in order to monitor the classroom environment as well as the effects of her own teaching. Perhaps most importantly, given heightened anxiety in the current university climate regarding grades, she gives multiple opportunities to improve graded performance.<sup>147</sup>

Andrzejewski's proposals are sensibly related to the project of reducing the reactive quotient of transgressive material. Some strategies may be most helpful in smaller seminar settings, which students choose. Certainly, the strategies she uses at the beginning of a class (setting parameters and ground rules, identifying values) may be adopted in a larger setting. In addition, at the beginning of a particular module, an instructor may use some others by setting up a discussion acknowledging the novelty of the critique and the feelings that can be generated, and by supporting this discussion with relevant readings. Yet, it can become challenging in a larger class to give fulsome and frequent feedback as well as multiple opportunities to submit work for grading; air the views/feelings of all students; and bring food for everyone to build community and to directly connect students' experience of the course to their lives (although, admirably, Andrzejewski was able to do this with a class of thirty-eight).<sup>148</sup>

Overall, the breadth of Andrzejewski's list makes it possible for instructors to find at least several strategies that may work in their own context. What I would inject into her list is an awareness that student resistance is implicated in identities informed by the matrix of gender, race, class, and culture.<sup>149</sup> This insight may help explain why it is, even in self-selected seminars, that student resistance to critical pedagogy can persist. Students who are aware of certain privileges may not be aware of others because of their particular social locations.<sup>150</sup> As this Essay has argued, when it comes to posthumanist content, undoing the human/animal divide may appear to threaten precious claims to dignity, worth, and status for progressively minded students on human social justice issues. While this type of student re-

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<sup>147</sup> For more about this claim of increased grade anxiety among law students, see Douglas A. Henderson, *Uncivil Procedure: Ranking Law Students Among Their Peers*, 27 U. Mich. J.L. Reform 399, 402, 405, 406 (1994); Barbara Glesner Fines, *Competition and the Curve*, 65 UMKC L. Rev. 879, 902, 911 (1997).

<sup>148</sup> Andrzejewski, *supra* n. 91, at 8.

<sup>149</sup> See Marchbank, *supra* n. 28, at 139 (discussing a matrix of class, sexuality, gender, and parenting status).

<sup>150</sup> Katherine R. Allen, Stacey M. Floyd-Thomas & Laura Gillman, *Teaching to Transform: From Volatility to Solidarity in an Interdisciplinary Family Studies Classroom*, 50 Fam. Rel. 317, 320 (2001) (citing Peggy McIntosh, *White Privilege and Male Privilege: A Personal Account of Coming to See Correspondences Through Work in Women's Studies* (Wellesley Centers for Women-Wellesley College 1988)).

sistance can be significant, the type of pedagogical practices identified above at the outset can facilitate learning even where the challenges posed by transgressive, here posthumanist, content are considerable.

## V. CONCLUSION

Critical pedagogy presents an ongoing yet urgent challenge to educators. The challenges may be even more acute where the substantive content is a posthumanist critique of the specialness of the human and our anthropocentric world order. Humanism has been such a deeply held value of law's liberal intellectual ancestry that to introduce posthumanism into the traditional legal classroom is to risk ridicule and rebuff by administrators and students who can be dismissive of the subject matter. Similarly strong reactions may come from law students alienated by liberal legalism and its human exclusions. In a context of alienation and marginalization, it may be difficult to contemplate one's own oppressive practices or yield a claim to human specialness and dignity that feels newly assigned and legitimated. While these outsider students need to be supported in their own struggles to navigate the exclusive dynamics of legal education, in Canada, the United States, and elsewhere, such encouragement should not suppress other critical intervention in law schools particularly about heretofore unexamined areas of vulnerability and exploitation. The burgeoning field of animal law and posthumanist critique is a welcome development in law school, but will require sophisticated handling by instructors, students, and administrators alike to facilitate a fair and productive reception.

