Passing the Bar: A Quick Reference Guide For Today’s Law Student

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A Note To Social Justice Oriented, First-Generation, and Other Law Students Who Don’t Feel Like Legal Education Was Designed With Them In Mind

Over the past few years, law school applications have increased significantly. Many people attribute this upswing to an increase in applications by those inspired to go to law school for political or social reasons. These individuals want to use their law degree to affect social change. According to the American Bar Association, “The most commonly cited reasons for attending law school were as a path to careers in politics, government or public service (44%); a passion for that type of work (42%); an opportunity to be helpful (35%), and to advocate for social change (32%).” After these students graduate, they must pass the bar exam to obtain their law licenses. Unfortunately, however, the bar exam is not written with public interest/social justice lawyers, or first-generation law students in mind.

It can be very difficult to pour your heart and soul into studying for an exam that you do not think actually serves the purpose it claims to serve, which is to test the minimal competence needed to become an attorney. Not believing in the validity of the exam itself can make it harder to devote yourself completely to studying for it. Yet, that is exactly what you need to do.

This book provides a guide to bar exam preparation for all law students, but particularly those who aspire to be public interest or social justice attorneys, first-generation law students, those law students who do not come from families of lawyers, or who come from communities that are traditionally underrepresented in the legal profession. While much of the advice is universal, this book focuses on those students who are about to enter bar study and will not see your communities – or your future clients – represented on the bar exam. You may have found that your law school colleagues have received advice about how to study and navigate law school, when no one was there to advise you. This book aims not just to level the playing field, but to give you an edge when it comes to studying for the bar exam.

Why is this book needed? Doesn’t everyone take the same test? Isn't studying for a standardized test the same for everyone, regardless of background, political beliefs, or the reason they want to become a lawyer? Sort of.

It is true that the vast majority of this book is relevant to everyone seeking to become a licensed attorney. However, people who went to law school because they want to change the world – to fight injustice – come to the bar exam with a different perspective, which most bar exam advice ignores. People who come to the legal profession from poor communities or communities of color also come with a worldview that is different from that of most bar examiners, regardless of future employment goals. Therefore, they need a slightly different plan for bar study.

Additionally, while a lot of people view the bar exam as just another standardized test to get through, many social justice activists and first generation law students see the bar exam as an oppressive tool that keeps poor people and people of color out of the legal profession. While the structure of the bar exam itself as a barrier to licensing is beyond the scope of this book, it is clear that both the bar exam and the legal profession have a racial diversity problem. It makes sense, therefore, that social justice-oriented and first-generation law students would view the bar exam with skepticism.

I often tell our 1Ls that the most radical thing they can do is to focus on law school, graduate, and do the work they came to law school to do. The bar exam is an extension of law school. Fighting the bar exam is not the fight you came to law school to have. You will be much better equipped to change the exam after you pass it and obtain a law degree. So, the best advice I have is to put aside the fight for approximately nine weeks and focus on tackling the exam. You can get to dismantling the exam after you’ve mastered it.

In addition to concerns about the overall nature of the bar exam, the exam questions themselves can pose problems for social justice-oriented individuals. Often, the issues people face on the bar exam are not issues you are expecting to face in your legal work. You may be planning to go into immigration, housing, or labor law, none of which are tested on the bar exam. If you do happen to be tested on an area in which you plan to practice – for example if you hope to do criminal defense work – the limited formulaic analysis you are expected to do is a far cry from the passionate and creative advocacy you will do in practice. Not only will this be frustrating, it can cause you to overthink the questions and sometimes lead you to an incorrect answer.

Remember where you are and what your task is. Your only goal should be to give the bar examiners what they are looking for so that you can check this off the list of obstacles that you overcame on your way to your fulfilling your dream of becoming a social justice or public interest lawyer. Writing answers that challenge the status quo or argue that the law is unjust will not get you points, and, ultimately, points are what you need to pass the bar. An anonymous bar grader somewhere may learn something from your alternative answer, but your impact will not be far reaching (and a speedy grader is more likely to skim right past anything they do not deem as the correct answer than to really take it in.) Your impact will be much greater when you are licensed and fighting for clients and policy changes.

What is not on the bar exam can be equally as frustrating as what is on the bar exam. No one has a racial identity on the bar exam (with the exception of an occasional MPT). There have been no same sex couples or queer folks on the bar exam. There are rarely poor people on the bar exam. Nearly every property or decedent's estates question involves someone with considerable assets and multiple properties. These questions probably do not reflect the community you come from or the people you want to serve. Individuals living with diminished physical or mental capacity appear occasionally on an MPT or in a criminal law or torts essay, but generally only as the victim of something that exacerbates their conditions or in a question regarding the criminal law defense of insanity. It can be very troubling not to see your community positively reflected on an exam that allegedly determines who is minimally competent to practice law.

This book features some advice and words of encouragement for those taking the journey from social justice activists to social justice attorneys, and from student to lawyer. My best advice – simply keep going. The world needs you to do the work you came to law school to do.

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