**Realizing the Dream: Equality for All**

This Resource Guide is designed for use by lawyers, judges, teachers, and others in leading discussions in the classroom and with youth and community groups.

This Resource Guide is an educational complement to the 2013 Law Day theme of “Realizing the Dream: Equality for All.” The year 2013 marks the 150th anniversary of Abraham Lincoln’s issuance of the Emancipation Proclamation and the 50th anniversary of the March on Washington and Rev. Dr. Martin Luther King Jr.’s “I Have a Dream” speech. Both Lincoln and Dr. King recognized that the concepts of equality for all and freedom are inextricably linked. The theme of “Realizing the Dream: Equality for All” provides an excellent opportunity to explore this connection and to reflect upon the many strides that have been made in securing the civil rights of all Americans, as well as the challenges that remain.

The three topics selected to represent the 2013 Law Day theme are designed to inform and engage Dialogue participants in robust, reflective, and substantive discussions that provide a forum for discussing the legacy of the dream, and the continuing efforts to ensure equality for everyone.

**PART 1** introduces Rev. Dr. Martin Luther King Jr.'s “dream” and explores its significance and relevance today.

**PART 2** asks participants to think about the law’s ability to create change. Participants will review the Fair Labor Standards Act of 1963 and Title VII of the Civil Rights Act of 1964 as they discuss equality in the workplace, and then examine the role that government and citizens play in changing the law through a brief case study of the Lilly Ledbetter Fair Pay Act.

**PART 3** helps participants understand that legal decisions are made in a world in which things are rarely clear-cut. Participants will explore “fairness” in some of these situations by focusing on three Supreme Court cases.

Online at [www.lawday.org](http://www.lawday.org) are practical tips for how to conduct the Dialogue and additional resources. Available for download are ready-to-use PowerPoint® presentations for each of the three parts of the Dialogue, which include key graphics and text.

In consultation with the teacher or community group leader, decide which parts of the Dialogue would be most appropriate for your group. Step-by-step directions and discussion prompts throughout this Resource Guide are intended to help you discuss these topics with participants.

**THE ABA DIALOGUE PROGRAM**

This Dialogue on Equality Resource Guide is the eleventh annual edition of the ABA Dialogue Program. This guidebook can be used for Law Day and throughout the year. The ABA Dialogue Program provides lawyers, judges, teachers, and other civic leaders with the resources they need to engage students and community members in discussions of fundamental American legal principles and civic traditions. Supreme Court Justice Anthony Kennedy introduced the first Dialogue program, the *Dialogue on Freedom*, at the 2002 ABA Midyear Meeting in Philadelphia. Subsequent Dialogues have addressed *Brown v. Board of Education*, the American jury, separation of powers, youth and justice, the rule of law, Lincoln and the law, law in the 21st century, the legacy of John Adams, and the role of courts. All Dialogues and supporting resources are available at [www.lawday.org](http://www.lawday.org).
PART 1: Realizing the Dream Today

The “I Have a Dream” speech was delivered by Rev. Dr. Martin Luther King Jr. on August 28, 1963, in Washington, D.C., during the March on Washington for Jobs and Freedom. It lasted approximately seventeen minutes and was, according to historical records, partially improvised. Many regard it as the greatest American speech of the twentieth century. Part I of the Dialogue explores King’s dream, its significance, and its relevance today.

NOTE: Download the corresponding PowerPoint® presentation for use with this Dialogue from www.lawday.org.

REFER PARTICIPANTS TO THE CARTOON ABOVE

What do you see in the cartoon?
Participants will likely describe the billboard, the face of Rev. Dr. Martin Luther King, Jr. and the (incomplete) words “I have a dream.” Other items in the cartoon might be observed, including the spotlights, ladder, cans of black paint (not white), brushes, as well as the sky and the tree. If participants do not recognize the words as a reference to King’s 1963 “I Have a Dream” speech, remind them.

ASK PARTICIPANTS

What do you think of when you hear the word “dream”?
Encourage participants to brainstorm various meanings of the word “dream.” Realize “dream” might mean anything from goals, aspirations, achievements, plans for the future, to fantasy, remote possibilities, nightmares, or memories from the past. Use the brainstorming as background to introduce the specific meaning of “dream” in King’s speech.

REFER PARTICIPANTS TO THE FOLLOWING EXCERPT FROM THE “I HAVE A DREAM” SPEECH

… I say to you today, my friends, that in spite of the difficulties and frustrations of the moment, I still have a dream. It is a dream deeply rooted in the American dream. I have a dream that one day this nation will rise up and live out the true meaning of its creed: “We hold these truths to be self-evident: that all men are created equal.”

A video excerpt of the speech is included in the supplemental PowerPoint® available at www.lawday.org.

ASK PARTICIPANTS A SERIES OF QUESTIONS RELATED TO THE SPEECH

Do you recognize this speech? What do you know about this speech?
If needed, provide participants with a brief background of the "I Have a Dream" speech.

What do you think this particular excerpt is about?
What does it say?
Participants may describe King’s dream for equality. Other elements of the speech include the “American dream,” and the ending passage.

What does King mean by “the difficulties and frustrations of the moment?” What was happening at this time?
If needed, remind participants that this speech was part of the 1963 March on Washington, a significant moment in the twentieth century American Civil Rights Movement.

What is a “creed”? Do you recognize the words “We hold these truths to be self-evident: that all men are created equal.”? Where do they come from?
If participants do not recognize that the passage comes from the Declaration of Independence, explain.

What does King mean by his “dream?” Is it a dream of equality? Why or why not? How does it compare to our earlier brainstorms of the word “dream?”
How does it compare to the “American dream?”
Participants may discuss a variety of similarities and
differences between King’s speech and their brainstormed definitions of “dream.” Encourage participants to recognize that King’s dream serves as an aspirational metaphor for racial equality and justice which might be (a promise or vision of the future) but is not yet realized (in the present).

ASK PARTICIPANTS A SERIES OF QUESTIONS RELATED TO THE CARTOON

What does the cartoon mean?

What does it say about King’s dream today? Has it been realized? Why or why not?
The cartoon, in depicting an unfinished billboard, might convey multiple meanings. It might mean that King’s dream of equality is not yet finished. In displaying the ladder and paint cans, it might mean that the tools to “complete” the dream are available. It might mean that the (unseen) painter, potentially “completing” the dream, has stopped. Or, perhaps the painter was painting over the billboard, suggesting that King’s dream is fulfilled and no longer relevant (although there are no visible cans of white paint). As viewers, we are not certain of the circumstances surrounding the painter’s work and absence—why, how, and length of time. Encourage participants to consider all of these possibilities and the ideas they might convey about King’s dream.

WRAP UP BY ASKING PARTICIPANTS

In what ways has the law helped to realize King’s dream? Have we made progress as a society towards equality (since 1963)?
Participants may consider how the law and the courts help to ensure equality. Some examples include the U.S. Constitution, including the 14th, 15th, and 19th Amendments; famous court cases, such as Brown v. Board of Education (1954); or specific legislation, including the Civil Rights Act (1964), the Voting Rights Act (1965), the Patsy Mink Equal Opportunity in Education Act (1972), the Americans with Disabilities Act (1990), as well as affirmative action policies, and the Lilly Ledbetter Fair Pay Act (2009). Participants might also consider limits to what the law can do to ensure equality, including same-sex marriage, immigration, and racial, ethnic, gender, or age-related issues. Wrap up discussion by exploring ways that participants might work to ensure equality for everyone.

How to do a Dialogue in the Classroom and in the Community

STEP 1. Identify a school or community group. Contact a school where your or your friends’ children are students, a school in your neighborhood, or a school where you know members of the teaching staff. You might also contact community groups, for youth and adults, such as the YMCA, Girl Scouts, Kiwanis Club, or League of Women Voters. Friends and coworkers might also recommend a school or community group that would like to participate in the Dialogue program.

STEP 2. Set up an appointment for your visit. Contact the school principal, department head (social studies, history, government, or civics), or community group leader. Explain the program to them and offer them a copy of the Dialogue Resource Guide. Ask if they would be willing to schedule a date and time to conduct the Dialogue. They should set aside somewhere between 45 and 90 minutes.

STEP 3. Discuss your visit with the teacher or community group leader. Discuss the ages and experiences of the participants. Determine what part of the Dialogue you would like to focus on and provide the teacher with a copy of the Resource Guide, focusing on the parts you wish to discuss. In addition, consult with the teacher or community leader about additional background materials that might help participants. Request that name tags or tent cards be printed with the participants’ names. Request equipment you will need (e.g., LCD projector, screen, flip chart, or microphones).

STEP 4. Prepare participants for your visit. Ask the teacher or community leader to distribute any materials or assign any background readings you want participants to discuss, at least one day before your visit.

STEP 5. Prepare yourself for your dialogue. Know your subject. Review the Resource Guide before you go and think of additional follow-up questions that may help participants explore the issues raised by the Dialogue. Using the step-by-step directions and questions in the Resource Guide, map out where you would like the discussion to go, but be prepared to be responsive to participants’ questions and provide background information, if needed. As appropriate, personalize the topic by referring to your own experiences.

STEP 6. Follow up after the Dialogue. Write a thank you note to the teacher or community leader. Make yourself available to answer questions participants may raise following the Dialogue.
A key aspect of equality is equal opportunity in the workplace. Because employment opportunities are so central to American life, they have served a major role in the struggle for equality. In the following exercise, participants will be asked to discuss equality in the workplace as they compare job ads from the 1960s to current job ads. Included in the conversation will be a discussion about the law’s ability to create change as participants review the Fair Labor Standards Act of 1963 and Title VII of the Civil Rights Act of 1964. Participants will also examine the role that government and citizens play in changing the law through a brief case study of the Lilly Ledbetter Fair Pay Act.

Exercise 1: Help Wanted

Present participants the following question

Should companies have total freedom in choosing the employees that they hire?

Show participants an employment ad from a 1968 newspaper

What do they notice about this ad?

White waitress needed, salary $60 per week plus tips. Contact Mr. Charlie of Connor’s Restaurant 2659 North Broadway.

Ask participants to react to the following questions that pertain to hiring practices. Ask participants to explain why or why not

Should a company decide that they are only going to hire women?

Should a company advertise that they are looking to hire energetic people?

Should a company advertise that they are looking to hire people under 17?

Should a company advertise that they are willing to pay only men a 20% bonus for their work?

Should a company decide to hire only recent immigrants that are willing to work below minimum wage?

Show participants the information on the history of gender in employment ads and important federal legislation to prohibit job discrimination

History: Job Ads and Gender

In the early 1960s, job ads would appear separately according to gender. Higher paying jobs would be listed like this: “Help Wanted: Male.” While women’s jobs—oftentimes advertising for the identical position—would appear as “Help Wanted: Female,” but for a wage typically about half of what men earned doing the exact same job.

Federal laws prohibit job discrimination?

Fair Labor Standards Act of 1963 (FLSA)

Equal Pay Act of 1963 (EPA) is part of the Fair Labor Standards Act, which protects men and women who perform substantially equal work in the same establishment from gender-based wage discrimination. The Fair Labor Standards Act attempted to establish equal wages and overtime pay for women. In 1963, when the act was signed, women’s dollar earnings were 58.9 percent of what men were receiving, and in 2010 women’s dollar earnings were 77.4 percent of men’s dollar earnings.

Title VII of the Civil Rights Act 1964

Title VII of The Civil Rights act made it unlawful for any employer to discriminate on the basis of gender, religion, or race. As part of the 1964 Civil Rights Act, the Equal Employment Opportunity Commission (EEOC) was formed to eliminate discrimination in the workplace. The legislation defining the scope of the EEOC made want ads like these illegal.
How do the 2013 ads differ from the 1968 ads?

Database Administration (Entry Level)
As a Database Administrator-Specialist, you will be responsible for providing database support to maintain “infrastructure” and work with clients to implement solutions.
☞ Computer Science Bachelor Degree
☞ Good communication and interpersonal skills.
☞ Programming and/or Scripting skills
☞ A team player with positive attitude

Administrative Assistant
Position Qualifications Include:
☞ High School Diploma or GED equivalent required, Associates Degree or higher preferred.
☞ At least 3 years of experience in construction administration required.
☞ Ability to demonstrate a basic knowledge of Microsoft Office required.
☞ Be able to work in a rapid-paced work environment and interact effectively in a professional and “courteous” manner with departmental staff and visitors.
☞ Excellent oral and written communication skills required. We are proud to be an EOE. Employment is subject to a background check.

Do you know what the EOE refers to at the bottom of the more recent job ads? (Equal Opportunity Employer)

Exercise 2: Pay Equality

Note: Download Lilly Ledbetter handout from www.lawday.org.

Distribute Lilly Ledbetter handout to participants.

Divide participants into three groups and assign each group a role.

Legislative Branch—Congress, Judicial Branch—Supreme Court, and Executive Branch—President

Have participants read the overview of the Lilly Ledbetter Fair Pay Act and discuss questions 1-3 as they relate to their group’s role.

Participants should be prepared to share their role with the class.

Then discuss questions 4–7 with the class.

Discussion Questions for Small Groups

What role did your group play in getting the bill passed?

What influences your group to do what it does?
Members of Congress and the president are elected by the people and are interested in representing their opinions. The justices of the Supreme Court are appointed not elected. They are not dependent on public opinion and interpret the law as they see it.

What role do citizens play?
Lilly and her supporters had to continue to make her case known to the public to garner support. If Lilly had given up after Justice Ruth Bader Ginsburg urged Congress to step in, then the bill might not have passed.

Discussion Questions for Entire Class

What other group played a role in getting the Lilly Ledbetter Fair Pay Act passed?
Participants might bring up the role of the media and lobbyists.

What were the arguments for and against Lilly’s case?

Do you think the outcome was a fair one for Lilly?
Lilly never received any compensation for the discrimination she experienced.

What was important or significant about Lilly’s response to the Supreme Court’s decision?
Lilly made the decision to pursue the principle of equality in the workplace even though she would not personally receive any benefits from changing the law. She became an advocate.
This portion of the Dialogue program helps participants understand that legal decisions are made in a world in which things are rarely clear cut. Implementing various public policies challenge our assumptions of fairness and equality; our system is created to try to find a balance in our treatment of each other. This section challenges participants to assess “fairness” in a variety of contexts.

**NOTE:** Download the three hypotheticals are used to illustrate the challenges in achieving fairness. Be sure to seek the teacher’s input in how best to structure the lesson for that particular class. For example, will students have sufficient time to examine all three hypotheticals, or would one or two work better? Additionally, determine whether students should break into small groups or if the lesson should be conducted with the whole class.

**ASK PARTICIPANTS TO BRAINSTORM FAIRNESS IN THEIR LIVES**

**How do you define fairness?** Answers may vary as this can be a difficult term to define. As the brainstorming is happening, consider showing the PowerPoint or providing handouts with definition for fairness.

Let’s look at some examples of how “fairness” is ensured in our day-to-day lives. Who is in charge of making sure things are fair in each of the following locations:

If you are using the PowerPoint, move the slides along as the participants provide examples for each situation.

- at school
- on the sports field
- at home
- in society

As participants think about who ensures fairness in society, lead the discussion toward the legal system, including courts. Explain to participants the role the court system frequently plays in our lives and in ensuring and defining fairness and equality.

*Throughout our history, the courts and the judicial system have played an important role in ensuring fairness and equality. From addressing issues such as unequal pay, racial discrimination, and religion prejudice, our legal system has played an important referee in many disputes over what is “fair.”*

**PRESENT STUDENTS WITH HYPOTHETICAL COURT CASES**

Organize students into groups of 3, 5, or 7 (should be pre-arranged with the teacher/educator). Provide each group with a handout detailing one of the hypotheticals.

**NOTE:** Download hypotheticals at [www.lawday.org](http://www.lawday.org).

Hypotheticals can also be found on PowerPoint slides.

Participants will work with their groups to read the hypothetical and develop responses to the questions. Inform participants that they will be expected to present their hypotheticals to the class as a whole and explain their answers to the questions.

Give the participants enough time to read the hypothetical and discuss the questions (approximately 15 minutes depending on the length of the session). Then ask each group to present its hypotheticals and answers to the questions. As each group presents its hypothetical and discussion questions, show the corresponding PowerPoint slide on the screen.

After the last group presents the answers to their questions, focus on the questions about the varying viewpoints on these issues.

*Did everyone in your group have the same opinion on each case or did you have differing rationales for your decisions?*

For past Dialogues, please visit [www.lawday.org](http://www.lawday.org)
**EXPLAIN TO STUDENTS THE PROCESS OF AMICUS BRIEFS**

The public has a formalized way to weigh in on these important and sometimes controversial topics in front of the Court before the justices rule; the way the public communicates with the Court is through amicus curiae briefs. “Amicus curiae” is the Latin term for “friend of the court.” Those individuals or organizations who have strong views on a case may file amicus curiae briefs with the Court, prior to the Court ruling. These briefs are written documents detailing the party’s point of view or concerns the individual or group wants to express. This process ensures that the Court hears the public’s view and understands the significance of a ruling either way.

These hypotheticals are each based on actual Supreme Court cases—if time permits, compare how the participants “ruled” to how the actual justices rule.

**ASK PARTICIPANTS**

Are you surprised by how the US Supreme Court really ruled? Do you think your considerations were the same as the justices?

Use the hypotheticals (briefly outlined on left) as a jumping off point to explore the justifications for these types of legal interventions. Propose:

Why do you think the legal system gives certain categories of individuals, for example, in our examples, women and ethnic or racial minorities, advantages? What justifies this different treatment?

Participants should be able to articulate that at various times, categories of individuals have been systematically discriminated against, so we created legal remedies to help “right previous wrongs.” Encourage participants to realize that there are limits to what our laws and courts can do; for example, compare the treatment of different religious groups in hypothetical one (all groups must be treated the same) to different genders in hypothetical two (women do not have to enter the draft). Conclude:

As we have seen today, fairness under the law is not an easy or exact concept to define. Our courts and our legal system must consider various aspects of a situation when ensuring and protecting equality and fairness; although not perfect, our legal system is the best resource we have to ensure equality for all.

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**Hypothetical One** is based on *Christian Legal Society v. Martinez*, 130 S. Ct. 297 (2010)

- The Christian Legal Society (CLS) challenged the University of California, Hastings College of Law policy governing student groups, which required groups to accept all students regardless of their status or beliefs. CLS members were expected to sign a “Statement of Beliefs”—students who did not sign, including many LGBT students, were not able to become voting members of the group.
- The Supreme Court held that because the policy was viewpoint neutral and applied to all students and student groups equally, it did not violate the First Amendment.

**Hypothetical Two** is based on *Rostker v. Goldberg*, 453 U.S. 57 (1981)

- A group of attorney’s challenged the recently reestablished Military Service System as it only applied to men. The challengers argued the gender discrimination in the act violated the equal protection clause under the Fifth Amendment.
- Justice Rehnquist, in writing for the majority held: “[t]he existence of the combat restrictions clearly indicates the basis for Congress’ decision to exempt women from registration. The purpose of registration was to prepare for a draft of combat troops. Since women are excluded from combat, Congress concluded that they would not be needed in the event of a draft, and therefore decided not to register them.”

**Hypothetical Three** is based on *Fisher v. University of Texas* (Docket No. 11-345)

- This case challenged the University of Texas admissions policy that allows the top 10 percent of all Texas high school students automatic admissions; for those students not in the top 10 percent, the admissions policy involved a review process which looked at grades, leadership, family circumstances, and race.
- Because the state is so racially segregated, the top 10 percent system results in a very racially diverse student body.
- The case is currently before the U.S. Supreme Court (was argued in October 2012).