1998

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Recommended Citation
Gaber, Paula (1998) "JUST TRYING TO BE HUMAN IN THIS PLACE": THE LEGAL EDUCATION OF TWENTY WOMEN,
Yale Journal of Law & Feminism: Vol. 10: Iss. 2, Article 2.
Available at: http://digitalcommons.law.yale.edu/yjlf/vol10/iss2/2
“JUST TRYING TO BE HUMAN IN THIS PLACE”: THE LEGAL EDUCATION OF TWENTY WOMEN

Paula Gaber†

Coming back after fifteen years out of school, I sort of thought it would be the brave new world of gender rights and racial equality; that it was a politically correct world and that, at least educationally, that would be how things would operate.¹

During my second semester of law school, I was telling a second-year friend of mine about how unhappy I was with my law school experience. She nodded knowingly, and suggested that I read an essay that had been written by two Yale students in the 1980’s. Shortly after our conversation, I found and read Catherine Weiss and Louise Melling’s article entitled The Legal Education of Twenty Women,² a study of twenty women at Yale Law School.

From the first sentence of the essay, which asserts that men “made American law and American law schools by and for themselves,”³ I felt a tremendous sense of what can only be described as relief. It was exhilarating to read a description of my own experiences in the pages of a distinguished law review. The Weiss and Melling essay both validated my feelings and showed me that I was not alone in my feelings of isolation and bewilderment in the law school environment.

In an attempt to try to make sense of my own feelings of alienation, I began to read more about women in law school. The more I read, the more curious I became about the extent of the problem in my own law school class. It was out of this curiosity that I decided to pursue a study of the women in my class,

† Law Clerk, United States District Court, District of Connecticut; J.D., Yale Law School, 1997. I owe an enormous debt of gratitude to the women who generously shared their time and stories with me. Obviously, this project could not have been completed without their participation. I would also like to thank James Kindt, Sung Suk Lee, Marcia Mayfield, Giovanna Shay, Kathleen A. Sullivan, and Stanton Wheeler, all of whom were very generous with both technical and moral support. I am grateful to Dean Anthony Kronman for providing financial support to defray costs associated with this project.

1. All quotations from interview subjects are taken from transcriptions of the interviews. Some sections contain more than one comment by an individual.


3. Id. at 1299. Weiss and Melling’s observation is not so far from the literal truth. Michael Grossberg, in studying Victorian America, has argued that the law was not just one more occupation; it was a distinctive endeavor with a special place and power in the republic. And there came to be embedded in American legal consciousness an underlying premise that decreed the bar a masculine domain. Indeed, masculinity was so fundamental to the profession’s consciousness that for most of the [nineteenth] century it acted as an unarticulated first principle.


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exploring the extent and possible causes of feelings of alienation.

The study of women lawyers and women in legal education has already inspired a library-shelf full of articles and studies and books; these pieces take the form of narratives, statistical surveys, interviews, and histories. By necessity, I do not attempt to answer all questions about women’s experiences in law school. I only hope to tell a story about one cohort of women, and perhaps fill in a few gaps.

Although my study looks at the experiences of women generally, I was particularly curious about the experiences of women on different career paths. For most people, law school is preparation for a career in law. It is at law school that most students develop their career identities. Current statistics show that women are under-represented in legal careers, and that women are particularly under-represented in the most powerful and prestigious legal positions. The lack of women in these positions can create serious consequences both for women in the profession and women seeking redress in the legal system. Studying women’s experiences in law school, with emphasis on their career paths, I conjectured, could provide clues to the causes of the imbalance.

I. THE ALIENATION OF WOMEN FROM LEGAL EDUCATION


6. Lorraine Dusky, for example, has chronicled women’s continuing struggles in the legal profession as well as the injustice many women still experience as litigants in DUSKY, supra note 4, at 148-223, 249-406.
from the classroom, and from the content of legal education."\(^7\) Through their extensive interviews with women from a support group, Weiss and Melling compiled a moving and persuasive account of the alienation that women in law school feel. In addition to the interviews with the twenty women, the authors also presented empirical data that showed lower rates of classroom participation for women.\(^8\)

As early as 1972, Alice Jacobs collected data showing that women law students "volunteer or are chosen to answer questions much less frequently than men,"\(^9\) and exhibit an "unfortunate constellation of high achievement motivation, and real success, coupled with generalized attitudes of low self-esteem and self-hatred."\(^10\) Jacobs also found that women exhibited traits that "reflected a sense of being members of a minority group."\(^11\) Her study also documented the "damned if you do, damned if you don’t" double-bind that many women professionals face even today: unfeminine traits in women are perceived negatively, but exhibiting feminine traits can often be detrimental in a profession that prizes the traditionally masculine traits of competitiveness and confrontation.\(^12\)

Over twenty years later, in 1994, a University of Pennsylvania Law School study examined academic performance data, self-reported survey data, and students’ written narratives to conclude that "the law school experience of women in the aggregate differs markedly from that of their male peers."\(^13\) The study found that despite identical entry-level credentials, women at the University of Pennsylvania Law School seem to be under-represented in prestigious positions, such as Law Review, honor societies, and research assistantships.\(^14\) The authors attribute this gap in performance to micro-differentials in the first year that are exaggerated in subsequent years (e.g., small grade differences in the first year make all the difference in the law review selection process). The study also suggested that "women describe a dynamic in which they feel that their voices were ‘stolen’ from them during the first year."\(^15\)

Similarly, a study conducted at the University of California at Berkeley Law School (Boalt Hall), contends that "[w]omen and people of color find it difficult

\(^7\) Weiss & Melling, supra note 2, at 1299.
\(^8\) Id. at 1364-69.
\(^10\) Id. at 470.
\(^11\) Id. at 467.
\(^12\) Id. at 470; see also Judith Resnik, Gender Bias: From Classes to Courts, 45 STAN. L. REV. 2195, 2207 (1993) (describing the double-bind that women lawyers face); Deborah Rhode, Perspectives on Professional Women, 40 STAN. L. REV. 1163, 1183, 1189 (1988) (describing the double-bind that women faculty face). See also Price Waterhouse v. Hopkins, 490 U.S. 228 (1989).
\(^14\) Id.
\(^15\) Id. at 4.
to spend three years as an outsider in a world created by and for the white male insider establishment."\(^\text{16}\) The authors of that study describe an environment in which “admission to Boalt did not guarantee acceptance at Boalt,” and where “white male students adjusted rapidly to this socialization process, and many outwardly seemed to enjoy it” while “women and people of color... felt themselves outside of this process...”\(^\text{17}\) Moreover, just as I was shocked to read about women with feelings similar to mine, the Berkeley study authors found that “[a]lthough the women with whom we spoke shared many of the same feelings of frustration and displacement, they rarely communicate their reactions to each other. Women appeared to be unaware that these responses were commonplace and valid.”\(^\text{18}\)

Joan M. Krauskopf recounts that when she was named chair of the Gender Issues in Law Schools Committee by the Joint Task Force on Gender Fairness in the Profession in Ohio in 1991,

Discussions revealed that most of the members believed, on the basis of personal experience or others’ reported experiences, that gender unfairness did exist. Most of the committee “knew” that women students and faculty experienced law school differently from men and that women felt disadvantaged because of the sex. But no committee member could say how significant gender-based experiences were in legal education or in the profession for which law school prepared their students.\(^\text{19}\)

As a result, the committee commissioned surveys of both students and faculty in all nine Ohio law schools. Results from this survey were consistent with many of the other surveys of gender differences in law schools: there were “persistent differences between male and female respondents in their perceptions of the law school experience.”\(^\text{20}\)

Among the findings of the Ohio survey were that women indicated less self-confidence than men, women felt less intelligent and articulate than they did before law school, fewer women participated in class, and fewer women than men believed that the “Socratic method allows a free discussion of ideas.”\(^\text{21}\) Women (31%), especially women of color (37.5%), reported having experienced more sexual discrimination at law school than men (9%). More striking was the fact that 50% of the women of color reported racial discrimination.\(^\text{22}\)

\(\text{16. Suzanne Homer & Lois Schwartz, Admitted but not Accepted: Outsiders Take an Inside Look at Law School, 5 BERKELEY WOMEN'S L. J. 1, 2 (1989-90).}\)

\(\text{17. Id. at 3.}\)

\(\text{18. Id. at 4.}\)

\(\text{19. Joan M. Krauskopf, Touching the Elephant: Perceptions of Gender in Nine Law Schools, 44 J. LEGAL EDUC. 311, 311-12 (1994).}\)

\(\text{20. Id. at 312.}\)

\(\text{21. Id. at 314.}\)

\(\text{22. Id. at 324-25.}\)
Despite the fact that the numbers of women in law school increased dramatically in the seventies and eighties, Professor Taunya Lovell Banks's large-scale studies suggest that "many women still feel as though they are 'strangers in a strange land.' They perceive American law schools as androcentric, white, upper-middle class domains." Her statistical data show that women participate less frequently than do male students. Banks posits several explanations for women's perceptions of hostility and alienation, including lack of encouragement or actual discouragement from professors, hostility from male students, and the law school environment in general. Banks, like Jacobs, particularly expresses concern about evidence that women exit law school with "withered" or diminished self esteem.

Banks acknowledges that overt sexism in the law school classroom has subsided somewhat, but argues that the covert, "more damaging vestiges of sexism are alive and well." She notes that law school is like a club, and that "club members expect women to change and adapt—to become more like men—in order to join the club." Her findings are consistent with many of the other studies conducted: "women are silent because the law school classroom environment, structure, and language tend to exclude women or make them feel inferior."


The Yale Law School admitted its first female student in 1885. Alice Rufie Jordan was enrolled in the law school after she challenged the registrar to find a mention of the sex of the students printed anywhere in the admission requirements. The Yale Corporation very soon after amended the catalog to exclude women. It was not until 1918 that Yale Law explicitly allowed women to enter as students. See Women at the Law School, 17 YALE L. REP. 7 (1971). The graduating class of 1997 included 203 students total. Of those, 89 were women (44% of the class).

It is not within the scope of this paper to recount the very interesting history of women in law school, but for more information about "legal foremothers," see CHESTER, supra note 4; EPSTEIN, supra note 4; MORELLO, supra note 4.

26. Banks, supra note 24, at 529.
28. Banks, supra note 25, at 137.
29. See id. at 138. On a personal note, this particular attitude was brought home to me during a discussion several members of my first-year class had about classroom dynamics. Some of us were arguing that men in the class dominated the discussion to the exclusion of the female students. One male student responded by first arguing that he disputed this as a matter of fact, and second that even if it were true, it was "incumbent on the women to behave in a more aggressive manner, like the men."
30. Id. at 146.
Even the American Bar Association Commission on Women in the Profession has responded to the growing body of evidence that suggests that women experience law school differently than men, and that this difference affects women’s academic performance. In 1996, the Commission published a compilation of testimony from hearings held around the country in which law students, professors, and deans talked about the different ways in which women experience hostility and alienation in the law school environment. The report shows the many different aspects of women’s negative experiences in law school, including: disrespect from fellow students, feelings of isolation, unequal classroom participation, differential grading practices, open sexual harassment of women students, and ethnic and racial stereotypes.

What these studies show is that gender bias in law schools takes many different forms, and the effects are many-faceted. There is overt discrimination and harassment, but there is also the problem of a “chilly climate.” The effects of these various forms of gender bias include all the problems discussed above: discriminatorily lower grades for female students, a lower classroom participation rate for women, low self-esteem for women students, fewer women students in “high status” positions, and feelings of isolation.

While the evidence of discrimination in legal education is troubling, it is especially worrisome that the feelings of alienation and experiences of discrimination do not stop at the doors of the law school. Such experiences have also been documented in many areas of the profession. As Banks notes, “sexism in legal education injures not only female law students and sensitive male law students but the legal system as a whole. There is probably a strong correlation between the existence of gender bias in American courts and gender bias in law

31. AMERICAN BAR ASSOCIATION COMMISSION ON WOMEN IN THE PROFESSION, ELUSIVE EQUALITY: THE EXPERIENCES OF WOMEN IN LEGAL EDUCATION (1996) [hereinafter ELUSIVE EQUALITY].

32. See id. at 8.
33. See id. at 11.
34. See id. at 15.
35. See id. at 18.
36. See id. at 14.
37. See id. at 13. At least one study reached dramatically different conclusions than studies finding differences between male and female students. See Taber et al., supra note 23. The Taber study did not find, for example, statistically significant differences in the numbers of men and women elected to Order of the Coif, or significant gender differences in student feelings toward the Stanford Law School, although there were some statistical gender differences in a few of the items. See id. at 1238-40. The authors themselves, however, downplay some of their results. See id. at 1241.
39. The phenomenon of the chilly climate was first documented in HALL & SANDLER, supra note 27. It might best be described as “the overall effect of subtle differential treatment, sometimes minor in any particular instance, that creates an uncomfortable atmosphere for women, undermines morale, and lessens productivity.” Krauskopf, supra note 19, at 315. Various factors contributing to a chilly climate may include subtle and not-so-subtle sexual harassment, see, e.g., Elaine D. Inguilli, Sexual Harassment in Education, 18 RUTGERS L.J. 281 (1987); hostility from students or professors, see, e.g., Bean, supra note 4; or sex bias in textbooks, see, e.g., Mary Joe Frug, Rereading Contracts: A Feminist Analysis of a Contracts Casebook, 34 AM. U.L. REV. 1065 (1985).
Despite the dramatic increases in the numbers of women going to law school, the numbers of women in prestigious and powerful legal positions continue to be small. On law school faculties, scholars have documented not only the modest numbers of women, but gender bias directed against female law professors, by both students and fellow law professors. In the hallowed halls of "blue chip" law firms, women continue to be a small, and often poorly treated, minority. Moreover, women are still a meager percentage of the judiciary. Women in almost all areas of the legal profession lag behind men in numbers, prestige, and satisfaction.

I should note, however, that while women in legal education and the professions have certainly have had a tumultuous history, and many studies agree that they continue to experience difficulties, it does not follow that men have had no trouble with legal education. There have been several accounts of
law students in general, both male and female, experiencing alienation or dissatisfaction with the law school experience.⁴⁹ Some of the most popular accounts of law student alienation have been written by men.⁵⁰ In fact, I remember that the man who sat next to me in Torts used to explain his feelings of disorientation by likening the experience to the time his family lived in Germany for a year, and not knowing either German or Latin, he was required to take a Latin class at his German-speaking high school.

Several times when I was explaining this project to people, they asked me, “Are you interviewing men as a control?” There is an obvious problem with the assumption of maleness as the norm in viewing men as a “control group,” but the question of including men in the survey is very serious. Guinier and her co-authors, for example, consciously included male students in their project design. In their view, “prior studies contained important methodological flaws. For example, unlike the Berkeley study, . . . we did not begin our research assuming that men and women experience law school differently. Indeed, we initiated the Bartow self-reported survey to investigate this very claim.”⁵¹ In fact, Guinier’s study did bear out the hypothesis that women experience law school differently than men. Even so, while it may be true that some men also experience frustration with legal education, the literature suggests that it is not as widespread a phenomenon for men as it is for women, and that women experience the alienation differently. Rosabeth Moss Kanter explains that “[d]espite a prevalent image in social science of modern organizations as universalistic, sex-neutral tools, sex is a very important determinant of who gets what in and out of organizations.”⁵² Moreover, men simply do not face the various kinds of formal and informal discrimination in the legal profession that women do.⁵³ In this project, I was not interested in “proving” that men and women have different experiences, or demonstrating that women experience greater alienation than men. Rather, I simply wanted to explore in detail what it was that women were experiencing in a particular law school.

⁵⁰ Duncan Kennedy has argued that law school is a place where students are deliberately indoctrinated into certain ideological modes. Duncan Kennedy, Legal Education and the Reproduction of Hierarchy, 32 J. LEGAL EDUC. 591 (1982).
⁵¹ Guinier et al., supra note 13, at 20.
⁵³ See, e.g., UNFINISHED BUSINESS, supra note 46; LENTZ & LABAND, supra note 44. I wish to emphasize, moreover, that white men do not have the same law school or professional experiences as men of color, who may experience greater alienation or discrimination.
II. METHODOLOGY

For this study, I interviewed twenty women from the Yale Law School class of 1997. Yale is not only one of the so-called “elite” law schools, it has been the number one ranked law school according to the U.S. News & World Reports annual survey for the past several years. Apart from the numerical rankings, many people associated with the school (students, administrators, admissions office staff, public affairs office staff) believe that Yale is special in all sorts of other ways: the small class size and high student-to-faculty ratio allows for high quality interaction both with other students and faculty members; the lack of red tape allows for student creativity in both curricular and extracurricular choices; and the lack of a formal grading system creates a relaxed, noncompetitive environment. Other differences include only one semester of required classes, a generous loan forgiveness program for any graduate not earning above a certain amount, and an emphasis on problem-solving skills rather than black-letter rules. In fact, at times during this project, I asked myself why anyone might care what went on at such a rarefied place, and why I—or anyone else—should complain about being at what is commonly known as the “humane law school.” Within this extremely privileged context, however, there are still problems. While I certainly acknowledge that women at Yale may be better situated in any number of ways than women at other law schools, it seems all the more troubling that women express feelings of discontent in an atmosphere that is supposedly designed to be supportive.

The organizing principle of this project was not only a general look at the experiences of women, but also an explicit comparison of women who were on different career paths. The twenty women interviewees were chosen at random, drawn from two groups based on job experiences during the two summers while in law school. I initially divided all the women in the class into groups of women who had predominantly public-interest or public-sector experience, and women who had only private-sector experience. “Predominantly public interest”
includes those women who spent at least one and a half summers pursuing public-interest work, while “purely private sector” includes only those women who spent both summers in private firm settings. To test the interview instrument, I interviewed six women who had been excluded from the interviewee pool for various methodological reasons.

I defined “public interest” very broadly to include almost any position that is not with a traditional law firm or corporate entity. It includes the so-called “public-interest private law firms” as well as positions in government. Students who held research assistantships and other academic positions in either summer were excluded from the list of possible interviewees. While this initial ordering came out of a hypothesis that women on different career paths would experience law school differently, this hypothesis proved to be unsupported by the women’s experiences.

The interviews were conducted in the Fall of 1996 and the Spring of 1997. Before starting the tape recorder, I began each interview by explaining its general purpose, and assuring each woman that her identity would remain confidential. I told each woman that she could skip over any question that seemed too sensitive to talk about, and that specific details that might identify them would be changed (for example, geographical locations or undergraduate institutions). The interviews varied in length, some as short as 90 minutes, others going for as long as three hours. I began with a list of questions to guide the interviews, but I purposely allowed each interview to follow its own course, deviating from the interview questions to probe particular events or to allow the interviewee to expand on her ideas. As researcher Shulamit Reinharz notes, “[o]pen-ended interview research produces nonstandard information that allows researchers to make full use of differences among people.”

III. IN THEIR OWN VOICES

Against this backdrop, I set out to see what women were experiencing in one law school and explore how conscious career path decisions may have affected those experiences. Although many themes emerged, it is important to emphasize the perhaps obvious point that every woman has a unique experience. Women do not, any more than men, experience things identically. Every story each woman shared with me was different and individual. In attempting to sort out themes, I was wary of making generalizations about all women. Moreover, I would stress

58. Defining “public interest” is not an uncontroversial task. Some might believe that pro bono work performed in a private law firm setting should also count as public interest, whereas others might challenge the categorization of government work as public interest. Compare, for example, the definitions of public interest in Guinier, et al., supra 13, at 39-40, which separates out government from public interest, with Homer & Schwartz, supra 16, at 31, which combines “public sector” and “public interest” as one category. For the sake of simplicity, I have opted for a generally broad definition of public interest, but one that does not include private sector pro bono work.

59. See Appendix B.

60. SHULAMIT REINHARZ, FEMINIST METHODS IN SOCIAL RESEARCH 18-19 (1992).
that I do not wish to erase the differences among women. Race, class, sexual orientation—among many factors—can be just as powerful in shaping people’s experiences as gender. Nor do I wish to suggest that there are necessarily immutable differences between men and women that make one sex better or worse suited to the practice or study of law. As Weiss and Melling explain, “Putative differences, ascribed to women by men, have operated in the law to patronize, denigrate, and stereotype women.”61 For that reason, I take Weiss and Melling’s warning to “discuss gender difference with trepidation” very seriously.62

My presentation of the women’s experiences is no more the whole truth than any one of their stories alone, or any other student’s story. The women shared so many stories with me that I could have chosen any number of different formats or themes for this paper. As Martha Minow cautions, “No perspective asserted to produce ‘the truth’ is objective, but rather will obscure the power of the person attributing a difference while excluding important competing perspectives.”63 I therefore caution the reader to remember, even in the midst of my seeming essentialism, that each interview excerpt is only that—an excerpt of a larger, individual story.

My sample, a random selection based on pre-set criteria, was by no means meant to be a scientific representation of the female student body. Even so, the group was an interesting cross-section of the law school.64 These characteristics are important from a sociological perspective in that “variance in some of the gross and superficial characteristics of the recruit population may have direct implications for the sorts of socializing experiences the new recruits will encounter.”65

Seven of the twenty participants were women of color. Four women attended private high schools growing up; sixteen went to public schools. They attended fifteen different colleges: nine went to Ivy League or similarly elite institutions, four went to large state schools, four attended small private colleges, two attended large private schools, and one woman went to a historically Black institution. Their undergraduate majors include, among others, history, English, political science, social studies, women’s studies, and psychology. Six of the twenty women came to law school immediately after graduating from college. Women who took time off before coming to law school worked as teachers, journalists, paralegals, mothers, and investment bankers. Some were graduate

61. Weiss & Melling, supra note 2, at 1301.
62. Id.
64. Of course, the members of a particular class will be similar to the extent that they all had some orientation towards the law. As Wheeler has noted, “At a general level, there is at least one quality that all recruits to a particular organization have in common: the basis for their recruitment.” Stanton Wheeler, The Structure of Formally Organized Socialization Settings, in SOCIALIZATION AFTER CHILDHOOD 55, 72 (Orville G. Brim, Jr. & Stanton Wheeler eds., 1966).
65. Id. at 73.
students, and others worked for nonprofit organizations. Three of the women were married at the time of the interviews, and three engaged to be married. Seven women said they have lawyers in their immediate families, three of whom have several lawyers in their immediate families. Two have lawyers in their extended families. The women were very similar in that they were overwhelmingly from professional, upper-middle-class backgrounds. Only three identified themselves as being from lower-middle-class or working-class families.

They came to law school for a variety of reasons. Some came out of a sincere desire to learn the law, others with the intention of going into public service. Four of the women came into law school with experience working in firms or public-interest legal organizations. Two women came to law school after deciding that graduate school was not providing them with the practical focus they wanted. A few of the women knew very early on—even as children—that they wanted to be lawyers. Others only came to law school after a lifetime of saying they would never be lawyers. Some of the women did not decide until the last possible application deadline, some of them wavering between law school and graduate school, others thinking about taking some time off. All, however, came to law school with very impressive academic achievements behind them.

It is true that in the last twenty years, many formal barriers to women in legal education have come down. It is also true that more subtle forms of gender bias have replaced outright sexism in many cases. While overt instances of sex discrimination are fewer and farther between, they have not disappeared entirely. Several women in the interviews recounted stories like this woman’s:

Once this partner told me a joke—I was the only person he was talking to at the time—and the two characters in the joke were a woman and a dog, and the punchline was, “Oh I guess they threw the wrong bitch out the window.” Stuff like that happens all the time. I think I find it’s easy for me to dismiss that and say, “Okay, that’s obviously so sexist.” I think where it’s difficult is where I can’t figure out where—whether or not I feel something or someone has responded to me as a result of my being a woman or my being a person.

Even at the law school, outright sexual harassment is not unknown. In 1995, for example, students returned from a break to find anonymous flyers posted in some of the dorms and left in some male students’ mailboxes that listed five women in the first-year class as “Total Packages.” The flyer described the women in graphic sexual terms, “awarding” them titles such as “Boy-Toy,” “Barbie,” “Best Potential Wife and Mother,” and “Most Exotic/Most Erotic.”

66. See, e.g., ELUSIVE EQUALITY, supra note 31, at 8, 14-15.
Even more disturbing was the fact that of the five women who were named in the flyer, four of them were women of color. The administration has not yet discovered the author of the flyer. A committee was formed in the wake of the incident to investigate women’s status at the law school, and the committee’s report was released in March and April of 1997.68

Another woman related this story from her classroom experience:

We were talking about a case where a woman had sued her partner, or her husband, basically claiming that she contributed to his livelihood and deserved some of what he had accumulated. We were talking about consideration or something like that, and this one guy started joking and leering, “Well, she got something too, didn’t she get sexual pleasure?” Something like that. But it was completely offensive, and he laughed, and half the class laughed, but no one said anything.

Although stories like these are not uncommon, the more typical lament from women students was that elusive aspects of their environment made them feel unwelcome. Most often, women expressed feelings of being deviant. That is, whatever the law school accepted as the model, normal law student, they were

68. See Report of the Dean’s Ad Hoc Committee on the Status of Women at the Yale Law School (Mar. 31, 1997) (available from Yale Law School, on file with author) [hereinafter Committee Report]; Memorandum from Professors Brett Dignam, Paul Kahn, & Reva Siegal to Dean Anthony Kronman (Apr. 14, 1997) (available from Yale Law School, on file with author) [hereinafter Report Supplement]. The report consisted of an initial report; a summary of the data collected by the committee; and a supplemental memorandum from three faculty members of the committee, who felt that some findings had not been adequately highlighted in the initial report. The underlying data used to generate the report were placed on reserve in the law library. In establishing the committee, Dean Anthony Kronman explained that he had had conversations with a number of women students about [the flyer]. They have all expressed their anger and dismay at the flyer itself, and I hope this feeling is shared by every member of the Law School Community. But many women have gone further and said that this document, though particularly demeaning to women, is not the only incident that has caused them to feel less welcome than their male classmates in the life of the School. They have described other incidents, some blatant, some subtle, which have had, in their judgment, the cumulative effect of discouraging them from becoming equal participants in our community.

Memorandum from Dean Anthony Kronman to the Yale Law School Community (Nov. 7, 1995) (available from Yale Law School, on file with author).

The initial report emphasized seven areas of concern: 1) the fact that the law school’s sexual harassment policies are “ambiguous, murky, and even mysterious;” 2) the disproportionately fewer number of women choosing to become, or to try to become, law teachers; 3) the lack of gender parity on the Yale Law Journal membership; 4) the “continuing report that some, perhaps many, women have the perception that they do not fit easily into the academic life of the School;” 5) the lack of regular data collection in this area; 6) the “importance of systematic access to mentoring help from the faculty;” and 7) the lack of policies and guidelines to deal with student pregnancies. See Committee Report, supra.

The authors of the Report Supplement began by noting several “features of the legal profession and the legal academy that are relevant to the Committee’s inquiry.” They further commented on six areas “that most prominently suggest continuing gender-related problems that require engagement by the law school.” Those areas are: 1) the fact that twice as many men as women are obtaining teaching positions, and that as many as four men to every one woman apply for a teaching position; 2) gender disparities in the Yale Law Journal note writing competition; 3) gender disparities in other student organizations; 4) the role of gender in the distribution of clerkships; 5) the “disturbing amount of anecdotal evidence concerning inappropriate gender-related comments and conduct by law school faculty;” and 6) the lack of clarity in the school’s sexual harassment policies and procedures. See Report Supplement, supra.
There were moments that I thought, "This is weird, I don’t fit in." . . . [For example,] I was talking to someone in our class, a male student, and he was telling me how bummed he was to have missed Guido Calabresi, the former dean's, “get off the treadmill” speech. 69 I was like, “What is it? Tell me what’s so exciting. First of all, tell me who Guido is.” So he goes and tells me in this very elaborate fashion the whole treadmill story, which is, “You’ve been running all your life to achieve this, to get that, to get this, and now you can get off the treadmill.” . . . I went back to my room and I called my parents and I was like, “Whoa, I missed the treadmill a loooong time ago. This is crazy, what am I doing here?” He told the story in just such a way, that of course I had done this club in high school to get this, and had taken that class in college to get this. I just thought, “Shit, I’m fucked, because I haven’t done all of these steps.”

I think the norm generally is a single male who has parents to support him or doesn’t have a lot of bills or responsibilities. So although I don’t think the law school meant to make it more difficult for me, I was always having to fight against that.

As I think I’ve mentioned before, I definitely had the sense that there were people who came here knowing what they were doing. And I don’t want to be—I’m not trying to be facetious—but I think that they kind of knew the rules of the game, they knew that there was a game and they knew the rules. And I definitely didn’t feel that way . . . I was completely baffled.

To the extent that you can act like a single man, then you are probably generally okay here. The more that you deviate from the single male standard, though, the fewer opportunities, the more struggle, the bigger the price for doing anything.

I think communities can be good, and communities can be supportive as long as you’re a member of the community . . . but law school is traditionally a very white, male place. . . . People have to at least feign

69. When Guido Calabresi was Dean of the law school, he would welcome first-year students by delivering the “Get Off the Treadmill” speech. The gist of the speech was that, although we had all gotten to Yale Law School by being high achievers, we now had the opportunity to “get off the treadmill” and do whatever nontraditional activities we wanted to do. The phrase “get off the treadmill” has entered the lexicon of the Yale Law School as a shorthand for not engaging in the traditional status-marker activities. The year the class of 1997 entered the law school was also the year that Anthony Kronman assumed the office of Dean, so our class was the first in quite some time not to hear the “get off the treadmill” message—although Dean Kronman did refer to it in his own welcoming address.
some kind of knowledge, some kind of familiarity with that mythical kind of common thread that everyone possesses. I think that for people who don’t necessarily fit the mold or don’t want to, it can be a really alienating kind of place.

I guess my expectations were too high, but I was really stunned to find that it was just a normal place. Like, there are all these guys sitting around talking about football, and I was thinking, “Let’s talk about Nietzsche here.”

The participants in the interviews also expressed great dislike of and discomfort with the elitism and snobbery of the law school. Even women who had attended and enjoyed Ivy League undergraduate institutions commented on the alienating aspects of being in such a privileged environment.

I think it is a place that has a lot of arrogance. My sense is that people have a sense of entitlement. Also having the sense of that being largely driven by it being a very male environment. And people with an incredible sense that they are going to be the future rulers of the world, and that their sneezes are worth publishing. And I think that’s much more, if you looked at it, would be more common among the men than among the women here. But it still feels like that’s the tenor of the place.

I had no idea what it would be like to be surrounded by a lot of people who had really systematically organized their lives up to this point, to get to this place. And what the meaning of this place would be to them. And that, you know, I couldn’t really relate to that meaning, because it wasn’t the meaning that the institution had for me. In fact, you know, all of the things that they cherished most highly about the institution in terms of its elite value, and very respected faculty, were precisely what weighed heaviest on my conscience as being bad things. This is the first time I’ve been in a private institution. It’s the first time that I really bought into a high level, conventional indication of elite prestige. Even coming from a really privileged background, at least for me personally, it meant something radically different to be at an Ivy League institution as opposed to being at a relatively elite public institution. So, I just couldn’t relate to my classmates, because everything that I was uncomfortable with was what they celebrated.

I finally resolved, I think, a really deep tension that I had, from probably first semester on, with the institution. Which was that, I had really sort of taken personal responsibility for what I saw as the “evil” side of the institution. I was deeply suspicious of the level of prestige that the
institution wielded, and the elitism and that sort of incredible injustice of
the way the jobs get doled out on the basis of which pedigree you have, essen-
tially, "Never even mind because you went to the right law school." Be-
cause I was so suspicious and ambivalent about all those things, I had
really taken them all on myself and felt guilty and responsible for the fact
that I was joining this den of inequity, that I wasn't really interested in
being a part of. And I think I finally distanced myself from that and was
able to say that just because I go to law school here, doesn't mean that
I'm personally responsible for all of the things that I find problematic
about it. As a matter, since it is very difficult to change things around
here, except for the decision to enter the institution, you don't really have
much of a voice in making it a better place at all.

Most of all, it was the stories of lost self-esteem and crises of confidence that
were notable. Numerous other studies have documented the loss of women's
self-esteem in law school, so it was not completely surprising to me to see it
here. I nonetheless was moved to hear women who have been top academic
achievers all their lives talk about their own feelings of intellectual inadequacy.

I thought I was the stupidest person here. I was the one who didn't have a
Rhodes Scholarship, hadn't done anything very interesting before
coming here, was the least articulate. I didn't necessarily think I was a
mistake, just felt like I was a fraud. I felt like I had been able to pull
my shit together in college, and have good grades, and do all the things
that I needed to get in here, but that ultimately I had been fooling
everyone my entire life. I was like, whoa, all of a sudden, I had kind of
hit my limit. This was it. "You're the stupidest person in the entire
school. Your entire three years here are going to be hell."

In my experience, between being here at school and working this
summer, I really could see how, what a different person I was when I was
working in an environment where I was constantly being told, "Wow,

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70. See Banks, supra note 24, at 529; Guinier et al., supra note 13; Jacobs, supra note 9, at 470;
Krauskopf, supra note 19, at 314.

71. Yale Law School is the most competitive of the law schools, admitting only approximately 6% of the
applicant pool. Although factors other than grades and LSAT scores are used to determine admissions, all
admitted students have excellent records of academic performance. See, e.g., BARRON'S EDUCATIONAL SERIES,
GUIDE TO LAW SCHOOLS 350 (10th ed., 1992), LAW SCHOOL ADMISSION SERVICE, THE OFFICIAL GUIDE TO

72. Weiss & Melling's interviews similarly included women who sometimes referred to themselves as
"the mistake." They explain the origination of this terminology:

When the class of 1987 entered in the fall of 1984, the dean delivered a welcoming address in
which he stressed that each of us deserved to be at Yale, that although we might feel like the
admissions committee's "mistake," none of us was "the mistake." The phrase passed
immediately into the class's vernacular, perhaps fanning more self-doubt than it allayed.
Weiss & Melling, supra note 2, at 1326.
that’s great, you’re doing a really good job, we really want you to work for us, and we really think a lot of your abilities,” as opposed to school where, I don’t really think anybody ever made a negative comment to me, but it was totally my own personal psychological messages to myself. In this environment I interpreted things to mean that I wasn’t being particularly successful.

[My classroom experience was] probably characterized by a lot of fear. I mean I personally found classes intimidating, I found myself feeling inadequate, that oh, I couldn’t be as articulate as the least articulate person in this room. I would never be able to match up to anyone around me. I felt pretty lost. I felt like there was definitely a group of people who clearly knew what they were getting into, or at least the general subject matter, better than I did.

The feeling that pervaded my entire first semester, most of my entire first year was that I shouldn’t be here, that I was completely on the margins. Here I am sitting in class, and I’m silent. . . . I spent a lot of time thinking I don’t have anything to contribute. . . . I spent that entire first semester feeling like I was here, and here are these little eyes watching from above, watching and analyzing. . . . I was wracked with self-consciousness that entire first semester over my performance.

There was a definite chronology of the law school experience. In the initial days, many women described feelings of excitement over learning the law and contemplating their futures.

I was really excited about [my future] at the beginning, but I don’t think my expectations were realistic at even that point in time. . . . So I think at that point in time I was really excited and I was imagining going either to New York or Chicago and making just, a ton of money.

The first couple of weeks, I was really excited, because I thought, “I was silly not to come to law school.” I was glad that I had taken the year off, but I thought it was silly, and I had really made the right decision by coming here. I thought law really was what I wanted to do and that it was as interesting as I had thought it would be when I went to college.

Very quickly, however, those first, positive impressions were replaced by feelings of alienation.

I think that first week I was still excited. Some of what I said really didn’t hit me until October. I remember distinctly my parents coming out on my
birthday—which is the first week in October. And they asked me really for the first time, "How is law school?" And I said, "Oh my God, it's terrible." I think the first week, second week, I was feeling like the novelty was still there and it was exciting. Looking back, I do remember at least, telling people how great it was. I remember very clearly now, it was right around the first week of October that it hit me.

Women chose to respond in a variety of ways. Some adopted the strategy of keeping a very low profile, with the intention of just getting through the experience. Others were able to find supportive communities where they tended to concentrate their energy. By the third year, most were simply ready to leave the law school.

I think I decided at some point after my first semester experience to just sort of lay low. Just keep to myself. I think at that point I developed a survival mentality where the objective was to really get through, not to distinguish myself really. That wasn't going to happen. Be as small and unnoticeable as possible, and bide my time.

I'm really grateful for the clinic [Yale Legal Services], and having that be just sort of a place to go. And that was also a community of people, that were there.

I'm unhappy with so many things. I feel like it's too late now. I don't know, maybe if I'd like tried to get into it more, I would like it better, and maybe I would have more friends. I'm not happy with the fact that I'm so at the periphery that I'm practically falling off the edge of law school. I feel unhappy with the fact that I really dislike school so much, and I wish I didn't.

I'm pretty excited about leaving school. I'm kind of tired of this extended adolescence, of graduate school.

A. In the Classroom

I don't know. It's a difficult situation as far as the classroom experience, and I don't really know what the answer is. It is troubling that certain people participate all the time and others don't. As for me personally, I just don't want to fight that battle particularly. I don't know what the solution is because you really have to be a person who feels a vested need to be heard more, or something.

The difference [between law school and college] was, I really didn't
hear my voice as much here, if that makes sense. I heard my voice a lot in college, even if I wasn't speaking. I heard my voice in my teachers, sometimes, and in my classmates many times, and I really heard my own voice when I would speak. But here rarely would I hear my voice, and thus I rarely spoke. So, there is a difference here, and that would be it.

Although many women described initially deriving real enjoyment from learning law,73 most eventually had critical things to say about the classroom experience. Some focused their comments on the nature of the classroom atmosphere, which they found intimidating and placed great emphasis on “performance opportunities.” Others critiqued the content of the legal education, describing feelings of disaffection both from the substance of the law and the mode of teaching. Almost all the women noted the uneven participation rates of women and men. Sixteen reported their own participation rates as low, or lower than they would have liked. Although the days of “Ladies’ Day”74 are over, research suggests that the classroom is not yet a gender-neutral territory. Several empirical studies have shown that female students engage in classroom discussions less frequently than male students.75 The phenomenon of unequal classroom participation “can be seen in relation to a number of areas: differences in class participation, differences in self-esteem, differences in communications and learning styles, and fundamental differences in the ways some men and women approach issues and support their conclusions.”76

Comments from women in the interviews bore out many of these previous findings. Women in the interviews characterized the classroom experience as dominated by men, both in the sense that male students participate more and in the sense that the environment can be overtly masculine. Male students, many of the women explained, seemed much more at ease with the law school milieu and

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73. One woman commented that, “I was just so interested in anything that had to do with law. I was just happy to sit there and listen to people talk about it for 6 hours.” Her response was typical of those who expressed excitement about learning the law.

74. Until the late sixties and early seventies, many law professors would refuse to call on any female students, even if they volunteered. Rather, they had the tradition of “Ladies’ Day,” in which professors would set aside one day to call only on female students. Typically, the exercise was meant to embarrass the women, either by asking extraordinarily difficult questions, or by focusing exclusively on “sensitive” topics, like sordid sex cases or prostitution. See Epstein, supra note 4, at 61-63.

75. See, e.g., Banks, supra note 25, at 141-42; Homer & Schwartz, supra note 16, at 37-38; Tabor et al., supra note 23, at 1239; Weiss & Melling, supra note 2, at 1335. See Dusky, supra note 4, at 22-43, for a general description of the law school classroom atmosphere.

For several other explanations of women’s silence in the classroom, see also Elkins, supra note 4, at 306 (noting that “[w]oman’s silence in legal education is rooted in the ‘strangeness’ of legal language which divorces the language of the law from the ‘human sensitivity’ associated with women’s experience of and in the world”); Lucinda M. Finley, Breaking Women’s Silence in Law: The Dilemma of the Gendered Nature of Legal Reasoning, 64 NOTRE DAME L. REV. 886, 886 (arguing that the “nature of legal reasoning and the language by which it is expressed” silences women because it is “male defined” and “built on male conceptions of problems and of harms”).

The other huge disappointment for me was there was this block . . . of boys that would sit together in classes, and really dominate the class. They would sit in the middle, which is a telling point, and the professor would call on them two or three times a day. I would literally have my hand up over in the corner all class long, and he would never call on me. Part of what bothered me was a straight-out gender thing, but the other part was that I have something interesting to say. And coming from a different background . . . it was at least different, and they were all saying the same things.

I feel like men are so much more comfortable in the classroom. So much more comfortable with the professors calling on them. And when women speak—and they do speak—but I think the men feel entitled, they don’t feel any insecurities. And that’s sort of weird to me. Whereas the women want to be prepared and say something they think is intelligent, whereas the men just spout off. So I guess in that respect, men are just more aggressive and dominant, and they feel more entitled and comfortable here. Especially in terms of talking to professors, that kind of thing. I guess right away getting the rewards of being here.

I remember my second or third day, this was one of the first times of my just trying to be human in this place. There was something being said, and I remember that I was really anxious to make a point. And [Professor X] was calling on these little boys over and over again. And he would look over at me, then he would purposely call on one of the boys. This was so frustrating to me, and so disempowering. I had something to say, and here’s this man in the front who is going to regulate whether I get to say it. I left class, I walked somewhere—I have no idea where it was—and I sat down on the curb and started crying.

I distinctly remember women not talking as much as men. I distinctly remember that when women did talk, they did—they had a lot of mannerisms, like apologizing, or prefacing it by, “I don’t know very much about this,” or laughing in the middle, or making it sound like it was a question when it was really a statement. I remember people being much more critical of women’s comments than of men’s.

[What are the characteristics that make you identify the classroom as a male environment?] I think it had a certain amount of—something to do

77. For a similar description of the classroom environment, see Weiss & Melling, supra note 2, at 1332-45.
with the competitive performance in class. Trying to impress. A real sense of assurance in what you had to say, and that everyone had to hear what you had to say. And there was enough of that going on, of people who had a strong sense of their own entitlement to speak, and the way professors encouraged that. Less questioning. I guess that’s it.

I can think of a specific story that I’ll have to try to conceal. I remember in the very week someone in my small group read the most recent book that my small group professor had written and made an appointment to go talk to the professor about his criticism of the book. They proceeded to engage in this dialogue before class, after class, and for me it like was really out of the question that I would ever do that in a million years. I was not surprised that only two or three people usually did most of the talking. I was a bit surprised that they were usually men. My college, although not female-heavy, was definitely female-heavy in the students that were considered scholars, and the students that were serious academics were almost all women, so that was a bit surprising to me.

I think that the men in our class made much more of an impression on me as a group than they had in any other situation. They were intimidating and so focused on speaking in class, on learning the rules of the game, figuring out what hoops they had to jump through and getting through those hoops to get the kinds of jobs they wanted. Everybody seemed to be a budding U.S. attorney or senator or law professor, and they were all so focused on impressing our professors and figuring out the rules of the game.

In some cases, women described the way in which this sort of atmosphere extended beyond the classroom environment:

One other thing about first semester is that about October, when we were all hanging out, in whatever context. Generally not in class, but, maybe in the dining hall, the men would end up talking over the women. Interrupting them, talking over them, not listening to what they said. This was mostly women who were from the other classes. . . . They would sit with me and with another woman who was not at all quiet, or talk-overable. So, it was really obvious. There was one time when I was talking to two men in my small group, about a brief. I was explaining an argument. And one man asked the other man about the argument as if he had made it, as opposed to me making it. So, I yelled at him. “Why are you asking him? Why do you keep interrupting me?” And he was shocked. He hadn’t noticed at all. But since then, he has been
scrupulously careful to pay attention.

I do remember one night, I went to—it was during orientation week—and I went to some party with some people, and eventually wound up at Toad’s—the music place. And, I think it was just because the bar was open. [I]t was me and these two guys in the class, I think. Maybe there was another guy there. But I remember that I was the only woman. And they started talking about affirmative action and debating affirmative action and Stephen Carter’s book. And they were really going at each other. I was shocked at the tone with which they were addressing each other. I couldn’t imagine engaging in that sort of argument with someone. Sort of, all the gender things seemed to me, at that point, true. I’m more willing to have a conversation with someone—I wouldn’t say, “No, you’re wrong.” I would say, “Well, my point of view is . . .” I was really struck by that. And I thought, “This is what lawyers do.” And I remember because I wrote about this in my journal: “I realized that they were arguing with each other like lawyers. And I was very chilled.” I thought, “That’s not for me.” I’m not—it’s not my style, and I didn’t really participate in their conversation about it. I certainly didn’t jump in with my own opinion, even though I have my own opinions about affirmative action. It really scared me. I thought that I couldn’t participate and let my voice be heard on that, in part, because I felt—even though I agreed with one of the speakers, I really felt scared of the other person coming at me the way he had gone at that other speaker.

In contrast to their descriptions of male participation, sixteen of the women reported their own classroom participation as being low. Nineteen of the twenty women, even the ones who participated in classroom discussions, commented on the gender imbalance in the classroom. Although women’s feelings about volunteering in class ran from terrified to bored to eager, the majority were not participating, mostly due to some kind of discomfort with the classroom environment. Many also identified feelings of intellectual inadequacy. Their own silence became evidence that “they are not as smart as their more vocal male peers.”

It was just tremendously stressful. And I really don’t know where that came from. I mean, it felt totally out of my control. It felt like, just part of the actual environment. And I remember being very surprised when I heard people express that they didn’t find class very stressful, that it wasn’t a very big deal. Because just entering class, I would just totally tense up. Certainly, if I was ever asked a question in class, or raised my

78. Guinier et al., supra note 13, at 68. For more on women’s classroom silence, see Banks, supra note 25, at 139; Elkins, supra note 4, at 306; Finley, supra note 75; Weiss & Melling, supra note 2, at 1332-45.
hand, I would actually have a back spasm. And the only other time in my life, because I had never had that problem in college, you know, being called on or answering a question, that I had spasms was when I had to perform my solo in choir. That was my only other experience with that level of a physical response to stress. So, it was clear to me, both physically and emotionally, that something had been tilted in me that made this experience just phenomenally more stressful than I was used to, in terms of classroom experience. And I just really felt like I had no idea what was going on. I felt like, I had no framework.

I was really surprised, because I had read a lot of things saying women don’t talk in law school, blah, blah, blah. And I thought, that won’t happen to me. I’ve never had a problem speaking in school before. I really didn’t think that there was a chance that I would be struck dumb, and I was, completely.

I had the sense I wasn’t as smart as a lot of the people there. And I had the urge to speak, but also, as soon as I opened my mouth, felt like what I had to say was ridiculous. That, not that there weren’t other people who were saying not great things, but also that there were a lot of other smart people, and it would be wise for me not to even consider myself competing with them.

I guess I spent most of the time being petrified that I would get called on. When I did the reading the night before . . . I would read every sentence and I would think I was going to have to recall it. That had such a negative effect on being able to learn the material and being able to digest it . . . And it’s kind of a self-perpetuating cycle, because when I was doing the reading, I would have trouble getting through because I was always testing myself, all the time. . . . I would stress myself out, so that, while I was reading it, I wasn’t actually retaining anything. That obviously made me less prepared when I went in there. So I’d find that when I was in there, there were a lot of things I had forgotten and didn’t know. So that made me feel even worse. It was just this ridiculous cycle.

I mean I, having always been sort of a willing participant in classroom discussion, was kind of surprised to find that the whole performance ethic was as intimidating to me as I found it. I don’t think that there’s any kind of educational experience that really prepares you for legal discussions, and the way that’s conducted. I think it’s just a totally different way of doing it, and so I remember being very concerned about being called on, and worried about being prepared, even though I always read all the material.
[Do you have a sense of what it was that was intimidating to you?] I think I created this superhuman. You know, that everybody was this 4.0 G.P.A./170 LSAT, just brilliant person, and that if I said something wrong, they’d all go, “Yeah, she’s definitely not supposed to be here.” I think also the fact that I had gone to public schools all my life and sort of this idea that here are all these Stanford and Harvard and Yale and Brown or whatever undergrads. What did I learn at [my public university]? All that sort of thing.

The classroom, many felt, was not a learning arena, but a stage for performing. People did not describe a collaborative learning environment, but one in which each student was judged severely based on her level and quality of classroom participation. The “smart” students were separated from the “not so smart” students on the basis of their classroom comments. Only people who had fully formed commentaries on issues seemed worthy of participating. This sort of pressure proved to be extremely stressful for many of the women in the interviews. Weiss and Melling described their classrooms as similarly competitive, with the competition having silencing effects:

Our resistance to competition and to the confusion it created about our own motivations made the pervasive classroom posturing particularly silencing. If other people spoke to impress, did we also speak for that reason? Would other people think we spoke for that reason even if we managed to convince ourselves to the contrary?79

Moreover, studies have shown that “when speaking feels like a ‘performance,’ [women students] respond with silence rather than participation, especially when the Socratic method is employed to intimidate or to establish a hierarchy within large classes.”80

I was hanging out with [a male student], and a couple of other people who were all male students, and we were going through the face book. This student proceeded to say, “Oh he’s really smart, oh she’s really smart. Did you hear what she said in Torts the other day, did you hear what he said in class the other day? That guy’s kinda dumb.” . . . I really, really disliked this major emphasis on talking in class. Really disliked it. And the subsequent judging of one’s intellectual ability based on what someone said when they were called on.

[The classroom environment] was extremely competitive. Almost like

79. Weiss & Melling, supra note 2, at 1343.
80. Guinier et al., supra note 13, at 46.
people were keeping score of who was going to talk. There was a big
shaping mechanism underway that you weren’t supposed to talk unless
you absolutely knew the answer. We weren’t supposed to be asking
questions. The one time I screwed up my courage to talk—I remember
distinctly—the professor had asked what a certain term meant, and I
really had done the reading and I really thought I knew. Then I panicked,
and I gave a lame answer, but instead of just correcting me, he went off
for a few minutes on how nobody was supposed to talk unless they
absolutely knew the answer.

I volunteered to talk in Administrative Law a couple times, mostly
because nobody ever spoke and I just thought the professor was the
nicest person and he really wanted people to speak. I was always
prepared. I pretty much always am for class—or used to be—and it was
just so annoying to participate. People would come up to me after class
and say, “Oh, trying to get the H plus,”81 are we?” No, I just fucking
answered a question because the professor looked at everybody and
everybody was asleep, and I knew the answer. You know what I mean? I
was just like, forget it. I’m not even going to bother.

This school is really divided into like, these are the smart people, and
these are the average, and I could cite to you examples of why I’ve been
placed by everybody into the average group, the not-smart group. . . . I
mean like, [John Doe], people have decided, is really smart. There are
people like that, and I think that they are subject to less criticism, or
something. I’m not really smart—so people have said—so when I talk [in
class] it’s a big deal. . . . Maybe that’s just based on who routinely talks. I
don’t know. On that issue of people deciding who is smart and who is not
smart, I was having a conversation with my friends on the whole
screwed-up system of Honors and Passes, and I said “You know, [John
Doe] and I were just having this conversation the other day and we both
agreed that the only way were ever going to get an Honors was to take a
paper class, because that’s the only way each of us had ever gotten an
Honors.” Ten of my friends said, “Oh my god! [John Doe] has never
gotten an Honors?” I was thinking, “Thank you all so much for saying
that I’m obviously stupid and get Passes, and somebody else is expected
to get Honors.”

There are some times when people speak more for the sake of being
heard and don’t necessarily have what I would call “value-added”

81. The interviewee is referring to Yale’s grading system, which consists of Honors, Pass, Low Pass,
and Fail. Almost no one ever receives a Low Pass or Fail. Many students believe that Passes and Honors are
doled out somewhat randomly, with no necessary correspondence to classroom or examination performance.
I always had spoken a lot in class. In my undergraduate institution, it was a small department, and I had a close relationship with my professors. . . . I had good points, and I moved discussion along. I saw myself as someone who was pretty articulate. Then I got here, and it seemed like speaking in class was a political act. The people were grandstanding, people were establishing themselves as the people who were going to be standouts in our class. And it was invested with a lot more significance than making good points. I thought academic discussions were about making good points, and working on ideas together. I remember distinctly, my small group, the first day, everyone was totally silent. . . . I can't remember what we were talking about, but I made some point about the Civil War, which was sort of contextualizing something historically in terms of race relations, and so on. I remember after class one of my classmates rushing up to me and saying “That was a good point. You went out on a limb to talk about stuff like that, but it went well, it went well.” I just realized it was a much bigger deal speaking in class and people were extremely critical of each other and that there was no—people weren’t trying to work through ideas, everyone was on their little soap box. And it seemed very different from other atmospheres where people could raise their hands and say “I don’t understand. Can we go through that again?” that seemed absolutely not the point of the classroom. It seemed like the point was to allow people to practice hearing themselves speak. And I found it intimidating and boring. And alienating.

Questions simply seeking clarification or additional knowledge seemed inappropriate in this environment.

If professors could really create an atmosphere in which students could ask questions, particularly when you’re trying to work through some of this complicated stuff, that would be helpful. I think it needs to be more of a working environment, and less of a soapbox environment.

When I first got here I had a very, very different attitude about the way you should act in class. I thought you should ask a lot of questions and make sure that you understood things and interpreted things in your own way. And I would say that within three weeks or so of being here I was starting to back away from that. Because I didn’t feel like, either I wasn’t articulating my ideas very well, or my ideas were, a little off from the norm that they were harder to understand. . . . And I got very, very frustrated about that time.
I guess what’s really remarkable, and I don’t know whether it’s law school or whether it’s this law school, but I never felt it was possible to raise my hand and say “I don’t understand.” Raising your hand in class was about making a comment, about having something to say, and it didn’t seem like you were ever allowed to say, “This is really confusing, could you explain that again, could you clarify.” You were never allowed to not understand, anything. Or admit it. So there’s this sort of veneer that, “Oh, we’re all incredibly smart.” “When we contribute to class it’s because we have something incredibly pithy and valuable to say.” There’s no sort of admission or questioning, public questioning of your own abilities, that’s permitted. And that’s really striking for school. I didn’t feel like that was the case in graduate school, largely, and that seems like a real problem to me. Because if you then find yourself, which I think at times I did, sitting in class and not really understanding what was going on, I didn’t feel like I could ask in a public way. . . . I don’t think I would feel comfortable going to a professor and saying, “You know, I really don’t get this.” Because partly, usually when I didn’t get something it was harder even to frame the question and say, “This is exactly what I don’t get.” You weren’t, you just weren’t allowed to not know. So that’s a problem with the classroom experience, I think.

I feel like I’m not authorized to ask a question, a simple question. Either because I don’t understand the material, or to throw out a half-baked notion I had or connection I was making. I feel like I need to have a complete system, a whole speech, a really coherent comment in order for me to feel legitimate enough to put my hand up.

Moreover, the few women who do participate regularly run the particular risk of being singled out by others for their out of the ordinary behavior. This can be a great inducement for women to keep their mouths shut in class.

I don’t know. I’ve just talked to a lot of women, and they’re really, really, smart. And it bothers me that the handful of women that do stick out come across as almost too pushy, or whatever. It kind of gives this horrible perspective, like “Oh, my God, just shut the fuck up.” And it’s like, “Oh, stop being such a catty bitch.” All the worst things that could be applied to a woman get applied to the women who are strong enough to speak out. I’m not saying they should, I think it’s great they do speak, but I think it’s unfortunate, because there are a lot of women out there, were they called on would do really well.

82. See Guinier et al., supra note 13, at 51 (discussing ways in which sexual slurs and gendered insults serve to silence women in classrooms).
I remember there were two women who spoke a lot, and they were really quite pathologized in the sense that—I would see the looks on people’s faces, like, “Oh God, she’s talking again.” And they were remarkable in the sense that they spoke a lot, they certainly didn’t exceed any male counterpart, but they were extraordinary in the sense that they were so far and above any other woman who was talking in the class, and that’s why they were so noticeable. That pissed me off because they both had intelligent things to say, and it seemed like a surprise that they were talking. . . . They weren’t doing anything different than what the men were doing, but they would get shit for it.

One factor that prompted some women to speak in class was a discussion about a topic about which they felt particularly strong. When women cared deeply about an issue, and did not hear their own perspective being represented, that was enough to bring some women into the class discussion. This strategy, too, however has drawbacks. These women run the risk of being labeled “too emotional” or being identified as the spokesperson for a particular group or issue. 83

I remember one time, finally, speaking my mind and not worrying about sticking to the doctrine. That was when we talked about Brown [v. Board of Education], and I just said what I thought, and I felt good about it finally. And it was sort of weird because right after, the African-American student in the class, she spoke up and she also voiced some concerns that she has had over integration. She said, being here, being the only African-American student in our small group and how alienated she felt, and how she’d never felt so alienated before, and especially being in an integrated environment was so weird. She was almost in tears, and then she sort of stopped, it was like, “Oh, did I say, oh God, what did I just say?” And then she said, “I don’t know if anyone else feels this way.” And then I was almost crying because I was thinking, oh my gosh, especially after finally unleashing what I thought about the case, and stuff. I was like “I do too.” Then our professor said something that didn’t really help. And then this one guy said something about it not being about race but about Blacks and crime, and it was horrible. So I just . . . that was really the only time I really remember participating.

Just what sort of forced me to overcome the inhibition not to talk would be something I cared very deeply about. What usually pushed that would

83. For more on the burdens of being a “group spokesperson,” see Kimberlé W. Crenshaw, Foreword: Toward a Race-Conscious Pedagogy in Legal Education, 11 Nat’l Black L.J. 1, 6-9 (1989); Guinier et al., supra note 13, at 46, 66.
be a sexual orientation issue I felt was being grossly neglected. And that has come up almost in every class I’ve ever been in, at some point I’ll have to, like, bring in the gay perspective or something. And, I don’t mind doing that. I don’t want to become the person that everyone looks to for that, but sometimes it’s just glaring. And especially in situations where the dominant paradigm is definitely skewed toward heterosexuality.

I actually participate a lot more when I feel compelled to. . . . I actually talked a lot in [a seminar] class, in the beginning, because I felt like what people were saying, they actually needed to hear my perspective because no one was saying it. So I would talk. I felt really disrespected by [the professor] because he was like, “Oh you’re not making legal arguments, you’re making policy arguments. And you have a personal stake in it, you’re so subjective.” That was the sense I got from him. I kept talking, and finally one day someone said, “You’re just making a policy argument.” Which is actually an argument I’ve seen in all these law review articles since then, so I’m like “Hey!” I got so mad, and I said, “You talk about it on this abstract doctrinal level, but you’re forgetting it actually has implications for people.” When I said that, and I was upset, after that [Professor X] started to get better. And then it was weird because I didn’t feel such a need to add my perspective so I stopped talking so much, since it wasn’t necessary.

1. Disengagement with the Subject Matter

There are two things [that I liked least first semester]. My incredible discomfort with being in class. And my sense that whatever the educational philosophy was, it was systematically failing to bridge the gap that I had between my previous academic and intellectual work and what it meant to study law. I think I was deeply frustrated with what I felt was a pedagogical failure, or a pedagogical unwillingness to make that transition easier, because now I know that it’s possible to make it easier. But at the time I just suspected that it couldn’t possibly be that this was the best way to begin teaching law, and I think that instinct was accurate.

Ironically, if women are moved to participate through engagement with the subject matter, another aspect of the classroom experience for many women was their disengagement with the subject matter. Both the content and method of legal education, it seems, was confusing and alien to many women. Some have

84. Weiss and Melling characterize the comments of women in their interviews about classroom content as “centered around two themes: Legal education was narrow or acontextual; and legal discourse focused on a
argued that classroom silence represents laudable resistance to an alienating classroom environment or an understandable coping mechanism. Others, however, have pointed out that "opting out" of the educational process does not enhance students' learning experiences. . . . Silence, even when powerful and political, is not without costs in terms of self-esteem, alienation, and professional achievement.

At least at the beginning it was difficult for me to discern what [Professor X] was trying to get out of each particular dialogue, what he was searching for as he asked each of the questions. And as the semester went on, I think I started to figure it out a little bit, but at the beginning, I didn't—it would seem like it was kind of word play, and I didn't really understand what the goal was, or what greater understanding we were supposed to have reached at the end of the class.

I was totally traumatized [by classes]. . . . I was having a real difficulty relating to my texts. I would open up a case, and I'd read it, and I'd be like, "I don't have any way to figure out where to start. This is either idiotic gibberish, or way over my head." But the whole understanding the grammar of law was a really big barrier. So I would go into class, and the whole experience of class was like, all of a sudden being a foreign exchange student in the Soviet Union, and not having taken basic Russian before showing up. Although I could, obviously, communicate with my classmates, and I think part of the reason that I knew that my experience was unique was that I would listen to other people talk, and maybe they were just putting on a happy face, but they would be like, "Oh, yeah, things seem pretty mellow. This isn't very hard. Our reading load is pretty light." And I was like, "Well, yeah, the reading was pretty light, but, God, does it make any sense?" And since everybody else wasn't having that same response, I knew that whatever was happening to me was a little bit weird, or maybe people had come into the institution with a different kind of preparation that made it make sense.

I didn't feel like I had any foothold at all [my first semester]. I totally did not understand about my classes, or, you know, how exactly they related to becoming a lawyer. I wasn't interested in them intellectually, at all really, except for Con Law, and I didn't have any female professors or role models, and there was not even a place in this building where I felt I could go and read and be comfortable during the day.

86. Guinier et al., supra note 13, at 65.
I was surprised that it wasn’t the academic atmosphere I thought it would be. In Torts, for example, throughout it was about who hit whom, and what are the damages, which is what I guess it’s supposed to be. But I was immediately interested in going on to the further question of how is it that we have materialized human emotions and human bodies. Like if you lose your arm up to here, that means X amount of money, and are we comfortable with the reduction of all human existence to a price tag. I tried to bring that up, and that was my first slap in the face. . . . It was the first or second day of Torts, and something came up that I thought really had to do with Marxist theory. So I ran down after class—I was so excited—and said, “This has to do with [Marxist theory]!” And [the professor] looked at me like, “You dumb-ass, this is a first year Torts class. We don’t talk about things like that here.”

The class sort of started in a way that was—the beginning of class in law school—started in a way that was just so different from the way that classes used to start in college. The first day, they’d sort of say, “here’s the outline of what we’re going to talk about in this class. And this class is about these three key concepts. Here’s how we’re going to map those three key concepts, through whatever it is our subject matter is.” In law school, the first day of class was, not necessarily picking on someone, but, you know, “Mr. Jones, could you state the facts of Smith v. Wesson.” And, no context, no understanding of what the subject matter was. And the subject matters had names that were just not helpful. Like, Property, or Torts, or Contracts. I mean, the fact that people—and people joke about this in law school all the time—that you can finish a Contracts class and have no clue, whatsoever, what a contract is, is true. And one of the reasons is that, I think, unless you come into the class with some vague concept of what a contract is, all the class does, in many ways, is mystify—more—because there’s never an original lecture, where someone says, “let’s break this down. Here’s the framework of the law, here’s what the components of a contract are.”

I felt very disengaged from my classes. I couldn’t figure out how the casebook stuff had anything to do with what I might do as a lawyer. The kind of reasoning that we did seemed so abstract and removed from life. The kind of reasoning I had done in my college papers was all about dynamics of race, gender, social realities, and contexts of different historical times. And I felt like that had really given me a lot of insight at times, and I had really enjoyed that. Whereas the kinds of work we were doing here was totally removed. It was like we had these three-prongs tests that you applied to get a result. . . . And no one was talking about
the contexts of things or what might be driving different decisions or movements in the law. And it felt weird and artificial to me. And particularly because the stuff you do in the beginning is really boring anyway. . . . It seemed really boring, and like artificial stuff. It was just boring.

In some cases, the alienation from content was related to the “Law and Economics” paradigm that is so prevalent at the Yale Law School. This framework for examining the law tended to exclude other frameworks that women may have found more relevant or useful. Contextual learning and practical knowledge also seemed excluded from the classroom, and this in turn drove many women away from the discussion.

The [economics] paradigm, I didn’t feel that comfortable operating within it. And a lot of people attributed that to my not knowing enough economics. But actually, I’d taken a fair amount of econ, and I understood the concepts, but I just didn’t particularly see it as an overarching—as the theory with the most explanatory power, let’s put it that way.

I had a Contracts professor who explained everything in terms of why the remedy had been economically driven, and he would do algebra equations. Which I guess is—that’s his context for things. I remember there was one case about a divorce settlement for instance. And he did this entire economic explanation of why the breach of contract result was a certain type of damages, and he hadn’t considered the fact that the woman’s work in the relationship had not been assigned any dollar value. You know, it was the one time in the class that I really spoke up and was stubborn about something. But it was just really distressing.

It’s a real paradigm shift to come here. Particularly because I had absolutely zero background in economics. People were talking about Coase Theorem, and the least cost avoider, and all these things I had never heard of. Just talking about Torts in this paradigm that was completely alien to me. And also I felt that the case discussions that went on in class were conducted at such an abstract level that things were not necessarily brought down to the real world, and I felt that that’s the area that I could have contributed to the class discussion. If we’re going to talk about Goldberg v. Kelly, let me tell you some stories about people I lived with and worked with, and kids that I’ve taught. I’ll tell you some due process problems! I just felt there was rarely any opportunity to inject those kinds of comments into the conversation. And a lot of it was me; I just felt inhibited, and I probably should have spoken up more. I just
think that the things I would have wanted to contribute, the real world experiences I would have wanted to contribute to class, there just wasn’t really a space for.

I think I’ve alluded to this before, but the fact that sort of experiential knowledge and insights are really disregarded by a lot of professors, so I think I’ve tended to try to take professors who don’t disregard that. But I think in a lot of classrooms there’s that sort of dismissiveness about narrative. And I do think, like a lot of times when a person of color or a woman says something that’s more visceral, or more emotional, that it tends to be sort of debunked by other people, and I feel like, a lot of times it’s just a game, a pointless game, so I tune out. A lot of times when the professors, not just the male students, but predominantly among male students, tend to engage in a lot of word-smithing, and you know, just this sort of back and forth sparring that I think serves them more than anybody else.

2. Small Group

The first year curriculum at Yale Law School consists of Contracts, Torts, Constitutional Law, and Civil Procedure. Traditionally, three of those classes are very large—80-100 people—and one of the classes, the "small group," has no more than 18 or 20. The small group members also take all the large classes together. The idea behind the small group is that it is an opportunity to develop a relationship with at least one professor, a chance to make close friends, and a place to have a more in depth discussion about a particular area of law. The small group is also where students are expected to learn legal writing. For some women, the promise of the small group proved true, and the small size made class participation more comfortable than in the large classes. For others, it was somewhat of a disaster, and habits of non-participation, non-engagement remained.

Our small group—the people in the small group got along really well, for the most part. We were all pretty tight and did a lot of stuff together, sort of, formally and informally. . . . So we spent a lot of time together, and we’re still, most of us are still pretty good friends. Pretty close. There were three women in the small group who felt really left out, or disenfranchised, or not wanted, I think. Some of us really tried hard to include them, and they still didn’t feel included. And then, I’ve never understood that. . . . But, aside from that, people were pretty close, and still are pretty good friends.

It was small. And quiet. Honest, not to professor bash, but in comparison
to talking to my peers about their experiences in their small groups, my small professor did not get the concept of small group in that she did not permit us to speak very much, or I felt like it was too difficult. Not that I particularly wanted to speak, but I thought it—I mean it would have been a good thing for a professor to encourage me and force me almost to speak. Otherwise, I would just sit there quiet, as I did in all my classes... . I didn’t feel like I had anything impressive to say that was worth fighting with the professor for talk time.

[My small group professor] has always made me feel comfortable in the law school, and I think she’s tried to build up my confidence in being here. And I really appreciated that. And I wasn’t scared of her. I really wasn’t scared of her. And I don’t know if that’s because she’s a woman professor. I don’t know if I would feel differently with another professor, but I really never felt tremendously scared of her, the way I felt, strangely, around some other professors. I felt comfortable with her, and so appreciated having her as my small group professor, for that reason alone. She could have been the worst teacher in the world, and I wouldn’t have cared. I would have been glad to have someone that I felt comfortable with.

My small group had a very conservative cast to it because of a few strong personalities—male personalities that were extremely conservative. Most of the women were practically silent. A couple of the women of color felt very alienated. I know that now that I know them better. There were only about three women who said anything, and I was one of them who occasionally said something. The small group was tight, and did a lot of social things together, and I would sort of go along with some of those, but I didn’t particularly feel close to anybody.

It was probably the worst way to start. I mean it was horrible, it was just absolutely horrible. I mean, even now, I mean it’s not so bad when I think about it now, but I just remember at the time, just feeling completely alienated. The most vocal people in our section were in my small group, the smartest “gunner” type people, and they all loved each other, and they were always talking about what a great small group we had and everyone loved each other, and I just looked at them like, “You’re talking about yourselves.” I mean, there were a couple people I got along really well with and really liked, so that was good, but generally I just hated it, hated them.

Constitutional Law was very stressful because the professor was very brilliant and, most of the time, just making no sense at all. At least, not
teaching the baseline of information. He just went to the question that was most interesting in his mind, and failing to understand that we were not going to have anything intelligent to say about that, without some understanding of the framework that underlaid it. So, that was a terrible experience in being a novice and being treated like a failing professional. We were all failing to reach some kind of standard that was completely inaccessible. And that process of attempt and failure was more undermining, I think, to my self-esteem in the law school, than anything else because that was supposed to be—technically small group was supposed to be this love-fest where you get along with the professor and you get to know them, and you make a connection with people in your class, and it was just not that, on any level. Either with my classmates or the professor.

3. Gradual Withdrawal

If women felt disengaged from the classroom experience in the initial stages of their law school careers, it became worse over time. Gradual withdrawal from classes and other aspects of the law school may simply be a symptom of “third year slump,” as one woman described it, or it may be indicative of continuing feelings of alienation.

I remember the other day I was sitting and thinking, “Aww classes, I hate them,” which is my usual response. I remember thinking how I used to love class. I used to love class in undergraduate and first year, too. And I used to love any subject matter, whether it be math, or whatever. And this is all law, so you’d think I’d be totally psyched. And I used to be, I remember taking Intellectual Property first term and thinking that was so cool. Now I’m just Disinterested Joe.

I think school—classes have been, for the most part, pretty irrelevant. Because, it’s learned helplessness. No matter how hard I work, no matter how much I stay on top of the reading, or try and follow class discussion and kill myself during study period, I’m not going to speak in class, and I’m probably just going to Pass on the exam. I’m not going to get an Honors on the exam. So, I just felt like, well, what I get out of the class is good, and if I can learn a lot, that’s good. But don’t kill yourself. Don’t worry so much, because it’s irrelevant. You’re not going to be a star. You’re not even going to be good. So just do it. Take it as you must.

I think I feel pretty disengaged from the law school in general. But not in a bad way. It was a purposeful disengagement. It’s a stereotypical third year slump or something. I arranged all my classes on purpose, so I only
have classes two days a week. My apartment is far away from campus, so sometimes I don’t make it in . . . . I don’t know, my classes are fine, but I don’t—like I said I don’t feel a particular engagement with law school right now. Maybe I’ll get re-inspired.

I just hate classes, so that’s it. Just in general. I spend a lot of time thinking about it why that is. I don’t know if I’m burnt out from school. I feel like, [I’ve spent] my whole life in school, now I’m twenty-four and haven’t done much else. Total disillusionment with the value of classes, or what they can do for me, really. I’m sure they have tons of value, but I just don’t feel like I get anything out of them. I routinely don’t do things if I don’t feel like I get stuff out of them anymore. I don’t know, I don’t like them. If you can figure out why for me I’d love to know.

This withdrawal, however, is not without cost. For the women who do withdraw, it is yet another time in their law school careers during which they are not engaged with the classroom material, the law school community, or speaking to faculty members. Even at the end of their law school lives, this lack of contact can have significant consequences for mentoring and career building opportunities, as well as their intellectual lives. The women who withdraw also may miss the opportunity to find the community of other women in the law school who have felt the same way about the experience, contributing to the sense of isolation. Finally, the withdrawal has costs for the female law students just entering the law school who are beginning on their own paths of isolation and frustration, and do not see older women to whom they can look for support, such as the student who first directed my attention to the Weiss & Melling article.

4. Socratic Method

I think that there is a big problem in the classroom. A big gender problem. I just think that the Socratic method, or even a modified Socratic method, has a lot to do with it.

Socratic method, the traditional pedagogy of the law school classroom, can be intimidating to anyone. Although few professors at Yale employ the harshest version of Socratic method, many still engage in it to varying degrees. As a teaching method, however, it can be quite controversial. Dusky explains:

While not all students can participate in the large classrooms of law school, ideally [Socratic method allows] other students to learn from

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listening to their peers arrive at the correct conclusions. Handled well, the Socratic method is a valuable teaching tool, and not just in law school; but under the stewardship of someone who is not aware of its pitfalls, it offers only enough “freedom to roam in an intellectual cage” . . . [Socratic method] has come under heavy criticism for favoring the quick and the witty. Many women are not comfortable with the high-combat style of the Socratic method in its purest form. So many choose not to engage. They react with silence.  

In a study of gender differences among students at the University of Pennsylvania Law School, researchers found that “many women are alienated by the way the Socratic method is used in large classroom instruction . . . [The] data suggest that many women do not ‘engage’ pedagogically with a methodology that makes them feel strange, alienated, and ‘delegitimated.”  

Women in the interviews were quite torn about the value of Socratic method. Although few claimed to enjoy the style, some saw the value it might have in drawing shy students out and building confidence in public speaking. Others saw it only as destructive. 

I think it’s hard, again, I think this is from my perspective, and it’s hard to say, “Okay, all you professors should go out and cater to people like me.” But I think there’s definitely an aura and a tradition and a culture in the classroom that causes certain people to shine and buries other people like myself who are shy, who have to get over that. I think there’s a way to sort of keep that virtue, because I think you have to have that as an attorney. They could always baby you through law school and send you out there but that’s a real disservice. But there’s got to be some way that teachers can push you, in a gentle way, but push you more, . . . in a way that’s sort of, you get out there, you stick your neck out, you flub up, but at least you stuck your neck out. And doing that over and over again, sooner or later you’ll learn to land on your feet, and everything’s going to be okay. I guess that, as I said before, I wish professors first year would tend to push more like that. And I think what they’re trying to do is make things really easy, but what that allows is that people who already have that kind of confidence, who did speech and debate all their life, are going to rise to the surface and do really, really well. And I think there are a lot of really talented people out there who kind of just get buried. I think a lot of them tend to be women, and I think that’s really unfortunate. 

I hated the Socratic method, never volunteered at all, and I sort of liked

88. DUSKY, supra note 4, at 13-14 (citation omitted).
89. Guinier et al., supra note 13, at 3-4.
being anonymous actually. I just remember being called on in Civil Procedure and being terrified. . . . I just remember being so flustered the first time, and then the next day he called on me again, just in a way to help me along, so that was okay . . . . [What about the Socratic method made you not like it?] I didn't feel like it was constructive. Depending on the professor, I felt like they were like grilling us, on purpose and making us feel really under pressure on purpose, and that was what I didn't like. In some sense I felt like, "Okay, I guess it's for our own good in the sense that all law schools do this, and so they're using a gentler version of it." But on the other hand I just felt like their purpose was to deconstruct you, and I didn't like that. The fact that it was so analytical, and so, devoid of emotion. So I just felt, like I couldn't be myself, I had to fit myself into this mind-frame that was so unfamiliar. And the whole time I thought it was my fault, because I thought, this is what law school is about so I have to be like this, and the fact that I'm not means I'm not a good student, I'm not smart. So that's what I took away from it, because I don't think like this I'm not smart, what am I doing here.

I think it was this one other class, actually with a woman professor, where I had the worst time. I felt so completely intimidated by her. And it just sort of, it elicited all my insecurities about not really knowing how to do law. It was dealing with issues that I really cared about . . . . but we were talking about it in a way that I felt completely unversed in. And she used the Socratic method, and we were supposed to be prepared every day, and I've never been prepared every day for any class in my life . . . . I felt like it was like being interrogated, the possibility of being interrogated, being put on the spot. I don't work that way. Plus I felt even worse about not being able to do it when it was something I cared about. And knowing that she was demanding. I rationalized it by saying that I was really busy . . . . Then the few times I tried to get myself to go, because I was too scared after not going a few times, I was too scared to try going again. Then I remember one day I convinced myself to go by saying "Oh, she won't call on you. It's okay, she won't call on you the one day you try to go again." And she did! And she wasn't mean, but she took me to task for not being prepared, and in front of everyone said, "You were supposed to let me know you didn't do the reading." I was just humiliated. And after that I really didn't go because I really couldn't take it . . . . Socratic method when you are on notice I don't mind. But when you are not on notice, I think that's what bothered me. Feeling like I had to prepare every day. I think that's what bothered me. And I think the other thing is that the feeling that the other students in the class were really intense about it. That scared me. Because in my heart I tried not to be like them, the people who seemed to know all the answers. Whereas
before I told myself that was all the gunners, the corporate types, to see the public interest types—not gunning—but being very intense. That just made me think, “Oh the whole school is like that.” Not even in a class like this can I get away from that.”

Property was a good example of a class where the professor called on people—and although that was a terrifying thing—I needed to have someone make me speak, throw a curve ball at me, have all eyes on me in class, and know that I could do it. I kind of wish that would happen more. I think I built it up way too much.

I think that—I know this is not a particularly Socratic place—but I think there is very little value in the Socratic method for most students. I think that most students who are turned off by it are turned off to the point that either they won’t come to class or they won’t even listen when someone else is being questioned in that way, or listen in a panicky way. And the people who enjoy it are able to engage in that kind of discourse without the method being used. They can raise their hands and ask questions and volunteer to be called on. I see very little use for it.

I did not [enjoy class] to the extent that I thought the professors were not very good at leveling the conversation. They would tend to do the easy thing and pick on the people who always have their hands up, so you would have a handful of people dominating the conversation in all the classes. As a teacher, having been a teacher and knowing that some kids are shy, like me, I wished that they would push us more, to talk a little bit more. I’m not sure pedagogically how you achieve that in such a huge situation, but in retrospect I almost wish that they had pushed the Socratic method a little more. Not in an abusive way, but just so that people like me get over it. If I can’t affirmatively volunteer because my personality inhibits me from doing that, it would almost be better to have first year professors kind of push people to talk more. Or even warn you, “I’m going to call on you next week.” You can sweat it out then.

5. The Value of Teaching

Another important element in making the classroom experience positive is the person doing the teaching. Many women commented on the lack of importance that professors at Yale place in teaching and how that can ruin a classroom experience.

I think that professors here, I’d say at least half of the professors here are not good teachers. They don’t care about teaching. And actually, teaching
is an inefficient use of their time. I mean, the important thing, in terms of getting a job, or having prestige, is to publish. And no one really cares, really, how your teaching is. . . . And actually, just today, [Professor X] was telling me that he’s never seen people’s class evaluations. I mean, they just don’t matter. Nobody cares. I’m not sure the professors look at them, but certainly nobody—no other deans or anything, look at all of them. That seems to be just something for students’ benefit, something they could care less about. That’s unfortunate and wrong. For how much money we’re paying for this, I wish teaching were more emphasized.

One thing that I realized first semester, or one thing I followed through with last semester was really trying to choose classes based on professors. That was something I learned about law school is that a great subject can be bad without a good professor. Tax was always a course I thought maybe I would take it but, I sat in on it the year before and the style of the professor did not at all sort of match my own learning style. And, in the fall, that was really the highlight—I won’t go overboard, it was one of the best courses I had taken at the law school, I thoroughly enjoyed going to class. And it was nice to have a professor who was dedicated to teaching in a lot of ways. She was very good at it. She clearly put time into her teaching, which I haven’t necessarily found all the way through.

I think I said something [in a first-semester class] the third day, and I just never said anything again, because I didn’t like the way [Professor X] sort of . . . would take what you were saying, and I could tell that he had little mental categories, of like, the five options of what people might say. And so, as soon as there would be two words out of your mouth, then he would say, “Oh, well you’re trying to say this.” What I’m trying to say is I didn’t feel like he was listening to people.

And then the other thing is I’d like ideally for professors to be highly prepared. I have a high expectation. I won’t at all compare my own teaching experience to being a professor, but you know it takes time, it takes time to prepare to be ready in the classroom but I do think there should be more of a commitment to being prepared for lectures. Yeah, that’s something that throughout the three years has sort of hit home is that there’s a lack of dedication to teaching.

B. Faculty Interaction

I just didn’t have . . . to be honest I don’t know what I would have approached them about. I’m sure I had lots of questions, a thousand questions, but I never really had the desire.
One aspect of Yale Law School that attracts many students is its 8:1 student to faculty ratio. The opportunity to work closely with well-known legal scholars can be exciting for its own sake, as well as important for developing skills and contacts to further one's future career. "Socialization to the professional role," after all, "can be accomplished through emulation of role models." Unfortunately, it is not so clear that this opportunity is being shared equally by all students at Yale. Remarkably few women reported voluntarily approaching professors after class or during office hours. Many reported great discomfort at the idea of faculty interaction. Few considered anyone on the faculty to be mentors to them. Writing requirements, which are at least in part intended to help students develop relationships with professors, seem to be doing little to help women in this regard. Although experiences with professors ranged from very good to nonexistent, the overall theme was a lack of contact with faculty members.

Women's lack of contact with faculty has also been found in other studies. The ABA Commission on Women in the Profession reported that many women in their study reported being "struck by the lack of female role models either inside or outside of school." Male students in the University of Pennsylvania study, for example, "appear to be far more comfortable speaking with faculty of either gender than female students." "Women are, in fact, excluded from the latent learning structure," concluded Guinier and her co-authors.

Having to talk to a professor, I don't know, mainly I think about it as a negative thing. Something, another opportunity for my self-esteem to be destroyed.

I would never have gone to speak to any of the big class [first semester] professors at all. I felt no connection to them.

I sort of toyed with talking to [Professor X] at some point. And then I just thought, "Well, what is he going to say to me?" So, no, I think [my small group professor] was the only faculty member I talked to about anything [my first semester].

[Third year] I found that I had to ask some professors for recommendations. So that was about the extent of my faculty interaction. So I remained constant at the level of zero, I guess I should say.

90. See, e.g., STUART & STUART, supra note 56, at 312.
91. EPSTEIN, supra note 4, at 288.
92. ELUSIVE EQUALITY, supra note 31, at 11.
94. Id. at 71.
I mean it's very little. It's not nearly as much as I had in college. In college, I would see faculty all the time, every day, it was a very, very good relationship—between all students and faculty in my college. So I think the interaction here is not enough.

What's your overall evaluation of your faculty interactions? It's nonexistent. I don't even have an opinion.

Faculty interactions ranged from just generally unpleasant to maybe misunderstood. I mean, I think that because I felt so uncomfortable in the law school most of my time here, my ability to relate to faculty is pretty limited. . . . So, I think I've come away with the sense that I wish I'd been able to relate to more of the faculty in a more constructive way, but I just couldn't, because the place was just too creepy.

Worse than the simple lack of communication with faculty were the overtly negative experiences that women reported:

Oh, and actually I also talked to [my small group professor] on the phone about my brief. . . . The phone call was sort of not a really positive experience. . . . I think basically what happened is he had some assumptions he made about me based on my demographics, that somehow that was why I'd included certain materials or taken the approach that I'd had with the brief. So he voiced that, and I found that sort of offensive—that he thought I'd put this little analogy in the brief based on the fact that I was a wife and mother. I probably thought that story was effective, and you know I really don't think that was the basis of where I was coming from. I was just sort of learning how to do it, and my impression was that was one of the approaches you took in brief writing. . . . [How did you react to that comment he made to you?] I think I tried to explain where I was coming from with it, and he didn't seem very interested in my rationale or explanation. . . . Well, my feelings were hurt, but because it was in a phone call situation I wasn't in a position where that was revealed in the course of the conversation to him. So I just really continued on to get the information about what I could, about the changes I needed to make, and tried to do it as quickly as possible, to terminate the call, I think that was mainly how I chose to handle it.

Are there specific things professors can do to make it easier to approach them? I think if they were kinder human beings, or at least more sensitive. You know, I think sometimes they're clueless, and it took me a while to realize this, but my small group professor, a couple—two or
three times—last year I saw him in the hallways and would just say “hi” and talk to him a little bit. I remember, more than once, but this one time especially it was horrible, I was in the middle of a sentence, just being friendly, and I never asked him for anything, really. Last year I’d gone to talk to him about women’s experiences at the law school. . . . And after that we had this good talk, and I was like, “OK, he actually respects me more now.” Whereas before he’d always been sort of, I didn’t think he liked me very much. But then in the hallways later on again, when I was talking to him, and just asking him a question, in the middle of my sentence he like sort of gave me this look, and just walked away from me, without a word. And that was the second time he’d done that; the first time I’d thought, “He just thinks I’m busy.” But when he did that again I was just... I think because I thought we were on better terms at that point, the fact that he did that was so appalling to me. . . . It just brought me to tears. So, I think just sort of common decency.

Many students expressed the distinct impression that most faculty members perceive student interaction as a waste of time, except insofar as it might be directly beneficial to the professor’s research or career. Faculty interaction, the interviewees felt, was something reserved only for the academic “stars” of the school. Obviously, the idea that student-faculty interaction is for the benefit of the faculty member, or should only take place if it is not a burden to the faculty member, is the opposite of the ideal university setting, in which faculty serve to facilitate student learning.

It just seemed uncomfortable. I would hurry, say what I had to say, then get the hell out. . . . Like I was writing a paper for [Professor X], and every time I went to talk to him, it was like [I would talk very fast] and out the door. I’ve actually never, ever gone into a professor’s office where I haven’t felt like I was being completely intrusive. I would just spit out what I was going to say. I’ve never felt like I could go in and have a comfortable chat.

My overall evaluation is that faculty interactions have been pretty disappointing. There have been exceptions. In two cases visiting professors, not professors from Yale. So definitely, as compared to my college experience, egregious. [What could have made it better?] If they had been more open to students—if they had let it be known that they were interested in talking to not just students who had brilliant new theories about constitutional law, but also students who wanted to talk about history, or, I mean anything. I don’t think it’s accidental. I think they feel their time is more valuable than that, a lot of them, and they don’t want to waste their time.
I thought that I didn’t really have anything to contribute, and that my questions would probably be a waste of time. Also, I had a general sense that office hours here were not the same as office hours where I went to college, where the professor would just be sitting there, hanging out with people, chatting. . . . I didn’t feel like the professors were inviting in that way, although I never attended, so maybe they were having the same kind of fun. I’m not sure.

And just in a general sense, I was very much aware that, unless I had a very specific question about something we had read or something that had been discussed, I didn’t feel comfortable feeling that I could go up to a professor and just start talking. . . . I remember trying a couple times to go talk to a couple of my professors, my bigger class professors, about my exam, or something in class, and the conversation was always very brief, and I think it was frustrating. I felt like I couldn’t, I couldn’t begin to really talk to some of my professors. And that can just be a personality thing sometimes, but I think that a lot of it has to do with the backgrounds of the people who teach here, and the experiences of most of my professors, and the fact that most of them are men.

The other piece of the picture seems to be the perception that only certain students get the valuable attention from faculty members. Students perceived that a few “stand-out” students are getting attention from faculty, to the exclusion of themselves and others. Several women commented that it was male students who were singled out for this treatment while women tended to be among the group of students excluded from this faculty attention.

I think that the power brokers of the law school choose the people who are going to be stars . . . the powers that be on the faculty at the law school choose people who remind them of themselves when they were younger. And I think it’s hard for them sometimes to see women students that way, and I think that’s kind of unfortunate. Maybe that’s partly me, my political views and career goals just not meshing very well with faculty. But I also think there’s a gender thing there. I think the gender thing interacts with the political thing. And I wish that there could be more diversity in the faculty. I think that would help a lot in terms of the mentoring situation. I think that has to be the number-one priority.

I think that if you’ve got the chops, if you’ve got the goods, it’s a great environment that would facilitate your getting to know a faculty member and having them help you and develop you and get your writings published or whatever. I think Yale would be an ideal place for somebody
who had the ability to do that. But I didn’t particularly feel like I got to take advantage of it. As far as just basic reinforcement, I would say in my graduate program, I got to know the professors and got at least more positive feedback. I don’t get much feedback here.

And at this point I feel like there are some professors who are respectful of me and listen to my ideas. But, it’s hard for my ego, considering my interests, in the hierarchy of this place. I know that I wouldn’t know some of the luminaries of our faculty if I passed them in the street. I think that it’s too bad in a sense. My father had a poster in our garage that said, “To do a common thing uncommonly well.” I always felt that if you were going to be a legal services attorney or public defender, you could be an excellent one, and that would be a worthy goal. And I’ve gotten this sense here from the regular faculty, from the powerbase of the law school, that that isn’t necessarily respected. Because my goals are a certain way, I’m not going to be picked out to be a star. I guess I don’t need to be a star, but I had envisioned this place being different. I had envisioned this place more about producing lawyers, than professors. I imagined that I’d get more—I don’t know—respectful assistance towards the goals I had selected for myself.

Perhaps even more troubling than the lack of interaction between women students and faculty is the tendency of many women to blame themselves for it. Even women who actively sought out contact with their professors in college now find themselves on completely different ground.

They’re all so high-powered, and it was like “what could I have to say to them?” I couldn’t talk the law with them. What else could I say to them?

Unless I am suffering from false consciousness, I don’t think I have any desire to approach the professors. I don’t know why. I loved my professors in undergrad. . . . My professors in undergrad and I were friends and obviously not intellectual equals, but we could share on an intellectual level. They were very fulfilling relationships. And here, I just felt like they were the professors and we were the students and that was that. I don’t know. I don’t know. I didn’t even think about whether I wanted to approach them. This was law school and unless if you have the cutting-edge most brilliant thing to say, don’t bother. And I already knew I wasn’t going to have one of those thoughts in the next three years, so I didn’t even think about it. And I hate to say, “Oh it’s their fault, because they never made me feel welcome,” because I never had any desire to talk to them. I’m not sure why I didn’t have that desire. I just know that I didn’t, and I still don’t.
Some of the blame has to be put on me, because I didn’t feel comfortable seeking it out. ... I didn’t really seek out interactions with professors outside the classroom. But that doesn’t mean that, had the interactions in the classroom been a bit better, I wouldn’t have been more comfortable. I mean, when I’m more comfortable talking to professors is when I’ve talked to them in class, and they know who I am. So the faculty interactions have been better when I have been more comfortable in the classroom.

I guess it could be better, but I think that’s just me. I very rarely had anything that pressing I wanted to talk to a professor about. I can’t really complain about it at all. ... At the same time, I guess I just don’t think about it because no one encouraged me to do so. I don’t know.

Cultivating relationships with faculty members can result in academic, intellectual, and career rewards for students. Unfortunately, without contact with professors, students may forego the opportunity for feedback on work, research opportunities, letters of recommendation, or general mentoring. The consequences can range from having no person to act as your guide through the complexities of law school to not being able to apply for a job because you lack the requisite number of recommendation letters. While some women recognized the practical end of these relationships, many still found themselves unable to benefit from them.

It was one of those things that was in me. I wasn’t burning to talk to them after class, so I didn’t. I think that was—in the big gain-scheme—the wrong thing to do, because I needed to be developing relationships with these people. ... But I absolutely refuse to just make something artificial to get a professor to sign a recommendation for me. I can’t do it.

I should have been better about it all along, because the people who have done well, very early on made connections with the “big boys.” I didn’t do that.

Still didn’t interact with any faculty to the best of my recollection. ... In fact, it was to the point where I’d thought of an S.A.W. topic at the beginning of the year in one of my classes, and just waited until, in fact the very last class to ask my professor if he would advise me, cause I was just too chicken to go talk to him. Not even chicken, I just didn’t want to talk to him. I didn’t want to go there, didn’t want to say “Professor, will

95. See Guinier et al., supra note 13, at 71-80, on the benefits of the informal aspects of the legal education.
you supervise me on this topic? I have a great idea." It's not chicken, I have no idea what it is.

I've gone to one professor the entire time that I've been here, to talk to him about my exam. . . . And I just asked him if I could look at my exam. At which point, he said, "Do you want to sit down and talk about it?" I said, "Sure. Why not?" And it was wonderful. He was really great. He said, "Well, this is this, that's that." He was just so supportive; it taught me a lot. I thought, why haven't I done this before? I would be getting H's if I had spoken to any one of my professors in first year or second semester. Why haven't I done that? I really regretted that I waited until so late in my career to do it. So, I just sort of think like, so much of my own fear has crippled what I have done in the law school. You know, choices that I didn't make, opportunities that I didn't take in law school. That has been an error.

Although most of the women I spoke with did not have many positive faculty relationships, some of the interviewees spoke about a few very fulfilling relationships with professors. It is probably not coincidental that these relationships tended to take place with either clinical faculty members, visiting professors or lecturers, or professors of color.

Clinical faculty positions at Yale, as they are at almost all law schools, are considered not as prestigious as "regular" faculty positions. 96 The clinical faculty do not vote on tenure decisions, and are generally physically segregated from the rest of the faculty. The common perception is that the clinical faculty cannot "pull as much weight" for students in helping them to get jobs, publish papers, or other important career moves. In other words, they are not as "powerful" as the regular faculty members are or are perceived to be. 97 Moreover, the combined teaching and advocacy roles that clinical faculty play can be more time-consuming than the typical teaching-research load of a regular faculty member. Visiting faculty, by definition, generally do not have the prestige or clout of full professors. Moreover, unless they are offered tenure at Yale after the visit, contact with them tends to be brief, lasting only the time of the visit. Visiting lecturers have an even more precarious position in the faculty hierarchy. They are often practitioners, to whom the law school has no intention of offering tenure. The professors of color at the law school—of whom there are six men and one woman (not including members of the law school administration) out of a

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96 See, e.g., DUSKY, supra note 4, at 93. Dusky explains that women tend to be "clustered in the clinical programs and teaching legal writing courses and have nearly zero input into the direction of the school. . . . In general, clinical instructors . . . do not serve on faculty committees, and they are paid less than their academic colleagues and they most certainly do not vote on who gets tenure since they do not have it themselves." Id. See also Farley, supra note 46.

97 Farley has argued that female professors, who tend to be ghettoized in clinical and writing programs, are presumed incompetent, and thus must prove themselves to their students. See Farley, supra note 46, at 335.
faculty of over fifty—have the heavy burden of being role models and mentors to a disproportionately large group of students. The net result of this pattern is that women seem more able to establish positive relationships with faculty who are perceived as less prestigious and who may be able to do less for them in terms of career mentoring. Moreover, the kinds of professors with whom women reported having positive relationships are, numerically and status-wise, less well situated to spend the time fostering relationships with students.

Talking to my small group professor was great. [What about him made you feel comfortable?] Just that he’s one of three Black professors here. So, that’s probably why I was drawn to him before someone else. Because I thought that in a sense, we shared a common history. He’s also a graduate from the law school, so he has an idea of what it’s like to be a Black student in the law school. He’s very active and caring about how the Black students are doing.

My interaction with the clinical faculty is wonderful. I don’t know, they’re just very friendly, warm people. It’s not just like, touchy feely mushy. I just feel like they’re people who respect me, and I don’t have to prove anything to them before I ask them how their day is. And I feel like I can ask them how their day is, I don’t have to go with some new revelation. I can just say, “Hi, how are you, are you having a good day?” And when we talk law, I feel like I can talk law.

This is interesting. When I applied for clerkships, I had two recommendations by women professors. I know they gave me fabulous recommendations. Later, I heard from the clerk of one of the judges who said the reason I didn’t get the job was because my recommendations weren’t as strong. I’m sure in part it was because it was two women. If I had had one of the big sluggers in there . . . I really do imagine that would have made a difference. One was a clinic professor and a woman, and the other was a woman.

I think the clinic in a lot of ways sets up this dynamic where you’re meeting with the professor and you’re supervised by the professor. So it was an opportunity to finally be engaged with a professor and be working with a professor. And I think in a lot of ways the structure of the clinic lends itself to that.

I had a great experience with [Visiting Lecturer] Steve Bright. I ended up

98. See ELUSIVE EQUALITY, supra note 31, at 27 (discussing the fact that “women on the faculty, particularly multicultural professors, are asked to spend a greater amount of their time mentoring students”).
chatting with him outside the class. [What about him made you feel more comfortable talking to him?] He’s just like—Steve. He’s got this wonderful personality. He’s genuinely interested in everything you have to say. He would drop everything, even though he’s swamped and busy. I think people respected the fact that he was busy, so they didn’t just go to him to shoot the shit. But at the same time, his door was always open.

The few other positive interactions that women had with faculty tended to be with people who recognized the student’s need for validation of feelings she may have thought of as atypical.

Well, the professor I feel most comfortable with now really values differing points of view and relating things to life experience. I feel very comfortable with her because it’s harder to say something that is wrong or that is easy to criticize on a personal level.

Professor Deutsch. I loved him. I thought he was such a good person, completely misunderstood. He really sincerely tried to teach us, and cared about us learning, which is something I hadn’t felt first semester. I think he took me seriously, so I actually spoke and participated. It was weird. I think he knew I was resisting the law, and he would tell me so. I actually talked to him outside of class once or twice, and he said, “I think you’re resisting it, but sometimes you have to give in and realize it is going to change you.” The fact that someone recognized that. Wow.

I can’t remember liking anything, except maybe for Burke Marshall. . . . I asked him what he thought about what people who wanted to do public interest stuff should do, and he said “Well, you know, I have a lot of students who have gone to firms thinking they would just pay back their student loans and have gotten sidetracked, so I just really think you should do what you want to do.” And that was a really nice message I hadn’t been hearing from a lot of people.

Although almost all of the women said that they did not feel comfortable approaching professors, one woman was a notable exception. She reported several positive relationships with professors, initiated through her own efforts.

One thing that sort of sums up that first semester a lot is that I would go to professors who I didn’t even have classes with, and knock on their door, and say, “Hi, I’m a first year. And, you know, you went to [X University], I went to [X University],” or some, whatever random connection. And they were all so nice, and invited me in, and asked me how things were going, and were interested and happy to talk to me. It
was just great.

Even she, however, recognized that it was difficult to approach professors at times and that not all people feel comfortable taking on the role of initiator as she did.

Most people don’t have office hours, which is a big problem. So, a lot of people feel like, if they don’t have something really substantive to talk to them about, they can’t go talk to them, because they’re interrupting something. That never bothered me. I sort of felt like, if I’m paying $30,000, these people owe me 15 minutes of their time. . . . I talked to all of my other professors at one time or another. Usually about something in class. People that weren’t my specific professors, I would just go and chat with about various things. And, there were—first semester there were about four professors that I did that with, who weren’t my professors. And I’m still really good friends with at least a couple of them. And they were always helpful. . . . But, I wish [professors] would sort of volunteer to help [students] more. I think it’s really a disadvantage for women that people are happy to be your mentor if you seek them out, but they rarely seek you out. I would certainly be happy, and feel even better about it, if someone else had sought me out. As it turns out, it was fine for me, because I felt comfortable doing that. But if you didn’t, I think it would be very hard on your self-confidence. Because you would see other people around you, having mentors, and even if they sought them out, you wouldn’t know that. You might think the professor called them into their office, said, “Oh, you’re brilliant. Be my research assistant.” So I think that’s really damaging to people’s self-confidence.

Surprisingly, even this student had trouble asking professors for the all-important recommendation letters.

That, the main hurdle, the main difficulty about of that whole thing for me was asking for recommendations. I think that’s true, actually, of a lot of women. Even though I was great friends with these professors, I was uncomfortable asking them for a recommendation, because I felt like it was sort of a burden on them. I had to psyche myself up for it by saying, I’m paying $30,000 a year. They owe me. This is their job. This is what they do. I’m not asking them some favor.

C. Finding Mentors

If I considered anybody a mentor? Wow. No, that’s inconceivable.
Historically, the legal profession is all about finding a mentor. Before law schools gained currency, most careers in law started when the young scholar would serve as apprentice to a seasoned attorney or judge. Although law schools have replaced the system of legal apprenticeships, finding a mentor, both when in school and in practice, may mean the difference between a successful or unsuccessful legal career. Mentors can help students navigate difficult choices when in law school, give advice on career decisions, help young scholars publish articles, or introduce students to important contacts. Mentors can also serve as role models to students. The mentor most importantly is someone who is familiar with the student’s goals and abilities, and is in a position to help the student achieve those goals and shape those abilities. Professor Guinier has described her own role as a mentor:

To students who feel similarly disembodied . . . my presence in legal education offers refuge. In their eyes, I am “there for them.” Indeed, for some, I am them. I am not merely a law professor. I am a role model. In the conventional sense of the term, I function not only as a teacher but as a symbol for certain student voices and aspirations. I bear witness as a trophy of achievement. My conspicuous presence may rebut assumptions of group inferiority that undermine student confidence and performance. My example not only legitimizes the competence of matriculating minority students; my visibility helps lure minority and female students into the profession . . . But in my own eyes, I am a mentor more than a role model. I hold my students to high expectations of themselves, not of me. I facilitate their learning, not my being. I view teaching as a reciprocal, interactive relationship that is primarily about their education.

Unfortunately, a substantial number of the women interviewed reported having no one whom they would call a mentor, echoing the lack of faculty contact reported by many of the women. Of the nine women who did say there was someone at the law school whom they could call a mentor, the vast majority named clinical professors, female professors, and professors of color (the categories often overlap), and low-status lecturers. Again, this mirrors the pattern of faculty interaction. Four out of the nine who said they had mentors named Professor Jean Koh Peters as a mentor—a woman, the only woman of color on

99. See, e.g., Michael Burrage, Revolution as a Starting Point for the Comparative Analysis of the French, American, and English Legal Professions, in 3 LAWYERS IN SOCIETY: COMPARATIVE THEORIES, supra note 48, at 322, 345-48 (discussing change from an apprenticeship- and clerkship-based system to a university based system for entry to the bar).

100. See Guinier et al., supra note 13, at 74, and accompanying notes (“finding a mentoring relationship positively correlates with institutional success”).

101. LANI GUINIER, Models and Mentors, in BECOMING GENTLEMEN: WOMEN, LAW SCHOOL, AND INSTITUTIONAL CHANGE 85, 90 (Lani Guinier et al., 1997).
the faculty, and a clinical professor.

Sociologists have noted the tendency for people to be more willing to professionally nurture people who look like themselves. Rosabeth Moss Kanter, for example, has described the phenomenon of “homosocial reproduction” in corporate settings; that is, a kinship system “in which men reproduce themselves in their own image.”102 To the extent that this happens in law schools, women are at an immediate disadvantage simply because of the ratio of male to female faculty. Dusky notes that “women [law] faculty are more likely to mentor women students, and women students are more likely to perceive women teachers as approachable.”103 More specifically, “studies have shown that same-sex mentors are beneficial, which puts women at a disadvantage because of limited choice.”104 If this is true, then it seems likely that the fact that the majority of the faculty is white and male is influencing which students can find mentors, and with whom they may be able to find mentoring relationships. Moreover, “in the absence of overt friendliness cues, female students often do not seek out mentors in a male-dominated faculty.”105

As I explained in the above section on faculty relationships, women and people of color are a very small percentage of the law school faculty. Clinical faculty, where many of the women of the faculty (and the sole woman of color) are concentrated, occupy a relatively less influential position in the law school. Their small numbers mean both that it is more difficult for students to find them, and that those professors themselves have a heavier burden in answering student demand for mentors.106 The lower status position that many of them hold possibly means that they have less clout to wield for the students who do claim them as mentors. To the extent that women did find mentors, that is certainly a success story. Moreover, it may also be true that even if clinical faculty or lecturers wield less influence in traditional legal careers, they may know more about careers in the fields students are specifically hoping to enter. It is nonetheless troublesome from the standpoint of women obtaining parity with men in the legal profession, and for the women whose interests and paths do not coincide with the available mentors, that women’s mentors are concentrated in these categories.

102. ROSABETH Moss KANTER, MEN AND WOMEN OF THE CORPORATION 48 (1977). Kanter explains that this system provides “reinforcement for the belief that people like oneself deserve to have such authority. . . . [It becomes] an important form of reassurance in the face of uncertainty about performance measurement in high-reward, high-prestige positions.” Id. at 62-63.

103. DUSKY, supra note 4, at 114.

104. PAULA NICHOLSON, GENDER, POWER AND ORGANIZATION: A PSYCHOLOGICAL PERSPECTIVE 104 (1996). Note, however, that this does not mean that women can never have male mentors, or vice versa. Sociologists have noted, however, that “[w]hile male mentors might be effective in the medium term, there are problems with long-term relationships between senior men and up-and-coming women. Issues of sexuality and power are likely to inhibit the quality of the relationship.” Id. at 105. Moreover, male mentors are unlikely to be able to show women how to be successful as women in a mostly male career setting.

105. Guinier et al., supra note 13, at 75.

106. See ELUSIVE EQUALITY, supra note 31, at 27.
There are two people that I would go to for advice. I’m not sure that I would call them my mentor. . . . Even sometimes on a personal matter or on something career related, I would talk to [Clinical Professors] Kathleen Sullivan or Bob Solomon. I don’t know if I’d call them my mentors, though. But I’ll have to qualify that with, neither did I feel like I wanted one. I don’t know, that’s not my style, really. [You didn’t feel the need for one?] No, maybe it just goes back to the old treadmill thing, I’m just doing my thing, you know?

You know, the only person that I think would want the best for me, that would do anything they could to help me is probably Rob Harrison [lecturer in legal writing]. But I don’t think he’s in a position—he’s a very nice man—but he can’t do anything for me. He’s not actually a professor, he’s not in a position—he doesn’t have contacts with judges or firms in the geographic area that would potentially be useful to me.

It’s odd that the people I’ve become close to have all been practitioners that have come [to the law school]. And that’s really important, because even as far as selecting [writing] topics and the like, I really wanted to do something on sexual orientation and the law—hello, there’s nobody here. And I think it’s really unfortunate that for people who want to do those types of things the small size of the school is sort of a disadvantage, because you’re not going to find somebody necessarily who can mentor you in that respect.

I would say, probably, [Professor] Reva Siegel, in some ways has been a mentor to me. I feel sorry for her, because I feel like everyone in the world wants her as their mentor. And I think she has mentored a lot of people. She’s like the young feminist on the faculty, so everyone wants to fight with her or work for her, in her classes, do all the stuff. But, I think that she has been really supportive of me, I think.

Probably Harlon [Dalton—one of three Black professors on the faculty]. [In what ways?] Well, not in direct ways. I actually, I don’t ask him for advice all that often. I feel like, for some reason I feel like I’m too dependent on him, so I sort of try to be independent. It’s sort of weird because, actually I don’t ask him for that much advice. How do I put this? I guess because he’s so perceptive about people, that I feel like he knows me. I think that’s why I don’t like telling him too much because I feel like he sees through me. But, just the fact that he sort of knows, because he’s known me from the beginning and he’s known what I’ve gone through. And now he knows what I’m trying to do, and he’s
supportive.

I think that my clinical supervisor, Jean Koh Peters, is a real mentor for me in a vision of how you would ideally represent individuals in a lawyer-client relationship. I mean, I think that she's just really phenomenal at it—she's kind of the Tiger Woods of clinical faculty. So, she's definitely a mentor in that sense.

As with the interviewees' experiences with faculty interaction, there were a few notable exceptions. One woman actually named multiple people whom she considered her mentors. Even this woman, however, had to take the initiative with finding faculty willing to play the mentor role for her.

[How did these people come to be your mentors?] By me picking them out, mostly. I've only had one person pick me. . . . I mean, he didn't offer to be my mentor, but he said—I was talking to him about my paper, and he said, "Why don't you write that into a book and I'll help you get it published." That was the only time that I really felt like somebody besides me made the first move. . . . So, all the other people that I consider mentors are people that I sought out, and had to initiate the relationship with. I talked to them about everything from jobs and clerkships and future plans, to problems that I'm having with professors . . . or just chatting and bouncing ideas off them. I mean, we've done everything. . . . For example, one of my mentors helped me find hotels for my clerkship trip. He brought me [newspaper] articles, and highlighted restaurants I should go to, when I was on my clerkship visits. I mean, it was really great, actually.

Another woman described the way in which an older student forced her to seek out a faculty member, and the importance of having not only faculty mentors, but student mentors:

I never would have talked to Reva Siegel, except this person, [a second-year female student] said, "Oh, you've got to talk to her about this. She would love to talk to you about it, I'm sure." And I had been sort of terrified of Professor Siegel, so I thought, "Are you crazy? I don't want to go talk to her." And she said, "No, no, no—you have to do it, you have to do it. You've got to go, you've got to go." So, if it wasn't for [Jane], I never would have spoken to her. . . . Again, if it hadn't been for that second year student telling me, pushing me to do it, I wouldn't have done it. So, that's two times now that it was women in the class ahead of me who sort of took me by the hand, and said, you've got to do this. . . . [T]he experiences that I have had, that have been positive in this school, I
could point to those students who are women, who sat me down and said, "Do this. Talk to this professor. She likes you, and she’s not going to bite your head off. And, do this, you can do this, and you can do that. Take this responsibility. Do that." Those relationships have helped me get through, and I would like to make sure that everyone has that opportunity.

D. Writing Experiences

I feel like my S.A.W. is probably the first thing I’m writing here that I feel good about. I think the memo and the brief, the [Yale Law Journal writing competition], the brief I wrote for [Professor X], the Substantial that fell apart, all of those things had been sort of neutral to negative experiences. . . . A lot of it had to do with not having a real mentor to sort of sit down with me and pick apart my writing.

Yale Law School requires that students complete two writing assignments as a graduation requirement: the “substantial” paper and the “supervised analytic” paper. The law school course catalogue explains that the substantial paper, "although not necessarily meeting the criteria for a supervised analytic paper, must represent a substantial written undertaking.” The supervised analytic work, or S.A.W., “involves work that is closely supervised by a Law School faculty member and is designed to increase the student’s proficiency in legal research, analytic reasoning, and writing in a single field of concentration.”

Some students write many more papers than the required two, others satisfy the two requirements and no more.

In practice, every professor has different standards for granting either substantial or S.A.W. credit for a paper, and different supervision techniques and styles. Rumors abound of the professor who granted credit for a twenty-page S.A.W., or the student who had to write 150-pages in order to get Substantial credit. Some professors are known for being tough taskmasters who require frequent meetings with the student to discuss the paper, while other professors may see the student only twice through the entire course of writing: once to discuss the topic, and again when the student hands her paper in. Ideally, the writing experience should be one in which the student and professor work together to develop the student’s academic writing skills. The writing requirements, after all, are good opportunities for a student to write a piece suitable for publication.

In addition to these writing requirements, students usually write at least one brief and one legal memorandum as part of the small group experience. Most students also have some writing opportunities during their summer jobs, or

108. Id.
through one of the extracurricular activities at the law school (moot court, for example).

In addition to the chance to work on one's own intellectual product, the writing experience is another opportunity for students to develop relationships with professors, not to mention an opportunity for students to display their intellectual skills to advantage. Publishing is also a marker of achievement in the legal academic world, and demonstrating sound legal writing skills is essential to any legal career.

For all these reasons, it was somewhat disturbing to find that many of the women in the interviews were not having good academic writing experiences. Several spoke very specifically about the disappointing experiences, or lack of experiences, that made up their legal writing histories. For some women, the lack of adequate faculty supervision soured the writing experience.

I had a disaster of a writing experience. . . . I was trying to write a paper for a small class. I had an idea before the class started, so I wrote a proposal. The professor liked the idea, so I worked on it fairly diligenty over the semester. It wasn't coming together. I had different strands of different papers—similar topic, but it wasn't really becoming something useful. I was feeling incredibly anxious about it. I wasn't able to get any kind of attention, support, advice, feedback from this particular professor, so I felt like I was just sort of swimming along on my own. . . . I thought I was taking a small class where I would be able to get some guidance. And I never did. [Did you ever finish the paper?] Not really. I went to that professor afterwards, because I was thinking of taking a strand of that paper for another class, and I wanted to talk about whether the professor thought that was worthwhile, and the professor had no memory of the paper.

I guess I had an S.A.W advisor, but I met with him maybe two or three times, and it was very briefly. I had hoped that it would be more, that it would be a more positive sort of intellectually challenging experience, and it turned out not to be at all, and that was disappointing.

I actually had a paper idea, that I wanted to bounce off of my Torts professor, and so I went to his office hours. He just scared the shit out of me. He was extremely argumentative. I think I proposed a paper topic, and he says, "So you're basically going to write about why the sky is blue, or what shade of blue it is?" I was like, OK, gosh, I really never confronted anyone who was just being a complete asshole, for absolutely no reason. After fifteen minutes with him, I was pretty convinced I wasn't going to write the paper at all. . . . I was also . . . dissuaded from wanting to have anything to do with my professors.
My Substantial experience was just about the most terrible thing. . . . When I first handed [Professor X] a draft, it was about fifty pages, and he hands it back, after reading ten pages, and basically says, “I don’t get it.” Without reading the paper. Without reading the paper. And I was like, “Well, what part don’t you get?” And he said, “I don’t get it, I don’t understand it, and what is this, and what is that?” There was a lot of it that had nothing to do with the paper itself, but that had to do with the fact that he had no knowledge of this topic at all, and instead of asking me for some background reading—there was suggested background reading in my footnotes—basically he attributed it to a lack of, something that was missing from the paper rather than something that was missing in his pool of knowledge. Not a single article out of probably the hundred I had read had felt that it needed to go over some of those very basic things. . . . So I had to go back and rework the paper like crazy. I felt that his comments had been very derogatory, just in general. I didn’t feel like he’d given the paper a chance. He got through ten pages, out of fifty. How could he possibly know that in the rest of my paper I don’t talk about that or, that the paper itself is not coherent and complete and self-contained?

Some women expressed difficulty in conforming to the conventions and expectations of legal writing. The sense that legal academic writing demands that they be someone other than who they are left several women feeling alienated from themselves and their writing. These women’s comments echoed those of the women in the Weiss and Melling study. In their interviews, Weiss and Melling found that:

Possibly because much of law is alien to them, the women interviewed felt more impelled toward discovery of the histories and biases of its human authors and interpreters, in order to make the law more challenging and changeable, than toward uncovering some kernel of truth supposedly inherent in it. 109

Some students found themselves expected to conform to styles of writing and analysis that are neither interesting to them, nor comfortable to practice.

It was odd, because the kind of writing that was expected for this kind of law review article type thing, it seemed like a strange alien type world. I was never sure if I would get an idea that would be good enough for my Substantial. . . . I ended up writing two entire separate drafts of a paper in

109. Weiss & Melling, supra note 2, at 1350.
order to get Substantial credit. I now feel fairly confident that with another professor and another situation, I wouldn't necessarily have had to do a full doctrinal and an entire empirical analysis on the same subject. So every interaction, I felt like I had a split personality. I felt that I had to go in and tell him things that he wanted, but hide my own real motivations for having to do this topic. I felt really strongly about the paper topic for political reasons. I felt that there was a truth out there that people needed to hear so that they can make responsible political choices. I think the professor was extremely disturbed by any kind of political—quote unquote—bias, or perspective, that I articulated. But for me, law school is about advocacy and for me law school is about politics and trying to make change. So for me it's always been sort of a disaster, an alien feeling trying to pretend that I was totally neutral, that I just chose this topic cause I'm interested. So it was just an extremely difficult and frustrating experience. It's this myth of complete neutrality. [The professor] definitely had a perspective. His perspective was all about efficiency, I think. And institutional policy, and some sort of political science stuff that I don’t think I even know enough of the theory of political science to understand. But, I had a perspective too, a perspective driven from a historical understanding of things as they had gone on and he wasn’t at all willing to let that enter into the work. So my perspective was sort of barred, you know... I always want to talk about context, and dynamics of race and gender in different issues, and that is just not accepted by a lot of the professors here. So that's been kind of hard for me.

I sort of wish I had done more [writing] and wish I had done better. I was hoping for a lot from my S.A.W. and didn’t get it—I didn’t feel horrible about it but it wasn’t really the paper I wanted to write. I didn’t find anyone whom I really wanted to write with, who I felt really spoke to my concerns, and I think that's also partly my fault in that I didn’t—I don’t know—I didn’t engage enough to find topics and people to work with. Most professors just seemed very distant. It was sort of a fine line to walk having made the decision that I was not really intellectually interested in the law, but also having decided that it was very difficult to remain committed, or remain engaged by the issues. And the fact that I would be able to tell myself, “Remember, you didn’t go to law school because you were interested in law,” was a great relief at times, but it also did permit me to kind of disengage.

I feel like it’s taken me until third year to feel good about [my writing]. I feel like my brain just does not work the way the LSAT was supposed to make it work. It’s funny, because I look back at the sections of the LSAT
that I did the worst on, like these logic issues, and they are the kinds of things that are so extolled here and are necessary to do well. It has taken a long time to get my brain to operate that way.

Other women had witnessed the deterioration of their own self-confidence in their writing ability, but could not articulate what was behind it. They knew they were competent writers in college, that they even liked to write. Facing legal writing, however, has proved a difficult experience for them.

I read my old college stuff and I’m like, “Wow, I used to be good!” I feel like my writing’s really deteriorated. . . . I’ve never been in a place before where there was so much pressure on “What are you writing? Who are you writing for?” and that’s just really sort of different for me. And the fact that it has to be of publishable quality, that’s sort of weird because I’m used to, you just turn it in and get your grade and that’s it. So I haven’t liked that, because I feel like we’re all trying to pretend to be scholars, and I’m not. That’s not me. I’d much rather be doing things. So I feel like I’m trying to do something that I don’t really want to do, and I’m not going to get much out of, but I just have to do it. And plus, now I held off so long that it hasn’t really been a constructive process. I must or I won’t graduate. So I haven’t learned much from it.

I absolutely hate writing papers. I feel like I can’t write. . . . I freeze and feel all this pressure to write great, and I just don’t think I can, I don’t know. [Is that something that’s happened since you’ve come to law school?] Yeah, I guess so, yeah. Because—comparing my S.A.W. with my senior thesis—I loved writing my senior thesis. I thought it was so much fun. I’d work on it at the craziest hours. I went so above and beyond the call of what was necessary for a senior thesis. And I’m writing my S.A.W. now, and there are days when I just beg that my roof will fall on my head and I don’t have to get up and work that day.

One woman explained that she had come to law school hoping to learn how to write about the law:

Actually, I read Leon Higginbotham’s *Open Letter to Clarence Thomas*, which was published in an anthology edited by Toni Morrison about the Clarence Thomas/Anita Hill hearings. And, I read that letter my senior year of college, and I was so moved by it. I was so moved by his ability to convey in really clear terms what I felt was wrong with Thomas’ political ideology on certain things. And he did such a good job with it and I was so impressed that I thought, maybe if I went to law school I would learn how to write like that. I liked writing, and I cared about social justice, but
I hadn’t—I felt that I hadn’t the skills to be able to do that. And I was really impressed with the way that it seemed to me lawyers, legal thinkers, were able to focus their writing and be very persuasive. In some way, it just seemed to be more articulate.

These hopes of improving her writing, however, were not realized:

[Do you feel more or less confident as a writer now, than when you started law school?] Much, much less. Here I started out by telling you that I wanted to do this because I really became involved with this wonderful [piece of writing] . . . . I read my work now, and I think it’s boring as can be. I think that’s probably the writing generally. [It’s] mired in trying to make its place in the world of scholarship that’s out there already. So, I feel bad about that. When I came to law school, I thought, I’m an OK writer. We had lots of papers in college, I did well. I thought I just need to learn how to think better. Now, I sort of feel like my thinking is still really confused and I’m not as good—my finished product doesn’t look as good as it did back then.

Many women differentiated how they felt about their academic writing versus their practical writing. Certainly, well-developed practical legal writing skills are one of the most important skills that a lawyer can have. To the extent that women felt good about their practical writing, it is a positive sign. Academic writing, however, still remains the primary criterion for gaining entrance into the world of legal academia. Demonstrated talent in academic writing can also be an important factor in obtaining clerkships after graduation, gaining membership on a journal, or other markers of achievement.

I can’t write for shit. I don’t know. I can’t write papers, because I feel too much pressure to write great and I can’t. But I feel like I’ve prepared good briefs in clinic, and I’ve prepared good memoranda over the summer, so I’m not unconfident about my ability to be a good lawyer and write legal stuff.

Actually, I feel pretty badly about the writing I’ve done while in law school. I don’t think I’ve written anything that I feel really, really happy with. . . . [Do you feel more or less confident about your writing now than when you started law school?] The writing I’ve done during my summer jobs has made me feel more confident, but the writing I’ve actually done during law school has made me feel less confident. . . . As I’ve said I don’t feel like I’ve gotten very good feedback. I think my first year I got discouraged, and it’s made me less likely to dive into another paper with my heart and soul, but I was kind of surprised that after I had
that kind of disastrous writing experience that I got to my summer job and they thought I was an effective writer. So, I don’t know, I think it’s been very different in the work setting than it has academically. And I guess in my career I’ll be doing more work type writing than academic writing, so I guess that’s okay. But I don’t have something—there’s still time, I could produce a work of art—but I don’t have anything that gets me feeling happy that I wrote.

I feel more confident as a writer of, say, legal briefs or memos. But that’s because of my summer experience. [T]hat was very rewarding. . . . I feel less confident about my ability to do a long research project, and actually have an idea about something about the law. Not because I don’t think I can write it, but I don’t feel confident in developing an idea. You know I wrote a thesis in college. . . . But that was a great experience, because I had this woman advising me, and she was very, very—sort of held my hand and helped me. It was [an] evolution. I’ve seen friends who had professors do that, too. But I haven’t had that experience [here].

A few, distressingly few, women had thoroughly positive experiences completing writing projects. Two women stressed the importance of working on a topic with which they felt comfortable, both in terms of size and subject matter.

I also—with a second woman professor—started my S.A.W. project, which was a project in the community. That was wonderful because for the first time I really got outside the law school community, and really started to understand more about New Haven. I started to understand a context for my life outside of this one building, and started to work on the issues that had troubled me, like client communication. Issues of class and race and distance, and those were some of the issues that I thought were the most intellectually interesting, the most compelling of my entire law school experience, the most theoretically interesting. They had been completely and totally ignored in most of my classes. So it was great to do this independent study with that woman professor.

They’ve been great experiences. I’ve written three huge papers, and they have all been sort of painful to do, just because writing is hard. But, they have all been incredible intellectual experiences that, at the end, I felt fifty times smarter than I did at the beginning. Just in general. Not just about that subject, but I felt like it had really expanded my brain to do them. It’s much easier if you have an idea of what you want to do. People are not very helpful, in terms of helping pick a topic, or make sure the topic is the right size, because they want to give you flexibility. That’s the upside. The downside is when you’re a first year, and you don’t know
how to pick a topic, or how to make sure it’s the right kind of topic, they’re not helpful at all.

E. Jumping Through Hoops: Law School Rituals

All I know is that there appears this track that other people have done, which has been successful for them. And right now, it’s less painful to try it than question that track. I’ll just get on it, you know, and do those things. Because, it was constantly the sense of keeping the doors open, you know. And as long as the doors were open, it’s OK. And I think that’s sort of been an unfortunate mantra of my experience here, of keeping the doors open. . . . If you have any ambivalence about it, go for the more accepted way of doing things.

If classroom participation and faculty contact are the first benchmarks of a student’s achievements, then the Yale Law Journal\(^\text{110}\) competition, the On-Campus Interviewing process (OCI), and clerkship applications are the other hoops that students have the opportunity to jump through. For many women, these rituals proved to be a continuing source of difficulty for them. They imbued their performance in these rituals with such meaning that a failure had the effect of demolishing their self-esteem. Guinier and her co-authors found in their study that women who experienced a “crisis of identity” in law school, experience “substantial material consequences” in terms of their academic credentials. In fact, they found that the “disparate quality of their accumulated credentials interacts with higher levels of alienation and lower self-esteem for many women, even those who do well academically.”\(^\text{111}\)

Despite misgivings, many women continued to participate in these contests—some because of a feeling that they had to keep their options open, others simply to prove something to themselves. To be sure, success in these competitions has tremendous rewards.\(^\text{112}\) Membership on the Yale Law Journal is seen by many employers and judges as a sign of distinction (especially at Yale, where the lack of meaningful grades and class ranking makes it extremely difficult to differentiate among the students).\(^\text{113}\) Moreover, the rewards may build

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\(^{110}\) Admission requirements for the Yale Law Journal are set each year by the Board of Directors of the Journal. In past years, members had to submit a written piece of publishable quality before being admitted. In the year the class of 1997 competed for membership, the competition consisted of an editing examination and a memo writing portion.

Although the Yale Law School has six different student-run journals, only the Yale Law Journal has competitive admissions.

\(^{111}\) Guinier et al., supra note 13, at 59.

\(^{112}\) See Guinier et al., supra note 13, at 5, for a discussion of the difference that academic credentials can make.

\(^{113}\) The Dean’s Ad Hoc Committee on the Status of Women at the Yale Law School has also noted the importance that membership on the Yale Law Journal can make. Their report explained that the problem of gender disparities in Journal membership “deserves continuing attention in view of the centrality of the Journal to the School’s academic mission.” Committee Report, supra note 68. The Report Supplement focused on the
on themselves. Admission to the Journal makes it more likely that a student will receive a prestigious clerkship or offer from a competitive employer. Prestigious clerkships and summer jobs, in turn, make it more likely that students will continue to receive other career-related rewards.

Many women who chose not to participate were not able to escape completely from the atmosphere surrounding these events. In some cases, women second-guessed their own decision not to take part. Other women felt that their decision not to participate further alienated them from the larger community. The pressure to jump these hoops starts early, and despite official admonishments from the administration to the students to take stock of what is truly important to them, it is hard to ignore the tangible rewards attached to participating, and the institutional support given to these activities.

We had a male TA for my small group and a female TA. . . . The male TA was a nice guy, but was focused on teaching people the rules of the game, and jumping through hoops. And the female TA . . . took a real back seat to him, and didn’t try to moderate his attitude. And I wish so much she had felt comfortable to tell him to shut up sometimes. I thought she had a great personality, and I didn’t feel confident enough to reach out to her, but I really, really wish she could have had more of an impact on shaping the small group, but I guess the dynamics between them were such that he just eclipsed everything. He was just constantly telling us about to get a good clerkship, how you get on journal, and how to kiss up to different professors. And the guys were just taking notes.

The first hoop to jump comes at the end of first-year, when the Yale Law Journal holds its admission competition. Some women did choose not to participate, either out of a lack of information or a lack of desire. The people who did take part had to go through a grueling week-long writing and editing assignment. For some women, the process worked out well, but for others, it was a difficult decision to participate, and it was even worse afterwards.

[The competition] was one of the things that “mark” you. I think I did have a hard time deciding what to do. . . . But I think that my approach in general in life is “don’t close doors you don’t need to close, keep your options open.” I think that it was also my way of saying, psychologically, “If I don’t try out I’ll never know.” And there’s always going to be a sense in myself that I didn’t do it because I didn’t believe in myself or didn’t think I was going to make it, so it would be a lack of confidence on my part. . . . I likened it to an induction process that you go through gender disparities in the note writing process. They explained that “note writing is a basic introduction for many students to the possibility of a career in scholarship. Clearly, it also can affect a student’s ability to compete successfully for clerkships and for certain jobs.” Report Supplement, supra note 68.
I tried out for the Journal, as a first year, which was the week after exams, and I couldn’t have been more exhausted. . . . And, that was just the worst week in my life. . . . [P]eople had told me, you know, if you do the process, you get on. It’s do-able. I only spoke to people who had done it and gotten on. I never met anyone who had tried it and didn’t get on. Someone had told me, “[I]t’s a weird thing at this school, because the fact that everyone makes it on who tries, makes it less prestigious. But it also makes it easier to get on, so if you’re not on, people say, ‘Well, why aren’t you on it?’ It’s so easy to get on.” So I thought, “Well, God, what does that mean?” I mean, I didn’t really understand. But I just figured I would do this thing. And it was incredibly intense. I had no idea how it went. I sort of thought, you know, I went through it. I worked so hard. In my entire life, if I ever worked hard before, it paid off. If I studied hard for the LSAT, I’d get a good school rank. If I studied hard for my exams, I’d do well, and I had never in my life tried to do anything and not have it work out. So, going into it, I was prepared to work hard, but sort of confident that it would pay off. And, as it turned out, I didn’t make it on. And I was utterly devastated. I felt like a total idiot, and I felt so—I just felt like I didn’t belong at the school anymore. It was terrible. I couldn’t believe it, because I had never spoken to anyone who’d tried out and didn’t make it on. So I felt like I must be the only one in the whole entire school that didn’t. It was really bad. Then, at the time that—this was two years ago—you had heard about it over the summer. At the same time, I was calling and checking my grades, because I thought, well... Actually, it came after all the grades, and I just got straight P’s. And I thought, I am totally, utterly worthless. I was an utter failure at the Yale Law School. So I had gone from being so—from a sense of fortune and [being] excited to have gotten into this institution where I thought I was going to discover my dreams. To like, at the end of it, feeling like just an incredible failure, and I didn’t want to go back. And I didn’t want anyone to know. I just felt terrible. For me that was my low point. But I also realized that my entire life—has my entire life been that—someone else giving me a grade, and all my self-esteem coming from the fact of that? Wow, I felt really useless. Like in every way, maybe my undergraduate history—all of it—useless. Like, what had happened to me? I had given up everything that was me beforehand, and now I was—for something else and that something else didn’t work out. I just felt, it was horrible. That sort of completely shaded my entire rest of my career at the law school. I have very strong feelings about that institution, generally. And, if I have tried
to do anything in the law school since then, if I have done anything good in the law school since then, it has been to talk to other women who were in classes—under our class—and talk to them about that experience, to try and forestall such—not forestall, to foreclose—such a thing happening to them. Just to not let people fall into the same despair that I fell into after that experience.

[The process affected me] horrendously. Lord. I totally debated about whether I wanted to do it at all. I had a real problem with the image of the Journal. I just wasn’t sure if it was something I wanted to do. But the incentives are such that—I tell you I have spent so many goddamn hours thinking about that process because I did it twice. Its merits, disadvantages. It consumed me for between spring of first year and spring of last year. I still think about it, I still think it’s flawed. Just at the outset, I’ll say that. It was a hellish process. Totally shattered my confidence. If there was a defining moment at the end of the first year and what set the tone for second year, it was that fucking, stupid competition. Definitely. I could just talk forever. So yes, it’s affected me tremendously. The process itself is horrible. I had no idea what I was doing. I didn’t really know what was expected of me, and when it didn’t work out for me, it left me feeling like “I can’t do this” or “I’m second rate.” It really took me a long time to realize that that wasn’t the case. The process is arbitrary. That, it didn’t really mean anything, and what it ended up doing, unfortunately, was giving some people an inflated sense of self-importance, and other people an unnecessary feeling of defeat. But it totally ends up fucking up your second semester and second year.

I wasn’t going to do it, but I started to think, “Well, you know, I should at least try instead of just opting out before even trying.” And so, I did it, in a way, but not taking it very seriously. Maybe because I didn’t want to give it my all, but on the other hand I wanted to sort of try, sort of like this compromise position I’ve taken a lot in law school where I sort of try to make myself feel better but not enough to feel bad if I don’t get it. . . . And then I remember, when I didn’t get on, I did feel bad about myself, and I remember telling myself beforehand, “It doesn’t matter,” but it did, it did. So at first, I did feel like I was less smart than other people, again, at the beginning of the next year. But you know, to be honest I’m so glad, because I think it would have been another thing that would have tied me down. I don’t know, maybe that’s just rationalization.

The demographic make-up of the Yale Law Journal membership was also a factor in some women’s thoughts about the admissions procedures. The low
percentages of both women and people of color on the membership were a source of frustration to many women.

It was interesting because I didn’t want to have anything to do with it. I thought, “That’s so stupid, this whole school is so screwed up, especially with regard to race.” I was so fascinated by the fact that, not only were we talking about race, it was finally out in the open, but then I was so frustrated again because people turned it into a First Amendment issue with regard to the whole Journal admissions process and stuff. So, at first I wasn’t going to try out, and then, the more I thought about it. . . . Then I just started to convince myself that I should too. I think because I internalized the values of the school a lot more than I wanted to admit.

I think the whole Journal thing sort of pulled me away from the law school community. I guess the general community. I was sort of jaded by the whole thing, and the fact that, you know, there were four men of color and no women of color on the Journal, just drove me nuts, and that people couldn’t quite understand why the process was wrong, and what was going on, and why things needed to change.

For the women who did not participate, the effect was quite different. Some of them felt that it was a good opportunity to reassess their goals for law school. Others saw it as another opportunity to be further marginalized from what the majority was doing.

It made me feel great that I didn’t do it. Honestly, I think it was some point in the second semester that I realized, again it was all part of thinking about what was important to me.

I didn’t do it. I never had any intention of doing it. While that was very clear to me, anything you do that isn’t part of the mainstream here kind of marginalizes you a bit. So I felt more marginalized by that, but it was never something I planned to do or thought about doing.

I didn’t do it. I wasn’t interested in it at all. I think that I probably thought twice about it because of the prestige value associated with it. But I was really uninterested in the editing work of journals, and the scut work. . . . Obviously, the blue booking and the source citing is completely intellectually bankrupt. I mean, they’re good skills to have. It’s kind of like being able to type. . . . I was deeply uninterested in the privilege of doing that miserable work. I also had a theoretical framework within

114. See Committee Report, supra note 68; Report Supplement, supra note 68.
which to make that decision. I really saw the Journal as a way of taking the free labor of graduate students and harvesting it for the benefit of tenured faculty members, and I just really—to the extent that I didn’t have to buy into that system, I didn’t want to. . . . I felt pretty sure about that decision. Although, I think that I second-guessed myself all the way through law school, about everything I’ve ever decided.

On-campus interviewing, the time at the beginning of second year when private law firms come en masse to the law school to interview students for summer and permanent jobs, follows closely on the heels of the Yale Law Journal competition. As with the Journal, this was another ritual about which women had to make a decision about whether or not to participate. Although the process worked out well for some women, it was a difficult and alienating time for many others.

Yes, I did it. You know, everybody was doing it, which was a little irritating. But I did it and then I was grateful, because it was so much easier. I mean, it was the easiest job search I have ever had. So I did it and it worked out. I was glad about that. I didn’t like the fact that everybody was going around saying, “Oh, I’m not going to get to work at Davis, Polk.” But otherwise, it was fine.

Again it was this whole validation, self-esteem thing. When I wasn’t getting interviews, I was like “Oh my God, what’s wrong with me.” Then I started getting them, and I felt better about myself again. And I knew that there was something screwed up about that. Again, I felt this sense of doom again. Like, “Why am I doing something I don’t want to do?” But not really knowing how to not do it.

So, I interviewed with firms. And I think that, for me in particular, I had been so demoralized by the Journal process—feeling so angry at myself for having gotten bad grades, and so disappointed in my lack of success in this place, that to go to these interviews where, they were just completely positive, and you know, it was so easy, all of a sudden, to have this ego-affirming thing, after being so demoralized that I think that especially that it felt good for me for the first time in years. I guess for first time since I had come to law school, I felt like, “Oh, my God, someone thinks that I’m worth hiring, or talking to,” or whatever. Here, I tremble at the thought of passing a professor in the hallway, but here is a partner in a law firm who is willing to call me to see if I have any questions for them, or to take me out to lunch again. It felt so—it felt good to be wanted, for the first time in a long time. . . . And it’s absurd. I never wanted to work at a firm. But here I was, taking it—the same way,
probably, that I never wanted to work on the *Journal*. But, in the sense that they wanted me, that gave me some sense of self, I guess, to some degree. . . . I think if I had been rejected by more than I was accepted, that would have just made me feel worse. Again, it would be some arbitrary measure of how good a person I was, and therefore. . . . This little gamble happened to work out well for me. But I think if it had worked out badly, I would have been even more depressed, over something over which I probably didn't have much interest in doing before I had ever come to this place.

I think . . . the experience of OCI really solidified for me the sense that not only was I alienated within the law school community, but that I authentically didn't belong. That, like, my membership was suspect.

I sort of walked in the door feeling down. For whatever it was worth, my perception was that *Journal* and transcript made a difference. . . . I guess the talk around you is, “Oh, I’ve got 25 gajillion call backs, and I’m staying at 56 hotels.” And I was one of those people, you know they had in the [Career Development Office] newsletter, “If you didn’t get a callback . . .” and that was me. . . . At that time, it was very defeating to go through fifteen or twenty interviews, not get callbacks.

Well I didn’t do it, I didn’t do any of it, and I sort of thought it wouldn’t affect me, but it’s hard not to be affected by it. I definitely felt marginalized, and even though I was pretty strong in terms of knowing this had nothing to do with why I came to law school, these firms, and stuff like that—it was something like being a research biologist or something, it was not something I was planning on doing. Yet, it was hard not in some way to internalize the criticism of the choices I was making, that maybe I couldn’t hack it or, you know, it was sort of everywhere implied, in some way, and it was hard not to feel some pressure from that and to not have anything, sort of what people talked about and all of that, it pretty much set the tone for that first semester.

Perhaps the final hoop of the law school career is the clerkship application process. Most students send their applications to judges in February of their second year, with interviews starting in March. The process is a decentralized mess, characterized by a lack of reliable information and incredibly short deadlines for decision-making.115 Unlike most law schools, a very large

percentage of the Yale student-body does end up clerking.\textsuperscript{116} It is one of the things that makes the Yale Law School attractive to many students, but it also puts a tremendous amount of pressure on students to follow the trend, whether or not it is something students actually want to do. To add to the difficulty, some statistics show that there are gender disparities in the distribution of clerkships.\textsuperscript{117}

Like the other law school rituals, women had few good things to say about the clerkship process, whether they went through the process or not. For many, it was another opportunity to place their self-esteem on the line. For others, it was another aspect of law school life that would serve to marginalize them.

I didn’t do that, and it didn’t occur to me to do that. I didn’t want to be a clerk, and in some ways I basically felt like it was another year of school. . . . I couldn’t think of anything that would be more miserable in fact, except for working in a firm. So I didn’t do that. And again, it’s sort of a distancing experience, since it’s something everyone was doing, and since I didn’t participate in that I definitely felt in the minority, and you know it’s even much broader than firm interviewing or law journal stuff. But, I don’t think it was ever a question for me.

I think I was just so dreading it by the time clerkships came around. I think I had finally gotten over the whole OCI experience, and I was like, oh my God, like hang myself up for scourging once again. I was not excited about it at all. . . . Same thing happened, I sent out all these letters. I ended up actually getting one interview, and as luck would have it, got the job. If there was a defining moment that changed the tide of what the Journal process had done to me it was probably that. And it wasn’t so much getting the clerkship, although that was an aspect of it, but getting it with this guy who is just fantastic. I’m thrilled to be working for him. It’s not just any clerkship.

I wasn’t delusional in thinking that it was actually a meritocracy, because I knew better. A lot of times, it’s whoever is clerking there, whoever knows you or a friend went here, or your undergraduate institution, whatever. I had seen enough to know better than that.

\textsuperscript{116} As of March 1997, slightly over 40\% of the class of 1997 had obtained clerkship positions. This number is likely to rise, however, as some third-year students either do not report this information to the Career Development Office or obtain clerkships later in their third year. Usually, between 43\% and 45\% of each class ends up clerking at some time. Telephone Interview with Harriet Robinson, Associate Director, Yale Law School Career Development Office (Mar. 20, 1997).

\textsuperscript{117} See Report Supplement, supra note 68. "[D]ata recently available and not reviewed by the whole committee show a disturbing reemergence of gender disparities, particularly with respect to federal appellate clerkships. . . . The statistics the Committee has examined also reveal that, with the exception of 1996, gender disparities in appellate clerkships are greater than in district court clerkships." \textit{Id}. 
I think I had hit my low point after the Journal process, after the first year. But [clerkship applications] were a close second, in terms of feeling negatively about myself.

I really hated myself during that time. I was sort of, checking my phone messages five times a day, and never getting any calls, and feeling like, "Well, here all my failure at the law school thus far has come to bear on the fact that no one is going to hire me." And it was just awful. . . . Then, when I interviewed on March 1 with the judge, and he offered me the job, and I got the job, I felt like my life at the law school completely changed. I felt like I had been relieved. I felt like I had—I felt like somebody had—someone had chosen me. It wasn’t a firm that was choosing me to be a summer associate, it wasn’t—here it was, it was this wonderful judge that I respected so much, who was so perfect—had hired me. I couldn’t believe it. And I felt so different about my place here. I felt good. I felt like everything is going to be okay. It completely changed my life. At the same time, I was very self-conscious of the fact that it shouldn’t take this to make me feel like I belonged here. But, so be it, so it did. That’s how it was, and it completely changed my experience here. I felt like a legitimate person. I didn’t feel like a second class citizen anymore. And I felt like, you know, I just had that on my resume, and that was it. A prospective law clerk to this person. And that changed everything, for a few months.

Didn’t do it, and I felt good. On the one hand I felt like there’s no way I’m going to get one. So sort of resignation about the fact that I wasn’t doing well here. On the other hand, I felt like it was the start to my getting off the treadmill. Truly getting off, instead of pretending to. So it was sort of a release to realize that I really didn’t want to do it for its own sake. The only thing drawing me to it was the prestige. The fact that it was the next step. It was good for me I think.

The strange thing was I had gone home and told my parents, “If I say I want to apply for a clerkship this year, you guys have to remind me that I don’t want to do this!” So when I was applying, they were like, “I thought you didn’t want to do this,” and I was like, “It might be a good experience . . . These are the only judges I’m looking at . . . .” I think the second half of second semester second year was really hard for me in coming to terms what I really wanted. What I thought I didn’t want I ended up being really disappointed when I didn’t get and what that meant. I felt the law school experience had done that to me in certain ways. It was pretty difficult I think.
Finally, at the end of all the rituals and all the jumping through hoops, perhaps the most disappointing thing for many women was the realization that their sense of isolation in experiencing them was false. Social scientists have described this phenomenon as "pluralistic ignorance," that is, "the pattern in which individual members of a group assume that they are virtually alone in holding the social attitudes and expectations they do, all unknowing that others privately share them." This sort of isolation is actually a common theme in many studies on women in legal education.

What really kills me is that there were a few people that I ran into at the end of the year, who had kind of gone through the same thing. What was so hard was that it was never discussed. You'd talk about it with friends, but it was never public. To sort of suddenly discover at the end of the year that there were others like you! You know, it was really distressing in the sense that, "Why didn't we find each other sooner so we could make each other feel better?" Now it's sort of too late. We had to struggle individually. I had a conversation with a couple of women at the end of the year, and we were like "Oh my God, you did that too? You felt that way as well?" It was very distressing to realize. I guess it was comforting to realize I wasn't alone, but it was really unfortunate that I didn't find that support until I didn't need it anymore.

This week, I went to a meeting about the clerkship process, and I was feeling more and more tense, more like I wasn't good enough or not measuring up. I could see when I contributed comments, I could see some of the guys in the audience not paying attention. I was feeling very alone and very tense. . . . Then, after that meeting, several women—both times in the women's restroom, telling you something about what's a safe place—who had also been at that meeting said, "Thank you so much for what you said. I went home and cried after that meeting, I felt so stressed and terrified, that I wasn't on the right track or I wasn't measuring up." And I don't even remember saying anything that could be that comforting, but maybe I cracked a smile or something, but I don't know what I said that they perceived as different. But I was in that meeting just feeling oppressed, like I couldn't even speak out. . . . To have the women come up later and say they felt the same way—when for some reason, I couldn't even see their faces in the audience. To hear them say that they felt the same way, and to hear them say that somehow my

118. ROBERT K. MERTON, SOCIAL THEORY AND SOCIAL STRUCTURE 431 (1968 enlarged ed.). There are actually two kinds of pluralistic ignorance: "The unfounded assumption that one's own attitudes and expectations are unshared and the unfounded assumption that they are uniformly shared." Id.

119. See, e.g., ELUSIVE EQUALITY, supra note 31, at 12 ("women frequently report feelings of isolation from other students, friends and family").
presence there made it better or easier for them, it made me more conscious of the fact—like in my small group when I didn’t know that there were other people feeling the same way. Just kind of remembering that when I start to feel oppressed and isolated in this place. It’s about reaching out. There are other people who feel the same way.

In the few times that I’ve talked to other students about some of the same things, I’ve been surprised at the degree to which other people share the same feelings that I had, or, shared these experiences. I had blamed myself very much for my lack of participation in the classroom, because I think it was totally my fear of seeming like an idiot, and fear of being one to engage in verbal combat. Everyone else, not everyone, but a lot of people seem to have the same problems that I do, and I just think maybe it’s not me. Maybe it’s not just me, maybe it’s not just my excessive fear. Maybe there’s something else going on. And I wish I could put my finger on it.

F. Finding a Community/Finding Oneself

I felt very withdrawn. I think I could have been part of a law school community... And maybe at the very beginning, like I said, during that first month when everything feels great, I did sort of feel like part of a community, when you’re sitting that first week in the auditorium and Dean Kronman addresses you, and you do feel like you’re going to be part of this wonderful community. But no, that first semester, I definitely didn’t seek it out and didn’t allow myself to be a part of it. I sort of withdrew... I don’t know if the experience would have been different even if I was feeling more up to it.

The sense of isolation can be mitigated through the formation of communities. Unfortunately, few women said that they felt like the law school was a community for them. When asked if they felt more at the center or periphery of the law school during their first year, sixteen said they felt like they were more at the periphery (although some of those sixteen preferred to be there). When asked if they felt more at the center or periphery of the law school during their third year, eighteen reported feeling more at the periphery than at the center. Some women reported finding themselves in false communities, or spending time with people whom they would not have ordinarily spent time with.

I kind of hung out with the people who were most visible in my section, probably by default. They weren’t really good personal friends of mine. As a matter of fact, I don’t relate to any of them anymore. None of them are friends of mine, anymore. I think that, had I been more happy, or
more grounded in my life, I probably would have not spent more than a week before I realized that they weren’t people that I actually was going to connect to. But it took me a lot longer. . . . These were people but for the law school I would absolutely never spend more than five minutes with.

I sort of view my life at the law school as before and after this. I had started hanging out with two people who I felt like I could opt out with. And that was a huge mistake. When I realized what I was doing—in some ways I realize now, looking back, I didn’t really know how to interpret what that period was, but it was essentially an emotional breakdown. I think it was a necessary one for me to have in law school. I was headed there, and they facilitated it. In retrospect I’m glad I had it, because I felt like I constituted myself afterwards. . . . It forced me to figure out a way to really get off the track, and finally learning to spread myself, it was hard finally breaking away from them, and telling them, “I don’t want to hang out with you anymore.” That was hard because I felt like I was cutting myself off from some source of emotional connection, that I was not getting from many places here. On the one hand I was cutting myself off from that, but on the other hand I gained self-respect from that.

The other reason that I’m not friends with the ten people that I was first friends with, the first year, is that they would have these poker nights. You know, [women] definitely were not invited. . . . They still have these poker nights. And horrible off-color stories seep out into the world from the poker nights. So, there’s still a lot of male bastion stuff going on, I think.

Many women, however, reported being able to find positive, smaller, sub-communities within the law school. It was in these sub-communities that women found the support and friendship lacking in the rest of their law school experience.

Also, my mother had a connection with the St. Thomas More chapel here, and whenever I’m just totally at my wit’s end I tend to turn back. I tend to go to Mass because that’s like a familiar ritual for me, even though I’m not a believer at all. And I did do some things at Thomas More. I worked in the soup kitchen and stuff like that, and went to Mass. Which is kind of weird, considering, I’m not a Catholic. But I was that desperate for a community.

At least with the first-year BLSA [Black Law Students’ Association]
students, there was definitely a community, in that we would just get together, a community of friends, and definitely a support group.

I don’t know that I felt a part of a large community. I still felt I had smaller communities of people. The clinic forms a community. And I relied on that. And still had several different groupings of friends. I don’t think I felt that the law school itself was one big community that I felt a part of in any way. But I felt like I had some sub-communities.

[The Journal of Law and Feminism] was an experience I definitely enjoyed. I finally realized I could do something, be useful in that environment. It was fun to work on an edit team, and feel like I had opinions and things to say. So it was a good counter-experience to the other things that were going on in the law school.

I was part of BLSA’s community, that was my community. And I think early on I was a little disappointed that my community was going to be so small, so I really tried early on to sort of, to bond with my small group, thinking this would be sort of an entrée into a larger community. But it was a lot of effort, and quite frankly schoolwork took enough effort. I didn’t feel like expending that amount of energy to make myself likable to folks that really weren’t getting into me all that much.

G. Being a Woman And...

[A]ny time you talk about gender, people automatically think “woman.” And any time you talk about something about women, women’s issues or women’s concerns, those are sort of a subset of—not even a subset—they’re something different than real concerns, or general concerns. I think that a lot of things that most people would call women’s issues are “everybody issues.” But most people see them as women’s issues. For example, balancing work and family. If you ask men here, do you plan to have a family? Yes. But it’s not their problem to balance it. That’s like a women’s issue. You know, their wives will take care of it. Or they just don’t think about it. It really just doesn’t cross their mind, unless you force them to.

Plus, the effect of being a woman, and then if you add on any other categories, like public interest, left-wing, mother, whatever. The more categories you add on, the more marginalized you are. And the greater distance you feel from the norm. Ultimately you learn to just deal with it. But I really didn’t know there would be a norm against which I would be deviant. I thought I would be the norm as much as anyone else.
The model of the standard law student is a single person with few or no outside obligations. Many of the women who participated in the interviews, however, have multiple roles and identities. In addition to being students, they are also wives, mothers, girlfriends, and daughters. In addition to their gender, for many of them their race, sexual orientation, and class background are important parts of their identity. In many cases, these roles conflicted with the role of law school student. Some women described the extra burdens of being a student and a woman and someone else. Just as women and people of color on the faculty face extra burdens and responsibilities,\textsuperscript{120} female students with responsibilities outside the law school, or with multiple roles within the law school, must negotiate a difficult terrain. Women of color in law schools not only face stereotyping and intolerance,\textsuperscript{121} but have the added responsibility of “speaking for the group.”\textsuperscript{122} Maintaining one’s relationships outside the law school, as well as maintaining all aspects of one’s identity, are difficult tasks. Moreover, facing careers in the male-dominated profession of law, many women expressed concerns about their future ability to maintain all these roles.

Mari Matsuda has described a process in which people who are outsiders, including women and people of color, are often able to adopt a double-consciousness in the legal environment.\textsuperscript{123} They adopt standard legal discourse in the classroom, but save race or gender consciousness for themselves or their support groups. While this mode may be a helpful coping mechanism, students do not necessarily engage in it through instinct or even learn it once here. Moreover, having to constantly shift back and forth between identities exacts its own toll, and some role-conflicts are not so easily negotiated. Some women described the difficulties they encountered maintaining race, class, and gender identities at the same time as their identities as law students.

I think the one best thing that I’ve learned here, even though it’s been so incredibly hard, is that I feel like I’ve learned more about people, I’ve learned more about race in a way that I never knew. I was talking to [a visiting lecturer] actually, and sort of telling her about feeling the way I do here, and one thing she said that was interesting was that, “You’ve experienced it on such a deeper level now, you’re going to reconstitute yourself, put yourself back together, but you’ve experienced it in such a

\textsuperscript{120} See, e.g., id. at 27-28 (additional mentoring responsibilities and family responsibilities combine with regular duties of teaching and committee assignments to put extra pressure on women and multicultural women faculty).

\textsuperscript{121} See id. at 13.

\textsuperscript{122} Id. at 14 (“Minority women are often regarded as ‘experts’ on minority issues or as speakers representative of their race.”).

\textsuperscript{123} See Mari J. Matsuda, \textit{When the First Quail Calls: Multiple Consciousness as Jurisprudential Method}, 11 WOMEN’S RTS. L. REP. 7, 8 (1989). For a description of this model in action, see also GUNNIER ET AL., supra note 101, at 86.
way that you're never going to be able to turn off that awareness any
more.” And I think that, probably, is the best thing that I’ve gotten out of
this place, the fact that I’m so much more attuned to racial nuances and
racial dynamics, and my understanding of race is a lot deeper than it used
to be, in college it was really superficial. And so I feel like I’ve sort of
learned the language of it a little bit, not so much in constitutional
doctrinal terms, [but in the] critical race theory type language, but also
the public language of race. So I feel like I’m more sensitive to that than
ever, and I think that for what I want to do after, that’s probably the most
valuable thing I could have gotten out of here.

Most of the people here don’t know shit about what it is to have to be
anxious about how you’re going to pay next month’s rent. That’s how
I’ve spent the last ten years of my life, spending all sorts of time getting
money here, to put money there. . . . All the things that go into my life,
every single day. Nobody knows. No one has ever acknowledged.

[During one of my summer jobs,] this man came into my office and he, I
guess he’d just read a memo or something I had written, and he said,
“You know, I read your memo, and I just read your resume, and I have to
admit, after speaking to you for ten minutes, I realize that you are
intelligent.” I was just like, “OK, what did you think?” He said . . .
“Whenever I see someone coming in here, basically an African-
American, then I assume that they’re here because of affirmative action,
and that they really don’t know what—that they really shouldn’t be here.
So you have to prove yourself, etc. etc.” And I was shocked. I couldn’t
believe I was having this conversation with this partner of the law firm.
. . . It seems like it’s an obligation for people at this sort of an educational
level to [educate people about race]. To sort of educate other people,
because otherwise it’s never going to happen. You have an attitude that,
“Why should I be burdened with this?” I mean, the fact is, you are. So,
just deal with it and move on in life. I guess it wasn’t that big of a deal,
but when people sort of, you know, have these negative connotations and
negative stereotypes, that’s when it really starts to bother me.

I think I’ve felt race more than gender here, but I’ve definitely felt gender
too. It’s just this white male environment. And I know to them they don’t
really get that. To me, it’s the most obvious thing. It’s just so male. It’s so
regressive, competitive. It’s not very nurturing or supportive. It’s very
analytical. I’ve never felt so gendered. But as a woman, I think I’ve
definitely felt silenced. Especially being an Asian woman, I feel like I’m
not the norm. I feel invisible.
I had one interview in a firm in [a large city]. I wrote my Substantial [on a racial issue]. . . . I’m really not sure how it came out, whether it was on my transcript, but everyone kept bringing it up—that I was on top of the race issue. It must have been right after OJ’s verdict or something. I don’t know, but it just seemed to constantly come up. This whole thing about affirmative action, about race, about—it was driving me nuts. But one in particular, this partner at the law firm said, “You know, we try to set a lot of value on meritocracy. You know, we don’t have very many women here, very many women of color.” Of course, he didn’t say woman of color. He said, “But, you know, sometimes you have mentors and when you mentor you want someone that’s like you, and that’s how you make partner. When you have a mentor and people see that you work, and someone cares, and invests in you and takes you around.” Basically, he was just saying that, you know, Black women have no chance of making partners because there are no mentors here for you. He didn’t say it like that. I was just sort of in shock. So, I didn’t go to that firm.

In addition to race, class, or sexual orientation, women also described the difficulties of maintaining their identities as students and family members in an environment that can be remarkably insensitive to people dealing with role-conflicts.

I had some family conflicts that took almost a day out of the time I had to do [the Yale Law Journal competition] compared to other students. And there was nothing I could really do about that. It was one of those things where I had to be at that family obligation. Consequently I think that penalized me in my ability to perform in that situation. Obviously when I did not get selected, that was a hard thing. I think most people who get rejected, it’s going to happen at some point in your life, but for me it verified what in my own mind I already thought about my own performance at law school. Sort of the final nail in the coffin. I guess that’s what I’d say. “You’re really not up to snuff here, and as further proof of that, you didn’t get selected.”

There are so many experiences that have made me feel marginalized. . . . One of the things has been working on the Journal. . . . Walking in the first day, if I am an anomaly in the law school generally, then I was definitely an anomaly on the Law Journal. I didn’t have a single friend on the Journal, either they hadn’t tried out or hadn’t gotten on. . . . I was there, I did my work, but at the end of the year, I had to leave early to take care of my child. And I had not gone out of town the entire year, so I hadn’t had to get a substitute for anything. Not for holidays, I hadn’t left for spring break, anything. So when I called to tell them I wouldn’t be
there, I thought it was no big deal, I would just do extra work before I left. I explained that it had to do with my parenting responsibilities. I thought that would be cool. And the boy I talked to immediately went into this punitive mode. "If we let you do this, then everyone is going to want to do this. We’re going to have to impose some sort of penalty on you. We’ll have to take your name off the masthead." . . . I was also really angry because I had pinched-hit the entire year, never left, because of my parenting responsibilities. They would, not take advantage, but profit from me not going anywhere. So then, moving to being completely punitive when my responsibilities interfered—I was furious. . . . That is the core of what my anger at this place is.

[Negotiating school and personal life has] gotten harder because my husband isn’t a student anymore. My husband works now, and his life is very different. He works a kind of fast-paced, high-powered job in New York City. And he’s trying to commute, and he has to travel a lot. Whereas before we were both students on roughly the same schedule, with a lot of flexibility, he’s now gone a lot of the time. When he’s at home, his schedule begins much earlier in the day, and ends much earlier at night than mine. So it’s been exhausting.

I mean my social system sort of revolved around my family, and that was obviously a given that I returned to every evening. And, I did a pretty substantial amount of reading at home, so I was sort of in the physical environment of my family but, as I remember it, I was spending a lot of time reading into the wee hours of the night, that kind of thing, and that seemed to be all I did. My husband can testify that I basically didn’t do wash, or ironing, or shopping, or dishes, or prepare food, or, I pretty much delegated that, even as far as taking my daughter to lessons and things like that, and getting her to school. It was traumatic enough for me first semester that they all just sort of left me alone for those months, and let me do the law school thing which was pretty much all I did.

Weiss and Melling described conflicts like these as well: "We wanted to do what most of our mothers had not done, but without disabling ourselves to do what they had done. In the interviews, though, women expressed concern about the incompatibility of being a lawyer and a mother." Other women described the difficulties in maintaining social relationships and the activities they had pursued before law school.

In another way, I guess to be honest, I feel—this is sort of personal—I

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124. Weiss & Melling, supra note 2, at 1315.
thought okay, when I go to school, I'll meet lots of people, and I hope to have a social life. But I haven’t had one in terms of a love life at all here. In that respect, being a woman, but not being a woman... It's been interesting to me. There are these men who are going out with these wonderful women. I've noticed a tendency for men here to go out with women who are more accommodating of their interests, their career goals. Rather than it being an equal thing. So that's been interesting to me. Being a woman here, but not being a woman here.

Another thing that was a big part of my life before I came here was music. I was singing classical music, and playing guitar—doing all sorts of things in the arts as well as reading lots of literature. I completely gave that up here, because I was so focused on trying to succeed at law, that I cut off everything else in my life, not realizing, probably how much those things contributed to my success at school before.

[In terms of] trying to maintain the relationship, our worlds were just utterly changing. She was a teacher, and while I still had a foot in that world, it was just much more difficult for her to get a sense a what my world was becoming. There grew a gulf that eventually that we couldn’t breach anymore. Eventually, I cut off the relationship.

IV. CAREER PATHS

As I noted earlier, it was my initial intention to explore both the generalized themes that emerged from women’s experiences in legal education, as well as the particular issues related to career paths. Law school experiences are highly formative of law students’ career choices, and lawyers’ career choices in turn can have a large impact on personal career satisfaction, as well as greater issues such as justice.

Although forty-four percent of the people entering law schools in 1995 were female, women constitute only twenty-four percent of the legal profession. ¹²⁵ This is a dramatic increase from 1971, when women comprised only three percent of the legal profession, ¹²⁶ yet it is still a dishearteningly low number. It is more discouraging yet when one realizes that the twenty-four percent of people in the legal profession who are women are disproportionately represented in lower-status and lower-paying positions. For example, while women comprise only eight percent of law school deans, they represent sixty-nine percent of assistant deans. Only seventeen percent of professors are women, yet fifty-two percent of assistant professors and sixty-seven percent of non-tenured

¹²⁵. WOMEN IN THE LAW, supra note 41, at 5-6.
¹²⁶. Id. at 6.
lecturer/instructors are women. Surveys have also found that women earn less than their male colleagues in private practice, corporate law departments, government and even the relatively female-dominated realm of legal services.

While some may argue that this is simply a matter of "lag time," that is that women need time to catch up to men, it is not the case that women's numbers have continued to rise. From 1973 to 1981, male associates were promoted to partner at a rate of twenty-one percent, whereas women were promoted at a rate of fifteen percent. After 1981, however, men's promotion rates dropped slightly to seventeen percent, but women's plummeted to five percent. Women are also over-represented in "non-equity partnership" positions. As the ABA Commission on Women has noted, "Women have comprised no less than thirty-seven percent of all lawyers admitted to practice since 1985. It is incomprehensible that the percentage of women who have attained partnership positions in large firms is still in the low teens." Women have had greater success in government practice, representing thirty-five percent of lawyers in the executive branch. However, a significantly smaller percentage of women is employed at a supervisory level: 18.5% for women, 25.1% for men.

While women's employment distributions are similar to men's, they are still more attracted to government, legal aid, and public defender positions. This is certainly due in some part to the fact that these were some of the first positions open to women. Sociologist Rosabeth Moss Kanter gives several reasons for the difference, noting both institutional factors and personal preference differences between men and women. She has postulated that "[w]omen are also drawn to legal services as a protected setting with a social welfare orientation. The office provides the identity, and the woman does not have to worry about establishing her individual reputation." Kanter also notes:

"The fact that government and legal aid jobs are less remunerative than jobs in other areas may contribute to their greater availability to women. . . . It is not surprising that women are concentrated in the least visible and least prestigious segments of the profession. It is quite common in all occupations for members of 'minority' groups or disadvantaged classes to find more opportunity in the routinized jobs where performance is easily measured and merit standards prevail, than in the areas of highest

127. Id. at 13-14.
128. UNFINISHED BUSINESS, supra note 46, at 9.
130. UNFINISHED BUSINESS, supra note 46, at 11.
131. Id. at 10.
132. Id. at 14.
133. Kanter, supra note 4, at 5.
prestige, which are also characterized by the greatest uncertainty.\(^{134}\)

Looking to women's own choices, Kanter concludes that "Moreover, until rather recently . . . women themselves have treated the law as more of a 'helping profession' than men have, entering careers in the law in order to 'do good,' and ending up in those areas where do-goodism—or a social welfare orientation—are strongest, such as legal aid."\(^{135}\)

Law school experiences may have a large impact on these career choices. While it is certainly true that many non-law school factors influence a person's career choice (debt, family situation, personal interests, abstract notions of justice), the law school experience is among the most important. Duncan Kennedy has argued that law school is an ideological training ground, intent on herding bright people into the ranks of the corporate elite.\(^{136}\) In other words, law schools very self-consciously aim to shape students' career goals. Although Kennedy's account is somewhat dated, his central thesis—that law schools transform students—still has a kernel of truth. Moreover, data that suggest a significant decline in the numbers of people interested in doing public sector or public interest work during law school\(^{137}\) also lend credibility to the idea that some transformation is taking place during law school.

This project, however, is not about studying the career path changes that women encounter during law school. Rather, I was interested in seeing whether women with different career orientations experienced law school differently. My hypothesis was that women on different career paths would experience school differently.

There were some differences in the responses from the two groups. Some were obvious differences that are a function of the career path, for example, more women in the private sector group took part in the on-campus firm interviewing process.\(^{138}\) On the whole, however, I was surprised to hear both groups of women expressing many of the same likes and dislikes of the law school. Both groups seemed equally alienated by many of the same things—classroom experiences, faculty interaction, writing experiences. In fact, in some respects, women with a public interest orientation fared better than the women with the private sector orientation. For example, more women in the public interest group were able to

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134. Id. at 5, 6-7.
135. Id. at 9.
136. Kennedy, supra note 49.
138. All women in the private sector group participated in the On-Campus Interviews. Only three of the women in the public interest group participated.
find mentors. Of the nine women who reported having mentors, six of them were in the public interest group. This may be because of increased clinic participation by women who intend to pursue careers in the public interest, and the fact that the clinical experience seems to lend itself to closer faculty interaction.

On the other hand, even though the women in the public interest group expressed great gratitude for the support of the loan forgiveness program (COAP), and funding for summer public interest jobs (Student Funded Fellowships, or SFF), they expressed more frustration about the law school attitude towards their chosen career paths, and the way in which that affected their experience in the law school.

Again, [OCI] just reconfirmed my deep sense of alienation towards the institution, and towards my classmates. But almost everyone was going through it, except for me. Instead of being the first experience of a deep distinction between me and the other people that I somewhat was friendly with and related to in the law school, it was a reconfirmation of a deep sense of being different. And I think that affected me in a lot of ways that I didn’t deal with very well, because I’m not—in spite of the fact that I think I’ve taken a lot of positions and stands in my life that have alienated me from people who I was close to, or not close to, but whose opinions I valued—I’d never so thoroughly felt like a choice that I had made for professional reasons so alienated me from the community that I lived in. It made a really big difference in my experience.

[Public interest people] just aren’t in the drivers’ seats, as far as the power centers of the law school goes. We’re the little, hyperactive kids sitting in the back.

I just remember thinking second year was a ‘jobs factory.’ I felt like I had come back to this law school, where one year prior I had come and I thought it was an intellectual journey. By the second year, it was just finding a job. It was all about finding a job.

I can’t even describe the number of hours I’ve gone to New York to spend eight hours interviewing with a place that probably won’t even be

139. All ten of the women in the public interest group participated in at least one of the clinical programs. Five of the women in the private sector group had a clinical experience.

140. The responses from the women in the public interest category actually may better reflect the feelings and experiences of all the “public-interest oriented” women at the law school because of the relatively higher percentage of that group included in this paper. The ten public-interest oriented women whom I interviewed were selected from a total pool size of eighteen women who fit the “public interest orientation” definition (56% of the pool). In contrast, the ten women from the private-sector oriented category were drawn from a total pool size of thirty-four women (29% of the pool). See the above section on methodology for more discussion on how the interviewees were selected.
able to hire me. But I thought I should put as many poles in the water as I can. At a certain point this year, it reached crisis pitch. So much of my life is this labor that never registers anywhere. There's no institutional acknowledgment for it, no institutional support for it. It doesn't show up on my transcript anywhere. My experience is invisible. It's considered to be out of the ordinary, an anomaly. . . . I imagine a guy who is "on the track;" every hour, every minute he spends is going to be institutionally accounted for, institutionally recognized. Whether it's sitting in a professor's office, publishing a note—it's going to register somewhere. At the end of the day, [public interest people] will probably have good jobs, but all those billions and billions of hours, and all the stress and all the anxiety are never going to be acknowledged by anybody, ever.

I think that this place really pushes—not this place, maybe it's me and my mind set and life experience to always keep doors open. But I felt a tremendous amount of pressure to work for the private sector law firm. I feel sort of this tremendous sense that it's going to be really, really hard to find work in the public sector. It was just going to be hard. And I sort of feel like, "God, it just totally seems impossible. It seems almost an insurmountable task to try and find two jobs in the same city." Then I think, well is that my fault? . . . Or, is it because there's not a tremendous amount of support in the law school for finding public sector work, or they don't give us a whole lot of hope that we're going to find it? . . . I wish that the law school did more, in terms of talking about the types of employment. I'm not sure that the program that it has right now are the most effective way to do that.

COAP is fabulous. Absolutely fabulous. Major kudos for that. SFF is also good. But in terms of a commitment to a culture, in terms of commitment to understanding that it takes so much more time and energy and mental anxiety to get the public interest job, they don't do that at all.

Another interesting difference was that all the women in the public interest group expressed an intention to stay in the law, at least for the time-being. In contrast, four women in the private sector group said that there was a good chance they would not stay in the law.

I originally came wanting to be a lawyer. Then I decided that I didn't want to be a lawyer, I was going to go abroad and teach English. Then I decided I was going to go abroad and work as a consultant to firms. Then I decided I was going to be a consultant. And then I decided to go to graduate school, and—this is all during the past three years—then I
decided not to do anything for a while and wait tables until I knew what to do, and then I decided to practice for a year, and I’m also considering academia and human resources. So I still haven’t decided. I’ve got this one-year commitment to myself to actually practice, but that’s all I’ve got at this point.

A woman in the private sector group explained in her interview that she had much broader career plans now.

I’ve always wanted to have a catering business. . . . I’m still seriously thinking about it. . . . I have much broader [career] horizons now. I didn’t have a big variety of career-minded plans before. I feel like I can do anything I want. I feel much more flexible career-wise now than I did before. . . .

She later clarified in written comments that this did not mean she intended to leave the law:

I may take brief “vacations” from the law for one-year periods (for maternity leave/catering business/teaching, etc.), but I can’t imagine ever leaving it. The new “flexibility” of my career goals is mostly based on my new (as of law school) realization that a career in law can be something other than working in a firm.

In many of the overall respects, however, both groups expressed frustration and disaffection. They voiced roughly the same amounts of unhappiness with the classroom experience and faculty interactions. Both groups contained women who participated in the journal competition, the clerkship process, and on-campus interviewing, both groups had women who were very unhappy with those processes. Both groups had women who expressed diminished self-esteem, and some level of alienation from the law school environment.

I should note that while I designated the women in the two groups either public-interest oriented or private-sector oriented, these very categories turned out to be somewhat less meaningful than predicted. At least two of the women in the private-sector category will be pursuing public-sector work after graduation. Several more of the women in the private-sector category expressed interest in some kind of public-sector work, although did not have concrete plans to pursue those interests. By the same token, a few of the women in the public-interest category had not completely ruled out careers in private firms.

V. MAKING IT A BETTER PLACE

Several conclusions can be drawn from the data collected in this project.
First and foremost, it is clear that the experiences of alienation described by Weiss & Melling ten years ago continue to exist. For the women I interviewed, the predominant theme of their law school experiences was a series of events that caused loss of self-esteem at every turn. Women reported diminished confidence regarding all aspects of their academic experiences, including willingness to participate in class, writing skills, and interaction with faculty. At the same time, these women reported a sense of disengagement from the legal subject matter, the law school community, and their chosen profession of law. Rather than feeling at home in the law school environment, most women interviewed expressed a sense of being deviant from the perceived Yale Law School norm.

It is clear to me that a significant problem exists. In addressing similar concerns, Chapman University School of Law, a recently-founded law school, has initiated a law school program with a diverse faculty and a stress on humane teaching techniques in the hopes of mitigating the problems of the traditional law school environment. Some of the women interviewed were pessimistic about the likelihood that anything could be done to improve the law school.

The law school just has so many problems and it’s so hard to tell sometimes, whether the solutions actually end up exacerbating problems or solving them. Because it’s hard to know when you’re dealing with symptoms, whether you’re going to aggravate the underlying disease or, you know, create a reaction that you didn’t expect in the body proper.

God—I think it’s like such an all-pervasive problem, I don’t know that changing a few things is going to make a difference. I think that in some sense it’s like a microcosm of society, you’d have to dismantle the entire structure. Because I think it’s so bad here. I think the administration is really nice. I think they are really decent, but I think it’s the culture of the place. It just perpetuates itself. On the one hand, this whole get off the treadmill thing. I wish they really meant it. I think they say it, but they don’t really mean it. Who gets rewarded at the end? The gunners. So other than if you could change the professors, change the students, I don’t know how it could be changed. I don’t know if it’s possible, because so much rides on perpetuating this privilege.

On the whole, however, the participants in this project came up with several improvements worth considering. First of all, the overwhelming message was that the school must hire more female faculty and more faculty of color. Eighteen of the twenty women called for this as a necessary improvement to the law

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I think in terms of just the basic framework I think that the issue of student and faculty diversity needs to be addressed. I think it's still kind of unbelievable to me how homogeneous the faculty is.

Get some more women in here, and get some more minorities in here! We need role models on the faculty. I think it's absolutely infuriating that—that’s funny—I had a dream not too long ago that I was sitting in class, and I looked up and the professor was a woman. And I thought, “Oh this is so neat, I have a woman professor!” I think because I just had a conversation with someone who is going to graduate without ever having had a woman professor. In three years. That’s pathetic. I think it’s really too bad when you have to take Parents and Children Clinic or you have to take something more specialized like Sex Discrimination, which would be a typical woman role to fill, to get a woman professor. I think it’s wonderful that [Professor Anne] Alstott’s here, I think it’s wonderful that [Visiting Professor Angela] Harris is coming. It’s ridiculous that these people are visiting professors. It’s ridiculous that there aren’t more people teaching core, first-year subjects. Ridiculous. It’s ridiculous that I didn’t have a female professor somewhere in my first semester. It’s absolutely ridiculous. And I think it’s infuriating that the token Hispanic that we have is [Associate Dean] Natalia Martin. I think she’s doing a great job, but it’s ridiculous that she’s the only one. And that we don’t have any openly gay people. I think that having role models and mentors is absolutely critical for people like me who aren’t going to just bust down the doors, to have someone who has a face that looks like mine. I’d feel more comfortable knocking on the door. Once I got my foot in there, it’s going to lead to other things.

The law school needs to hire more women and people of color and women of color faculty. It needs to really take a serious look at the way that the much less tangible benefits are distributed. Not who’s in leadership positions, not who talks in class, but who develops really tight relationships with really powerful professors. Who gets hooked up with the indirect lines of authority that lead to the White House, and to academic jobs that are highly valued and prestigious. I mean, those are the mysterious questions that need to be answered. And, they’re actually not that mysterious. It’s just that people don’t want to look closely at it, because it brings into question the whole legitimacy of the system that

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142. At least ten years ago, women had already begun demanding a more diverse faculty. “Eleven of the twenty in the [Weiss and Melling] group said, ‘Hire more women,’ or, ‘Hire more women and minorities,’ when asked to recommend changes.” Weiss & Melling, supra note 2, at 1356.
brought into power the people who are currently the law faculty. I mean, nobody wants to be told that they weren’t the best and the brightest, that they were just the best and the brightest of the white men who came from very good backgrounds, went to the right law schools, and had the right friends. That’s really not what anybody wants to hear, even though it’s probably true. So, it’s an incomprehensibly huge fight to get anywhere close to exposing all of that.

Another frequent complaint that seems like it could be easily rectified is that the informal systems of information dissemination in the law school disadvantage women. Many important pieces of information—how to arrange one’s class schedule, when to apply for jobs—seem to be shared only through these informal networks from which female students are often excluded.

Everything is kind of “word of mouth.” I think that in some ways this school thinks that is positive because it makes things more informal—for instance, the whole research assistant process. Some people came here knowing they wanted to do research for someone second semester, because they’d had friends who’d gone here, or siblings, or parents—I don’t know, they just knew. And I didn’t even know that those jobs were available until I heard people were doing them. And that’s mostly done by word of mouth, although maybe it’s getting better now. When you see the notices, you never know, if I’m qualified for that, what kind of a person are they looking for, and other people seem to have a better sense of that. So in some sense I think the informality is a bad thing. I think it kind of favors people who were privileged enough to know what to do before they got here, and it doesn’t create an even playing field.

I’ve always felt that because I came from a school which doesn’t have a lot of other students here, I always felt that it would be such a benefit to have gone to Harvard or Yale and come here and have a set social circle, or social contacts who’ll sit down and say, you know, these are the three professors that are going to help you get a clerkship in this school. And these are the four professors who are really good to write papers with. And these are the ones who are really good. I didn’t know any of that stuff. It was like coming into a country where . . . there’s a bunch of people who have that information, and they have access to that information. They understand stuff, that, to me, I had no idea about any of this stuff. . . . And I felt really outside the loop because I didn’t have access to that information. I didn’t even know that information was out

143. These information networks might be described as being part of the “latent learning structure” of the law school. Guinier et al. have documented women’s alienation and exclusion from these networks. Guinier et al., supra note 13, at 71.
there and that I should be looking for it. So, I would do something to try
and make that information available to more people. And part of that, I
think, is through a mentoring program—an established mentor program.

One of the problems with this place is that information gets distributed so
unevenly that if you tend not to be in the—quote unquote—mainstream,
you tend not to get that information, and therefore, you won’t have
access to all of those resources. But somehow, even if you aren’t part of
the mainstream, if somehow you’re able to find your way into the system
I think it can provide a really positive experience.

There’s no process at this place at all. There’s no fixed process to getting
anything. Whether that’s getting a TA position, or getting financial aid,
or information as to how to succeed in getting certain types of jobs. Even
among [the student groups] there’s no institutional memory that the
organization has, probably because the school discourages it. If there was
just some kind of continuity of information that could be passed on,
because lawyering has so much to do with who you know, what you
know.

The law school or groups at the law school actually have the ability to take
certain concrete steps to ameliorate the problem of uneven distribution of
information. For example, some of the interviewees mentioned the programs that
the Black Law Students’ Association has undertaken to help African-American
law students adjust to law school life. Aspects of this program may be
reproducible on a larger scale for female students. The Black Law Students’
Association works hard to create a ready-made community for their members by
making upper-class students available to first-year students for advice and
mentoring, sponsoring social activities, and programs such as a “Big Sibling-
Little Sibling” opportunity so that members have an opportunity to familiarize
themselves with residents of the greater New Haven community. They also
sponsor comprehensive academic orientation sessions for their members that
include lessons on briefing cases, writing memos and briefs, and preparing for
oral arguments. BLSA also strongly encourages first-year students to take part in
the Frederick Douglass Moot Court Competition, which occurs relatively early in
the first-semester. This multi-law school competition allows first-year students to
gain experience and confidence in brief writing and oral argument, often before
their assignments are due for classes, and is another opportunity for students to
form friendships and develop community.

All these programs help many of the African-American law students adjust
both to the academic and social life of the law school, and may be repeatable for
female law students. To some extent, Yale Law Women already sponsors some
similar programs. Starting in 1996, Yale Law Women initiated a “Big Sister-
Little Sister" program within the law school. Second and third-year students volunteer to welcome and guide first-year women. Thus far, the participation and outcome has been mixed. Not all incoming students participate, not all upper-class students participate, and those students who do volunteer choose different levels of activity. This program could benefit from greater "institutionalization." The program is currently run on somewhat of an ad hoc basis, with no set expectations of "Big Sisters" who do participate, and no continuing support or monitoring of the relationships as they do or do not develop. In other words, this program replicates some the informal aspects of the law school environment that may hurt women. While I applaud Yale Law Women for initiating the program, I encourage them to work on its expansion: recruiting more women to participate and providing more of a structure in which the mentoring can take place. I would also encourage Yale Law Women to look to the example of the Black Law Students' Association for further ways in which to help women acclimate.

In this regard, the law school administration must play a role. Funding for student groups to support these projects is paramount. Moreover, space in which to carry these programs out—both figurative and literal—plays a crucial role. In the past, the law school provided a small room designated as the Women's Resource Center. It was a space important in both symbolism and practicality. The office was a place where women could informally meet each other and pass on important information, as well as escape from the perceived masculine nature of the law school environment. In 1995, the law school initiated a large renovation project, and as a result took this space away, reportedly because of space limitations associated with construction. I do not know what the plans are to resurrect the office, but I would strongly encourage its rebirth.

Although I believe that Yale Law Women could play an important role in helping female students gain access to the informal networks of information, I must note they cannot be the only source of support for women or the only organization attempting change. One potential pitfall of leaving the onus on such a student organization is the very real probability that not all female students feel an affinity to an identity-based, and to some extent politics-based, organization like Yale Law Women. Another potential difficulty Yale Law Women may face in attempting to replicate BLSA's model is that BLSA's constituency group is much smaller than Yale Law Women's. The close community that BLSA has been able to create may be partly a result of the fact that African-American students represent a much smaller portion of the student body than do female students.

For those reasons, I recommend that the law school hire one or more people as full-time student advisors, as some of the interviewees suggested. These

144. Gender does not necessarily play the only or largest organizing role in women's self-identities. For example, some women may feel affinity to more than one group, to a race-based organization, or organizations that depend on completely non-identity based criteria, such as a community service group. See generally PATRICIA HILL COLLINS, BLACK FEMINIST THOUGHT (1991) (discussing the importance of the intersection of race and gender in African-American women's lives).
people would play both a formal and informal role in advising students. They would be able to give students the information they need about curricular requirements and institutional policies (for example, the sexual harassment policy), but they could also be people whom students could seek out for general advice and counseling. In some respects, there are people who play these roles at the law school already. The Dean of Students can counsel students on a variety of issues, while the Registrar’s Office knows what the curricular requirements are. Nonetheless, all of these people have other duties and responsibilities and may not be able to give students the time or attention they really need. In some cases, a student may feel shy about approaching a dean about a problem she considers somewhat personal or unimportant relative to the dean’s other time constraints. Moreover, I envision these advisors as being a central source of information, so that a student planning out her school year need not speak to several different administrators to get the information she needs. In essence these would be people to whom students could go when they simply felt confused about to whom to speak.

Interviewees had many other suggestions for improvements. Their suggestions included smaller classes to facilitate classroom participation and more use of the “modified Socratic” method (that is, calling on people who have been notified that they will be called on beforehand). Women also called for more sensitivity and more devotion to teaching from the faculty.

I would wish that they would be able to choose professors by how well they taught, or at least, maybe they’d all take teaching classes, or something. That’s totally pie-in-the-sky thinking, but it was frustrating to be here with professors who didn’t have a clue about how to teach their information. . . . I wish that they did have some better kind of counseling, career counseling, and maybe just student life counseling.

I hate to keep dwelling on it but I think this is really important. I would recruit a whole bunch of really interesting good teachers. . . . I think maybe changing the focus here a little bit to teaching and to classes, to the students rather than publishing and research.

I think that if a professor heard a certain voice that rang true to them, then they cultivated that voice in the classroom, and they’d take it on, and, there wasn’t a great effort to sort of balance out things a lot, or to say, “Heard that, now here’s something else.” And I just thought that that was irresponsible teaching. And that’s been my general criticism I think, but I’m sure there’s a certain pressure to keep class going, get sort of enthusiastic about someone expressing a view that you share. So I can understand it. I still think that it’s irresponsible, but I can understand it.
I would also force all the professors to have office hours, at least a couple of times a week, so that students who weren’t so outgoing would have at least some chance of catching them. I would—I don’t know how you could do this—make all the professors sit down, have a retreat for a day or something, and talk about different teaching methods. Tell them things like, “It’s helpful if you reach out to some students and let them know that you thought they had a good comment.” Things like that. I don’t know how you would do that, though, really.

There are a number of things. The idea of advisors is one. Partly it has to do so much with the culture of the place, and it’s hard to figure out how to change the culture, which is so strong here. . . . I don’t know if there’s a way of making professors seem more approachable or the possibility of making questioning seem more possible. I don’t know.

And actually, I think I actually now believe in, whatever Professor [Robert] Ellickson calls it, his way of running a class in which students get called on alphabetically. That alleviates some of the fear of being randomly called on, so you know you can always prepare to a certain degree in advance. But I think there’s something to be said for trying to get every student in the class to speak at some time in your class. And maybe that’s putting a lot of responsibility on the professor. But I think that the institution should also recognize that, given the fact that one of their goals is to produce good lawyers, and recognizing that the reality of the situation is that a lot of people are going to feel like they can’t speak up in class or whatever, to put some of the burden on them, at least early on in the law school experience to be more encouraging about student participation.

These suggestions deserve serious consideration and elaboration. Improving the quality of teaching at the law school, for example, has the potential to better all students’ experiences, as well as improve the quality of education offered by the law school. In order to achieve this, first and foremost the law school administration must be willing to send an institutional message about the importance of teaching—both formally and informally. Formally, this message can take the form of considering teaching skill as an important factor in hiring decisions. Teaching skill currently trails very far behind academic writing as a factor to be considered in hiring and tenure decisions. Another means of increasing teaching’s relative importance is through the use of teacher evaluations. As of now, teacher evaluations are administered by the Student Representatives. They are made available to students and faculty, but in both cases, interested people must seek the evaluations out. They are not forwarded to faculty members as a matter of course, and my understanding is that few
professors actually look at their own evaluations.

I recommend more aggressive use of teacher evaluations. Not only should the law school take over the task from the Student Representatives (thus increasing the perception of their importance), but they should be administered twice during a semester. The first evaluation, a mid-semester review of sorts, could then be used by the professor to make "mid-course corrections," or address problems that are somehow unique to that set of students. The second evaluation, administered at the end of the year, would help professors to make overall changes for the next time they teach, as well as help identify ongoing problems or themes in the classroom. Needless to say, this will not work unless faculty members are required (to the greatest extent possible) to read the evaluations and take them seriously. This poses the greatest barrier for this recommendation. The Dean has only so much ability to force faculty members to do things they do not want to do (for example, keep regular office hours). Even so, the Dean does have the opportunity of using the bully-pulpit of his office to stress the importance of such activity.

Other means of improving teaching include, as one interviewee suggested, a faculty retreat or workshop about effective pedagogy. The agenda at these workshops might include discussions about how to make writing experiences for students more positive, or how to keep a class discussion from getting out of hand. Professors could share experiences, and thus learn about effective (or ineffective) teaching techniques from one another. Again, the Dean has only so much power to enforce attendance at such events, but he nonetheless has the ability to grant funding, direct the organization of, and lend prestige to such an activity.

More specifically, professors who are selected to teach the first-semester small group classes should be required to attend a law school-sponsored seminar about the goals of the small group class and the role of the professor in reaching those goals. This need not be a very long or formal session, but could include important information about the responsibilities of a small group professor (for example, his or her informal mentoring role or the expectation that small group professors will write recommendations for students), and address recurring problems in the small group (for example, how to handle a situation in which some members of the small group are overly outspoken to the exclusion of other students). I would urge the Dean himself to participate in these sessions to express symbolically their importance. Improved teaching should be a very high priority for the faculty and the administration. Potential opposition by faculty members who see research as a higher priority than teaching needs to be countered by staunch advocacy for better teaching by the administration.

Another way in which to improve student-faculty interaction would be a more formal system of faculty mentors, perhaps in which each incoming student is assigned a faculty member. Given the school's high faculty-to-student ratio, this would not necessarily overburden faculty members, but it might alleviate
some of the disproportionate mentoring load that certain faculty members face. Moreover, it might give shy or retiring students the impetus they need to make faculty contact. I can foresee several objections to such a program. One is that this program already exists in the form of small group professors. Given interviewee responses, however, it seems clear that small group professors are not fulfilling the role of mentor for very many students. This might be due to the relatively large number of students in a small group (approximately eighteen). It may also be attributable to the fact that it is difficult for students, especially first-year students, to develop friendly, comfortable relationships with professors whom they know will be evaluating their work. In the proposed program, a student would be able to develop a relationship with a faculty member whom the student met as a potential mentor before she met the faculty member as a classroom instructor.

Another potential problem with this program of assigned mentors is that students will not be any more likely to be assigned to faculty who are successful mentors than when students are left to their own devices to find such people. Students may be assigned to professors with opposite academic or political interests, or to faculty who simply are not very good at developing relationships with students, or have no interest in developing such relationships. In this regard, such a program has the danger of replicating some of the adverse conditions already in existence. Even so, I believe that such a program would serve several goals, even in light of the dangers. At the very least, it would introduce a new student to one more member of the faculty whom she may not have otherwise met. This creates one more opportunity for the student to develop a relationship (in contrast to a situation where the student meets no members of the faculty outside the classroom). It may also send a message—both to students and faculty—about the importance of finding and being mentors. Students who are unhappy with their assigned mentor may be more willing to search for another faculty mentor than a student who never had a mentor in the first place. Students will also understand that faculty are willing, and indeed expected, to act as mentors.

My last recommendation is that the school employ a full-time, on-site mental health counselor. Although the university as a whole provides mental health services to students, the act of going through that more formal process may seem intimidating or unnecessary to many students who nonetheless are experiencing severe stress. Another advantage to providing a law-school-specific counselor is that the counselor would be more attuned to the difficulties that law students face, and manifestations of such stressors. Crises of self-esteem, for example, might be more effectively handled by a counselor who understands the context of the law school environment. As with most of the above recommendations, this change will actually benefit all alienated students, not just female students.
As this project was conducted with the goal of documenting rather than explaining women's experiences, I resist the temptation to posit any definitive theory as to the cause of women's different experiences. Weiss and Melling looked to the work of Carol Gilligan to help explain the feelings of the women in their group.\textsuperscript{145} Gilligan's influential book, \textit{In a Different Voice}, posited that women reason in a different moral voice.\textsuperscript{146} Men and boys, Gilligan argued, tend to be rights-based moralists, using general rules and principles to guide them through any situation, trusting that the outcome will be fair, no matter who applies the rules or to what situation. Women and girls, on the other hand, tend to be care-based moralists. In contrast to the rights-based moralists, they use care and connection to find a compromise position that will answer the needs of the greatest number of people.\textsuperscript{147} Gilligan's conclusion is that the ethic of care is a distinctly female approach to moral reasoning. This ethic of care grows out of different self-perceptions. Gilligan found that men used "adjectives of separation" to describe themselves: "logical," "intelligent," "imaginative," and "cocky."\textsuperscript{148} Women, on the other hand, depicted "their identity in the connection of future mother, present wife, adopted child, or past lover."\textsuperscript{149} Weiss and Melling argue that,

The tension between the self defined by relationship and the self defined by individual achievement is the tension between Woman and Lawyer depicted in the section . . . on alienation from self. Like the women in Gilligan's college student study, the women in the group wore the identity of the high-achieving student uncomfortably over an older and also uncomfortable identity of the committed caretaker.\textsuperscript{150}

Weiss and Melling also found the work of Mary Belenky, Blyth Clinchy, Nancy Goldberger, and Jill Tarule to be useful in interpreting the results of their project.\textsuperscript{151} In their work, Belenky, Clinchy, Goldberger, and Tarule study the ways in which women and men learn. They identify a continuum of learners, distinguishing "separate" knowing from "connected" knowing.\textsuperscript{152} Separate knowers learn critical thinking by assimilating impersonal procedures for arriving at the "truth." Connected knowers wish to understand others' ideas, rather than judge them. Personal experience, for them, is the most reliable basis

\begin{enumerate}
\item See Weiss & Melling, supra note 2, at 1302-04.
\item See \textit{CAROL GILLIGAN, IN A DIFFERENT VOICE} (1982).
\item See \textit{id.} at 18, 43-44.
\item \textit{id.} at 161-63.
\item \textit{id.} at 159.
\item Weiss & Melling, supra note 2, at 1303.
\item See \textit{MARY BELENKY ET AL., WOMEN'S WAYS OF KNOWING} (1986).
\item \textit{id.} at 100-23.
\end{enumerate}
for knowledge. Thus, they often want to understand the context of the start of an idea, and for this they “attempt to achieve a kind of harmony with another person in spite of difference and distance.” Separate ways of knowing, say Weiss and Melling, have yielded “scientific and philosophical revelations,” but the methodology of separate knowing is the methodology of the law school classroom. While critical thinking is one of its products, so is division between speaker and the spoken, the teacher and the student, the student and the student. Pervasive hostility and posturing in the classroom led some in the group . . . either to “loss of voice” or to a feeling of dishonesty when they did speak or write. . . .

The works of Gilligan, Belenky, Clinchy, Goldberger, and Tarule, however, are not universally accepted, even by feminist scholars. Catharine MacKinnon, for example, does not accept that the different voice of women that Gilligan found is woman’s true voice. Rather, she calls it the “voice of the victim.” Women have been “forced into this situation of inequality,” so it therefore “makes a lot of sense that we should want to negotiate, since we lose conflicts.” MacKinnon argues that our working definition of woman was born in the wake of women’s oppression by men, and that what was created through oppression will only perpetuate oppression. Weiss and Melling heed MacKinnon’s warning, and worry that although “[t]he socially constructed Woman described in the section of this essay on alienation from self may possess many good qualities . . . she may also ensure her continued powerlessness by indulging them.”

Dana Crowley Jack and Rand Jack, in contrast, look to the early childhood games that girls and boys play to explain later differences.

Recent work on children’s play confirms that at an early age, girls and boys interact differently. Girls choose smaller play groups, often consisting of two or three “best friends” whose interactions are based on shared confidences. By comparison, boys’ groups are larger and tend to center on some competitive, goal-directed activity with clear rules and with winners and losers. Boys learn to “depersonalize the attack,” and to

153. Id. at 101.
154. Id. at 1307.
157. See id.
158. Weiss & Melling, supra note 2, at 1308.
enter to adversary relationships with friends and cooperate with people
they dislike. Whereas team games teach boys emotional discipline and
self-control, traditional girls’ games reinforce nurturant skills, expression
or personal feelings, and cooperation rather than competition. . . . Women
entering the practice of law find that mores of the game bear the imprint
of boys’ play rather than that of girls.\textsuperscript{159}

Rosabeth Moss Kanter, on the other hand, believes that the problem is largely
structural.\textsuperscript{160} Limited opportunities in the law profession, for example, can
explain many of the differences for Kanter.

[Women’s] more limited access to the higher prestige and power areas of
the law may also keep them from access to visible achievements which
gain them credit as professionals. Women are in those areas or settings
that are not generally noted for the development of legal talent. This then
perpetuates the notion that women “by nature,” are not as legally talented
as men. The second consequence has to do with the effects of
opportunity on aspiration, self-esteem, and career commitment. Limited
opportunity tends to have a depressing effect on aspirations.\textsuperscript{161}

Kanter also looks to the problem of tokenism as a possible explanation.
Tokenism, explains Kanter, occurs “whenever people of any social type are
proportionally scarce. . . . Tokens are more visible, which may lead to pressures
to hide their achievements or to underachieve. They are more likely to be
excluded from informal peer networks and to be constantly reminded of their
‘difference.’”\textsuperscript{162} Kanter further contends that,

The effects of tokenism, or proportional scarcity, extend back into law
school and law school performance. A common stereotype of women in
law schools depicts the female law student as more reticent and
emotional than her male peer and less serious in her pursuit of a law
career. . . . In the token situation, performance pressure hindered
women’s achievement. In the school with relatively fewer women, the
men outperformed the women. . . . Furthermore, in the token situation
more women than men were inhibited about the anxiety-producing
activity of volunteering to speak in class, and more women than men
thought seriously of withdrawing. Finally, in the law school in which
women were tokens, women had more trouble than men interacting with

\textsuperscript{159} RAND JACK & DANA CROWLEY JACK, MORAL VISION AND PROFESSIONAL DECISIONS: THE
160. See Kanter, \textit{supra} note 4, at 2-3.
162. \textit{Id.} at 10.
their teachers, and were much less likely than men to ask professors for clarification of troublesome issues either during, immediately after, or outside class. 163

Kanter’s arguments, however, carry less weight now that women are more nearly equal to men in their law school representation.

Of course, there are also those who suggest that immutable differences between men and women simply make women unsuitable to be lawyers. 164 This hypothesis assumes that it is women, and not the structure of law schools, who are at fault. 165

The participants in this project also pondered the reasons for their experiences, with similar uncertainty.

Maybe what’s so frustrating is that some of the things are so intangible, and some of the factors that distinguish me from feeling like I can be accepted as part of the mainstream, to the extent that I want to be, aren’t easy to identify.

It’s real hard to sort that out, if that’s a biological or a cultural thing. You know, I don’t know what the answer is. I actually think I’m more androgynous than a lot of people I know, and in the past, in work situations I was fairly comfortable being assertive. So, my behavior at Yale kind of surprised me. Whatever it is—I should probably spend more time analyzing what it was about the environment, that made it seem sort of hostile or made me feel like I should sort of keep my head down and just get through it, which is what I voiced as being my philosophy here. I really don’t like to use excuses for why I don’t perform, and so I’m one of the last people to point to, “Well it’s because I’m a woman, or because of this or that.” I think my reaction is actually, in some senses, a female way to behave. Whatever failure women have they ascribe to themselves personally as opposed to blaming the environment, and I think men are better at not internalizing their failures and saying, “Well, there were all these external reasons for why I didn’t succeed.” I think that may be one factor that accounts for the difference in performance.

Other women resisted the whole inquiry of looking to gender-based explanations to explain their experiences.

163. Id. at 11.
164. See Guinier et al., supra note 13, at 80-81, for several descriptions of this argument.
165. This position was the one taken by my first-year classmate who argued that if women do not participate equally in class, it is incumbent upon them to change. See supra note 29. But see Banu Ramachandran, Note, Re-reading Difference: Feminist Critiques of the Law School Classroom and the Problem with Speaking from Experience, 98 COLUM. L. REV. 1757 (1998).
I do think that there are probably ways that women are treated differently from men in the law school here, but I can never point to specific ways. I remember one time thinking that a woman had said something in class, and the professor had dismissed it, and a man later said the same thing and the professor went with it, and that’s very easily written off to, “women aren’t being listened to.” However, it could also be the professor understood the way the man articulated it and didn’t understand the way the woman articulated it, or that it was said later on in the class period where it was appropriate to the topic that was being discussed. So I really don’t like to look for differences in the way that women are being treated at the law school from other people. . . . I think it’s very easy to find ways that women might be treated differently, but if you’re not very, very careful to examine the incidents, it might be easy to write if off to something that seems visible, but that might not be the real purpose. I don’t think there’s a lot of value in me running around looking for ways in which I’ve been slighted.

I came to the law school sensitive to the topic [of gender], and thinking about what I’d read about women in law schools feeling isolated and all that. And I feel all that. At times, I’m just tempted to attribute that to being a woman at the law school—feeling very outside, marginalized along with a whole lot of other people, women. But also, in my very close—some very close—relationships that I have with men in the law school, I find that they feel so many of the same things. So, they too, are terrified to speak in class. They too are struck dumb at the prospect of being called on, or can’t raise their hand to speak. All those things. So I think, maybe it’s not gender specific. Maybe it is personality-specific, or whatever. Because there are certainly women who are very comfortable speaking in class, or who knows what’s going on. That said, I think that I do feel that things do seem to be split along gender lines in the classrooms. It’s often men who speak more. It seems to be men who are mentored more. I feel like I’m an exception to that rule. It always seems to me—it often seems to me to be the men who I find out, who are so-and-so’s research assistant, and so-and-so’s office-hours buddy, or whatever.

Finally, when all is said and done, some just don’t care about the “whys.” Guinier, Fine, and Balin, for example, explain that, “Despite the predictable response, we do not take a position in this paper on the immutable gender differences theory. In our view, it does not matter why women function ‘differently’ in law school.” As Professor Christine Littleton explains, “It is the

166. Guinier et al., supra note 13, at 81.
consequences of gendered differences, and not its sources, that equal acceptance addresses.”

At the conclusion of this project, I now know that I was not the only person to have a negative law school experience. I also know that many women had very different experiences. I am left, however, with a great deal of sadness that I did not know many of the interviewees better, earlier. They were all fascinating and intelligent, with interesting stories to tell and intriguing theoretical standpoints. Like the women who lamented their isolation, later to discover that it was a false isolation, I felt that I really missed the opportunity to participate in a community of women at the law school.

I was also struck by how lucky I was in my own experience, in many respects. I had my second-year friend who told me to read the Weiss and Melling essay, which gave me some perspective on what I was going through very early on. I also had the good fortune of finding a wonderful faculty mentor, and developing good relationships with a few of my professors. I realize now that there were many moments in my law school career—whether it was a certain class I chose to take or a friend I made—in which I happened to make a good decision, or more likely stumbled blindly into fortunate circumstances, to my great benefit, and thus avoided many of the self-esteem crises experienced by other women. 

I must admit, too, that at times, I felt remarkably ambivalent about this project. I worried that I was replicating things that women critiqued. By taking their stories and arranging them to suit my own purposes, I questioned whether I was taking advantage of their generous candor. Besides that, I often wondered if I was the right person to tell this story or if the entire project was remarkably solipsistic and only so much whining.

I hope that I have justified the women’s trust in me by accurately representing at least a slice of their experiences. I also hope that in presenting their stories, I have demonstrated that the women of Yale Law School are incredible assets and resources to the law school, not to be discarded or ignored lightly. Weiss and Melling started their study with the assumption that “women’s alienation in law school matters. . . . Our alienation . . . impoverishes the intellectual and emotional life of the law school.” Besides those external effects, women are angry about their law experiences. As one woman commented, “I felt like I could have had a great experience, like it is for most of the first-year guys I talk to now, who are like, ‘It’s wonderful, I love it here!’” I so

168. One of the interviewees expressed similar feelings of luck: “I feel like I’m fortunate to have the direction that I have had in faculty interaction. In that sense I feel like I’m lucky. I don’t feel like I did anything in particular to seek it out. I’m just lucky, because my friends who are—who are pretty much in my situation, average grades, average whatever—probably average students who don’t talk a lot in class, have had much less faculty interaction, and I just think, ‘Boy, am I lucky.’”
169. Weiss & Melling, supra note 2, at 1302.
envy them. I so wish my experience had been like that.” Failure to acknowledge and address the simple truth that women, when they are full participants in law school life, can enrich the experience for everyone will hurt female and male students alike, the law school itself, and ultimately, the legal profession.
I chose to interview a small group of women, rather than try to conduct a large-scale, statistical survey for many reasons. Not the least of which was that I was originally inspired to write on this topic by the Weiss and Melling essay, which consisted of in-depth interviews with a small group of women. In choosing to conduct interviews of a limited group of people, Weiss and Melling knew that they would not be able to claim to have “proved” their first premise—that men and women experience law school differently. However, in sacrificing that aspect of the study, they “hoped to document and extend the group’s critique of legal education” by “[d]rawing on [the interviewees’] experiences, recounted in their language...”

The interview format allows for a more personal and layered look at the experiences of women in legal education. While statistical surveys may provide a broad overview, and sometimes are able to furnish incontrovertible empirical evidence, they inevitably lose the scope of expression of the participants.

Another concern that guided me towards an interview format was the possibility that the study itself might replicate some of the alienating effects that I wished to document. My worry was that the women in the study would be further silenced by a traditional survey format. Women’s classroom silence is a widely reported occurrence, and is considered to be a serious aspect of women’s alienation from legal education. Theories vary as to why this silence persists, with some researchers believing it to be women’s response to perceived

170. Although inspired by the Weiss and Melling essay, my project differs in several significant respects. For example, the participants in the Weiss and Melling piece were self-selected from a women’s support group that had been started in their first year of law school. The participants in this project, in contrast, were randomly chosen during their third year of law school. See Weiss & Melling, supra note 2.

I have spoken with people who suggest that the experiences of alienation the women describe in the Weiss and Melling essay were at least in part due to the fact that Yale University workers conducted a disruptive strike during the time the events in the article took place, rendering the generalizability of the study unreliable. In this regard, this project and Weiss and Melling’s study are similar. A strike by Yale University workers also took place in 1996. While this recent strike was not as divisive as the strike of 1984, four women did mention it as having alienating effects. I challenge the assertion, however, that this might make the generalizability of the experiences of the women described in this paper suspect. Although strikes have alienating effects, they are almost a fact of life at Yale University, where the university-union relations are notoriously bad. See id. at 1323.

171. Id. at 1310.

172. ERLIN BABBE, THE PRACTICE OF SOCIAL RESEARCH 273-74 (7th ed. 1995). Among the strengths of survey research, Babbie includes the ability to include a large sample size, potential for making refined descriptive assertions, and standardization of responses. Among its weaknesses: standardization often results in “fitting round pegs into square holes,” surveys do not capture “context,” and can be superficial and inflexible. Babbie concludes that “[s]urvey research is generally weak on validity and strong on reliability.”

173. See, e.g., Weiss & Melling, supra note 2, at 1332-45 (discussing women’s silence as part of classroom alienation).
hostility, while others posit that “[w]oman’s silence in legal education is rooted in the ‘strangeness’ of legal language which divorces the language of the law from the ‘human sensitivity’ associated with women’s experience of and in the world.” Professor Lucinda Finley argues that the “nature of legal reasoning and the language by which it is expressed” silences women because it is “male defined” and “built on male conceptions of problems and of harms.”Whatever the reasons behind women’s silence, the costs can be enormous. Catharine MacKinnon has argued that “power constructs the appearance of reality by silencing the voices of the powerless, by excluding them from access to authoritative discourse.” With this in mind, my fear was that a survey, which would have pre-set, non-varying responses, would not only take away an opportunity for women to break their own silence, but replicate the way in which legal education silences women by compulsorily channeling their thoughts and experiences into a fixed set of responses. Allowing the women to present their stories in their own words, on the other hand, creates an opportunity for a range of responses, and the freedom to show the fullness of the women’s experiences. Moreover, researchers have argued that, especially in the case of studying women, it is important to “avoid naming the interviewee’s experience” for her in order to avoid misnaming, or misinterpreting her experience.

The practice of open-ended interviewing, in contrast to survey methodology, can be a very useful method through which to engage the subject and present a full picture of the subject’s experience. Hilary Graham notes that “[t]he use of semi-structured interviews has become the principal means by which feminists have sought to achieve the active involvement of their respondents in the construction of data about their lives.” Reinharz explains that:

interviewing offers researchers access to people’s ideas, thoughts, and memories in their own words rather than in the words of the researcher. This asset is particularly important for the study of women because in this way learning from women is an antidote to centuries of ignoring women altogether or having men speak for women.

174. Banks, supra note 25, at 139.
175. Elkins, supra note 4, at 306.
176. Finley, supra note 75, at 886.
178. REINHARZ, supra note 60, at 18 (Interviewing “differs from survey research . . . by including free interaction between the researcher and interviewee. Survey research typically excludes, and interview research typically includes, opportunities for clarification and discussion.”).
179. Id. at 23-24.
182. REINHARZ, supra note 60, at 19.
I should note that this kind of interviewing does have its pitfalls. In the first place, before attempting such a project, I had to confront my own limitations in being able to interview women who are roughly my own age, in my own law school class, who may or may not share my experiences and beliefs, and who may or may not perceive me as a friend. The tension between the need to gather information and the unspoken rules of social interaction is just one danger, especially when interviewer and interviewee share "similar backgrounds that include norms for conversation and interaction." For example, in some cases, the problem of shared background manifested itself in the interviewees talking about their experiences by using the shorthand language of the law school, rather than fully describing events or feelings. Having a shared background with the interviewees also became somewhat of a problem in that the interviewees' experiences with me outside the interview context would sometimes color their responses. In one of the interviews, for example, in response to a question about her extracurricular activities, a woman told me that she had stopped participating in a journal that we had both worked on, and added "but you already knew that." When I asked her to elaborate on why she had stopped participating, her answer, although friendly and reasonable, was somewhat defensive—possibly because she perceived me not as an interviewer, but as a fellow journal member who was demanding an explanation for her decision to stop participating. In another case, a woman answered a question about faculty interaction by saying, "Well I know you didn't like [Professor X], but I liked him." Another woman explained a situation to me by noting, "Well, you were there in that class, so you know what it was like," instead of telling me her own version of events. These are just a few overt examples where my subject position as both interviewer and law student was problematic, but more worrisome may be the times when this role conflict was not explicitly alluded to, but nonetheless affected the eventual answers that the interviewee gave. I also have no doubt that some women practiced some amount of self-censoring in the interviews. Given the small size of the law school community, discretion is

183. For a discussion of barriers to communication in the interviewing process, see ROBERT L. KAHN & CHARLES F. CANNELL, THE DYNAMICS OF INTERVIEWING (1962). Kahn and Cannell explain the most basic barrier to communication in interviews: "through long experience in being communicated with, we learn to anticipate what is going to be said, and therefore not to listen well." Id. at 6. Other problems that may be encountered in interviews include problems of motivation, memory, and language. Id. at 8-10.

184. REINHARZ, supra note 60, at 14.

185. Familiarity with the interviewee is not always a drawback. Keith Crew tells the story of an interview project conducted in rural Appalachia:

Many of the questions on the interview schedule were Likert-type items ranging from "very much" to "very little" or "very good" to "very poor." The problem was that in the colloquial language of the region, the word "very" apparently has an idiomatic usage which is closer to what we mean by "fairly" or even "poorly." . . . One assumption of surveys, which seems so obvious that it is usually ignored, is that the researcher and the respondent are speaking the same language.

Keith Crew, How Much is "Very"?, in THE PRACTICE OF SOCIAL RESEARCH, supra note 172, at 265.
practically a survival mechanism.

Oral historian Kathryn Anderson warns that both “personal and collective agendas can short-circuit the listening process.”\(^{186}\) Moreover, project goals and the need to listen also sometimes conflict. The “agenda to document” can interfere with the interviewer’s “sensitivity to the emotionally laden language [interviewees use] to describe their lives,” and might lead to lost opportunities to explore various dimensions of the interviewees’ experiences.\(^ {187}\) Anderson’s cautions became very real to me while I was conducting some of my pre-test interviews. Because of my own inexperience in interviewing, in the first few interviews I was so intent on asking the next question that I sometimes lost the gist of what the interviewee was telling me. On those occasions, I lost the opportunity to ask any meaningful follow-up questions because I was paying more attention to the process of gathering information than the interviewees’ words.

Anderson further counsels that

> the scholar’s search for generalizations [can] undermine[] the interviewer’s need to attend to an individual’s experience. Ideally, the processes of analysis should be suspended or at least subordinated to the processes of listening. If we want to know how women feel about their lives, then we have to allow them to talk about their feelings as well as their activities. If we see rich potential in the language people use to describe their daily activities, then we have to take advantage of the opportunity to let them tell us what that language means.\(^ {188}\)

Anderson and her co-author Dana Jack call for a “shift in methodology from information gathering, where the focus is on the right questions, to interaction, where the focus is on process, on the dynamic unfolding of the subject’s viewpoint.”\(^ {189}\) Again, I was struck by the wisdom of these words while conducting some of my pre-test interviews. As the women spoke, I certainly found myself thinking about how their responses might ultimately affect the outcome of the paper, rather than concentrating on making sure I understood what they were actually trying to tell me. In Anderson’s words, I was listening “with at least part of my attention focused in producing potential material” for the project.\(^ {190}\)

Another difficulty with interview projects is the danger of misinterpretation

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187. Id. at 14.

188. Id. at 15.

189. Id. at 23.

190. Id. at 13.
and misappropriation of the words and experiences of the interviewees. \textsuperscript{191} This danger perhaps exists in all social science arenas, but it seems particularly acute where oral history or interviewing is involved. As Daphne Patai warns, “although our informants agree to the interview and frequently seem to derive satisfaction from it, the fact remains that it is we who are using them for our projects.”\textsuperscript{192} Moreover, I came to this project, as perhaps all researchers do, with my own agenda. I wanted to explore my own feelings and experiences at the law school. While I entertained notions of using this project as a vehicle for the expression of the interviewees, I had to be skeptical of my belief that it could be “empowering in that it ‘gives a voice’ to those who might otherwise remain silent.”\textsuperscript{193} For as Patai asks, “is it empowerment or is it appropriation? . . . What does it mean, furthermore, for researchers to claim the right to validate the experiences of others? And even where the empowerment does occur, as indeed it may, is it a justification for the appropriation that occurs with it?”\textsuperscript{194} I took some comfort in the fact that Patai’s particular concern came from the ethics of educated women from first-world countries interviewing third-world women with little or no education. My interview subjects were my classmates, and while my status as interviewer/researcher gave me some automatic authority, the power differentials were certainly not so acute as in the cases about which Patai writes. Even so, I recalled Patai’s warnings when one of the interviewees apprehensively asked me after the interview, “You aren’t going to show this to anyone are you?” Although this woman’s concerns were in the distinct minority—many of the women, after the interviews, expressed their pleasure in the fact that I was pursuing this project, and requested a copy of the final product—her concern led me to rethink my opening remarks before each of the interviews. I thereafter tried to make it explicit that the intended audience might indeed be larger than myself and my faculty advisor.

I was again reminded of the tremendous responsibility I had taken on for myself after conducting the last interview for the project. The interviewee was asking me about the format the project would take, and what I expected to do with the “material” I was “collecting.” I explained the general goals, and what I expected the finished product to look like. At that point, she said to me, “Wow. Telling these other women’s stories. What a responsibility!” I could only agree with her, and hope that I was, in fact, up to such a task.

\textsuperscript{191} Katherine Borland, “That’s Not What I Said”: Interpretive Conflicts in Oral History Research, in WOMEN’S WORDS: THE FEMINIST PRACTICE OF ORAL HISTORY, supra note 186, at 63. For one example of an oral history project in which this dilemma is confronted, see Mothers for Justice & Giovanna Shay, The Phenomenal Women of Mothers for Justice, 8 YALE J. L. & FEMINISM 193 (1996).

\textsuperscript{192} DAPHNE PATAI, BRAZILIAN WOMEN SPEAK: CONTEMPORARY LIFE STORIES 7 (1988).


\textsuperscript{194} Id.
APPENDIX B: INTERVIEW QUESTIONS

PRE-LAW SCHOOL EXPERIENCES

Educational background
What kind of schools did you attend growing up? Large/small? Public/private?
Where did you attend college? Large/small? Public/private?

Family background
How would you characterize your social class background? Working class/professional/etc.?
Are there any lawyers in your family?
To what extent have the career choices your family members have made affected your own career choice?

Decision to enter law school
Could you describe to me a little bit about when and how you made the decision to go to law school? How long before you entered had you decided? Was it a specific event that helped you make the decision?
At the time you applied, what was it that you hoped to get out of the experience?
If you are like most people, you applied to more than one law school. Did you find it easy or hard to make the choice to come to Yale rather than go elsewhere?

EARLY LAW SCHOOL EXPERIENCES

What were your first impressions of the law school? Do you remember how you felt either during orientation or the first few weeks or so of classes?
Those first few weeks, what did you like best about the law school?
What did you like least about the law school?
Can you think of any specific stories from that time that you think illustrate your first impressions?
How did you feel about your future that first week or so of school (hopeful, scared, excited)?
What were your career aspirations when you started law school?

FIRST SEMESTER, FIRST YEAR

Classroom environment
Could you describe the classroom experience in your large classes your first semester?
Did you enjoy your classes? Why or why not, and in what ways?
Did you enjoy the small group experience? Did you participate much in small group? Did you participate much in your large classes that first semester? Why or why not? Were there classes in which you felt more or less comfortable? Could you describe what made you feel more or less comfortable? Do you remember any particular stories from your classroom experience that semester?

_Extracurricular and social experiences_
Could you tell me what extracurricular activities in the law school you decided to participate in your first semester? For the activity you liked best, could you tell me why you chose to participate? How important was it to you?

_Personal life experiences_
During your first semester, to what extent did you have a life beyond the law school? Did you experience any difficulty balancing law school with these other elements of your life? How important was it to you to have these outside activities? Was it at all difficult to maintain that outside life? Did you feel like you were part of any sort of community at the law school? To what extent did you feel at the center or periphery of law school life? Do you have any sense about why this was the case or what made you feel this way? What did you feel best about having done during that first semester in law school? What do you feel the least good about having done or not done that first semester in law school?

_Faculty contacts_
Did you ever speak to a faculty member after class or during office hours in your first semester? If not, why not? Was it generally a positive or negative experience? What was it about the experience that made you feel that way? Did you feel comfortable approaching your first semester professors? What about your professors made you feel more or less comfortable in approaching them?

SECOND SEMESTER, FIRST YEAR

_Classroom environment_
Did your experience in your classes your second semester get better or worse than your experience your first semester?
Did your level of participation remain the same?

*Extracurricular and social experiences*
Did the extracurricular activities that you participated in your second semester change? In what ways?
Did your social group change from your first semester? In what ways and why?

*Personal life experiences*
To what extent did you have a life outside the law school in your second semester?
Was it more or less difficult to maintain a life outside the law school environment second semester?

*Faculty contacts*
Did the level and quality of interaction with professors change your second semester?
What do you think contributed to that difference?
Many students take part in the Law Journal competition in the second semester of the first year. To what extent did this experience affect you?

*Overall experience*
What do you think was the biggest difference between your first and second semesters?
By your second semester, how much a part of a community at the law school did you feel?
Did you feel better or worse about being at the law school by your second semester?

**FIRST SUMMER JOB EXPERIENCES**

Were you looking for any particular kind of legal work for your first summer? Where did you end up working and what sort of work did you do there?
Did you seek advice from anyone during the first-summer job-search process? To what extent were those people/that person helpful?
Did financial considerations influence your first summer job decision? In what ways?
How did you feel about the work experience your first summer? Was your overall experience good or bad?
What specifically about the job made you feel that way (working conditions, subject area, people with whom you worked)?
SECOND YEAR

As you approached the fall, was your general attitude toward law school the same or different as your attitude had been when you left? In what ways?

Do you think your work experience made any difference in how you viewed the law school? In what ways?

At the beginning of second year, many students take part in the on-campus interview process. In what ways did this experience affect you?

During second year, as distinct from first year, were there any experiences that you felt either pulled you in or drove you away from the law school community?

Did your experiences in your classes your second year get better or worse than your experience in the second semester of the first year?

Did your level of classroom participation remain the same?

Did the extracurricular activities that you participated in at the law school your second year change from the ones you participated in your first year? In what ways?

Compared to your second semester of first year, was maintaining a life outside the law school harder or easier or about the same?

Did the level and quality of interaction with professors change at all your second year?

Did your social group change at all your second year?

When you thought about what you were going to do for your second-summer employment, did you feel at all differently towards it than you had when you anticipated your first summer experience?

Towards the middle of second year, many students participate in the judicial clerkship process. To what extent did this process affect you?

SECOND SUMMER JOB EXPERIENCES

What type of work did you look for your second summer?

Where did you end up working and what sort of work did you do there?

Did financial considerations influence your second-summer job decision?

From whom did you seek advice about the second-summer job-search process?

To what extent were those people/that person helpful?

Were there any key events or experiences in searching for your second-summer job that particularly stick out?

In many cases, a second summer job may lead to permanent employment. To what extent did this factor into your job search process? To what extent did it affect your job experience?

When your summer job was over, what was your overall assessment of the
experience? Were there specific factors about the working conditions, subject area, people with whom you worked that made you feel that way?

THIRD YEAR THUS FAR

Compared to second year, how have your classroom experiences been this year?
Has your level of participation remained the same?
What sorts of extracurricular activities at the law school are you involved in now? Are they the same ones you started with? Why or why not?
Has it gotten more or less difficult to maintain a life outside the law school?
Did the level and quality of your faculty interactions change from your second year?
What things do you like best about the law school now that you are a third year?
What things do you like least about the law school now that you are a third year?
Has your social group changed at all from what it was last year?
Do you feel like you are more at the center or periphery of law school life?
Is there anyone at the law school whom you would consider a mentor? How did this person come to be your mentor? In what ways is this person a mentor to you?
How have you felt about the writing you have done while in law school? Do you feel more or less confident as a writer now than when you entered law school?

OVERALL EVALUATION OF EXPERIENCE

As you look back over the whole experience up until now, are there other things you’d like to communicate about the classroom experience?
What is your overall evaluation of your faculty interactions? Have they been positive? What do you think could have made it easier to approach faculty?
If you were to compare your fellow law students to your fellow undergraduates, would you say that law students are more or less creative, friendly, hard-working, career-oriented?
Do you think that you’ll have lasting friendships that have grown out of law school?
What do you feel best about having done during the whole time you have been in law school?
What do you feel the least good about having done or not done during the whole time you have been in law school?
Are there ways in which you have changed because of law school? How?
Did you ever participate in a clinic? Could you tell me about that experience?
(For public-interest students): Judging from what you’ve told me, you’ve been fairly focused on public-interest employment. Do you have any specific feelings about the public-interest law program at Yale? Do you have any
regrets about not having spent more time doing private-sector work?

(For private-sector students): Judging from what you’ve told me, you’ve been fairly focused on private-sector employment. Do you have any specific feelings about the private-sector program at Yale? Do you have any regrets about not having spent more time doing public-interest work?

How satisfied are you with your overall law school experience? Why? Could you give specific examples?

Suppose you were on a committee that is authorized to make substantial changes to any aspect of the law school. What would you do?

ASSESSMENT OF FUTURE AND CAREER EXPECTATIONS

Do you know what you’ll be doing immediately after graduation?

How do you feel about leaving school and entering the world of adult work?

Do you think the totality of the law-school experience has prepared you for your career? In what ways? (Do you have any thoughts on how it has failed or could have prepared you better?)

Have your long-term career aspirations changed since coming to law school? In what ways?

Quite apart from law school, when you think about your future career, do you have any worries about balancing that with other elements of your life (family, lover, friends, hobbies, etc.)?

How do you feel about your future (hopeful, scared, excited)?

To what extent do you think the school has been a supportive environment for someone pursuing your career goals? (For example, other students, the administration, the Career Development Office, the general atmosphere?)

You may remember that I told you that this is a project about women in legal education. Is there anything you’d like to tell me about your experiences as a woman at the law school?