

Gender disparity in law school continues both inside and out of the classroom. These effects spill over as women enter the legal workforce and are exacerbated by similar institutional problems across the profession.

BY **RUTH ANNE FRENCH-HODSON**

The Continuing Gender Gap in Legal Education

Feminism is having a new moment in the national spotlight. Sheryl Sandberg became the darling of the national media last year while touting *Lean In*, which urged us all to break down the barriers that prevent women from joining the leadership ranks of American business and political institutions on equal terms with their men colleagues. Beyoncé featured writer Chimamanda Ngozi Adichie’s TEDxEuston talk on feminism on a track in her latest album. In her pink running shoes, Wendy Davis stood for 11 hours filibustering a bill that placed extreme new limits on access to abortion. Popular culture has begun to shine a spotlight on the uneven expectations and barriers to equal

opportunity faced by women. Legal education is not immune from the institutional barriers and discrimination against women. To gain a handle on the barriers that women still face, Yale Law Women (YLW) decided to undertake a comprehensive survey of gender at Yale Law School. The study that follows provides quantitative and qualitative data about the lived experience at one elite law school.¹

The insights present lessons about challenges in legal education that are relevant to both other law schools and the profession as a whole as these institutions attempt to capitalize on the full range of human capital, regardless of gender. The legal profession can not only learn from the lessons of law schools

in dealing with gender inequality in their workforces, but legal employers in the private sector, government, and judiciary should take into account these differences when determining how to conduct and what factors to value in hiring. After all, the law school experience is not shaped in a vacuum. Students choose classes, activities, and out-of-school opportunities based on what they perceive legal employers will value in the hiring process. The legal profession is not merely the next step along the path for law students but rather is intimately involved in shaping the law school experience.

This article begins by exploring the continued gender disparity that exists in legal education and the profession before examining the evidence gathered during the study. In the final section, it describes how lessons learned from the study can inform how those in the profession view legal education as well as draw lessons for dealing with their own gender issues.

Gender in Legal Education and the Profession

Over the past decade, American law schools have admitted almost equal numbers of men and women. Nationwide law school enrollment has hovered around 53 percent men and 47 percent women for the past six years.² Law school graduation rates largely mirror the numbers of incoming students.³

These numbers strikingly contrast those from even 20 years earlier when men comprised more than 60 percent of first-year students. In accounts of women’s law school experience in the 1980s, some at Yale Law School worried that if they did not pursue law school aggressively, they would prove that women were not suited to the profession. Now, today it would be difficult to find people who would articulate the belief that they “perceive women as unsuited for law school.”⁴ However, narratives and studies of law school experiences conducted over the past 20 years continue to document systemic gender discrimination that leads to disillusionment, alienation, and discontent despite growing equality in enrollment.⁵ In 2002, YLW conducted one of

the most comprehensive studies of women's law school experience by monitoring classroom participation, interviewing professors, and surveying students. It found that women⁶ students were less likely to participate in class in part due to how professors conducted their classes and in part due to differences in confidence and assertiveness between men and women students. Outside of the classroom, where much of the networking and collaboration between students and faculty occur at Yale Law School, the 2002 study showed a noticeable difference between men and women, both in their level of comfort with contacting professors and the actual contact a student had with professors.

And, indeed, law schools are not the only legal institutions that continue to struggle to train, retain, and mentor women. While the gender disparity in enrollment may be small, women remain significantly underrepresented among legal professionals. At present, the roughly equal number of women enrolled in law schools nationwide has not yielded equal numbers of women in clerkships, law firm partnerships, legal academia, or the judiciary.

For the first time in history, three women justices sit on the U.S. Supreme Court. However, this constitutes only one-third of the Court. Of the 112 justices that have ever served on the U.S. Supreme Court, only four have been women. The federal courts of appeals as a whole show a similar percentage of women on the bench, with 51 women out of the 161 active judges (31.7 percent). Several circuits have much lower numbers of women judges, including the U.S. Court of Appeals for the Tenth Circuit, where only 1 of the 10 active judges is a woman, and the U.S. Court of Appeals for the Eighth Circuit, where this year only the second woman to sit on the circuit was confirmed. The federal district court has changed dramatically over the past year as President Barack Obama pushed a record number of women nominees. In March 2012, only 31 percent of the active U.S. district court judges were women. In December 2013, that percentage had jumped to 45.7 percent.⁷ At the state level, there is even less diversity, with 27 percent of state court judgeships being held by women in 2012.⁸

In 2013, women made up 33.1 percent of all lawyers.⁹ However, women are disproportionately represented in more entry-level positions. In that same year, at firms surveyed by the National Association for Law Placement (NALP), women comprised 44.7 percent of associates, but only 20.2 percent of partners.¹⁰ Flipped on its head, men make up 55.3 percent of associates but account for nearly 80 percent of partners. At the top levels of management, the numbers were worse. According to a recent survey of law firms, 11 percent of the largest law firms in the United States have no women on their governing committees.¹¹ In 2013, women lawyers were paid only 78.9 percent of what men lawyers were paid.¹²

Of course, it takes time for gender parity in law school enrollment to translate into gender parity in legal employment. In the past 10 years, there have been some improvements in the larger legal environment. In 2002, women comprised only 20.6 percent of the federal judiciary, less than 20 percent of tenured law school faculty, less than 16 percent of law partners nationally, and 13.6 percent of the U.S. Congress.¹³ Despite small improvements, evidence indicates that the pipeline to the corner office is almost immediately leaky. Prestigious post-graduation positions, including Supreme Court clerkships, should show a more timely response to gender parity in law schools, as they are usually pursued within a couple years of graduation. However, women make up a lower percentage

of Supreme Court clerks than they did 10 years ago.¹⁴ Additionally, over the past four years, the number of women associates at firms surveyed by NALP has decreased every year.¹⁵

The gender disparities that occur in law school and the profession are interdependent. By the end of a first-year student's fall semester, she will have to start applying to private firm summer programs, and shortly after, for government or public-interest internships. Many legal employers, especially the most competitive, continue to look to the most obvious markers of law school achievement—grades, journal membership, student publishing—to make decisions about interviewing and hiring. While simple to assess, these factors often are poor indicators of what it takes to be a successful lawyer and can disadvantage women and minority candidates.

The Langdell model, which most law schools still use, is built on the presumption that the law can be learned deductively from reading appellate decisions collected in casebooks. However, this model based around the adversarial system does not teach some of the most important skills that 21st century lawyers will need from facilitative skills to knowledge of transactional work to legal creativity. The model also implicitly undervalues the importance of the lived experience of students outside of law school to understanding or making judgments about the law. Studies have demonstrated that this type of education tends to quickly alienate women students and even lead to self-undertraining.¹⁶ Journal membership and student publication often depend on grades. They also require a time and energy commitment to an essentially competitive process with winners and losers. This study, as well as others, shows that women are more likely to pursue more collaborative endeavors in law school, such as research and teaching assistant positions, conference management, and clinic work—endeavors that are not always viewed as prestigious.

Just as successful businesses do not merely provide training materials to their employees, law schools are not merely about the classroom experience that best communicates the material at hand. Instead, they should also be measured by their ability to mentor, promote, encourage, and retain students. As this study and others demonstrate, reformers must consider how changes in legal education models affect all students and how they will actually be implemented in law schools. Closing the gender gap at both the law school and professional level requires understanding these disparate experiences and their causes.

The Case Study

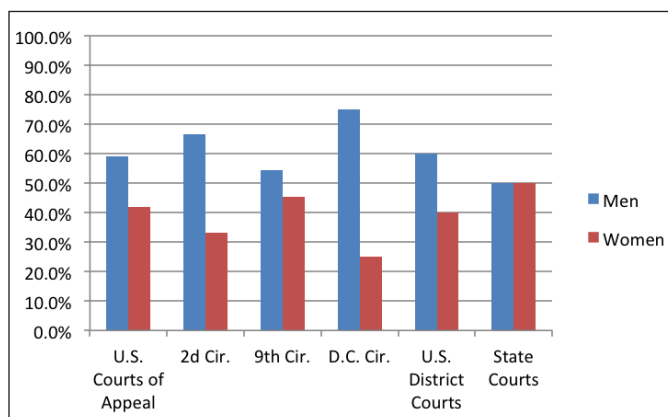
In anticipation of the 10-year anniversary of the 2002 YLW report, YLW, a student group working to advance the status of women at Yale Law School and in the legal profession at large, conducted a follow-up study to explore how gender dynamics have changed at Yale Law School in the past decade. It was limited to observations about classroom and out-of-class experiences at Yale Law School. Undoubtedly, Yale Law School provides some unique challenges and opportunities that may not neatly map onto the challenges of other law schools or the profession. However, there are reasons to believe that the study can provide meaningful insight into larger debates about gender and the legal profession as well as models for legal education. First, as a small collegial law school, it is possible that the statistics may actually be under-representative of larger trends. Second, to the extent that Yale relies more heavily on informal networks for both academic and employment opportunities, this mode of interaction more closely models legal workplaces. Third, this study may be the only one that

measured the same data over two time periods. Finally, as one of the top law schools in the nation, Yale has the potential to shape the debate and present legitimate alternative methods and concerns. The trends and statistics reported are consistent with larger national trends. YLW hopes that this intensive case study will encourage others to take a hard self-assessment to ensure that all students have equal opportunities to succeed.

YLW designed the study to provide quantitative and qualitative data from students and faculty on classroom and out-of-class interactions that shape the law school experience. The study synthesizes three areas of investigation: conversations between student-interviewers and 54 faculty respondents, observations of student participation rates among women and men in 113 class sessions in the fall of 2011, and perceptions of more than half of the student body as reported in a survey soliciting their views on gender dynamics in classroom participation and mentoring at Yale Law School.¹⁷ The data that YLW collected as well as the full recommendations were first released in April 2012.¹⁸

The percentage of women in the J.D. class at Yale Law School has fallen slightly since 2003, but enrollment numbers still hover near gender parity. In the fall of 2011, 310 women (49.3 percent) and 319 men (50.7 percent) were enrolled in the JD program at the law school. These numbers are slightly better than nationwide averages, which show women accounting for 46 percent of total JD enrollment. However, Yale Law School still exhibited gendered outcomes right after graduation. According to clerkship data from the Yale Law School Career Development Office,¹⁹ men students disproportionately secured the most prestigious appellate clerkships, particularly on the Second and D.C. Circuits. On the other hand, women students were more likely to be awarded public interest fellowships over the same time period. This held true whether the fellowship was awarded only to Yale Law School graduates or to those from any law school.

Chart 1. Gender Distribution of Federal Clerkships as First Job out of Yale Law School, 2006 – 2010



By no means should appellate clerkships be the only markers of success; but there is no question that they are of interest to many students, including to a large number of Yale Law students. It is concerning that these prestigious jobs, and all of the subsequent professional opportunities (including in the public interest arena), are going disproportionately to men. Despite admitting near equal

numbers of men and women students, the data suggest that something is still happening within the institutional environment and/or the clerkship selection process that is creating a professional disparity. This, as well as more anecdotal evidence, led YLW to spend two years exploring gender dynamics at the law school.

Major Findings

Our study documented that Yale Law School continues to be an institution where one's experience is defined by gender. In the classroom, all students were more likely to hear men's voices, from their classmates to their professors. Outside of the classroom, men were not only more comfortable interacting with faculty, but also more likely to go and meet with professors for a variety of reasons. Men and women students also pursued different activities outside of the classroom.

Classroom Participation

Classroom participation plays an important role in fostering relationships between students and professors. It also shapes the discourse within class and impacts students' perceptions of their own capacity for legal analysis. To the extent that classroom experiences mirror those that occur in the workplace, they also prepare students for legal careers. Of course, participation is not the only method of intellectually engaging or "proving oneself" in law school. Indeed, students who do not participate in class are sometimes the strongest students, so we should not ascribe excessive importance to speaking up in class. Nonetheless, student participation shapes the legal learning environment, which influences the values, interests, and identities of students and the school as a whole. Through these interactions, students learn from their peers and confront visions of the law they might not have otherwise encountered—and if students are not confronting perspectives from all their peers, regardless of gender, their learning experience will be far less rich.

Despite the value of variety, the classroom monitoring measured a noticeable difference between the number of times that men and women spoke during the semester. Of the 2,934 participation events recorded, 58 percent came from men and 42 percent from women. Because attendance for the classes monitored was not evenly divided by gender, the data were adjusted to estimate the events that would have occurred if men and women were enrolled in courses in the same proportion as the overall school attendance: 50.7 percent men and 49.3 percent women. Using these adjusted data, men still participated at a higher level, constituting 57.2 percent of the events versus women's 42.8 percent.

This disparity was not concentrated in just several classes. In more than half (12 out of 21) of the courses monitored, men accounted for 55 percent or more of the participation events. In more than one-third of the courses (8 out of 21), men accounted for 60 percent or more of the participation, both in raw numbers and adjusted for attendance. In two courses, men made up more than 80 percent of the participation events, both in raw numbers and after adjustment for attendance.

The classroom monitoring did not show noticeable improvement in women's classroom participation compared to the 2002 iteration of the study. In 2002, overall men students made up 53 percent of the participation events, whereas in 2012 it actually increased to 58 percent. Students in fall 2011 also were more likely to be in a class dominated by men voices than in 2002. In 2002, women spoke more

often in 11 out of the 23 classes monitored (47.8 percent) and men spoke more often in 12 out of the 23 classes (52.2 percent). When comparing a similar time period in fall 2011, women accounted for the majority in just 6 of the 21 monitored classes (28.6 percent), in raw numbers and when attendance was adjusted to school-wide enrollment.

No one reason can wholly explain this divide, but several trends emerged from the data. First, the voices heard do not seem to necessarily correlate with those who have the best grasp of the material or special insight. Many professors and students noted that men raise their hands sooner than women do. This may be because women are more likely to take additional time to reflect on their comment and refine their thinking before they speak. One professor noted: “Men talk more regardless of how much they have to say.” He also noted that men “have a higher perception of their ability.” Another professor notes that men and women have different thresholds for raising their hands. Women tend to have a higher threshold, meaning they only raise their hands if their comments are substantive and of higher quality. On the other hand, men raise their hands very casually. One second-year man responded, “I think, across the Yale Law School population, men seem more confident and worry less about the reception their comments will receive. I’m not sure if the solution is to have women worry less or men worry more, though the former seems more feasible.”

Second, women students, more so than men, appear to be culturally pressured to avoid talking too much in class. Some faculty and students also note that women may be punished when they are perceived as talking too much. As one professor notes, “I think there’s an in-group dynamic where when women are gunners, they get punished more than men for doing it. Their classmates’ reactions are harsher.” This observation finds widespread support in the student survey among both men and women. Multiple students commented on existing norms about participation, and women are either more likely to abide by the norms or more likely to receive criticism for breaking them. Some students posited that this norm is socialized at an earlier point. As one third-year woman hypothesized, “Men don’t feel a need to self-censor. Women are taught to self-censor. Both men and women enforce these rules, consciously or not, because we notice more when women speak up. In other words, women don’t have to talk as much as men for us to notice and think it’s rude.”

However, other students noted that there was a special dynamic at Yale Law School that discouraged women’s participation. One first-year man noted, “[I]t seems to this 1L that there is a very strong norm at the law school against participation, no matter the way in which a professor does or does not prompt or encourage participation. I do not think that this norm is framed as gender-segregated. I do think that men are more comfortable violating this norm than are women.” Several students also noted that women students who violated this norm also faced gender-specific repercussions. A third-year man stated, “‘Gunner’ or frequent talker status does attach to both men and women who talk more often than their same-gender peers, and these frequent flyers do rack up most of the miles—they do most of the talking. But there are fewer such women, and those women who are in the group face a particular, harsh, and gender-specific backlash.” One third-year woman recounted her experience:

Students tend to mock other students who participate. ...
My own participation has declined drastically since com-

ing to Yale due to the mockery of those who participate in class. I used to participate all the time in undergraduate, but now I don’t participate as much. This place’s atmosphere suppresses participation. I have even heard, on two separate occasions, professors, both of whom were female, making fun of ‘gunners’ who participate too much. They said that gunners don’t tend to get good grades, which I took to be an admission on their part that they grade gunners worse. That was probably more than anything what scared me out of participating frequently in class.

Third, especially in upper-level classes, the size of the class matters in terms of equality of participation. In upper-level courses, women did not make the majority of comments in any of the large classes when the numbers are adjusted for attendance. In contrast, there is much less of a gender disparity in participation for classes with peak attendance of less than 25. In seminars, men account for the majority of participation events in four of the six courses. However, when adjusted for attendance, women account for the majority of participation events in three of the six courses. The increased presence of women’s voices in seminars does not seem related to either the professor’s gender—all three courses were taught by men—or to course content.

Interestingly, this dynamic is reversed in first semester first-year courses. At Yale Law School, in the fall semester of the first year, all students take the same four classes: civil procedure, constitutional law, contracts, and torts. All students are also placed in a small group with around 18 students. These small groups take all the same classes together, including one of the core courses as a small seminar with only their group. The other three courses usually combine three different small groups. The classroom monitoring demonstrated that the large first semester courses were more likely to have equal gender participation than the smaller seminars. In all three first semester small group seminars monitored, men accounted for a majority of participation events, both in raw numbers and adjusted for attendance. In two of the small groups, men accounted for at least 57 percent of the participation events, both in raw numbers and adjusted for attendance. In large first-semester sections, men accounted for more than 50 percent of the participation events in three out of the five classes in raw numbers. However when adjusted for attendance, women accounted for more than 50 percent of the participation events in three out of the five classes.

Finally, faculty classroom management strategies make a difference in the level of gender disparity in classroom participation. The cold call system provided the least gender-disparate result, with men accounting for 54.8 percent of cold call responses. Some professors have adopted some sort of cold call or panel system to ensure broad participation. When students were asked for suggestions to encourage broad-based participation, a large number of men and women requested some type of cold call system, with many encouraging a panel system in which students are divided into groups or panels and the panels rotate days on which they will be slated to be cold called by the professor. Many of these students suggest variations on cold calling, including, “warm-hearted cold calling,” and random-number-generated cold calling. A small number of students said they preferred anything to cold calling.

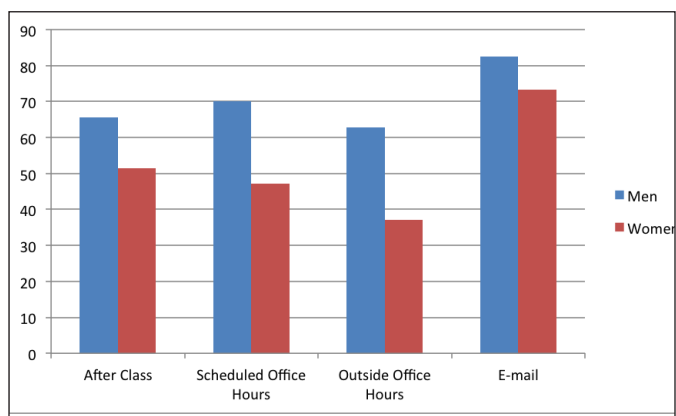
The other prevalent suggestion was that professors lead discus-

sions conscientiously to avoid hearing the same voices and to elicit a diversity of opinions. Many students encouraged professors to wait several seconds after asking a question to take a response, giving others an opportunity to volunteer who do not raise their hands immediately, and to explicitly solicit new participants if the same students are volunteering who have already participated. Many students also noted how important it is for professors to encourage students and respond directly to comments and questions. A number of students thought that a kinder, more humane, and less hostile environment would encourage more broad-based participation. Several students noted that the extent to which the professor's classroom management style is aggressive can affect certain students' willingness to participate, particularly women. Students also singled out other classroom systems that encouraged participation. These strategies included response papers or small break-out discussions.

Meeting with Faculty Outside of Class

Yale Law School places a premium on one-on-one interactions outside the classroom. Without formal grades, large classes, or institutionalized benchmarks, faculty-student relationships play a crucial role in a student's education and future opportunities. And in this environment, men were significantly more comfortable than women to interact with faculty. Most notably, men students were much more comfortable meeting with professors in person outside of class, with 70.2 percent reporting that they were either comfortable or very comfortable attending scheduled office hours. Only 47.2 percent of women felt the same level of comfort with this type of interaction. Similarly, for meetings with professors outside of office hours, 62.9 percent of men students reported that they were either comfortable or very comfortable as compared to 37.2 percent of women. Both women and men students were most comfortable communicating with professors by e-mail (82.6 percent of men and 73.4 percent of women).

Chart 2. Yale Law School Student Comfort Level with Different Interactions with Professors



These comfort levels also translate into the actual interactions outside of class with professors. Men students visited office hours far more often than women students did. On average, men attended office hours 3.6 times during the fall 2011 semester, while women attended only 2.6 times. The percentage of students *never* attend-

ing office hours was the same across gender (18 percent), but the men who attended office hours went more often on average: 25.7 percent of the men surveyed attended office hours five or more times in the fall of 2011, while only 14.7 percent of the women did.

There was less of a gender difference in visits that related to reasons that all students would need to graduate or find employment: paper supervision, clerkship or fellowship advice, reference or recommendation requests, and exam feedback. However, men students were much more likely than women students to report that at least one of the purposes of an office visit was not related to one of these core requests. In fact, more men students went to visit professors for a general conversation than women students did for any reason except paper supervision.

Professors also noticed the difference in how men and women used office hours. Some professors noted that women only go to office hours when they have concrete, well-organized questions, and are nonetheless apologetic about taking up the professor's time, whereas men tended to come just to convey a general idea, to network, or to update the professor on their lives. One professor commented that women tend to come to her because they have similar academic interests or have read up on her interests, while men seem to come just to network or brownnose. Another professor said, "There is a real difference here—men come to the office much more often. They seem just more self-conscious about cultivating relationships with faculty. Women mostly approach when they have an actual question. Men feel freer to drop in just to update me on their lives or just talk about pretty much anything."

Collaborative Work

Students engage in collaborative work with professors by serving as teaching and research assistants and by undertaking supervised writing, independent study, and other projects. Collaborative work is part of a student's academic and professional development. Students often gain faculty recommenders and mentors through their collaborative work. Collaborative work also gives faculty valuable assistance and insight into their projects. Both men and women students at Yale Law School actively collaborate with faculty, but they do so in different ways. Women are more likely to work with professors as research and teaching assistants. On the other hand, men are more likely to start writing with professors early on and publish their work in the *Yale Law Journal*.

Women students were more likely to be research and teaching assistants, accounting for 58 percent and 54 percent respectively. The 14 women professors who provided numbers were especially likely to take on women teaching and research assistants. Women students make up 63 percent of the research assistants for women professors and 60 percent of their teaching assistants. Women students also account for 56 percent of the research assistants for men professors, but men students account for 52 percent of their teaching assistants.²⁰

While men and women do not report a large difference in faculty accessibility, they do hear about opportunities to work with professors in very different ways. Women were more likely to hear about opportunities through posters or e-mails to "the Wall," the internal, school-wide listserve, while men were more likely to learn through more informal mechanisms like reaching out to a professor for an opportunity, having a professor reach out to them, or hearing from friends or classmates.

Men accounted for slightly more of the supervised writing roles with professors, but the numbers are fairly even. This is not surprising, since all students are required to complete two papers to meet their school-wide writing requirements. However, men students begin writing with professors earlier in their time at law school and are more likely to stay in touch with their paper supervisors.

Supervised student writing often translates into student scholarship. At Yale Law School, despite the writing requirements, a large gender disparity exists in the published “Notes” and “Comments” in *The Yale Law Journal*. The journal, in partnership with YLW, recently analyzed its student publication data with gender in mind. In Volumes 112 through 121, just over one-third (33.6 percent) of student “Notes” and one-fourth of student “Comments” were written by women. In the journal’s last three volumes, women students

board look to student publishing as an indicator of an individual’s merit, this paucity of student published work by women has an effect that ripples past law school.

Mentoring

Mentorship often provides for an informal transmission of information and advice about careers and law school, as well as how to integrate professional lives with social and family commitments. Students at Yale Law School largely do not see their professors as their mentors. In part, this may relate to the fact that most men professors see their mentorship role as limited to supervising students on their papers and research. On both the student and professor front, the study shows gendered differences in how the mentorship relationship is formed and defined.

Gender disparity in law school continues both inside and out of the classroom. These effects spill over as women enter the legal workforce and are exacerbated by similar institutional problems across the profession. Additionally, the legal profession has played a role in perpetuating some of the education structures that alienate and disadvantage women through prioritizing certain markers of law school success.

have authored only 25 percent of all “Notes” published (12 out of 47). One second-year woman writes that “the lack of scholarship and publishing by women students is a serious problem at an institution that values scholarship so highly.”

Women not only submit their work at a lower rate; they are also less likely to resubmit a piece after it has been reviewed. With regard to the former, only 37 percent of the 116 “Note” manuscripts submitted so far this year have been by women. Most student “Notes” are not accepted for publication upon first submission. Unaccepted submissions receive a “Revise and Resubmit” memo providing suggestions for improvement. Revised and resubmitted pieces are four times more likely to be accepted than initial submissions. According to data from the journal in 2012, men students also were more likely to resubmit their pieces.

The data do not provide a direct answer for the difference in publishing at Yale Law School. However, several trends are apparent. First, men students begin writing major pieces of scholarship earlier than women, often in their first year, and maintain relationships with the professors who supervised their writing. By writing early, men students may have more time to go through the revise and resubmit process and may develop experience in producing this type of work that can be used later. Second, men students are more likely to have mentorship relationships with faculty that are centered around scholarship. Women students were more likely to acquire mentors through clinical experiences, being a teaching assistant, or organizing a conference, while men students were more likely to develop mentors through writing and attending office hours. Faculty mentors provide students with access to feedback and ideas on their scholarship as well as encouragement that the work is good enough. Third, women students are often more active in the law school community, as they account for more than half of the research and teaching assistants and leadership positions on secondary journals. However, these additional activities may come at the expense of their own writing. Because employers across the

Similar to the gendered difference in how students collaborate with professors, men and women acquire their mentors in a different manner. Of the students with mentoring relationships, more women than men reported that they had formed mentorships by doing clinical work (52.2 percent of women and 33.3 percent of men), by being a teaching assistant (14.2 percent of women and 9.9 percent of men), and by working for a student group or on a conference with the professor (13.3 percent of women and 7.4 percent of men). More men formed relationships through office hours (69.1 percent of men and 51.3 percent of women) and paper writing (69.1 percent of men and 50.0 percent of women).

When it came to how professors conceptualized the mentoring relationship, women professors had a more inclusive conception of the term. They had thought about what mentorship entails and about how they interact within mentoring relationships. All women professors seemed to view mentorship holistically—covering personal, career, and academic issues. This is why many think they should know the whole person and not just a student’s interests. Women professors also saw mentoring as a big part of their job and tend to be more active in their mentees’ lives—going over writing samples, telling them where to apply, proactively reaching out, and so forth.

While many men professors also had thought deeply about mentoring, a number said they have never given it much thought. Many did not see a personal relationship as having anything to do with mentoring and instead defined the relationship in terms of research and paper supervision. For example, one man professor said, “Mentorship is really inseparable from working with students to develop papers and as research assistants.” A number of men professors (many over the age of 50) asked, “What do you mean by mentorship?” The professors exhibited genuine confusion, explained that they did not like the term, or were “skeptical of it as a phenomenon.”

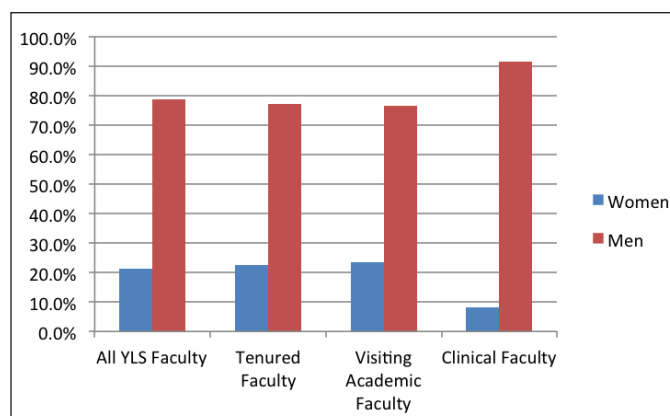
Most troubling, some men professors expressed difficulty in mentoring women students. These tended to be the younger men professors who were concerned about the appearance of meeting or advising women students and sexual harassment allegations. One professor stated, “If you’re a younger faculty member, you have a sense in which this is a general problem of any sort of student–teacher relationship.” Therefore, some younger men professors related a hesitancy to spend time alone with women students, but no student or professor mentioned a tension between men students and any professors (including young women professors or gay men professors). Another young man professor worries about the informal mentoring and support aspect with women students. He likes to talk to students about non-class-related subjects (e.g., advice on life and career choices) at locations outside of Yale Law School and feels awkward when he is with a woman at a café because he does not want her to be uncomfortable.

For some professors, this hesitancy appeared to spill over to the actual content of conversations they had with women students. One professor states, “I do try to avoid talking about personal things with women, because I think there’s a greater danger for it to come across as inappropriate.” Another professor stressed that students should initiate contact with professors and not vice versa because “professors can be wary of sexual harassment” and it “might come across badly if male professors started giving female students unsolicited career advice.”

Faculty Diversity

While the student population is almost equally divided by gender, the faculty at Yale Law School is far from representative in terms of gender. In the fall of 2011, Yale Law School students who responded to the survey, on average, had 3.1 men and 1.6 women as professors. For 2011 – 2012, 22 out of 104 Yale Law School professors were women (21.2 percent). When excluding visiting, clinical, adjunct, and emeritus professors, there were 17 women professors out of 75.

Chart 3. Faculty Gender Distribution at Yale Law School, 2011 – 2012



The lack of women on the faculty places additional burdens on the women professors. Professors remarked that women students tend to want women mentors. Both men and women profes-

sors note that women professors can be overburdened because women students are “very hungry for female mentorship.” Women professors also take on a larger advocacy role. Women professors wrote *significantly* more letters of recommendation than their men colleagues for both men and women students. The 14 women interviewed reported writing 99 letters, an average of 7.1 letters per person, while the 40 men interviewed reported writing 158 letters, an average of 4.0 letters per person.

Discussion

The data show a compelling picture of continued gendered experience at law school. But the question now is: what does it mean for the future of legal education and for those of us in the profession?

The Pipeline Myth

Several long-time professors noted that Yale Law School is much better than it used to be. Undoubtedly, just the presence of almost equal numbers of women as men students changes the dynamic of the institution. But in comparing the data with that of 2002, it became apparent that equal numbers will not necessarily transform an institution over time. The solution is not merely a matter of time.

Some of the most striking disparities discussed in the 2002 report have barely improved or show signs of retrenchment. Most notably, the classroom monitoring did not show noticeable improvement in women’s classroom participation compared to the 2002 iteration of the study. As mentioned previously, overall men made up 53 percent of the participation events in 2002 while that percentage actually increased in 2012 to 58 percent. When the data was analyzed class by class, students in 2012 were more likely to be in a class dominated by men’s voices than in 2002.

In another highly visible source of student engagement, publishing in *Yale Law Journal*, the gap between men and women students actually worsened between the two periods. Between 1996 and 2003, women produced 36 percent of all student-published work. Over the next 10 years, women wrote just over one-third (33.6 percent) of student “Notes” and one-fourth of student “Comments.” While there was a decline in actual published work from women students, they were submitting their work to the journal at the same rate in both time periods.

This is not to say that some gains have not been made in the past 10 years. All students seem much more comfortable approaching professors outside of class, regardless of the type of interaction (coming up after class, going to scheduled office hours, going to a professor’s office outside of office hours, or e-mailing a professor). However, each of these categories still shows a noticeable gender divide. In only one category—e-mailing a professor—was there less than a 10 percent gap in the comfort level of men and women students. When it came to meeting professors in their offices, either during scheduled office hours or outside of those times, there was over a 20 percent gap in comfort level.

The improved comfort level of all students points to the importance of institutional awareness and commitment. Several professors reported that after the 2002 study was released, the law school implemented concrete policies to encourage professors to hold regular office hours and set up an office hour website. Institutional awareness and concrete changes can make a differ-

ence in how individuals experience law school and can work to diminish gendered outcomes.

It is encouraging that the current Yale Law School administration has taken the report and recommendations YLW put together based on this data seriously and begun to push suggested institutional and cultural reforms. The deputy dean has sent out a yearly memorandum to faculty highlighting best teaching and mentoring practices, many of which were developed in consultation with YLW. In fall 2013, YLS dedicated one of its faculty workshops to a discussion about pedagogy, with the YLW report as one of the selected texts for discussion. While none of these changes may seem revolutionary, the mere discussion of teaching methodology and the best manner in which to engage students is a step forward given the traditional law school model.

From Law School to the Profession

The differences documented at the law school level are not confined to legal education. Rather the legal profession can both shape what is valued in law school and learn lessons from the study about how women entering the profession engage with legal questions and their mentors.

First, the study demonstrates that men and women students often leave law school with different credentials. In particular, men students were overwhelming more likely have their work published. In contrast, women students were more likely to find mentors through their clinical work or running conferences and to work as teaching and research assistants. For those of us involved in hiring law clerks or incoming lawyers, it may be worth thinking about the systemic differences between the activities and involvement of men and women students. By focusing too heavily on student publication or journal membership, we may be missing excellent candidates who have developed different skills and engaged with the law school community in alternative ways.

Second, the law school experience includes many components that mimic the legal workforce. As the legal profession continues to grapple with its own gender gaps, lessons from this study can influence ways to get the best from all of our colleagues regardless of gender. For those in charge of meetings or managing teams, you may need to consider how to get insights from all team members. The first person to talk at a meeting or the one most likely to seek out a supervising attorneys may not be the most driven or the one with most insightful analysis. That person may simply be the most comfortable with the organization. Getting insights from a wider swathe of employees may require more purposeful management of discussions.

Finally, because law schools do not function on an apprenticeship model like medical schools, we also need to be mindful about the importance that mentorship plays in gaining confidence and expertise in the profession. For mentees, this means that mentorship programs should not be viewed merely as networking, but as an opportunity to learn about how the profession is structured and to get advice on concrete lawyering skills. For mentors, it is important to try and guard against a bias toward self-replication and to acknowledge that men and women mentees may have differing comfort levels when it comes to engaging with their mentors and asking questions.

Conclusion

Gender disparity in law school continues both inside and out of the classroom. These effects spill over as women enter

the legal workforce and are exacerbated by similar institutional problems across the profession. Additionally, the legal profession has played a role in perpetuating some of the education structures that alienate and disadvantage women through prioritizing certain markers of law school success. Change will not automatically happen over time; it requires commitment and action from students, faculty, administrators, and the broader legal profession. Because of the ties between law schools and the profession, we can make a difference, both by demanding that our future employees and colleagues receive a better education regardless of gender and taking a hard look at how the profession perpetuates these structural disadvantages. ☉



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Endnotes

¹This study would not be possible without the hard work of a dedicated team, some who worked on it with me for more than two years, including Alice Shih, Fran Faircloth, Mridula Raman, Casey Hinkle, Julie Wang, Eric Parrie, Tracy Nowski, Vidya Venkataraman, Lauren Hartz, Celia Rhoads, and Tiffany Ng. The classroom monitoring and faculty interviews were conducted by more than 50 student volunteers. We also had the support of our faculty advisor, Professor Ian Ayres. For more detailed discussions of these issues, you can read the original report at www.law.yale.edu/documents/pdf/Student_Organizations/YLW_SpeakUpStudy.pdf or a more extended version, *Why Legal Education Is Still Failing Women*, 26 YALE J.L. & FEMINISM XXX (2015) (forthcoming).

²AM. BAR ASSOC., *First Year and Total J.D. Enrollment by Gender 1947 – 2011*, www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/statistics/jd_enrollment_1yr_total_gender.authcheckdam.pdf.

³AM. BAR ASSOC., *JD. and LL.B Degrees Awarded 1981 – 2011*, www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/statistics/jd_llb_degrees_awarded.authcheckdam.pdf.

⁴Catherine Weiss and Louise Melling, *The Legal Education of Twenty Women*, 40 STAN. L. REV. 1299, 1311, 1319 (1988).

⁵See Lani Guinier, Michelle Fine, and Jane Balin, with Ann Bartow and Deborah Lee Stachel, *Becoming Gentlemen:*

Women's Experience at One Ivy League Law School, 143 U. Penn. L. Rev. 1, 6 (1997); Sari Bashi and Maryana Iskander, *Why Legal Education Is Failing Women*, 18 YALE J.L. & FEMINISM 389, 389 (2006); Adam Neufeld, *Costs of an Outdated Pedagogy? Study on Gender at Harvard Law School*, 13 J. GENDER SOC. POL'Y & L. 511 (2005).

⁶I intentionally used men/women (gender) as markers to go with nouns (like professor and student) rather than biological sex. Our project asked people about their experience based on how they present and perform their gender, and how they were viewed—as a man, woman, transperson, etc. When we observed classrooms, we went on a student's gender presentation. We also allowed students to self-identify on our survey.

⁷Data from the FEDERAL JUDICIAL CENTER, U.S. COURTS, *Biographical Directory of Judges*, www.uscourts.gov/JudgesAndJudgeships/BiographicalDirectoryOfJudges.aspx (last visited Dec. 3, 2013). For a slightly more recent analysis, see *Women in the Federal Judiciary: Still A Long Way to Go*, NAT'L WOMEN'S L. CTR. (Dec. 12, 2013), www.nwlc.org/resource/women-federal-judiciary-still-long-way-go-1. The diversity of President Barack Obama's judicial nominees has been widely discussed. Phillip Rucker, *Obama Pushing to Diversify Federal Judiciary Amid GOP Delays*, WASH. POST (March 3, 2013), articles.washingtonpost.com/2013-03-03/politics/37418000_1_president-obama-house-counsel-kathryn-ruemmler-judicial-confirmation-votes.

⁸National Association of Women Judges, *2012 Representation of U.S. State Court Women Judges*.

⁹Current Population Survey, Bureau of Labor Statistics, "Table 11: Employed Persons by Detailed Occupation, Sex, Race, and Hispanic or Latino Ethnicity," Annual Averages 2013, available at www.bls.gov/cps/cpsaat11.htm (last visited Feb. 27, 2014).

¹⁰Press Release, Representation of Women Associates Falls for Fourth Straight Year as Minority Associates Continue to Make Gains—Women and Minority Partners Continue to Make Small Gains (Dec. 11, 2013), www.nalp.org/lawfirmdiversity_2013 (last visited Feb. 27, 2014).

¹¹NATIONAL ASSOCIATION OF WOMEN LAWYERS AND THE NAWL FOUNDATION, *Report of the Sixth Annual National Survey on Retention and Promotion of Women in Law Firms* (2011), available at www.nawl.org/p/cm/ld/fid=82.

¹²BUREAU OF LABOR STATISTICS, "Table 39: Median Weekly Earnings of Full-time Wage and Salary Workers by Detailed Occupation and Sex, Annual Averages 2013" (2014), www.bls.gov/cps/cpsaat39.htm.

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Students Speak about Gender 5 (2002).

¹⁴13/36 clerks in 2013 – 2014 (36.1 percent) compared with 13/35 clerks in 2003 – 2004 (37.1 percent). *List of Law Clerks of the Supreme Court of the United States*, WIKIPEDIA, en.wikipedia.org/wiki/List_of_law_clerks_of_the_Supreme_Court_of_the_United_States (last visited Dec. 16, 2013).

¹⁵Press Release, National Association for Law Placement, Representation of Women Associates Falls for Fourth Straight Year as Minority Associates Continue to Make Gains, *supra* n.9.

¹⁶Cf. Dean Edward Rubin, *A Conversation Among Deans from "Results: Legal Education, Institutional Change, and a Decade of Gender Studies," Harvard Journal of Law and Gender Conference, March 2006*, 29 HARV. J. L. & GENDER 465, 468-70 (2006) (hereinafter "A Conversation Among Deans"); Dean W. H. Knight, *A Conversation Among Deans*, at 473; Dean Katherine Bartlett, *A Conversation Among Deans*, at 483-84; Susan Sturm and Lani Guinier, *The Law School Matrix: Reforming Legal Education in a Culture of Competition and Conformity*, 60 VAND. L. REV. 515, 516, 546 (2007); Irene Segal Ayers, *The Undertraining of Lawyers and Its Effect on the Advancement of Women and Minorities in the Legal Profession*, 1 DUKE FORUM L. & SOC. CHANGE 71 (2009).

¹⁷More information about our methodological approach can be found in the original report or in French-Hodson, *supra* note 1

¹⁸The original report is available at www.law.yale.edu/documents/pdf/Student_Organizations/YLW_SpeakUpStudy.pdf.

¹⁹Clerkship data were provided by the Yale Law School Career Development Office. The information reflects clerkships that graduating students report as their first job after graduation; it does not include clerkships commenced as a second or subsequent job, clerkships that were secured after graduation, or unreported clerkships. It is important to remember that law clerk hiring was significantly different during the previous period (1996 – 2000), when students would have applied initially during their second year for clerkships commencing in their graduation year; any third-year students who applied would more than likely have started their clerkships a year after graduation. There were no online resources for clerkship information and no electronic application options. In the current reporting period (2006 – 2010), a much larger percentage of alumni are in the applicant pool, and more judges hire clerks with one or more years of legal work experience. In addition, the implementation of the current federal law clerk hiring plan (announced by the judges in March 2002) shifted the initial hiring to the fall of the third year of law school.

²⁰Fifty-four professors provided a breakdown of their teaching and research assistants for the 2011 – 2012 academic year.

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