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ESSAY

The Legal Education of Twenty Women

Catherine Weiss*
Louise Melling**

I.

Powerful men made American law and American law schools by and for themselves. While law faculties and the legal profession remain overwhelmingly male,¹ law schools are admitting increasing numbers of women.² Many of these women find legal education alienating. This essay documents the experiences of twenty women in the Yale Law School class of 1987 who organized and sustained a women's group in which we revealed, explored, and confronted our alienation.³ The sections of this essay show four faces of alienation: from ourselves, from the law school community, from the classroom, and from the content of legal education. We write to further understanding of our experiences, to urge change, and to help others who have experienced law school in a similar way to move beyond self-doubt.

The introduction articulates the premises of this study, reviews empirical literature supporting these premises, and explains our methodology. It also tells the history of the women's group and introduces the

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1. In 1985, men composed 80.9% of all full-time and 81.8% of all part-time faculty at ABA accredited law schools. *A Review of Legal Education in the United States*, 1986 A.B.A. SEC. *LEGAL EDUC. & ADMISSIONS TO THE BAR* 66 [hereinafter *A Review of Legal Education*]. In 1985, 86.9% of all lawyers were men. B. CURRAN, K. ROWICH, C. CARSON & M. PUCCETTI, *SUPPLEMENT TO THE LAWYER STATISTICAL REPORT: THE U.S. LEGAL PROFESSION IN 1985* at 3 (1986).

2. In 1985, 40% of law students at ABA accredited law schools were women. *A Review of Legal Education*, *supra* note 1, at 66. In 1970, by contrast, only 8.6% of law students were women. *Id.*

3. We (the authors) helped to organize the group and joined in nearly all of its activities, bringing the number of regular participants to 22. Because we base this essay on our interviews with the 20 regular participants other than ourselves, however, we treat the group as including 20 women.

twenty women who, despite academic achievements, shared more estrangement from than engagement in their education.

A. Premises

Two premises underlie our study. First, men and women experience law school differently. From the moment the group organized, we identified our alienation as a women's issue. The group held its first lunch for *women* who felt silenced in the classroom. Our decision, or more accurately our instinct, to call a women's meeting reflected our sense that we were alienated because we were women and therefore outsiders—women had not made law or law schools.

As outsiders, we shared a condition of relative powerlessness.⁴ Powerlessness both distorts and instructs. We do not seek simply to trade values born in powerlessness for those born of power. Rather, we are committed to exploring what has emerged from our powerlessness, not only to expunge what we dislike, but also to discover what we value and want to preserve even as we gain power. We strive to use the power we gain to transform institutions, including law schools and the firms, courts, legislatures, and public interest groups that law schools feed. We hope to make such places respect the differences we choose to retain and value the qualities we develop as existing inequalities diminish.

We emphasize that we view gender difference as neither absolute nor fixed. Some men will identify with the women's stories that follow. Some women will see old selves reflected; others will catch glimpses of future selves; and some or many may find nothing familiar in these pages. We do not claim to speak for all women law students, nor do we expect this critique to stand forever for ourselves. We hope to look back on this essay from another time and feel changed as women. Fur-

4. We find compelling Catharine MacKinnon's argument that men and women are different because men dominate women. See *Feminist Discourse, Moral Values, and the Law—A Conversation*, 34 BUFFALO L. REV. 11, 25-30 (1985) [hereinafter *Conversation*]. We do not, however, speak primarily of dominance. We use the language of dominance and difference. The language of dominance, the language of force and violence, is essential to MacKinnon's discussions of the subordination of women through rape, incest, battery, poverty, sexual harassment, and pornography. *Id.* at 26; see also C. MACKINNON, SEXUAL HARASSMENT OF WORKING WOMEN (1979) [hereinafter *Sexual Harassment*] (discussing sexual harassment as it perpetuates women's inequality in the workplace and developing a legal and theoretical response); MacKinnon, *Pornography, Civil Rights, and Speech*, 20 HARV. C.R.-C.L. L. REV. I (1985) [hereinafter *Pornography*] (articulating how pornography, the free speech of men, subordinates and silences women); MacKinnon, *Feminism, Marxism, Method, and the State: Toward Feminist Jurisprudence*, 8 SIGNS: J. WOMEN CULTURE & SOC'Y 635 (1983) [hereinafter *Toward Feminist Jurisprudence*] (arguing that the state and law embody men's point of view, as evident in the law of rape). Although law school is a violent institution insofar as it perpetuates a legal system that does not take seriously the words of a rape victim, the bruises of a battered woman, or a girl's accusation of incest, it does not perpetrate such violence against women-students during their education. Thus, we speak primarily of difference, in order neither to exaggerate the violence of the law school toward women-students nor to detract from more severe forms of violence against women. We speak also of dominance, however, to hold accountable those who maintain an elevated status for men in legal education and the law.

thermore, in focusing on gender, we do not want to obscure differences based on race, class, religion, sexual orientation, age, or any other aspect of identity. Indeed, in organizing the group, we learned that twenty women, most of us young, white, heterosexual, and middle class, can nonetheless disagree passionately on an array of issues. Yet we have refused to allow our internal conflicts to push us backwards into isolation. Thus, throughout our group experience and in our writing, we have confronted the problem of expressing ourselves as individuals while simultaneously expressing what we share as women.⁵

We discuss gender difference with trepidation. Putative differences, ascribed to women by men, have operated in law to patronize, denigrate, and stereotype women. Assumptions about women's physical frailty, for example, have led to protective labor laws that disadvantage women in the workplace.⁶ Knowing that talk of difference can aggravate prejudice, we fear repeating the error. But we also fear the response if we fail to talk about difference, because emphasizing sameness, arguing that women are as good as men on men's terms, may obscure real differences to the detriment of many women. A sameness approach primarily benefits women who are most like men—women who defy stereotypes, who are strong enough to lift heavy objects, tall enough to use equipment designed to suit the average height of men, and competitive enough to rise in corporate ranks. Moreover, to focus only on sameness limits criticism and change; it means accepting the world as constructed by men, challenging only women's exclusion from it, and acceding to our forced integration into the dominant culture.⁷ Thus we speak of gender difference. We refuse to stifle our criticisms of legal education for fear they will be manipulated. To do so would be to submit to the control of our speech and our agenda by others.⁸

5. See Vance, *Pleasure and Danger: Toward a Politics of Sexuality*, in PLEASURE AND DANGER: EXPLORING FEMALE SEXUALITY 18-19 (C. Vance ed. 1984) (articulating the tension in feminism between overgeneralization of women's commonalities and overemphasis on the uniqueness of each woman's experience).

6. In the early twentieth century, protective labor laws restricted the number of hours that women could work, in order to preserve women's bodies, minds, and morals for work at home. The prohibition against overtime and night work restricted women's ability to earn a living wage and to enter lucrative fields. See A. KESSLER-HARRIS, OUT TO WORK: A HISTORY OF WAGE-EARNING WOMEN IN THE UNITED STATES 184-95 (1982). Some companies now exclude all women of child-bearing age from hazardous workplaces, even if this requires women to accept lower paying work. See Williams, *Firing the Woman to Protect the Fetus: The Reconciliation of Fetal Protection with Employment Opportunity Goals Under Title VII*, 69 GEO. L.J. 641, 641-43 (1981). In both examples, industry, rather than improving conditions for all workers, adopted a policy that reinforced sex-segregated work and limited economic opportunities for women.

7. See *Conversation*, *supra* note 4, at 22-23.

8. In another context, Carol Vance argues that women must speak not only of the danger and oppression of sex for women, but also of its pleasure. "[T]o wait until a zone of safety is established to begin to explore and organize for pleasure is to cede it as an arena, to give it up, and to admit that we are weaker and more frightened than our enemies ever imagined." C. VANCE, *supra* note 5, at 24. Similarly, to reject affirmative action for fear that others will think people of color and women hired under such plans are unqualified is to allow racists and sexists to control the agenda for change. See Kennedy, *Persuasion and Distrust: A Comment on the*

Our second premise is that women's alienation in law school matters. We are angry about our exclusion and want to feel engaged. Our alienation also impoverishes the intellectual and emotional life of the law school. The drowning of women's speech in a flood of men's voices squelches the diversity of ideas and styles that ought to sustain institutions of learning. Worst of all, the perspective of an outsider—one neither born to power nor raised to power by the law—is lost. Women have criticisms to make that students of the law should hear, criticisms that may unsettle the dominant and help to empower the rest. Finally, the alienation of women in law school affects the legal profession and everyone it touches. What we do in law school shapes what we will do as lawyers, which in turn affects the lives of others. Until women share equally in the learning, and thus in the practice, teaching, and making of law, we will be disabled in shaping society to fit women's needs.

B. Selected Literature on Gender Difference and Dominance

Because we did not interview men and because the sample of women we interviewed is small, nonrandom, and concentrated entirely at one law school, we cannot and do not claim to prove our first premise, that men and women experience law school differently. Yet when we had completed our study and drafted the four main sections of this essay, we turned to the empirical literature on gender difference and found parallels to our work. Rather than reviewing the growing literature on gender difference in education, we will focus on what taught us most: the explorations of morality and epistemology by psychologists Carol Gilligan, Mary Belenky, Blyth Clinchy, Nancy Goldberger, and Jill Tarule.⁹ Their findings about how girls, women, boys, and men think, reason, talk, and learn anticipate the themes of this essay and support our belief that the critique of legal education that follows is distinctly, if not uniquely, a women's critique.

In her book, *In a Different Voice*,¹⁰ Carol Gilligan, drawing on interviews with 209 people of both sexes,¹¹ identifies two ways of shaping and addressing moral problems. Rights-based moralists, primarily men and boys, resolve conflict by creating general rules that they conceive as operating fairly no matter who applies them nor to whom they are applied. Care-based moralists, primarily women and girls, define conflict

Affirmative Action Debate, 99 HARV. L. REV. 1327, 1330 (1986) (stating that "proponents of racial justice should be wary of allowing fear of white backlash to limit the range of reforms pursued").

9. M. BELENKY, B. CLINCHY, N. GOLDBERGER & J. TARULE, WOMEN'S WAYS OF KNOWING (1986) [hereinafter WOMEN'S WAYS]; C. GILLIGAN, IN A DIFFERENT VOICE (1982); Gilligan & Wiggins, *The Origins of Morality in Early Childhood Relationships*, in THE EMERGENCE OF MORALITY IN YOUNG CHILDREN 277 (J. Kagan & S. Lamb eds. 1987).

10. C. GILLIGAN, *supra* note 9.

11. To arrive at 209, we summed the numbers of interviewees in each of the three studies that form Gilligan's research base. See *id.* at 2-3.

as a clash among needs rather than rights and locate the good in response to need. Gilligan notes that these distinct moral positions are tied to different definitions of self. Answering the question, "How would you describe yourself to yourself?", the men in her college student study provided what Gilligan calls "adjectives of separation," including "logical," "intelligent," "imaginative," and "cocky."¹² The women, on the other hand, described themselves in terms of relationships, "depicting their identity *in* the connection of future mother, present wife, adopted child, or past lover."¹³

Gilligan concludes that "instead of attachment [the measure of the women's self-definition], individual achievement rivets the male imagination, and great ideas or distinctive activity defines the standard of self-assessment and success."¹⁴ 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 of this essay 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.

The work of Gilligan and Grant Wiggins helps to explain the section of this essay on alienation from the community. Although these researchers have not directly studied men's and women's talk about friendship, their discussion of the moral dimension of listening and empathy is instructive: "In a study of high school girls, moral passion marked their descriptions of situations in which someone did not listen, recalling Simone Weil's and Iris Murdoch's definition of attention as a moral act."¹⁵ If inattention is then an immoral act, the anger of the women in the group at being ignored in classes and excluded from male classmates' conversations and study groups becomes intelligible,¹⁶ as does the kind of interaction that occurred within the group: "The group listened to what I said"; "I think we really taught each other a lot . . . about understanding people with different points of view."¹⁷ Moreover, our empathy with one another, our readiness to assume that each of us would be treated well because another was,¹⁸ illustrates the "co-feeling" Gilligan and Wiggins find primarily in women, that is, "the ability to *participate* in another's feelings, signifying an attitude of engagement rather than an attitude of judgment or observation."¹⁹

12. *Id.* at 161-63.

13. *Id.* at 159.

14. *Id.* at 163.

15. Gilligan & Wiggins, *supra* note 9, at 287.

16. See pp. 1322-25, 1334-36 *infra*.

17. See pp. 1325-26 *infra*; see also WOMEN'S WAYS, *supra* note 9, at 114-15 (describing conversations in which women talk until they understand their differences).

18. See p. 1326 *infra*.

19. Gilligan & Wiggins, *supra* note 9, at 289 (emphasis in original).

The community section of this essay depicts not only intense connections within the group but also the destructiveness of competition to these connections. Gilligan notes that psychologists have long recognized sex differences in response to competition.²⁰ Expanding on the earlier work of others,²¹ Gilligan and Susan Pollak conducted a study based on the Thematic Apperception Test. They showed several pictures to college students in a psychology course and asked them to write stories about what they saw.²² Two of the pictures suggested a relationship between a man and a woman.²³ Two others suggested achievement situations.²⁴ A higher percentage of men wrote violent stories about the images of relationship than about the images of achievement. A higher percentage of women wrote violent stories about the images of achievement than about the images of relationship.²⁵ Gilligan interprets these results as follows:

If aggression is conceived as a response to the perception of danger, the findings of the images of violence study suggest that men and women may perceive danger in different social situations . . . men . . . construing danger to arise from intimacy, women . . . construing danger to result from competitive success. The danger men describe in their stories of intimacy is a danger of entrapment or betrayal, being caught in a smothering relationship or humiliated by rejection and deceit. In contrast, the danger women portray in their tales of achievement is a danger of isolation, a fear that standing out or being set apart by success, they will be left alone.²⁶

In *Women's Ways of Knowing*, Belenky, Clinchy, Goldberg, and Tarule build on Gilligan's and others' work by exploring how women learn. Based on interviews with 135 women²⁷ and on comparison with William Perry's earlier study tracing epistemological development primarily in college-age men,²⁸ the book describes an array of epistemo-

20. C. GILLIGAN, *supra* note 9, at 14-15, 39-45.

21. See, e.g., D. McCLELLAND, *POWER: THE INNER EXPERIENCE* (1975); D. McCLELLAND, J. ATKINSON, R. CLARK & E. LOWELL, *THE ACHIEVEMENT MOTIVE* (1953); Horner, *Toward an Understanding of Achievement-Related Conflicts in Women*, 28 J. SOC. ISSUES 157 (1972); Sassen, *Success Anxiety in Women: A Constructivist Interpretation of its Sources and its Significance*, 50 HARV. EDUC. REV. 13 (1980); M. Horner, *Sex Differences in Achievement Motivation and Performance in Competitive and Noncompetitive Situations* (Ph.D. Dissertation, University of Michigan, 1968).

22. C. GILLIGAN, *supra* note 9, at 39-45 (citing Pollak & Gilligan, *Images of Violence in Thematic Apperception Test Stories*, 42 J. PERSONALITY & SOC. PSYCHOLOGY 159 (1982)).

23. One showed a couple sitting on a bench near a river; another showed a male trapeze artist hanging by his knees and clasping the wrists of his female partner in mid-air. *Id.* at 41.

24. One showed a man sitting at a desk in an office building; another showed two women in laboratory coats, one observing from the background as the other worked with test tubes. *Id.*

25. *Id.*

26. *Id.* at 42.

27. WOMEN'S WAYS, *supra* note 9, at 11.

28. *Id.* at 9 (citing W. PERRY, *FORMS OF INTELLECTUAL AND ETHICAL DEVELOPMENT IN THE COLLEGE YEARS* (1970)).

logical "perspectives."²⁹ Some of these perspectives anticipate the ideas at odds in the sections of this essay on alienation from the classroom and from the content of our education.

Belenky, Clinchy, Goldberger, and Tarule distinguish "separate" from "connected knowing."³⁰ Separate knowers, including some of the women in their study and most of the men in Perry's,³¹ learn critical thinking by assimilating, from professors and scholars, impersonal procedures for arriving at "truth." The scientific method is the prototype for such procedures; doubt lies at their core.

Presented with a proposition, separate knowers immediately look for something wrong—a loophole, a factual error, a logical contradiction, the omission of contrary evidence. Separate knowing is in a sense the opposite of subjectivism. While subjectivists assume that everyone is right, separate knowers assume that everyone—including themselves—may be wrong Separate knowers . . . are especially suspicious of ideas that feel right; they feel a special obligation to examine such ideas critically.³²

Separate knowing has yielded scientific and philosophical revelations, but it has also built into Western education an adversarial model of thinking and teaching. Conflict occurs between the knower and the known and between the knowers themselves. Thus, Belenky, Clinchy, Goldberger, and Tarule report one woman's description of a class in which the professor prodded students to "start ripping at" his interpretation³³ and another's description of her surefire paper-writing formula: "You take a point of view, and then you address the points of view that might most successfully challenge your point of view. You try to disqualify those."³⁴

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 the 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, like some of Belenky, Clinchy, Goldberger, and Tarule's subjects, either to "loss of voice"³⁵ or to a feeling of dishonesty when they did speak or write: "You learn how to sound like you know what you're talking about, even if you don't."³⁶

Connected knowing, associated primarily with women,³⁷ emerges out of a desire to understand another's idea rather than to judge it. Connected knowers proceed from the premise that personal experience

29. *Id.* at 15.

30. *Id.* at 100-23.

31. *Id.* at 100-03.

32. *Id.* at 104.

33. *Id.* at 105.

34. *Id.* at 107.

35. *Id.* at 106.

36. *Id.* at 108.

37. *Id.* at 100-03.

is the most reliable basis for knowledge and so seek to understand the circumstances surrounding the birth of an idea.³⁸ For this, they depend on empathy:

In an attempt to achieve a kind of harmony with another person in spite of difference and distance, women like Patti try to enter the other person's frame to discover the premises for the other's point of view.... The focus is not on how They want you to think, as in Perry's account, but on how they (the lower case "t" symbolizing more equal status) think; and the purpose is not justification but connection.³⁹

Reconstructing how they think requires active imagination. One of Belenky, Clinchy, Goldberger, and Tarule's subjects described "reading a poem as if she were eavesdropping.... In interpreting the poem, she said that she tried to discover 'what he was trying to say to this other person.' "⁴⁰ For connected knowers, criticism must follow, not precede, shared understanding because "authority . . . rests not on power or status or certification but on commonality of experience,"⁴¹ whether lived actually or empathically. Connected knowing describes not only what went on in our group meetings—where we discussed shared experiences, tried to understand one another's responses to them, and only then tried to change ourselves and one another—but also what went on in our favorite or ideal classes.⁴²

The tension between separate and connected knowing appears again in our critique of the content of our education. The group's objections to the narrowness of legal education amount to calls for closer connection between the judge, the professor, and the student on the one hand, and the person affected by the law or the context from which it emerges on the other.⁴³ Women's resistance to acontextuality comes out not only in Belenky, Clinchy, Goldberger, and Tarule's descriptions of connected knowers but also in Gilligan's description of women's reactions to the hypothetical moral dilemmas she presented to them:

[T]he reconstruction of the dilemma in its contextual particularity allows the understanding of cause and consequence which engages the compassion and tolerance repeatedly noted to distinguish the moral judgments of women. Only when substance is given to the skeletal lives of hypothetical people is it possible to consider the social injustice that their moral problems may reflect and to imagine the individual suffering their occurrence may signify or their resolution engender.

The proclivity of women to reconstruct hypothetical dilemmas in terms of the real, to request or to supply missing information about the nature of the people and the places where they live, shifts their judgment away from the hierarchical ordering of principles and the formal

38. *Id.* at 112-15.

39. *Id.* at 101.

40. *Id.* at 121.

41. *Id.* at 118.

42. See pp. 1325-26, 1342-43 *infra*.

43. See pp. 1344-48 *infra*.

procedures of decision making.⁴⁴

Yet "the hierarchical ordering of principles and the formal procedures of decision making" continue to dominate legal education, at least according to the women in the group who charged their classmates and professors with treating "legal problems" as "math problems,"⁴⁵ much like Gilligan's famous young research subject "Jake" who considered a moral dilemma to be "sort of like a math problem with humans."⁴⁶

Judges, law teachers, and law students who treat law as a conglomeration of impersonal rules for deducing right answers or for whom ideal legal reasoning conforms to ideal mathematic or scientific reasoning engage in what Belenky, Clinchy, Goldberger, and Tarule call "self-extrication," a primary process of separate knowing. "One of the meanings of 'objectivity' is that people do not project the contents of their own heads into the external object. . . . Feelings and personal beliefs are rigorously excluded."⁴⁷ Women in the group repeatedly noted and resisted efforts at self-extrication in their teachers and classmates, as well as in the judges who wrote opinions.⁴⁸

In opposition to self-extrication, some in the group offered an alternative of personal conviction: "I know that I can take any side of a legal argument, and, knowing that, I want to now find the argument that I want to believe in and then argue that."⁴⁹ This woman echoes the voices of the "constructivists" in *Women's Ways of Knowing*.⁵⁰ Constructive knowing differs from connected knowing in that constructive knowers understand that they recreate the objects of their thought in thinking about them, whereas connected knowers "seek to understand other people's ideas in the other people's terms rather than in their own terms."⁵¹ The woman in the group who searches for "the argument that I want to believe in" implies that she will make it hers, that it will be a part of her, and she a part of it. Belenky, Clinchy, Goldberger, and Tarule call this the "basic insight" of constructivism: "All knowledge is constructed, and the knower is an intimate part of the known."⁵² For the women in their study, as for the women in the group, the realization that truth is tied to who tells it brings enhanced responsibility for its construction.

Part of the purpose of this essay is to redeem what is distinctive about women. In this we follow Gilligan, Belenky, Clinchy, Goldberger, and Tarule who have made public, comprehensible, and admis-

44. C. GILLIGAN, *supra* note 9, at 100-01.

45. See p. 1349 *infra*.

46. C. GILLIGAN, *supra* note 9, at 26.

47. WOMEN'S WAYS, *supra* note 9, at 109.

48. See pp. 1349-51 *infra*.

49. See p. 1352 *infra*.

50. WOMEN'S WAYS, *supra* note 9, at 137-52.

51. *Id.* at 123-24.

52. *Id.* at 137 (emphasis omitted).

rable voices too long muffled, misunderstood, and despised. Yet we take seriously Catharine MacKinnon's challenge to their work and ours.

MacKinnon calls the voice associated with women in this essay and in the psychological literature the "voice of the victim":

[W]hen we understand that women are forced into this situation of inequality, it makes a lot of sense that we should want to negotiate, since we lose conflicts. It makes a lot of sense that we should want to urge values of care, because it is what we have been valued for. We have had little choice but to be valued this way. . . . It makes a lot of sense that women should claim our identity in relationships because we have not been allowed to have a social identity on our own terms.⁵³

MacKinnon sees in women, as we now exist, "walking embodiments of men's projected needs,"⁵⁴ and hears in Gilligan's "different voice" the sound of one trained to fit man's definition of woman.

Feminists responding to MacKinnon often concede the role of male domination in shaping women's voices but still claim to hear much of value in these voices.⁵⁵ Not everything resulting from relative powerlessness, they argue, is bad; women may have learned to nurture because of their confinement to the home, but nurturing is not therefore a tainted art. Despite its power, this answer fails to take to heart the second half of the story MacKinnon is trying to tell. She speaks of the origins of the "feminine" in women's subservience because she fears that what was born in oppression will perpetuate oppression.⁵⁶

The socially constructed Woman described in the section of this essay on alienation from self may possess many good qualities, but she may also ensure her continued powerlessness by indulging them. What if she spends most of her time caring for those who control her? What if she empathizes as much with victimizers as with victims? What if she cooperates with people who are trying to hurt her and gives to those more interested in taking than in returning generosity? Certainly, she has done all of these things for a long time. Thus, the primary project of feminism for MacKinnon is neither to reconstruct and celebrate the voices of women, nor to teach women to think, talk, and act more like men,⁵⁷ but to expose and combat the worst forms of violence against

53. *Conversation*, *supra* note 4, at 27.

54. MacKinnon, *Feminism, Marxism, Method, and the State: An Agenda for Theory*, 7 *SIGNS: J. WOMEN CULTURE & SOC'Y* 515, 534 (1982) [hereinafter *An Agenda for Theory*].

55. See, e.g., *Conversation*, *supra* note 4, at 19-20 (Mary Dunlap, founder of Equal Rights Advocates (a feminist public interest law firm in San Francisco), arguing that feminists should not reject all attributes stereotypically associated with women in a thoughtless reaction against stereotyping). But see *id.* at 63, 76-77 (Gilligan, noting that the subservience of women explains some of their attributes, but objecting to the reduction of gender difference to measures of dominance and subservience).

56. *Id.* at 74 (MacKinnon, warning women against identification with feminine stereotypes).

57. *Conversation*, *supra* note 4, at 21.

women.⁵⁸ She aims to free women to define and control themselves and their world: "The question is not so much how to make rules fit reality, but rather how to change reality."⁵⁹

By her anger, by her reminders that women's lives and identities have not been of our own making, MacKinnon has taught us, not to abandon the project of reconstructing women's voices, but to pay close attention to how we use our voices and to how others respond to them. Women may have learned to define themselves in terms of relationships, to value intimacy above competitive success, to know others and the world by way of empathy rather than doubt in part because such learning has been convenient for men. Knowing that others have controlled our education in being women, however, can help us to use our voices to undermine this control. Thus, the women in the group, aware that the way we spoke and thought was not only different but also dismissed, ignored, and denigrated, began to use our powers of connection to subvert domination.

If we defined ourselves in terms of relationships, they were not just *any* relationships. Even as we gained status and power as law students, we identified less with lawyers, judges, and professors than with people we considered relatively powerless. We hoped, by joining with the latter, to do what we could to bring them power or safety or adequate food and shelter, even at the risk of conflict. The section on alienation from the community shows us trying to maintain, not ties to the men who offended us, but *intimacy among women*, first because we matter to one another, and second because our solidarity enabled us to challenge our education as silencing. The classroom section recounts how we made ourselves heard, in our own voices and in spite of more aggressive ones, because others in the group supported and amplified our voices. Even our insights about the content of our education are subversive. When we insist that the knower is connected to the known, we are opposing claims of separation, claims that the truth exists apart from us and that we should submit to it. We see that the people defining truth lack a universal standpoint. We know they often miss our truths.⁶⁰ We want judges to say "I," to acknowledge perspective, because we seek to undermine their power to call their point of view the truth, a power which becomes, MacKinnon tells us, the "power to create the world from one's point of view."⁶¹ In all these ways, then, we have used connection toward equality; we have used our voices, wo-

58. See *id.* at 26; see also C. MACKINNON, SEXUAL HARASSMENT, *supra* note 4; MacKinnon, *Toward Feminist Jurisprudence*, *supra* note 4; MacKinnon, *Pornography*, *supra* note 4.

59. See *Conversation*, *supra* note 4, at 25.

60. See MacKinnon, *Toward Feminist Jurisprudence*, *supra* note 4 (showing that a male truth about rape has become law's definition of the crime, a definition that entirely misses women's truths about rape).

61. MacKinnon, *An Agenda for Theory*, *supra* note 54, at 537.

men's voices, to undo oppression rather than to perpetuate it; and we continue to try to do so.

C. *Methodology*

We interviewed twenty women in our class who participated in a first-year women's group organized to address women's silence in the classroom. The twenty included all who had come to at least two group meetings during first year, most having attended more frequently.⁶² We chose our sample on this basis because participation in the group, for over a year by the time we conducted the interviews in the fall of 1985, had made these women unusually reflective and articulate about their alienation. They had begun a collective project of finding words to name and reasons to explain their disaffections. Drawing on their experiences, recounted in their language, we hoped to document and extend the group's critique of legal education.

The interviews, lasting from two to four hours apiece, consisted of a series of open-ended questions.⁶³ Beforehand, the one of us conducting the interview explained its purpose and assured each woman that her identity would remain confidential. The group's experience and analysis informed the categories we selected and the questions we asked. The faces of alienation we identify arose from the interview data; we did not preselect them. We compiled this essay relying on tapes and notes from the interviews.

D. *Backgrounds*

The group evolved out of a conversation during our second month in law school in which we, the authors, shared our independent observations that women's participation in class was declining to almost nothing. Together with another woman, we initiated activities that would occupy group participants for the next three years: regular women's meetings and conversations, individual and collective, with the faculty. At first, the group met weekly, sharing self-doubts, telling of encounters with classmates and professors, discussing our silence and our participation. As the term progressed, our focus shifted: We began to affirm as well as question ourselves and one another, and we began to criticize the institution. We made pacts to speak in class.⁶⁴ We kept data on women's and men's participation rates in class.⁶⁵ In the spring of our first year, we conducted a workshop for the faculty on women's silence in the classroom. Over the next two years, as this

62. Thirty-two of the 69 women in the class came to at least one meeting. There were 178 students in the class.

63. See Appendix A for the interview questions.

64. See pp. 1341-42 *infra*.

65. See Appendix B for expanded data.

study progressed, we continued to meet and to conceive and carry out group projects.

From the moment of its inception and throughout its history, the group experienced both a strong sense of community and internal struggles. We disagreed about our organizing principle. Whereas some were convinced that our concerns should be addressed as women's issues, others disagreed, either for fear that faculty and men-students would then perceive women as unsuited to law school or for concern with men who shared similar disaffections. After the group had developed a sense of identity, we struggled to include new members and to maintain a flexible agenda and leadership. We also worried about representativeness. Although we knew that some of our concerns were common to minority student groups, we made no claim to speak for all who might be alienated. We referred to ourselves as the first-year women's group, yet we knew that we did not represent all first-year women. Within the group, we struggled with problems of communication, power, and democracy, while challenging similar problems in the law school.

Differences within the group reflected differences in our backgrounds, experiences, and ambitions. Yet in many respects the group was homogeneous. All of the women we interviewed are heterosexual. Two are women of color, and most are from middle-class backgrounds. At the time these women entered law school, they ranged in age from twenty-one to thirty-three, the average being twenty-four. Four were married; none had children. The women came from nine different states, from as far south as Texas to as far north as Minnesota, from Wyoming to Connecticut.

They represented eighteen colleges. Their majors included English, history, political science, Afro-American studies, philosophy, Latin, and Greek. At least two were college valedictorians; fourteen, Phi Beta Kappa. Nine graduated summa cum laude; six, magna cum laude; and others, with distinctions. They left college with multiple awards and honors, including Rhodes, Marshall, Watson, and Truman Scholarship.

Four went to law school immediately upon graduation from college. The rest worked or went to graduate school before beginning law school. Two have master's degrees, and two have Ph.D.s. The women left an array of jobs for law school. Two had researched and published on arms control; two were secretaries; one, a paralegal; and two, state legislative assistants. One produced documentaries; another worked in corporate finance; and one was a software engineer. Two left government positions, where they had worked on entitlement and homelessness issues. One was a fundraiser; another, a professor. They had spent time in Africa, Europe, Australia, the Soviet Union, and the Middle East, studying, teaching, and working.

In the fall of 1984, all twenty women found themselves in New Haven, studying constitutional law, contracts, procedure, and torts. They came for many reasons.

I wasn't having a good time at my job and I knew I had to do something else. . . . I don't remember ever making a positive decision to go to law school. It sort of seemed to present itself, and the standard reasons for going to law school, especially the "keeping the options open" reason, were very apparent. . . . By default is really the answer.

I came to law school to make more money. . . . I didn't want a job that I'd outsmart eventually as I would have in advertising. I thought that since law had no pat answers I'd always be pushing my intellect and my creative energies. Also, school was a great place to meet a man.

I had thought about it [law school] when I was a young person . . . because people in public life who impressed me and whom I wanted to emulate seemed to be lawyers. . . . I thought it [the law] meant that you could be important and that people would respect you and that you would be taken seriously. . . . After college I worked for a couple of years . . . on arms control issues. . . . I felt I needed another degree. I needed some credibility to overcome what I probably felt was the handicap of being a woman and also of being very young. . . . I applied to graduate school and law school. . . . I only very, very slightly inclined toward law school. There were a lot of things at work there. Very definitely there was a sense of a need to achieve material security, because I had grown up in a family without any . . . I had a moderate interest in law as an instrument of reform and as an instrument for establishing and controlling institutions.

In sixth grade I told the teacher I was going to be a judge. I was the smartest person in my class. I made decisions. I thought I could make decisions about justice. I was the only girl in the class, besides one who wanted to be a fireman, who wanted to be something besides a teacher, nurse, or mother. . . . In my senior year of college . . . I applied to a variety of fellowships and law school. . . . I took a fellowship in the [state] legislature. . . . Then I came to Yale. I thought of law school as a credential to get to change the world.

While some of these quotations refer to social justice, few of the women came to law school with specifically feminist concerns. They came to meetings for women to address women's silence in the law school, but the status of women in the law school motivated few.

[I came to a meeting] I think because I was sort of intrigued by it [the group] and because of peer pressure. . . . I was very lonely . . . and just didn't like feeling so disconnected.

[I came] because I felt so afraid in class. I wanted to know if other people felt that way and had answers to help me.

I wanted to do what you guys were doing. I think that that's the real answer. I was feeling disaffected. I wasn't sure what was going on in

classrooms, but I thought this was a real possibility for a very big problem. I wanted a chance to hang out with women and talk with them.

They sought connection and support, not activism. Only five were drawn to the group because they had observed and were disturbed by gender dynamics in the law school.

In the women's group, many began to think about or to take feminism seriously. Law school had jarred some to consider their gender.

I had been to a women's college and I had never had to even think about things like whether someone was treating me differently because I was a woman There would be no inkling that you were being treated in a better or a worse way because you were all the same. . . . I don't think I'd ever really considered the issue of gender until I got here.

Law school made me much more aware of women's issues. I'm embarrassed [about] the extent to which I . . . had questioned the legitimacy of feminist theory. . . . I knew this woman who was writing sort of a feminist discussion of Kant and Hegel and the purity of reason. I was always suspicious of it, and now I'm really embarrassed about that. . . . I absolutely changed because of law school. Sexism is alive and well. Now I think feminism is probably the organizing issue. . . . I had had a very classist view of what sexism was about. . . . This place totally blew that.

For the first time in my life, I felt like I was hurting partly because I was female. I mean I never really felt the need to do it [go to a women's meeting] before I came to law school. I have a lot of kind of masculine characteristics in terms of my style in school or life or whatever. I never had any of the problems that women talked about having until I got here.

They felt alienated, some unsure why. Although many were not feminists, they were willing to join with those who were in the hope of finding an explanation for their disaffection other than their own inadequacy.

By writing about our alienation and activism, we hope to extend law schools' institutional memories. We know that women and people of color have repeatedly said that law school and the law itself fail to capture and respond to their concerns; but each time a new group of transient students raises the issue, it bears the burden of proof all over again. A written account of alienation should lend continuity to reflection about legal education, producing more full and thoughtful consideration of the issues raised.

II. ALIENATION FROM SELF

As women in law school and newcomers to the profession, we struggled to define a way to be both women and lawyers.

Interviewer: What do you feel best about having done in law school?

First Woman: I'm proud of my friendships. I'm good to my friends and that's important to me. I'm more balanced than I was in college.

Interviewer: What do you feel worst about having done in law school?

First Woman: I don't feel I know as many professors as I should . . . I haven't demonstrated my capabilities to anyone.

Interviewer: What do you feel best about having done in law school?

Second Woman: I've proven myself. I've proven I have something between my ears although I curl my hair and wear make-up.

Interviewer: What do you feel worst about having done in law school?

Second Woman: I haven't pursued all of the academic opportunities that are available . . . I'm selling myself short.

Interviewer: What do you feel best about having done in law school?

Third woman: I finished my dissertation during my first year of law school and turned it into a book during the second year.

Interviewer: What do you feel worst about having done in law school?

Third woman: I got so caught up in the frenzy of law school that I haven't made enough time for reflection or religion.

Here is voiced the tension many of us experienced between our desires to be both caring and ambitious, feminine and successful, driven and reflective.

Imagine a spectrum with two images at either extreme. At one end sits the image of Woman, embodying qualities associated with generations of women who themselves had little hand in shaping the image. She lacks public power. She serves other people. She is expected to be and often succeeds in being caring, empathetic, cooperative, and generous. At the opposite end stands the figure of Lawyer, as molded by previous generations of men. He is powerful, instrumental, and adversarial. In the middle, vacillating, both attracted to and repelled by each image, we stand. This section portrays our search for a way through law school that blended both images and discusses the alienation from self we experienced when swinging too close to either end of the spectrum.

We came to law school to pursue an opportunity generally denied to the generation of women before us.⁶⁶

66. In 1886, Alice Rufie Jordan received an LL.B. from Yale Law School. Noting that nothing in the catalog barred women, she had appeared at registration and refused to be turned away. After this incident, the Corporation of Yale University added the following sentence to the University catalog: "It is to be understood that the courses of instruction are

My mom never graduated from high school. She had three kids, one in the first grade, when she was the age I was when I entered law school. The image of my mother handwashing diapers . . . kept coming back to me in law school. If my mother had not done it, if no women in my family had done it, maybe I couldn't do it. I felt very conscious that I was a woman from a background doing things that other women from that background didn't do.

Many women, like this one, were both excited and frightened to lead a life different from their role models'. Despite, or perhaps because of, dissimilarities in experience, the women who raised us—be they mothers, sisters, or grandmothers—remained central to our thoughts. Although no interview question included a specific reference to family, twelve women mentioned their families, referring to their mothers and sisters twice as often as to their fathers and brothers. Something the women in our families did spoke to us and guided us.⁶⁷

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.

I worry about combining my own family with law because the only real model I have seen has been my mom who didn't work, who had four children and a home and sheets drying on the line and lights on when you came home from school. . . . [T]he hard question . . . is what if . . . you just thought there was no way to combine the two of them, to integrate them.

Combining a family with law. Wouldn't that be a trip. I talked to all these attorneys during [summer job] interviews and they said, "Oh yes,

open to persons of the male sex only, except where both sexes are specifically included." *Women at the Law School*, 17 YALE L. REP. 7 (Spring 1971) (quoting F. HICKS, THE HISTORY OF THE YALE LAW SCHOOL (1937)). In 1918, the Corporation voted to admit women who had graduated from college to the law school. *Id.* Of the women registered under the new policy, Shirley M. Moore graduated first, in 1920. In the following four years, 17 women graduated. C. Iino, *Women at Yale Law School*, 34 YALE L. REP. (1988) (forthcoming). Women's enrollment did not increase significantly until World War II, when women constituted 18% of one wartime class. *Id.* After the war, enrollment dropped again and remained at low levels until the late 1960s. Twenty-seven women enrolled in the class of 1971, three times as many as in the class of 1970. Yale Law School Admissions Statistics 1962-1986 (1987) (compiled by Yale Law School Admissions Office) (copy on file with the authors). The number of women has since climbed steadily. Our graduating class of 1987 included 69 women, 39% of the class. *Id.*

67. Because the women so often referred in the interviews to the women in their families, we circulated a questionnaire several months after the interviews requesting more information about the participants' mothers. All 20 women responded. Four of their mothers never worked outside the home. Seven worked outside the home, three part-time and four full-time, only after their children went to school, their marriages broke up, or their husbands died. Two of these seven did office work; one was a tax examiner; another, a teacher and graduate student; one managed a retail business; another administered study-abroad programs; and one was a rancher. Of the remaining nine, eight mothers worked full-time and one part-time before their children went to school. Two were lawyers; two, doctors; two, elementary school teachers; one, a federal and New York City government official; one, a secretary; and another, a librarian.

our *au pair* has our children for Halloween and she's going to take pictures of their costumes." . . . I don't think that I can have kids and a marriage and a career all at the same time.

When I want to have a family, I'll have to think about being less ambitious. . . . I think you can be very ambitious about a career or a family.

I'm very worried about being a lawyer and having a family. I blank when I try to imagine it. . . . Law looks unappealing in itself, especially with the long hours. . . . Who can take care of children or aging parents?

Women also spoke of the incompatibility of being a lawyer or law student and a lover or wife.

It's like oil and water. Law school consumes a lot of the rest of my life. It's a struggle to stay connected with [my husband] and friends.

I see it as a clear choice between a relationship and law school. I can work on one or the other. It's specifically law school; I didn't have the same problem when I was working.

Law school will . . . either intensify any differences or make you so selfish that you're not going to work [at a relationship]. . . . It made me so selfish that I didn't even want to work at [my marriage].

These quotations suggest that the demands of a job, given a limited number of waking hours, create part of the conflict between family and work. But more than time pressure troubles these women. Why does law "look unappealing in itself"? Why should law school and a relationship be mutually exclusive? Does the study of law consume more than our time? These women cast law and family as opposites not only for fear that there was no time for both but also for fear that the pursuit of one would make them unfit for the other. Maybe a trained adversary makes a poor mother. Maybe a builder and sustainer of family ties makes a poor lawyer.

The women's responses to the questions, "What do you feel best about having done in law school?" and "What do you feel worst about having done in law school?" further illuminate the tension between Woman and Lawyer. Consider this list of "accomplishments."

I think I feel best about having . . . done things like baked bread for people. . . . I had a real sense that regardless of how well I was doing in school . . . what made me feel best was doing those things that were so very much myself—cooking people dinner, bringing people cookies . . . play[ing] the piano, singing in the Bach society. . . . It makes me feel good that in a very sort of stressful, what could be very competitive environment, that I've been able to make some good, strong, and close relationships . . . That's aside from school work because that's so self-serving and so solitary a job.

I'm proud of wearing a pink triangle.⁶⁸ I could feel the stigma of gay people. I've always wanted people to feel Black. I'm proud to wear their mark and to have dealt with my own homophobia.

I'm reframing the question to ask what I have done best for the law school and for others . . . I feel good about finding my voice to question the way things are taught and the underlying assumptions. The best thing I've done for others is I've found a home for a mentally retarded child who had been stuck in an institution.

The women's group and how we got around our differences to present a unified front.

I'm starting a clinical.⁶⁹ It's the one thing that takes me out of the law school, puts me in the community, and makes me feel good about what I'm doing.

I organized tape groups for my section last year [during a strike of Yale's clerical and technical workers]. The groups enabled us not to cross the picket line.⁷⁰

Organizing the boycott of law firms representing South Africa.⁷¹ It made me feel my choice to go to law school was not misbegotten.

Having participated in LANA⁷² and women's groups. . . . One of our main concerns now is to improve minority admissions. We will achieve changes.

When faced with an achievement-oriented, self-focused question, many responded with stories of generosity and connection, stories that illustrate our attempts to fuse or at least sustain the images of both Woman and Lawyer. In a setting tailored to individual growth and accomplishment, many worked to make friendship a priority. One woman felt best about bearing the stigma of a gay person; she was proud of her ability to empathize, to take risks on behalf of others. These women organized communities of people who might otherwise have been isolated; they created collectives that empowered the individuals who composed them, be they people of color, women in the law school, the clerical and

68. The pink triangle, now a symbol of gay pride and a sign of solidarity with the struggle for gay rights, originated as a way to mark and distinguish homosexuals from the Jews, Gypsies, Jehovah's Witnesses, and other groups imprisoned and killed in Nazi concentration camps. V. BULLOUGH, HOMOSEXUALITY: A HISTORY 94 (1979).

69. Students in Yale Law School's clinical programs provide legal assistance to children, prisoners, people committed to state mental hospitals, poor residents of New Haven, and, now, homeless people.

70. During the strike in the fall semester of 1984, many law classes were held off campus. Classes that continued to meet in the law school were taped so students who would not cross the picket lines could arrange to hear tapes off campus.

71. In protest of some law firms' representation of South Africa, students at several schools boycotted the firms' recruitment efforts. At Yale, less than a half-day of interviews was scheduled of the two days planned for Covington & Burling, which represented South African Airlines. The firm dropped the client.

72. LANA is the Latin American, Asian, and Native American Students' Group at Yale Law School.

technical workers of Local 34, or Blacks in South Africa. As would be true in a household, they administered, managed, unified.

When the women failed to nurture, connect, and give, when they found themselves angry, unreflective, ambitious, and self-centered, they felt bad. But they felt bad, too, when they achieved too little for themselves. Consider this list of "failures."

[I feel worst about] having let it [law school] affect my self-esteem and by consequence my marriage. There comes a point when you're so depressed about not making the grade, you stop working, you get into a vicious cycle, you lose a sense of your values, and it affects your marriage.

I'm competing in a race without wanting to because I don't want to cut off opportunities . . . I had intended to keep up with a woman who left because of a child she had last year, and I didn't because of my own ambitions.

I am embarrassed about my competitiveness. I'm upset also about my vicious anger and feelings. . . . I still want to be nice to everyone, despite the fact that I dislike half of them.

I feel bad that I didn't get more engaged first semester. . . . I did a lot of self-destructive things. I got involved in a relationship with someone I didn't like much better than most. . . . I was cruel to him and felt bad.

I feel bad about not being involved in work in a way which I long to be. Outside of my brief in small group,⁷³ I haven't personally interacted with law. I want to be engaged. Last year I felt bad that I didn't have professorial contact. . . . I want people to notice my absence.

Never having volunteered in small group. I cheated myself and others of what I could contribute. . . . I felt I hadn't lived up to my end of the bargain of admittance to share my ideas.

Short of dropping out, I really gave up first term. I stopped reading, trying to talk and argue. I gave up until I met other women in the group. I was going to get my degree and do something else.

Women felt worst about becoming lawyers and about not becoming lawyers, about being selfish and about not being selfish enough. Eight women felt worst about not zealously pursuing academic opportunities open to them, about being too far away from the end of the spectrum characterized by Lawyer. Some were upset that their ambivalence about becoming lawyers was impeding a pursuit they had chosen. They had come to law school not only to learn a profession but also to explore and perhaps develop abilities not traditionally tolerated in women: to win arguments, to compete openly, to take risks and strong stands, to study with unbroken absorption. They were disappointed

73. First-term law students at Yale take one of their four substantive courses in a "small group" of no more than eighteen.

with their reluctance to free themselves of the confines of the stereotypical woman and concentrate on themselves. As newcomers to the profession, they also worried that their failure to pursue their education aggressively would fuel the stereotype that women are unsuited to the profession. But others who moved along the spectrum in the direction of the avid law student began to dislike themselves for other reasons. Seven felt worst about their neglect of lovers and friends, their isolation, the narrowing of their intellectual interests, and their feelings of competitiveness.⁷⁴ They began to identify, uncomfortably, with their image of Lawyer as shaped in the classroom: an adversary, not a counselor, an obstructionist, not a facilitator.⁷⁵

The image of Lawyer troubled us also because it was an image of power. As one woman said, "Law is powerful. Where there is power, gender matters more." Although women have always had some power—to raise their own or other people's children, to manage their own or someone else's household, to administer community activities or other people's businesses—women have usually exercised power over people they knew and in situations in which they could watch the consequences of their actions. Those who control the law, on the contrary, make pronouncements that affect unseen multitudes. As women, we want the power of law to protect ourselves and create change, yet we distrust our ability to handle it wisely and humbly. By bringing into and legitimizing within the law school an emphasis on the particular people affected by actions and rules, we strive to transform the institution so that those who enter will use the far-reaching power of the law with greater care.

We are disappointed with ourselves for not always being active and engaged members of our academic community because we thereby frustrate our opportunities to gain the power of law and we perpetuate our subjugation to its use by others. We speak proudly about retaining qualities we hope will transform the way power is used. We work to sustain friendships and organizations that support people because bonding and the constant practice of empathy will make it difficult later to turn our backs on others. We do clinical work because it signifies that we are remaining true to promises to share, rather than to monopolize, power. We attempt to connect with people in a way that will force us to consider how our decisions and actions will affect real people.

Our desires neither to reject nor to accept completely the stereotypical role of Lawyer or Woman and neither to forego nor to accept power as traditionally conceived emerged in several specific contexts. They were present in descriptions of the language of law students.

74. See pp. 1324-29 *infra* for a more thorough discussion of the women's responses to competition.

75. See pp. 1336-39 *infra*.

Law school teaches you to think in a certain way. You need to find the crux, to go through material quickly for the key. I think this affects personal life. I hear people talk about personal relationships in cost/benefit terms.

I kind of feel like law school encompasses your whole life. And you can't even argue with a person you care about without being logical about it. . . . Even the way I talk reflects it. . . . "Well, I have two reasons for that." . . . You look for the main idea, for the main point of everything. You look to see where it's flawed.

Women feared losing one voice, drowned by another, the language of logic and argument replacing that of empathy and connection. They did not want to sit, detached like a judge, and decide for or against a relationship. Nor did they want to abuse a newfound power, of finding the flaws in every argument, by using it against loved ones.

Our ambivalence about how to approach law school impaired our ability to control our daily lives, our voices, and ourselves.

Second semester I was about to become Jane Law School. I was about to jump through every hoop. I was getting very plotty. In a way it's good that the shit hit the fan. I realized I couldn't handle this kind of pressure. I didn't want to compete with everyone . . . I did not like what I was becoming.

[I decided to do law journal] because I may want to teach. Reading, editing, sourceciting would give me exposure to legal scholarship. There were also baser reasons—hoopjumping, rising to challenges by instinct, and elements of conformism. I wish I had the strength of character not to do *Yale Law Journal*.

When I first came to law school, I only really wanted to work for Planned Parenthood. I got totally co-opted . . . I applied to firms in New York although I was never interested in living there.

I fight becoming a lawyer . . . I went to talk to the professor about *Gilmore* . . .⁷⁶ I said, "I don't care if Gilmore wants to [kill] off himself. I just don't want the state to kill him." I left and thought, that's not [me] talking, that's a lawyer getting into an argument.

We sometimes found ourselves talking like lawyers, not like ourselves, or competing for law journal and certain jobs, although those were not necessarily our goals. The momentum of law school, rather than self-generated forces, at times pushed us toward the image of Lawyer. When we moved too close to that end of the spectrum, we became alienated from—unrecognizable to—ourselves. But, as the quotations illustrate, the loss was temporary; we caught ourselves. Acknowledging our baser motivations allowed us to confront and combat them, if we wanted, and to remember our original goals. However painful, these

76. *Gilmore v. Utah*, 429 U.S. 1012 (1976) (holding that Gary Gilmore knowingly and intelligently waived his right to appeal his death sentence and denying his mother standing to challenge the sentence).

moments made us realize and address the tension between who we were becoming and who we hoped we were.

When aware of this tension, we could appreciate its force and the costs of being pulled in either direction.

The impetus to take very different people and press them into a mold frightened me. I was afraid if I went through law school, I'd be maimed. They'd take away what made me different.

The tension this woman senses is acute. She may express it in terms more extreme than others, but she speaks of a fear we shared: that law school would take away what made us women.

At some point [prior to law school,] I think I had somehow . . . acknowledged that I was going to have to give something up, that I would have to fight like a man. Now I'm not so sure.

Thinking about what the images of Lawyer and Woman represent and retaining our desire to keep what makes us different, we have begun the process of deciding where along the spectrum we want to place ourselves. We reject and move away from both extremes.

III. ALIENATION FROM THE COMMUNITY

This section will explore the resistance we faced in ourselves and others, particularly our men-classmates,⁷⁷ to our full participation in the community. The organizing theme is that of competition. The hostility and competitiveness of the law school community, which we perceived as sometimes directed against us as women, drew us together. We created a community distinguished by strong kinship and support. The women's group gave us the strength to participate, to compete, and to succeed in the larger community, but the same bonds made competition within the group difficult, if not crippling. We found ourselves hurt by and hurting those who gave us strength, participating in the games of an institution that we did not trust and that produced winners and losers.

In the fall of 1984, we arrived at law school eager and anxious, eager to participate in and be accepted by the community, anxious that we would be left or choose to remain on its outskirts. Some of us took to it instantly.

I liked it . . . I found the environment pretty warm and receptive. I found the people to be exceptionally friendly, outgoing, loquacious; faculty members to be pretty accessible. This sounds pretty idyllic, but I had a blast my first month.

77. This section makes many general statements about men and women. Broad generalizations and gender-specific statements pervade the interviewees' references to community. The assertions have both validity and limitations. They are valid as statements of the gender differences we perceived, but limited because generalizations cannot accurately describe all members of the group.

At first I was really excited because it seemed to me there was one criterion for admission. The one that bound together all of my classmates was that they were all highly motivated and thoroughly undirected. These two seemed inconsistent to the rest of the world but they seemed to be the ones the admissions committee favored and since that described me very well, I liked that a lot.

Others felt isolated, different from the rest of the class.

Everybody looked incredibly straight, like the kind of people I would never have bothered to get to know in college. Everybody shook hands. Everybody was married. It seemed very luxurious—the cocktail parties and famous names, like "You have now entered the land of the elect."

[My friend] and I took this U-Haul across country . . . I couldn't move into my apartment till the next day so I was going to stay in the law school. So I drive the U-Haul up to the front steps of the law school. I had my pink tennis shoes on and this bright pink shirt and I think I had a Walkman on, . . . and I kind of bop up and say, "Hi. Where's the housing office?" . . . [T]here . . . were these three law students just kind of sitting on the stairs. And they looked at me and said, "This is Yale." And I said, "I know. Where's the housing office?" And they said, "This is Yale Law School." . . . They all looked me up and down and just like, "Oh God, someone on the admissions committee made a mistake." And they finally said, "Well, yeah, it's over there."

When I got here, I saw a guy standing on the corner. . . . He was a white male wearing a straw boater hat with khaki shorts with topsiders and a cigarette holder . . . It was a long cigarette holder. And he was soft . . . He had those Barbara Walters "r's," like "weally." . . . You knew his name was like Charles Cadwalader, but his nickname was Boy. And that was my first impression of Yale.

As the weeks passed, many of us came to share the uneasiness of those who had felt isolated from the first. We increasingly saw ourselves as women in a white male community.

The environment reminded us and our men-peers that the profession did not yet reflect women's presence.

How male the place is made me leap . . . It's funny because I came from philosophy which was a male world, too, but [there] . . . I never felt this way. [Here] it was just all these men acting in this prototypically male chauvinist pig way . . . It's not just the individual people. It has to do with how the classes were conducted, the look, the ties, the jackets, the pictures, the deep dark brown leather library, the leather bound books, the dark rooms. You know, "We're serious men."

I used to read "he" as "she" in all of my casebooks. It made a tremendous difference. It was the only way I felt engaged and included.

The physical environment made us feel both invisible, images of women noticeably absent, and conspicuous, incapable of camouflage. En-

tirely absent were images of women and men of color.⁷⁸ These surroundings kept us distrustful, reminding us that the institution that admitted us had traditionally denied entrance to women and people of color. The pictures, the furniture, the male professors—all indicated that the place had always belonged to white men.

The control of the university by white men became doubly apparent during the clerical and technical workers ("C&Ts") strike in the fall of 1984, our first semester in law school. The C&Ts were secretaries, cashiers, computer programmers, licensed practical nurses, library workers, and laboratory technicians throughout the university. Their union was Local 34. Eighty-two percent of its 2650 members were women; 17 percent were people of color.⁷⁹ On September 26, 1984, three weeks into the semester, the union voted to strike for higher wages. When its members walked out of the buildings to the sidewalks, leaving their typewriters and files and books for picket signs and megaphones, the average annual salary of a C&T was \$13,424.⁸⁰ Local 34 attributed the low wages to discrimination: C&Ts were predominantly women, working in jobs traditionally held by women.⁸¹ They compared, for example, the average \$13,524 salary of administrative assistants, most of whom were women, to the \$18,400 paid to university truck drivers, most of whom were men.⁸² Wearing buttons printed with "59¢" in bold, black characters, the members of Local 34 made comparable worth an issue central to the strike.⁸³ They marched for almost four months, into the early winter, taking home \$50 a week from the union's hardship fund.⁸⁴

When the C&Ts voted to walk out of the buildings, students and

78. Throughout our three years, there was one portrait of a woman in the law school. There were none of people of color. There were scores of portraits and photographs of white men.

79. A Report to the Community from the Members of Local 34, Federation of University Employees, AFL-CIO 6 (Sept. 1984) (available in Sterling Library, Yale University).

80. *Id.* at 3.

81. Even within the union, there were disparities in income correlated to race and gender. The average salary of white men was \$14,324; of white women, \$13,408; of Black men, \$12,813; of Black women, \$12,603. *Id.* at 12.

82. *See id.* at 8-9. Although the wages are disparate, the union emphasized that the skills and responsibilities entailed were not. For example, the university requires a truck driver to have two or more years of driving experience and an ability to read and write; administrative assistants must have an associate's degree in secretarial science or one to two years of experience, typing speed of 50 words per minute, and proficiency in grammar and spelling. *Id.*

83. Local 34 cited a statistic that women, on national average, made 59 cents for every dollar paid to a man. *Id.* at 3. Comparable worth advocates attribute the differential to lower wages paid for occupations comprised primarily of women than for jobs held chiefly by men. For example, teachers, nurses, and secretaries receive lower salaries, on average, than maintenance workers, truck drivers, and plumbers. The discrepancy exists even when the work requires similar education, skills, and responsibilities, in short, when it is comparable. *See generally WOMEN, WORK AND WAGES: EQUAL PAY FOR JOBS OF EQUAL VALUE* (D. Treiman & H. Hartmann eds. 1981).

84. Interview with Lee Berman, Local 34 organizer (Feb. 24, 1987). On December 4, 1984, the union returned to work, with plans to walk out again on January 19, 1985, if they had not accepted a contract. The strike settled before that date. *Id.*

faculty had to decide whether to follow—to hold classes off campus.⁸⁵ Discussions about whether to stay or to go were heated and divisive, the divisions often correlating with gender.⁸⁶ Outspoken advocates of remaining on campus were often men. Their vocal opponents were usually women.

When [my small group professor] said he would go off campus, men in the class objected. Five women and a couple of others volunteered first to go off. The men in the class told [the professor] they had a contract with him. They all ultimately followed [him off campus]. They were angry at the liberals though.

Like this woman, many in the group publicly supported the strikers. But whatever our positions on the strike, we identified with the C&Ts. We saw in them our mothers, our friends, and ourselves, many of us having done clerical or administrative work to pay rent, support a family, or cover tuition. Insofar as we aligned ourselves with the strikers, we found ourselves in conflict with those most infuriated by the strike's profound disruption of law school life. Moreover, the hostility engendered by the strike did not contain itself to strike-related issues but infected every disagreement and widened every division among our classmates that autumn, with splits along gender and race lines probably most affected.⁸⁷

In this atmosphere our relationships with our men-classmates soured. We grew generally suspicious of one another. With our politics revealed and our anger unleashed, students were more inclined to hurt one another or to perceive an action as hurtful. The social divisions in our class came to mimic the larger social divisions in the university as a whole.

The group of men that were . . . monopolizing the class began to form a study group outside of class and did not ask any of the women to be a part of that, although even at this point I and a few other women were talking quite a bit [in class] . . . I noticed that these men would exclusively discuss the law at every gathering in the dining hall, parties, social occasions, always the law. And it wasn't just, "Oh, let's discuss the law and decide what's good." . . . They were discussing what they had said in class, how they could have made it better, how they could have impressed the professor . . . congratulating each other on standing up to professors . . . At first, all the women and men would

85. The strike support committee, composed of students and faculty, had arranged alternative locations throughout New Haven. Classes that moved off campus met in churches, community centers, the local cinema, and other available spaces. When a professor would not move off campus, those who wouldn't cross the picket lines met together to listen to tapes of classes. A significant (but unknown) percentage of Yale law students never entered the building during daylight hours, while others avoided it entirely, throughout the months of the strike.

86. Eight women interviewed mentioned the strike, noting its divisiveness and the hostilities it inflamed.

87. We do not believe that the strike *created* the divisions, but it revealed them early and aggravated them.

talk to each other and be engaged in these discussions, but then as women realized . . . they were just sitting there in this self-righteous, self-congratulatory sort of dialogue, we started drifting apart. And we would talk about other things. Sometimes we would talk about the law, but it would be more goal oriented. If there were something we didn't understand, we would try to discuss it . . . It set up a pattern of self-segregation.

At some point first semester and first year I began to feel that the egalitarian nature of my small group diminished and that there was more of a division between the sexes . . . I feel like the men whom I used to be close to and who used to discuss things with me now are very much turned into themselves and that they have a very macho sort of way of approaching school, and they don't include me in it anymore . . . And that is upsetting. We took classes together in the spring, and they studied together all throughout the semester and didn't invite me to join them. And I don't think it's because they don't respect me . . . I have no other explanation for it other than it was sort of a sex-based thing. And that's hard. It hurts.

The strike may have made us unwilling to tolerate or overlook anything resembling a slight, but some behavior was too egregious to excuse. Some men-classmates actively maligned our intelligence or tried to squelch our participation.

I have a real problem with the male students not being reined in here. Some male student asked me if I were sleeping with [Professor A] when he found out I was researching for him. He did it to intimidate me. Men don't want the competition.

I found out I was at the center of the Turkey Bingo⁸⁸ grid. I was mortified. It was excruciating. . . . [A woman professor] helped by pointing out that they will do anything to shut women up. *Anything*. Some men acted as if we were invisible.

I was in the television room . . . watching the Munsters. Four white guys came in and turned on the news. I turned it back to the Munsters. One of them turned it back to the news. There were no words. We had a showdown. I unplugged the television and made them deal with me. They dropped it.

But our men-peers did not always ignore us; sometimes, they viewed and reviewed us.

Men in my small group rated women at parties. I had expected men here to be enlightened, but they were worse than fraternity guys at [my state university]. [One woman] said that men talked to her only after she stopped wearing her wedding ring. Men here played the sensitive male, but wouldn't even talk to us about intellectual issues. They would stop talking about cases as women approached.

88. "Turkey Bingo" is designed to stigmatize frequent class participants. It is played like Bingo. The names of regular contributors to class discussions fill the grid. As they speak in class, players fill in spaces on the grid. A student wins when she or he fills in all of the spaces in a row and then uses the word "turkey" or another word designated for the day's play in a comment or question in class.

To be flooded with all that male attention made me think that's all they thought I was worth. Being ignored in class added to it. I ignored the attention, and then it got back to me that the rumor was I must be gay if I rejected attractive men⁸⁹ I wasn't included in the study group, job discussions, etc. I felt on the fringe.

We pursued nontraditional goals, yet some of our classmates noticed us only for one of the roles traditionally ascribed to women.

We sought community in the law school but saw competition. We perceived our classmates, particularly the men, as wanting to stand out from and above others.

I did my little informal surveys of the men in the class. I was struck by the fact that all the men [I asked] seemed to think that they had a good chance of getting into Yale Law School and all the women I met thought they were the absolute mistake⁹⁰ I remember [one man] said, "I guess I was very cocky about it, but I just always assumed I'd get in." . . . They were all very surprised that I thought it was something unusual for me to have gotten into Yale Law School.

Here it was just all these guys . . . swarming around the professor and guys presumably getting handpicked for future professorships Some things about some of the guys here bothered me—the arrogance, which I don't find in women. I'm not sure why, but generally women are just much more modest about what they've done and what they hope to do. [One man] has already picked out the office that he's going to have as a professor at the Yale Law School. That kind of attitude really surprises me I think the men at Yale Law School are more ambitious and career oriented. I wouldn't be surprised if they wanted grades to prove they're the best.

There were students who had little plans all worked out to get jobs and clerkships. I didn't and still don't. It distresses me to see people who are out to get ahead I see no value in phony relationships. "I want to do x. I'll find a professor who can do that and get to know them." Frankly, I don't want anything if you have to get it that way I think they should give people a few strong lectures about treating one another fairly.

I formed a study group in the beginning to do our research assignments because the immediate reaction when the research assignments were assigned was every man—and I emphasize *man*—for himself, because that was the reaction among the men. And I said, "Well, screw this." I mean I knew legal research backwards and forwards from having been a paralegal, and nobody else here knows what they're doing So I formed a study group and asked all the women in the [small]

89. At least five women in the group were rumored to be or asked if they were lesbians. We perceived the question as motivated by homophobia and therefore hostile.

90. 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.

group to be in it. And we went and had a wonderful time . . . and the men ran around and did it all by themselves.

Our men-classmates seemed to embrace the rules of the game and the standards of selection. Although surrounded by picket lines and pictures on the walls representing ongoing and historic exclusion, they behaved as though achievement, not arbitrariness, controlled admissions, faculty appointments, and faculty attention. They seemed eager to prove themselves and confident that their talent or strategy would lead to success. They appeared not to identify with people less confident and successful. The men seemed to work alone, possibly to protect and develop their individual knowledge, willing to risk failing alone, possibly in the hope of succeeding alone. We felt both untrained for and disarmed by the competitiveness and isolation and so sought one another out.

We organized weekly meetings. Our stated goal was to address our silence in the classroom.⁹¹ Our frustration, but also our loneliness⁹² and self-doubt, drew us together.

I remember the first meeting . . . I stayed for two hours and still left early. I felt so good, so happy to know I wasn't alone.

I found it very supportive. I wasn't more stupid than anyone else. I wasn't the only one. It wasn't my fault. It made law school easier to deal with . . . Plus, it was a way to get to know people, without talking about cases.

Our camaraderie and our conversation kept us together.

I remember in particular one exchange . . . It might have been that first lunch or another one where [another woman] and I both began to say something at the same time. And then it was, "Oh, no, well you go ahead." Then "You go ahead" again. And I said something about us being nice. Everybody understood and laughed. I remember that—a kind of collective relief . . . We all had this same "nice" problem.

[I came to a meeting] because I had heard . . . that there was a group of women that felt that, . . . because women were afraid to speak in class, professors shouldn't call on people, that there should be no Socratic method. I was offended . . . I don't like being known as a lady-lawyer or a female attorney. I like being known as an attorney . . . So I first went to actually find out for myself what was going on. . . . I was a little bit afraid. I didn't know how I would be treated . . . I was not treated as an enemy. I was taken into the group and treated warmly, the group listened to what I said. I think I was more intimidated to speak out the first time at that meeting than I had been to speak in class [but] . . . I enjoyed it. I found a kinship. Even though I did not agree with everything that was said, I felt welcome . . . So I kept coming back.

91. See pp. 1330-31 *infra*.

92. During the strike, many of us met only for off-campus classes. We then disbanded, to return to our apartments or dormitories. Before the strike, we had had little time to form friendships.

I remember the meetings were unlike any class I had ever been to. We were able to sit down and although we had a lot of disagreements in philosophy and attitude we were able to discuss those differences and resolve them and come out with a coherent and unified presentation for the faculty I think we really taught each other a lot about dynamics and about understanding people with different points of view I don't think now of the conflict as much as I think of how it was resolved. And I remember the laughter We were really able to give each other a lot of support and companionship I particularly remember that people really respected what [one woman] said She would speak [in class], and I didn't feel like her comments were as well received as other people's And I thought, "Finally, this woman is getting the recognition she deserves." And when I started thinking that way I thought, "Wow, finally, I'm getting the recognition I deserve."

We found together what we had sought individually without success in the broader law school community: cooperation, kinship, respect, and honesty. We fled from competition and found connection. Instead of fighting "to get ahead" or "to prove [we were] the best," we held back to let others speak first. We had a "'nice' problem," not an excess of aggression. We were "nice" because we identified with one another. We knew that the group would treat each of us with respect when we saw that it treated another well. Our differences didn't become divisions, as had differences in the larger community. We concentrated on what we shared: a way of looking at people not as others, but as in part ourselves. Thus, when one of us arrived, curious but offended by the group's claims, the group saw her as a friend rather than an enemy. Our identification with one another made us vulnerable together. Our way of seeing ourselves and one another shielded us from the derision, interruption, and exclusion we experienced from our men-classmates.

Our classmates' response to our organizing drew us closer.

I was labelled a lesbian, separatist, castrating bitch for doing mainstream political work with Yale Law Women.

From the moment I first stood up in class to announce the women's meeting at my house, my classmates barraged me with comments such as, "What about blond men who wear purple tennis shoes and don't speak in class? What are you going to do for them?" "Why are you trying to divide the law school community?"⁹³

Whether rooted in insecurity, loneliness, homophobia, or competitiveness, the comments sounded insensitive and hostile to us.⁹⁴ The reaction made our purpose seem more urgent, the community more valuable.

93. This is a story of one of the authors, not a story from the interviews.

94. The strike may have exacerbated this response. Because the strike disrupted law school life and centered on a women's issue, men may have been particularly hostile to our organizing. They may also have been more hostile than otherwise because they, too, were lonely and thus envious of the community we created and excluded them from.

When we experienced competitiveness, hostility, and hurt in the law school, we retreated, forming our own community. From it, we derived strength, enabling us to return and to participate. As a group and as individuals, we gained visibility. We spoke in class, ran public interest, human rights, and clinical programs, became officers and editors of law journals and authors of published pieces, worked as teaching and research assistants. In short, we competed. But our own competition threatened to unglue the bonds that held us together.

The women in the group became the successful and the unsuccessful, the roles sometimes changing. We viewed our individual successes as possible in large part because of the strength of the group and the support it provided.⁹⁵ Yet we also perceived the successes of some as coming at the expense of others. Consider this excerpt from one woman's journal.

The issue is not Desert . . . And the issue is not Performance No, it's back to Appetite, the conviction that to want is not only risky but, well, *bad*, and merits severe punishment. To want success even broadly defined is to face two unpleasant alternatives. It is to sit back, feeling the outsider, opening myself to envy[ing] individuals not afraid of succeeding. Or it is to forge ahead, ensure the failure of someone else, and ignore the underside of my own achievement—a failure, surely, of personal integrity.

This woman, like many in the group, defines success in law school as competitive. Success is bad in law school because it feels relative, not personal; it means "I did better than you" rather than "I did better than last time."⁹⁶

I hated the conversation in the lunch room with [four other women in the group about jobs]. I realized how much we are out for ourselves It undermined how much we care about one another. With friends, it's worse than hearing men talk about it in class It's something about people I'd rather not see.

Success may separate us from and place us above others. But, if we fail to flourish in the competition, we sink, our confidence and status within the community eroded and our jealousies enlivened.

Most, if not all of us, wanted rewards and recognition, but we didn't want the price. We were troubled that we contributed to the unhappy-

95. For stories showing that some participated in the classroom because of the support of the group, see pp. 1341-43 *infra*. Many women credit the group with providing them encouragement to apply for clerkships and teaching assistant positions and to develop contacts with the faculty.

96. We may have perceived success in law school as more relative than in college, graduate school, or jobs for a number of reasons. In law school, we all compete for essentially the same things: jobs, faculty favor, clerkships, journal memberships, and jobs as teaching or research assistants. Because the class is small, the successful and unsuccessful are generally identifiable. The results of competitions are often public: The placement office posts lists of jobs held and judicial clerkships accepted; the *Yale Law Journal* posts lists of members selected. The profession is hierarchical, and the statuses of various positions are quickly communicated to entering students.

ness or silence of others.⁹⁷ We knew the pain.

I hate it [the job process]. . . . It devastated me I took it personally as a reflection of my worth. It was incredibly hard. It still is It magnifies everything I hate about law: the disparities in income, the conservatism of the field. Every downside was put under a microscope for me.

Rejections from the job process made me feel doubly bad. I made an effort to sell my soul, and then my soul was rejected. You'd think the biggest problem everybody had was juggling offers and flyback interviews.

We found ourselves hurt by and hurting those who gave us strength. The rivalry and hierarchy were inconsistent with the mutuality and connection we had found in the group.

We sought to deny the pain and the distinctions by describing our acceptance into and accomplishments within the law school as arbitrary or lucky.⁹⁸

I felt badly when I was in a conversation with people for whom the job process was not good. I had benefited for arbitrary reasons . . . from an arbitrary system, but others who were deserving were denied. Even in our community [the women's group] some were doing better than others for no good reasons. It made me feel guilty and ashamed.

The job process is a sick one, kind of like law journal. It's very arbitrary [T]here is no legitimate basis why some get called back and others do not.

[I feel worst about] the law journal process⁹⁹ You sort of have to go through it to understand just how crazy and arbitrary it is [T]hat it's accorded any respect at all really bothered me because I thought it was the flip of a coin It really is the whim of six people People I didn't know would come up to me afterwards and say, "Congratulations." "For what?" was my question.

We didn't identify with the white male at the corner, the three on the steps who glared at pink tennis shoes, or those who took their admission for granted; but we feared that, like them, we benefited at the expense of others. Because we identified with, rather than sought to distinguish ourselves from, the more silent and less successful, we minimized achievements so as to minimize divisions.

Nevertheless, our competitiveness undermined how we cared about

97. At times, our guilt was comparable to "white liberal guilt," a term describing whites who denounce the arbitrariness of society and, although with guilt, continue to pursue and accept the rewards offered by society. The guilt produces no action, other than self-punishment, although the insights that feed the guilt could be the basis for constructive change.

98. At least five women used the words "lucky," "arbitrary," or "random" to describe their accomplishments.

99. Students at Yale are not selected for the *Yale Law Journal* on the basis of grades. Instead, they write on topics of their choice, submitting several drafts to student-editors who ultimately decide whether the submissions are acceptable and whether their writers may become law journal members.

one another. It troubled us, as individuals, about our willingness to become the rivals of our friends. It spoiled our friendships as the successful and the less successful grew uncomfortable together. It fractured our group, as those more consistently successful found it difficult to criticize the institution that rewarded them and in which they had found a place. In contrast, those who had been hurt became increasingly angry, particularly when the rejections or their arbitrariness went unacknowledged.¹⁰⁰

We characterized our successes as arbitrary in part to downplay these divisions, but we had another reason as well. We didn't trust the game. In a sense, the rejection of our deserving friends only reinforced what the picket lines, the pictures, and our men-classmates' attitudes reminded us of—that we had not designed the rules. Those who had kept our mothers outsiders still ran the institution, set the standards of admission, and established the norms for success within it; they occupied the judges' chambers, sat on law firm hiring committees, and reviewed applications for teaching positions. Encounters with professors, practicing attorneys, and classmates reinforced our perceptions that the competitions did not always select for merit.

I went to [a professor's] office. He made me uncomfortable because he was so uncomfortable . . . I looked at the pictures on the wall. A judge in one of the pictures was friendly with my family. I wanted to say that; it was clear he might be impressed. The game became clear. It's such a stupid game. To be connected to a network, a power structure, would eliminate the friction. I don't think of myself that way though.

I'm increasingly pessimistic about sexism in the workplace. Crucial decisions about you are made by an enclave of white, middle-aged men. I think of the irony of the crowning achievement to all my efforts to be evaluated by sexist men. I encountered no overt sexism, but the personalities of my interviewers called for strong, tall, white men who remind the interviewers of themselves.

I remember riding the bus to . . . interviews. The two men in front of me were talking about New York firms. One said, "You're the kind of woman who could be a partner at Cravath." His comment made me hate myself . . . I could do well because I was like him.

We didn't value attention if it came because of our families' connections or because we looked and spoke like a partner or like confident men-classmates. If we caught the faculty inclined to favor us for these reasons, we grew suspicious of any reward they bestowed—grades, attention, recommendations—as a measure of merit. Without a change

100. These observations lack support in the interviews because the interviews preceded or were simultaneous with the most divisive competitions. Those competitions—for law journal memberships and judicial clerkships—occurred from October, 1985, to May, 1986; the interviews took place in the fall of 1985. Nonetheless, we remain confident in these observations because of subsequent conversations and group meetings.

in rulemakers to include those formerly excluded, we viewed the benefits as tainted by the unfairness of the denials to previous generations.

Unlike our men-classmates, we had no history of access to and control of institutions of power. We learned the language of law but struggled to manage the competition of the institution. In our interviews, women spoke of their ambivalence about ambition and competition but said little about their own competitiveness. We knew that a willingness to compete would create distinctions among us, yet we competed. We chose to risk "the failure of someone else and . . . of personal integrity" rather than "to envy individuals not afraid of succeeding." We rejected, or probably never contemplated, a more radical option of collectively denouncing competition and accepting the price of egalitarianism. Instead, we adopted more selfish ends, but without a healthy acknowledgment and acceptance of them.

One woman determined to do otherwise; she resented the understated competitiveness.

I always thought that, whatever I wanted to do, "success" would descend on me. Now I have realized that I have to decide what to do and do it. I see people around here setting plans and achieving them. A person in my class will be governor of New York. As soon as I get something, I discount its value. Like getting into Yale Law School. But now I'm trying to set goals. I've always seen benefits as dropping from heaven. Now I want to decide.

She was unwilling to be bypassed, to let her ambivalence undermine her goals. Although she had previously viewed benefits as arbitrary, she was now willing to see them as rewards for carefully crafted and well executed designs. She recognized her own competitiveness and sought to express it and her ambition more honestly.

The majority of us had to make similar decisions for ourselves as individuals. We had to reflect further about *why* we competed, so we could identify and accept the price we were willing to pay for the rewards. Without such reflection, we felt conflict about our competitiveness. We often internalized the conflict and felt guilty. But the guilt we experienced when successful served no one; it didn't prevent or ease pain when we or our friends were unsuccessful. To denigrate our achievements could be as hurtful as to boast because it was false to pretend that an achievement was nothing before those who wanted but didn't get it. Reflection might not resolve the conflict, but it could reveal a more productive way to channel it. Reflecting together, we could begin to develop an analysis and critique of competition as we did with classroom dynamics. The project awaits us.

IV. ALIENATION FROM THE CLASSROOM

The women in the group came together because of classroom experiences. The classroom was the crucible of our criticisms of our-

selves and of the law school. There, many of us, longtime class participants, learned silence. There, we made the announcements that drew us together for lunch meetings to discuss with one another, in private, our startling public silence.¹⁰¹ In those meetings, we told stories about what happened in our separate and shared classes, and we laughed. We laughed at everything everyone said—we laughed at the people who made us angry in class; we laughed at one another; we laughed at ourselves—until we felt thoroughly better. Then we went back to our classes and were hurt anyway.

We were hurt, angered, and silenced in different ways. Some were too "distracted by fear" or too stunned by the prevailing classroom tone to open their mouths.

I was shocked . . . I had [Professor X's] . . . course. I used to feel physically ill before that class. I couldn't go to sleep at night. I would get up hours before the 8:45 class in the morning to reread the case I'd read ten times. I felt unable to keep up with the class and terrified of being exposed to the rest of the class as unable to match them . . . [It happened] in other classes as well . . . I was very, very quiet, very reserved and felt even more pressure in the small group¹⁰² than I did in large classes because of the lack of anonymity. I basically felt inadequate in all classroom settings, unable to make comments or to project myself into the conversation, often unable to think as quickly as I thought others did, to come up with insightful or relevant things to say, . . . and focusing always on what was previously said and trying to understand it rather than sitting back and playing with ideas in a reckless way. The recklessness, the casual "well let's look at it this way, let's spin it around and look at it from this angle" stance that others seemed to achieve—I just couldn't. So my first few weeks I was really in shock.

I remember the second small group meeting. It was the first time I was called on. I hadn't spoken. It was an easy question, and I just couldn't answer it. I couldn't think to do it, and that became a pattern . . . I felt like I was missing some gene or protein. Everyone else could spew forth arguments which I couldn't do.

Others began participating but stopped as they found themselves increasingly uncomfortable or unwelcome in the classroom.

When I got here I decided I was going to knock 'em dead. I felt I'd been let in for suspicious reasons so I was extra conscientious. I took class notes on white paper, reading notes on yellow. I raised my hand in [class]. I felt I was working hard to get to this point. Others seemed to do it naturally . . . [Now] I definitely speak a lot less . . . I lost my gung-ho stuff. I think it just didn't seem worthwhile to talk. I didn't

101. Our individual and group observation that male voices dominated in the classroom led us to begin collecting data on the participation rates of men and women. These data, now inclusive of 19 courses offered from Fall, 1984, through Spring, 1987, at Yale Law School, show men participating, on average, 1.63 times as often as women, on average, controlling for the proportion of each gender in the class. See Appendix B.

102. For an explanation of "small group," see note 73 *supra*.

feel that I was getting much out of putting myself on the line. I wasn't made to feel that what I was saying was necessarily worthwhile. Very often I felt like—I don't know why I was feeling this way—but like I was wasting the class's time. I don't know if that came from very low self-image or if it came somehow from the professors.

In the beginning, I participated in the discussion. I tried to further it . . . Then I dropped out . . . I felt I was stupid, "the mistake."¹⁰³ Still others fell into cycles of participation and withdrawal, driven primarily by exhaustion with hearing the same speakers over and over again coupled with guilt about becoming like those speakers.

Classes got really unpleasant . . . wanting to be involved, but to get involved having to do what I hated other people for doing—wave my hand, rush [the professor], interrupt . . . I have waves of nonparticipation as I get embarrassed about hearing my own voice all the time. Then I start again when I'm tired of hearing other voices.

I disliked when classes were monopolized by the same people . . . That still carries out in second-year classes. The only thing that's changed is that I will now be . . . one of the "same hands," and I don't like that any better because I feel that the problem with the class was not that I wasn't participating; it was that new people weren't participating, and that's still the problem . . . I will also "recognize myself" now—that means I will call out. I hate having to do it, but I only do it when the system has fallen apart anyway . . . I've lost some of my self-censoring that I would have done last year when I would think of a comment and decide, "No, that's not important enough to take up class time."

Finally, some were *determined* participants. They carried the burden of being the women-who-talked.

Large classes can be annoying if others talk too much, but it's as much the fault of those who don't talk . . . I felt when I raised my hand that I spoke for all women. That creates pressure.

It's good to learn to participate in large classes. It's easier to speak in small ones, but when we get out, we'll have to talk authoritatively to people, with conviction and knowledge in front of other people. Small classes may help to get started, but you should force yourself to talk if necessary in other classes.

I get support for talking *after* class. People say, "I'm glad you spoke up," "It's nice to hear a new voice," but they don't help you in class, so it's a real lonely thing to do.

This array of responses to the classroom reveals conflict in the group. The determined participants subjected themselves both to the scrutiny all law students endure when they first say something in a class of eighty or ninety and to the extra attention accorded different voices, whether high or accented. They were sometimes angry at those whose felt inability or unwillingness to speak further isolated women-talkers. Some of the silent ones, in turn, felt justified in refusing to join discus-

103. For an explanation of "the mistake," see note 90 *supra*.

sions they considered fraudulent or nasty, while others envied the talkers' engagement and the recognition they received. Such conflicts absorbed some of the group's time and contributed to joint pacts to speak, if possible, in tones and phrases that were our own, and to special efforts to support participants, especially those who spoke rarely. But most of the group's energies went to describing and analyzing our common disaffection with the classroom. None of the above quotations reveals love of law school discourse. The silent were perhaps most horrified, but the talkers were hardly content. Those who avoided the guilt that led to intermittent withdrawal approached the classroom more resolute than open, more grim than curious.

Why did class discussion in law school silence a disproportionate number of women¹⁰⁴ and trouble even those who continued to participate? The interviews suggest a number of answers. The first is obvious. Some professors and some students treat women with hostility or pretend that women don't exist in law classes.¹⁰⁵ Such discrimination, although probably on the decline, still thrives. We also disengaged from classes because of more generalized aggression, not that directed against women in particular, but that directed against every person and every issue. We learned early that the classroom is a place for polarized argument, for winning points for a side. Many of us found ourselves mute or unwilling as classroom adversaries. Less common than argument, but no less silencing, is a speech pattern we (the authors) call "nonconversation" because it is characterized by the absence of exchanges. Everyone who talks sounds as if he were delivering an esoteric address to a large, silent audience. No one's words follow from anyone else's. Finally, we felt silenced by the element of showmanship called for in classes dominated by argument or nonconversation.

The hostility generally unleashed in law classes occasionally turns its force against women as women.¹⁰⁶ Direct derogation of our minds and bodies still happens.

In [a class], we were discussing the rule that after a prosecution witness testifies, the prosecutor must turn over to the defense all of the witness's prior statements that are "material" to the defense. The professor asked us this question: "Suppose a rape victim identifies the defendant and testifies about the crime. And suppose that in an earlier interview with the prosecutor this witness had said, 'Funny thing, but I dreamed about the rape the night before it happened.' Would the prosecutor have to release this statement to the defense attorney?" I don't remember how students responded. All I remember is that the profes-

104. Disproportionate as compared to the number of men silenced. See Appendix B.

105. See generally R. HALL, THE CLASSROOM CLIMATE: A CHILLY ONE FOR WOMEN?, PROJECT ON THE STATUS AND EDUCATION OF WOMEN, ASSOCIATION OF AMERICAN COLLEGES (1982) (identifying forms of discrimination against women-students in post-secondary classrooms and making recommendations for change).

106. The clerical and technical workers' strike during our first semester (Fall 1984) probably exacerbated this kind of hostility. See pp. 1321-22 *supra*.

sor ended up saying that the witness's prior statement was "material" to the defense because it tended to show that the woman "wanted to be raped," that "she had stood around in the park waiting to be raped," or maybe that "she had dreamed the whole thing up."¹⁰⁷

But more prevalent than such outspoken misogyny is a kind of willful deafness toward what women-students say, accompanied by an absence of eye contact, a physical turning away.

There were times when women made points, and they were ignored or trivialized. Five minutes later, a man would make the same point, in three parts, and it was discussed. I hated that . . . We were interrupted or pounced on. In small group it blew up in a discussion of medical experts . . . There was one woman in the class who had given expert testimony about insanity and other mental conditions. She was interrupted by a prime offender, a man in the class who had been a doctor. The other men deferred to him as did the professor. He was making assertions without backing them up. He made a sexist joke. We tried to talk to him after class, but he wouldn't listen. I began to hate the class. I didn't want to be subjected to this. The professor thought it was wonderful—we were arguing.

In two classes, I feel like the professors kind of ignore my points because I'm a woman. In one course, they [the professors] kind of like "uh-huh" and go on, and then somebody else would say the same thing, and we'd get into a discussion about it, and it was always when a man said the same thing. Some professors . . . would always call on the men first when the men had their hands up, or they would always call on all the men first and then call on the women . . . In several classes, the men just can't wait for the noise to stop so that they can continue their discussion. And in small group, especially, it came to the point where they didn't wait; they just interrupted . . . In [another course], there are only two women left. The men don't raise their hands, they just speak out, and they're very loud, and they just start shouting over each other. And I go in and I talk to the professors and say, "You know, I just think this is a real sexist way of running the class." And they said, "That's how corporate lawyers are. You'll have to get used to it." . . . And I thought, "Okay [I'm] just thinking up these things." But when the other woman in the class did her presentation, people started . . . talking to each other or reading the [news]paper. They never did that to the other guys in the class. That's why I didn't do a presentation. I figured, they're not going to listen, and I'm not going to learn anything; I'll do a paper. But it's depressing when you make your choices based on that.¹⁰⁸

107. One of the authors, and not an interviewee, recalls this story. Although more blatant than similar incidents in this and other classes, the story serves as an example of the comments and attempted jokes about rape, battering, pornography, and prostitution that continue to poison the classroom.

108. The professors in all of the classes mentioned in this quotation were men. During our first year (1984-1985), 2.63% (1/38) of the tenured faculty and 8.70% (4/46) of the tenured and tenure-track faculty were women. YALE LAW SCHOOL, BULL. YALE U. 7-9 (1984-85). (The figures include clinical faculty who are on a separate tenure track. The figures exclude Ellen Ash Peters, whom the Bulletin lists as a professor adjunct, but who had long since been

The message that women don't exist and aren't worth noticing if they try to exist is communicated in subtler ways as well. Many professors continue, in spite of increasingly open protest, to use male pronouns exclusively (unless the case involves a rape victim, a battered wife, or a mother fighting for custody¹⁰⁹) and to feature men in all hypothetical questions. They may also draw on knowledge in areas historically closed to women while remaining ignorant of subjects crucial to many women.

Men presume that everyone understands a sports analogy. I would never presume to use a knitting analogy.

In Criminal Law we had a case of a battered woman killing her husband. The discussion broke up on gender lines. Women defended her because of battered women's syndrome. The men said this was irrational, that you can't just let women go around killing men. [The professor] didn't understand, but what really bothered me was that [he] wasn't really prepared. He should have known about the syndrome. If it were economics or something he would have asked someone He never asked if anyone [in the class] worked in a [battered women's] shelter. It wasn't important enough because it's just women.

Women also weren't "important enough" for most after-class discussions with the professor. Almost invariably, when the professor is a man, the cluster around the professor consists only of men.

Once I had a question about consideration in Contracts. I had written the question out. The professor was surrounded by men. They talked. I hovered. I had fifteen minutes, but I left after five or seven. I think [the professor] knew I had a question. They were not discussing contracts; they were shooting the breeze. I could have forced myself into their circle, but I didn't.

I went up to talk to [the professor] after class. He was surrounded by five men. I tried to wait my turn. Twenty minutes later, they were finally done, and [the professor] seemed ready to go. By the time he got to talk to me he was impatient, and my confidence was diminished further.

When women are insulted, excluded, or ignored in these ways, classes become a closed circle of men. Some women start to behave as if they weren't there, as if they didn't deserve to participate as fully in their education as their classmates. Thus one woman reports that when she

serving as a Justice and later as Chief Justice on the Connecticut Supreme Court and so had no institutional presence at the law school while we were there.) During our second year (1985-86), women constituted 5.13% (2/39) of the tenured faculty and 10.20% (5/49) of the tenured and tenure-track faculty. YALE LAW SCHOOL, BULL. YALE U. 5-7 (1985-86). (Again, the figures include clinical faculty.) Thus, the women interviewed lacked sufficient experience with women faculty to know how classroom dynamics change with a woman professor.

109. The authors have noticed that those professors and students who use male pronouns most relentlessly tend to adopt *gender-neutral* language when discussing a situation that usually involves a woman. Thus we hear of "battered spouses" and of rape victims referred to as "he or she." While this may demonstrate resistance to portraying women as victims, it seems also to betray an instinct to mask violence against women as violence against "persons."

now approaches a professor after class, "I always wait till I'm last or till only women are left."

Our response to the different treatment of men and women in the classroom is straightforward. It should stop. We did not come to law school to be special targets for interruption and derision nor to wear a mask of imposed invisibility. What has been complicated for us is framing a response to the more common modes of classroom interaction. In early women's group meetings we debated how far *we* should change to reengage in the classroom and how far we should work at changing the *classroom* to make it more amenable to us. We have worked in both directions at once. The following critiques reflect the kinds of typical classroom interaction that we can or will least tolerate.

Among kinds of interaction, argument is most common. Women may receive an extra dose of hostility in the classroom, but hostility is widespread.

I remember the first time that [Professor Q] cut someone down, cut him off at the knees basically. It was [John Smith] who I think had been called on; no one volunteered in that class . . . [Professor Q] asked him some very basic question about the facts of the case, and [John], instead of reciting the facts as we had been taught to do up to that point in the semester, sort of launched into a discussion of the issues of the case. It was more a policy or philosophical discussion, and [Professor Q] very rudely cut him off and said, "Obviously, Mr. [Smith], you have not learned how to read a case." We were all horrified, I think. People turned red and felt uncomfortable. And [John] tried again, and [Professor Q] cut him off again and said something to the effect of "You're not going to be a good lawyer," as if that were the essential thing we were supposed to glean from this class—how to be a good lawyer . . . I know I was not the only one who felt cowed by his presence, sort of distracted by fear, unable to focus on the case, to relax. I counted the days till that course would end. I had them numbered and crossed them off on my calendar.

One lesson of such incidents, and they are infamous when they occur,¹¹⁰ is that the student called on must be prepared for confrontation, ready to defend and to fight back, because silence or tears or apologies in the face of such attempted public humiliation sting with defeat. Dignity requires some effort to refuse to be treated in such fashion.

Even with professors who did not employ a confrontational style or

110. Five of the 13 interviewees in another section recalled a similar episode in their class but referred to it in a kind of verbal shorthand because we (the authors) were present when it happened. "I remember when [Professor R] called on [Joe White] and brutalized him, and he never came back to class." It was the first session of a large class first year. "[Professor R] announced before his introductory remarks that he would call on [Mr. White] first. Then he left [White] twisting while he gave a rambling opening chat." Then he called on [Joe] who admitted to not having done the reading. But [Professor R] did not let him rest. He continued his questioning until [Joe] said something foolish, and 80 of his new classmates laughed, a nervous, high-pitched, somewhat predatory laugh. Then [Professor R] went on to the next.

who dropped it after a show of power in the first few weeks, law classes often remained laboratories for the release of aggression.

Much of this [aggression in the classroom] came across graphically on the tapes.¹¹¹ We had distance. It [listening to the tapes] was like watching T.V. You could hear interruptions, derisive snickering, and the eagerness. If a new voice volunteered, it was swamped The patterns got more and more entrenched.

I feel most comfortable feeding back what I've read rather than discussing theories I've extrapolated. Usually, I haven't developed theories. When I have, I don't feel confident about them. It would be like putting all of yourself on the line, open to attack Some people seem to be out there to prove how smart they are even if they are destroying somebody else's argument The idea of having to subject my ideas to that kind of scrutiny tends to silence me.

These quotations associate classroom aggression with competition. In classes where professors exercised little control, students competed to be heard. Having thrust themselves into the discussion, some proceeded on the premise that they could best demonstrate intellectual superiority by beating someone in an argument; hence the nervous sense that to speak was to risk being trounced.

The dominance of the adversary model in legal training partially explains both the aggression and the competition. The courtroom is a place where lawyers use words to win fights. The classroom is the courtroom's shadow.

I volunteered in about week three, and he [the professor] cut me off and went on. I felt very hurt and shut out That was a turning point, my first real problem in a class. He cut me off because he likes to get class going by initiating debate between polar positions. I don't take polar positions, so what I said didn't fit in He didn't interrupt me midstream, but he totally ignored me. I knew I shouldn't take it personally, but I was hurt.

Professors who encourage polarization may be teaching adversarial skills. By setting the pace of discussion at more than normal speed, a professor may demand quick thinking. By asking a series of leading questions that nudge the student into increasingly extreme responses, a professor may provide a lesson in cross-examination. By taking an adamant, one-sided position, a professor may evoke in the student an argument worthy of an opposing advocate. But such professors also create the impression that all lawyers do is engage in ritualized combat. Even if this were true, there would remain the serious question whether it should be true. Is the profession well served by the ongoing infusion of young lawyers trained primarily to fight? Who benefits from this constant reinforcement of the call to battle? Moreover, professors who use

111. On taped classes, see note 70 *supra*.

adversarial tactics in the classroom without a maestro's finesse may initiate nothing more impressive than biweekly brawls.

Although many argumentative classes do resemble verbal fist fights, the debate is rarely between extreme political positions.¹¹² Rather, students on either side of any discussion grow more and more entrenched in their positions and more and more angrily opposed to the other side's position no matter how narrow their differences. In this process, stereotyping of the "opponent" is common, and booing, hissing, and applauding are not unheard of.

If I had a question, I sometimes went after class. It was not related to gender, but to political viewpoint. I did not want to create conflict by raising the point in class I had heard hissing and intolerance—unless you say what the majority wants. If I say something else, I set myself up for a personal affront. It's appalling that professors allow this to happen. I am more intimidated to speak in front of my classmates than others They have stereotyped me as a fascist, a Southerner, or a ding-ee girl.

Professor [S] called me a nihilist because I said that regulatory agencies composed of corporate employees would favor corporations Most classmates think I'm weird and irrelevant. I've been red-baited. Generally, I'm perceived as dogmatic, dykish, intolerant, and out-in-space, which is fine as I don't think too highly of people who think that way.

The fanning of sheer nastiness and ill will is one of the costs of polarization. But consider the others. What happens to those of us who won't compete to be heard, who don't want to subject our ideas to "attack," who "don't take polar positions?" Listen to these women describe what parts of themselves are left behind in argumentative classes.

If people were very aggressive, if they challenged the professors or agreed with them, . . . they were rewarded. If they withstood grilling, they were rewarded. Questions were not welcomed. Statements about feelings or instincts got negative reactions, although I think they are sometimes more important or insightful.

Some professors were uncomfortable with things off the agenda or clouded. They were more comfortable with points that stood alone, that didn't need drawing out They were not willing to allow . . . confusion. They treated law as autonomous, clear, not fuzzy Some [students] were very rude People lacked a lot of respect. That added to the sense that tentativeness was inappropriate.

When I think about the difference between classes in law school and college, class in law school seems so much more male. There's such a premium on analysis, at the expense of insight. In college, you could

112. Duncan Kennedy describes the debate: "The issue in the classroom is not left against right but pedagogical conservatism against moderate, disintegrated liberalism." Kennedy, *Legal Education and the Reproduction of Hierarchy*, 32 J. LEGAL EDUC. 591, 594 (1982). The description is ungenerous but accurate in that neither the far left nor the far right gets much play in legal academic discourse.

react; you could say, "I felt this way," and not expect it to be refuted or answered.

Polarization banishes affect, unless it takes the form of zeal for winning the argument. In more gentle form and combined with genuine concern about the issue under discussion (rape, abortion, incest, racism), emotion reveals more vulnerability than is safe to expose in a roomful of adversaries-in-training. Polarization banishes confusion and, with it, questions, thereby imposing on us the burden of seeming sure and robbing us of opportunities for tentative exploration. On those of us who will not subsume affect in analysis nor pretend certainty, polarization imposes silence, causing everyone to miss what we have to say in the way we have to say it.

Our voices were lost in other kinds of classes as well. If we rejected interaction fueled by open aggression, we were simply dumbstruck by classes where interaction itself had fallen to what one woman called "autistic" speech patterns.

I was annoyed when they [students] spoke in ten points, for fifteen minutes.

No one listened to each other. The teachers didn't listen to the students. The students didn't listen to the teachers. The students didn't listen to one another. There was no joint project to learn something. In class, the teacher would say something. The student would respond. The teacher's response would have nothing to do with the student's comments.

This level of esoterica and disconnection is difficult to imagine, but picture a seminar room with twenty students and a professor sitting around a long table. No person who speaks takes less than five minutes. Over and over again, they begin, "My question has three parts. Part A is thus and such . . . Part B is thus and such . . . Part C is . . . etc., etc., and so forth . . ." Several outline their questions in their notebooks before asking them. Most of the questions are so complex as to require speeches as answers if answers are possible at all. This is nonconversation.

We object to nonconversation as elitist and self-centered. The speechifiers, by the very complexity of their comments, seem to be using their education, their increasingly refined verbal skills, to place themselves above others: to exclude those untrained to follow their logic and to outshine those who could follow if they chose. Some of the women resisted using and experiencing their education in this way.

Men express things differently which makes them sound more intellectual, more theoretical; they use bigger words . . . I use ordinary language and apply it to practical things. It sounds like a housewife's view of the law.

The professors who pleased me . . . weren't bidding up the arcane aspect of the conversation but were sharing information. The professors are in control. They shouldn't have to allow bidding up. They

should pay attention to whether the class is becoming glassy eyed Mostly [a good class depends on] how concerned the teacher is that most of the class is getting the point. That's their first job, and it doesn't matter where they clerked or how many articles they published.

Language understandable only to the initiate was almost always accompanied by remarkable unresponsiveness to anyone else's comments. Such lack of communication stifled those women who learned best through interaction.

In two classes, I get no feedback at all. This has a chilling effect "No feedback" means you'll make a comment, they'll make a comment, but there's no communication.

In [one seminar], the women are more reactive and cooperative. The men are more concerned with displaying themselves. Women want affirmation, too, but they get it in more group-oriented ways The men are autistic. They don't take advantage of the obvious intelligence of other students. The professors don't do a good job at controlling dynamics. They allowed the student speeches to stop developing dialogues.

The elitism and self-centeredness of nonconversation feed on each other. A speaker "bidding up the arcane aspect of the conversation" seems to concern himself with neither connection nor communication. But connection and communication are how the women in the group learn. We had a reason for responding to our isolation and discontent in the classroom (and elsewhere) by forming a women's group. We needed one another's affirmation and support to know whether and what we were learning.¹¹³

The kind of communication we care about depends on the sharing of questions and thoughts to improve understanding. Talk meant to impress rather than to interest sets us off balance. Both argument and nonconversation involve an uncomfortable element of showmanship.

[I didn't like] the randomness with which the finger of God would land on someone's head and ask that person to perform that day for the class I had tried improvisational speaking in high school . . . and absolutely loathed it, and I felt that I was back in that situation, . . . that some person would have to get up and do an improvisational skit for everyone else and try to make them laugh and be witty and occasionally be relevant, but always perform, and the performance element threw me. I thought I could compete on an academic level but not on a showmanship level [Professor T's] sort of flamboyant dress, his wittiness, and the jokes he cracked and the kind of people whom he obviously liked in the class were those who could raise their hands and make flip remarks and make others laugh or who would astound them with their brilliant asides.

[Professors U, V, and W] . . . they are not the people who posture.

113. See pp. 1324-25 *supra*; see also WOMEN'S WAYS, *supra* note 9, at 194 (identifying community as a prerequisite for women's epistemological development).

With them, it's like learning with a professor in college. It's the idea which is important, not the theater.

What's wrong with the theater? Some of the women identified it as a symptom of the competitiveness of class discussions.

I thought everyone was still selling themselves in class. Even without grades, they were still competing, looking for the right answer, that little nod.

After the first couple of days, I shut up, not because I felt stupid, but because it was too much a game, too much appearance. [Professor A] will take a person's name and use it for days afterwards to build the student's ego There wasn't the same naming of people in college so there got to be a division between speakers who were favorites and nonspeakers who weren't called on.

Competition creates divisions that foul the collective learning these women strove to achieve. Moreover, the desire to gain status or favor, mixed up with the desire to learn, made everyone's motivations suspect.

I'm afraid people are using it [the classroom] for their little forum. Some students definitely do so, but I fear I may be misjudging people. Maybe they really have a desire to talk about collateral estoppel. Then I'm afraid to get really involved if I'm interested for fear people will think I'm using it for my forum I just wish people could get over the suspicion that it's not genuine.

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? These doubts could stop us from raising our hands, sometimes to the good, if we caught ourselves with nothing to say and a dishonest reason for wanting to say something, but often to the bad, as when honest questions went unasked.

We did not always withdraw from what we disliked in the classroom. Even though hostility toward women, argument, and nonconversation generally made us angry, sad, self-doubting, and quiet, we had our moments of triumph over both the classroom and our silence in it. In women's group meetings, we made pacts with one another to speak in class and to speak as we liked, not necessarily in the prevailing tone. We supported one another in class. If one of us made a comment that was passed over or trivialized, another might raise it again, and another after her, until the class was discussing it in spite of itself. We sat together. Before exposing our ideas to the class, we tried them out on one another by passing notes. We kicked one another's chairs when we were offended and rose to one another's defense when we responded. We made a fuss over new participants after class.

I felt much more comfortable participating knowing there was a network of people who would support me and say, "Good point."

When I first started going [to women's group meetings], I remember making an effort to talk in class, and I actually did speak one time just thinking of the meeting the night before.

I participate more in part because of the group. To the extent that I've come to peace with this place, it's because I know it [the way I feel] is not just *my* problem.

The community we had created for ourselves helped us reenter the classroom. Once, our reentry was dramatic. One of the women gathering statistics on men's and women's participation reported at a meeting in the fall of first semester that the record for the previous day in a large class many of us shared was "sixteen to zero"—men had spoken sixteen times; women, none. We determined to "take over" the class the next day, to raise our hands and keep them raised until we were recognized and, if possible, to pass the recognition from one woman to another until our voices dominated.¹¹⁴ This is precisely what we did, with much gloating. One woman recalls, "We all talked, and we were all really smart." Another notes the "tipping effect" of the takeover: "[It] made other women [not in the group] talk, too, and men nontalkers." After class, we rushed the professor, a dozen strong, and the regulars wandered away.

The pacts and the takeover represented active responses to feeling shut out in the classroom, and we celebrated them. The group held together in part because our solidarity worked to make us heard. The pacts and the takeover were adversarial responses to classes adverse to us. We showed that we could do it their way, and yet their way was not our way. When the women described the classes they liked (or would like) best in law school, the adverseness was missing. Deliberation replaced argument and performance.

The classrooms in which I felt the most at ease, I think, were those in which we were deliberative in our style. People deliberated before they spoke. It slowed the pace down. There was a feeling of sensitivity to others and everyone thinking about what they were saying. It wasn't just this sort of brutal back and forth showmanship that really frightened me.

Connection and responsiveness replaced aggression and non-conversation.

There are exceptional classes that just work. I've had two so far where the students aren't attacking each other; there's a common goal, a sense of togetherness and excitement about being in the class In Corporations, the common goal was understanding [Professor B]

114. That takeovers like this are not uncommon shows how determined silenced groups can be to make themselves heard. Students of color at Yale Law School report using an identical tactic. Speech by Lori Green, Panel on Racism, Sexism, and Heterosexism in Legal Education, Society of American Law Teachers Conference (Jan. 4, 1986).

In Child Advocacy, the goal is to help kids . . . It's like building a house—you have to work together. In other classes, we take apart the house.

My comments are sort of summing-up questions. They usually begin with, "Well this person said _____ and then this person said — _____, but really they're both trying to address the same question," or, "We're only all saying these different things because we're trying to answer the following bigger question." They're generally sort of linking-up questions.

[I feel most comfortable in classes] where the professor goes where you're going, like you can ask the most off-the-wall question and they'll always follow up on it, and they'll always come back to it, and they'll always say, "Well your point's related over here, to this point."

With less aggression and more community came the hope for greater equality in the classroom.

I'd like to see more courses taught in a seminar format where students are giving papers . . . less of the professor up there in the front orchestrating the class and the students taking notes and more of a group interactive process. This might provide a structured way for both the noisy and the quiet to contribute.

I guess I feel that the ideal . . . shouldn't be a handful of people speaking and that we should all be thinking about what other people are saying and all have a role in or a responsibility in classroom discussion.

Greater equality would mean that currently prevailing styles ceased to dominate, making room for diverse contributions, some of which we do not yet know.

V. ALIENATION FROM THE CONTENT OF OUR EDUCATION

Our likes and dislikes when first confronted with the study of law varied from one reaction to its opposite.

I thought I was understanding some courses fairly well, and I was happy with that. I was buzzed up for the first month.

I was convinced that I would not be able to understand what was being taught. I panicked.

I felt I never had any time. I went to Sterling [Library] and skipped lunch to read.

I didn't take it very seriously, didn't work much . . . It didn't seem as horrendous and Paper Chasish as people said.

[I liked] the materials, the problems, picking up the language, the procedures. It was exciting to think like a lawyer, interesting without being mysterious. It was good to have a framework to think in.

[I didn't like] the narrowness, the impression that you must learn to speak and think in a certain way . . . I came to learn a new way of thinking, but I didn't want to lose other ways of thinking to do it.

From confidence to fear, from hyperactivity to relaxation, from appreciation of law's set subjects and categories to rebellion against them,

our first responses depended, at least in part, on our expectations and points of comparison. Most who had left careers or other graduate programs to come to law school found themselves pleased with the switch.¹¹⁵

I wanted something with a set methodology and practical Before, [teaching at a state university,] there was no practical, pragmatic aspect.

I came to law school having spent two and a half years prior writing a Ph.D. dissertation. It was a limiting, isolating experience. I found the interaction and classes at law school kind of exhilarating.

Philosophy was a depressed, low energy field. I felt I was coming to a high energy field with lots of possibilities.

The more recent college graduates tended to be more disappointed:¹¹⁶

I didn't like the academics and that was kind of sad since I'd always had a passion for work in college I'd have to make myself sit down and read for two hours by promising myself the treat of a walk around [the library] afterwards.

I'd had the Socratic method in college from an authoritarian professor . . . but big classes here were different. I liked it in college

Here, it was all ego building, and people's answers weren't thoughtful.

Our differences depended not only on our fonder memories of college than of graduate or post-graduate work, such that law school felt worse by comparison to the former and better by comparison to the latter, but also on the differences in our ages. Women in their late twenties or older may have arrived with lower expectations and chosen law school more deliberately than those only a few years younger.

As we grew more absorbed in law school, the diversity of our first reactions faded along with the vividness of our prior experiences, and we discovered our shared responses. Common criticisms of the content of legal education emerged out of early women's group meetings and out of the interviews. These criticisms centered around two themes: Legal education was narrow or acontextual; and legal discourse focused on a search, often by methods involving the suspension of personal conviction, for some kind of neutral, objective truth foreign to our understanding. This section will explore each of these themes and try to show how they are related.

The narrowness theme encompasses seemingly conflicting objections to legal education as "too theoretical" and "not theoretical enough." The women who found their education "too theoretical" charged it with inattention and indifference to "the real world," most often meaning the people involved, from parties in the cases to a range of others a decision affected. The women who found their education

115. Of the six women three or more years out of college, five compared their introduction to law favorably with what lay behind.

116. Of the 14 women two or fewer years out of college, eight expressed overall discontent and six, overall satisfaction with their early academic experiences in law school.

"not theoretical enough" felt that it lacked intellectual substance, that it made inadequate inquiry into the social, historical, political, or economic underpinnings of the cases. Both criticisms portray law as stripped, missing too much of what matters.¹¹⁷

Listen to the women who experienced their education as disconnected from "reality."

It bothers me that some professors enjoy talking about things just for the hell of it. . . . You're taught to masturbate with ideas. You play with ideas, but you're never taught to deal with reality We have so many of the "What if Eleanor Roosevelt could fly" discussions, but we don't move anywhere It's a little boys' game, like football—you play it, you score, it ends—to me, it's stupid, it's repetitive . . . I would appreciate law school to be more like a soap opera than like football. Soap operas are silly, but they deal with life.

I started to think some [professors] were too theoretical, without grounding in facts [One time] a professor began to discuss a case. It was complicated because the parties were all successors in interest. From my understanding, he had them backwards in his presentation. I pointed this out. The professor said, "It doesn't matter."

Most lawyers are intensely talky and rational. So much of life is neither rational nor susceptible to being put into words . . . suffering, for instance.

I don't believe a case has only two sides and "the issue" can be stated in one sentence. When I think of the casebooks I like best, like Fiss's *Procedure*¹¹⁸ or Goldstein's *Criminal Law*,¹¹⁹ they're the ones that give background materials to the cases, newspaper clippings and descriptions of the parties. Then you can see how the case got pared down to two sides and one issue.

These quotations suggest that the women take offense at the coldness of professors, students, authors, and judges toward the dramas they study. Students construct hypotheticals as implausible as "What if Eleanor Roosevelt could fly." Professors don't care who the parties are. Judicial opinions treat "the facts" in one paragraph and "the reasoning" in page after page. The assumption underlying this tilt toward analysis is that too close attention to the particulars of a case will frustrate its categorization and so foil the law's attempt to treat "like cases alike."¹²⁰ But even accepting that categorization is necessary to law's goals, the women interviewed reject the notion that blindness to the facts is necessary to categorization. A judge needs her powers of de-

117. The criticisms were not mutually exclusive. That is, four or five women objected to both kinds of narrowness, and as many objected to neither.

118. R. COVER, O. FISS & J. RESNICK, *PROCEDURE* (1988) (forthcoming).

119. A. DERSHOWITZ, J. GOLDSTEIN & R. SCHWARTZ, *CRIMINAL LAW: THEORY AND PROCESS* (1974).

120. The definition of justice as the like treatment of like cases originates in Aristotle's discussion of distributive justice. ARISTOTLE, *THE NICOMACHEAN ETHICS* V, at iii (1976). The definition has greatly influenced Western jurisprudence. See generally C. PERELMAN, *JUSTICE* (1967) (discussing Aristotle's influence on the Western understanding of justice).

scription, of empathy, as well as of analysis to know, for instance, whether the constitution permits a state to threaten Michael Hardwick with imprisonment for up to twenty years for having sex with his male lover.¹²¹ If she understood something about homosexual relationships she could not, with Justice White, categorize Michael Hardwick's claim by asserting "[n]o connection between family, marriage, or procreation on the one hand and homosexual activity on the other."¹²²

The quotations also suggest that the case method, as ordinarily employed, oversimplifies the world. A soap opera unravels an endless series of pitfalls and triumphs. Football involves finite combat, by a prescribed and complex set of rules, between two sides, only one of which can win. So, apparently, do litigation and the judicial decisions resolving it unless surrounded by the story of how the dispute emerged in its reported form, how it turned from a soap opera into a football game. Whose interests were excluded to yield only two sides? In a school desegregation case, does either side argue for the interests of Black children or their parents, or does the argument reflect what lawyers and public officials think is in the interest of "all schoolchildren," abstractly understood? To answer or even ask such questions, we need to know how the case evolved, whether the parties chose the lawyers or vice versa, who the parties were, and what they wanted.

Not surprisingly, women for whom academic law felt divorced from "reality" gravitated to clinical programs in which real clients raised real problems. Nine of the twenty women interviewed referred to clinical work in answering the questions, "What do you feel best about having done in law school?" or "What do you like most about law school?" Some described clinical work in opposition to class work.

I'm very glad I did battered women's stuff [getting temporary restraining orders to keep batterers away from the women and children they abused]. I was helping people and it wasn't so esoteric. I don't mind talking concepts, but I like to know I can do things as a lawyer if I choose to practice law. It felt more real than other work.

[I feel best about] my LSO [Legal Services Organization] work. I see law as a tool to be used for people, and that's the only place I can use it that way . . . Law is to help people, not to intrigue them.

In addition to bestowing a sense of practical competence, clinical work added to legal education the human connection some felt lacking in more academic settings.

Legal education looked narrow from another angle as well. Over and over again in the interviews women expressed frustration with the intellectual poverty of their studies. Many felt their intelligence dulling as their universe of inquiry shrank.

121. See *Bowers v. Hardwick*, 106 S. Ct. 2841 (1986) (holding that a state can constitutionally criminalize private, consensual, homosexual acts).

122. *Id.* at 2844.

I'm more boring than I've ever been, more narrow, more one-track minded. I've got less to say. I don't know why, but I know it's because of law school.

What makes me feel worst is what I'm not doing. I've really narrowed my ideas, my life, for three years.

Some identified with specificity what was missing from their learning.

The cases seemed superficial . . . I wanted to read essays, history . . . By superficiality I mean that I have yet to think a creative, deep thought about the law, and I don't think that's my fault. We skim cases. We look at "relative differences," never at foundations. We make distinctions between cases without any purpose . . . I would like historical and political underpinnings . . . I feel I don't know contract law until I know why it emerged. I've never felt my mind even close to engaged as it was in college . . . My mind is getting lazier.

I'm really bothered by the mechanical reliance on the case method . . . I would much rather see an integration of historical materials, social science materials, philosophical materials. To teach a course, whether it's torts or contracts or whatever, just by looking at case after case after case—there's no context, no overarching picture . . . Take constitutional law . . . I don't think you can understand *Brown*¹²³ or *Korematsu*,¹²⁴ for example, without having some sense of the social context and the historical, political context in which that decision was made. To read a case in the abstract . . . is one-dimensional. The same is true of torts. I would have enjoyed more reading on why [people in] the nineteenth century put so much emphasis on fault. I think you can still learn the basics of tort law or of constitutional law by reading half the cases and having more of this contextual stuff.

Implicit in these quotations is a perception of judicial decisions and their analysis as overly self-referential. A judge defends her decision as consistent with past decisions. We, in turn, evaluate her reasoning. Is her decision in line with "the weight of precedent" or not? In this process,

making unusual connections wasn't valued. Using "precedents on all fours"¹²⁵ was valued. (That's a horrible phrase. It sounds like an attack.)

At its worst, the process of matching a decision with or distinguishing it from its predecessors loses even its narrow point: The fascination of fine distinctions obscures the search for consistency in the common law. But the women expressed dissatisfaction with the case method even when it did not get lost in itself. They found inadequate the explanation or justification of law as internally consistent. In addition to

123. *Brown v. Board of Educ.*, 347 U.S. 483 (1954) (holding that segregation of the public schools violated the equal protection clause), 349 U.S. 294 (1955) (ordering that desegregation proceed "with all deliberate speed").

124. *Korematsu v. United States*, 323 U.S. 214 (1944) (upholding the internment of Japanese Americans during World War II against an equal protection challenge).

125. A precedent is "on all fours" with the case under discussion when it resembles this case in every relevant respect.

asking, "Does this judge correctly apply the negligence calculus?" they wanted to ask, "What made negligence the key to liability in early industrial England?" In addition to asking, "Under the due process clause, does a welfare recipient have a right to a hearing before termination of her benefits?",¹²⁶ they wanted to ask, "Why the focus on hearings? Why doesn't the federal constitution directly protect economic rights to food and shelter?" Exploration of the second questions depends on study outside of casebooks and annotated statutes. The origins of the law exist outside the law as narrowly defined; and these women needed to study origins, to understand the context from which the law emerged, in order to feel engaged in reading cases.

Why is context necessary for engagement? Why did the women who wanted more reality in their education seek connection with those affected by a legal decision while the women who wanted more intellectual substance in their education sought connection with those who produced the law?¹²⁷ Part of the explanation lies in the quotations and discussion above. The women abhor the image of the judge cleaning and polishing principles with his back turned to the parties.¹²⁸ Part of the explanation lies, also, in what follows, in the rejection of law as an embodiment of objective truth. If we fail to study law's human impacts and origins, we untether it from ourselves and let it float above our heads; we begin to treat what men have made self-interestedly and imperfectly as of divine conception.¹²⁹

Once I approached [Professor X] after class . . . I said I didn't see why one had to have reverence for the constitution or the law. He said, "Don't you feel the need for ancestors?" at the top of his lungs . . .

But I felt no kinship with Paine or Jefferson.

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 challengeable and changeable, than toward uncovering some kernel of truth supposedly inherent in it.

126. See *Goldberg v. Kelly*, 397 U.S. 254 (1970) (holding that due process requires an evidentiary hearing prior to termination of welfare benefits).

127. Again, these two groups are not mutually exclusive. See note 117 *supra*.

128. For a famous example of such behavior, see Judge Cardozo's opinion in *Palsgraf v. Long Island R.R. Co.*, 248 N.Y. 339, 162 N.E. 99 (1928). Ms. Palsgraf sued the railroad to recover for injuries she sustained when, standing on the platform, she was struck by metal scales dislodged by an explosion some distance away on the tracks. In lofty language and without ever mentioning Ms. Palsgraf by name, Judge Cardozo explains that "plaintiff" cannot recover because, although some injury was foreseeable from the explosion, *her* injury was not foreseeable. The case spawned the rule that only "foreseeable plaintiffs" could recover in tort. For a brief discussion of Ms. Palsgraf's background and injury, see J. NOONAN, PERSONS AND MASKS OF THE LAW 126-28 (1976).

129. Thus legal principles and their authors begin to parade themselves in capital letters (Due Process, Equal Protection, the Framers); decisions are said to "come down" from the Supreme Court as the tablets came down from Mount Sinai; and the complaints that initiate lawsuits include a section entitled "Prayer for Relief."

The objection to a conception of law as embodying its own truth comes out in part in discomfort with legal language.

We always hear people compare legal problems to math problems, but books are supposed to be our friends. We like words because they're not like math—they don't have fixed definitions. Words shouldn't take on fixed meanings.

The analogy between law and mathematics illustrates one kind of discontent. In math (at least in lower math), proper procedures lead to right answers. Wrong answers result from incorrect reasoning or careless error. The system is closed: Accept the definitions and assumptions, and the answers follow. Teachers and students often treat law as math's intellectual fellow in this respect.

I remember an argument with [a professor] about the Solomon Amendment.¹³⁰ . . . I said it was not reasonable [for the government] to withdraw financial aid from students who had not registered [for the draft]. He said, "Could government withhold funds from universities that discriminate?" I felt personally attacked for having inconsistent opinions. I felt forced to say that if Bob Jones University couldn't discriminate,¹³¹ nonregistrants could not get financial aid. I felt it was not scholarly, legal, or whatever to be inconsistent. I felt I was accused of using law for political ends, as if that were bad . . . [Law school] takes a bunch of people who are smart and have goals and opinions and convinces them that if they can't express them in a certain way, the goals are illegitimate. The place robs people of their direction and conviction.

Consistency with past decisions is one of law's rules. This woman felt charged with breaking the rule and getting the wrong answer. The seemingly given system of logic robs others not so much of their conviction as of their speech.

When I start thinking about talking in class, I'm afraid that I will forget my English [her first language is Spanish] or say something that will not be legal or logical enough.

The foreignness or rejection of law as math, as a rigid system of analysis, can cost students participation in their collective education.

If learning law really did involve assimilating rules for arriving at the just and true answer, then personal perspective would be irrelevant. Anyone applying the rules correctly would achieve the same result. Whether or not law teachers or judges or lawyers believe that law operates as impersonally as mathematics, legal language is marked by the absence of personal constructions.

130. 50 U.S.C. § 462(f) (1982) (authorizing enforcement of the registration requirements of the Military Selective Service Act by denying nonregistrants federal loans for higher education).

131. *Bob Jones Univ. v. United States*, 461 U.S. 574 (1983) (holding that a compelling state interest in eradicating race discrimination in education permitted the Internal Revenue Service to deny tax exempt status to a university claiming a free exercise right to discriminate on the basis of race).

I remember there were words that seemed lawyerlike which I tried to avoid, like "It is incumbent upon."

Like most women, I tend to be modest about a point: "Did I understand what you were saying?" or "I'm sorry, I don't think I understood you (because if I did, it was really stupid)." Men just say, "That's wrong."

The comment that [Professor Z] made at one of our women's meetings pointed to the way that professors think about the world and how different it is from mine . . . [Professor Z] began to say, "Well, what I think . . . I mean, it should be that . . ." and it was this amazing revelation to me. To me, when you frame something in the first person singular, it's much less threatening; it's your opinion; it's kind of personal; it doesn't demand proof. And to him, something in his mind said, . . . "Never frame things in the first person . . . If you frame things in the third person, they're much more distant; they're much more acceptable and legitimate." All of a sudden I realized that these things that seemed really distant and untouchable and requiring of proof were just someone's way of framing their opinion.

Legal language thus masks the subjective, probably because laws demand general obedience. For a judge to say, "I think your crime merits a fifteen-year sentence," impresses us less than, "It is clear that your crime must be punished by fifteen years in prison." The judge's impulse to hide his agency, his coercive power, behind the "It" that makes "clear" pronouncements filters into the rest of legal discourse. Students, professors, and lawyers begin to shun the word "I." Yet by denying their agency, they assume a language of power; they inflate what can be no more than their perspective into a "right answer." The more often they say, "It is certainly the case that . . ." or "The only fair reading is . . .," the more seldom they remember the limits of their own understanding, the more they convince themselves (and the rest of us) that they speak the truth.

Truth-talk of this kind most offended the women interviewed when it touched on subjects about which they had personal knowledge and deep feelings.

[The professor's] whole thing was that men should have . . . a say in the whole decision [whether to abort a pregnancy]. Well, that's true. But I think it basically comes down to a women's problem because it's the woman who's going to have to have it. It's the woman who's going to get stuck with it if the man runs off. It's *my* body . . . Then I started to get angry, too, and upset. I can't describe how I felt. It was just like, "Who are you guys to be saying this about what I think is a woman's decision?" . . . If [Professor Q] had just shut up and let other people talk, I would have been okay. I wouldn't have gotten so upset. I would have welcomed an alternative point of view, like from some of the other women there.

Some ways of discussing an issue just seem so out of place to me that I wouldn't even think of talking about the subject in those terms . . . [like] the abortion class in Constitutional Law. Abortion is cer-

tainly a subject where I have strong feelings. I've given it some thought . . . But I remember having *nothing* to say in that class because it was discussed . . . as rights in the abstract. It had no relevance . . . The focus . . . was sort of "Well, how can we find the source of this [privacy] right?" . . . And that was okay. But . . . the analogies drawn seemed so completely to miss the mark that it seemed like the discussion was taking place among people who had no stake . . . like it was just an exercise.¹³²

I felt like this place was going to be a lot less race conscious than it was, and it wasn't just the class conversation . . . The selection of cases often had Blacks or other minorities cast as victims. I think too much of that kind of thing is very distorting . . . It just reinforces old stereotypes. I really hated that. I started cringing whenever we got to another case or *anything* to do with welfare or *anything* to do with civil rights. I think that experience has actually a lot to do with my not taking those courses, going into more business courses. I'd be damned if I'd take a civil rights course with eighty people in this law school and listen to them pontificate.

In [one class the professor] sat there and said, "I've told these Blacks that this is the argument they should bring in segregation cases." . . . I thought that was pretty offensive . . . The comment came through as here is this very knowledgeable white man who of course knows better than "these Blacks" what "they" should do.

The person who believes in right answers to legal problems and who has forsaken the word "I" will end up thinking that he can evaluate the legality of abortion or race discrimination as well as any Black woman. But the challenge to truth-talk is a challenge to this conclusion. The women quoted above want to ask him to consider whether the shape and sound of an answer might be contingent on the social and personal history (on the race, gender, age, class) of the speaker. They want him to question rightness as some external, absolute thing. They want him to put "I" back into his vocabulary and to put "only" in front of it sometimes.

Having outlined their challenge to truth as inherent in law and equally accessible to anyone with a sharp set of analytic tools, we hasten to add that these women were not disbelievers in truth. They believed in a personal kind of truth; they held fast to their convictions. Thus they balked as much at the moral neutrality of the archetypical advocate as at the "objective" conclusions of the archetypical judge. One woman recognized the respect for clients implicit in putting her skills at their disposal.

I'm into the power of advocacy. We can empower the disenfranchised by learning our way around institutions like prisons. When

132. These two quotations refer to different class discussions about *Roe v. Wade*, 410 U.S. 113 (1973), and *Doe v. Bolton*, 410 U.S. 179 (1973), which together establish a woman's constitutional right, under the privacy doctrine, to decide whether or not to abort her pregnancy.

we let the prisoners we represent make decisions about their own cases, we treat them like adults in a place where nobody else does. But others, focusing less on representation of the "disenfranchised," distrusted their training for advocacy.

I don't like the whole idea that the point of legal education is to make you into an advocate who should sell your skills to the highest bidder, as if . . . that's not prostituting yourself . . . the idea that it's illegitimate to see the legal world in terms of issues, positions that you would like to see adopted and to work for the adoption of those. It's against the whole concept of lawyering as, "It doesn't matter who argues for what as long as everybody who can pay for lawyers has them." . . . I think that lawyering is sort of about convincing yourself that whatever position you're arguing is right, at least that's what happens to me, and there's something really creepy about that. It changes you as a person. It's left me feeling like I have to completely trust and rely on my first impressions of things because once you start working on something, you lose any sense of . . . what you used to think about it. While I think informed opinions are great, I'm not sure that preparing legal arguments is really informing yourself.

I know that I can take any side of a legal argument, and, knowing that, I want to now find the argument that I want to believe in and then argue that . . . But making arguments rationally is valued, just as a skill in and of itself, and also being able to switch sides is valued. In terms of [Professor X's] class . . . he'll come in and present a view and really make people try to agree with him, and then he'll turn it around on them . . . by knocking down what the person had just agreed to. If you can go along with him then that's viewed as good, and he'll say, "Excellent point," when you've just shown all the flaws in what you just argued for. And I feel like well, yeah, okay, we can do that.

These women felt compromised by learning to argue every side and suspicious of teachers' reassurances that to adopt and argue, in a "harmless" forum, positions the student opposed would strengthen her heartfelt conviction. If assignment to the unfavored side in brief writing exercises were really intended as instruction in anticipating opposing arguments, then why not finish the project by asking students to write the stronger brief, complete with answers to anticipated arguments, for their favored side? The problem with the thorough training in mental dexterity was that it was generally unrelieved by an equal emphasis on the exploration of values.

Many of the women felt that participation in legal education, and perhaps in the practice of law, required more elusive kinds of dishonesty, as well. Some bridled at the charade of certainty.

Legal writing is a style which would not have been tolerated in my college. It devalues ideas, and there is a crazy value on curttness and posturing. You make unsteady arguments seem sound because of how you say them . . . I got a sense you were supposed to pare away all the blurry edges and confusion to get to a core. Slam, slam, to the conclusion.

Others objected to classroom showmanship, to comments and questions that sounded more like plays for public affirmation than like attempts to share an interest or an uncertainty.¹³³ In fact, exhaustion with pretense pervades the interviews and extends not only to posturing in others. We were perhaps most upset when we began to lose the ability to distinguish genuineness from disingenuousness in ourselves, to tell whether we said what we believed or what we were trained to say, whether we did what we wanted or what was expected.

Out of the objections to truth-talk on the one hand, and to dishonesty on the other, emerges an ethic of personal authenticity. To these women, truth-talk is simply a variety of dishonesty. The law's authors, interpreters, and students do not know its inherent truth; they know only what they see, and their vision is partial. They fumble most when, with the self-assurance of the omniscient, they evaluate what is most foreign to them, hence the offensiveness of many judicial and class discussions of rape, race discrimination, sexual harassment, homosexuality, poverty, and so forth. Yet, resisting both objective truth and general subservience to it, these women do not turn to a world in which truth is disdained, in which people take positions for the sake of argument or applause without consulting their consciences. These women want their legal education to consist of the collective exploration of their own and others' genuine, considered convictions. They want everyone to remember that people construct truth—a judge's opinion, though it carries coercive power, remains, like a student's opinion, a collection of considered convictions—and that therefore people can challenge it. This vision of personal authenticity, and the humility and anger implicit in it, is perhaps best summed up by an early twentieth-century, fictional, British feminist:

I believe in personal responsibility. Don't you? And in personal everything. I hate—I suppose I oughtn't to say that—but the Wilcoxes are on the wrong tack surely. Or perhaps it isn't their fault. Perhaps the little thing that says "I" is missing out of the middle of their heads, and then it's a waste of time to blame them. There's a nightmare of a theory that says a special race is being born which will rule the rest of us in the future just because it lacks the little thing that says "I".... They *aren't* in fact, and so they're supermen No superman ever said "I want," because "I want" must lead to the question "Who am I?" and so to Pity and to Justice. He only says "want." "Want Europe," if he's Napoleon; "want wives," if he's Bluebeard; "want Botticelli," if he's Pierpont Morgan. Never the "I"; and if you could pierce through him, you'd find panic and emptiness in the middle.¹³⁴

133. See pp. 1340-41 *supra*.

134. E.M. FORSTER, HOWARDS END 234-35 (1921).

VI.

The group's recommendations for change in legal education grow out of two impulses: first, toward closer connections among students, among students and teachers, between students and the subjects and people they study; second, toward equality for women in legal education, in the profession, in the making of law. We have come to see these two goals as consonant when *both* are sought consciously, so that connection gains potential for eroding domination. The list of recommendations that follows is partial. Most of the changes we would like to see follow directly from the critiques offered in the body of this essay. We repeat here only those recommendations that bear further explanation or increased emphasis because women mentioned them so often in the interviews.

Eleven of the twenty in the group said, "Hire more women," or, "Hire more women and minorities," when asked to recommend changes. One described a large class taught by a woman:

In [Professor E's] class, I'm amazed how many women speak. More women speak in that class than in any other class, I think, at the law school. And there are many days when more women than men speak . . . It's because of her style, relaxed, encouraging, and because she's a woman. I think at a lot of levels many of the women in the class see her as a role model. I am convinced that it makes a substantial, measurable difference in the classroom when there's a woman professor.

It makes a difference because women have access to knowledge about one another that men do not have, knowledge that comes, if it comes at all, from living as a woman, not from reading books. Remember Belenky, Clinchy, Goldberger, and Tarule's insight that for connected knowers, "the most trustworthy knowledge comes from personal experience rather than the pronouncements of authorities."¹³⁵ Women can use "female knowledge"¹³⁶ on behalf of other women. Thus, women professors need women colleagues; women students and professors need one another; women academics and staff need one another. Drawing on their own experiences, women faculty might give the perspective of the powerless guidance and audience, providing a forum in which to nurture criticism of law, legal education, and bias masquerading as "objectivity." Moreover, a faculty with percentages of women and people of color reflecting the general population would send a message to students—female and male, Black, Asian, Hispanic, Native American, and white—that women and people of color are good enough to be professors.

135. WOMEN'S WAYS, *supra* note 9, at 113-14. Trust in experience led one woman in the group to say, "I'd love to see [Professor P] work as a secretary."

136. Adrienne Rich uses this phrase in describing Virginia Woolf: "She had to a marked degree the female knowledge of what it means to be kept outside, alienated from power and knowledge, and how subtly a place 'inside' corrupts even liberal spirits." A. RICH, *Toward a Woman-Centered University*, in ON LIES, SECRETS, AND SILENCE 133 (1979).

It is not true that there are no good women or Black legal academics, or no good Black students. *Find them. They are there.*

As long as women and minorities do not appear on the faculty, we will infer that the faculty who do appear consider us inferior as present or future scholars and teachers, and we will be angry.

With changes in the composition of the faculty, we hope to see changes in the curriculum. When we asked one woman what she would criticize about legal education, she said,

How they define what's legal. How they define what is suitable for academic discussion and how they discuss it. What they teach. Who's teaching it. The way they want the male legal system to continue.

This "they" has excluded scholarship by and about women for too long. Speaking to a gathering of teachers of women, the poet and essayist Adrienne Rich asked and began to answer the question, "What does a woman need to know?"

Does she not as a self-conscious, self-defining human being, need a knowledge of her own history, her much-politicized biology, an awareness of the creative work of women of the past, the skills and crafts and techniques and powers exercised by women in different times and cultures, a knowledge of women's rebellions and organized movements against our oppression and how they have been routed or diminished? Without such knowledge women live and have lived without context . . . estranged from our own experience because our education has not reflected or echoed it.¹³⁷

In training for law, establishing ties to the lives of women may mean not only incorporating women's writing into jurisprudence, torts, criminal law, contracts, and all the standard courses, not only teaching courses that focus on feminist theory or sex discrimination or reproductive rights, but also learning more about the parties to cases because women have more often appeared in courtrooms as plaintiffs or witnesses than as legal professionals. One woman in the group recommended requiring a course in women and the law, for men and women. Others recommended the inclusion of women's perspectives. Almost half looked to the work of women, minorities, non-Americans, or nonlawyers to overcome the "impression of orthodoxy." The women sought to do more than foster respect for diverse viewpoints; they sought continuously to challenge and change the orthodoxy.

Our interest in broadening the definition of law does not signal lack of concern for what one woman called "nuts and bolts" training. Indeed, ten women wanted more thorough instruction in lawyering skills, including research, writing, and drafting.¹³⁸ Some, generally those extolling the law school's clinics, saw such skills as essential for service to clients in trouble: "We should all know how to get people out on bail."

137. A. RICH, *Taking Women Students Seriously*, in *id.* at 240.

138. Five women emphasized both other perspectives and lawyering skills.

Others sought by learning the craft to feel engaged in their work and competent enough to control how they would use their skills when they graduated.

I would definitely recommend more active work . . . When I was deciding where to go to law school, I went to talk to someone who teaches at N.Y.U. . . . He told me about how he'd graduated from Yale, and he'd never had to draft a contract, and how he thought that was the worst thing in the world because it made people so afraid to do things on their own that they would end up gravitating to big places [i.e., large law firms] and being afraid to leave because they'd never been forced to actually use law the way most people use it. His theory was that a place like Yale, which supposedly fosters independence, actually reinforces the status quo . . . I thought that was a pretty good theory. I think there should be more integrating work.

Without practical skills, although we might be able to discuss theories of law and power, we would be disabled in effecting change.

We place in a special category six women's recommendation that law schools offer courses in mediation, negotiation, and client relations.¹³⁹ While these are lawyering skills, requests for them often arose in the context of dozens of suggestions for reforming the classroom, incorporating some nonadversarial styles of lawyering.

I would criticize the starting point—why the Socratic method?¹⁴⁰ It sets some people back unnecessarily and bolsters others harmfully. I don't think we're even producing good litigators, and I don't think we're training for any other skills. Litigators, even, don't always fight with each other. There's no need to argue as if you're going in for the kill. It just feeds into stereotypes of what a lawyer is. A different beginning message might change the stereotypes. I would keep repeating messages of courtesy and listening as long as law school lasted.

Listening underlies successful negotiation or client relations, but for these women it is also essential to education. The pain of not being listened to, of feeling that to be heard we had to shout or make speeches or put on a show, pervades the interviews. We are ready to fight when we must, but we are sick of fighting for its own sake and sicker still of being ignored.

I'd like to see more contact and decency between students and teachers. I'd like more feedback. People use informal ways of getting one up on each other because there's no formal feedback. I don't mean grades, though having no grades does not remove the competitiveness. I'd like written evaluations and more humane classroom interchanges.

139. These women remained aware, however, of the limitations of mediation for resolving certain kinds of conflict. See Lerman, *Mediation of Wife Abuse Cases: The Adverse Impact of Informal Dispute Resolution on Women*, 7 HARV. WOMEN'S L.J. 57 (1984) (criticizing mediation in domestic abuse cases).

140. She refers to what the authors have called "argument," see pp. 1336-38 *supra*, not to the kinds of exchanges exemplified in Plato's Socratic dialogues.

If the classroom is to become more communal and egalitarian, teachers must learn to pay more attention to more students, to listen for silences, to encourage tentative talkers, to reward students for admitting uncertainty, sharing personal responses, and supporting one another. Legal education would then consist less of adversary training, more of training for "all the other things lawyers do besides argue in appellate court," and some of exploration of new ways to be a lawyer.

If law schools implemented these recommendations tomorrow, they would be better places for at least some women, and maybe for some men, too. But institutions change slowly, and while the burden of change ought to rest with the people in power in law schools, the motivation must come from others so long as most tenured faculty members and administrators are men, and perhaps even after the numbers are more equal. The impetus for change must come from those women most interested in change. This paper represents one attempt to articulate what some women-students want and do not want from legal education. Other attempts should follow. Whatever the response to this paper, though, some real change has already happened. We, the women in the group, have changed from knowing one another and building this critique together. We have begun to learn to do what Adrienne Rich calls "taking ourselves seriously":

Recognizing that central responsibility of a woman to herself, without which we remain always the Other, the defined, the object, the victim; believing that there is a unique quality of validation, affirmation, challenge, support, that one woman can offer another. Believing in the value and significance of women's experience, traditions, perceptions. Thinking of ourselves seriously, not as one of the boys, not as neuters, or androgynes, but as *women*.¹⁴¹

Because we have begun to change ourselves, we carry with us possibilities for creating change around us, for developing further the critique begun here, for sharing what we've learned with others, and for applying what we know to new situations we will face.

141. A. RICH, *supra* note 137, at 240.

APPENDIX A

INTERVIEW QUESTIONS

Section A — Coming to Law School

- A1. Why did you come to law school?
- A2. What were your first impressions of law school? (For example, of the building, your classmates, teachers, the work, parties, classes, or anything else that comes to mind?)†
- A3. What were your impressions of law school during the first few weeks? Do you remember how you felt during that time?
Do you remember any particular stories from the first few weeks?

Section B — Likes and Dislikes

- B1. What did you like most about law school in the beginning? Did your likes change over time? If so, why?
- B2. What did you dislike most about law school in the beginning? Did your dislikes change over time? If so, why?
- B3. Do you think your likes and dislikes are related in any way to gender? Why or why not?

Section C — Achievements and Disappointments

- C1. What do you feel best about having done in law school?
- C2. What do you feel worst about having done in law school?

Section D — Personal Change

- D1. Have you changed in any way during law school? Have you changed *because* of law school? How?
- D2. How do you feel about becoming a lawyer?

Section E — Faculty Contacts

- E1. Have you ever spoken to a faculty member after class? If not, why not? If so, how did it go?
- E2. Have you ever gone to see a faculty member in her or his office? If not, why not? If so, how did it go?
- E3. If you have needed recommendations, have you found faculty to write them? Easily or not?
- E4. If you are doing or have done any of your writing requirements, did you find it easy or difficult to find an advisor?
- E5. Is there any faculty member you can go to with personal or career concerns? If not, why not? If so, how does it go?
- E6. Has a faculty member ever approached you and asked you to work with her or him on anything?

† We asked questions in parentheses only if the interviewee requested clarification or expressed confusion about the initial question.

Section F — Classmate Contact

- F1. How connected do you feel to your peers in this community?
- F2. How difficult was it to connect? Has it been difficult to stay connected?
- F3. Is your group of friends here demographically different from your group of friends elsewhere? (Are your friends here older or younger, more racially or sexually diverse or homogeneous than elsewhere?)
- F4. Do you ever study with your peers? When? Why? With whom? (We are not asking for names, but descriptions.)

Section G — Activities

- G1. Did/do you participate in activities? If so, which ones? Why those in particular?
- G2. How important are they to you? Do they help you feel connected?

Section H — Jobs

- H1. What type of work did you look for/find first year? Why that type? What type of work did you look for/find second year? Why that type?
- H2. When did you start looking for jobs your first year? Why did you start then?
- H3. How did you feel about looking for jobs?
- H4. To whom did you talk most about the job process?
- H5. How have you felt about other people's discussions of the job process?

Section I — Personal Life

- I1. How do you feel about combining law school with the rest of your life? (With your family, lover, old friends, and hobbies, for example?)

Section J — Critique and Recommendations††

- J1. Suppose you were making a critique of legal education, what would you criticize? (Would you criticize anything about the workload, classroom or hallway dynamics, the curriculum, legal ethics?)
- J2. What changes in legal education would you recommend?
- J3. Are your criticisms related in any way to gender?

Section K — Classroom Dynamics

- K1. Describe classroom atmosphere.
- K2. Did you or do you participate? Has your participation changed over time? If so, why?
- K3. How did/do you participate? (Did/do you ask factual or normative questions, make personal statements, offer emotional responses or comments on classroom dynamics or women's issues?)

†† One interviewer asked the Critique and Recommendations questions before and one after asking about Classroom Dynamics.

K4. How did/do professors respond to you? How did/do they respond to students in general? Have their responses changed over time?

K5. How did/do classmates respond to you? How did/do they respond to one another? Have their responses changed over time?

K6. In what classroom atmosphere were you or would you be most comfortable? Least comfortable? (Are you more comfortable in a certain size class? With a certain teaching style? Does it matter what issues the class is discussing?)

K7. Do you remember any classroom stories?

Section L — The Women's Group

L1. When did you start coming to the women's group?

L2. Why did you first come?

L3. Did you come to many meetings? If so, why? If not, why not?

L4. What do you remember about the meetings? (Do you remember what you said? Do you remember what other women said? How did the group interact?)

L5. How did you feel about the group?

L6. Did your participation in the group change you? Did it change how you feel about law school? Did it change your behavior in law school?

L7. What do you think were the group's greatest accomplishments? What do you think were its greatest failures?

L8. What should the group address now?

Section M — Exchanges with Faculty and Students about the Women's Group

M1. If you spoke to classmates about the women's group, how did they respond?

M2. How did the faculty respond? (How did they respond if you spoke with them privately, at lunches with the group, in the faculty workshop, in committee meetings?)

APPENDIX B†

Members of the women's group collected data in nineteen of their law school courses from November, 1984, through May, 1987. Each time a student spoke, his or her participation was recorded by gender. A continuous exchange with the professor counted as one instance of participation. Any comment by another student broke the continuity, and a further comment by the original student was counted as an additional instance of participation. The participation rate for women during any class is the number of comments by women divided by the number of women enrolled in the course. We calculated the participation rates for men in the same manner. When average participation rates are equal, that is, when the average men's participation rate divided by the average women's participation rate equals 1.00, each gender group is participating in proportion to its representation. Our data, which control for proportions in each class, show men participating, on average, 1.63 times as often as women.

Several factors diminish the value of the data. We neither timed students' comments and questions nor accounted for the attempted participation of those whose raised hands went unrecognized. Our observations suggest that men's comments were longer than women's ‡‡ and that more men attempted participation. Moreover, some of the courses attracted a disproportionate number of women. Where they constitute a significant percentage of the class, women may participate more freely. The efforts of the group, especially our commitments to one another to speak in class, also skewed the data. ††† Finally, we calculated participation rates based on the numbers of men and women *enrolled* in each class. We do not know how many *attended* on any given day. If higher percentages of women than of men attended regularly, then our data reflect higher relative participation by women than occurred. The opposite would be true if higher percentages of men attended regularly.

Three sample tables with data and calculations for individual courses and one table aggregating data for all nineteen courses follow. We include the three sample tables to show how we derived the averages that appear in the aggregate table. We selected these three for illustration because in one, men out-talked women by a large margin; in a second, men out-talked women, although women outnumbered men; and in a third, women out-talked men although men outnumbered women.

† Our thanks to Nancy Marder, who conceived of documenting different levels of class participation by women and men and who collected much of the data from the Fall of 1984.

‡‡ For an empirical study indicating that men college students make longer classroom comments than women college students, see Krupnick, *Women and Men in the Classroom: Inequality and Its Remedies*, 1 ON TEACHING AND LEARNING 18 (1985).

††† See pp. 1342-43 *supra*.

TABLE I
AVERAGE PARTICIPATION RATES OF MEN AND WOMEN IN NINETEEN COURSES
(FALL 1984 TO SPRING 1987)

	Average Participation Rates:						Ratios:			
	Numbers Enrolled			Average Numbers of Comments by			Number of Comments by Women/ Total Comments			
	Men	Women	Men	Women	Men	Comments	Men/ Number of Men Enrolled	Number of Women/ Number of Women Enrolled	Average Men's Participation Rate/ Average Women's Participation Rate	
Political & Civil Rights (Spring 1986)	46	36	2.81	.65	3.46	86.43%	13.57%	6.11	1.80	3.39
Estates (Spring 1986)	61	35	5.45	1.26	6.71	84.12	15.88	8.94	3.59	2.49
Federal Jurisdiction (Fall 1986)	49	28	6.96	1.64	8.60	81.39	18.61	14.20	5.85	2.43
Criminal Procedure (Fall 1986)	44	35	5.23	1.86	7.09	74.20	25.80	11.88	5.30	2.24
Classics of American Juris. (Spring 1986)	62	32	4.77	1.27	6.04	77.67	22.33	7.69	3.53	2.18
Taxation of Income (Spring 1987)	106	69	16.10	5.52	21.62	73.19	26.81	15.18	8.00	1.90
Contracts*† (Fall 1984)	51	37	11.00	4.20	15.20	72.95	27.05	21.57	11.35	1.90
Constitutional Law* (Fall 1984)	47	28	11.43	3.71	15.14	76.78	23.22	24.32	13.27	1.83
Property (Spring 1985)	69	49	14.33	6.25	20.58	70.51	29.49	20.98	12.51	1.68
Feminist Legal Theory (Fall 1985)	5	22	12.30	34.20	46.50	27.97	72.03	246.00	155.45	1.58
Family Law (Fall 1986)	20	37	4.32	5.39	9.71	43.73	56.27	21.58	14.58	1.48
Employment Discrim.* (Spring 1985)	8	26	5.46	13.00	18.46	31.32	68.68	68.27	50.00	1.37
Procedure* (Fall 1984)	49	32	9.10	4.50	13.60	69.65	30.35	18.57	14.06	1.32

TABLE 1 (continued)

	Average Numbers of Comments by				Average Participation Rates:				Ratios: Average Men's Participation Rate/ Average Women's Participation Rate	
	Numbers Enrolled		Men		Average Number of Comments by Men/ Total Comments		Number of Comments by Women/ Total Comments			
	Men	Women	Men	Women	Men	Comments	Men	Comments		
Criminal Law (Spring 1986)	10	9	6.97	5.24	12.21	59.57	40.43	69.74	58.18	1.20
Evidence (Fall 1985)	73	31	3.32	1.31	4.63	71.38	28.62	4.54	4.24	1.07
Torts* (Fall 1984)	31	21	5.38	4.12	9.50	54.48	45.52	17.34	19.64	.88
Limits of Law (Fall 1985)	13	7	9.77	7.54	17.31	57.91	42.09	75.15	107.69	.70
Labor Law (Spring 1986)	46	34	8.07	8.73	16.80	45.76	54.24	17.53	25.68	.68
Business Organizations (Spring 1987)	30	16	4.95	4.41	9.36	56.86	43.14	16.51	27.56	.60

* A woman professor taught this course.
† We recorded data in fewer than one-third of the class sessions. In all other courses, we recorded data in more than two-thirds of the classes.

average of ratios:
1.63

TABLE 3
PARTICIPATION RATES OF MEN AND WOMEN IN FAMILY LAW
(FALL 1986) (ENROLLMENT: 20 MEN, 37 WOMEN)

Date	Number of Comments by Men	Number of Comments by Women	Total Comments	Number of Comments by Men/ Total Comments	Number of Comments by Women/ Total Comments	Men's Participation Rates: Number of Comments by Men/ Number of Men Enrolled	Women's Participation Rates: Number of Comments by Women/ Number of Women Enrolled
9/8	4	6	10	40.00%	60.00%	20.00	16.22
9/9	7	7	14	50.00	50.00	35.00	18.92
9/10	4	9	13	30.77	69.23	20.00	24.32
9/15	2	2	4	50.00	50.00	10.00	5.40
9/16	6	4	10	60.00	40.00	30.00	10.81
9/17	6	9	15	40.00	60.00	30.00	24.32
9/22	3	2	5	60.00	40.00	15.00	5.40
9/23	9	5	14	64.28	35.71	45.00	13.51
9/24	7	8	15	46.67	53.33	35.00	21.62
9/29	0	5	5	0.00	100.00	0.00	13.51
9/30	4	10	14	28.57	71.43	20.00	27.03
10/1	8	7	15	53.33	46.67	40.00	18.92
10/6	3	1	4	75.00	25.00	15.00	2.70
10/7	3	4	7	42.86	57.14	15.00	10.81
10/8	5	7	12	41.67	58.33	25.00	18.92
10/14	7	7	14	50.00	50.00	35.00	18.92
10/15	3	7	10	30.00	70.00	15.00	18.92
10/20	0	3	3	0.00	100.00	0.00	8.11
10/21	5	13	18	27.78	72.22	25.00	35.13
10/22	10	4	14	71.43	28.57	50.00	10.81
10/27	2	6	8	25.00	75.00	10.00	16.22
10/28	4	6	10	40.00	60.00	20.00	16.22
10/29	9	4	13	69.23	30.77	45.00	10.81
11/10	2	2	4	50.00	50.00	10.00	5.40
11/11	2	6	8	25.00	75.00	10.00	16.22
11/12	6	5	11	54.54	45.45	30.00	13.51
11/17	2	1	3	66.67	33.33	10.00	2.70
11/18	2	9	11	18.18	81.82	10.00	24.32

TABLE 3 (continued)

Date	Number of Comments by Men	Number of Comments by Women	Total Comments	Number of Comments by Men/ Total Comments		Number of Comments by Women/ Total Comments	Men's Participation Rates: Number of Comments by Men/ Enrolled		Women's Participation Rates: Number of Comments by Women/ Number of Women Enrolled
				by Men/ Total Comments	Total Comments		Comments by Men/ Enrolled	Comments by Women/ Total Comments	
11/19	6	3	9	66.67		33.33	30.00	30.00	8.11
11/25	7	4	11	63.64		36.36	35.00	35.00	10.81
12/1	2	3	5	40.00		60.00	10.00	10.00	8.11
12/2	5	6	11	45.45		54.54	25.00	25.00	16.22
12/3	3	5	8	37.50		62.50	15.00	15.00	13.51
12/8	4	4	8	50.00		50.00	20.00	20.00	10.81
12/9	2	4	6	33.33		66.67	10.00	10.00	10.81
12/10	5	9	14	35.71		64.29	25.00	25.00	24.32
12/15	2	5	7	28.57		71.43	10.00	10.00	13.51
12/16	3	3	6	50.00		50.00	15.00	15.00	8.11
Averages:	4.32	5.39	9.71	43.73%		56.27%	21.58	21.58	14.58†

† Ratio of average men's participation rate to average women's participation rate = 1.48 (21.58 / 14.58).

TABLE 2
PARTICIPATION RATES OF MEN AND WOMEN IN FEDERAL JURISDICTION
(FALL 1986) (ENROLLMENT: 49 MEN, 28 WOMEN)

Date	Number of Comments by Men	Number of Comments by Women	Men's Participation Rates: Number of Comments by Men/ Number of Men Enrolled		Women's Participation Rates: Number of Comments by Women/ Number of Women Enrolled	
			Total Comments	Number of Comments by Men/ Total Comments	Total Comments	Number of Comments by Women/ Total Comments
9/8	5	1	6	83.33%	16.67%	10.20
9/10	5	3	8	62.50	37.50	3.57
9/15	7	3	10	70.00	30.00	10.71
9/17	12	3	15	80.00	20.00	14.28
9/22	6	3	9	66.67	33.33	10.71
9/24	7	1	8	87.50	12.50	12.24
9/29	6	1	7	85.71	14.28	14.28
10/2	15	1	16	93.75	6.25	12.24
10/6	2	0	2	100.00	0.00	0.00
10/8	10	4	14	71.43	28.57	20.41
10/15	4	3	7	57.14	42.86	8.16
10/16	8	4	12	66.67	33.33	16.33
10/20	4	2	6	66.67	33.33	8.16
10/22	10	0	10	100.00	0.00	0.00
10/27	3	0	3	100.00	0.00	0.00
10/29	8	1	9	88.89	11.11	16.33
11/10	2	0	2	100.00	0.00	0.00
11/12	1	1	2	50.00	50.00	4.08
11/17	9	2	11	81.82	18.18	18.37
12/1	4	1	5	80.00	20.00	8.16
12/3	6	3	9	66.67	33.33	12.24
12/8	4	0	4	100.00	0.00	0.00
12/10	7	1	8	87.50	12.50	14.28
12/15	6	0	6	100.00	0.00	0.00
12/17	23	3	26	88.46	11.54	46.94
Averages:	6.96	1.64	8.60	81.39%	18.61%	14.20
† Ratio of average men's participation rate to average women's participation rate = 2.43 (14.20/5.85).						5.85†

TABLE 4
PARTICIPATION RATES OF MEN AND WOMEN IN LABOR LAW
(SPRING 1986) (ENROLLMENT: 46 MEN, 34 WOMEN)

Date	Number of Comments by Men	Number of Comments by Women	Total Comments	Number of Comments by Men/ Total Comments		Number of Comments by Women/ Total Comments	Men's Participation Rates: Number of Comments by Men/ Number Enrolled		Women's Participation Rates: Number of Comments by Women/ Number of Women Enrolled
				Comments	Total		Comments	Total	
3/6	3	7	10	30.00%		70.00%	6.52		20.59
3/12	11	9	20	55.00		45.00	23.91		26.47
3/13	7	3	10	70.00		30.00	15.22		8.82
3/26	11	7	18	61.11		38.89	23.91		20.59
3/27	15	8	23	65.22		34.78	32.61		23.53
4/3	5	4		55.55		44.44	10.87		11.76
4/9	15	16	31	48.39		51.61	32.61		47.06
4/10	10	13	23	43.48		56.52	21.74		38.23
4/16	3	11	14	21.43		78.57	6.52		32.35
4/17	11	10	21	52.38		47.62	23.91		29.41
4/23	1	4	5		20.00	80.00	2.17		11.76
4/30	3	8	11	27.27		72.73	6.52		23.53
5/1	7	11	18	38.89		61.11	15.22		32.35
5/7	9	11	20	45.00		55.00	19.56		32.35
5/8	10	9	19	52.63		47.37	21.74		26.47
Averages:	8.07	8.73	16.80	45.76%		54.24%		17.53	25.68†

† Ratio of average men's participation rate to average women's participation rate = .68 (17.53 / 25.68).

