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RECENT DEVELOPMENT

PORTIA UNBOUND: THE EFFECTS OF A SUPPORTIVE LAW SCHOOL ENVIRONMENT ON WOMEN AND MINORITY STUDENTS

by Judith D. Fischer*

ABSTRACT

A growing body of studies and critiques examines the negative impact the traditional law school environment has on women and minority students. This research revealed that law school negatively impacts women regarding self-esteem, class participation, mentoring, and alienation. Many suggestions for adopting a more humane approach to legal education have emerged from the literature, but how the humane approach operates in practice is a newly developing area of research. Judith Fischer, Assistant Professor of Law at Chapman University School of Law, adds to this research by presenting her study of Chapman University where many of the recommendations from studies and critiques of legal education have been implemented. Through faculty and student surveys patterned after prior studies and a student focus group, Fischer

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finds that all students experience increased satisfaction in a humane learning environment like that adopted at Chapman. In presenting the results of her study and comparing her findings to previous research, Fischer reveals a striking difference between the effects on women in previous studies and the Chapman University study. Emphasizing a student-supportive approach to law school, Fischer notes several techniques that enable students, particularly women and minority students, to succeed and feel successful in law school. These techniques include mentor and tutoring programs, open door policies of professors, and increased handouts, practice exams, and feedback for students. As a result of her findings, Fischer advocates that law schools and law faculties rethink their teaching practices and adopt a more student supportive approach for the benefit of all students and the legal community. To that end, Fischer emphasizes that research into reforming legal education must continue and suggests further areas for exploration and follow-up studies.

This Article describes a study of the effects of a humane, student-supportive approach to legal education. My reference to Shakespeare's Portia,¹ whose name has become a standard metaphor for women in the law,² is particularly germane here because she eloquently argued for mercy instead of strict application of the law.³ I present⁴ data showing that in a humane law school

1. In *The Merchant of Venice*, Portia dressed as a man in order to appear in court as an advocate. WILLIAM SHAKESPEARE, *THE MERCHANT OF VENICE* act 4, sc. 1.

2. In referring to Portia, I echo other legal writers who have used her name to represent women in the law. One such writer used Portia to stand for early women lawyers. Kathleen Lazarou, "Fettered Portias": *Obstacles Facing Nineteenth-Century Women Lawyers*, 64 *WOMEN LAWYERS' J.* 21 (1978). Carrie Menkel-Meadow later used the name to evoke an ethic of care. See Carrie Menkel-Meadow, *Portia in a Different Voice, Speculations on a Women's Lawyering Process*, 1 *BERKELEY WOMEN'S L.J.* 39, 42 n.23 (1985). For references to other articles using the name *Portia* to represent women lawyers, see Jane M. Cohen, *Feminism and Adaptive Heroism: The Paradigm of Portia as a Means of Introduction*, 25 *TULSA L.J.* 657, 664 n.23 (1990).

3. SHAKESPEARE, *supra* note 1. *But see* DANIEL J. KORNSTEIN, *KILL ALL THE LAWYERS? SHAKESPEARE'S LEGAL APPEAL* 76-77 (1994) (acknowledging that although Portia is an eloquent mouthpiece, she is bigoted and cruel to Shylock); Cohen, *supra* note 2, at 668 (Portia is "more complex, problematic, and inevitably controversial" than the abstract symbol she has become); Carrie Menkel-Meadow, *Portia Redux: Another Look at Gender, Feminism, and Legal Ethics*, 2 *VA. J. SOC. POL'Y & L.* 75, 104-05 (1994) (writing that Portia is not unequivocally admirable, since she is not merciful to Shylock). In referring to Portia despite the ambiguity of her character, I mean to evoke her popular identification with women in the law and with mercy, not to elevate the darker aspects of her behavior.

4. The first person is the viewpoint of choice for much feminist legal scholarship. See, e.g., Katharine T. Bartlett, *Feminist Legal Methods*, 103 *HARV. L. REV.*

environment women and minority students fare significantly better than did the women and minorities in earlier studies at other law schools.

I undertook this study at Chapman Law School because I was troubled by the conclusions of four recent studies of women and minority students.⁵ Together, these studies presented four particularly disturbing findings about women and the subcategory minority women: (1) they voluntarily participated in class at a lower rate than men;⁶ (2) they suffered decreased self-esteem in law school at a greater rate than men;⁷ (3) they reported a lack of adequate mentors and role models because there are few persons like themselves on law school faculties;⁸ and (4) women and minority professors were perceived by students as having a greater burden to prove their competence than white male professors.⁹ In short, women and particularly minority women students were alienated by law school in disturbingly greater numbers than white men.

I teach at Chapman University School of Law, a new law school founded with the vision of educating humane lawyers in a student supportive environment.¹⁰ This vision was meant to ben-

829, 881 (1990) (writing in the first person that perspective is important because no one can understand truth except from "some limited perspective"); Leslie Bender, *An Overview of Feminist Torts Scholarship*, 78 CORNELL L. REV. 575 (1993) (writing in the first person as well). In keeping with this tradition, I use the first person in this Article.

5. Lani Guinier et al., *Becoming Gentlemen: Women's Experiences at One Ivy League Law School*, 143 U. PA. L. REV. 1 (1994) [hereinafter *Penn Study*]; Suzanne Homer & Lois Schwartz, *Admitted but Not Accepted: Outsiders Take an Inside Look at Law School*, 5 BERKELEY WOMEN'S L.J. 1 (1989-90) [hereinafter *Boalt Study*]; Joan M. Krauskopf, *Touching the Elephant: Perceptions of Gender in Nine Law Schools*, 44 J. LEGAL EDUC. 311 (1994) [hereinafter *Ohio Study*] (reporting the results of a survey of law schools conducted by the Gender Issues in Law Schools Committee of the Ohio Joint Task Force on Gender Fairness); Catherine Weiss & Louise Mellinger, *The Legal Education of Twenty Women*, 40 STAN. L. REV. 1299 (1988) [hereinafter *Yale Study*]. The final report of the Ohio Gender Issues in the Law Schools Committee was published as part of the Joint Task Force Report. OHIO STATE BAR ASSOC. & THE SUPREME COURT OF OHIO, OHIO JOINT TASK FORCE ON GENDER FAIRNESS: FINAL REPORT 1995 [hereinafter OHIO TASK FORCE REPORT].

6. *Penn Study*, *supra* note 5, at 32-33; *Boalt Study*, *supra* note 5, at 29; *Ohio Study*, *supra* note 5, at 325-26; *Yale Study*, *supra* note 5, at 1333.

7. *Penn Study*, *supra* note 5, at 43-44; *Boalt Study*, *supra* note 5, at 33; *Ohio Study*, *supra* note 5, at 327-28.

8. *Penn Study*, *supra* note 5, at 77-80; *Boalt Study*, *supra* note 5, at 35; *Ohio Study*, *supra* note 5, at 326; *Yale Study*, *supra* note 5, at 1322.

9. *Ohio Study*, *supra* note 5, at 326-27.

10. See Martin Miller, *Chapman Law School Opens Today*, L.A. TIMES, Aug. 21, 1995, at B1. Chapman University is located in Orange County, California. *Id.*

efit all the students, the legal profession, and the larger society. Recent studies and their suggestions for change prompted me to wonder whether Chapman's atmosphere would be of particular benefit to women and minority students. Chapman's ideals and methods coincide with suggestions of numerous recent commentators on legal education, some of whom have written with the specific purpose of benefiting women or minority students or both.¹¹ This Article reports data demonstrating that Chapman's methods have indeed benefited female and minority students in the very ways the commentators suggested they might. Part I presents an overview of critiques of legal education and of the major studies addressing the issues I discuss here. Part II describes Chapman University School of Law and the results of the Chapman study.

I. OVERVIEW OF CRITIQUES OF LEGAL EDUCATION AND RELEVANT LAW SCHOOL STUDIES

A. *Overview of Some Relevant Critiques of Legal Education*

1. Critiques from Objective Viewpoints

There has been no shortage of critiques of the contemporary law school experience. One critic describes law school as a place where students find themselves humiliated by classes that "sug- gest[] at once the patriarchal family and a Kafka-like riddle- state."¹² Another points to legal education's shift from its "hu- manistic roots" as lying "at the heart of our identity crisis as a profession."¹³ The American Bar Association's MacCrate Re- port notes that bias and stereotyping continue to exist in law schools.¹⁴ A feminist critic states, "Abundant evidence exists that women are disadvantaged by law school pedagogies."¹⁵ But

11. See *infra* notes 43-50 and accompanying text.

12. Duncan Kennedy, *Legal Education and the Reproduction of Hierarchy*, 32 J. LEGAL EDUC. 591, 593 (1982); see also Emily M. Bernstein, *Law School Women Question the Teaching*, N.Y. TIMES, June 5, 1996, at B10. Of course, the existing system of legal education has its supporters as well. See, e.g., Burnele V. Powell, *A Defense of the Socratic Method: An Interview with Martin B. Louis*, 73 N.C. L. REV. 957 (1995).

13. Daniel R. Coquillette, *Professionalism: The Deep Theory*, 72 N.C. L. REV. 1271, 1276 (1994).

14. TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM 21 (1992).

15. Katharine T. Bartlett, *Feminist Perspectives on the Ideological Impact of Legal Education upon the Profession*, 72 N.C. L. REV. 1259, 1267 (1994).

it is not just women and minorities who have felt alienated in law school: “[M]any male law school graduates — from a number of years ago as well as recently, and inside as well as outside law school faculties — defer to nobody in their dislike of the law school experiences.”¹⁶

Some critics believe these problems affect events far beyond the law school halls. Paul G. Haskell cites “male-dominated legal education” as emphasizing competitiveness over mutual respect and thus contributing to “the excesses that are characteristic of contemporary law practice.”¹⁷ Deborah L. Rhode lists teaching practices like providing few constructive comments on exams as leading to an excessively competitive law school environment that contributes to the undue expense, delay, and incivility in our legal system.¹⁸

2. Critiques from Personal Viewpoints

These theoretical critiques are fleshed out by others that take the form of moving personal stories.¹⁹ Ruth P. Knight told of dragging herself to class in a forbidding atmosphere where there was no positive reinforcement, professors’ office doors were often closed, and students were baffled about what to study for exams.²⁰ Scott Turow’s popular account of his first year in

16. Lee E. Teitelbaum et al., *Gender, Legal Education, and Legal Careers*, 41 J. LEGAL EDUC. 443, 463 (1991).

17. Paul G. Haskell, *A Series of Essays: The Ideological Impact of Legal Education Upon the Profession: Introduction*, 72 N.C. L. REV. 1247, 1248 (1994). See also SCOTT TUROW, ONE L. 271 (1977); *Ohio Study*, supra note 5, at 338; Carrie Menkel-Meadow, *Feminist Legal Theory, Critical Legal Studies, and Legal Education or “The Fem-Crits Go to Law School,”* 38 J. LEGAL EDUC. 61, 81 (1988) (“Unless we can radically alter legal education, we will not be able to reconstruct our legal system or our society.”).

18. Deborah L. Rhode, *Missing Questions: Feminist Perspectives on Legal Education*, 45 STAN. L. REV. 1547, 1557-58 (1993).

19. First-person narratives abound in feminist critiques of legal education, partly because the feminist tradition encourages narratives as a way for women to communicate the reality of their experience and the worth of their values. See Mari J. Matsuda, *When the First Quail Calls: Multiple Consciousness as Jurisprudential Method*, 14 WOMEN’S RTS. L. REP. 297 (1988); Robin West, *Jurisprudence and Gender*, 55 U. CHI. L. REV. 1, 64-65 (1988). As Professor Guinier explains, “‘opposition narratives’ which help outsiders remind insiders about our neglected perspective . . . help shatter the dominant mind-set.” Lani Guinier, *Introduction to Professor Mari Matsuda*, 3 TEMP. POL. & CIV. RTS. L. REV. 3, 5 (1994).

20. Ruth P. Knight, *Remembering*, 40 J. LEGAL EDUC. 97, 99, 101 (1990) (quoting Angela P. Harris, *Foreword: The Jurisprudence of Reconstruction*, 82 CAL. L. REV. 741, 744 (1994)).

law school echoes similar complaints.²¹ Philip Meyer learned to completely discount his perceptions during a first year in which "anxiety and self-doubt" filled his soul.²² At one school, women told of men who were "speechifiers" in class, engaging in "non-conversation" as they spoke to impress, not to communicate, prompting many women to withdraw from classroom interaction.²³ In 1974, one of Lani Guinier's white male professors began each lecture with the greeting, "Good morning gentlemen," sending her the implicit message that "I was admitted but not accepted. . . . My presence was conditioned on my silence."²⁴ Years later, Professor Guinier's female students still felt alienated in law school. She and others conducted a study that elicited vivid narratives about women's sexuality being used "to keep us in our place,"²⁵ including stories of women who were called "man-hating lesbians" and "feminazi dyke[s]" for participating in class.²⁶

3. Identified Causes of Student Alienation

Often identified as a cause of student alienation is "heavy-handed Socraticism" by an all-powerful professor that puts students into a "state of hopeless fright."²⁷ Professor Kingsfield of *The Paper Chase*²⁸ personifies this approach, and while some

21. TUROW, *supra* note 17, at 271.

22. Philip N. Meyer, *Confessions of a Legal Writing Instructor*, 46 J. LEGAL EDUC. 27, 32 (1996).

23. *Yale Study*, *supra* note 5, at 1341-42.

24. Guinier, *supra* note 19, at 3.

25. *Penn Study*, *supra* note 5, at 52.

26. *Id.* at 82. Clearly these names are offensive to those, especially Jews, with strong feelings against the Nazis. The names "marginalize[] the individual in the particular culture of the law school," *id.* at 51 n.128, because the speakers mean them as pejorative. In noting this, I do not adopt or endorse the speakers' apparent negative views of lesbians.

27. TUROW, *supra* note 17, at 271; *see also* Grace M. Giesel, *The Business Client Is a Woman: The Effect of Women as In-House Counsel on Women in Law Firms and the Legal Profession*, 72 NEB. L. REV. 760, 767 (1993) ("The combative, argumentative atmosphere created by some applications of the Socratic method makes a travesty of the original notion of Socratic dialogue [and is a cause of women's alienation in law school.]); Kennedy, *supra* note 12, at 593 ("[In law school,] one struggles desperately, in front of a large audience, to read a mind determined to elude you."); Knight, *supra* note 20, at 100 (noting that, under the Socratic method, just as in public schools, teachers want students to know certain things, but in law school, "the lists were withheld — students were supposed to guess what was on the lists").

28. JOHN JAY OSBORN, *THE PAPER CHASE* (1971). The book was later made into a film with John Houseman in the role of Professor Kingsfield. *THE PAPER CHASE* (Twentieth Century Fox 1973).

professors have abandoned or tempered its harsher aspects,²⁹ scholars continue to cite Kingsfield as an example of what is most alienating in legal education.³⁰ For women and minorities, the small percentage of female and minority professors in law schools³¹ can be profoundly isolating.³² Uncivil behavior by

29. See *Boalt Study*, *supra* note 5, at 3; Douglas K. Newell, *Tribute: Robert L. Meyers Professor Emeritus of Law*, 20 ENVTL. L.J. i, i (1990) (commenting that while the Kingsfield character is "overdrawn, there is still some basis in fact for the portrait of a law professor as aloof, intellectually arrogant, and caustic"); Gerald B. Wetlaufer, *Rhetoric and Its Denial in Legal Discourse*, 76 VA. L. REV. 1545, 1580-81 (1990) (stating that Kingsfield "may no longer be representative of the legal academy," but that there remain "a significant number of unreconstructed practitioners of this pedagogy within the legal academy").

30. Homer and Schwartz cited the "Paper Chase mentality" as a reason for their alienation as law students at Boalt. *Boalt Study*, *supra* note 5, at 3. Catherine W. Hantzis made Kingsfield a focal point of her article proposing changes in law school teaching. Catherine W. Hantzis, *Kingsfield and Kennedy: Reappraising the Male Models of Law School Teaching*, 38 J. LEGAL EDUC. 155, 162 (1988); see also Stacy Caplow & Spencer Weber Waller, *Images of Law School and Law Teaching in An Imperfect Spy*, 8 YALE J.L. & HUMAN. 263, 270 (1996) (linking Kingsfieldian techniques to "the dehumanizing atmosphere of law school"); E. Joshua Rosenkranz, *The Empire Strikes Back*, 22 ST. MARY'S L.J. 943, 947 (1991); Wetlaufer, *supra* note 29, at 1581 (stating that the Kingsfieldian use of the Socratic method is alienating); Barbara Bennett Woodhouse, *Mad Midwifery: Bringing Theory, Doctrine and Practice to Life*, 91 MICH. L. REV. 1977, 1995-96 (1993).

31. See app. B, fig. 2, *infra*, comparing the percentage of women faculty at Chapman with the percentages reported in the Penn and Ohio studies.

In 1995 American Bar Association figures showed that women made up 28% of law school faculty and administrative positions. Bernstein, *supra* note 12, at B5. However, this figure is somewhat misleading. Administrators and some other teachers, notably legal writing teachers, are not on the tenure track but may be counted in ABA figures. See Marina Angel, *Women in Legal Education: What It's Like to Be Part of a Perpetual First Wave or the Case of the Disappearing Women*, 61 TEMP. L. REV. 799, 803 (1988). Schools may list them in order to inflate their diversity statistics, since women are disproportionately represented among legal writing teachers. See Maureen Arrigo-Ward, *How to Please Most of the People Most of the Time: Directing (or Teaching in) a First-Year Legal Writing Program*, 29 VAL. U. L. REV. 557, 572 n.43 (1995). However, teachers not on the tenure track are sadly often treated as second- or even third-class citizens in the law school, and students sometimes adopt this faculty disdain. See Jan M. Levine, *Response: You Can't Please Everyone, So You'd Better Please Yourself: Directing (or Teaching in) a First-Year Legal Writing Program*, 29 VAL. U. L. REV. 611, 637 n.84, 616 n.17 (1995).

At Chapman, faculty hired to teach Legal Research and Writing have tenure-track appointments.

32. The authors of the Boalt, Yale, Ohio and Penn studies believed that the small percentages of female faculty at their schools caused alienation of female law students. *Penn Study*, *supra* note 5, at 77; *Boalt Study*, *supra* note 5, at 2 (reporting that at Boalt Hall School of Law, the presence of "only a sprinkling of women professors" in 1989 made women feel alienated); *Ohio Study*, *supra* note 5, at 335; *Yale Study*, *supra* note 5, at 1322-23. Other scholars have linked women's alienation with the relatively low number of female law faculty. See, e.g., Elizabeth M. Schnei-

some male students and professors, such as the name-calling described above,³³ further alienates women and minority students.

From these critiques, both objective and personal, a theme emerges: law schools should be more humane, for the benefit of not only law students, but also the profession and society as a whole.³⁴

Feminist critics³⁵ especially tend to indict law school as alienating and urge more humane law school environments.³⁶ They sometimes rely on a "different voice" model, which focuses on the importance of women's unique values and insights.³⁷ This model has generated important insights, but can lead to a viewpoint I wish to avoid here, that of essentialism,³⁸ the labeling of behaviors as "feminine" or "masculine."³⁹ Placing desirable

der, *Task Force Reports on Women in the Courts: The Challenge for Legal Education*, 38 J. LEGAL EDUC. 87, 89 (1988).

33. See *supra* notes 25-26 and accompanying text.

34. See *supra* notes 17-18 and accompanying text.

35. There is no single, monolithic feminist viewpoint. See, e.g., Bartlett, *supra* note 15, at 1259; Michael Solimine & Susan E. Wheatley, *Rethinking Feminist Judging*, 70 IND. L.J. 891, 907 (1995) (noting the lack of a single feminist viewpoint); *infra* notes 37-41 and accompanying text.

For overviews of the work of feminist legal scholars, see generally Bartlett, *supra* note 15, at 1259; Lisa R. Pruitt, *A Survey of Feminist Jurisprudence*, 16 U. ARK. LITTLE ROCK L.J. 183 (1994); Martha Siegel, *A Practitioner's Guide to Feminist Jurisprudence*, BOSTON B.J., Oct. 1993, at 6.

36. See *infra* notes 44-47 and accompanying text.

37. Educational psychologist Carol Gilligan popularized this phrase in her book arguing that women's moral perspective is based on an ethic of care, while men's is based on an ethic of justice. CAROL GILLIGAN, IN A DIFFERENT VOICE 100 (1982). Her work has strongly influenced feminist legal scholarship. See Bartlett, *supra* note 15, at 1260 n.7; Menkel-Meadow, *supra* note 17, at 61-66, 70-85. However, Gilligan's sweeping linkage of values with gender has not been universally accepted. See Bartlett, *supra* note 15, at 1263-65.

Deborah Tannen covered related linguistic points. See generally DEBORAH TANNEN, YOU JUST DON'T UNDERSTAND (1990). Tannen's theme was that men and women express their "thoughts and feelings, and their assumptions about how to communicate, in different ways." *Id.* at 18.

Some feminist scholars adopt not the "different voice" model, but a non-subordination model, which focuses on the imbalance of power between the sexes. See CATHARINE A. MACKINNON, FEMINISM UNMODIFIED: DISCOURSES ON LIFE AND LAW 40-45 (1987); Bartlett, *supra* note 15, at 1260-61.

38. The term "essentialism" has at least two related meanings. See Mairi N. Morrison, *May It Please Whose Court: How Moot Court Perpetuates Gender Bias in the "Real World" of Practice*, 6 UCLA WOMEN'S L.J. 49 n.79 (1995) (explaining that "[e]ssentialism is a term used in the feminist discourse to describe either the reference to all women or to all men as characterized by certain essential traits as well as attributing the traits of a subgroup, particularly white, upper class women, to all women . . ."). I use the term in Morrison's first sense.

39. See *id.*; Pruitt, *supra* note 35, at 196.

traits in gendered categories provides an excuse for both men and women to be less than fully human; one scholar calls such labeling a "trap."⁴⁰ Because I believe the changes I discuss here will benefit all law students and the larger society,⁴¹ I avoid engaging in essentialist labeling. As Deborah Rhode has pointed out, "[w]hat most feminists want from legal education looks much like what other informed critics have wanted."⁴²

B. *To Make Law School More Humane, Critics Suggest a More Nurturing Environment and the Hiring of More Diverse Faculties*

The literature contains many suggestions for making law schools less alienating. A more nurturing environment has been proposed by two writers who argue that the legal academy must abandon the "false dichotom[y]" that "rigorous study and nurturing are mutually exclusive."⁴³ Specific suggestions include incorporating an "ethic of care;"⁴⁴ tempering the excesses of the Socratic method and using alternative methods of teaching;⁴⁵ distributing more handouts;⁴⁶ giving more exercises, practice examinations, and other feedback;⁴⁷ and building better relationships

40. Bartlett, *supra* note 15, at 1269 ("To avoid this trap, the revaluation of traditionally female values must proceed by breaking the link between these values and the gender of those who hold them.") (citing MACKINNON, *supra* note 37, at 40-45; Joan C. Williams, *Deconstructing Gender*, 87 MICH. L. REV. 797, 836-40 (1989)); see also Cynthia Fuchs Epstein, *Faulty Framework: Consequences of the Difference Model for Women in the Law*, 35 N.Y.L. SCH. L. REV. 309 (1990).

In her analysis of the Ohio Study, Professor Krauskopf urged researchers in this field to avoid terminology that suggests gendered absolutes. *Ohio Study*, *supra* note 5, at 338 n.81.

41. See *supra* notes 17-18 and accompanying text.

42. Rhode, *supra* note 18, at 1548.

43. William F. Kullman, *Feminist Methodologies in the Law School Classroom: Listening for a Change*, 4 TEMP. POL. & CIV. RTS. L. REV. 117, 127 n.52-53 (1994) (citing Menkel-Meadow, *supra* note 17, at 77).

44. Carrie Menkel-Meadow, *supra* note 17, at 78 (crediting Carol Gilligan as the originator of the phrase). Menkel-Meadow believes an "ethic of care" would encourage respect for relationships and different voices in the classroom, fostering a focus on "equality theory" in addition to traditional "equity theory." *Id.*

45. *Penn Study*, *supra* note 5, at 93; *Yale Study*, *supra* note 5, at 1358; Kennedy, *supra* note 12, at 612 (urging action "against the authoritarian classroom"); see also TUROW, *supra* note 17, at 271 (calling for the tempering of "heavy-handed Socraticism" that leaves students in a state of "hopeless fright").

46. Hantzis, *supra* note 30, at 163; Knight, *supra* note 20, at 97.

47. See Hantzis, *supra* note 30, at 163; Rhode, *supra* note 18, at 1563; *Yale Study*, *supra* note 5, at 1358.

among students and faculty.⁴⁸ Another key proposal is that law schools hire more women and minority professors.⁴⁹ The authors of the Yale study said bluntly, "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."⁵⁰

C. *Previous Studies of Women and Minority Women in Law School Reveal That Some Members of Those Groups Fare Worse Than Men*

There now exists a body of studies of women in law school, some of which also consider minority women. A 1972 study⁵¹ reported that women students exhibited "low self-esteem and self-hatred," and "consistently interact[ed] less frequently than men in the classroom."⁵² This occurred despite the documented parity of the men's and women's grades.⁵³

A 1988 study reported similar findings. Taunya Lovell Banks published data from surveys distributed to first- through

48. See Hantzis, *supra* note 30, at 162 (suggesting arriving in class a few minutes early to talk with students and lunching in the student lunchroom); Kullman, *supra* note 43, at 117, 128-29 (suggesting eliciting conversation in class and reiterating Hantzis's suggestion to spend time with students); *Yale Study*, *supra* note 5, at 1358-59 (urging closer connection among students and teachers).

49. See, e.g., Angel, *supra* note 31, at 840 (advocating the hiring of more women professors); *Penn Study*, *supra* note 5, at 100; *Boalt Study*, *supra* note 5, at 45; Menkel-Meadow, *supra* note 17, at 82 (advocating the hiring of more minority and women professors); *Yale Study*, *supra* note 5, at 1356.

Competition for law school teaching positions is intense. See Christine M. Wiseman, *The Legal Education of Women: From "Treason Against Nature" to Sounding A "Different Voice,"* 74 MARQ. L. REV. 325, 343 (1991). Because many women did not have the same opportunity or encouragement as men to attend elite schools, they are at a disadvantage in an employment market where pedigree is the norm. See *id.* at 342-43 nn.111-12. Schools may need to relax rigid notions of pedigree to hire women and minorities who did not start out with elite educations but have much to offer. See Angel, *supra* note 31, at 840. However, even when credentials are controlled for, men are more likely to receive higher ranks and pay upon appointment to law faculties. Deborah J. Merritt, *The Status of Women on Law School Faculties: Recent Trends in Hiring*, 1995 U. ILL. L. REV. 93, 98 (1995).

50. *Yale Study*, *supra* note 5, at 1357.

51. Alice D. Jacobs, *Women in Law School: Structural Constraint and Personal Choice in the Formation of Professional Identity*, 24 J. LEGAL EDUC. 462 (1972) [hereinafter *Jacobs Study*]. Jacobs studied students at a Boston law school and at a small Southwestern law school she called "Newstate."

52. *Id.* at 470.

53. *Id.* at 468-69.

third-year students at five unnamed law schools.⁵⁴ It concluded that more women than men perceived the law school classroom as alienating and hostile,⁵⁵ and reported less voluntary class participation than men.⁵⁶ A follow-up study at other schools confirmed these findings.⁵⁷

Also in 1988, results of two extensive studies were published in the *Stanford Law Review*.⁵⁸ One of these was conducted by two Yale students concerned about alienation of the women in their class.⁵⁹ They interviewed twenty women students⁶⁰ and tabulated rates of male and female participation in nineteen of their courses.⁶¹ Through women's vivid personal stories as well as empirical data, their report documented women's alienation in the first year of law school.⁶² Their study showed that women were disproportionately silent in the classroom, with men participating 1.63 times more often than women.⁶³

A second study published in the same issue of the *Stanford Law Review* was conducted by a group of Stanford students who had become concerned that "the law school environment often remained inhospitable" for female students.⁶⁴ They documented women's responses to law school by surveying the entire student population at Stanford in 1986.⁶⁵ Unlike the authors of the Yale Study, these authors said few statistically significant differences

54. Taunya Lovell Banks, *Gender Bias in the Classroom*, 38 J. LEGAL EDUC. 137, 140-41 (1988) [hereinafter *Banks 5-School Study*].

55. *Id.* at 138-39 n.5.

56. *Id.* at 141-42.

57. Taunya Lovell Banks, *Gender Bias in the Classroom*, 14 S. ILL. U. L.J. 527, 530 (1990).

58. Janet Taber et al., *Gender, Legal Education, and the Legal Profession: An Empirical Study of Stanford Law Students and Graduates*, 40 STAN. L. REV. 1209 (1988) [hereinafter *Stanford Study*]; *Yale Study*, *supra* note 5.

59. *Yale Study*, *supra* note 5, at 1299.

60. *Id.* at 1310.

61. *Id.* at 1363 app. B.

62. *Id.* at 1299.

63. *Id.* at 1333 n.101. The law school environment is probably not the sole cause of women's lower class participation rates. Several major studies have demonstrated that women's silence begins long before law school. See MYRA & DAVID SADKER, *FAILING AT FAIRNESS: HOW OUR SCHOOLS CHEAT GIRLS 90-92* (1994) (noting that middle school girls participate in class less than boys do); ROBERTA M. HALL & BERNICE R. SANDLER, *THE CLASSROOM CLIMATE: A CHILLY ONE FOR WOMEN?* 7 (1982) (writing that undergraduate women participate in class less than men do).

64. *Stanford Study*, *supra* note 58, at 1210.

65. *Id.* at 1232.

exist between male and female law students.⁶⁶ They concluded that the major way in which the respondent women differed significantly from men was that they reported a lower rate of class participation.⁶⁷

The difference between the conclusions of the Yale and Stanford studies aroused the interest of two students at Boalt Hall School of Law, who set out to explore the issues further through a survey administered at Boalt in 1988. They designed their questionnaire "to test for gender differences at Boalt, focusing on self-esteem as the primary variable and organizing principle."⁶⁸ Four of their findings showed dramatic differences between the male and female students. First, they confirmed the Stanford findings that women voluntarily participate in class less than men.⁶⁹ Second, they showed that female law students lose self-confidence during law school at a greater rate than male students.⁷⁰ Third, they showed that the low number of women and minority faculty⁷¹ was felt by large numbers of women and persons of color and by almost half of the men to limit the students' perspective.⁷² It also caused over half the women and persons of color to feel deprived of role models.⁷³ Fourth, they documented that, beginning with their first year, even though men and women had "virtually equal" entrance statistics, women fared worse academically than the men.⁷⁴ They concluded that the methodology

66. *Id.* at 1238.

67. *Id.* at 1255.

68. *Boalt Study*, *supra* note 5, at 24.

69. The women responding to the Boalt survey were "much less likely than men to participate in class in any way other than being physically present." *Id.* at 29, 50 tbl. 3.

70. *Id.* at 33. The self-esteem slide begins before law school. See PEGGY ORENSTEIN, *SCHOOL GIRLS: YOUNG WOMEN, SELF-ESTEEM, AND THE CONFIDENCE GAP* (1994); THE AMERICAN ASSOC. OF UNIVERSITY WOMEN, *SHORTCHANGING GIRLS, SHORTCHANGING AMERICA: FULL DATA REPORT 4* (1991); HALL & SANDLER, *supra* note 63, at 4.

71. At the time the study was begun, of fifty tenured professors, only three were women, and only one was of color. *Boalt Study*, *supra* note 5, at 2 nn.2-3. While the study was in progress, three more women received tenure, one because she brought suit. *Id.* at 2 n.2.

Homer and Schwartz noted that, in the weeks before they distributed their survey, "a great deal of student activity regarding faculty diversity took place at Boalt. . ." and that it is "difficult to assess" the effect of this on the survey's results. *Id.* at 25.

72. *Id.* at 35, 55 tbl. 11.

73. *Id.* at 54 tbl. 10.

74. *Id.* at 30, 39 n.109, 51; *but see Jacobs Study*, *supra* note 51, at 468 (observing that women law students do as well as men). Homer and Schwartz criticized the Stanford and Jacobs studies on this issue, contending that women's representation in

of the Stanford project was flawed, and that women have graver problems in law school than the Stanford project uncovered.⁷⁵

Yet another study was conducted in 1986-87 at Harvard Law School by Robert Granfield, a graduate sociology student exploring the law school environment.⁷⁶ Granfield found that more women than men reported a loss of competency in law school.⁷⁷ He also presented anecdotal reports of some women's feelings of isolation and lower class participation by the women.⁷⁸

Against the background of the previous studies, the Ohio Joint Task Force on Gender Fairness in the Profession decided to explore whether gender unfairness existed in Ohio's law schools.⁷⁹ Its Gender Issues in Law Schools Committee engaged a professional laboratory to prepare the student survey; the laboratory deliberately incorporated items from the Boalt survey, although with some changes to allow for comparison of results.⁸⁰ The survey was distributed to a random selection of 800 male and female students from all nine Ohio law schools, and to all 296 females identified as minority.⁸¹

Once again troubling data emerged. Women reported they participated voluntarily in class at a significantly lower rate than men.⁸² Significant numbers of women and minority women felt deprived of role models by the lack of persons like themselves on their law school faculties.⁸³ Notable numbers of students agreed that women and minority professors have heavier burdens of proving themselves competent to students.⁸⁴ The Committee

Order of the Coif was not an indicator of women's performance as a whole, and that the Jacobs study was based on a "small. . . and undifferentiated" sample. *Boalt Study*, *supra* note 5, at 13-17.

75. *Boalt Study*, *supra* note 5, at 13-16.

76. ROBERT GRANFIELD, *MAKING ELITE LAWYERS* 209, 212 (1992).

77. *Id.* at 97. He found that 10% of the men and 22% of the women felt less competent by the end of law school.

78. *Id.* at 96-101.

79. *Ohio Study*, *supra* note 5, at 311-12.

80. *Id.* at 322.

81. *Id.* at 321-22. The response rates were 54.6% for women, 49.6% for men, and 47.0% for minority women. *Id.* at 322. Because some of the minority females may also have been part of the random sample, some women may have been tabulated in both groups. *Id.* Published reports of the Ohio Study do not break down the data by school. *See id.*; OHIO TASK FORCE REPORT, *supra* note 5, at 39-44.

82. *Ohio Study*, *supra* note 5, at 325.

83. *Id.* at 326.

84. *Id.* at 327; *see* Kathleen S. Bean, *The Gender Gap in the Law School Classroom—Beyond Survival*, 14 VT. L. REV. 23, 28 (1989) ("Almost all students will subconsciously register a reaction that records something less than the presumption of competence accorded white males.").

was most concerned by the response to this item: "Before law school I thought of myself as intelligent and articulate, but I often don't feel that way about myself now." Forty-one percent of females and minority females agreed with this statement, compared with only 16.5% of males.⁸⁵ The 25% difference particularly disturbed the committee both because it showed a "startling" difference in self-esteem and because the committee believed the difference must be attributable to "something that has occurred during the law school experience."⁸⁶

Women's alienation in law school was most recently documented in a study conducted at the University of Pennsylvania (Penn) by a group of professors and students.⁸⁷ It was conducted through a written survey, focus groups, and an analysis of academic data.⁸⁸ Combining empirical and qualitative data, the study's authors presented poignant stories of women fighting a hostile law school environment where they were called degrading names for participating in class.⁸⁹ The data showed that although women entered the school with "equally stellar" credentials as the men, they received significantly lower grades in the first year, maintained that disadvantage throughout law school,⁹⁰ and received fewer law school honors than men.⁹¹ Data also showed that women participated in class less than men,⁹² and that this disparity remained about the same over the three years of law school.⁹³

Although these studies were conducted at widely varying times and places with different methodologies, the common threads running throughout are the alienation and lower class participation rates of a significant number of women and the subcategory of minority women in law school.

85. *Ohio Study*, *supra* note 5, at 328.

86. *Id.*

87. *Penn Study*, *supra* note 5, at 1.

88. *Id.* at 20-21.

89. *See supra* notes 25-26 and accompanying text.

90. *Penn Study*, *supra* note 5, at 21-23.

91. *Id.* at 26-28.

92. *Id.* at 33 n.86.

93. *Id.* at 36.

II. STUDY OF STUDENTS AT CHAPMAN UNIVERSITY

A. *Chapman University School of Law: A New School and Its Vision*

Chapman University wanted to establish a different kind of law school, one that incorporated many of the suggestions for change found in the literature. In the fall of 1994, the university announced the founding of its new law school in an atmosphere of high idealism.⁹⁴ The university then hired a diverse faculty.⁹⁵ The full-time teaching faculty consisted of nine professors, four of whom (44.4%) were women and three of whom (33.3%) were minorities.⁹⁶ Five administrators, three of whom were women, also had faculty status.⁹⁷ Of these fourteen faculty members, 50% were women and 21% were minorities. Four of the nine regular faculty had been voted best professors at their former schools.

The school proposed to educate lawyers with high ideals and professionalism in a humane learning environment. The faculty were committed to a student-supportive approach to educating lawyers. It was with these ideals that the school opened in the fall of 1995 with 206 first-year law students.

To implement these ideals, the school established some specific programs. The traditional stressful research and writing class was postponed to the second year; in the first year, the students were introduced to research and writing gradually in one-unit pass-fail courses.⁹⁸ Each student was assigned a faculty mentor through the mentor program. A tutor program offered

94. Alicia Di Rado, *Chapman Will Lay Down the Law Gently*, L.A. TIMES, Sept 13, 1994, at B1. The acting dean proposed a school that would teach law in a "positive" atmosphere," adding that holding classes in an "atmosphere of fear and stress" does not "promote learning—it promotes bad lawyers." The university president added that the school would have high expectations of the students, but "treat students as individuals." *Id.*

95. See Figure 2 for a comparison of Chapman's percentage of women professors with the percentages of women professors at Penn and at the Ohio schools at the time of the Penn and Ohio studies.

96. The faculty is diverse in many ways, including a wide variety of ages and previous states of residence. It is ethnically diverse, including one African-American, one Asian Indian, and one Chilean, whom I count as members of minority groups here. Where I refer to Chapman's faculty composition in this Article, I refer to these nine professors unless I state otherwise.

97. Two of these administrators taught courses during the academic year 1995-96, and others plan to teach in the future.

98. Second-year students take a pass-fail research and writing course in the fall semester and a graded three-unit research and writing course in the spring.

supplemental classes on topics such as outlining courses and provided individual help to any student who wished to use it. The student-faculty ratio was kept to 18:1, and students were placed in three sections of about 65 students each for substantive courses and 21 each for skills courses. The school's ideals were also implemented through individual conduct of the faculty in ways that are difficult to quantify. The responses to the faculty questionnaire provide some illumination about this individual conduct, as did the student focus group.⁹⁹

B. *The Chapman Study*

1. Methodology

While Chapman's ideals sounded appealing in theory, I wanted to measure empirically how they played out in practice. Because I wanted to achieve some uniformity for purposes of comparison, I obtained permission to use the Ohio survey.¹⁰⁰ As I explained above, this survey contained some items from the Boalt study, so my use of the Ohio survey would allow for close comparisons of some items across three studies. Where practical, I made no changes. However, I did not use some of the Ohio questions because they were not applicable to Chapman.¹⁰¹ I made minor changes in some others, as explained below, and I added a few questions.¹⁰²

In April of 1996, I distributed the questionnaire to all Chapman students through the torts classes.¹⁰³ Out of a total of 196 students then enrolled, 142 returned the questionnaire, for a re-

99. For further discussion of these topics, see *infra* Parts II.B.4 and II.B.5.

100. I thank Professor Joan Krauskopf for sending me a copy of the questionnaire and for permission to use it. Professor Krauskopf was chair of the Gender Issues in Law Schools Committee of the Joint Task Force (of the Ohio Supreme Court and the Ohio State Bar Association) on Gender Fairness in the Profession.

101. For example, I did not ask what jobs the students had held in the summer after their first year, because our students were all still in their first year.

102. The survey administered to the Chapman students is printed in the Appendix A to this Article.

103. To minimize contamination of the results, the students were not told the purpose of this survey, nor were they told that I was the one conducting it. The instructions on the survey simply said:

This survey has been given at other law schools and will be used for research purposes by a Chapman professor. It is anonymous, so please do not put your name on it. It should take only about ten minutes to complete. Your cooperation in answering all of the questions truthfully will be greatly appreciated.

Students who were absent from the torts classes that day did not receive the questionnaire.

sponse rate of 72.4%.¹⁰⁴ Figure 1 compares the respondents with the student body.¹⁰⁵ I also obtained median LSAT scores, average law school grades for both women and men, and data on the gender distribution in the top 10% of the class from the law school's registrar.

To explore some of the issues in greater depth, I also conducted a student focus group. To obtain the participants, I posted a notice after the surveys were collected asking for a group of volunteers to discuss the issues raised in the survey. A diverse group¹⁰⁶ of ten students volunteered, and all but one¹⁰⁷ of them participated in the focus group. With the students' permission, the session was recorded on audio tape and later transcribed. I promised them anonymity if they were quoted in an article, and all agreed to keep the discussion confidential. In conducting the focus group, my approach was to facilitate discussion by raising issues. I did not express any opinions.

I also collected data from the faculty about what they had done to implement Chapman's goal of being student supportive by distributing a short questionnaire. From the seventeen full-time and part-time faculty, including administrators with faculty status, I received twelve responses, for a response rate of 70.5%.

2. Statistical Analysis

Because I used survey items that appeared in both the Ohio and Boalt studies, I was able to compare some Chapman responses with those in Ohio and others with both Ohio and Boalt responses. In a few instances, I was also able to make statistical

104. This response rate compares favorably with the Ohio response rates of 54.6% for females and 49.6% for males, *Ohio Study, supra* note 5, at 322, and with the slightly higher rate at Boalt of 78%, *Boalt Study, supra* note 5, at 25.

I acknowledge that, as with the Ohio and Boalt studies, some self-selection occurs when students decide whether or not to respond to a questionnaire. Like the makers of the Ohio and Boalt surveys, I did not attempt to analyze the effect of this self-selection.

105. Fifty-eight percent of the respondents were male, 42% were female, and 26% were minorities. I refer to students who identified their ethnicity as other than "white" as minority. In the Chapman student body at the time the survey was taken, 60% were male, 40% were female, and 28% of all students were minorities. Data on the ethnic composition of the minority students is set out in Appendix B.

106. See *supra* note 105 for an explanation of how I defined "minority" and see *infra* note 151 and accompanying text for the composition of the group. As with the written survey, see *infra* note 109. I acknowledge that self-selection occurred when students volunteered for this group. I did not attempt to analyze the effect of this self-selection.

107. She was invited to participate, but an emergency prevented her attendance.

comparisons with data from the Penn study. I did not attempt statistical comparisons with the other surveys because the survey items were too different to permit direct comparisons.

Data were compared using a chi-square (χ^2) test.¹⁰⁸ In this Article, I describe a result as "significant" only if it was significant at the 95% level of confidence.¹⁰⁹ For some data, the groups were too small or the sources too disparate for meaningful statistical analysis, but I point out suggested trends subject to that qualification. In Appendix B to this Article, I present data for many of the Chapman survey questions. Prior surveys contain little data about minority men, so I do not compare responses for that group, but I have included data about their responses at Chapman in Appendix B.

The Ohio survey analysis included minority women in the figures for all women, resulting in some duplication.¹¹⁰ To allow comparison of data, I have followed the same practice.

It is important to note that some of the studies, notably the Ohio and Boalt studies, included students in all three years of law school and did not separate data by year. The Chapman survey was given to first-year students only. This prompts reservations about comparing the data, but I believe that comparison is nevertheless meaningful.¹¹¹

Some have said that elite law schools attract different kinds of students and foster especially competitive atmospheres that may lead to unique survey results.¹¹² Among the schools covered

108. The χ^2 test is a statistical evaluation that considers the size of the observed differences and the sample size to determine whether the observed statistical differences are larger than those that are likely to occur by chance. It determines whether a difference is "real" in that it was probably not due to chance, but it does not assess the magnitude of a difference. EARL BABBIE, *THE PRACTICE OF SOCIAL RESEARCH* 437-40 (7th ed. 1995); see also *Stanford Study*, *supra* note 58, at 1237.

109. This means that the probability of reporting a difference when there is no difference is less than 5%. See BABBIE, *supra* note 108, at 437-40.

110. *Ohio Study*, *supra* note 5, at 322.

111. See *infra* notes 120-122, 135-136 and accompanying text.

112. See *Penn Study*, *supra* note 5, at 2 n.2; *Boalt Study*, *supra* note 5, at 11. The authors of the Penn Study suggested that working-class and poor women, who are not heavily represented at Penn, may be accustomed to being vocal and therefore may participate in class more than women from the middle and upper classes. *Penn Study*, *supra* note 5, at 33 n.86. The Penn Study's authors also commented that "[t]he coupling of patriarchy and elitism at Ivy League institutions may be quite distinct from other schools with different histories and traditions." *Id.* at 60 n.150. Nevertheless, the study's authors believed that the phenomena they observed were "in evidence in most of legal education throughout American law schools," *id.* at 2 n.2., and were not peculiar to Penn, *id.* at 60. But see Lucie E. White, *Subordination, Rhetorical Survival Skills, and Sunday Shoes: Notes on the Hearing of Mrs. G.*, 38

by the major studies I have discussed, the Ohio study covers a range of schools on the prestige spectrum,¹¹³ but Yale, Stanford, Boalt, and Penn are among the most elite. I have not attempted to explore to what extent the students' backgrounds at other schools may differ from students at Chapman, nor whether any such differences affected the Chapman data.

3. The Student Survey Data Indicate Women and Minority Women Fare Better at Chapman Than They Did in Studies of Other Schools

In reporting the results of the student survey, I focus on five areas that troubled previous researchers: women's and minority women's levels of class participation; their self-esteem; student perceptions of the burden on female and minority professors; student perceptions of sexual and racial discrimination and harassment; and the student perceptions about the presence of adequate role models. Where comparable data exist in the other reported studies, I compare Chapman's data with theirs. I report my findings on each issue in sequence here.

Class Participation. The survey items that addressed class participation¹¹⁴ included questions asking how often in a typical three-unit course students ask questions and volunteer in class. They could select "never," "about once every four weeks," "about once every two weeks," or "once a week or more."

In analyzing responses for this item, the Ohio researchers presented data about those who ask questions most often,¹¹⁵ as do I. As Table 1 shows, the percentage of women asking questions often at Chapman is more than double that in Ohio, a statistically significant difference. The figure for men is 12% higher

BUFF. L. REV. 1 (1990) (suggesting that poor women of color may be silenced by negative treatment).

Note also that one writer tagged one-fifth of the nation's law schools as "laggard schools" because their percentages of women faculty lagged well behind the national average. See Richard H. Chused, *The Hiring and Retention of Minorities and Women on American Law School Faculties*, 137 U. PA. L. REV. 537, 548 (1988) (reporting that "high prestige" institutions are heavily represented among these laggard institutions"). Of the schools I discuss in this Article, Harvard and Stanford made Chused's "high prestige" laggard list.

113. Of the 174 schools ranked in the latest *U.S. News & World Report* survey, among Ohio schools, Case Western ranked highest at 44, and Ohio Northern and the University of Toledo ranked lowest, appearing in the bottom tier. *The Top 25 Law Schools*, U.S. NEWS & WORLD REP., Mar. 18, 1996, at 82-83, 86.

114. I used the identical question used in the Ohio and Boalt studies.

115. *Ohio Study*, *supra* note 5, at 325.

than in Ohio, and the gap between the men and the women has narrowed to 10% at Chapman, compared to 15% in Ohio.

TABLE 1

	Ask questions in class once a week or more		
	Women	Minority Women	Men
Chapman Study	32%	21%	42%
Ohio Study	15%	20%	30%

For the same item, the Ohio and Boalt researchers combined the "never" and "seldom ask" responses, as did I. As Table 2 and Figure 3 show, these figures show a statistically significant 23% lower percentage at Chapman than in Ohio for women who report seldom or never asking questions in class. The Chapman men's figure is also lower, and the gap between the Chapman men and women is lower than the gap in Ohio — 5% at Chapman compared with 14% in Ohio. The difference between the Chapman and Boalt percentages is even greater.

TABLE 2

	Never or seldom ask questions in class		
	Women	Minority Women	Men
Chapman Study	43%	63%	38%
Ohio Study	66%	63%	52%
Boalt Study	83%	87%	70%

In the Chapman and Ohio studies, minority women's figures on these items were almost identical, showing minority women participating at the lowest level of the three groups analyzed. This result, of course, remains a matter of concern.

On the item regarding volunteering in class, the Ohio and Boalt researchers combined data for the "never" and "seldom" categories. As shown in Table 3 and Figure 4, data for this item reinforced the trends of greater participation by women and of narrowing the gender gap. The difference between Chapman and Ohio did not reach statistically significant levels, but the differences between Chapman and Boalt were statistically significant. Again, the percentage for minority women was high, and suggests an area of concern.

TABLE 3

	Seldom or never volunteer in class		
	Women	Minority Women	Men
Chapman Study	50%	68%	49%
Ohio Study	54%	55%	46%
Boalt Study	82%	89%	69%

The Penn data for class participation were categorized differently than the Ohio and Boalt data and thus must be compared separately. Comparison of the Chapman data with the Penn data in Table 4 and Figures 5 and 6¹¹⁶ reveals even more marked differences than for Ohio and Boalt. Chapman women reported participating at a dramatically higher level than the Penn women, and the narrowing of the gap between the sexes is evident.

TABLE 4

	Class Participation			
	Penn Study ¹¹⁷		Chapman Study	
	Women	Men	Women	Men
Never Volunteer	55%	37%	13%	14%
Never Ask Questions	67%	43%	17%	18%

The Ohio and Boalt data were collected from students in all three years of law school. Reports of those studies did not break out the participation figures by year. The question then arises whether Chapman's first-year data are comparable with data in the Ohio and Boalt studies.

Several sources suggest that the participation gap between male and female first-year students is not markedly different from the gap in later years. For example, although they did not differentiate the figures, the Ohio committee stated, "in both the first and third years, female students are less likely to participate than are males."¹¹⁸ The Penn Study is also instructive on this point because its authors separated the statistics for first- and third-year students,¹¹⁹ and found that "the level of self-reported participation for second- and third-year women did not change

116. See app. B.

117. The Penn Study's authors reported data for the "never volunteer" and "never ask questions" categories, unlike the Ohio study's authors, who combined the "never" and "seldom" categories for both.

118. OHIO TASK FORCE REPORT, *supra* note 5, at 36.

119. Penn Study, *supra* note 5, at 33 n.86 tbl. VIII.

significantly from first year."¹²⁰ These figures show stability over the three years, suggesting a meaningful comparison can be made between Chapman's first-year data and the Ohio and Boalt data for all three years.¹²¹

Why some students participate at lower rates is a subject of speculation.¹²² The authors of the Boalt study suggest women's silence may be a "viable tactic" in relation to an unreceptive environment rather than a "personal failing."¹²³ Women at both Yale and Penn said they became silent partly because of the overbearing behavior of some men in their classes.¹²⁴ This theory offers one explanation as to why the gap between the genders was narrower at Chapman.¹²⁵

Self-Esteem. Both the Chapman students and the Ohio students were asked several questions that relate to self-esteem. One asked, "On the whole, how satisfied are you with law school?" Table 5 shows that the percentages of students reporting satisfaction were higher in all three groups at Chapman, although not at a statistically significant level for men and women. The minority women's figures are of particular interest: in

120. *Id.* at 36 n.96. Among first-year women in the Penn Study, 67% reported never asking questions in class, and 55% reported never volunteering. In the third year, 72% reported never asking questions, and 68% reported never volunteering. *Id.* at 33 n.86.

121. One study did find that class participation decreased over the three years of law school, but not at a statistically significant level. *Banks 5-School Study, supra* note 54, at 142 n.20.

122. See *Boalt Study, supra* note 5, at 37, 38; *Ohio Study, supra* note 5, at 334-35; *Stanford Study, supra* note 58, at 1255-56.

123. *Boalt Study, supra* note 5, at 38. Homer and Schwartz theorized that the women's silence may have been prompted by boredom, hostility, or an accurate belief that their viewpoints were unwelcome. Thus, it may even be a deliberate resistance tactic. *Id.*

124. *Penn Study, supra* note 5, at 65; *Yale Study, supra* note 5, at 1335-41.

125. Perhaps the Chapman men engaged in fewer classroom speeches, leaving the women a chance to participate more.

It is interesting that of the minority groups at Chapman, students in the two largest groups, Asians and Hispanics, reported the least participation. It is beyond the scope of this Article to explore the reason for these data, but they suggest an area worthy of further study. The percentages of members of subcategories who reported seldom or never volunteering in class were as follows:

	White	All Min.	Black	Hispanic	Asian	Native American	Other
W	39%	68%	50%	71%	86%	0%	0%
M	43%	67%	0%	60%	100%	0%	0%
Total	41%	68%	33%	67%	94%	0%	0%

Because the numbers in each group were small, statistically significant comparisons cannot be made.

Ohio, researchers were concerned about the large disparity between the minority women's responses and the other responses.¹²⁶ That wide disparity was not found at Chapman.

TABLE 5

	Satisfied or very satisfied with law school		
	Women	Minority Women	Men
Chapman Study	90%	89%	96%
Ohio Study	81%	61%	88%

The Ohio committee was also concerned that only 58% of females, 47% of minority females, and 77% of males felt their values were respected in law school, a significant difference between the men and the other two groups.¹²⁷ Although the report is not explicit on the point,¹²⁸ apparently the committee referred to the survey item about whether students felt pressured to set aside their values in order to think like a lawyer. Eighty-nine percent of the women and 89% of the men at Chapman disagreed or strongly disagreed with this item. On a similar item about whether the students' values changed in law school, 76% of the women and 77% of the men at Chapman disagreed or strongly disagreed that their values had changed. These figures cannot be statistically compared with the Ohio result.¹²⁹ However, it is notable that, unlike the figures in the Ohio study, the Chapman figures are nearly identical for each sex, and the percentages of Chapman women feeling their values are respected are markedly higher than the Ohio percentages.

TABLE 6

	Disagree or strongly disagree that they are pressured to set aside values		
	Women	Minority Women	Men
Chapman Study	89%	84%	89%
Ohio Study	58%	47%	77%

The responses that most concerned the Ohio committee¹³⁰ were the responses to this statement: "Before law school I

126. OHIO TASK FORCE REPORT, *supra* note 5, at 47.

127. *Ohio Study*, *supra* note 5, at 327.

128. *See id.*

129. *See supra* note 112 and accompanying text.

130. OHIO TASK FORCE REPORT, *supra* note 5, at 52; see *Ohio Study*, *supra* note 5, at 328.

thought of myself as intelligent and articulate, but often I don't feel that way about myself now."¹³¹ The difference between the Ohio men's and women's responses to this item was described as "startling."¹³² But the figures at Chapman were closer, showing no statistically significant difference between Chapman's men and women. As shown in Table 7 and Figure 7, the wide gap in self-esteem that alarmed the Ohio committee does not appear in the Chapman results. There are notable differences between the Chapman and Ohio figures for women and minority women, and the differences between the Chapman and Boalt percentages are even more marked.

TABLE 7

	Agree or strongly agree that they feel less intelligent and articulate		
	Women	Minority Women	Men
Chapman Study	34%	32%	25%
Ohio Study	41%	41%	16%
Boalt Study	51%	57%	29%

I suggest that comparison of the Ohio and Boalt data with Chapman's first-year data on self-esteem is meaningful because women's loss of self-esteem in the first year at other law schools is well documented. The Yale Study evolved from women's discussions early in their first year, when their self-doubt, as contrasted with the men's confidence, drew them together.¹³³ At Penn, almost all the women interviewed described the first year as generating "profound alienation" from themselves.¹³⁴

Performance. In evaluating students' self-esteem, the authors of the Boalt and Penn studies looked at students' actual performance as measured by grades or law school honors.¹³⁵ Despite similar entrance statistics, the women received significantly lower grades than the men in the first year of law school.¹³⁶ At

131. I used the identical wording of the Ohio and Boalt surveys.

132. *Ohio Study*, *supra* note 5, at 328.

133. *Yale Study*, *supra* note 5, at 1326-27.

134. *Penn Study*, *supra* note 5, at 42-43.

135. *Penn Study*, *supra* note 5, at 23 (noting that the mean first-year grade point average for men was .932, while women's was .771); *Boalt Study*, *supra* note 5, at 30, 39, 51 tbl. 4 (reporting that 14% of the men but only 8% of the women received the highest grade, HH, in Property). The authors of these studies did not break out grades for minority women, and I did not do so for Chapman students.

136. *Penn Study*, *supra* note 5, at 23.

Chapman, entrance statistics were also similar for both sexes.¹³⁷ However, at the end of the first year, the average of the women's grades was higher than the men's: the women's grade average was equivalent to a rank of 92 in the class, while the men's was equivalent to a rank of 105.¹³⁸ In the top 10% of the class there were 12 women and 8 men. Thus, the data showed Chapman women performed slightly better than men as measured by grades.¹³⁹

Perceptions of Women and Minority Professors. The Chapman and Ohio students were asked to indicate the degree to which they agreed or disagreed with this statement:

Some people in legal education have said that all professors must prove themselves to their students but the burden is heavier for women professors because students come to law school with an expectation of a competent law professor being male.¹⁴⁰

There were striking differences between the Chapman data and the Ohio data on this issue. Chapman students were much less likely to say women professors have a heavier burden, and the differences for women and minority women are large and statistically significant.

137. Of 206 entering students, the women's median LSAT score was 149 and the men's 148.

138. The women's grade average was 2.584, while the men's was 2.498.

139. I did examine with the registrar the possibility that women's higher grade average might be due to a greater representation of women in the group with high entrance statistics but this did not prove to be the case.

140. This item was administered exactly as it was on the Ohio survey except for one difference. The question seemed confusing to my student assistants because it was unclear whether students were being asked to agree or disagree about whether the statement is made or whether it expresses an underlying truth. Therefore, we added a line after the statement: "Do you agree with this statement?" We were not certain whether this question removed the ambiguity, but we were reluctant to tamper with the actual language of the question, so we made no further changes in it.

I also added a new item following this one. I wondered to what extent the students' answers to the above item reflected their view of what others thought, and to what extent they reflected the students' own thinking. Therefore, I followed the above item with an item asking the students to indicate the degree to which they agreed or disagreed with this: "Do women professors have a heavier burden in proving themselves to you?" Here, 19% of the women, 21% of the minority women, and 6% of the men agreed or strongly agreed.

Although the differences between these figures and those for the prior item are not statistically significant, these numbers are lower, showing that on the first item, some of the students were referring to others' views and not their own. I do not attempt to explain the slightly higher percent of women agreeing with this question over the previous one.

Another survey item raised the same issue about minority professors. Table 9 shows that these differences, too, are large and statistically significant.

TABLE 8

	Agree or strongly agree that women professors have a heavier burden to prove competence		
	Women	Minority Women	Men
Chapman Study	17%	26%	11%
Ohio Study	48%	73%	18%

TABLE 9

	Disagree or strongly disagree that minority professors have a heavier burden to prove competence		
	Women	Minority Women	Men
Chapman Study	13%	21%	13%
Ohio Study	48%	81%	18%

Although it is disturbing to find that any students believe women or minority professors have a heavier burden to prove competence, such beliefs appear at a significantly lower rate in the Chapman data. Interestingly, at Chapman, it was minority students, both male and female, who felt in greater percentages that both women and minority professors have a heavier burden. Notable percentages of both women and minority students reported that *they themselves* placed a heavier burden on these professors.

Both Chapman and Ohio students were asked whether they agreed that the number of female professors "deprived me of significant role models in the field of law."¹⁴¹ The responses confirm the intuitive expectation of a dramatic difference between Chapman and Ohio schools.¹⁴² On an item asking if the gender and ethnic composition of the faculty limits students' perspectives on legal issues, the Chapman and Ohio statistics again contrast sharply.¹⁴³ Even the men's figure was much lower at

141. The Ohio item read: "The low number of female professors has deprived me of significant role models in the field of law." Item A29a of the *Ohio Study* (on file with Professor Joan Krauskopf). I removed the word "low" for the Chapman survey; with a faculty composed of 50% women, the students were likely to be confused by the word "low." Otherwise my item was identical to the Ohio item.

142. See app. B, fig. 8.

143. See tbl. 10 and app. B, fig. 9.

Chapman, showing that a more diverse faculty has a positive effect on *all* students, not just members of traditionally under-represented groups.

Sexual and racial discrimination and harassment. As shown in Tables 10 and 11, significantly fewer women reported experiencing sexual discrimination in law school at Chapman than at Ohio. A dramatically lower percentage of minority women reported experiencing racial discrimination at Chapman than in Ohio. The data do not reveal why this is so, but I attribute Chapman's lower figures to the school's student-supportive environment and diverse faculty.

TABLE 10

	Have personally experienced sexual discrimination		
	Women	Minority Women	Men
Chapman Study	6%	11%	7%
Ohio Study	31%	38%	9%

TABLE 11

	Have personally experienced racial discrimination		
	Women	Minority Women	Men
Chapman Study	4%	11%	7%
Ohio Study	9%	50%	9%

TABLE 12

	Disagree or strongly disagree that they are deprived of female role models		
	Women	Minority Women	Men
Chapman Study	2%	0%	1%
Ohio Study	45%	64%	8%

4. The Faculty Survey Reveals Steps the Chapman Faculty Took to Be Student-Supportive

The faculty survey consisted of open-ended questions. Through the following three questions I asked the faculty to list anonymously¹⁴⁴ things they had done at Chapman to be student-supportive:

144. See *supra* note 103 and accompanying text.

Please identify some things you have done to be student-supportive that you did not do at your former law school. Please identify some things you have done to be student-supportive that you did do at your former law school, but that you believe were not encouraged or appreciated. Please identify any other student-supportive things you have done that do not fit either of the above categories.

The faculty placed most of their responses in the first two categories: that is, at their former schools, they had either not done or not been appreciated for doing most of the supportive things they did at Chapman. In the three categories together, seven out of twelve respondents listed activities with their assigned student mentees, showing that the mentor program was active. For example, faculty listed scheduled meetings, social meetings, and individual meetings with mentees. Nine listed offering students opportunities for informal contact outside class, such as maintaining an open-door policy, communicating with students by e-mail, and providing informal lunch opportunities. Nine faculty listed pedagogical techniques, including the following: distributing review charts, projects, and questions; giving practice exams and midterm exams; providing extensive feedback on written assignments; and writing comments on exams and going over them with students. In short, the faculty reported actually doing many of the things that the literature¹⁴⁵ suggests would improve the law school environment.

5. The Student Focus Group Elaborated on Student Views on the Survey Topics

The student focus group¹⁴⁶ provided qualitative data to supplement the empirical data collected through the surveys.¹⁴⁷ The diverse focus group included four women and five men; one minority¹⁴⁸ student and another student who immigrated to the

145. See *supra* notes 43-50 and accompanying text. It should be noted that some faculty undoubtedly did not report all the student supportive things they did.

146. For the method of selecting the participants, see *supra* note 104 and accompanying text.

147. "Qualitative data have become central to the work of social scientists, enabling them to produce more valid explanations of social life by checking their own assumptions and biases against the perspectives and understandings of the researched populations or subjects." *Penn Study, supra* note 5, at 9. Footnote 23 to the *Penn Study* cites authorities explaining the value of qualitative data. *Id.* at 9 n.23.

148. See *supra* note 105, for a definition of *minority* as the term is used in this Article.

United States; five traditional students¹⁴⁹ and four second-career students; one self-described gay student; and representatives from all three sections of the first-year class. This group was fairly representative of the student body in gender, although it underrepresented minority students.

Student Reactions to Their First Year of Law School. I began by asking for general reactions to the year. All made some strongly positive comments. Different women said, "My first year was wonderful," "I've been overall very happy with Chapman," "I really enjoyed it — I think the quality of the professors was excellent," and "I had a great year." Similar comments were made by all but one of the men; he described the year as "challenging." The most common negative comments focused on the administration sometimes changing its mind or not accomplishing things in a timely manner, and also that some students were "whiny" and had a twisted view of the school's student-supportive approach. For example, the focus group participants said that some students frequently came to class late. Several participants suggested that the faculty and administration should exercise greater control over such students, but others would put the responsibility of being adults on the students.

Overall, the comments about the school's student-supportive approach were positive. Two students mentioned *The Paper Chase*¹⁵⁰ and that Chapman's environment was refreshingly different from that in the film. Another student appreciated the "caring attitude" of the professors and administration, and two said they were inspired by the professors' effort "just to be there for the students."

Class participation. Authors of previous reports had been intrigued about why some women have low rates of class participation,¹⁵¹ and I was eager to explore this issue. Six students said they participated and asked questions at least once every two weeks in a typical course. But I was interested to hear from those who participated little, and I asked how many rarely or never asked questions in class or volunteered. The gender make-up of the responses was interesting. Of the two students who said they

149. I use the phrase "second-career students" to describe those who were out of school for at least five years between secondary school and law school; the remaining students I refer to as traditional students.

150. See *supra* notes 28-30 and accompanying text.

151. *Boalt Study*, *supra* note 5, at 37, 38; *Ohio Study*, *supra* note 5, at 334-35; *Stanford Study*, *supra* note 58, at 1255-56.

rarely did either, both were men. A woman said she did volunteer often, but rarely asked questions. The students' reasons for low participation rates varied with the individuals.

One man, a minority student, said he "just likes to listen to what other people say." He described himself as "more like a one-on-one type person." If he asked a question, he tended to ask it after class. The other man said he volunteered more at the beginning of the year, but as time went on, he would raise his hand in a large class and not be recognized, so he stopped volunteering as much. A woman said she asked more questions depending on the atmosphere in the class. Once, she asked a question on a sensitive topic and other students ascribed certain political beliefs to her. She believed she should be able to discuss issues without "people putting a political slant on it." A second-career male student, who participated often, said he had been discouraged at times because one professor discounted the older students and another had verbally attacked a student.

These responses indicate that some students participate less because they are simply quiet by nature. Others tend not to participate when they feel they have been or may be discounted, whether by professors or other students.

Self-esteem. I asked how many participants said on the survey that they felt less intelligent and competent, and how many would say that now. I had thought there might be a difference because most of the grades had been posted before the focus group met, but the same three students answered "yes" to both questions. All were men.

Of these men, two were second-career students who said they had had success in other fields. In law school, both felt less sure of themselves as they learned new terminology and did not always get positive comments on their work. The third man was used to getting A's in college, and was disappointed with some comments on his papers that he interpreted as meaning "you're really not that good."

A woman commented that "every one of our classmates" had felt discouraged at times in law school. Even so, she suggested going to classmates for support at such moments. She added, "actually, I've been doing better" since starting law school. She and another woman both said that after experiencing some successes in law school, they now felt better about themselves. The second woman said a female professor had worked with her personally to overcome a phobia that related to her studies. An-

other female professor had called her from a vacation to "make sure my project was okay and I was feeling okay about it." The result was that "I actually feel better about myself."

The students' comments on this topic reinforced the empirical conclusion of the study that women were not losing confidence at a high rate, and added a new dimension with the anecdotal reports of two women who actually became *more* confident in law school.

Expectations of women and minority professors. The three men who commented on this topic said they personally did not have different expectations of women and minority professors. One said, "I judge a person on credentials only. Whether they're a majority or minority, personally, it makes no difference to me." Another told of realizing that his wife had a heavier burden in her field and seeing how that negatively affected her. This made him more aware of the burden on women and minority professors. He said, "I don't care if you're black or white, if you're male or female, I like you. . . . [Y]ou have to give me a reason why I won't like you." The third said he always evaluated teachers on "can they function as a teacher. If they could not teach me the subject, black or white, male or female, then I felt they did me a disservice."

On the other hand, women reported noticing some discriminatory statements. At the beginning of the year, one woman had heard a male student say a professor had been hired only because of that professor's minority status. Interestingly, she reported that by the end of the semester, the same student said, "[Professor X] is the best, and it doesn't make a difference that [s]he's [minority]." Another woman said she had noticed more criticism of the female professors, but after discussing this with a male student, she wondered if she was "more sensitive to that." When students "said things about the male professors, it just went right past me, but when they started talking about the female professors, then I funneled it through my experiences as a female and I didn't like it. . . . So it's hard to tell how much of your own self you bring to these perceptions."

The comments in the focus group suggest that women may be more sensitive about discrimination. That sensitivity may cause them to take more notice of negative comments about women and minorities than men do, and sometimes not notice negative comments made about white male professors. That is,

perceptions of a greater burden on women and minorities may be partly accurate and partly in the eye of the beholder.

Role models. Only 2% of Chapman's women feel deprived of female role models, and none of the minority women do. In the focus group, two women elaborated on this point. One said the women professors "were excellent role models." She related an encounter with a recent female graduate of another law school. The graduate had only two women professors there, and when she saw that Chapman's faculty was 50% female, "She was really shocked. She said you do feel very isolated when you don't [have many female professors]."

The other woman said she was inspired "in general" by the professors, stating that "all my professors were always there for me [relating specific incidents]. . . . It makes it fun, and it makes you feel good about yourself and you know that there's somebody else there that can always help you through all the stuff that you're going through."

One of the men added, "I would say my role models were the female professors, not that there's anything wrong with the males, but it was just these two that really inspired me as far as their dedication and their effort just to be there for the students."

The students' comments showed that both male and female students had female role models, and both minority and majority students respected minority professors. This was consistent with the empirical data and with suggestions in the literature that a more diverse faculty benefits all the students and helps break down artificial gender barriers.

Sexual and racial discrimination and harassment. The survey data showed that six percent of the women and seven percent of the men reported experiencing sexual discrimination at the law school. The focus group raised issues of familiarity, jokes about women, and prejudice against men by various professors, as well as offensive comments by a male student. A second-career student said "it's very impressive" that the female students "stand up for themselves" if they hear suggestive jokes or other offensive comments from the male students.

Students who were not minorities related some incidents of racial bias. One woman said that, from some student comments in class, "you know that person is racially biased." She had heard one explicitly racial comment in class; she said it upset the women, "who are a little bit more sensitive about discrimination of any kind." Another woman had defended the minority profes-

sors against comments that they were hired only because of their minority status. This same woman heard students making racial jokes and “just said I don’t want to hear them,” a stand that other students had told her they appreciated.

The sole minority student in the group, a male, said, “Maybe I’m not very sensitive to it but as far as the students this past year, [racial discrimination] hasn’t been a problem for me here. I’ve seen it worse in other places.” The immigrant to the United States, who had experienced discrimination elsewhere, said “I’ve experienced none, no racism [at the law school]. . . . I’ve never actually heard any other comments about anybody.”

Other types of discrimination. When they were asked for other comments, the students brought up additional topics. One second-career female student said she had been afraid she would feel she didn’t belong because she was older, but “I never experienced that, not for a minute. . . . I just really felt like the students respected each other regardless of age, sex, or race.” However, one other second-career student did say one professor had appeared to discount the older students.

Two students involved in a Christian group reported religious discrimination. Other students had made negative comments about their membership in the group, saying, for example, “You guys are all freaks.” Interestingly, some of these comments came from other Christians.

Finally, the gay student reported hearing antigay statements, sometimes from persons who did not know the student is gay. The student also noted that some in-class hypotheticals presume “everyone in the class is straight and happy,” when not everyone is. These comments seemed to be a plea for awareness of the presence of gay students and for sensitivity to their concerns.

This focus group data has revealed some intriguing surprises. I assembled a group with roughly the same percentage of males and females as in the student body and hoped to hear some explanations for the low class participation rates of some women. Instead, it was two men who reported the lowest rates of participation. Similarly, I sought to discuss women’s low self-confidence, and found that three men reported the lowest self-confidence in the group. Additionally, a male student said that his role models happened to be women professors.

CONCLUSION

In the past decade or so, some legal scholars and other commentators have criticized the law school environment as alienating, especially for women and minority women students. They identify heavy-handed use of the Socratic method, professors' deliberate confusion of students, and uncivil, sometimes sexist behavior by both students and faculty as causes of student alienation. The commentators' suggestions for making law school more humane range from the general, like urging professors to treat all students with more respect and presenting material more clearly, to the specific, like suggesting that professors give more handouts, practice exams, and feedback to students.

Studies at other law schools have documented the toll that law school takes on women and minority women. These studies showed women, especially minority women, participating in class at lower rates and losing self-esteem at greater rates than white men. Women and minorities also reported a lack of role models on the faculty, and notable numbers in all groups believed the composition of their faculties limited their perspectives.

Chapman University School of Law was founded with the ideal of being more humane. It has implemented many of the literature's suggestions for improvement through: (1) school-sponsored programs like its mentoring and tutoring projects; (2) a low student-faculty ratio; (3) the individual efforts of faculty members who have done such things as be available for lunch, maintain open-door policies, and give more handouts, practice exams, and feedback. Chapman also began its first year with a diverse faculty composed of 44% women and 33% minority professors.

This Article presents the results of a study that is an experiment in progress. The results presented here show striking differences between the survey results at Chapman and those reported elsewhere. The data show the gender gap closing at Chapman, with women participating more in class and both women and minority women reporting more self-confidence than in previous studies. The data also show dramatic differences in all students' satisfaction with role models on the faculty and the broadened perspective a diverse faculty brings.

The data about student perceptions of faculty at Chapman as compared to those in the other studies strongly confirm the commentator's expectation: a faculty that looks more like the

student body it serves has a dramatic positive impact on the self-esteem of traditionally underrepresented groups. The data also show this diversity positively affects the perspectives of *all* groups, as reported by the students themselves. I urge schools that still have disproportionately small numbers of women and minorities on their faculties to take note of these dramatic results.

This is another study in a body of developing research. In the future, we at Chapman may revisit these issues with a follow-up study. I challenge other researchers to explore these issues toward the goal of making law schools truly inclusive of the many kinds of students who now people our classrooms.

The problems are not yet solved. At Chapman and at other law schools, faculty should be conscious that women and the subcategory minority women participate less in class than members of other groups. Dialogues should be initiated to discover whether the women see this as a problem, and if they do, to determine how it can be ameliorated. Faculty should also be conscious that some students do feel discriminated against or harassed because of sex, race, sexual orientation, religion, and the like, and that dialogue is appropriate on these issues as well. Further research may help clarify these issues and lead toward their resolution.

Statistical studies do not explain causes; they merely document what is. Perhaps Chapman's newness casts a luster that will fade with time. Or perhaps Chapman's student body is different in some way that causes the phenomena I report.¹⁵² I believe, however, that the data show women and minority women fare better at Chapman because Chapman is doing something right: it has put into practice the suggestions of feminists and other critics to make law school more humane.

152. See *supra* notes 112-13 and accompanying text.

APPENDIX A

LAW SCHOOL SURVEY

Directions for Survey:

This survey has been given at other law schools and will be used for research purposes by a Chapman professor. It is anonymous, so please do not put your name on it. It should take only about ten minutes to complete. Your cooperation in answering all of the questions truthfully will be greatly appreciated.

1. On the whole, how satisfied are you with your law school?
 1. ___ Very Satisfied
 2. ___ Satisfied
 3. ___ Dissatisfied
 4. ___ Very Dissatisfied

2. Comparing yourself to others at your law school, would you agree that the statement, "I feel that I am a competent person, at least as much as others" is:
 1. ___ Always true
 2. ___ Often true
 3. ___ Sometimes true
 4. ___ Rarely true
 5. ___ Never true

3. Overall, how do you feel about your life since entering law school?
 1. ___ Delighted ("excited")
 2. ___ Pleased
 3. ___ Mostly satisfied
 4. ___ Mixed (about equally satisfied and dissatisfied)
 5. ___ Mostly dissatisfied
 6. ___ Unhappy ("depressed")
 7. ___ Terrible

4. Approximately how often do you interact professionally with a professor outside of class?
 1. ___ Never
 2. ___ Once or twice per semester
 3. ___ Once a month
 4. ___ Once every two weeks
 5. ___ Once a week

5. How often do you do the following in a typical 3-unit course?

	never	four weeks	two weeks	once a week
a. Ask questions in class	1	2	3	4
b. Volunteer answers in class	1	2	3	4
c. Ask professors questions after class	1	2	3	4

6. When you have questions about the material presented in class, which one of the following options best describes what you do? *(Please Check Only One)*

1. ___ I raise my hand and ask the professor for clarification.
2. ___ I ask the professor about it after class.
3. ___ I ask another student to explain it.
4. ___ I look up the answer in a reference source.
5. ___ I don't worry about it until I prepare for exams.
6. ___ I don't do anything.
7. ___ Other _____

(please specify)

7. A number of statements about law school are given below. Overall, do you agree or disagree?

- 1=STRONGLY AGREE 3=DISAGREE
 2=AGREE 4=STRONGLY DISAGREE

	<u>SA</u>	<u>A</u>	<u>D</u>	<u>SD</u>
a. I think of the demands of law school as a temporary interruption in my life.	1	2	3	4
b. I seem to fit in at my law school as well as most of the other students.	1	2	3	4
c. Before law school I thought of myself as intelligent and articulate, but often I don't feel that way about myself now.	1	2	3	4
d. I enjoy facing the challenges of law school.	1	2	3	4
e. I have seriously considered dropping out of law school.	1	2	3	4
f. In general, I feel confident that my talents are respected in law school.	1	2	3	4
g. I feel pressured to set aside my values in order to think like a lawyer.	1	2	3	4
h. My values have not changed since I began law school.	1	2	3	4
i. Briefly explain why you answered question 7 as you did.				

8. Overall, with respect to your classroom, do you agree or disagree with the following statements?

1=STRONGLY AGREE

3=DISAGREE

2=AGREE

4=STRONGLY DISAGREE

- | | <u>SA</u> | <u>A</u> | <u>D</u> | <u>SD</u> |
|--|-----------|----------|----------|-----------|
| a. When I speak in class, I believe that my peers respect what I have to say. | 1 | 2 | 3 | 4 |
| b. I feel unsure of myself when a professor disagrees with me. | 1 | 2 | 3 | 4 |
| c. Speaking in class is important in learning the law. | 1 | 2 | 3 | 4 |
| d. I lose my confidence whenever I am in class. | 1 | 2 | 3 | 4 |
| e. When I speak in class I feel my comments are not valued by my peers due to my sex. | 1 | 2 | 3 | 4 |
| f. When I speak in class I feel my comments are not valued by my peers due to my race. | 1 | 2 | 3 | 4 |
9. Did/do you study regularly with a group of 3 or more people (including yourself) during your first year of law school?
 1. ___ Yes 2. ___ No (*please skip to question 13*)
10. Which of the following *best* describes the schedule of your study group? (If you were in more than one group, answer for the group you attended most frequently.)
 1. ___ We met regularly over the course of the semester.
 2. ___ We met only in preparation for finals.
 3. ___ We met irregularly.
11. Did the group consist of:
 ___ All Males
 ___ All Females
 ___ Both Males and Females

12. Overall, do you agree or disagree with the following statements regarding your study group experience?

1=STRONGLY AGREE 3=DISAGREE
 2=AGREE 4=STRONGLY DISAGREE

	<u>SA</u>	<u>A</u>	<u>D</u>	<u>SD</u>
a. My fellow members respected what I had to say in the study group.	1	2	3	4
b. I contributed more knowledge to the group than I received.	1	2	3	4
c. The study group helped me to survive the first year of law school	1	2	3	4

13. Have you made at least one close friend from your law school since entering?

1. Yes 2. No (*please skip to question 16*)

14. Indicate how many of each gender with whom you have become close friends.

1. Female 2. Male

15. Please indicate how many in each category of race and/or ethnicity with whom you have become close friends.

	FEMALES	MALES
White, non-Hispanic	_____	_____
African/Black American	_____	_____
Hispanic or Latin	_____	_____
Asian	_____	_____
Native American	_____	_____
Other _____	_____	_____

(*please indicate ethnicity*)

16. Please indicate the number of professors you have had in law school in each of the following categories.

	FEMALES	MALES
White, non-Hispanic	_____	_____
African-American	_____	_____
Hispanic or Latin	_____	_____
Asian	_____	_____
Native American	_____	_____
Other _____	_____	_____

(*please indicate ethnicity*)

- e. Some persons in legal education have said that women professors demonstrate favoritism toward members of their own sex. Do you agree with this statement for your law school?
1. ___Strongly Agree 3. ___Disagree
2. ___Agree 4. ___Strongly Disagree
- f. Some persons in legal education have said that male professors demonstrate favoritism toward members of their own sex. Do you agree with this statement for your law school?
1. ___Strongly Agree 3. ___Disagree
2. ___Agree 4. ___Strongly Disagree
- g. Some persons in legal education have said that professors of color demonstrate favoritism toward members of their own race. Do you agree with this statement for your law school?
1. ___Strongly Agree 3. ___Disagree
2. ___Agree 4. ___Strongly Disagree
19. Have you personally experienced discrimination at your law school due to your sex?
1. ___Yes 2. ___No (*please skip to question 21*)
20. Did the discrimination take place in any of the following?
- | | <u>YES</u> | <u>NO</u> |
|---|------------|-----------|
| a. A classroom environment | 1 | 2 |
| b. An opportunity to participate in an extracurricular activity | 1 | 2 |
| c. Other _____
(<i>please specify</i>) | | |
21. Have you personally experienced discrimination at your law school due to your race?
1. ___Yes 2. ___No (*please skip to question 23*)
22. Did the discrimination take place in any of the following?
- | | <u>YES</u> | <u>NO</u> |
|---|------------|-----------|
| a. A classroom environment | 1 | 2 |
| b. An opportunity to participate in an extracurricular activity | 1 | 2 |
| c. Other _____
(<i>please explain</i>) | | |
23. Does your university have a sexual harassment policy?
1. ___Yes 2. ___No
3. ___Don't know
24. Does your law school have a sexual harassment policy?
1. ___Yes 2. ___No (*please skip to question 26*)
3. ___Don't know (*Please skip to question 26*)

25. If a university or law school policy exists, how are individuals at the law school made aware of the policy?

1. ___ The policy is distributed with other material
2. ___ The policy is distributed separately
3. ___ The policy is reviewed orally with first year students
4. ___ The policy is reviewed orally annually with all students
5. ___ The policy is the focus of a program
6. ___ Makes no effort to inform students of the policy
7. ___ Other _____
(please specify)

8. ___ No policy exists

26. Have you personally experienced sexual harassment at your law school?

1. ___ Yes
2. ___ No (please skip to 31)
3. ___ Not sure (please skip to question 31)

27. Please indicate whether you have experienced *due to your sex* any of the following:

	# OF TIMES		
	<u>YES</u>	<u>NO</u>	<u>OCCURRED</u>
a. Improper suggestive comments	1	2	_____
b. Improper physical contact	1	2	_____
c. Improper offer of special treatment	1	2	_____
d. Threat of a poor evaluation or grade	1	2	_____
e. Uncomfortable environment due to hostile or threatening comments although not directed to you	1	2	_____
f. Other _____ (please specify)	1	2	_____

28. Please indicate who, by position held, sexually harassed you.

	IF YES:			
	<u>YES</u>	<u>NO</u>	<u>MALE</u>	<u>FEMALE</u>
a. A full-time faculty member	1	2	1	2
b. An adjunct faculty member	1	2	1	2
c. A support staff member	1	2	1	2
d. An administrator	1	2	1	2
e. A student	1	2	1	2
f. Other _____ (please specify)	1	2	1	2

29. Did you report the conduct identified above to any member of the law school faculty or administration?

1. Yes 2. No

IF YES:

What action, if any, was taken by the law school?

30. Does the sexual harassment continue to be a problem for you?

1. Yes 2. No

3. Not sure

31. How great a problem is sexual harassment within the law school?

1. No problem 3. Sizable problem

2. Slight problem 4. Great problem

32. What is the highest degree you have attained?

1. B.A. 5. M.B.A.

2. B.S. 6. Ph.D.

3. M.A. 7. Other _____

4. M.S. (*please describe*)

33. Between receiving your undergraduate degree and entering law school, did you work full time?

1. Yes 2. No (*please skip to question 35*)

34. Approximately how long did you work full time during this period? (Total time need not be consecutive.)

1. Less than 1 year 3. At least 3 but less than 5 years

2. At least 1 but less than 3 years 4. More than 5 years

35. Between receiving your undergraduate or graduate degree and entering law school, were you engaged in full time homemaking?

1. Yes 2. No (*please skip to question 37*)

36. Approximately how long were you engaged in full time homemaking during this period? (Total time need not be consecutive.)

1. Less than 1 year 3. At least 3 but less than 5 years

2. At least 1 but less than 3 years 4. More than 5 years

37. What was the highest level of education your mother attained?

1. Less than 12th grade 5. Bachelor's degree

2. ___ High school diploma
3. ___ Some college but no degree
4. ___ Associates/Technical degree
6. ___ Legal degree (J.D., LL.B.)
7. ___ M.A., M.B.A.
8. ___ Ph.D.
9. ___ Other professional degree (MD, DDS)
38. What was your mother's occupation when you were sixteen (including student, homemaker, etc.)?
-
39. What was the highest level of education your father attained?
1. ___ Less than 12th grade
2. ___ High school diploma
3. ___ Some college but no degree
4. ___ Associates/Technical degree
5. ___ Bachelor's degree
6. ___ Legal degree (J.D., LL.B.)
7. ___ M.A., M.B.A.
8. ___ Ph.D.
9. ___ Other professional degree (MD, DDS)
40. What was your father's occupation when you were sixteen (including student, homemaker, etc.)?
-
41. Where would you place yourself on the political spectrum?
- | | | | | | | |
|-------------|---|---|-----------------------|---|---|--------------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| FAR
LEFT | | | MIDDLE OF
THE ROAD | | | FAR
RIGHT |
42. Compared to other students at your school, which statement best describes you?
- a. ___ I study more and/or am better prepared for class and exams than the majority of the students.
- b. ___ I study about as much and/or am about as well prepared for class as the average student.
- c. ___ I study some but am less prepared for class and exams than the average student.
- d. ___ I study much less and/or am much less prepared for class and exams than the average student.
43. Are you: 1. ___ Female 2. ___ Male
44. What is your age bracket?
- a. ___ 20-25 c. ___ 31-40 e. ___ 50-59
- b. ___ 26-30 d. ___ 41-49 f. ___ 60+

45. What is your ethnic background?

1. ___ White, non-Hispanic

2. ___ African/Black
American

3. ___ Hispanic or Latin

4. ___ Asian

5. ___ Native American
or American Indian

6. ___ Other _____
(*please specify*)

APPENDIX B

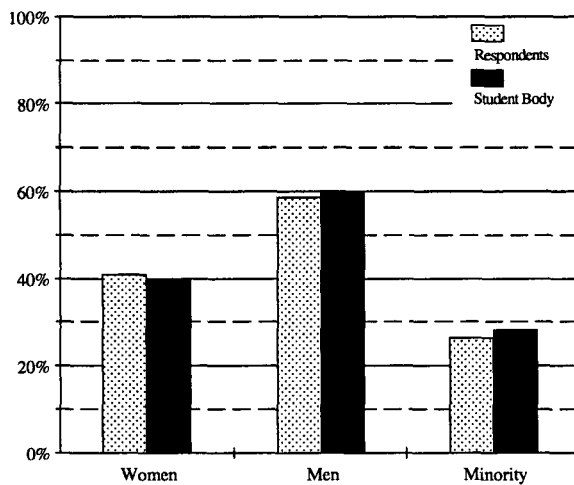


Figure 1. Chapman Study Respondents Compared to Enrolled Students

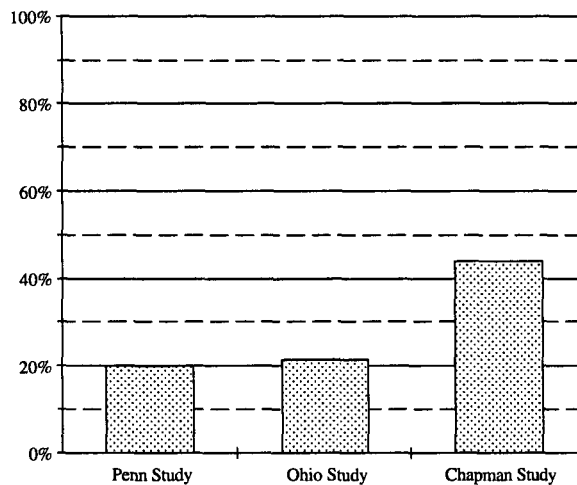


Figure 2. Full Time Women Professors

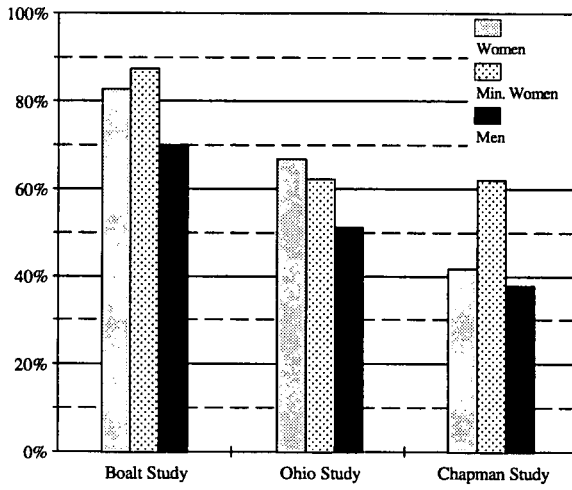


Figure 3. Students Who Never or Seldom Ask Questions in Class

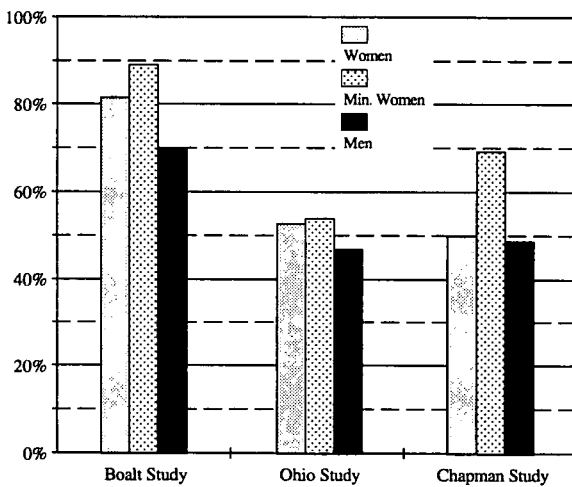


Figure 4. Students Who Never or Seldom Volunteer in Class

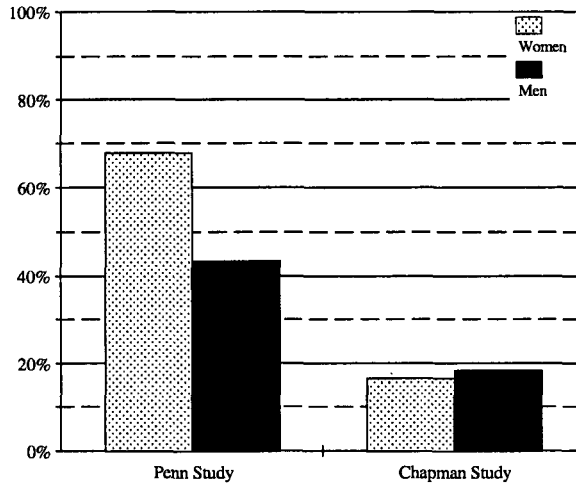


Figure 5. Students Who Never Ask Questions in Class

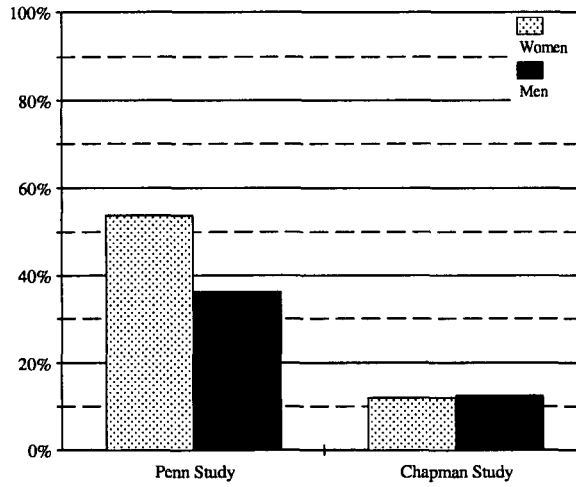


Figure 6. Students Who Never Volunteer in Class

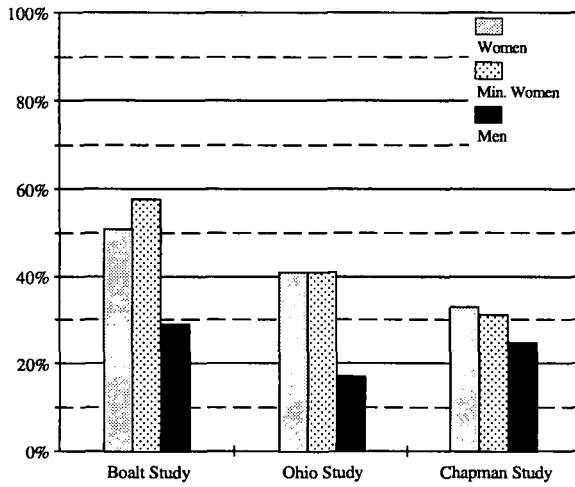


Figure 7. Students Who Now Think of Themselves as Less Intelligent and Articulate

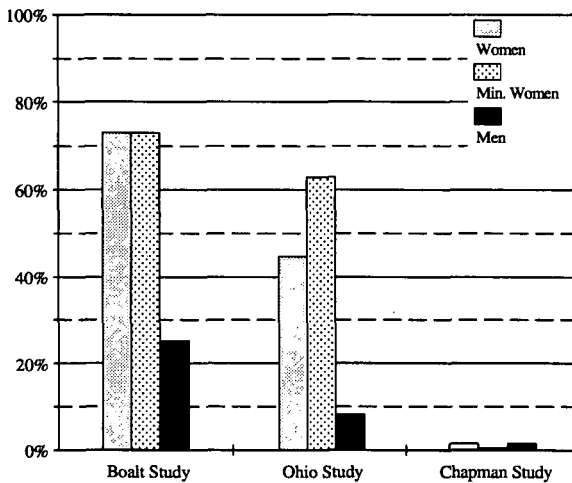


Figure 8. Students Who Feel the Number of Female Professors Has Deprived Them of Significant Role Models in the Field of Law

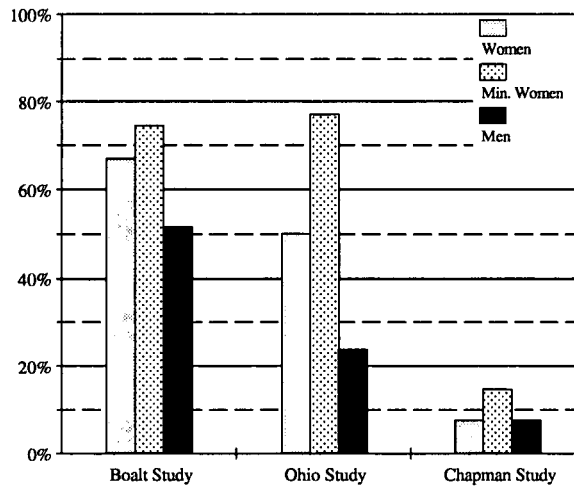


Figure 9. Students Who Feel Ethnic and Gender Composition of the Faculty Limits Their Perspective on Legal Issues