

# UNDERSTANDING THE SOCIAL AND COGNITIVE PROCESSES IN LAW SCHOOL THAT CREATE UNHEALTHY LAWYERS

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*Previous work on law student wellness and mental health strongly suggests that the seeds of professional unhappiness are sown in law school. Law students suffer from anxiety, depression, substance abuse, and other mental health problems at alarmingly high rates. They also leave law school with different concerns, commitments, and cognitive patterns than when they entered, emerging less hopeful, less intrinsically motivated, and more concerned with prestige than they were at the outset. So what, exactly, happens to people in law school? Although a rich body of quantitative and survey-based research on law students documents these empirical trends, surprisingly little qualitative work has examined the social mechanisms and relational processes that underpin the development of negative mental health and wellness patterns. This Article draws on in-depth interviews with fifty-three law students from thirty-six law schools throughout the United States: one interview before the students started law school, then another interview in their first three to six weeks, for a total of 106 interviews with 1L students who entered law school in Fall 2020. Even at this early stage, we can already begin to identify the social and cognitive processes that set the stage for unhealthy professional development.*

## I. WHAT HAPPENS IN LAW SCHOOL?

Students enter law school with unexceptional psychological profiles: on average, they are no more or no less happy or healthy than demographically similar peers who are not in law school. But by graduation, they emerge less

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intrinsically motivated, less hopeful,<sup>1</sup> and less happy.<sup>2</sup> On top of this, they carry new mental health problems. One in ten physically self-harms, one in six has clinically diagnosable depression, one in three has clinical anxiety, and one in four has developed alcohol dependence.<sup>3</sup> These, of course, are many of the same problems that plague practicing attorneys. In more ways than one, it would seem, law school makes students into lawyers.

But while we know a great deal about *what* happens to people in law school, we know less about *how* it happens. We can speculate about stress, competition, and debt burdens. But we know surprisingly little about the nuts-and-bolts processes that underlie these well-documented changes. What do the interactions, encounters, and reflections that constitute these shifts actually look like as students are going through them?

By delving into the messy minutia of 1L year and sifting through the details of 1Ls' lives as they adapt to law school, we can develop a deeper understanding of the negative social and cognitive processes that take place during law school. Doing so is key to making law school into a better, stronger, and more effective institution.

#### A. Mental Health and the Legal Profession

The poor mental health of people in the legal profession is a long-standing open secret, both within and beyond its members. The same types of problems students develop in law school, including depression, anxiety, self-harming behavior, and alcohol dependence, plague the profession in great numbers.<sup>4</sup> And alarmingly, these trends are worse among newer lawyers than more experienced ones<sup>5</sup>—suggesting a particular need to address wellness at an early career stage.

The sheer breadth and intransigence of impediments to overall wellness within the legal profession is remarkable. Researchers have identified a high prevalence of numerous clinical problems among attorneys since at least the

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1. See Lawrence S. Krieger & Kennon M. Sheldon, *What Makes Lawyers Happy?: A Data-Driven Prescription to Redefine Professional Success*, 83 GEO. WASH. L. REV. 554, 566 (2015); Kennon M. Sheldon & Lawrence S. Krieger, *Does Legal Education Have Undermining Effects on Law Students?: Evaluating Changes in Motivation, Values, and Well-Being*, 22 BEHAV. SCIS. & L. 261, 280–82 (2004).

2. Sheldon & Krieger, *supra* note 1, at 280–82.

3. Jerome M. Organ et al., *Suffering in Silence: The Survey of Law Student Well-Being and the Reluctance of Law Students to Seek Help for Substance Use and Mental Health Concerns*, 66 J. LEGAL EDUC. 116, 139, 145 (2016).

4. See generally MARJORIE A. SILVER, TOURO L. CTR., SUBSTANCE ABUSE, STRESS, MENTAL HEALTH, AND THE LEGAL PROFESSION (2004), <http://www.nylat.org/documents/CourseinaBox.pdf> [<https://perma.cc/SMW6-YR5K>]; Krieger & Sheldon, *supra* note 1; Organ et al., *supra* note 3; Pamela Bucy Pierson et al., *Stress Hardiness and Lawyers*, 42 J. LEGAL PRO. 1 (2017).

5. See Patrick R. Krill et al., *The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys*, 10 J. ADDICTION MED. 46, 48–49 (2016). Nor is the plight of younger lawyers an entirely new phenomenon. Some research from as early as the 1980s suggested that young lawyers tended to experience more alienation and loneliness than older lawyers. See, e.g., Dan Hurley, *Why Are Young Lawyers the Loneliest People in the Profession?*, 14 BARRISTER, Summer 1987, at 9.

1980s, including stress and alienation,<sup>6</sup> alcoholism,<sup>7</sup> burnout and emotional exhaustion,<sup>8</sup> drug abuse,<sup>9</sup> and depression.<sup>10</sup> As early as 1986, psychological discontent in lawyers has been empirically linked to the law school experience.<sup>11</sup> Using four different types of standardized psychological assessments, researchers found that before entering law school, 1Ls showed average amounts of psychopathological symptoms.<sup>12</sup> But both during and after law school, these symptoms rose significantly beyond average levels.<sup>13</sup>

Empirical literature has since examined wellness, law school, and the legal profession—and has thoroughly documented similar trends. Recent work, perhaps most notably the “After the JD” project,<sup>14</sup> have also shed new light on the bridge between law school experiences and integration into the legal profession.

### B. Law School’s Social Processes

Interestingly, though, little in-depth qualitative work focuses on law school. We know that law students end up with mental health problems even though they do not start law school that way. But we know a great deal less about the social processes via which this occurs. These are important to understand because law school is the foundation of students’ professional socialization. They gain factual knowledge about the law, but they also begin to grow networks, understand the norms of the legal profession, and develop a sense of themselves as attorneys. Certainly, an attorney’s professional identity continues to develop after law school, but law school sets the baseline.

In this Article, I argue that the seeds of unhappiness, poor mental health, inequality, professional dissatisfaction, and other problems that plague practicing attorneys are sown in law school. I use two sets of in-depth interviews with fifty-three first-year law students throughout the United States to examine in detail some of the most prevalent social processes that arise in the first six weeks of 1L year—processes that predispose students to angst, frustration, and a lack of well-being. In the next part, I describe my

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6. See Suzanne C. Kobasa, *Commitment and Coping in Stress Resistance Among Lawyers*, 42 J. PERSONALITY & SOC. PSYCH. 707, 713 (1982).

7. See Michael A. Bloom & Carol Lynn Wallinger, *Lawyers and Alcoholism: Is It Time for a New Approach?*, 61 TEMP. L. REV. 1409, 1409–10 (1988).

8. See Susan E. Jackson et al., *Correlates of Burnout Among Public Service Lawyers*, 8 J. OCCUPATIONAL BEHAV. 339, 344, 347 (1987).

9. See generally G. Andrew H. Benjamin et al., *The Prevalence of Depression, Alcohol Abuse, and Cocaine Abuse Among United States Lawyers*, 13 INT’L J.L. & PSYCHIATRY 233 (1990).

10. *Id.*

11. See G. Andrew H. Benjamin et al., *The Role of Legal Education in Producing Psychological Distress Among Law Students and Lawyers*, 11 AM. BAR FOUND. RSCH. J. 225, 236, 249 (1986).

12. *Id.* at 246.

13. *Id.*

14. See Bryant J. Garth et al., *After the JD*, AM. BAR FOUND., <http://www.americanbarfoundation.org/research/project/118> [https://perma.cc/H4BM-7J58] (last visited Apr. 14, 2021).

methodological approach. In Part III, I draw heavily on law students' accounts to identify and explicate key patterns that emerged from the data. Part III.A discusses dissonant messages law schools send to students, all of which impede learning and professional integration. Part III.B focuses on social processes that produce and reproduce inequality, both inside and outside of the classroom. Part III.C discusses processes related to student interests and attitudes, including how 1Ls become disillusioned about creating social change, perceive barriers between their substantive interests within the law and their classroom learning, and how both of these processes shape their burgeoning professional identities. Finally, in Part IV, I propose a number of concrete, practical changes law schools could make to curb the harmful processes I have described and transform law school into the foundation for a stronger legal profession.

## II. DATA AND METHODS

This Article draws on data collected in the latter half of 2020: semistructured interviews with fifty-three law students at thirty-six law schools. Students were interviewed once before law school, then again in the first half of 1L fall semester, for a total of 106 interviews. Interviews lasted an average of about one hour. The first round of interviews was conducted from early July to mid-August of 2020, and the second round was conducted from September to mid-October of 2020. All 106 interviews were conducted via Zoom, and all were conducted personally by the author.<sup>15</sup>

### A. Respondent Characteristics

The purpose of the selection and recruitment strategy was not to mirror the entering law student body of 2020, as would be appropriate for a quantitative study that used statistical sampling methods, but rather to secure a broad representation of many different types of law school experiences to understand the range of social dynamics that take place during 1L year. The fifty-three respondents attend thirty-six U.S. law schools that range widely in *U.S. News & World Report's* problematic<sup>16</sup>—albeit near universally relied upon<sup>17</sup>—law school rankings, from near the very “top” to near the very

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15. Space constraints prevent a detailed methodological section; methodological questions about sampling, data analysis, and so on should be directed to the author. Per IRB regulations, interview transcripts from study participants remain on file with the author.

16. See, e.g., BRIAN Z. TAMANAHA, *FAILING LAW SCHOOLS* 70–84 (2012); Adam Chilton, *The Fundamental Problem with U.S. News Law School Rankings*, SUMMARY, JUDGMENT (Mar. 19, 2020), <https://www.summarycommajudgment.com/blog/the-fundamental-problem-with-us-news-law-school-rankings> [<https://perma.cc/6TMM-UWVC>]; Tony Varona, *Diversity and Disgrace—How the U.S. News Law School Rankings Hurt Everyone*, N.Y.U. REV. L. & SOC. CHANGE: THE HARBINGER (Apr. 3, 2014), <https://socialchangenyu.com/harbinger/diversity-and-disgrace-how-the-u-s-news-law-school-rankings-hurt-everyone/> [<https://perma.cc/C57S-S25H>].

17. Michael Sauder & Ryon Lancaster, *Do Rankings Matter?: The Effects of U.S. News & World Report Rankings on the Admissions Process of Law Schools*, 40 LAW & SOC'Y REV. 105, 127–32 (2006) (providing empirical evidence that law students rely heavily on the *U.S.*

“bottom,” with each quartile well represented. Twenty of respondents’ law schools are private and sixteen are public. Every region of the United States is represented by multiple schools.

Respondents comprise sixteen men and thirty-seven women, ranging in age from twenty to forty-one years, with a median age of twenty-four years. Twenty-eight students identify as white, and twenty-five identify as nonwhite. Of the nonwhite students, the largest proportion (ten) are Hispanic or Latinx.<sup>18</sup> Compared to the overall entering 1L population, Latinx, Asian, and mixed-race students are significantly overrepresented in this sample, and Black students and white students are slightly underrepresented.<sup>19</sup>

### B. Data Collection and Analysis

Interviews were transcribed, compiled, and coded thematically, with particular attention paid to themes related to wellness, mental health, stress, and the law school environment. In a second round of coding, within each larger code, open coding was conducted for more specific themes. This is consistent with a modified grounded theory approach, standard in social science research. To safeguard confidentiality, pseudonyms are used for all students. Where immaterial, small details are occasionally changed to provide an extra layer of privacy.

## III. HARMFUL SOCIAL PROCESSES IN LAW SCHOOL

### A. How Tension Between the Law School Classroom and the Outside World Hinders Role Integration

The fall 2020 semester followed a politically tumultuous summer. In addition to the rise of COVID-19 infections and the consequent deaths of over 200,000 Americans, the summer was filled with a surge of protests over disproportionate police violence toward Black people, sparked by the videotaped killing of George Floyd, an unarmed Black man on whose neck a police officer knelt for more than eight minutes while Floyd struggled for air and protested that he could not breathe.<sup>20</sup> In their first round of interviews, during the summer before their 1L year, many students discussed Floyd’s killing and the need for American law to work toward racial justice. Nor was

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*News & World Report* rankings when deciding which law school to attend and that law schools rely partly on the rankings to determine criteria for student admission).

18. Originally, the study contained fifty-five respondents, twenty-seven nonwhite and twenty-eight white, but two nonwhite respondents decided to defer their enrollment during the first week or two of law school.

19. See Kylie Thomas & Tiffane Cochran, *ABA Data Reveals Minority Students Are Disproportionately Represented in Attrition Figures*, ACCESSLEX INST. (Sept. 18, 2018), <https://www.accesslex.org/xblog/aba-data-reveals-minority-students-are-disproportionately-represented-in-attrition-figures> [https://perma.cc/S37A-5UDS].

20. See Dionne Searcey & David Zucchino, *Protests Swell Across America as George Floyd Is Mourned Near His Birthplace*, N.Y. TIMES (Mar. 11, 2021), <https://www.nytimes.com/2020/06/06/us/george-floyd-memorial-protests.html> [https://perma.cc/38SG-NTGC].

this a trend reserved for a public-interest-minded few. Students across the political spectrum had different views of how widespread and racialized police violence actually is, but nearly all of them cited it—and racial inequality generally—as a problem that the law needed to solve, even if they, themselves, did not plan to devote their careers to it.

The other big issue on these fifty-three students' minds was the COVID-19 pandemic. Many had been affected personally. At the first round of interviews, one student had already been infected with COVID-19, and many others had family members or close friends who had become gravely ill and/or who had lost their jobs because of the pandemic. Even in August, several students were still not sure whether they would relocate for law school and were concerned with moving logistics, lost deposits, cancelled travel plans, and uncertain academic schedules. In short, while students always enter law school within some political moment, the political moment of late summer 2020 was, for nearly all of them, especially salient.

In their second interviews, which took place about a month into their 1L year, I was interested in learning whether the political moment was as salient as it had been when they entered, and which issues loomed largest in their minds. I asked deliberately vague questions to get at this idea, such as, “How are you doing with everything going on in the news?” Over and over, students talked about two events. The first of these, the death of U.S. Supreme Court Justice Ruth Bader Ginsburg, occurred on September 18, 2020, a few weeks into their first semester. The second occurred just five days later, when a grand jury neglected to bring criminal charges against police officers for killing Breonna Taylor,<sup>21</sup> a Black woman who had been sleeping in her Louisville home when police entered her apartment with a battering ram and opened fire shortly thereafter.

For 1Ls, one of the most poignant aspects of the deaths of Breonna Taylor and Justice Ginsburg was the chasm they perceived between these events and their law school classrooms. As they saw it, the most important legal developments happening in their country felt distant from the law in their casebooks—and on the whole, their professors did little to bridge the gap. Some of the 1Ls' professors acknowledged one or both of these events in class, but the majority did not mention them at all. Nor were students upset at their professors for these omissions. Several were quick to explain that they did not “blame” their professors for neglecting to mention Taylor's killing, for example, because although it weighed heavily on *their* minds, it might not be related to the substance of a class. But when professors did mention it, students were grateful. For example, Gayle reflected:

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21. One of the police officers was indicted for wanton endangerment because three bullets entered the home of a white family living in an adjacent apartment. No charges were brought against any of the officers for Taylor's death. See Dylan Lovan & Piper Hudspeth Blackburn, *Police Officers Not Charged for Killing Breonna Taylor*, WASH. POST (Sept. 23, 2020, 11:28 AM), [https://www.washingtonpost.com/national/grand-jury-to-present-report-in-breonna-taylors-death/2020/09/23/678c98dc-fdb1-11ea-b0e4-350e4e60cc91\\_story.html](https://www.washingtonpost.com/national/grand-jury-to-present-report-in-breonna-taylors-death/2020/09/23/678c98dc-fdb1-11ea-b0e4-350e4e60cc91_story.html) [<https://perma.cc/D64G-G9D3>].

Only one of my professors mentioned something after—after the Breonna Taylor grand jury verdict. One of my professors was like, “I’m sure this is causing a hard time for a lot of people. Does anyone want to talk about it?” And [that] was really cool. But then, none of my other professors said anything.<sup>22</sup>

Steven was not surprised that his professors ignored the grand jury decision. Indeed, his torts professor went even further, telling students that race was not relevant to torts.<sup>23</sup>

In torts, he’s mentioned fairness. And he calls it ‘the F word.’ Like, we can’t talk about fairness . . . We’re just using an economic analysis type of like, what’s the utility? It actually reminds me a ton of econ, so it helps out that I have an econ background. I understand [how] he’s trying to teach us it under theoretical circumstances. And then he’s, like, race more pertains to like, not like understanding torts but more like understanding, you know, civil rights, or criminal law, or something like that.<sup>24</sup>

This statement, and the conversation that preceded and followed it, made it clear to me that Steven was not entirely sure what to make of his torts professor’s approach, but that he assumes it reflects the norms of law school learning and the legal profession to silo race into specific subject areas, such as “civil rights, or criminal law, or something like that,” rather than seeing it as something that pervades, underpins, or structures all areas of law.

Although students often forgave their professors’ failures to mention the charging decision in the Breonna Taylor case, they expressed more surprise and confusion over professors’ omission of Justice Ginsburg’s death. While some law schools held special events to discuss Justice Ginsburg’s legacy as a jurist, her death was not always mentioned in the classroom. For example, Marcy shook her head in confusion as she told me that three of her four professors “just went on like it was a regular day.” The fourth, who teaches her contracts class, “set aside like twenty minutes to just talk about the impact and what’s going to happen now, which was nice.”<sup>25</sup>

Overall, the majority of students I interviewed after Justice Ginsburg’s death had either one professor or zero professors who mentioned it in class. Almost all of them described this omission as “strange” or “uncomfortable.” For example:

SIMONE: When Ruth Bader Ginsburg died, I kind of expected my civ pro professor to say something. And she didn’t. And I was like, shouldn’t you

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22. Second interview with Gayle (Oct. 2020) (on file with author).

23. Many scholars would dispute this assertion; indeed, it seems a difficult one to defend. See, e.g., Martha Chamallas, *Race and Tort Law*, in OXFORD HANDBOOK OF RACE AND THE LAW (Khiara Bridges et al. eds., forthcoming 2021); Jennifer B. Wiggins, *Constitution Day Lecture: Constitutional Law and Tort Law: Injury, Race, Gender, and Equal Protection*, 63 ME. L. REV. 263 (2010); Kimberly A. Yuracko & Ronen Avraham, *Valuing Black Lives: A Constitutional Challenge to the Use of Race-Based Tables in Calculating Tort Damages*, 106 CALIF. L. REV. 325 (2018). And, of course, race is frequently a very important factor in constitutional litigation of all varieties, such as § 1983 claims.

24. Second interview with Steven (Sept. 2020) (on file with author).

25. Second interview with Marcy (Sept. 2020) (on file with author).

say something? And she is like, really liberal . . . . So I was expecting [it], but she didn't say anything.

PROFESSOR YOUNG: Did any of your professors talk about RBG?

SIMONE: No, none. It felt—I feel like it's strange.<sup>26</sup>

Marcy, Carla, Joe, and others reflected that compared to their law school classes, student organizations were more relevant sources of information, community, and intellectual discussion when legally important events occurred. Note that this encapsulates a significant division: one between their formal legal education and the things students expected legal education to give them insight about. This disconnection between the classroom and important real-world events challenges law school's ability to function as a source of professional integration. It sends the implicit message that doctrine is one thing and real-world law is another. This division tracks with many students' feelings (and many practicing lawyers' conventional wisdom) that "foundational" or "bar" classes are disconnected from the practice of law. This dynamic forces students into one kind of separation between different selves: their selves as people who care about the world and their law student selves. Such a separation can hinder role integration, which is a crucial process for young professionals' identity development.<sup>27</sup> For students interested in pursuing public interest careers, or even those interested in having pro bono work comprise some part of their future practice, this separation between the law school classroom and their substantive interests tended to be even more salient.<sup>28</sup>

One of the questions I asked in students' second interviews was "Has law school changed your ideas about how the law works?" Over half of the students said it had not, and gave one of two explanations about why this was so. Some told me there had been no surprises because everything they had learned aligned with what they already knew and believed about the law. These responses came disproportionately from students who were not the first person in their families to attend law school. Others said they had come into law school with no expectations or understanding about how law works, so nothing they learned could have surprised them. These responses came disproportionately from students who were the first in their families to attend law school. No students said that law school had given them a more positive view of the legal system, although many said that the law turned out to be more interesting than they had anticipated.

A large minority, however, described deep disillusionment. This phenomenon was especially prevalent among students who came to law

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26. Second interview with Simone (Oct. 2020) (on file with author).

27. See generally Charlotte S. Alexander, *Learning to Be Lawyers: Professional Identity and the Law School Curriculum*, 70 MD. L. REV. 465 (2011).

28. John Bliss, *Divided Selves: Professional Role Distancing Among Law Students and New Lawyers in a Period of Market Crisis*, 42 LAW & SOC. INQUIRY 855, 855 (2017) [hereinafter Bliss, *Divided Selves*]; John Bliss, *From Idealists to Hired Guns?: An Empirical Analysis of "Public Interest Drift" in Law School*, 51 U.C. DAVIS L. REV. 1973, 1973–74 (2018) [hereinafter Bliss, *From Idealists to Hired Guns?*].

school with a desire to reform the legal system, increase equality, and/or serve the public interest. This group included students of diverse identities and widely varied class backgrounds. For these students, the 1L fall semester marked the onset of a new sense of jadedness about how the law works in practice. Greta, a mixed-race student from an upper-middle-class background, told me:

There's so many seemingly arbitrary rules. And that's just frustrating, because it's like, yeah, there's not really good reasons . . . . [It's] frustrating [to] just have to accept things as the way they are. Especially as someone who wanted—who wants—to go to law school to like, change things. And it's just coming into focus of, "Oh, yeah, this system is really deeply entrenched. And it's going to be nearly impossible to change anything." So now it's like, how do I work within the system? But the system's broken . . . that's just been some of my thought process.<sup>29</sup>

Gayle, a South Asian woman with extensive experience working at high levels of government, expressed disillusionment that echoed Greta's. Particularly in the current political moment, Gayle said, it was hard to have faith that her entry into the legal profession would enable her to work for social justice:

[T]o get into law school, and then like, have RBG die and feel like our entire democracy was riding on that, and then have what is going to be an awful confirmation process, where no one cares about procedure, or precedent or anything. And then to have the Breonna Taylor situation, it's like—like laws just don't—it's just been very disheartening to kind of come into [law school] being like, I'm going to learn a lot, because I thought—or think—maybe I can do more good by having that [J.D.], you know? Now I'm just like, well, does the law *mean* anything?<sup>30</sup>

Steven, a white man whose only experience with the legal system had been as the subject of police investigation, was one of several students who commented not only on his own sense of disillusionment but on the attitudes of the social-justice-oriented professors whose work he admires:

I think everyone kind of knows at this point that it's like, yeah, our system discriminates against minorities . . . particularly Black men. That's not really something that you need a law degree to fully understand. [But] I think the mechanisms of *how* it does that, and like, why we can't fix it—I was surprised at how defeated the liberal social justice teachers are. They're just kind of like, "Well, there's nothing we can do. This is a horrible system and we're totally screwed."<sup>31</sup>

One thread that arose repeatedly within this theme was students' frustration that the system seemed designed to favor people who made the best argument, as opposed to favoring substantive ideas of justice. Gabby said, "It's crazy . . . at the end of the day, there's not a right or wrong answer.

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29. Second interview with Greta (Sept. 2020) (on file with author).

30. Second interview with Gayle, *supra* note 22.

31. Second interview with Steven, *supra* note 24.

It's just who can argue it better."<sup>32</sup> Alan, a Black man whose family had pursued higher education for three generations and planned to work at "the largest, fanciest law firm possible," said, "that's probably my one thing [about] being in law school that's kind of like,"—he shrugs uncomfortably here—"on one hand, it's great that everything can be two-sided, and on the other hand, it's just, it's scary because things that are wrong can be given a voice."<sup>33</sup>

A few other students of color pointed out that precedent tended to work in favor of dominant groups. Lucy explained her frustration upon learning, in criminal law, that differently situated people were treated identically under the reasonable person standard:

I'm just like, this is messed up . . . the fact that a reasonable person is *not* actually a reasonable person. And not every reasonable person is the *same* reasonable person. I'm just like, *how is this our system?!* And [on some level] I knew it, but learning exactly how it all works, and where it starts is just like, wow. And so that's been hard.<sup>34</sup>

Regina, who is Latina, unfavorably compared the legal system's reliance on precedent to doctors' attitudes toward developments in medicine:

REGINA: Some things make me angry about how cases are decided.

PROFESSOR YOUNG: Tell me more about that.

REGINA: Morality. Like, I mean, in a moral sense, you would want the judge to go one way but because there was a previous case stating something else, they have to go [the other] way. [Compare this to how] doctors—they look back at research or surgeries that were done twenty years ago and they are like, "Wow, idiots. They didn't know what they were doing." And now they do things completely different. Whereas lawyers, we're like, yeah, let's look at this person that wrote this thing in the 1800s, and yeah, let's agree with what *he* says.<sup>35</sup>

In these accounts, we see the beginnings of psychological challenges to professional integration: difficulty reconciling personal identity with lawyerly identity, which can present a variety of challenges.<sup>36</sup> If Lucy becomes a public defender, as she hopes, she will be working inside a system that she finds problematic. If Regina becomes an immigration lawyer, as she hopes, she will have to accept the case law method of legal reasoning to make effective legal arguments for her clients. For these students to realize their goals in the law, they will need to somehow reconcile their disillusionment with their professional choices, or to detach their professional selves from their personal selves. That is, they will either change how they see themselves as people to accommodate their identity as lawyers, or they will

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32. Second interview with Gabby (Sept. 2020) (on file with author).

33. Second interview with Alan (Oct. 2020) (on file with author).

34. Second interview with Lucy (Oct. 2020) (on file with author).

35. Second interview with Regina (Oct. 2020) (on file with author).

36. See Bliss, *Divided Selves*, *supra* note 28, at 888–94; Bliss, *From Idealists to Hired Guns?*, *supra* note 28, at 1973–74.

engage in greater role distancing by creating a professional identity they conceive as separate from who they are as a person.

*B. How the Curve Damages Professional Socialization*

Nearly every student expressed surprise that law school was more of a “community” than anticipated. Prior to law school, students-to-be are regaled with tales of classmates ripping key pages out of textbooks and purposely sharing erroneous answers. Then, almost without exception, not only does no overt sabotage occur but 1Ls meet several classmates that they quite like, and the law school administration talks about the importance of community, networking, and mutual support. Nearly every student reported—often with a sense of surprise—that their law school offered mentorship programs, special events, and helpful orientations that encourage them to see peers as fellow members of the legal profession, not as competition. Most interviewees said that although a handful of their classmates were interpersonally unpleasant or overly competitive, these people are not in the majority. A month into law school, 1Ls were beginning to form friendships and study groups and relying on each other for help understanding the *Erie*<sup>37</sup> doctrine. Indeed, increasingly, law schools encourage this kind of collaboration and recognize that the ability to work with other people is key to successful lawyering.

Yet, hope of genuine social solidarity is undermined by the fact that—arguably for reasons having more to do with tradition and convenience than pedagogical rigor—students compete with each other in every doctrinal class and often in their legal research and writing classes as well. The law school curve means that success is relative, not absolute. A rising tide does not lift all ships; if ship A goes up, ship B goes down. My purpose is not to argue that the curve is good or bad, but rather to describe the social processes that result from its existence and to suggest that these processes are corrosive to the development of healthy lawyers.

Law schools convey explicit messages that students are part of the same community and will be each other’s most important professional networks. Yet, curving students against one another sends the implicit message that success is a zero-sum game—the more successful these people in your community are, the less successful *you* will be. The tension between these messages causes consternation and confusion. As Trent told me in his fourth week at a Texas law school, “[O]ur professors are constantly like, reassuring us like, man, y’all, are doing so good, and y’all are on the right track. And all this stuff is like—you know—I don’t know how much of that is bullshit.”<sup>38</sup> He went on to explain that not *everyone* could be doing well, since some students would inevitably end up at the bottom of the curve. Erica, who attends a public law school in the Midwest, pointed out the conflict more explicitly:

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37. 304 U.S. 64 (1938).

38. Second interview with Trent (Oct. 2020) (on file with author).

I hate the curve, I wish they would get away [from it] . . . . I wish it was just, your work is your work . . . . [T]hey say that their biggest advice to you for right now is “get good grades.” But they’re giving that advice to *everyone*. Because of how they make the curve, some people are going to get good grades, some people are going to get terrible grades. And most of the people are going to fall in the middle . . . . And so it’s setting you up, I don’t know—this idea that “you need to get good grades to have all these opportunities” is setting people up to fail when there’s this curve . . . . They try to say that it’s very collaborative as an environment, and they try to promote a collaborative environment. *But . . .*.<sup>39</sup>

Students described developing a “public face” in which they encouraged their peers and a more “private face” in which they constantly evaluated themselves against their peers and wondered how their own performance measured up. Zahra described her realization that this was happening:

I noticed myself, like, almost *excited* when people get things wrong, which is not . . . actually a normal thing. I would never, I would never, want people to get things wrong. But it means, like, if you’re getting things wrong and I can get it right, it means I can be above the curve.<sup>40</sup>

While Zahra sees herself as a collaborative person who wants to support her classmates, she is also learning that being a “successful” law school student means doing better than they do. By encouraging a collaborative atmosphere but grading students against one another instead of comparing them to an objective standard (one in which, as Erica put it, “[y]our work is just your work”<sup>41</sup>), we force them into competition. Worse, this competition does not even mirror the legal profession, in which lawyers compete against people with a wide variety of backgrounds, experiences, and abilities, and who have attended many different law schools. Instead, they are in competition against other 1Ls who received similar undergraduate grades and LSAT scores to theirs, who have little or no legal experience, and whom they are told will someday comprise a significant part of their professional network.<sup>42</sup> As long as students are graded against one another, as opposed to against a set of criteria that allow more of them to succeed (or to fail), we reinforce what Susan Sturm has termed the “gladiator” model of legal

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39. Second interview with Erica (Sept. 2020) (on file with author).

40. Second interview with Zahra (Sept. 2020) (on file with author).

41. Second interview with Erica, *supra* note 39.

42. Indeed, one student explained that she chose to attend a lower-ranked law school over a higher-ranked law school specifically because she believed she would perform better than her peers. Second interview with Desiree (Sept. 2020) (on file with author). She was afraid of being in the “middle” at a more competitive school. *Id.* This impression, she said, was reinforced by the dean at the law school she ultimately chose to attend, who told her that her much-higher-than-average LSAT score for that school meant that she was “definitely going to be at the top of [her] class.” *Id.* Note that a number of studies have cast doubt on the LSAT’s validity as a predictor of law school performance. See, e.g., Alexia Brunet Marks & Scott A. Moss, *What Predicts Law Student Success?: A Longitudinal Study Correlating Law Student Applicant Data and Law School Outcomes*, 13 J. EMPIRICAL LEGAL STUD. 205 (2016).

education, which values competition over problem-solving.<sup>43</sup> And until we eradicate this zero-sum model of assessing law students' academic performance, law schools' attempts to build community, social solidarity, and interdependence are doomed to ring hollow.

As education researchers Caterina Calsamiglia and Annalisa Loviglio point out, usually "having relatively better peers is not harmful on average for human capital accumulation, and is beneficial for most individuals."<sup>44</sup> Curves, however, are the exception. Students' sense of academic self-efficacy—the sense that they have the ability to exert control over outcomes—is significantly diminished when grades are curved.<sup>45</sup> As the ILs explained, they come to realize that it does not matter how well they know the material in any absolute sense; it only matters how well they know it compared to their peers. This means that instead of concentrating on their own understanding, they found themselves concentrating on how "smart" other people seemed and evaluating themselves in relation. This decrease in self-efficacy occurs even among students who end up at the top of their class.<sup>46</sup>

Self-efficacy is important to students' ability to master new concepts.<sup>47</sup> It guards against the kinds of mental health problems that disproportionately plague law students and lawyers, including depression, anxiety, and substance addiction.<sup>48</sup> Self-efficacy also makes people into more effective lawyers. One study of lawyers' internal psychological resources (sometimes referred to as "psychological capital") found that "[t]he development of a strong sense of self-efficacy in new firm associates is vital for their long-term success and continued well-being in the practice of law."<sup>49</sup> Curved grading may even affect how professors relate to students. Education research

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43. Susan P. Sturm, *From Gladiators to Problem-Solvers: Connecting Conversations About Women, the Academy, and the Legal Profession*, 4 DUKE J. GENDER L. & POL'Y 119, 119–22 (1997).

44. Caterina Calsamiglia & Annalisa Loviglio, *Grading on a Curve: When Having Good Peers Is Not Good*, 73 ECON. EDUC. REV. 1, 2 (2019).

45. Leah M. Christensen, *Enhancing Law School Success: A Study of Goal Orientations, Academic Achievement and the Declining Self-Efficacy of Our Law Students*, 33 LAW & PSYCH. REV. 57, 79 (2009).

46. *Id.* at 71–73.

47. Research shows that self-efficacy can be increased by watching other people perform a task successfully; you see them succeed and realize that you might be able to succeed as well. See generally James E. Maddux & Lisa J. Meier, *Self-Efficacy and Depression*, in SELF-EFFICACY, ADAPTATION, AND ADJUSTMENT: THEORY, RESEARCH, AND APPLICATION (James E. Maddux ed., 2009). But as Zahra's quote makes clear, the curve makes the opposite true: seeing another person fail is actually what increases a sense of hope that oneself will perform well. See *supra* note 40 and accompanying text.

48. Maddux & Meier, *supra* note 47. See generally Seyed Aliasghar Razavi et al., *The Relationship Between Research Anxiety and Self-Efficacy*, 29 MATERIA SOCIO-MEDICA 247 (2017).

49. Martha Knudson, *Building Attorney Resources: Helping New Lawyers Succeed Through Psychological Capital* 17 (Aug. 1, 2015) (M.A. capstone project, University of Pennsylvania), [https://repository.upenn.edu/mapp\\_capstone/83/](https://repository.upenn.edu/mapp_capstone/83/) [<https://perma.cc/G7D6-R46E>].

suggests that teachers value lower-performing students less than higher-performing students when they grade students in relation to one another.<sup>50</sup>

*C. Subtle (and Not-So-Subtle) Manifestations of Race and Gender  
Inequality in the Classroom*

In my second interviews with law students, I asked, “Who talks in class?” The question was intentionally broad; I wanted to give students space to talk about their participation, frustration with “gunners,” or any other dynamics related to classroom discussion. I was also interested in whether they perceived patterns related to race, gender, or other characteristics. Particularly since many schools’ orientations now contain a discussion of who tends to “take up space,” and given the centrality of racial issues to cultural discourse in 2020, I expected that the patterns of participation students would report would vary considerably from one institution to the next. This was not so.

Of the thirty-three students who commented on the frequency of various demographic groups’ participation, thirty-two discussed gender. Of these, eight said there were no gendered patterns.<sup>51</sup> Six said women talked more than men (four of the six then explained that women made up around three-fourths of their law school classes, and they believed that women’s participation was proportional). The remaining eighteen students who mentioned gender said that classroom discussions were dominated by men. And while students were more likely to note gendered patterns than racial patterns in participation, all sixteen students who observed racial disparities said that white students’ participation was disproportionately high. Of these students, thirteen—including a handful of white men—specified that classroom discussion was dominated by *white* men. Interestingly, these descriptions were virtually identical whether or not a professor used panels, cold calls, or a volunteer system—casting doubt on the argument that cold calls remedy participation disparities.

Several of the men and women who noticed racial and gendered patterns attributed these to socialization. They said that women typically only volunteered if they were certain their questions were relevant or their answers were correct. My exchanges with Carla, who is Latina, and Keri, who is white, both illustrate this pattern:

PROFESSOR YOUNG: [You mentioned that men talk more.] So would you say there’s a gender dynamic in the law school classroom?

CARLA: Oh, one thousand percent.

PROFESSOR YOUNG: Like what? What do you mean?

CARLA: It’s just, women are very selective in terms of any volunteering . . . just gender dynamics of wanting to have the correct answer when you speak, I think, is probably at play. Like, I know for sure I am the type that

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50. Calsamiglia & Loviglio, *supra* note 44, at 2.

51. Four of these eight students were men who, with no prompting, went on to describe a particular person or people (all women) whom they found “annoying” or “irritating.”

I will speak up if I know what the follow-up question will also be. I want to be prepared such that once that question is asked, I'm ready for any follow-ups that exist. Which is hard, but like, I like to think that I have a firm grasp on it when I do raise my hand.<sup>52</sup>

KERI: You have the males speak more than the females . . . that's very, it's noticeable.

PROFESSOR YOUNG: Really? Why do you think that is?

KERI: [pause] I don't know, the expectation on women to "stay silent and let the men talk it out" kind of thing. And it's a combination of just men not—they don't think about it. . . . It's like, Katie, do you ever have those moments where you worry that you talk too much and that you need to just kind of be quiet and let other people talk?

PROFESSOR YOUNG: Sure, all the time.

KERI: I don't think guys have that.<sup>53</sup>

In addition to their desire to respond to professors' questions knowledgeably, women also expressed concern about being judged harshly by peers—a fear well-founded in research showing that in social and classroom situations, women are judged more harshly than men, including in law school.<sup>54</sup>

Jasper, a white man who also observed that white men tended to dominate class discussion, shared a similar reflection. He noticed that he had to hold himself back from talking too much:

From my own perspective, as a white guy in class . . . . I'm trying to balance, like, my own desire to speak and be involved . . . but also kind of recognizing that I probably have, you know, an apparent sense of like, confidence and a sense of, you know, being like I have the right to speak—feeling I have the right to speak up more than other people do. . . . I think it would be better if the students, if the guys, were more conscious, and maybe, I don't know, tried to observe, you know, who's been speaking, who has been taking up a lot of the space, and trying to tailor how they act based on that.<sup>55</sup>

Although Trent, also a white man, reported that everyone spoke "pretty much equally" in his courses, his description of his decision about whether or not to talk in class resonated with Keri's and Carla's conjectures. He explained that he was one of about fifteen people who talked the most in his eighty-person doctrinal classes. He said: "I'm going to try to get what's in my head out to see if I'm right or wrong. I don't care what these other—I have this moment here with this professor who can tell me whether my thinking is right or wrong. So I want to know it."<sup>56</sup> Trent is unconcerned with how much conversational space he occupies and is also unconcerned

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52. Second interview with Carla (Oct. 2020) (on file with author).

53. Second interview with Keri (Sept. 2020) (on file with author).

54. See KATHRYNE M. YOUNG, HOW TO BE SORT OF HAPPY IN LAW SCHOOL 79–84 (2018).

55. Second interview with Jasper (Oct. 2020) (on file with author).

56. Second interview with Trent, *supra* note 38.

about whether his answer will be correct or incorrect. Trent is not actively malicious; as he experiences the classroom, he is simply eager to test out his own reasoning. Yet his strong sense of entitlement, and his imperviousness to negative peer judgment, is evident in his explanation.

My interviews suggest that, in addition to being ineffective equalizers of gender dynamics in the classroom, cold calls affect women disproportionately in at least two ways. For one, insofar as they reported their experiences in the first half of their first 1L semester, only 15–20 percent of students described extreme trepidation about cold calls. However, of those students, all but one were women,<sup>57</sup> and all but one of these women were nonwhite. When I asked them to describe how cold calls influenced their learning, these women of color described that it led them to read cases differently for fear of performing poorly in class. By their accounts, cold calls typically included questions about relatively small case details. Being “ready for cold calls” forced them to try to memorize minutiae, as opposed to trying to put together the bigger conceptual picture. Jasmine explained that even though she found her T14 law school extremely challenging, she enjoyed most of the work; cold calls were the only part of law school that brought her stress. She told me, “And that’s the thing. I feel like sometimes we are so scared of being cold-called that we focus more on the details of the cases we’re reading instead of the actual, like, the actual core of what we’re being taught through the case.”<sup>58</sup> Other women expressed similar sentiments. Steph said, “[s]ometimes I’m so focused on trying . . . to prepare for the questions that he’s going to ask instead of trying to learn the material that will be important later on.”<sup>59</sup> And Gabby, a Latina woman attending a third-quartile law school, told me, “I would rather take an absence than go to [a cold-call class] unprepared.”<sup>60</sup>

Whether or not they “liked” cold calls, *no* men expressed similar sentiments. Xavier, an Asian man whose first-semester courses were all online, explained that although cold calls did not bother him, he often felt annoyed at how the men in his class acted when others were cold-called:

It’s kind of weird. Because it’s like—it’s a game show. You know, there’s the raise hand function [on Zoom], right? So there’s a professor, like, before she even finishes asking the question—if she says something remotely sounding like a question, people start raising their hand[s]. . . . Somebody, let’s say somebody gets cold-called, and they’re having a tough, tough time. Like some *guy* raises their hand during the cold call.<sup>61</sup>

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57. Nathaniel, a white man, explained why he thought cold calls were not effective: “And so you’re constantly fearful of like, being ready to, like, quickly scan an answer. And it kind of distracts from actually trying to process what’s going on.” Second interview with Nathaniel (Sept. 2020) (on file with author). Although Nathaniel was not the only man to express that he thought cold calls were not useful, he was the only man to use a phrase suggesting trepidation, like “constantly fearful.” *See id.*

58. Second interview with Jasmine (Oct. 2020) (on file with author).

59. Second interview with Steph (Oct. 2020) (on file with author).

60. Second interview with Gabby, *supra* note 32.

61. Second interview with Xavier (Sept. 2020) (on file with author).

Xavier's description illustrates one way that cold calling can perpetuate Sturm's "gladiator" model.<sup>62</sup> A wide variety of students from other schools—although no white men—complained about the same phenomenon, saying they found it extremely rude.

Women who did not experience fear before cold calls sometimes experienced negative aftereffects of cold calls. For example, Angelica did not find cold calls stressful before class, but they consumed her thoughts afterward. The "most negative part of law school" was, she said, "how much cold calls will stress me out a little bit after class. Just like messing up a question. And then thinking about what your answer should have been. But you blanked in that moment. Just like beating myself up."<sup>63</sup>

Although cold calls stood out as a particularly salient source of inequality, gendered and racialized classroom dynamics extended into other parts of the learning environment as well. Small group interactions, such as Zoom breakout rooms, were one setting where these dynamics took place. Many women (and no men) described difficulty being "heard" in groups. Violet, a white woman, said:

I've been getting a little frustrated lately, because we do have a lot of white men who kind of fall into that stereotype of mansplaining. And so I was in a breakout room on Zoom with like, it was me and four men, all white, and I had to kind of assert myself, and that was really annoying. . . . [I]t felt like they weren't taking anything I said into account and I've definitely had some of those situations where, you know, you say one thing and they're like, "Eh, whatever." And then later on, somebody brings up the point that you made earlier and pretends it's their point. So that has happened to me a few times. And I mean, I've come to expect that as a woman, which sucks to say that.<sup>64</sup>

Several other women described similar incidents. Erica said that when she suggested ideas during group work with men, she "would get shut down unless someone else backed [her] up."<sup>65</sup> She said she had begun "humble-bragging" about the background experiences and qualifications that allowed her to answer a question, because unless she asserted her status within a group, men did not seem to listen to her answers.

Frances, a Black woman attending a T14 school, had expected gendered and racial dynamics in the law school classroom, but nonetheless, she found herself "still sort of surprised by some of the 'boys-clubby' energy [she got] from one of [her] professors."<sup>66</sup> She described a time when a handful of students were attending a professor's virtual office hours, and one of the people in attendance was a white man:

He didn't even say anything. He was sitting at his kitchen table with, like, red Solo cups in the background, nothing notable about his appearance.

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62. See generally Sturm, *supra* note 43.

63. Second interview with Angelica (Sept. 2020) (on file with author).

64. Second interview with Violet (Oct. 2020) (on file with author).

65. Second interview with Erica, *supra* note 39.

66. Second interview with Frances (Sept. 2020) (on file with author).

Then the professor goes, “Oh, [Kyle], *you’re* here. You seem to not have a lot to say but you look so *wise* all the time.” We were like, “What about him looks wise? Because he’s [twenty-two] years old. It’s clearly not his like, wrinkles, so what about him is ‘wise’? Is it his whiteness or his maleness? Like, which one?”<sup>67</sup>

When I asked Greta, a mixed-race student, whether she found law school “stressful,” she did not talk about the workload or her midterms. Instead, she said that the “subtle” parts of law school caused her the most stress:

It’s like the six-foot-four white dude who just has a big personality and like, loves saying things in class. . . . [O]nce, in class, I said an idea . . . . And then this dude said something right after me. And then my professor credited him with the idea. And I was just like, this is so annoying . . . . That’s kind of what makes me second-guess myself when I do participate. Because someone says something better, or in a better way, but it was inherently my idea. And then they get credit. I think that’s just what’s stressful.<sup>68</sup>

As a result, Greta continued, she found herself less likely to participate:

GRETA: I won’t raise my hand until I for sure know the answer. [She then explained that by the time she decided to speak, someone else had usually already volunteered.]

PROFESSOR YOUNG: Who volunteers most in class?

GRETA: Definitely a lot of white dudes slash white people. Which is like, so bad to say. I don’t know if that’s my own bias . . . . Nothing’s really *bothered* me. I’ve just definitely noticed who is more comfortable taking up space in class.<sup>69</sup>

Like Greta, Lupe, a Latina woman, said white men talked more and were quicker to volunteer their opinions, regardless of the topic. After the charging decision in the police shooting of Breonna Taylor, her criminal law class had a conversation about the case. Lupe recounted:

Everyone who spoke in class that day was a white male . . . it was interesting to see, like white male law students—or, you know, that identifies [as] cis male, white male law students—just, like overpowering the conversation with their own personal opinions. And then they wouldn’t even like—they wouldn’t even say her *name*. They would just be like, “Oh, the lady that got shot.”<sup>70</sup>

Accounts like Greta’s, Lupe’s, Frances’s, and Violet’s were common, particularly among women of color. They illustrate the myriad ways spaces that may seem innocuous to white people, and/or to men, are rife with interactions that lend social meaning to their law school experiences. And these experiences shape them as professionals—creating patterns, norms, and interaction styles that persist into legal practice. In isolation, these accounts

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67. *Id.*

68. Second interview with Greta, *supra* note 29.

69. *Id.*

70. Second interview with Lupe (Sept. 2020) (on file with author).

might seem like small incidents or minor complaints. Taken together, they illustrate the power of the law school classroom to sow seeds of inequality in the legal profession and to reinforce patterns detrimental to lawyers' well-being.

These stories also illustrate the degree to which small interventions, such as orientation sessions<sup>71</sup> and brown bag lunch talks, are insufficient by themselves to transform law school into a space that is equally welcoming to men and women and to white people and people of color. The problems are deeper and rooted in structure; they require structural solutions. These empirical findings demonstrate some of the ways legal education operates unequally across different intersections of the law student population. For law schools to equip all future lawyers to enter the profession, they need to rethink structural components that rivet inequality into the structure of education.

#### IV. CLASSROOM FOUNDATIONS FOR A HEALTHIER LEGAL PROFESSION

It is striking that even in the first month or two of law school, we can see distinct corrosive social and cognitive patterns beginning to emerge. This Article demonstrates the value of detailing social processes at a granular level to understand what day-to-day experiences actually underlie the well-documented changes that 1Ls undergo. Doing so is key to improving law schools as institutions and to building the strongest, healthiest, and most effective legal profession we can. Lawyers' mental health has consequences not just for their own lives but for the lives of their clients as well.<sup>72</sup> Lawyers' tendency toward anxiety, depression, and substance abuse "begins in law school and eventually has an impact on society by affecting people who rely on lawyers to manage their everyday legal problems."<sup>73</sup> This Article represents a step forward in understanding the root causes of these tendencies.

For some people who work at law schools, the patterns I have detailed may seem self-evident—even obvious. Others will resist the characterizations and insist that the students I have quoted are "exceptions." The way *their* law school's curve works or the way *they* cold-call or conduct class

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71. Aarthi reflected back on her orientation after a month at her mid-tier private law school:

During our orientation, they were like, if you're white, or if you're non-Black, you need to be careful about how much space you're taking up in the classroom. And in these conversations—this was in our orientation. Be aware that like, people that look like you have dominated these classrooms for so long, you need to make space.

And wow, I think people missed that.

Second interview with Aarthi (Sept. 2020) (on file with author). She went on to explain that her classes, which comprised about three-quarters women, were dominated by white women. *Id.*

72. Kathryn M. Young, *What the Access to Justice Crisis Means for Legal Education*, 11 U.C. IRVINE L. REV. 811, 819 (2021).

73. *Improving Health, Improving Service*, ARCHITECTS OF JUST., at 01:32–01:40 (Sept. 18, 2018), <https://directory.libsyn.com/episode/index/show/architectsofjusticepodcast/id/6992000> [<https://perma.cc/2PZQ-SWQV>].

discussions, these readers may think, could not possibly produce such negative outcomes—after all, *their* students seem relatively content, and *they* already know that student wellness is important.

But the argument I am making is not about intention; it is about structure. The root cause of law student unwellness is not cranky old professors who refuse to “change with the times”; rather, it is fidelity to a system’s long-standing structures even when those structures do not serve all students.

As an illustration of what I mean by structural reform, consider one pattern of racial and gender inequity that emerged in the data: a tendency for women, particularly women of color, to experience more stress around cold calls than men, particularly white men. Assuming we view this disparity as a problem, we could take a structural approach or a remedial approach. A remedial approach assumes that cold calls are a nonmoving piece of legal education and seeks to create equality by trying to get the women to change or adapt to the current system. Indeed, two women I interviewed told me about sessions their law schools held to teach women law students to “adapt” to cold calls and be “more aggressive” in class. These women were advised to “worry less” after cold calls because “the men aren’t worrying about how *they* come off.” Such patterns are frequently replicated in well-meaning advice designed to help women law students. On the popular website, *The Girl’s Guide to Law School*, women seeking advice for dealing with “gender bias in law school” are advised to “Embrace (Or at Least Hate a Little Less) Cold Calling.”<sup>74</sup>

The problem with these remedial reforms is that they assume that the problem is not the system but rather the *women’s* problem with the system. Instead of asking why we are choosing to rely so heavily on a pedagogy that creates disparate effects, we ask what is wrong with the students it disadvantages.<sup>75</sup> The mistake lies in seeing the pedagogy, not the students, as the nonmoving piece in the equation. This puts the burden on the students—in this example, expecting women to overcome gendered socialization and somehow become impervious to the scrutiny they face as women. But the more transformative approach is a structural one:

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74. Kathryn Blair, *Gender Bias in Law Schools (and What You Might Be Able to Do About it)*, *THE GIRL’S GUIDE TO L. SCH.* (Sep. 3, 2019), <https://thegirlsguidetolawschool.com/09/gender-bias-in-law-schools-and-what-you-might-be-able-to-do-about-it/> [https://perma.cc/PK3N-AC6F].

75. I have encountered another example of this phenomenon on my visits to law schools. I am an out lesbian who looks gender nonconforming, and likely for this reason, I am sometimes invited to meet with Lambda/OutLaw student groups. At multiple schools, LGBTQIA+ students have told me that the career services staff advises them to dress in gender-conforming ways—for example, telling butch lesbians who feel comfortable in a men’s suit to dress in a women’s suit or telling a gender nonbinary person to dress in a way that conforms to their assigned sex at birth. On a superficial level, this advice “makes sense,” because employers sometimes discriminate against people who appear queer. But it also gives students the very clear message that the legal profession does not welcome who they are. Additionally, it puts the responsibility for change on the shoulders of the people who are disadvantaged by the system. Questions like this are not easy to answer, but we have to understand how destructive it is simply to tell students to “try to look normal so employers will hire you” and leave it at that.

entertaining the possibility that if a pedagogical tool consistently produces negative results for certain people, perhaps the problem is with the tool, not the people.

Note, too, that the forms many law school wellness initiatives take are decidedly remedial. They tend not to be integrated into the structure of law school; rather, they are typically relegated to orientation, lunch talks, and electives or clubs. To be clear, I am not criticizing these initiatives' existence: having them is exponentially better than *not* having them. But in isolation, they lack the structural power and institutional legitimacy needed to transform law schools into places where students do not suffer from alarmingly high rates of anxiety, depression, self-harm, alcoholism, and the other health problems that plague so many practicing lawyers.

The social processes documented in this Article—sending students dissonant messages about success and competition, tolerating classrooms that create conditions for gender and racial inequity, and inattentiveness to professional role integration—ultimately weaken the profession by undermining law students' well-being. Reversing the negative social processes prevalent in law school requires real, sustained, structural change that combats the dynamics identified in this Article, either by removing the conditions for their creation or by interrupting them when they occur. The social and cognitive patterns outlined in this Article are fundamentally structural in origin, and they demand structural solutions. Legal education does not exist in some primordial ideal form. Instead of thinking about law school as having “defaults” (e.g., cold calls, the curve) from which we should not stray without an extraordinarily good reason, we need to see legal education as a collection of structural choices we make every day. *We* create the social and institutional structure of law school through the administrative and pedagogical choices we make. And it is up to us to create structures that make our students into strong, healthy lawyers.