

Two Steps Removed: The Paradox of Diversity Discourse for Women of Color in Law Teaching

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I. INTRODUCTION

The term "affirmative action" provokes passionate reactions in people across the political spectrum. In 1995, affirmative action was a major political issue in the United States and continues to be in 1996.² Despite the heated debate over affirmative action,³ many American law schools have

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¹ The title is inspired by the comments of Lynn Hecht Schafran who wrote that "the small percentage of tenured and tenure track women at law school . . . [and] the disrespect toward female faculty from male faculty, students of both sexes and administrators . . . are particularly pronounced for women of color, who are *two steps removed* from our cultural expectation that a law professor will be a white male in the image of Professor Kingsfield." Lynn Hecht Schafran, *When Bias is the Norm*, NAT'L L. J. (May 28, 1990) at 13 (emphasis added).

² In 1995, the term "affirmative action" appeared in 594 articles in the New York Times and in 605 articles in the Washington Post. These numbers are higher than those in the previous three years combined: in 1994, the term appeared in 163 articles in the Times and 156 in the Post; in 1993 it appeared in 190 articles in the Times and 141 in the Post; and in 1992, it appeared in 169 articles in the Times and 175 in the Post.

³ I will use the terms "affirmative action" and "diversity" to describe the process of increasing the numbers of people from groups which have been historically underrepresented in legal academia. The terms "affirmative action" and "diversity" do differ slightly in meaning. Arguably, diversification suggests broader bases upon which to evaluate candidates (that is, philosophical vs. practical viewpoints, conservative vs. liberal approaches, etc.). This may, in part, explain why "diversity" has escaped the stigma associated with "affirmative action." See Stephanie Wildman,

supported efforts to diversify law school faculties by hiring more people of color, white women, and disabled people.⁴ The result has been an increase in the number of people who historically have been underrepresented on law school faculties.⁵ Nonetheless, to the extent that proponents of affirmative action aim at something more than a mere increase in numbers, that is, a fundamental restructuring of legal academia,⁶ affirmative action efforts have been disappointing. In a recent survey comparing the hiring of minority men and women in American law schools, it was found that "the minority women who joined law school faculties during [the period from fall 1986 to spring 1991] began teaching at significantly lower ranks than the minority men, obtained positions at significantly less prestigious schools, and were significantly more likely to teach low-status courses like legal writing or trusts and estates."⁷ The authors concluded that, "law schools seem to treat minority women less favorably than minority men in the hiring process."⁸ In addition, men of color and women leave law teaching at

Integration in the 1980s: The Dream of Diversity and the Cycle of Exclusion, 64 TUL. L. REV. 1625, 1629 n.16 (1990) ("Affirmative action means different things to different people. To some it has meant hiring a less qualified person from a minority group rather than a qualified white male.").

⁴ I am aware that the terms "people of color" and "women" are mutually exclusive; with these terms "women of color" are excluded from consideration. Therefore, I sometimes use other constructions, such as "men of color and women," in order to be more inclusive. My choice of the terms "white women and people of color" does not reflect a desire to align myself or other women of color with "men of color," exclusively, though there is a risk that my words will be interpreted as such. See, e.g., Catharine A. MacKinnon, *From Practice to Theory, or What is a White Woman Anyway?*, 4 YALE J.L. & FEMINISM 13 (1991). MacKinnon argues that:

many women, not only women of color and not only academics, do not want to be 'just women,' not only because something important is left out, but also because that means being in a category with 'her,' the useless white woman . . . I sense here that people feel more dignity in being part of any group that includes men than in being part of a group that includes that ultimate reduction of the notion of oppression, that instigator of lynch mobs, that ludicrous whiner, that equality coat-tails rider, the white woman. It seems that if your oppression is also done to a man, you are more likely to be recognized as oppressed, as opposed to inferior.

Id. at 21-22.

I am not attempting to distance myself, or other women of color, from our experiences as women or as persons of color, but to speak of the experiences of women of color as they differ from those of white women and men of color. That I feel compelled to explain my choice of terminology in this footnote points to the power of Kim Crenshaw's admonishment against sustaining the marginality of women of color who are at the "intersection" of social and legal constructions of race and gender. Kimberlé W. Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Anti-Discrimination Doctrine, Feminist Theory and Antiracist Politics*, 1989.

⁵ The number of full-time minority faculty at ABA approved law schools increased from 3.8% in 1981 to 12.1% in 1995. The number of women in full time faculty positions increased from 6.9% in 1973 to 28.4% in 1995. Phyliss Wimberly, *Guardians of the Temple: Law School Faculties and the Struggle to Diversity* 27 (1995) (unpublished LL.M. dissertation, Columbia University School of Law).

⁶ A restructuring of the legal academy might involve curriculum changes, the inclusion of diverse perspectives on the law and non-traditional teaching and scholarship, changes in grading policy, the elimination of the practice of ranking students, the development of new admissions standards, and more.

⁷ See Deborah J. Merritt & Barbara F. Reskin, *The Double Minority: Empirical Evidence of a Double Standard in Law School Hiring of Minority Women*, 65 S. CAL. L. REV. 2299, 2301 (1992).

⁸ *Id.*

higher rates than do our white male colleagues.⁹ Assuming that people of color can contribute to the legal academy heretofore "missing" perspectives, and that these perspectives enhance law students' educational experience, then it is important not only to hire, but also to retain more people of color on law faculties. It is essential to examine the effect of the law school atmosphere upon the professional experiences of women and people of color to determine whether it contributes to the current low retention rates.

Given the predominance of opposition to affirmative action in the national debate, I believe that legal educators must consider how the debate itself effects the teaching experiences of those who are or are presumed to be the beneficiaries of affirmative action. Women of color who enter the legal academy enter a profession that is dominated by white men. Advocates of diversity appeal to law schools to adopt new techniques of teaching and scholarship that include perspectives, for example the different perspectives of women of color, that have historically been missing from legal education. Herma Hill Kay, speaking of law schools, suggests that, "those who have been the insiders must be sensitive to their unspoken assumptions about the newcomers. A commitment to diversity cannot succeed without the willingness to hear, understand, and accept their different voices."¹⁰ Not only must the statistics change, the academic environment must also be transformed to accommodate and validate the different perspectives which diversity entails.

I will focus on the experiences of women of color in legal academia.¹¹ Our membership in multiple communities means that we have unique experiences which white men and women and men of color do not have. Diversity discourse assumes that different backgrounds and perspectives will enrich the academic environment. Indeed, feminists and critical race theorists have been arguing for some time that the life experiences of women and people of color contribute valuable scholarly perspectives.¹²

⁹ Richard Chused, *The Hiring and Retention of Minorities and Women on American Law School Faculties*, 137 U. PA. L. REV. 537, 539 (1988). Derrick Bell and Richard Delgado address some possible contributing factors. See, Richard Delgado & Derrick Bell, *Minority Law Professors' Lives: The Bell-Delgado Survey*, 24 HARV. C.R.-C.L. L. REV. 349 (1989). Factors that may contribute to this higher attrition rate, according to the Bell-Delgado study, include the competing demands on the time of professors of color due to increased committee and student counseling responsibilities, the inability of white faculty to recognize the impact of these increased demands, difficulties discussing work with white colleagues, resistance from the faculty with respect to promotions and tenure decisions, and the expectation that professors of color be experts on minority affairs even though they are often discouraged from writing in areas such as civil rights.

¹⁰ Herma Hill Kay, *President's Message—Beyond Diversity: Accepting Differences*, AALS NEWSL. (Ass'n Am. L. Schools, Wash. D.C.), Apr. 1990, at 3.

¹¹ I have chosen to base the analysis specifically on *women of color* in nondiverse law faculties partly because women of color face more barriers in legal education than members of other groups, see Merritt & Reskin, *supra* note 7, and partly because I have a deep personal interest in the topic. Every academic institution of which I have been a part has exhibited a hierarchy based on race in which women of color have been numerically underrepresented.

¹² See, e.g., Taunya Banks, *Gender Bias in the Classroom*, 38 J. LEGAL EDUC. 137 (1988); Kimberlé W. Crenshaw, *Forward: Toward a Race Conscious Pedagogy in Legal Education*, 11 NAT'L BLACK L.J. 1 (1989); Jerome Culp, *Autobiography and Legal Scholarship and Teaching: Finding*

However, our access to institutional success and legitimacy is blocked. Not only do women of color face particular barriers to professional advancement in the hiring process,¹³ but we also face institutional barriers once we are hired. As a consequence, we must explore the individual and institutional barriers that may prevent women of color from reaching our full potential as teachers and scholars. The unwillingness to recognize the existence of these barriers leaves them intact and sets us up for failure.

The problem is illustrated by the language used in affirmative action debates. Some of the language undermines minority women's effectiveness as teachers, especially in non-diverse institutions.¹⁴ Opponents of affirmative action argue that affirmative action amounts to reverse discrimination, a situation in which white men are discriminated against in hiring and promotions in favor of less qualified minorities and women.¹⁵ On the other hand, proponents of affirmative action rely on two types of arguments.

The first type consists of arguments that affirmative action is necessary for "fairness" or "social justice."¹⁶ The social justice argument:

holds that faculty positions in law schools are positions of power and political significance, and that democratic theory mandates that the allocation of positions be related fairly to the racial and gender composition of society The theory is that members of a group whose political interests are at stake should have their participation in society's conversation concerning those interests guaranteed.¹⁷

Arguments of this type have moral and political force. For my purposes here, however, I will focus on a second set of arguments, those holding that

the Me in the Legal Academy, 77 VA. L. REV. 539 (1991); Alice Dueker, *Diversity and Learning: Imagining a Pedagogy of Difference*, 19 L. REV. SOC. CHANGE 101 (1991-92); Lani Guinier, et al., *Becoming Gentlemen: Women's Experiences at One Ivy League Law School*, 143 U. PA. L. REV. 1 (1994); Suzanne Homer & Lois Schwartz, *Admitted but not Accepted: Outsiders Take an Inside Look at Law School*, 5 BERKELEY WOMEN'S L.J. 1, 39-40 (1989-90); Mari Matsuda, *When the First Quail Calls: Multiple Consciousness as Jurisprudential Method*, 11 WOMEN'S RTS. L. REP. 7 (1989).

¹³ See Merritt & Reskin, *supra* note 7.

¹⁴ By "non-diverse" I mean the law schools that have small numbers of women and men of color on faculty and in the student body.

¹⁵ This belief has prompted opponents of affirmative action in California, led by Governor Pete Wilson and the state Republican Party, to attempt to put the state's affirmative action programs on the ballot for a "yes" or "no" vote in November 1996. R. Drummond Ayres, Jr., *Foes of Affirmative Action Are Gaining in Ballot Effort*, N.Y. TIMES, Feb. 6, 1996, at A14. According to those pressing the ballot initiative, "'Women trick themselves' if they support affirmative action. If a woman says affirmative action entitles her to a job, she in effect takes a job away from her husband . . . it's nothing less than reverse discrimination." *Id.*

¹⁶ See Paul Brest & Miranda Oshige, *Affirmative Action for Whom?*, 47 STAN. L. REV. 855, 856 (1995) ("[T]he visible presence and success of minority professionals can help secure compensatory or distributive justice for other members of their racial and ethnic groups."). See also Duncan Kennedy, *A Cultural Pluralist Case for Affirmative Action in Legal Academia*, 1990 DUKE L.J. 705 (arguing that there are political reasons for increasing the numbers of minorities in the legal academy). Kennedy argues that "[m]inority communities can't compete effectively for wealth and power without intelligentsias that produce the kinds of knowledge, especially political or ideological knowledge, that will help them get what they want. To do this, they need or at least could use some number of legal academic jobs." *Id.* at 713-714.

¹⁷ Peter Halewood, *White Men Can't Jump: Critical Epistemologies, Embodiment, and the Praxis of Legal Scholarship*, 7 YALE J.L. & FEMINISM 1, 15 (1995).

diversity enhances the educational mission.¹⁸ I believe that it is this kind of argument that has had more of a direct impact on the experiences of women of color professors in law schools. According to the educational mission argument, increasing faculty diversity provides positive role models, increases sensitivity to racial bias, and offers diverse perspectives and a more inclusive curriculum. These certainly are worthy goals. However, what is troubling is the tendency of diversity advocates to concentrate on institutional or professional interests from the perspective of the majority, such as providing a resource for majority faculty to learn about race and gender issues. These interests often conflict with the professional interests of women and people of color who enter the academy as the actual or perceived beneficiaries of affirmative action.¹⁹ The institutional interest in having a resource for the majority faculty conflicts with a woman of color law professor's interest in being seen as a competent professional in her areas of expertise, not only in the areas of race and gender. Such conflicts may contribute to the relatively high rate at which people of color and women leave legal academia. If retention is part of the goal of diversity, as I believe it is, then it is important to address this conflict.

It is not my intention here to justify affirmative action, but instead to examine how some common arguments for affirmative action lead to unreasonable expectations of women of color that make teaching particularly demanding. My focus, then, will be on the practical realities of law teaching for women of color in circumstances in which affirmative action has *not* produced the optimal and desired numerical effects.²⁰ I will relate experiences I have had in law teaching, and those of other women of color, that I believe point to the difficulties that women of color face in the legal academy. I am not completely comfortable generalizing from my experience to the experience of other black women or women of color. Black women and other women of color are an extremely diverse group. I recognize that, in generalizing, I may misrepresent the experiences of others and obscure individual differences.²¹ However, I agree with Patricia Williams, who writes: "I do believe that the simple matter of the color of one's skin so profoundly affects the way one is treated, so radically shapes what one is allowed to

¹⁸ Brest & Oshige, *supra* note 16 at 856. "The educational rationale focuses on the benefits that the faculty member's or student's presence will bring to the school as a whole." *Id.*

¹⁹ "[T]he goal of an affirmative [action] program is not to benefit the particular candidate admitted under the program. Rather, that candidate's presence within the school or, subsequently, within the broader professional community is intended to benefit others." Brest & Oshige, *supra* note 15 at 856-57.

²⁰ For the most part, my analysis will explore situations where there are few people of color on faculty and where there are relatively few students of color.

²¹ I do not wish to dismiss the seriousness of this dilemma. There are no doubt as many different types of teaching experiences as there are women of color in the academy. The goal would be to acknowledge individual differences while recognizing similarities. I would like to acknowledge the contribution of Angela Harris and other black women who have offered "to post-essentialist feminist theory . . . the recognition that differences are always relational rather than inherent." Angela Harris, *Race and Essentialism in Feminist Legal Theory*, 42 STAN. L. REV. 581, 608 (1990).

think and feel about this society, that to generalize from such a division [between 'black' and 'white'] is valid."²² I will analyze a typical statement in support of diversifying law school faculties, a statement taken from a lengthier discussion recommending methods by which to increase diversity within Michigan law schools. The Michigan statement is concerned with law schools' educational missions rather than with social justice. I will then argue that the themes in this statement place unreasonable expectations upon women of color, and construct unrealistic goals in a teaching environment that is in many respects inhospitable to diversity.²³ I argue that in addition to increasing the number of women of color in legal education, institutions and individuals must strive to provide rewarding teaching experiences to raise the retention rates of women of color law professors. Diversity can enhance the law school environment, but not without the sustained effort needed to eliminate institutional obstacles to the full participation of women of color.

II. ON BEING A BLACKWOMAN LAW PROFESSOR

Since moving from Canada a few years ago, I have taught at two American law schools.²⁴ At both schools, people of color have been under-represented on the faculties; I have been one of few women of color on faculty. For the most part, my teaching experience has been very rewarding. My colleagues and most of my students are bright and enthusiastic. However, it was not long before I was made aware that my presence at the front of the classroom was affecting the classroom dynamic in some of my courses. For example, in one course I taught from a casebook that highlighted the interaction of race and gender in several topics in employment law. The majority of classroom discussions were productive and lively. Periodically, though, some students (the same three or four men) reacted in a hostile manner when certain issues were raised (for example, pay equity, sexual harassment, affirmative action). As a new law teacher, I thought it important to try to identify the source of this hostility. Were these students reacting to the issues as they were represented in the materials or were they reacting to what they perceived to be my political agenda

²² PATRICIA WILLIAMS, *THE ALCHEMY OF RACE AND RIGHTS* 256 (1991). I am also encouraged by the large body of literature that endorses the use of one's personal perspective as the foundation upon which to build general insights into how the law and the legal academy treat women and men of color. See, e.g., Kimberlé W. Crenshaw, *Demarginalizing the Intersection*, *supra* note 4; Angela Harris, *supra* note 20; BELL HOOKS, *AIN'T I A WOMAN* (1981); Emma Coleman Jordan, *Images of Black Women in the Legal Academy: An Introduction*, 6 *BERKELEY WOMEN'S L.J.* 1 (1990-91); Mari Matsuda, *Looking to the Bottom: Critical Legal Studies and Reparations*, 22 *HARV. C.R.-C.L. L. REV.* 323 (1987).

²³ I recognize that in critiquing the legal academy I risk being among those who are "subject to the charge that we are simultaneously biting the hand that feeds us and soiling the nest." Kennedy, *supra* note 16, at 708.

²⁴ I have taught four different courses: Political and Civil Rights, Public Sector Labor Law, Employment Law, and Legal Research and Writing.

as a young black woman? What assumptions were these students making about me and the message I was trying to get across? Was I perceived as someone with a personal interest in the subject matter and therefore biased? How did these assumptions and perceptions alter classroom dynamics?

These questions would be impossible to answer without a thorough debriefing of each student. However, I suspect that my being a young black woman had much to do with the classroom atmosphere.²⁵ Even if I were told that the same students behaved similarly in classes taught by white men, I might still suspect that their treatment of me was motivated by considerations which included my race and gender. As Adrien Wing has stated, "Though the outward manifestation of behavior may be identical, the inward motivation can vary enormously."²⁶

Overall, my first years of teaching have been quite successful. I have enjoyed my classes and my students; I have gotten along well with my colleagues; I have participated actively in law school events. My student evaluations indicate that most students have enjoyed my classes. Although I have not been aware of numerous overtly racist/sexist reactions to my presence, there have been some overt, and some more as subtle, reminders of the discomfort my presence has generated.²⁷ I will discuss some of those incidents to illustrate the ways in which the academy's diversity goals differ from the teaching and scholarship goals of women of color law professors.

III. INSTITUTIONAL GOALS OF DIVERSITY

My discussion will focus on a statement by the Michigan Bar on the importance of diversity in law schools.²⁸ The statement is part of recom-

²⁵ Sometimes my impressions will be wrong and sometimes they will be right. However, my suspicions are largely informed by my understanding of race and gender relations in North America, and by my experience as the target of subtle and not-so-subtle racism and sexism. Through experience, I believe that I have learned to identify those situations in which my identity as a black woman has been a factor in other people's treatment of me. For a discussion of how minorities may be better qualified to recognize racism than whites, see Richard Delgado, *Recasting the American Race Problem*, 79 CAL. L. REV. 1389 (1991) (review essay); Charles Lawrence, *The Id, the Ego and Equal Protection: Reckoning with Unconscious Racism*, 39 STAN. L. REV. 317 (1987); Matsuda, *supra* note 12.

²⁶ Adrien K. Wing, *Brief Reflections Toward a Multiplicative Theory and Praxis of Being*, 6 BERKELEY WOMEN'S L.J. 181, 184 (1990-91).

²⁷ For example, one male student (whom I had never seen before), after hearing that I was the faculty advisor to the women's law caucus, stormed into my office demanding that I explain a memo in which members of the women's caucus urged the school to increase faculty diversity. The student was outraged by the memo's use of the term "white, male Mayflower descendants." Not only had I not participated in writing the memo, but I had been unaware of its existence until this student brought it to my attention. Something led him to believe that I was responsible for the memo. I am still not sure what provoked this outburst, but undoubtedly it had something to do with my race, gender, and academic interests.

²⁸ *Report to State Bar of Michigan, Recommendation of the Special Committee on Expansion of Under-Represented Groups in the Law, Special Commissioner Committee On Task Forces Recommendations, and the Standing Committee on Legal Education*, [hereinafter, the Michigan statement], cited in Saul Green, *Access to the Academy: The Absence of Minority Faculty at Michigan's Law Schools*, 73 MICH. B.J. 306, 306 (1994).

mendations adopted by the state of Michigan to increase the number of full-time minority faculty members in Michigan law schools.²⁹ I have chosen this statement because it synthesizes some common educational arguments for increasing the numbers of minorities on law school faculties. Its intended application to law schools in Michigan does not detract from its general applicability.

The statement reads in part:

[Minority law professors'] very presence at the front of the classroom demonstrates that competence and ability ha[ve] no racial barriers, a concept which is the cornerstone of our system of equal justice. Minority faculty members also serve as role-models for their minority student counterparts. They are a mentoring resource who bring to the counseling process the unique perspective of those who themselves have experienced the difficulties which minority students may encounter in studying law. The presence of minority faculty members also broadens and improves the quality of legal education for all students, including majority whites, for they bring to the curriculum their personal experience in American society and within the administration of justice. The presence of minority faculty also provides a resource to their majority colleagues which increases their sensitivity to issues of racial and ethnic bias, thereby enriching their teaching experience.³⁰

The statement is organized around four key assertions. I will evaluate how well these assertions correspond to the experiences of women of color using my own teaching experiences and those of others as background for the discussion. For the most part, the statement's depiction of the transformative potential of diversifying the faculty is promising. I will argue, however, that upon close examination, the statement promotes institutional interests at odds with the professional interests of female professors of color. The statement, as I will demonstrate, is more an idealistic description of an academy where there are no barriers facing women of color than a realistic plan for increasing diversity with the interests of people of color, particularly women of color, in mind. I will argue that in order to realize the worthy goals articulated in the Michigan statement, the interests of women of color should not be subordinated to those of the legal academy.

²⁹ During the 1990-91 academic year, of the approximately 176 full-time faculty members in Michigan's five law schools, only twelve were "non-Caucasian." All twelve were African Americans. None were Hispanic, Asian, or Native American. By September 1992 that number had dropped to eleven. In 1993 there was a slight increase in full-time minority faculty to thirteen. *Id.*

³⁰ Michigan statement, *supra* note 28.

IV. EVALUATING THE GOALS OF DIVERSITY

- A. “[Minority law professors’] very presence at the front of the classroom demonstrates that competence and ability ha[ve] no racial barriers, a concept which is the cornerstone of our system of equal justice.”³¹

Obviously, it is important for minority and nonminority students to understand that women of color are competent and able to excel in legal academia. And many white students have never before encountered a professor of color. However, our mere presence in front of the classroom does not convince those who would question our competence and ability. This part of the Michigan statement presumes that students and colleagues believe that women of color deserve to be law professors because we are competent and able. Yet the reality is that many students and colleagues believe that we have been given preferential treatment in hiring because of our race and/or gender. For them, our presence in legal academia represents nothing more than the excesses of affirmative action. The inference that we attained our positions through affirmative action reinforces suspicions that we are less intelligent than our white counterparts. Some people have even pointed to the suspicion of others to argue against affirmative action. To them, it is affirmative action that creates the belief that minorities and/or women are unfit for the positions they fill. Therefore, it is argued, affirmative action must be abolished. However, it is not realistic to “blame” affirmative action for these negative stereotypes. In fact, black women must overcome a general presumption that we are less intelligent and more lazy than whites. In a 1990 National Opinion Research Center survey of 1,372 people in three hundred communities, 53% of those who responded believed that blacks were less intelligent than whites, and 62% believed that blacks were more likely than whites to be lazy.³² These statistics suggest that in a class of twenty-one students, eleven may suspect that I am less intelligent than my white colleagues; thirteen might think that I am lazier than my white colleagues; indeed twenty-six of fifty colleagues could believe that I am intellectually inferior to them.

The results of this survey are reinforced by a recent American Bar Association task force report which found that minority women attorneys must “repeatedly establish their competence to professors, peers and judges;” that women of color find the law school to be “hostile, alienating and abusive . . . regardless of whether or not the law school publicly claims support for diversity and equality;” and that it is in law school that women

³¹ *Id.*

³² Lynne Duke, *Whites' Racial Stereotypes Persist, Most Retain Negative Beliefs About Minorities, Survey Finds*, WASH. POST, Jan. 9, 1991, at A1.

of color "first encounter the profession's 'presumption of incompetence,' which is based only on their race and gender."³³

The stereotypes reflected in the survey are also found in the arguments against affirmative action used by some of my colleagues in legal education. For example, at the 1994 annual Association of American Law School (AALS) meeting, in the plenary session titled "The Legal Educator: Who We Are, What We Do and Why We Do It," University of Chicago Law Professor Richard Epstein suggested that law schools were lowering their standards to admit more minority students and faculty. He stated that "there's a difference between people who are here on dubious standards and those who earn their way in," and he "worried that tenure and promotion decisions are being made solely on race and gender."³⁴ These sentiments were mirrored by Professor Michael Mulroney in a discussion on tokenism at the same 1994 AALS meeting. He said "that as an older faculty member (age 62) and as a tax professor, he can call himself a minority too. 'I can retreat to that,' he said. 'I can use that as an excuse for mediocrity.'"³⁵ The presumption is that women and minorities may be mediocre scholars because they have been hired on the basis of race or gender rather than on the basis of their intellectual achievements.

Thus, on entering the classroom, black women must combat powerful stereotypes about our intellectual capacity and competence. We know that some, perhaps many, students and colleagues will doubt the legitimacy of our presence at the front of the classroom.³⁶ Moreover, the Michigan statement suggests that we will have no problems of authority, that white and black students alike will respect our decisions, accept the grades we give them, and assume that we know our field. However, as the following example illustrates, academic life for women of color is often not that simple.

After receiving his grade (B+) in one of my classes, a white male student came to my office demanding that I explain my reasons for giving him this grade. I agreed to review his exam with him. I met with him for more than one hour reviewing his exam, explaining my reasons for his grade. It was quite evident at the end of our discussion that this student was dissatisfied with the criteria upon which I based my grades. Before receiving his

³³ Edward Adams, *ABA Finds Minority Women in Law Face Twice the Hurdles*, N.Y. L.J., Aug. 8, 1994, at 1.

³⁴ Ken Myers, *AALS Panel Wrestles With Issues of Diversity*, *Legal Education*, NAT'L L.J., Jan. 31, 1994, at 4.

³⁵ Ken Myers, *AALS Attendees Discuss Issues Such as Power and Tokenism*, NAT'L L.J., Jan. 17, 1994, at 4. Mulroney's comments were part of a workshop titled "Beyond Tokenism: Wrestling With Power, Creating Opportunity." *Id.*

³⁶ For example, an incident at the Rutgers Law School where students disseminated racist/sexist flyers referring to certain female professors of color was justified by one student as being a legitimate protest against "the multicultural atmosphere that pervades the institution at the expense of quality education." See Daniel Wise, *Symposium Parody Stirs Protest at Rutgers Law School: Dean Claims First Amendment Bars Disciplinary Action Against Students*, N.Y. L.J., Apr. 30, 1993, at 1. This incident is discussed further in the text accompanying notes 48-52.

grade, he and I had been friendly. We had sometimes eaten lunch together, and often chatted in my office. After he received his grade, his behavior changed dramatically. During another class the following semester, he avoided eye contact with me, sat directly in front of me, sneering, during class discussion, and tried to contradict me as often as possible.

I believe that the way this student treated me, both before and after he received his grade, reflected the ambiguity he felt about my place within the law school hierarchy. On the one hand, I was approachable because of my youth, demeanor, and gender.³⁷ On the other hand, I believe he was not prepared to see me, a young black woman, as someone who had the authority or capacity to evaluate his work. When I gave him a grade that was below his expectations, I had directly challenged his self image and his "place" vis-à-vis me. He apparently asked himself, who was I to evaluate him?³⁸

In a separate incident, during the last few weeks of the semester, one of my labor law students, a white man in his forties, came to my office with what he believed to be some helpful advice about how I should conduct my classes. He then told me that he would consider taking another class from me in civil rights law, not labor law, because, in his words, "civil rights is where you live." His impression that I was more expert in civil rights law was not supported by any discussion we had had outside class, nor by anything that I had ever discussed with him. On the contrary, the stories about practicing law that I periodically related to my students throughout the semester suggested that I had much more experience in labor law than in civil rights law. This student was therefore willing to concede competence and ability, but only in a restricted area, one which concerned matters of race and gender. By offering teaching advice, I believe this student intended to be helpful, not disrespectful. I also believe that his statement about my interest in civil rights law was meant as a compliment. Nonetheless, even if no harm was intended, his statements implied a skepticism about my teaching ability in certain areas.

What is conspicuously missing from the Michigan statement is consideration of the actual experiences of women of color. The statement implies that "equal justice" is accomplished by hiring more minorities because "their very presence at the front of the classroom" will demonstrate their competence.³⁹ The statement does not recognize as part of "equal justice" the amelioration of an atmosphere in which stereotypes and misconceptions prevent women of color from enjoying "equal" membership in the acad-

³⁷ For a discussion of the ways in which being too approachable might hinder women of color's professional advancement, see, e.g., Anita Allen, *On Being a Role Model*, 6 BERKELEY WOMEN'S L.J. 1 (1990-91).

³⁸ This is reminiscent of a story told by Anita Allen: after introducing herself to her class as a doctoral student and teaching fellow in philosophy, one white man in the class asked, "What gives you the right to teach this class?" Allen, *supra* note 37, at 42.

³⁹ Michigan statement, *supra* note 28.

emy. It is written from a majority perspective, that of a mainstream legal institution. It misrepresents the actual dynamics of the law school classroom by presenting too rosy a picture of what our presence in the law school signifies to the legal academy. People of color and women in law schools are forced to learn to deal with being considered unqualified for the job. Ultimately, the Michigan statement is more accurate as a statement of an ideal to strive for than as a statement of fact.

B. "Minority faculty members also serve as role-models for their minority student counterparts. They are a mentoring resource who bring to the counseling process the unique perspective of those who themselves have experienced the difficulties which minority students may encounter in studying law."⁴⁰

The role model argument is perhaps the most common as well as the most problematic argument in support of increased minority hiring. It has been discussed quite extensively in critical race literature and elsewhere.⁴¹ The role model argument assumes that minority professors will be exemplars to minority students. We are expected to be counselors, symbols, and caregivers. It is indeed gratifying when one can provide guidance and counseling to students of color. However, the *expectation* that one should is troubling.

Being a role model imposes professional limitations and can be psychologically burdensome. Because role models are under intense scrutiny, our human weaknesses must be hidden in order to display the desired image. Moreover, several questions must be asked. Will we be compensated for our "counseling" responsibilities? Will our counseling duties be given weight during tenure decisions? What if we reject the role of mentor? Will we be penalized in some way? Where are the boundaries of our mentoring duties? Other problems abound.

Richard Delgado explains, for example, that the role model argument requires one to participate in a lie—the lie that if minorities study hard and stay out of trouble, they can become professors just like us.⁴² Anita Allen argues that the expectation that black women will be role models for black female students "signals to faculty members who are not black females that they may abandon efforts to serve as positive role models for black women . . . it lets most faculty off the hook when it comes to educating black

⁴⁰ *Id.*

⁴¹ See, e.g., Symposium, *Black Women Law Professors: Building a Community at the Intersection of Race and Gender*, 6 BERKELEY WOMEN'S L.J. 1 (1990-91); Brest & Oshige, *supra* note 16; Ruth Colker, *Race, Sexual Orientation, Gender and Disability*, 56 OHIO ST. L.J. 1 (1995); Richard Delgado, *Affirmative Action as a Majoritarian Device: Or, Do You Really Want to be a Role Model?* 89 MICH. L. REV. 1222 (1991).

⁴² Delgado, *supra* note 37, at 1228.

women.”⁴³ Allen suggests another problem: that “being a positive black female role model often seems to require acting as much like an educated upper-middle-class white person as possible, consistent with an ability to participate meaningfully in elite African-American community life. Looking and speaking like whites has always helped would-be role models.”⁴⁴ Or, in contrast, “if you’re not black enough, you are seen as unqualified to be a role model.”⁴⁵ Moreover, Allen suggests that our being role models only to minority students implies that we are undervalued. It is an understatement to claim that we are role models only for minority students, she argues; white students often demand more of us than our students of color and spend more time with us than with our white colleagues, talking about a wider range of personal and professional problems.⁴⁶

There is another problem with the role model argument that has been largely overlooked in legal scholarship. I am concerned that the argument assumes that women of color have encountered obstacles in law school, but have surmounted them, and are consequently equipped to guide minority students. But what if, as a law professor, one continues to be the object of derision based on one’s race and gender?⁴⁷ Such adversity detracts from the ability of women of color professors to serve as role models because of the feelings of discomfort created by such an environment. If the woman of color professor is still victimized by racist/sexist oppression, she is in no position to be a role model for others.

Two conversations that I had with a student have compelled me to consider how I am perceived by students, how their perceptions influence their interaction with me, and how this affects my role as mentor. At the law school where I teach, at the beginning of each school year, a group of first year students are invited out for drinks by one of their professors. Since some of these students are also my students, I have regularly attended these social gatherings. At one such gathering, a white male student of mine asked me how I would prefer to be addressed, Professor, Ms., or Donna. I told him my preference, at which point he told me his: he would prefer to call me “babe.” Later, at another social event welcoming first year students to the law school, I was assigned to sit at the same table with this young man. I walked over to the almost empty table where he greeted me by patting the seat next to him and saying, “Why don’t you sit over here with me, babe?” In both cases, it was clear that this student was kidding around, trying to be informal. But even in social settings, why would any-

⁴³ Allen, *supra* note 37, at 40.

⁴⁴ *Id.* at 38.

⁴⁵ *Id.* at 39.

⁴⁶ *Id.* at 39.

⁴⁷ Jennifer Russell described her experience as the only black female law professor at her school and finding in her mailbox a National Geographic magazine cover of a gorilla. She questions how one’s self esteem can “flourish in environments punctuated by acts of hostility, including those of an anonymous nature.” Jennifer M. Russell, *On Being a Gorilla in Your Midst, or, The Life of One Blackwoman in the Legal Academy*, 28 HARV. C.R.-C.L. L. REV. 259, 259-60 (1993).

one think that this kind of behavior was acceptable? It must be said that most of my students do not cross the line. But the ones who do clearly do not respect my status as a law professor. Indeed, it is as though they are attempting to reorganize the law school hierarchy to conform to a social hierarchy that they are more accustomed to, one in which they are at least a notch above women of color, who are at the bottom.

Consider another incident at the Rutgers Law School in which some women of color law professors were subjected to a serious racist/sexist attack by some conservative students. Some students in the school's Federalist Society distributed a newsletter mocking a student sponsored symposium which was titled, "2nd Annual International Women's Day: Voices in Motion."⁴⁸ The newsletter parodying the event was titled, "2nd Annual International Girls Night Out: Bodies in Lotion."⁴⁹ The mock flier also included a mock topic: "The Toys-R-Us Lecture: Women as Property: How to get the most work out of your mail order Chilean bride; you too can own in fee simple for a simple fee."⁵⁰ One Native American woman professor was referred to as "Professor Lorraine Canoe Tipped-Over-While-Drunk-On-Fire-Water, Wolf Bitch of the Mohawk Nation"; the discussion of "The Struggle of Native Latin American Women with Literature" was described as "Who has time to read when you're always pregnant?"; and another women of color professor was referred to as "Professor Diaz of Hookers on Phonics."⁵¹ One can imagine how humiliated and threatened these women must have felt to be attacked so openly by a group of white students. Clearly, the students were attacking these women not as women *or* people of color, but as Native and/or Latina women. The students employed degrading and stereotypical images unique to a particular group of women of color, pointedly illustrating the inseparability of racism and misogyny. With a few sentences, these students dismantled the law school hierarchy in which professors are at the top, and re-imposed a racist, sexist one in which women of color are at the bottom. The law school's dean would not discipline the students, arguing that the First Amendment prohibits state funded schools from taking any disciplinary action in such cases. The students and the Dean sent the powerful message that no woman of color, professor or student, is safe from this kind of attack.⁵² This is the kind of institutionalization of racism/sexism that needs to be addressed in order for the legitimate goals of diversity to be furthered.

The Michigan statement implies that being the object of this attack might enhance a professor's mentoring role because it is the perspective gained from this kind of incident that professors of color "bring to the coun-

⁴⁸ See, Wise, *supra* note 36.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

seling process." But how can one be a role model when one is simultaneously held up for ridicule? Why should a professor's advice or counsel carry any weight when she is not taken seriously in the law school community? The professor's "victimization" undermines rather than strengthens her credibility with students. There is some value in recognizing that women of color have the "unique perspective of those who themselves have experienced the difficulties which minority students may encounter in studying law."⁵³ Certainly women of color can draw from our personal experiences to counsel students about coping with difficulties they might encounter. However, it is difficult enough to cope with our own problems with students and colleagues without having to intensify our anguish by taking on the pain of our students. The Michigan statement obscures the precariousness of being a mentor in a setting that tolerates vicious attacks directed against women of color within the law school community.

C. "The presence of minority faculty members also broadens and improves the quality of legal education for all students, including majority whites, for they bring to the curriculum their personal experience in American society and within the administration of justice."⁵⁴

This proposition is the most promising. The statement recognizes and values the distinctiveness of the experience of people of color and white women. It acknowledges that subordinate perspectives are missing from traditional teaching and scholarship, and that the inclusion of these perspectives has the potential to benefit all students.⁵⁵ This is not to say that an "outsider" perspective is necessarily authoritative or complete. For, as Robert Chang writes:

[t]he claim that the standpoint of the oppressed is more impartial is unconvincing. It seems that the standpoint of the oppressed would be partial; it would not necessarily provide less distorted views but differently distorted views It still might make sense to include the standpoint of the oppressed, however, not because it has any special access to the truth, but because what is taken as truth is incomplete or distorted without the views of the oppressed.⁵⁶

This is especially relevant within the context of the law school because the law often affects the oppressed in a dramatically different way than it does the mainstream of society.

⁵³ Michigan statement, *supra* note 28.

⁵⁴ *Id.*

⁵⁵ Jerome Culp argues that, "[w]ho we are matters as much as what we are and what we think. It is important to teach our students that there is a 'me' in the law, as well as a specific set of rules that are animated by our experiences." Culp, *supra* note 12, at 543.

⁵⁶ Robert S. Chang, *Toward an Asian American Legal Scholarship: Critical Race Theory, Post-Structuralism, and Narrative Space*, 81 CAL. L. REV. 1241, 1281 (1993).

Yet, in order to introduce our personal experience into the classroom, we must fight against the law's devaluation of personal experience and its elevation of the principle of neutrality.⁵⁷ When one tries to interject personal experience into classroom discussion, one must be prepared to meet with some resistance. Nevertheless, I believe that drawing on one's personal history during abstract legal discussions is very valuable.⁵⁸ Some have argued that personalizing class discussion encourages students to bring their own experiences into the dialogue so as to contextualize and bring to life abstract legal principles. Alice Dueker calls this "contextualized learning."⁵⁹ I have used my own experiences to enhance classroom discussions. I was particularly pleased with this technique in one of my civil rights classes in which a story I told provoked a discussion about whether the law addressed the particular experiences of women. At first, I was concerned that I was shirking my responsibility by departing from the assigned readings. However, I realized after class that the discussion was very helpful in providing an experiential, concrete basis upon which to construct a critical analysis of the ways in which civil rights doctrine impacts upon the real lives of women. The incident unfolded in the following way.

The conversation arose just before class had begun and continued past the end of the period. One of my female students asked me what I had thought about a new television commercial, an advertisement for a soft drink, in which a group of female office workers take breaks to stare out their window at a male construction worker who, at the same time each day, cools off by removing his shirt and drinking the soft drink. In responding to my student's question, I described an incident that occurred when I was a teenager. A group of teenage boys had followed me along a busy street, crudely catcalling and whistling. I became very annoyed and responded by cursing at them and telling them to leave me alone. They were offended by my reaction and continued to follow me while threatening me with violence. I was terrified and have never forgotten it.

With this story serving as the background, the class discussed whether the disparity of power between men and women might alter the meaning of the T.V. commercial had it depicted a woman as the center of attention, and whether the situation I described was more likely to result in an assault against me as a woman than a situation in which a group of women fol-

⁵⁷ "By maintaining law's 'neutrality' as a governing principle, legal education forces students to leave political convictions at the door." Dueker, *supra* note 12, at 109; Culp, *supra* note 12, at 543 ("It is important to teach our students that there is a 'me' in the law, as well as specific rules that are animated by our experiences.")

⁵⁸ In her scholarship, Patricia Williams uses examples from her personal experience to transform legal principles. See, e.g., Patricia Williams, *Alchemical Notes: Reconstructing Ideals from Deconstructed Rights*, 22 HARV. C.R.-C.L. L. REV. 401 (1987); Patricia Williams, *The Obliging Shell: An Informal Essay on Formal Equal Opportunity*, 87 MICH. L. REV. 2128 (1989); Patricia Williams, *On Being the Object of Property*, 14 SIGNS 5 (1988); Patricia Williams, *Spirit Murdering the Messenger: The Discourse of Fingerpointing as the Law's Response to Racism*, 42 U. MIAMI L. REV. 127 (1987).

⁵⁹ Dueker, *supra* note 12, at 131-33.

lowed and taunted a man. We discussed how the race of the parties might play a role. Would what happened to me have happened if I were white? We considered whether such an incident should be legally actionable under sexual harassment laws and, if so, whether the laws should apply equally to men and women. Finally, we considered whether the law currently recognized the harm to women and, if so, how.⁶⁰ My story furnished the background for a nuanced discussion of race and gender and encouraged students to recognize their own perspectives in such matters. A male colleague might have thought the initial question about a soft drink commercial to be of no relevance to a civil rights law course. I question whether any of my male colleagues would have been able to call upon their own personal experience in a way which would have had the same pedagogical effect.⁶¹ This is not to say that using one's personal experience for pedagogical purposes is a "new" technique used only by women and/or people of color. It is not. However, I believe that each person's background is related to one's race/gender and will inevitably lead to different views of the same legal phenomenon. As Peter Halewood states:

while specific forms of subordinated experience are not at hand to white male scholars on which to base their scholarship [and teaching], nonetheless one usually has some fragment of such experience from which to build bridges to other groups' experience of subordination [T]he best scholars can hope for is to work together and to combine perspectives, each contributing to an improved picture of the social whole.⁶²

I am optimistic that women of color will bring to teaching their own experiences, enhancing the educational experience of all of our students.⁶³ However, I am less hopeful than the authors of the Michigan statement about our value as teachers to our white male colleagues.

⁶⁰ I used this example to explain why this kind of "flirting" behavior is not innocent. First, it objectifies women, making us extremely aware of our physical presence, our outward appearance. We have no control over when we will be the object of men's attention, and we have little power to stop the inappropriate behavior. Women learn quite early, as I did, that we cannot admonish men without risking violence. Second, the incident illustrated that being the object of desire and being the object of derision are not separate experiences. Women are often both at once. The threat of physical violence by men is constantly present in our lives. Therefore, a seemingly innocent catcall may be comprehended differently by women than by men. Furthermore, though men may take precautions to avoid physical assault by other men, they do not routinely disrupt their lives to avoid physical abuse by women.

⁶¹ I do not suggest that my male colleagues do not use their own personal narratives to explain legal principles. In fact, I imagine that most do. However, there are certain incidents unique to women's experience that may provide a perspective missing from the classroom of male professors.

⁶² Halewood, *supra* note 17, at 7.

⁶³ Likewise, I am hopeful that white men will consider the message articulated by Peter Halewood that, "[they] should bring [their] experiential base to bear on a scholarly analysis [and teaching] of [their] own complicity and benefit in the oppression of others, and on [their] own racialized and gendered self-understandings which flow from that benefit." Halewood, *supra* note 17, at 36.

D. "The presence of minority faculty also provides a resource to their majority colleagues which increases their sensitivity to issues of racial and ethnic bias, thereby enriching their teaching experience."

This assertion is naive. It reflects a misunderstanding of the consequences of being a "resource" to majority faculty members. The typical dialogue, academic or otherwise, between women of color and our white male colleagues does not warrant such an optimistic appraisal. The statement assumes a majority perspective and suggests that women of color are merely a resource for enriching the teaching experience of majority faculty members. It fails to consider whether women of color could, should, or would want to make ourselves available as pedagogical resources on issues of race, ethnicity, or gender.

The idea that we are resources for our majority colleagues may have serious implications. If women of color routinely engage in the task of educating our white colleagues about race and gender, then we run the risk of being considered either biased, or specialists in race and gender matters. Both are problematic. If we are considered to be biased towards certain ethno- or gender-centric viewpoints, then we may not be taken seriously, making what we say easy to dismiss. If we are seen as specialists, then it may seem that we have expertise in no other area. This last possibility was clearly articulated in Richard Epstein's question at the AALS Meeting in 1994: "[H]ow good are you when you are discussing matters that have nothing to do with race or gender?"⁶⁴

Some of these drawbacks were communicated to me recently by a colleague, a black woman, at another law school. As part of a lunchtime series on women and the law, students in the Women's Law Caucus had asked her to make a presentation on feminist jurisprudence. The event was attended by several faculty members and students. After the discussion, she was approached by a senior colleague who did not attend. He asked her to *write him a memo* outlining the major points of "feminine" jurisprudence. He said he questioned the need for feminist jurisprudence, invoking his admiration for his wife and daughter as proof of his commitment to women's equality. My friend suggested a few books he might read, and offered him a bibliography that she had just compiled. He told her that he was not interested in those suggestions. He had decided not to make the effort to research the topic on his own. Rather, he just wanted her to write him a memo with all the necessary information.

My friend was shocked by his request. His expectation that she spend the time preparing a memo, the contents of which he could have heard had he chosen to attend her presentation, was particularly disrespectful. She, in effect, was to be his research assistant.

⁶⁴ Myers, *supra* note 34.

Although this example is perhaps extreme, women of color do confront majority colleagues who demand and expect lengthy discussions that clearly benefit them more than they benefit us. Women of color—both students and faculty—complain of the time spent talking to colleagues and students who have asked for advice or opinions about incidents relating to race and/or gender. Unwilling to research these issues on their own, they expect their colleagues to educate them. The majority colleagues seem to presume that we naturally have all the answers to these complex matters because of our race and gender. Assuming that race and gender are matters of legal and scholarly importance, it cannot be the sole responsibility of women of color on the faculty to provide instruction on these matters.

Moreover, white faculty may come to rely on the few women of color amongst their colleagues to answer all their questions about race and gender and use us as authorities to support their views. Many women of color law professors are singled out and forced to express their opinions on affirmative action, curriculum issues, or other educational issues because their views supposedly represent the one unified perspective of women and/or people of color. Often our self-imposed silence on certain matters⁶⁵ will be broken by a well-meaning colleague who puts us in a position where we are expected to voice our opinions, because it is assumed that our race and gender makes us uniquely qualified to address race and gender issues.⁶⁶

Furthermore, I question what majority colleagues will do with the education that we provide them. The Michigan statement suggests that majority faculty will benefit from an increased sensitivity to racial and ethnic bias, and that this will enrich "their teaching experience."⁶⁷ I am not at all optimistic that the knowledge majority colleagues gain from the presence of minority faculty members will find its way into their classrooms or scholarship. I suspect that if there is any benefit, it is personal rather than one which enriches the broader law school community.

V. CONCLUSION

Law schools have been under pressure to increase the racial and gender diversity of their faculties. Much has been written about the value of diversity within American law schools. In addition to those outlined in the Michigan statement, various arguments are advanced in support of affirmative action. For example, some would argue that diverse law faculties will attract more minority students, resulting in state bars that are more representative of and responsible to communities of color. Others have sug-

⁶⁵ By self-imposed silence, I refer to the choice of people of color to stay out of discussions in which they are expected to support a position in which they do not believe, for example, an anti-affirmative action position.

⁶⁶ See Crenshaw, *supra* note 12, at 6-9 (discussing the expectations that exist for students of color to "testify" to their minority experience).

⁶⁷ Michigan statement, *supra* note 28.

gested that “corrective justice” requires that the injuries inflicted upon a group because of racial/gender discrimination be remedied through affirmative action.⁶⁸ In the abstract, this reasoning is sound. However, too often the arguments for diversity are expressed in terms that privilege institutional interests over the professional interests of women and people of color. The interests of diversity would more likely be furthered by balancing these interests. Therefore, in order to attract and retain more minority faculty members, law schools must develop internal mechanisms for evaluating the institutional environment and for responding to the needs of all faculty members. The institutional assumptions that I have critiqued in the Michigan statement do not address, and often conflict with, the experiences of people of color, particularly women of color. In speaking from the perspective of the academy—that is, from the perspective of the majority—the statement fails to construct a workable model for increasing and maintaining diversity.

Diversity does enhance the educational enterprise. However, diversity requires more than improved faculty statistics. It demands that we celebrate differences, strive for integration, and reject assimilation. The concerns that I have raised stem from my experience as a new law teacher. The incidents that I have described range from the overtly racist/sexist to the more elusive. Some women of color might be tempted to change their behavior or hide their attitudes in the hope that the problems will disappear. For example, we might try harder to conform to others’ expectations; we might obsessively embrace our role model duties; we might encourage our colleagues to use us as resources; we might try to camouflage our politics. But it is not really us or our behavior that must change. If diversity is to be achieved, the legal academy must try to accommodate the changes that we introduce. For no matter how mainstream we appear to be, we will always face problems that our white male colleagues will not. We must therefore recognize and resist the pressures to conform to the mainstream.⁶⁹ But, as Stephanie Wildman argues, faculties too have the responsibility to counter the “majoritarian pull,” the powerful human instinct to control and make others act “just like us,” the force that perpetuates the “sameness” of a majoritarian culture.⁷⁰ For this “majoritarian pull” conflicts with the celebration of difference that diversity commands.

⁶⁸ Brest & Oshige, *supra* note 16, at 865.

⁶⁹ “[L]egal education has reflected the . . . instinct to make other people act just like us—the us being the majoritarian dominant culture. And we who are not part of that majority culture are affected by the time we spend in the institution and find ourselves playing roles that move us toward that mainstream.” Wildman, *supra* note 3, at 1635.

⁷⁰ *Id.* at 1636.

