



TAKING OUR SPACE: WOMEN OF COLOR AND ANTIRACISM IN LEGAL ACADEMIA[†]

*Kimberly Mutcherson**

“[I]f I didn’t define myself for myself, I would be crunched into other people’s fantasies for me and eaten alive.”¹

Space—physical and metaphorical—is at the center of the collection of essays by women of color law professors and deans in this volume. The authors wrote their essays in contemplation of a roundtable discussion held virtually at Rutgers Law School in March 2021, inspired by Professor Meera Deo’s book, *Unequal Profession: Race and Gender in Legal Academia*.² The book is a powerful qualitative study of the lives of women of color law professors and the many ways in which our³ multiple identities shape our experiences in academia. As the title of her book indicates, the women in Professor Deo’s study discuss a variety of barriers to their success in the legal academy. Her subjects point, among a range of challenges, to a lack of mentorship; hostile colleagues and sometimes hostile students; isolation in institutions where we are frequently an “only” or one of very few; the burden—often accepted with much willingness—of being available to mentor, support, encourage, and

[†] Eds. Note: This essay is part of a *Rutgers University Law Review* Symposium entitled, *Taking Our Space: Women of Color and Antiracism in Legal Academia*. The Symposium features a collection of essays inspired by Meera E. Deo’s *Unequal Profession: Race and Gender in Legal Academia* (2019) and was accompanied by a roundtable discussion with the authors held virtually in March 2021.

* Co-Dean and Professor of Law, Rutgers Law School in Camden. Many thanks to Nina Rodriguez and Madeline Gayle, editors of the *Rutgers University Law Review* in Camden and Newark respectively, for hosting the roundtable and this Symposium issue. It was a pleasure and honor to work with them and all of the other *Law Review* students who made this Symposium come together.

1. Audre Lorde, Learning from the 60s (Feb. 1982), in BLACKPAST, <https://www.blackpast.org/african-american-history/1982-audre-lorde-learning-60s/>.

2. MEERA DEO, UNEQUAL PROFESSION: RACE AND GENDER IN LEGAL ACADEMIA (2019).

3. I have been in academia long enough to be aware of the typically strong preference for third person detachment in legal academic writing. For this essay, I have chosen to go back and forth between first person and third person to reflect the multiple identities that I possess, personally and professionally, and how I must navigate among them on a daily basis.

advise students of color or students from other marginalized communities within the law school; the burden—often accepted reluctantly—of serving on every committee about diversity or where a person of color is needed for the optics.⁴

Though Professor Deo published her book in 2019, it took on special resonance as law school faculty, students, and leadership began talking in earnest about their antiracist credentials during the following year after George Floyd's killing—a shift that Professor Deo notes in her essay in this volume.⁵ The roundtable brought together a diverse group of women—Black, Native, Latinx, Asian, multi-racial, tenured, untenured, employees of private and public law schools, clinicians, podium faculty,⁶ and administrators—to talk about what antiracism means in law schools and how women of color fit into the antiracist project that law schools claim to be pursuing, particularly after the racial turmoil of 2020. For these women, all of whom work at predominantly white institutions (“PWIs”), the connections to antiracism in the legal academy are manifold. First, too often, PWIs use the mere presence of women of color on their faculty or in their administration to establish that their institution has either moved past racism or is actively in the process of

4. See generally DEO, *supra* note 2.

5. Though Professor Deo's book received some positive attention upon its publication in 2019, especially among law faculty of color, the popularity of her work skyrocketed among the racial unrest that marked 2020. As law schools jumped on the proverbial bandwagon to prove their commitment to antiracism, Professor Deo became a wildly in-demand speaker in a range of venues including law schools, law firms, and bar associations. Meera E. Deo, *Unequal Profession, Unleashed*, 73 RUTGERS L. REV. 857, 862–64 (2021).

6. I acknowledge that “podium faculty” is an awkward way to refer to faculty who are tenured or on the tenure-track as being a separate group from legal research and writing faculty and live-client clinical faculty, who are too often in non-tenure track roles at law schools. However, I prefer this term to the oft-used phrase “doctrinal” faculty, which subtly sends a message that the teaching and scholarly work being done by non-tenure track faculty is less valuable.

doing so.⁷ Unfortunately, what we hear from students⁸ and from the faculty in Professor Deo's study is that much work remains. Second, women of color often do much of the service work associated with antiracism in law schools. We are the voices of dissent in faculty meetings, sometimes at the peril of our own career success. We are the champions and supporters who keep students from fleeing law schools where those students do not feel welcome.⁹ We are the mentors that junior women of color faculty need to help them navigate the potential land mines on the road to tenure—and that is if they are lucky enough to be on a tenure-track line rather than working on contracts as non-tenure-track faculty members. Third, women of color are often among the faculty who imbue their classes with a healthy dose of critical skepticism about the objectivity and neutrality of a system of laws that grew out of white supremacy and patriarchy.¹⁰ But our work in academia takes its toll. As

7. In May 2021, the controversy over the University of North Carolina ("UNC") Board of Trustees refusing to grant tenure to Nikole Hannah-Jones, a Black woman who spearheaded the impactful 1619 Project at the New York Times, was a stark example of how even the most credentialed women of color in academia can be relegated to the margins. Nick Anderson & Susan Svrluga, *Pressure Builds on UNC Board to Grant Tenure to Journalist Nikole Hannah-Jones*, WASH. POST (May 26, 2021, 5:38 PM), <https://www.washingtonpost.com/education/2021/05/26/unc-trustees-hannah-jones-tenure-1619/>. Hannah-Jones is a Pulitzer Prize winner and MacArthur Genius Grant recipient who had been offered the UNC Knight Chair in Race and Investigative Journalism at the University's Hussman School of Journalism and Media. *Id.* The department and the Dean of the School of Journalism approved tenure for Hannah-Jones, and the Board vote came as a shock to them and many in the UNC community. *UNC Student President Tells Future Tar Heels to "Look Elsewhere" Due to Hannah-Jones Tenure Fight*, ABC11 (June 18, 2021, 10:12 AM), <https://abc11.com/unc-student-body-president-nikole-hannah-jones-tenure-fight-lamar-richards/10805328/>. Eventually, the Board reversed course, but Hannah-Jones announced that she would not go to UNC, but had accepted a tenured position as the Knight Chair in Race and Journalism at Howard University, an HBCU located in Washington, D.C. Laurel Wamsley, *After Tenure Controversy, Nikole Hannah-Jones Will Join Howard Faculty Instead Of UNC* (July 6, 2021), <https://www.npr.org/2021/07/06/1013315775/after-tenure-controversy-nikole-hannah-jones-will-join-howard-faculty-instead-of>.

8. The 2020 report issued from the Law School Survey of Student Engagement ("LSSSE") on Diversity and Exclusion indicates that students of color, women, and non-traditional students remain skeptical about their law schools' diversity initiatives and the support that they receive from their law schools to help them be successful in school and post-graduation. M.E. DEO & C. CHRISTENSEN, DIVERSITY & EXCLUSION 2020 ANNUAL SURVEY RESULTS 6, 15 (2020), <https://lssse.indiana.edu/wp-content/uploads/2020/09/Diversity-and-Exclusion-Final-9.29.20.pdf>.

9. See generally *id.*; DEO, *supra* note 2.

10. There are a wealth of books and articles that detail the racist origins of the system of laws in the United States. See, e.g., RICHARD ROTHSTEIN, THE COLOR OF LAW: A FORGOTTEN HISTORY OF HOW OUR GOVERNMENT SEGREGATED AMERICA (2017), and of course, a whole theoretical framework, Critical Race Theory ("CRT"), that similarly excavates and theorizes about those racist origins and how the reality of the past permeates our present systems of law and justice. See generally CRITICAL RACE THEORY: THE KEY

Professor Deo explains, the experiences of women of color in legal academia are shaped by the compounding effects of “holding multiple devalued identity characteristics,” which she refers to in her work as “raceXgender.”¹¹ The weight that many of the women in Professor Deo’s study carry with them daily is an issue of racial and gender justice that law schools have yet to fully confront.

As many women of color can attest, the idea of women of color as authority figures, as people with expertise and knowledge gained from study, or as people who wield power over others—especially white men—is foreign to many of our students and colleagues, and the learning curve is ongoing and rocky. As Khiara Bridges explains,

Unsettling proportions of the students who graduate from law school every year will never have been taught by a nonwhite woman over the course of their legal education. That is, a disturbing number of lawyers have not had the opportunity to witness a [B]lack, Latinx, Asian, or indigenous woman command a room full of students. So many lawyers—established and brand new—have never had the chance to bear witness to a nonwhite woman’s unparalleled expertise. Too many lawyers have learned the lesson that reasonable people can learn from nonwhite women’s absence from the legal academy: nonwhite women are not in the academy because they are not good enough to be there.¹²

Given the low numbers of women of color in the legal academy,¹³ and the concomitant lack of opportunity for all students to learn from such women, it is perhaps not surprising that so many of our students and colleagues are unfamiliar with how to interact with us as professors or as colleagues and peers. Consequently, the women in Professor Deo’s study reported incidents of disrespect, racism, sexism, and behavior

WRITINGS THAT FORMED THE MOVEMENT (Kimberlé Crenshaw, Neil Gotanda, Gary Peller, & Kendall Thomas eds., 1996).

11. DEO, *supra* note 2, at 8.

12. Khiara M. Bridges, *The Nerve: Women of Color in the Legal Academy*, in *WOMEN & LAW* 65, 68–69 (2020) (joint publication of the top sixteen law reviews), <https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1014&context=womenandlaw>.

13. It is difficult to pinpoint an exact number of women of color faculty in the legal academy. The American Bar Association requires law schools to report race/ethnicity of faculty on an annual basis but does not publish that data or otherwise make it publicly available. Stephanie Francis Ward, *How Many Tenured Law Professors Are Black? Public Data Does Not Say*, *ABA J.* (Oct. 28, 2020, 3:25 PM), <https://www.abajournal.com/web/article/how-many-tenured-law-professors-are-black-public-data-does-not-say>.

consciously or subconsciously calculated to undermine female professors of color.¹⁴

Considering the vital role that women of color play in the antiracist work of their institutions, *Unequal Profession*, which is destined to be a classic, has rightfully inspired numerous events and panel discussions about the lessons to be drawn from the experiences of the women who appear in its pages. But its message took on special urgency in the spring of 2020 after then-police officer Derek Chauvin, a white man, killed George Floyd, a Black man, on a Minneapolis street. This deadly encounter may have been relegated to just another civilian killed by police during an attempted arrest had a young Black woman not recorded the traumatizing event on her cell phone, as she and several other witnesses watched in horror as Mr. Floyd died, on the street, with a man's knee on his neck.¹⁵ George Floyd was not the first, nor the last, unarmed Black person to die from police violence in 2020, but his very public killing sparked a massive resurgence of the Black Lives Matter movement, vast protests around the country, loud calls for defunding the police,¹⁶ and for some a new passion—for others an ongoing passion—for the pursuit of racial justice in the United States. The combined forces of the devastating impact of the COVID-19 pandemic on communities of color, especially Black and Brown communities, the racial reckoning sparked by George Floyd's killing, the stubborn persistence of police violence without accountability, the precarity of Black bodies within and without the criminal justice system, and the intractable nature of systemic racism in the United States pushed people into the streets in protest, during a global pandemic marked by calls for people to avoid large crowds, to demand real and lasting change.

14. DEO, *supra* note 2, at 55–57, 86.

15. Evan Hill et al., *How George Floyd Was Killed in Police Custody*, N.Y. TIMES (May 31, 2020), <https://www.nytimes.com/2020/05/31/us/george-floyd-investigation.html?partner=IFTTT>. In April 2021, a jury convicted Derek Chauvin of “second-degree unintentional murder, third-degree murder and second-degree manslaughter.” Erik Levenson & Aaron Cooper, *Derek Chauvin Found Guilty of All Three Charges for Killing George Floyd*, CNN, <https://www.cnn.com/2021/04/20/us/derek-chauvin-trial-george-floyd-deliberations/index.html> (April 21, 2021, 12:13 PM). Mr. Chauvin sought a new trial. *Judge Rejects Derek Chauvin's Request For a New Trial in George Floyd's Death*, NPR, <https://www.npr.org/sections/trial-over-killing-of-george-floyd/2021/06/25/1010290622/derek-chauvin-new-trial-rejected-george-floyd-murder> (June 25, 2021, 12:15 PM).

16. Defunding the police means “reallocating or redirecting funding away from the police department to other government agencies funded by the local municipality.” Rashawn Ray, *What Does “Defund the Police” Mean and Does It Have Merit?*, BROOKINGS INST. (June 19, 2020), <https://www.brookings.edu/blog/fixgov/2020/06/19/what-does-defund-the-police-mean-and-does-it-have-merit/>.

Law schools were not only unimmune to this societal disruption, but we were also, rightly, a central space of discussion about the law as a tool of liberation and oppression. Led by our students in many cases, law school leadership has been challenged to reevaluate or reinforce the role that law schools can and should be playing in reforming our systems for the better because we are uniquely positioned to help aspiring lawyers comprehend the depth of the role that law and lawyers play in perpetuating inequality. Consequently, administrators, faculty, staff, and students pledged to ensure that their own schools not only espoused a commitment to practicing antiracism, but that they were living that commitment beyond pithy and passionate statements posted on their websites.¹⁷ And that they accepted accountability for the ways in which their efforts fell short.

The imperative for law schools to follow words with action is as strong as it has ever been, but that action must be directed inward as much as outward because the fallout from the pandemic and the summer of unrest will reverberate for years in legal academia. For female academics, especially, the pandemic made the ability to progress professionally significantly harder, as consistent gendered imbalances in care work became exacerbated, particularly for those with school-aged children at home.¹⁸ At the same time, the needs of our students grew exponentially, and the calls for law schools to make structural changes to deal with systemic racism inside and outside of the institution rang clear. Students from communities of color tried to focus on law school while contending with racial unrest, harrowing scenes of Black people being treated with extreme violence at the hands of white people, disproportionate sickness and death in Black and Latinx communities from COVID-19, economic uncertainty, and increasing attacks on people of Asian descent in a

17. In the wake of the societal upheaval after George Floyd's murder, the Rutgers Law faculty adopted a resolution on Black Lives Matter that expressed a faculty commitment to antiracism. *Rutgers Law School Faculty Resolution on Black Lives Matter and Commitment to Anti-Racist Principles and Action*, RUTGERS L. SCH., <https://law.rutgers.edu/rutgers-law-school-faculty-resolution-black-lives-matter-and-commitment-anti-racist-principles-action> (last visited Aug. 10, 2021). That resolution led me to initiate an antiracist audit at Rutgers Law in keeping with the suggestion for such an audit made by the Law Deans Antiracist Clearinghouse. *Law Deans Antiracist Clearinghouse Project*, ASS'N OF AM. L. SCHS., <https://www.aals.org/antiracist-clearinghouse/> (last visited Aug. 10, 2021). In a first step to implement lasting change at the Law School, in spring 2021, the faculty voted to add an Equity Requirement to our existing graduation requirements. We also created a Law & Inequality course to be taught as a pilot for 1L students during the 2021-2022 academic year with the hope that the course will become a permanent part of the 1L curriculum in the future.

18. See Jessica Grose, *America's Mothers Are in Crisis*, N.Y. TIMES (Feb. 4, 2021), <https://www.nytimes.com/2021/02/04/parenting/working-moms-mental-health-coronavirus.html>; see also Deo, *supra* note 5, at 867.

response to a virus being characterized by some as a deliberate cultural export.¹⁹

Professors of color were not immune from these experiences but still had classes to teach, papers to write and get published, presentations to make, and service work on top of whatever caregiving responsibilities they also bore. In the virtual world we all began to live in starting in March 2020, law schools offered multiple programs about public health, constitutional law, and eventually election law as the presidential race became increasingly bizarre and ultimately dangerous.²⁰ But there was far less public discussion about what law schools were doing or planning internally to deal with systemic issues of inequality that are deeply embedded in the law school DNA, including the ways in which their own female faculty were struggling to balance their time and maintain scholarly productivity in a world in which the line between home and office wholly disappeared.

As we try to learn the lessons that 2020 taught us, women of color in law school spaces are leading the charge for permanent and widespread change. Taking up space is not something that many women are taught to do with ease. As author Chimamanda Ngozi Adichie explains, girls are taught “to make themselves smaller” and avoid being overly ambitious or desirous of achievements beyond finding a good man to marry.²¹ By the time a girl becomes a woman who is a member of the legal academy, the question of space and how we occupy it in legal academia as women of color becomes crucial to success as a professor and to maintaining equanimity. *Unequal Profession* contains many stories that are deeply familiar to women of color in the legal academy, including ways in which law schools can be alienating and blind to their own failures, as well as concrete steps schools could take to deal with those failures.²²

As described earlier in this essay, the pace of change in law schools seemed poised to accelerate in the summer of 2020, during which law school deans were quite vocal about the desire to heed calls for action on the persistent racist violence against Black people in this country, including by looking internally at their own problematic practices that

19. See, e.g., Mary Papenfuss, *Trump Uses Racist Terms “Kung Flu” and “Chinese Virus” to Describe COVID-19*, HUFF POST (June 20, 2020, 11:49 PM), https://www.huffpost.com/entry/trump-kellyanne-conway-coronavirus_n_5eeebc5dc5b6aac5f3a46b45.

20. See, e.g., RUTGERS L. SCH., FALL 2020 DETAILED COURSE SCHEDULE (2020), <https://law.rutgers.edu/sites/law/files/attachments/FINAL%20Newark%20Detailed%20Course%20Listing%20Fall%202020%20as%20of%207.23.20%20%281%29.pdf>.

21. TEDx Talks, *We Should All Be Feminists*, YOUTUBE (Apr. 12, 2013), https://youtu.be/hg3umXU_qWc (Chimamanda Ngozi Adichie speech given at TEDxEuston).

22. See generally DEO, *supra* note 2.

perpetuated racial inequality. Deans of some 188 law schools offered public statements about the meaning and impact of George Floyd's death and committed themselves to ensuring that their own institutions were actively engaged in antiracist work.²³ As described by Professor Ibram X. Kendi, being an antiracist is not the same as declaring oneself not to be racist.²⁴ Instead,

One endorses either the idea of a racial hierarchy as a racist, or racial equality as an antiracist. One either believes problems are rooted in groups of people, as a racist, or locates the roots of problems in power and policies, as an antiracist. One either allows racial inequities to persevere, as a racist, or confronts racial inequities, as an antiracist. There is no in-between safe space of "not racist."²⁵

Antiracism, then, requires law school leaders and faculty to do more than declare themselves to be opposed to racism—a stance that should not be hard for any good person to take. Antiracism requires action on the part of the person or institution that wants to claim its mantle. One cannot be antiracist while profiting from systems that privilege whiteness and maleness and refusing to acknowledge, let alone confront that privilege, or to actively work toward dismantling it. A law school cannot declare itself to be antiracist when its hiring practices have led to a faculty with no or embarrassingly few people of color. Similarly, antiracism cannot exist at an institution where the curriculum favors neutrality over the reality of the origins of American law as a tool of oppression and inequality, and the ways in which current laws continue that painful legacy. As Professor Priya Baskaran writes in her Essay in this issue, "We cannot train our students to pursue and uphold justice when we enable and tolerate structural injustice within our own institutions."²⁶

With few exceptions, most law schools were not built to accommodate people of color or women of any color and today's law schools remain overwhelmingly predominantly white institutions in terms of students,

23. These statements are collected for posterity on the Association of American Law Schools' ("AALS") Law Deans Antiracist Clearinghouse Project website. *Law Deans Antiracist Clearinghouse Project*, *supra* note 17.

24. IBRAM X. KENDI, HOW TO BE AN ANTIRACIST 9 (2019).

25. *Id.*

26. Priya Baskaran, *Taking Our Space: Service, Scholarship, and Radical Citation Practice*, 73 RUTGERS L. REV. 891, 893 (2021).

faculty, staff, and administration.²⁷ Women of color are, therefore, still outsiders in many institutions, and frequently lonely outsiders. My own experience in academia is illustrative. I have been a professor at Rutgers Law School since 2002. In that time, there have never been more than two tenured or tenure-track Black female faculty members and, for most of that time period, no more than one tenured or tenure-track Black male on the faculty at the Camden campus of the Law School.²⁸ To my knowledge, in its long history, the Camden location has only ever tenured one person of Asian descent and has never tenured any Latinx or Native American faculty. The number of women on the faculty looks good, but that would change if we did not count non-tenure-track positions in our clinics and legal research and writing program, which are almost exclusively staffed by (white) women. These numbers may be shocking, but I fear that they are not particularly unique for too many law schools. The lack of racial/ethnic diversity speaks to the failure of law schools to practice what they are preaching when it comes to building or being an antiracist law school. As Professor Renee Allen explains in her piece in this Symposium, in keeping with Professor Kendi's description of antiracism, policies that sustain racist systems are themselves racist no matter the intent of those who created or sustain them.²⁹ When law schools perpetuate elitist myths that impact their hiring and promotion practices, they are not acting in an antiracist manner. When law schools place undue weight on how students perform on standardized tests, like

27. See Erika Kubik, *How Diverse Are the Law School Faculty in the United States?*, 2CIVILITY (Aug. 29, 2016), <https://www.2civility.org/diverse-law-school-faculty-united-states/>; Gabriel Kuris, *What Underrepresented Law School Applicants Should Know*, U.S. NEWS & WORLD REP. (June 8, 2020, 9:48 AM), <https://www.usnews.com/education/blogs/law-admissions-lowdown/articles/what-underrepresented-law-school-applicants-should-know>. The obvious exceptions are the small number of law schools at historically Black colleges and universities that were formed specifically to provide access to higher education and legal education for Black people. There are currently six such law schools in the United States and they produce almost 30% of all Black lawyers in this country. *Black Enrollments at the Law Schools at Historically Black Universities*, J. BLACKS HIGHER EDUC.: RSCH. & STUD. (Dec. 23, 2019), <https://www.jbhe.com/2019/12/black-enrollments-at-the-law-schools-at-historically-black-universities/>; see also Ronald G. Ehrenberg, *Are Black Colleges Producing Today's African-American Lawyers?*, 14 J. BLACKS HIGHER EDUC. 117, 117 (1996-97), <https://www.jstor.org/stable/2962851>. Another unusual school in this regard is the American University Washington College of Law, which was founded in 1896 by two women who were excluded from other law schools because of sex. *History*, AMER. U. WASH. COLL. OF L., <https://www.wcl.american.edu/impact/history/> (last visited Aug. 10, 2021).

28. In 2015, Rutgers Law School became a single entity that encompasses the formerly separate law schools located in Camden and Newark. My data focuses only on the Camden campus, as the Newark campus has a longer and deeper tradition of recruiting, hiring, and retaining faculty of color.

29. Renee Nicole Allen, *Our Collective Work, Our Collective Strength*, 73 RUTGERS L. REV. 881, 885 & n.26 (2021).

the Law School Admission Test (“LSAT”), to determine admission, despite understanding the limitations of standardized testing and its sometimes pernicious impact on communities of color, they are not acting in an antiracist manner.³⁰ When law professors claim that they do not teach about race because race is not an issue in fill-in-the-blank course, they are not acting in an antiracist manner because we know that racism presently permeates or is at least foundational to broad areas of law. Law schools are not being antiracist when women of color still must contend with being treated as interlopers and frauds by some of their white male colleagues, no matter their credentials or accomplishments. For law schools to prove the veracity of their commitment to building antiracist institutions, they must do much more than issue statements of solidarity amid a national uproar when peer pressure is at its highest.

For this collection of essays, we asked our authors to consider their own experiences in the spaces that they occupy in legal academia and how women of color are vital to transforming these academic spaces into antiracist spaces. The women in this volume and the dozens more in law schools throughout the country are part of the cohort that will make the path forward less fraught for the women of color who will follow our footsteps into academia. Whatever law schools do in this perhaps fleeting moment of focus on race, there is no doubt that women—women of color in particular—will bear the significant burden and privilege of leading or participating in those efforts. Thus, their reflections on what law schools can and should be and do are instructive.

In her personal and revealing essay for this Symposium, Dean Elizabeth Kronk Warner writes of the difficulties of living in two worlds as a fair-skinned Native woman who has pondered whether part of her appeal as a law school leader is that she is “an ‘acceptable’ woman of color” because she lacks the darker skin that “may be subconsciously

30. See generally Aaron N. Taylor, *The Marginalization of Black Aspiring Lawyers*, 13 FLA. INT'L U. L. REV. 489 (2019) (arguing in part that the misuse of LSAT scores in the law school admissions process depresses the number of Black students who attend law school, which then depresses the number of Black lawyers). To their credit, the Law School Admission Council (“LSAC”) is aware of this issue, or at least the perception that this is true, and the organization has worked over the years to discourage law schools from over-emphasizing LSAT scores, which most law schools say they use in conjunction with a holistic review process that considers a number of factors. Scott Jaschik, *Do Law Schools Limit Black Enrollment with LSAT?*, INSIDE HIGHER EDUC. (Apr. 15, 2019), <https://www.insidehighered.com/admissions/article/2019/04/15/study-argues-law-schools-limit-black-enrollment-through-lsat>. LSAC also makes many free tools available to test takers to help those who cannot afford private test prep services to become more competitive on the test. *Id.*

threatening to others in positions of power.”³¹ Thus, she carries a burden of representation as one of the very small number of Native people who has ever been a law school dean but also worries about being co-opted by the system in which she works such that she may not be the “voice of decolonization” that others expect her to be.³² Dean Kronk Warner’s dilemma, using her voice and position to change the structure of law schools but worrying if she is doing enough, is one shared by many other women of color who teach at PWIs.

Other authors add their own specific recommendations for law schools that wish to support and retain their women of color faculty. Professor Baskaran stresses the importance of law schools rewarding the often-invisible service work with students being done by the women of color on their faculty—work that has been empirically shown to improve “engagement and learning outcomes for all students.”³³ Professor Allen notes the benefits of creating a “critical mass of women of color” faculty at an institution so that these women do not feel isolated and can support each other.³⁴ She goes on to urge schools that aim to diversify their faculty to recognize that law school hiring practices, including hyper-credentialing, conflict with that goal.³⁵

Once people are hired, the choices law schools make about titles and status are vital. Professor Rachel López tackles this perennial issue in her essay and critiques the law school hierarchy present at many institutions in which those who teach clinics or legal research and writing courses are ineligible for tenure, have titles that differentiate them from “Professors of Law,” are paid less than their colleagues teaching more traditional law school classes, and have less of a role in faculty governance.³⁶ That the people teaching within this lesser status are disproportionately women speaks volumes about how law schools have failed to value the work of women and reflects a gendered academic caste system that has increasingly come under criticism.³⁷

31. Elizabeth Kronk Warner, *Living in Two Worlds*, 73 RUTGERS L. REV. 933, 938 (2021).

32. *Id.* at 938–39.

33. Baskaran, *supra* note 26, at 895–96.

34. Allen, *supra* note 29, at 883–85.

35. *Id.* at 887–88.

36. Rachel López, *Unentitled: The Power of Designation in the Legal Academy*, 73 RUTGERS L. REV. 923, 925–28 (2021).

37. Darby Dickerson, the 2020–21 president of the AALS, decried the caste system in law schools and pointed specifically to the “Pink Ghettos” of legal research and writing and clinical faculty as an example of non-tenure track faculty whose work is undervalued and underpaid in law schools. Darby Dickerson, *President’s Message: Abolish the Academic Caste System*, ASS’N OF AM. L. SCHS, <https://www.aals.org/about/publications/newsletters/>

For so many women of color in legal academia, our lives involve a delicate balancing act of moving through spaces where we are still relative novelties even this far into the twenty-first century. We create communities across institutions because it is the only way for us to find critical mass and camaraderie. We are experts at code switching.³⁸ We write work that fits within the narrow boxes that qualify us for tenure, but also work that speaks to our experiences and that is, at its base, a liberatory project. We mentor our students who feel marginalized from law school even though we often feel the same way. And, when and where we can, we try to make our institutions better places for our students and the faculty who we hope will come after us. We take spaces that were largely built to cater to white men and seek to make them welcoming to those who too often remain on the margins.

But this crucial work cannot sit solely or primarily on the shoulders of people of color at law schools. And, as Professor Michele Goodwin makes clear, the work of building better law schools starts much earlier in the education pipeline.³⁹ Wherever it is being done, this kind of transformational work is significant, long-term, and frequently emotionally taxing. It is vital that law school leadership and law school faculty take responsibility for turning a critical eye on their own institutions and for mapping a plan to move forward. One way to do this is by initiating a thorough audit of their own activities, from curriculum to hiring and promotion practices for faculty and staff, as recommended by the AALS Law Deans Antiracist Clearinghouse.⁴⁰ At a moment when there are more people of color and women of all races/ethnicities serving as law school deans,⁴¹ the time is ripe for a widespread and lasting revolution in law schools. If schools take up that challenge, I am hopeful that our unequal profession will begin to look and feel quite different in the near term and be largely unrecognizable in the future.

aals-news-fall-2020/presidents-message-abolish-the-academic-caste-system/ (last visited Aug. 10, 2021).

38. Courtney L. McCluney et al., *The Costs of Code-Switching*, HARV. BUS. REV. (Nov. 15, 2019), <https://hbr.org/2019/11/the-costs-of-codeswitching>.

39. See Michele Goodwin, *Lessons in Race and Racism in the Legal Academy: Notes on Pauli Murray*, 73 RUTGERS L. REV. 913 (2021).

40. *Law Deans Antiracist Clearinghouse Project*, *supra* note 17.

41. Professor Catherine Smith of the Sturm College of Law at the University of Denver has been carefully cataloguing the risk of Black women law deans. In May 2021, there were twenty-eight Black women who were already or soon-to-be law deans, which was a historic high. *"It's the Moment for This": An Unprecedented Number of Black Women are Leading Law Schools*, LAW.COM (May 13, 2021), <https://www.law.com/2021/05/13/its-the-moment-for-this-an-unprecedented-number-of-black-women-are-leading-law-schools/?sreturn=20210517161659>.