FULL PARTICIPATION IN THE
YALE LAW JOURNAL

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EXECUTIVE SUMMARY

This Report presents the findings of the *Yale Law Journal* Full Participation Project (the Full Participation Project), an in-depth study of the dynamics and processes affecting participation in and diversity of the *Yale Law Journal* (*YLJ*). The Full Participation Project's purpose is fourfold:

1. To understand the dynamics and decisions affecting participation and diversity in *YLJ*;

2. To build the capacity of *YLJ*, in collaboration with others in the YLS community, to discuss and engage with those dynamics;

3. To identify areas where *YLJ*, in collaboration with other stakeholders in the YLS community (including interested faculty, students, and student organizations), could usefully explore and undertake change; and

4. To provide concrete opportunities for constructive discussion about these issues both within the *Journal* membership and between *YLJ* and interested members of the YLS community.

From the outset, we took the approach of placing the issue of diversity in a broader frame of full participation. Full participation is "an affirmative value focused on creating institutions that enable people, whatever their identity, background, or institutional position, to enter, thrive, realize their capabilities, engage meaningfully in institutional life, and contribute to the flourishing of others."[3] This Report is the result of multi-method research that began in January of 2014. It includes seventy-two interviews, three network surveys, document analysis, and analysis of demographic information. We examined patterns of interaction, success, and thriving along the pathway from interest in the *Journal* to participation in the *Journal*. The Full Participation Report has been prepared in conjunction with a quantitative report by Professor Ian Ayres and Anthony Cozart: *Patterns in* Yale Law Journal *Admissions and Student Scholarship*.

Setting the Context

The Full Participation Project grew out of concerns that *YLJ* editors and the larger YLS community expressed about diversity on *YLJ*. During the 2013-2014 academic year, the *YLJ* officers, along with members of the larger YLS community, surfaced concerns about disparities in the participation rates of women and students of color as editors, officers, and authors in *YLJ*. The complexity and importance of these issues led *YLJ* to seek an outside researcher to help better understand the dynamics and ways to address them. We agreed to collaborate fully and seek feedback from *YLJ*, but stipulated that decisions about the content of this report would rest entirely with Susan Sturm. As a result, we undertook this Full Participation Project.

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3. *See* sources cited *supra* note 1.

YLJ as a Gold Star with a Mission

Students at YLS experience *YLJ* as a vehicle for both purpose and prestige. By purpose we mean the various goals and desired results students hope to achieve through their *YLJ* participation. Students' interest in *YLJ* may relate to the *Journal*'s mission of publishing legal scholarship that will influence the most significant and relevant legal issues of our time. Students may pursue *YLJ* to participate in an intellectual community and build their critical analytical and writing capacities. Students also seek *YLJ* participation for its prestige—the standing and estimation it holds in the eyes of other people. They may seek *YLJ* membership for the credential value it carries for jobs they hope to attain. They may also seek *YLJ* simply because it is a marker of high status at YLS and in the legal profession. Students' relationship to *YLJ* often stems from a combination of purpose and prestige.

A gold star culture influences many students' decisions about whether to participate in *YLJ*. Gold stars are markers of prestige, and many students explicitly referred to a "prestige economy." High-achieving students competing for a select subset of prestigious clerkships and jobs feel the need to distinguish themselves by collecting accolades during their tenure at YLS, and most people interviewed characterized *YLJ* as the quintessential "gold star." At the same time, many students strive to pursue meaningful activities related to having an impact as students and future lawyers, including participation in *YLJ*. The *Journal* both represents and experiences this tension between prestige and purpose.

Many of the interviewees associated the collective frenzy associated with *YLJ* admissions with a more general process of narrowing and funneling pathways and interests over the course of the 1L year. In particular, many students described the phenomenon of arriving at YLS with a diversity of interests and definitions of success, and then witnessing the gold star culture narrow or even homogenize students' goals. A significant subset of students reported tension between their own values and the culture they experienced at YLS, particularly in their first year. We found that students' response to this tension affected both their experience of thriving and their approach to pursuing gold stars at YLS, including *YLJ*.

We identified five groupings of students' experience of this tension and the ways they did (or did not) find to navigate it. One cluster of students valued prestige for its own sake; for these students, their personal and professional values were defined by whether they were gold stars. A second cluster of students pursued prestige to advance other personal and professional goals they care about; their personal and professional interests aligned with gold stars. A third group of students described themselves as having strong ambitions and interests in achievement and success either predating their enrollment at YLS or developed during their 1L year. Though ambitious, they defined their own success in relation to a set of goals related to impact and fulfillment. A fourth cluster of students came into the law school with high expectations and ideals and then found themselves

surprised and destabilized by the gold star culture. Students in this group find themselves losing perspective, shifting or narrowing focus, and becoming somewhat unmoored from determining what they want and value. Students who are ambivalent and unconnected run the risk of falling into a fifth cluster characterized by withdrawal from active participation at YLS.

This cultural dynamic strongly shapes how students view *YLJ*, how they approach the admissions process, and their degree of involvement upon joining the *Journal*. The interviews suggest a relationship between ambivalence and some identity groups, particularly women, students of color, first generation law students, public interest oriented students, and students who went to undergraduate schools with low representation at YLS. Students in identity groups who were ambivalent about *YLJ* participation report that this ambivalence played a role, both positive and negative, in shaping how they related to *YLJ*. Students described positive associations with their identity, reflected both in informal interactions and in their involvement in student organizations. Some student organizations associated with particular identities have focused significant attention on persistent racial and gender disparities in outcomes related to gold stars; *YLJ*, moot court, and prestigious clerkships surfaced repeatedly as an identity-focused issue. Some identity group members linked their *YLJ* participation with their efforts to gain greater legitimacy for themselves and their group in the eyes of both peers and faculty. Some interview and survey respondents explicitly attributed their interest in *YLJ* to their desire to dispel presumptions about whether they "deserved" to be at YLS. At the same time, students in these groups reported experiencing a generalized concern to increase the participation of members of their group in *YLJ*, but were not sure they were sufficiently interested in doing *YLJ* themselves.

A tension emerges from these complex dynamics. On the one hand, because *YLJ* is perceived as an elite organization and a gold star, and it has also struggled with diversity, it has to work hard to overcome barriers to entry. Persistent disparities lead both *YLJ* and other organizations concerned about those disparities to focus explicitly on increasing participation and outcomes that may result from differences in cultural capital or in perceived welcomeness. On the other hand, when *YLJ* and other organizations frame their diversity efforts as ways to equalize access to gold stars for disenfranchised groups, they may accentuate the experience of the gold star culture and thus unwittingly discourage students who are ambivalent from participating or contribute to stereotype threat. This tension illustrates the difference dilemma: both paying attention to and ignoring difference will likely preserve disparities. To move beyond the dilemma, it may be necessary to rethink baselines about mission and practice as part of the strategy for enhancing full participation.

Engagement: Deciding Whether To Apply to *YLJ*

Knowledge and interaction patterns at critical junctures affect when and how students decide to compete for *YLJ*, their level of certainty or ambivalence, and how they experience the decision of whether to apply. *YLJ* has an extensive process for

communicating with students about *YLJ* and the application process. In fact, several students commented that the *YLJ* process was more transparent than any other evaluation process at YLS. However, like many interactions surrounding gold stars, many students interact informally about *YLJ* participation before *YLJ*'s more formal process begins in earnest. A common theme in those responses concerned the importance of informal channels of information, particularly with respect to access to gold stars.

YLS students come in with very different levels of knowledge, have differential relationships to *YLJ* editors when they arrive, and receive different levels of information and support through these relationships. Those differences seem to have an impact on when and how students decide to compete, their level of certainty or ambivalence about competing, how they prepare, and how they experience their decision whether to apply.

Some people interviewed have lawyers in the family or past experience with lawyers at work or in college; these people spoke concretely about the help and information family members provided and how that eased their way into both YLS and *YLJ*. They arrived knowing about *YLJ* and how it generally works; some knew it was something they wanted to do. Undergraduate institution, particularly the large representation of students from Harvard, Yale, and Princeton (HYP), recurred as a factor related to shaping access to relationships relevant to *YLJ* and to cultural capital generally. A subset of people have strong ties coming into YLS giving them early access to support from people "in-the-know" about *YLJ*. This informal support provided a comfort level; these students knew what to expect and were able to plan accordingly.

Many other actors at YLS provide 1L students with information and encouragement about *YLJ* participation. The most frequent source of encouragement, not surprisingly, came from *YLJ*'s First-Year Editors (FYEs). *YLJ* has an extensive outreach process, introduced in part to increase the participation of underrepresented groups. Students also described significant interactions with Coker Fellows, affinity group leaders, and faculty concerning the question of *YLJ* participation. The data suggest that, at the time *YLJ* publicly communicated with 1Ls about applying for *YLJ* in the spring semester, some students had already had extensive contact with peers, faculty, and family about *YLJ*, and had a relatively clear sense of what *YLJ* is and whether it was something they wanted to pursue. This process made it possible for a subset of students to come to terms in the first semester or early at the beginning of the second semester with whether they wanted to apply. This, in turn, allowed them to figure out their strategies for dealing with *YLJ*, along with the overall gold star culture.

Other students, however, remained ambivalent about their decision to apply to *YLJ* right up until the *Journal* competition. The interviews suggest that there may be a relationship between ambivalence and some identity groups—particularly women, students of color, first generation law students, and students who went to undergraduate schools with low representation at YLS. Some of these students reported waiting longer to decide whether to prepare for the *Journal* competition, starting their studying later,

and distancing themselves from the process as much as possible. Some students did not discuss their decision to go out for *YLJ* with others, and studied by themselves rather than in a group. These students also reported experiencing high levels of stress associated with the decision to go out for the *YLJ* competition and as a result, some students completely avoided the *YLJ* sourcecite sessions to minimize what they experienced as a counterproductive frenzy. Several students of color explicitly connected their levels of stress to the sense of responsibility they felt to be successful not only for their own sake but for the sake of their group.

Some students who expressed interest in participating on *YLJ* described resisting a strong urge to avoid the process. Their reasons included: (1) a disconnect between what they care most about and the gold star culture; (2) a reaction against the gold star culture itself; (3) an interest in *YLJ* because of its importance to a group they identify with, but a question about whether they personally want to invest the time and energy in preparing for the admissions process; and (4) unanswered questions about whether *YLJ* is a venue that will enable them to pursue interests relevant to them (e.g., writing, public impact, critical theory, and policy).

Students who questioned *YLJ*'s relationship to their intrinsic interests or their place at YLS were particularly likely to describe the importance of interactions at critical junctures that changed their perspective and helped them gain clarity and conviction about the decision to apply. Students interested in public interest or advocacy who were on the fence about applying to *YLJ* had interactions with students on *YLJ* who shared their interests and identity, and who responded directly and personally to questions about whether *YLJ* was relevant for them, how they would balance the time commitments, and whether *YLJ* publishes scholarship in areas of impact. People interviewed referred explicitly and passionately to the importance of seeing people like them on *YLJ* and interacting directly with them about their concerns and interests. They also observed that interactions with people who had very different interests and values were not particularly helpful in their deliberations. Some students of color observed that they did not have access to the same quality of information as their more well-connected peers.

Students on the margins also discussed the critical role that faculty members played in influencing their decisions and approach to *YLJ* preparation. Some students with explicit interests in publication decided not to pursue *YLJ* because they were advised by faculty to avoid *YLJ* and focus instead on building research relationships with faculty and writing their own scholarship. Many have experienced direct interactions with clinical faculty who discourage *YLJ* participation and say that it is a waste of time. However, clinical work emerged as a significant venue for advancing ideas through writing.

The *YLJ* Admissions Process: Preparation and Selection

Interview data suggest that persistent ambivalence has a substantial impact on the way students prepare and experience taking the Sourcecite Exam. Students who are

ambivalent report being stressed about the choice and the process, avoiding making a decision until just before the Sourcecite Exam, avoiding conversations about the decision and thus being outside the informal networks providing useful information, and delaying the decision to apply to the point where they did not have enough time to study. Interviews also suggested that ambivalence and limited knowledge affected when and how students prepared for the Sourcecite Exam. Students who were ambivalent about competing described investing less time and energy in preparing for the exam and having competing commitments that took priority over preparing.

Students widely experienced the Sourcecite Exam process as fair in the sense that the rules were clear, anyone could pass if they did the work, and the evaluation left little room for discretion. *YLJ* devotes considerable attention and resources to supporting students in their preparation for the Sourcecite Exam. Students who participated in the Sourcecite Exam generally reported experiencing *YLJ*'s role as helpful, fair, and transparent. Because the current experience of FYEs revolves around sourceciting, students also viewed the selection process's emphasis on sourceciting to be fair in the sense that it selects for a relevant skill.

At the same time, some students viewed the process as arbitrary in the sense that sourceciting is a skill that some students felt had assumed outsized proportions in both the selection process and the *YLJ* experience. Students both relished the transparency and rule-boundedness of the sourcecite process and chafed under its tedium. Some students—both *YLJ* members and nonmembers—saw the Sourcecite Exam as a way to test for the willingness to do the work of FYEs. Students interested in *YLJ* for its value in building intellectual community and its potential impact on the law were more likely to view *YLJ*'s emphasis on sourceciting as emblematic of a gap between *YLJ*'s stated mission and its actual practices and priorities. Many students reported experiencing high levels of "collective anxiety" generated by the large training sessions. Interviews revealed that students experienced the process quite differently if they had access to more tailored or individualized processes building on preexisting relationships with students, faculty or family. These concerns led some editors to the conclusion that the admissions process should be reexamined.

The Critical Essay component is the aspect of the selection process that relates most directly to *YLJ*'s publication mission, except for the very small number of students who become editors by submitting a Note that is accepted for publication. Preparation for the Critical Essay receives relatively less collective attention than the Sourcecite Exam, in part due to the fact that it takes place over the summer. Many of the students we interviewed who were successful on the Critical Essay component identified some kind of experience with editing or critical writing before they came to YLS. Students who did substantive editorial work on specialty journals during 1L year experienced that as helpful with *YLJ*'s Critical Essay component. Well-connected students learned of the preparatory value of substantive editing with secondary journals early on. In contrast, students generally described receiving limited feedback from faculty in their first semester courses, and with few exceptions, did not identify interactions with faculty

during the first year as useful in developing critical analysis skills or otherwise preparing them for the Critical Essay.

The data suggest the value of further exploration of how differences in the level and quality of informal support and feedback may play a role in differential performance. We also learned of ways that *YLJ* might improve the level of support, particularly for those who did not come to *YLJ* with significant editing or writing experience. This exploration might occur in collaboration with faculty, secondary journals, and others who are already working on improving legal writing support at YLS.

YLJ's adoption of a diversity component in the selection process represents part of a larger effort to increase its diversity and its capacity to select for leadership capabilities. The Diversity Statement reflects *YLJ*'s belief that "a diverse membership furthers the *Journal*'s educational mission of developing and publishing high-quality legal scholarship."[4] The Diversity Statement was identified by many officers and applicants alike as the one area where the admissions process gathers information related to qualities beyond the capacity to sourcecite and edit, qualities that might be relevant to *YLJ* leadership. Students also identified the use of the Diversity Statement as the source of considerable discussion and tension, both among *YLJ* editors and in the larger student body.

Interviews with a wide range of people—including those on the *Journal* and not on the *Journal*—suggest that students' views about the Diversity Statement are nuanced and varied. These views about the Diversity Statement reflect the intersectional patterns of experience and identity that we saw generally in the data. Views ranged from: (1) enthusiastic support for the Diversity Statement as a signifier of commitment (about half of the sample) to (2) concern about vagueness and lack of transparency about the Diversity Statement's interpretation to (3) discomfort about completing the Diversity Statement to (4) disapproval of the Diversity Statement as unfair and unwise.

Search for Intellectual Community

Many students interviewed—both on and off *YLJ*—expressed a thirst for greater intellectual community, areas for sustained engagement around ideas with impact, and opportunities to write and publish in areas where they could have an impact. These students often described their experience in clinics, policy projects, and intensive writing seminars as the most engaging and exciting part of their YLS experience, and the place where they got ideas that they wanted to pursue.

FYEs from Volume 124 expressed strong interest in increasing their engagement with substantive issues as part of their involvement with *YLJ*. FYEs raised questions about the limited opportunities to connect sourceciting to substantive interests or the formation of

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4. Yale Law Journal, Volume 124 Writing Component Instructions (unpublished instructions) (on file with authors).

an intellectual community. Most *YLJ* editors did not report experiencing a connection between *YLJ* membership and writing for publication, particularly as an FYE. *YLJ* does not currently require editors to prepare a publishable Note or Comment, and only a small percentage of members have work of any kind published. Students did not necessarily know how to connect writing they did for classes or seminars with publication. Many students expressed strong interest in having *YLJ* be more involved in supporting students' writing not only of Notes but also of Comments and *Forum* pieces.

Over the last few years, the *YLJ* officers have taken concrete steps in that direction. *YLJ* has introduced activities that aim to involve FYEs in more substantive issues and activities, including hosting a reading group for engaging with forthcoming legal scholarship, inviting FYEs to submit edit memos and line edits, and providing opportunities for FYEs to participate in significant intellectual activities such as symposia. They can also sit in on Articles & Essays Committee meetings and receive sourceciting credit for submitting or publishing their own scholarship.

Officers of Volume 125 report undertaking efforts to increase engagement with issues of importance where they can have impact through scholarship and dialogue and that these efforts have produced a genuine intellectual community for many on Volume 125. This community includes FYEs, SYEs, and other YLS students interested in public engagement and research concerning these issues. They also report undertaking a series of initiatives to provide students and the larger legal community with opportunities to engage issues of importance. They have made writing with impact a focal point of their Features & Book Reviews Committee, and convened conversations and scholarly exchanges involving *YLJ* editors, students at YLS, and national leaders with significant and pressing public issues including Title IX, solitary confinement, and police misconduct.

Publications and Full Participation

The process of selecting, editing, and publishing work lies at the core of *YLJ*'s mission to shape discussion of the most important and relevant legal issues through a rigorous scholarship selection and editing process. Through its publication activities, *YLJ* interacts with the YLS student body, faculty, and the larger legal academic community. Soliciting, editing, and publishing student scholarship is one the most tangible ways in which *YLJ* advances its mission of building an intellectual community at YLS.

YLJ has adopted a number of strategies to increase the number of student submissions and improve the quality of student scholarship at the law school. In addition, *YLJ*'s Notes and Comments Committees offer extensive opportunities to receive support for identifying a suitable Note or Comment topic and undertaking the preparation of a Note or Comment. *YLJ*'s efforts to increase participation by women and students of color have focused most intensively on increasing the diversity of the pool of submissions. *YLJ* engages in extensive consultation and outreach to encourage people from different parts of the YLS community to submit Notes and Comments.

Disparities in the submission and resubmission rates persist for women and students of color. The dynamics contributing to these disparities appear linked to more general patterns relating to support for and confidence in writing, and the dynamics of a performative culture. Students generally described the pivotal role of coming up with ideas that could lead to publication, having opportunities to interact with others about those ideas, and developing confidence that they had something important to say. A recurring theme involved the value of having an opportunity to brainstorm about the promise or seed of an idea, but many felt that they had to have a fully developed idea before they could consult with faculty or the *YLJ* editors. Some linked these concerns to the performance culture described earlier.

The data suggest that relationships with people in strategic positions who encourage people to pursue ideas and publication are key, particularly for students who do not come to YLS planning to publish a Note or Comment. Among women and students of color who have submitted or concretely contemplated submitting a Note or Comment for publication, an encouraging interaction with a faculty member about a specific piece of writing was pivotal in their decision to seek publication. Yet, some women and students of color, particularly those who are not comfortable in the *YLJ* culture, described dynamics limiting their interactions with faculty and knowledgeable peers. These dynamics included: limited opportunities for nonperformative interactions with faculty or peers about ideas and writing; starting to write late; confidence-related issues about originality and quality of ideas; competing priorities and time commitments, including serving as a research assistant; and overall lack of time.

A network analysis of interactions among *YLJ* editors offers evidence that there are differential interaction patterns between men and women related to seeking and giving help about research and writing. Women were more likely to socialize among themselves than what we would expect by chance. However, analysis of the network data revealed that women sought and provided research and writing help among themselves much less often than what we would expect by chance. Only four percent of relationships that entail seeking and providing writing help were among females, compared to the expected twenty-four percent. This remarkable difference is significant at the 0.05 level. Women instead sought help from and provided help to men at a twelve percent higher rate then what we would expect by chance, again a difference significant at the 0.05 level. Women were more likely to question themselves or the value of their submission in comparison to white men. The data also provide some indications that students who felt less sure about the importance of legal scholarship or confident about their place at YLS—for example, women, first generation law students, and students less comfortable in the culture—may respond differently to receiving a "revise and resubmit" letter. The data suggest there is value in investigating further strategies for encouraging resubmission, including potentially enlisting faculty or colleagues to give concrete encouragement to turn papers or ideas into publications.

The interviews with participants in affinity groups suggested that these groups may not currently play a significant role in enabling and promoting *YLJ* publication by their members. Participation in publication does not appear to have been a major focus of the affinity groups in relation to *YLJ*. Most of the focus has been on the outcomes of the *YLJ* admissions competition, and on reducing disparities in the participation by their group members.

Interviews with Articles Editors from Volumes 123 and 124 suggested that it would be valuable to figure out how to reflect more systematically about the patterns relating to Articles submission and selection, consistent with *YLJ*'s commitment to blind submissions and with the confidentiality of the deliberation process. *YLJ*'s recent expansion into writing that is more directly connected to impact and policy opens up possibilities for engaging students who have an interest in having an impact in the policy or advocacy arena.

Leadership and Governance

Since Volume 123, *YLJ*'s leadership has become increasingly diverse. Students interviewed for the study commented on the increased diversity in the leadership, and some spoke specifically about interactions with diverse officers, as well as officers committed to diversity, as a factor overcoming their initial skepticism about participating in the application process. Students also expressed an interest in sustaining the focus on addressing issues of diversity on *YLJ*.

Perhaps the biggest issue raised about leadership involved the challenges around innovation and succession. Across all three volumes, officers described a process of being somewhat in the dark about the work, governance, and issues facing *YLJ* as FYEs, and then learning for the first time about the work of the officers when they were introduced to the slating process. Many officers talked about the challenge of innovation when there is the pressure of work and the relatively short time horizon of leadership. Second-Year Editors (SYEs) in demanding roles described a dynamic of having ideas about improvements at the outset, and then being simply overwhelmed by the pressure of work. At the same time, some Projects Editors expressed interest in taking on more substantive work that would enable them to advance *YLJ*'s mission, including its interest in increasing the diversity of its membership, the relevance of its intellectual engagement, and collaborative relationships with the larger YLS community.

The Need To Build Capacity for Cross-Group Dialogue and Collaboration

Many YLS students, along with faculty and administrators, perceive that sensitive topics, problems, criticisms, and areas of disagreement were very difficult to address constructively in the venues where students typically interact, especially with those likely to hold different views. Many students described recurring issues relating to gold stars and identity that affect them personally and YLS more broadly, but they do not feel safe raising them. During the interview process, it was common for students to observe that

they had not previously spoken about the issues we discussed, or if they had, those discussions were only with very close and trusted friends.

This Project, and the conversations it is intended to spark, offers an opportunity to construct spaces where this kind of cross-group, difficult, yet constructive dialogue can occur. This aim requires self-consciousness about the frame for the discussion, the size and composition of the group, and the shared aspirations that could motivate engagement in these dialogues and possible actions they generate. Without the capacity and space to engage in difficult yet constructive conversation about issues of difference, *YLJ* will find it difficult to advance its stated goal of increasing full participation on *YLJ*.

Next Steps: Discussion, Engagement, and Action

The research surfaced many opportunities to build on the foundation that *YLJ* has laid for advancing diversity and full participation as part of its overarching goal of building intellectual community and impact. These opportunities include:

- Connecting *YLJ*'s mission of impact and intellectual community with full participation and diversity goals;

- Building capacity for ongoing inquiry about full participation, especially at key decision points;

- Facilitating constructive dialogue about full participation involving *YLJ*;

- Identifying and supporting student and faculty brokers who can provide effective individualized support to diverse students;

- Developing opportunities for cross-identity collaboration in areas of mutual interest;

- Cultivating capacity for critical analysis through editing and writing; and

- Considering strategies for long-term sustainability and leadership succession, consistent with editorial board autonomy.

Conclusion

By undertaking this Project, *YLJ* has made a commitment to transparency, diversity, and building intellectual community. The next steps involve inviting the larger community into a dialogue that critically engages with the findings and their implications for deliberation and action. By being willing to look fully at its patterns and engage openly with the larger community about its struggles, *YLJ* has already undertaken the hard work of advancing full participation in *YLJ.* There is room to grow, but there is also reason to be encouraged.

I. INTRODUCTION: THE ORIGIN, BACKGROUND, AND GOALS OF THE *YALE LAW JOURNAL* FULL PARTICIPATION PROJECT

This Report presents the findings of the Full Participation Project, an in-depth study of the dynamics and processes affecting participation in and diversity of *YLJ*. These findings result from a systematic analysis of interviews, network surveys, and demographic data about participation and publication in *YLJ*. The Report describes the dynamics affecting full participation, areas for improvement, and directions for engaging with the findings. The Full Participation Report has been prepared in conjunction with a quantitative report by Ayres and Cozart titled *Patterns in* Yale Law Journal *Admissions and Student Scholarship.*[5]

The Full Participation Project was conducted as an independent, outside review; *YLJ* has not directed the substance of the Report, and decisions about the findings and recommendations remained with the authors.[6] The Full Participation Project also has been a genuine collaboration, so that what we learned from the research could be used and informed by the officers, editors, and interested student leaders. Over the course of the research and inquiry, *YLJ* has adopted a host of changes in its practices. *YLJ* has also begun to institutionalize the practices of data gathering, reflection, and accountability used in this Project.

Part I provides the Report's background, goals, conceptual framework and methodology. Part II describes a tension between purpose and prestige that students experience at Yale Law School (YLS) and that operates in *YLJ*'s multiple missions, and how that tension differentially shapes students' interactions, relationships, and decisions relating to *YLJ*. It also explores the factors contributing to *YLJ*'s operation as a "gold star," students' differing ways of navigating the tension between purpose and prestige, and how identity figures into students' experience of that tension. Part III examines the knowledge and interaction patterns affecting whether and when YLS students apply to *YLJ*, how those patterns relate to ambivalence about *YLJ* participation, and how relationships affect interest in and preparation for *YLJ*. Part IV analyzes students' preparation for each component of the *YLJ* application process, including preparation received before the application process commences, and the preparation and support they receive from *YLJ*

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5. Ian Ayres & Anthony Cozart, *Patterns in* Yale Law Journal *Admissions and Student Scholarship*, YALE L.J. (Nov. 9, 2015) (conducting a quantitative analysis of patterns and trends in participation in *YLJ*), http://www.yalelawjournal.org/news/patterns-in-yale-law-journal-admissions-and-student -scholarship.

6. *YLJ* funded this study through a grant to the CISC, which is directed by Sturm. Initial funds for the study covered a portion of Sturm's salary during the fall 2014 semester and additional expenses associated with Sturm's work on the Report in Summer 2015, travel expenses, and salary for other researchers who assisted with interviews, coding, and the network research. *YLJ* will provide additional funds to CISC in connection with Sturm's role in facilitating conversations about the Report. Sturm, the Principal Investigator and lead author, did not personally receive any funds from *YLJ*.

and other sources. This Part also analyzes students' experiences with *YLJ*'s Diversity Statement, which is a component of its admissions process.

Part V explores the search for intellectual community both within *YLJ* and in the larger YLS community, and its relationship to students' experiences with *YLJ*. Part VI examines patterns relating to student participation in the submission, selection, and publication of work in *YLJ*. Part VII discusses patterns related to leadership, governance, and succession on *YLJ*. Part VIII discusses patterns of engagement that make it difficult for students and other members of the YLS community to address sensitive issues generally and those relevant to the issues of diversity and full participation on *YLJ*. Part IX concludes by offering ideas for next steps related to discussion, engagement, and action.

A. Setting the Context

The Full Participation Project grew out of concerns that *YLJ* editors and the larger YLS community expressed about diversity on *YLJ*. Like law reviews around the country, participation in *YLJ* matters to a wide variety of stakeholders. The legal academy and profession depend largely upon student-edited law reviews for publication of scholarship relevant to legal issues.[7] To varying degrees, practitioners, judges, and policy makers look to law reviews to help themselves understand important problems and challenges relevant to law and the legal profession. They also look to law reviews for creative strategies and solutions for addressing those issues.[8] For students interested in the editing and publication process, student-run law reviews are the vehicle that affords them that opportunity. Law reviews have been credited with providing their members with much-needed opportunities to develop writing, critical thinking, and editing skills, which the official law school curriculum at some schools may not adequately provide.[9] Law reviews thus play important roles within law schools and the larger legal community.

It is therefore unsurprising that in many law schools, law reviews occupy an influential place in the overall school culture. Law review participation has become a sought-after credential for many law students interested in pursuing clerkships, academic careers, and other highly selective legal jobs, and it is treated by a subset of employers as a factor in their hiring decisions.[10] A significant proportion of law students participate in the law

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7. For a history of the origin of student-edited law journals, see Michael I. Swygert & Jon W. Bruce, *The Historical Origins, Founding, and Early Development of Student-Edited Law Reviews*, 36 HASTINGS L.J. 739, 779 (1985).

8. Many law schools have recognized the educational value of law reviews by awarding credit for participation. According to one survey, seventy-one percent of participating law schools allow law review participation to satisfy their legal writing requirement. *See* Josh Fidler, *Law Review Operations and Management: An Empirical Study of the New York University Law Review Alumni Association*, 33 J. LEGAL EDUC. 48, 62 (1983).

9. Scott M. Martin, *The Law Review Citadel: Rodell Revisited*, 71 IOWA L. REV. 1093 (1986).

10. TODD C. PEPPERS, COURTIERS OF THE MARBLE PALACE: THE RISE AND INFLUENCE OF THE SUPREME COURT LAW CLERK 30 (2006) (reporting results of a survey indicating that most Supreme Court clerks were on law review); Menachem Wecker, *Law Review Leads to Legal Jobs, Recruiters Say*, U.S. NEWS & WORLD REP. (Jan. 19, 2012, 9:00 AM), http://www.usnews.com/education/best-graduate-schools

review admissions process. Many first year law students decide whether to compete for law review at the end of their 1L year. Many understand this sorting process as an important component of self-definition.[11] For those who publish in law reviews or become part of the editorial board,[12] law reviews can become a defining aspect of their law school experience.

Alongside law reviews' respected roles, questions regarding their operation, participation, and cultural meaning abound. Some of these questions relate directly to the fulfillment of law reviews' scholarly and educational mission. Critics have commented on law reviews' exclusivity and status within law schools, while legal scholars, judges, and practitioners have expressed concern about the quality, readability and relevance of the scholarship currently published.[13]

Law reviews, like the law schools that house them, also attract strong criticism for their persistent lack of diversity. Over the years, studies of law review participation at specific institutions have documented differential rates of student participation on law reviews as editors and officers based on gender and race,[14] as well as on differential publication rates of Notes and Comments written by students and Articles written by law school faculty and other legal researchers.[15] Few studies, however, have systematically examined the mechanisms and dynamics that produce these patterns, as well as the relationship between how law reviews operate and who participates. Effective strategies for addressing persistent patterns of underparticipation also remain underexplored.

/top-law-schools/articles/2012/01/19/law-review-leads-to-legal-jobs-recruiters-say [http://perma .cc/929R-PK8S] (reporting the reliance of some law firms on law review participation as a signal of one's work ethic and legal writing experience).

11. Most studies of gender in law schools include participation on law review as a significant component, even those that focus on class participation. *See e.g.*, LANI GUINIER, BECOMING GENTLEMEN: WOMEN, LAW SCHOOL, AND INSTITUTIONAL CHANGE (1997) (analyzing women's law review participation as part of a study on gender at the University of Pennsylvania Law School); Sari Bashi & Maryana Iskander, *Why Legal Education Is Failing Women*, 18 YALE J.L. & FEMINISM 389 (2006) (discussing *YLJ* participation in analyzing gender patterns at Yale Law School); Adam Neufeld, *Costs of an Outdated Pedagogy? Study on Gender at Harvard Law School*, 13 AM. U. J. GENDER, SOC. POL'Y & L. 511 (2005) (analyzing women's law review participation as part of a study on gender at Harvard Law School). These studies focus primarily on gender.

12. *YLJ* refers to students with positions on the editorial board as officers.

13. *See, e.g.*, Brent Newton, *Law Review Scholarship in the Eyes of the Twenty-First Century Supreme Court Justices: An Empirical Analysis*, 4 DREXEL L. REV. 399 (2012); Richard A. Wise et al., *Do Law Reviews Need Reform? A Survey of Law Professors, Student Editors, Attorneys, and Judges*, 59 LOY. L. REV. 1 (2013).

14. *See, e.g.*, Amy DeVaudreuil, *Silence at the California Law Review*, 91 CALIF. L. REV. 1183 (2003); Mark A. Godsey, *Educational Inequalities, the Myth of Meritocracy, and the Silencing of Minority Voices: The Need for Diversity on America's Law Reviews*, 12 HARV. BLACKLETTER L.J. 59 (1995); Jennifer C. Mullins & Nancy Leong, *The Persistent Gender Disparity in Student Note Publication*, 23 YALE J.L. & FEMINISM 385, 387 (2011); Lynne N. Kolodinsky, *The Law Review Divide: A Study of Gender Diversity on the Top Twenty Law Reviews*, CORNELL U. L. LIBR. (2014), http://scholarship .law.cornell.edu/cgi/viewcontent.cgi?article=1007&context=cllsrp [http://perma.cc/QX4G-SE3W].

15. Minna J. Kotkin, *Of Authorship and Audacity: An Empirical Study of Gender Disparity and Privilege in the Top Ten Law Reviews*, 31 WOMEN'S RTS. L. REP. 385 (2010).

Law reviews' diversity challenges take place in the context of wider concerns about diversity and equity in law schools and the legal profession. Law schools face recurring criticism for insufficient diversity of their faculty and students.[16] These disparities also characterize significant swaths of the legal profession.[17] Moreover, the legal system lies at the heart of national concerns related to issues of race, gender, and class. These issues sit in a larger context of public concern about increased income inequality and enduring racial and gender disparities. Commentators have called upon law reviews and the legal academy to focus greater attention on significant issues facing law schools, the legal profession, and society at large, including issues of difference and inequality.[18] At the same time, legal and political discourse has made discussions of difference risky and often contentious. These cross-cutting challenges make issues of difference simultaneously highly relevant and difficult to engage.

This broader context set the stage for *YLJ* as it embarked on the Full Participation Project. Like many of its peers, *YLJ* attracts high rates of participation in its admissions process. Seventy-six percent of the Class of 2014, sixty-nine percent of the Class of 2015, and sixty-four percent of the Class of 2016 registered for the Sourcecite Exam—the first step in the application process for *YLJ*.[19] Over the years, *YLJ* has experienced persistent disparities in the participation rates of women and students of color.[20] Prior to undertaking this Project in January of 2014, *YLJ* officers had, to varying degrees, experimented with different strategies aimed at improving the diversity of participation in *YLJ*.[21] Some previous *YLJ* editorial boards have gathered information about disparate participation rates.[22] They have also held recruitment events that are "specifically

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16. *See, e.g.*, GUINIER, *supra* note 11 (analyzing gender patterns at University of Pennsylvania Law School); YALE LAW WOMEN, YALE LAW SCHOOL FACULTY AND STUDENTS SPEAK UP ABOUT GENDER: TEN YEARS LATER (2012), http://issuu.com/yalelawwomen/docs/ylw_speak_up_study [http://perma .cc/BSZ4-WJMK]; Allison L. Bowers, *Women at the University of Texas School of Law: A Call to Action*, 9 TEX. J. WOMEN & L. 117 (2000) (analyzing gender patterns at University of Texas School of Law); Neufeld, *supra* note 11 (analyzing gender patterns at Harvard Law School). Fewer published studies exist involving race, and very few studies explicitly address class, sexual orientation, political affiliation, national origin, or religion.

17. MP McQueen, *Minority Ranks at Large Firms Show Little Growth*, AM. LAW. (May 28, 2015), http://www.americanlawyer.com/id=1202726915938?slreturn=20150910092254 [http:// perma.cc/7E26-3YLY]; Julie Triedman, *A Few Good Women*, AM. LAW. (May 28, 2015), http://www.americanlawyer.com/id=1202726917646/A-Few-Good-Women [http://perma.cc/5H3K -ELC4].

18. *See, e.g.*, Kotkin, *supra* note 15.

19. Ayres & Cozart, *supra* note 5.

20. Memorandum from Eric Fish, Articles Editor, Yale Law Journal, to Yale Law Journal (Dec. 7, 2009) (on file with authors).

21. There appears to be a long history of *YLJ* attempting to address its diversity challenges. A preliminary review of *YLJ*'s archives, conducted by the current officers, produced evidence of many other, older efforts to address diversity on the *Journal*. This includes a "Forum on Racial Matters" in 1970, a diversity committee in 1989, an admissions working group in 1997, and more.

22. In 1996, for example, the *YLJ* officers collected information about application, admissions, and Notes submission and publication rates, and allowed students "multiple opportunities to secure memberships. In 1996 the competition consisted of three rounds of *Bluebook* tests (students could take all three) and two rounds of a written test (if students failed to make the first cut, they could try again)." Volume 121 conducted an informal study using available data and offered recommendations

targeted at addressing the issue of minority underrepresentation on law reviews, and at encouraging minority students to try out," offered multiple opportunities to apply, and created the Diversity & Membership Editor position.[23]

During the 2013-2014 academic year, the *YLJ* officers, along with members of the larger YLS community, surfaced concerns about disparities in the participation rates of women and students of color as editors, officers, and authors. Student organizations raised these concerns with *YLJ* leadership, as part of focusing attention on a broader set of concerns related to diversity at YLS. *YLJ* leadership participated in an ongoing dialogue within *YLJ* and with the different affinity groups at YLS about *YLJ's* diversity issues. In November of 2013, the Editor-in-Chief reported to the YLS community that in their class of second-year *Journal* members—who had been selected for *YLJ* in the summer of 2012—"men substantially outnumbered women in that cohort, which includes only a couple of students who identify as Black or African American and none who identify as Latino/a."[24] As of November, Notes submissions by women were about one-third those of men, and "women were significantly underrepresented among the accepted Notes. Authors identifying as Black/African American or Latino/a are also underrepresented in both the submission pools and the acceptances to date."[25] For Volume 123, the Executive Editors, Managing Editors, and the Editor-in-Chief were white men.[26] The Editor-in-Chief expressed serious concern about these disparities and a commitment to figure out how to change them.[27]

In the spring of 2013, Volume 123 formed a committee dedicated to improving the diversity of the first-year class. Volume 123 also undertook additional outreach to underrepresented groups and affinity groups, introduced a personal statement inquiring about diversity, and began to track admissions and Notes and Comments submission and publication data. In addition, Volume 123 undertook a variety of steps to address disparities in Notes and Comments submissions. The Volume provided "extensive outreach to students and faculty to try to broaden the pool of Notes submissions."[28] The Volume added two women to the Notes Committee for the most recent pool of submissions alongside their ordinary responsibilities. The Volume also introduced the

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that included recording and retaining statistics on "the self-identified ethnicities and genders of students who compete in and pass each stage of the admissions competition." Memorandum from Eric Fish to Yale Law Journal, *supra* note 20. Volume 122 introduced the position of a Diversity Editor.

23. *Id.*; Notes from APALSA Panel Sponsored by *YLJ* (Spring 2013) (unpublished notes) (on file with authors).

24. Posting of Ben Eidelson, benjamin.eidelson@yale.edu, to thewall@mailman.yale.edu (Nov. 11, 2013) (on file with authors) [hereinafter Eidelson Posting].

25. *Id.*

26. *Id.* The Editor-in-Chief is elected by a vote of all the editors of the previous volume. The other leadership positions are assigned by a committee of the outgoing editors from the previous volume. Yale Law Journal, Volume 123 Slating Information Packet (unpublished instructions) (on file with authors). The exact positions have changed slightly from year to year.

27. Eidelson Posting, *supra* note 24.

28. *Id.*

YLJ Summer Writing Fellowships, designed to "encourage a wider range of students to consider devoting a portion of the summer to developing a Note for submission in the fall."[29] These initiatives were driven both by the officer group and by many concerned members of the Volume on and off the officer board.

Although Volume 124 of *YLJ* saw some improvements in the participation of women as editors, the patterns of underparticipation of students of color persisted. The selection process conducted in the spring and summer of 2013 yielded an FYE class "at gender parity with the Class of 2015 at large,"[30] but little meaningful increase in the participation of members of historically underrepresented groups. The Editor-in-Chief also noted the continued underrepresentation of women and students of color as authors of Notes and Comments, and as officers of *YLJ*.[31]

The complexity of the issues and the rapid turnover of *Journal* leadership prompted *YLJ* to seek an outside researcher to help *YLJ* in identifying the sources of the problem and effective interventions to address it. As a result, we undertook this Full Participation Project. We established a clear understanding that, although we agreed to collaborate with and seek feedback from *YLJ*, the decisions about the content of any report would remain with Sturm. That principle has been carefully applied in the preparation of this Report.

B. The Project's Goals and Approach

The Full Participation Project's purpose is fourfold:

1. To understand the dynamics and decisions affecting participation and diversity in *YLJ*;

2. To build the capacity of *YLJ*, in collaboration with others in the YLS community, to discuss and engage with those dynamics;

3. To identify areas where *YLJ*, in collaboration with other stakeholders in the YLS community (including interested faculty, students, and student organizations), could usefully explore and undertake change; and

4. To provide concrete opportunities for constructive discussion about these issues both within the *Journal* membership and between *YLJ* and interested members of the YLS community.

The Full Participation Project undertook several activities to advance these goals. We worked closely with *YLJ*'s officers in Volumes 123, 124, and 125 to define the goals and focus of the study, and to gain an in-depth understanding of *YLJ*'s mission and operation.

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29. *Id.*

30. *Id.* Ben Eidelson noted that the concerns about *YLJ* participation emerged as part of a broader dialogue about disparities in YLS's selective processes.

31. *Id.*

We then conducted an in-depth study involving interviews, surveys, and focus groups. We analyzed our findings along the way, and met with the officers of Volumes 124 and 125 periodically to share what we were learning and brainstorm possible responses to the interim findings. We presented our preliminary findings to the YLS community in April 2015, and then prepared a written report, earlier drafts of which were shared with the officers and *YLJ* Board of Directors. Discussion of these drafts prompted further dialogue about the findings and possible responses by *YLJ*, as well as some concrete changes in practice, described more fully below. Although *YLJ*'s officers and Board of Directors provided feedback and editorial suggestions on earlier drafts of this Report, *YLJ* has not directed the substance of the Report, and the findings and recommendations are entirely those of the authors.

From the outset, we took the approach of placing the issue of diversity in a broader frame of full participation, seeking to understand the dynamics that affect how people from different backgrounds and identities experience their involvement with *YLJ*, and how these dynamics relate to *YLJ*'s capacity to advance its mission. This full-participation frame enables us to identify the underlying patterns that affect the participation of different groups, as well as to link issues of diversity to *YLJ*'s shared goals and challenges.[32]

The Report aims to build capacity to understand and address the complex dynamics that contribute to differential participation in *YLJ*. It also strives to create a context for people from different backgrounds and identities to engage constructively with each other about these issues. This latter goal is challenging. Some of the cultural dynamics described in this Report are experienced widely across the YLS community, and indeed across society more generally, but are rarely discussed openly. Many of YLS's peer schools have reported experiencing similar challenges; however, explanations and solutions for these challenges frequently fail to produce significant improvements.[33]

YLJ expressed interest in using the Report as a catalyst for dialogue with the larger YLS community. *YLJ* has provided tremendous access and support for this Project. The officers have shared data, provided input on the design of the Project, facilitated access to students, created opportunities for input from other YLS organizations, and engaged in many conversations about the implications of the findings for *YLJ*'s practices. *YLJ* has also agreed that the Report should reflect the findings from the researchers' rigorous, systematic, and independent analysis of the information we gathered.

As one of the nation's leading law reviews,[34] *YLJ* is in a position to invite a broader dialogue about full participation and diversity on law reviews. *YLJ* has made these issues

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32. "Full participation" is a concept the principal author developed in earlier publications and has used in action research with a variety of higher education institutions. *See, e.g.*, sources cited *supra* note 1.

33. *See* sources cited *supra* notes 10-11.

34. *YLJ* is one of the most respected and cited legal publications, with a track record of generating the highest number of citations per published Article. Law Library, *Law Journals: Submissions and*

a major focus of attention and inquiry, with a seriousness and engagement that has persisted across three successive officer boards. The *Journal* made it possible for an outside and independent researcher to conduct an investigation and to facilitate conversations at YLS aimed at building the community's capacity to learn about and address problems that emerged from the investigation. The *YLJ* officers have provided the access and support needed to investigate systematically the dynamics producing the outcomes they have sought to understand and change. Over the course of this inquiry, *YLJ* has also taken concrete steps to increase full participation on *YLJ*, which are described in the Report along with persistent challenges facing these efforts. To promote transparency and build trust, *YLJ* decided to publish the results of this investigation, with the agreement that the investigation would proceed independently and that the findings would be reported without *YLJ* influencing the results. *YLJ* has committed to engage with the YLS community about the Report and its implications for next steps.

YLJ thus assumed a posture of genuine inquiry, accountability, and transparency that is quite unusual, particularly for an institution whose diversity practices have been questioned. *YLJ* has taken a stance of openness about issues that are difficult and complex, and has decided to share information and challenges with YLS and the broader community in the interest of fostering an open dialogue and increasing the possibility of making these issues amenable to discussion and action. This Report proceeds in that spirit.

C. Conceptual Framework

We framed the research in terms of the overarching idea of full participation.[35] Full participation is "an affirmative value focused on creating institutions that enable people, whatever their identity, background, or institutional position, to [enter,] thrive, realize their capabilities, engage meaningfully in institutional life, and contribute to the flourishing of others."[36] In the course of discussions with each board of editors, *YLJ* embraced full participation as a value it hoped to further through this research, with the understanding that the concept would take shape through exploring a series of questions that would reveal its meaning and operation at *YLJ*: who succeeds and thrives in relation to *YLJ*? What are the dynamics contributing to these patterns? How should *YLJ* respond to these findings? We analyzed demographic categories that students say play a role in their experiences at YLS and on *YLJ*, including race, gender, socioeconomic status, national origin, sexual orientation, and political affiliation, as well as other demographic categories that participants self-reported.

Ranking, 2007-2014, WASH. & LEE U. SCH. L., http://lawlib.wlu.edu/LJ/index.aspx [http://perma.cc/MB4H-TSZA].

35. *See* sources cited *supra* note 1.

36. Susan Sturm et al., *Full Participation: Building the Architecture for Diversity and Community Engagement in Higher Education*, CTR. FOR INSTITUTIONAL & SOC. CHANGE (Sept. 2011), http://imaginingamerica.org/wp-content/uploads/2011/10/2011.09.01.catalyst.paper_.pdf [http://perma.cc/7BPW-XRUL].

The inquiry focused on critical junctures and milestones affecting full participation on *YLJ* and the relationship of diversity to *YLJ*'s mission: (1) cultivation of interest in *YLJ* during the first year of law school through prior relationships, outreach, and recruitment, and preparation for and completion of the admissions process, along with aspects of the first-year law school experience affecting interest and preparation; (2) governance, including aspects of *YLJ* practice that affect levels of engagement and interest in participation in leadership; (3) editorial board recruitment, application, and selection; and (4) publication, including the development and selection of Notes, Comments, Features, *Forum* pieces, and Articles.

We use a multi-level systems approach that has two related features. First, at the individual level, it recognizes how a person's experiences are shaped by dynamics occurring at multiple levels in the broader social system. These include: interactions with others (interpersonal level); shared norms and expectations governing those interactions (group level); formal and informal practices and policies (organizational level); and networks that extend beyond the boundaries of *YLJ*, as well as profession-wide norms, rules, and regulations (extra-organizational level).

Second, a multi-level systems approach enables a "both/and" move to address how members of particular identity groups experience, and fare in, *YLJ*.[37] Making particular identity groups salient creates a dilemma. When we focus explicitly on gender or race, for example, some individuals (including some women and students of color) rightly fear that the category will become even more relevant in ways that disadvantage women and people of color (in the eyes of some) or give those groups unfair advantage (in the eyes of others). But when we leave identity out of the equation, we overlook how different identities are already shaping experiences in ways that prevent full participation. Hence, the problems of inequality can be exacerbated *both* by treating members of different groups the same *and* by treating those groups differently. Martha Minow has called this the "difference dilemma."[38]

This dilemma calls for the "both/and" move: change initiatives need to be framed more broadly than a focus on identities found to be the sources of inequality, but those categories of identity must remain an important part of the inquiry if there is any hope of advancing marginalized groups. In this approach, these identities are *both* the focus of the culture-change initiative *and* are not the overarching focus; instead, the culture as a whole and how members with different identities and backgrounds experience it is the overarching focus.[39]

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37. Sturm, *Reframing the Civil Rights Narrative*, *supra* note 1.

38. MARTHA MINOW, MAKING ALL THE DIFFERENCE 20 (1990).

39. Sturm, *Reframing the Civil Rights Narrative*, *supra* note 1. This multi-level, both/and approach to difference will be developed more fully in an article being written by Susan Sturm and Robing Ely, on Organizations As Action Arenas for Addressing Structural Inequality.

The framework used to understand students' ability to thrive and to navigate the pathways into and through *YLJ* draws on prior research in other academic settings suggesting the importance of relationships that provide access to three types of resources[40]:

> *Information*: Students depend on relationships for key information—for example, information about how YLS and *YLJ* work and whom to seek out for developmental opportunities and support—some of which can only be learned in interactions with more experienced, knowledgeable students and faculty.

> *Developmental opportunities*: Many developmental opportunities arise through interactions with YLS faculty and student leadership, especially opportunities to develop research and writing skills and to engage in activities related to personal and professional aspirations.

> *Support*: Students depend on relationships to give them candid and useful feedback, to help them persist in the face of challenges and setbacks, to guide them in navigating the culture and politics of YLS and *YLJ*, and to convey the value of their work to others in positions of power.

Participation on *YLJ* is likely to be affected by interactions, policies, and practices specific to *YLJ*, as well as dynamics and interactions of other significant organizations and the broader YLS culture. Students' experiences with *YLJ* may also be affected by: the knowledge, background, relationships, and experience students bring to YLS; what happens during their first year of law school; how they perceive and interact with *YLJ* members and leaders; and their involvement with other significant activities that students undertake. It is thus important to understand the patterns of success and thriving influencing students' experiences and decisions during their first year of law school, as well as the interactions and practices specific to *YLJ*.

The inquiry also took a developmental approach, exploring interactions at critical junctures affecting students' experiences, as well as the cultural norms and practices that shape those interactions. By "culture" we mean the norms and beliefs about acceptable and desirable practice—inscribed and reinforced by policies, practices, and patterns of interaction—that shape members' actions as they go about their day-to-day lives. Interest in participating in *YLJ* may also be influenced by how students perceive *YLJ*, whom they

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40. The principal author has conducted studies in other academic settings, drawing on the literature of the role of social relationships in providing resources such as information, personal reinforcements, cultural capital, and social credentials. *See* sources cited *supra* note 1. The literature documenting the role of these resources in relationships is extensive and growing, and builds on the intellectual foundations established by Pierre Bourdieu, James Coleman, and Nan Lin. *See, e.g.*, MARIO LUIS SMALLS, UNANTICIPATED GAINS: ORIGINS OF NETWORK INEQUALITY IN EVERYDAY LIFE 6 (2009).

know and with whom they interact, what kinds of interactions they have with *YLJ* editors, and whether they see a fit between their values and those of *YLJ*.

Prior research in other higher education institutions suggests the importance of exploring the connection between the organizational purposes, on the one hand, and the interests and aspirations of the range of people the leadership seeks to engage, on the other.[41] Engaging diverse stakeholders in advancing shared purposes associated with *YLJ*'s mission may provide a mechanism for engaging constructively with differences that might affect the quality of individuals' experiences. It may also help to increase the capacity for constructive discussion of issues relating to difference, including racial and gender difference, which will be a significant factor in enabling *YLJ* to engage the community in a sustained and constructive way about the issues that gave rise to this study.

With this conceptual framework in mind, the following questions guided the study:

1. How do students' relationships, experiences, and identities enhance or detract from their interest, preparation, engagement, and success in participating in *YLJ*?

2. What does it mean to succeed and thrive on *YLJ*? Who is and who is not thriving?

3. How do policies, practices, and patterns of interaction at YLS and *YLJ* enhance or detract from students' abilities to thrive, feel fulfilled, seek, and succeed in domains that are core to their personal goals and values? How do these policies, practices and patterns operate in domains that are core to *YLJ*'s mission and values?

4. How do editors' relationships, experiences, and identities enhance or detract from their levels of engagement, ability to thrive, and interest in leadership roles in *YLJ*?

5. How do policies, practices, and patterns of interaction at *YLJ* enhance or detract from the engagement of students from different backgrounds, identities, and experiences in the core activities of *YLJ*?

6. What are potential strategies for influencing patterns of interest, preparation, engagement, success, and thriving at *YLJ*? How does *YLJ* build cross-generational capacity to engage difference?

D. Methodology

This Report is the result of multi-method research that began in January of 2014.[42] It includes interviews, network surveys, document analysis, and analysis of demographic

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41. *See* sources cited *supra* note 1.

42. In addition to Sturm, the research team for this Project included: (1) Makovi, a Ph.D. candidate at the Columbia University Department of Sociology, who conducted the analysis of the network surveys; (2) Heidi Brooks, a professor at the Yale School of Organization and Management, who conducted some of the interviews and participated in the focus groups with *YLJ* officers; and (3) Joan Robinson, a Ph.D. candidate at the Columbia University Department of Sociology, who did

information. Interviews and surveys took place between January 2014 and February 2015. Data from different sources were triangulated where possible to serve as a check on each method and to enable the researchers to strengthen their understanding of the issues.[43]

1. Interviews

We conducted a total of seventy-two confidential, one-on-one interviews beginning in January 2014 and ending in February 2015. The sample comprised the following:

- 57 law students:
  - 17 FYEs of Volume 124 (current SYEs of Volume 125)
  - 18 SYEs of Volume 124
  - 22 2Ls in the Class of 2016 who were not on *YLJ*
- 12 faculty and administrators
- 3 alumni of *YLJ*

Sampling Strategy

The sampling strategy for selecting interviewees was "purposeful" or "theoretical" sampling, where the aim is to illuminate and understand rather than to predict or determine causation.[44] This is the dominant sampling strategy used in qualitative research.[45] Specifically, we selected a sample that was likely to maximize variation; it was important to conduct interviews with students from a range of different identities and who occupied different positions relating to *YLJ*. We thus sampled students who, at the time the interviews took place, were FYEs of Volume 124 in the Class of 2016 and SYEs of Volume 124 in the Class of 2015. In the sample, we also included students in the Class of 2016 who were not *YLJ* members, including both students who did not apply to *YLJ* and those who applied but were not selected. To enable us to understand whether students' experiences vary in ways related to their identity, we sought to interview students in a variety of identity categories, including race, ethnicity, gender, political affiliation, sexual orientation, professional interest, and socioeconomic status. Even outlier cases were of interest as they illuminated what was possible and, by juxtaposition, what was routine.

At the time we conducted interviews, we did not have demographic information about some of the categories that were of potential interest, and thus relied on two ways to achieve variation in the pool: (1) we randomly sampled students within each group for

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preliminary coding of student interviews. Sturm conducted the bulk of the interviews, recoded every interview for cross validation, conducted data analysis, and drafted the Report.

43. JOSEPH A. MAXWELL, QUALITATIVE RESEARCH DESIGN: AN INTERACTIVE APPROACH 128 (3d ed. 2013) (describing the value of triangulation as a mechanism of accountability and analysis).

44. JULIET CORBIN & ANSELM STRAUSS, BASICS OF QUALITATIVE RESEARCH: TECHNIQUES AND PROCEDURES FOR DEVELOPING GROUNDED THEORY 214 (3d ed. 2013).

45. *Id.*

which we had demographic information, and (2) for groups where we did not have demographic information, we reached out to leaders of YLS student organizations to recruit interview participants.[46] We asked the leaders of student organizations to e-mail their membership and encourage them to participate in the interview process.

To understand *YLJ* from the perspective of students who were not part of the *Journal*, we randomly sampled students from the Class of 2016 (who were 2L students at the time of the interviews), oversampling for students who were not editors of *YLJ* to assure that their experiences were adequately represented in the data. We continued adding to the sample through random selection until we had interviewed at least five students in the following categories[47]: did not apply to *YLJ*; applied to *YLJ* and were not accepted; self-reported to be in the various demographic and political groups comprising the YLS student body; and self-reported to be in roles that might be relevant to *YLJ* participation (e.g., Coker Fellows,[48] student organization leaders, specialty journal editors, and students who participate in clinics at YLS).

The students who agreed to participate in the study represented the variation described above. When students who were randomly sampled did not respond or declined to participate, we invited a back-up individual in the same demographic group to participate. We repeated this process until we reached the saturation point where new individuals were not revealing significant new insights.

The invitation to participate in this study informed students that the interviews were part of "a project undertaken by *YLJ* to understand better the dynamics affecting full participation at YLS and in *YLJ* membership, leadership, and authorship, and to develop strategies to address these dynamics."[49] The pool of students interviewed and surveyed included significant numbers of students who did not apply or were not members of *YLJ.* However, because the e-mail inviting students to participate made clear that *YLJ* sponsored the study and that the results would focus on *YLJ*, including its relationship to YLS, students who had no interest in *YLJ* (either as a potential or actual member or as an institution at YLS) may be less represented in the sample and in the resulting data.

Within *YLJ* membership, we randomly sampled FYEs, oversampling for students in underrepresented groups. We also sought to interview executive leadership and at least two editors from each of *YLJ*'s committees or roles. Interviews were voluntary, and some

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46. At the time we conducted interviews, we did not have demographic data of students in the Class of 2014 or *YLJ* editors and officers, unless they had responded to the surveys conducted in the spring of 2014. We used only self-reported demographic data.

47. Some participating students fell in more than one category.

48. Coker fellows are third-year law students selected by faculty and assigned to assist a "small group" of first-year law students. They read drafts of memos and briefs, answer questions, and serve as mentors.

49. E-mail from Susan Sturm, Principal Investigator, to YLS Students Invited To Participate in an Interview (Oct. 12, 2014, 17:43 EST) (on file with authors).

individuals invited to interview declined or did not respond. Because YLS is a small school, we do not provide a demographic breakdown of the *YLJ* students interviewed in order to preserve confidentiality.

From the student interviews and conversations with *YLJ* officers, we identified and interviewed a small group of faculty and administrators who had experience working with *YLJ* and would be helpful in providing context for the patterns emerging from the student interviews and surveys.

Interview Process and Protocols

Interviews lasted, on average, approximately one-and-a-half hours. Some students, particularly SYEs, were interviewed twice to cover all the topic areas relevant to their experience. All but four interviews with current YLS students, faculty, and staff were conducted in person; the remaining four interviews were conducted by phone. The interviews were tape recorded and transcribed, with the exception of two interviews with people who preferred not to be recorded. In those cases, we took extensive notes, which we typed up immediately following the interviews.

We asked questions that pertained to people regardless of their role, and where appropriate, we also designed questions tailored to the specific roles and experiences of FYEs, SYEs, and faculty members. The interviews were semi-structured: Interviewers used a protocol to pursue a consistent set of themes, but explored additional, relevant themes as they arose in the course of the interview. The protocol posed questions aimed at understanding how people in different positions and with different backgrounds and identities experience participation in *YLJ*, including the YLS dynamics leading up to their participation or decision not to participate.

The protocol covered the following themes:

- ***Pre*-YLJ *factors affecting interest and participation.*** We asked students about their educational background; what drew them to YLS; what they knew about *YLJ* prior to coming to YLS; who they consulted about law school, YLS, and *YLJ*; what kinds of writing experience and support they received before coming to YLS; and what goals they had coming into YLS.

- ***Critical junctures and turning points.*** We probed for students' experiences at critical junctures in the first year of law school, including learning the rules of the road, getting feedback on writing, receiving grades, course selection, experiences with specialty journals and student organizations, competitive opportunities at YLS (including *YLJ*), and decision making related to furthering academic and professional interests. Questions included: how do/did you learn the rules of the road? What were important decisions, opportunities, interactions, or events that affected your trajectory? How was success defined and experienced at each juncture? What were the challenges and barriers you experienced along the way, and how did you navigate them?

- ***Key relationships.*** We inquired about interviewees' key relationships with students, faculty, staff, friends, and family. We probed to learn about interactions in which they: give and receive support; discuss ideas of importance; provide feedback about writing, mentoring, and advice; choose activities; recover from setbacks; and experience conflict or difficulty. Questions included: with whom do you interact regularly? What kinds of support have you sought, received or given? To and from whom? Who are the most important people who have influenced your ability to succeed and thrive at different junctures? In what ways have they been important?

- ***Success and thriving at YLS in relation to* YLJ.** We explored students' personal perspectives on how participation on *YLJ* related to their definitions of success at YLS, what it means for them to succeed at YLS, how they understand what it means to thrive, who thrives at YLS and in *YLJ* and who does not, and how participation in *YLJ* affects their experience of success and thriving. Questions included: what does it look like to thrive and do well? What does it mean to succeed? How are different activities and achievements valued at YLS?

- ***Interactions and decision making related to participation on* YLJ.** We probed how YLS students learned about *YLJ*, their understanding of *YLJ*'s mission, when they considered applying, who influenced their decision-making process, when and why they decided to participate or not to participate, how they spoke about *YLJ* with others, how they prepared, who helped them prepare and how, and the experience of applying to *YLJ*, which included taking the Sourcecite Exam, Critical Essay, and Diversity Statement. We also explored students' experiences of and relationships between FYEs and SYEs, decision making related to publishing a Note or Comment, interactions, decision making and information relevant to slating, and interactions and decision making related to publishing Notes, Comments, and Articles.

- ***Interactions and experiences related to identity at* YLJ *and YLS.** We examined how students with different racial, ethnic, gender, sexual orientation, economic, political, geographic, educational, professional and disciplinary backgrounds and interests experience their engagement with *YLJ* and YLS. In the interviews, we asked people to describe their experience at different junctures. Then we asked about the relevance of identity. If asked what we meant by identity, we invited people to speak to the categories of identity that were relevant to them. Toward the end of the interview, we asked about how issues related to diversity and identity were discussed in their interactions at YLS and in *YLJ*, and illustrated with traditional categories such as race, gender, socioeconomic status, and sexual orientation. We also asked if they observed any systematic differences in the kinds of people who succeed and thrive at YLS and on *YLJ*, including those in traditional demographic categories. We then analyzed the data in light of categories that people identified as relevant, as well as by traditional demographic categories.

- ***Spaces, conflicts, policies, and practices affecting students' interactions and decisions.*** Questions included: where and how do the opportunities for and barriers to full engagement operate? What mechanisms and practices contribute to differential levels of access, participation, engagement, and success?

- ***Agency and leadership—how people get things done; how change occurs.*** Here, we asked *YLJ* leadership and YLS students about how people get things done, get their needs met, or advance their interests; how change occurs more generally at YLS and on *YLJ*; and what they would retain or change about their experience at YLS and on *YLJ*.

The interviews focused first on individual experiences and perceptions and then moved to questions about whether/how identity group membership, such as gender, race, national origin, sexual orientation, or educational background, appeared to have shaped their own or others' experiences at YLS and in relation to *YLJ*. This approach allowed us to identify overarching patterns in the data, patterns that cut across some groups but not others, and patterns that tended to characterize a particular group. We were also able to capture people's theories and observations about how group memberships shape students' experiences relevant to their decisions and experiences related to *YLJ*.

Coding and Analysis of Interview Data

We followed a standard qualitative data coding and analysis procedure involving overlapping phases, beginning with "open coding," which entailed assigning descriptive codes to each line of the transcribed interviews; then "axial coding," whereby codes were aggregated into larger concepts and themes, and checked against the interview data to confirm that those themes accurately represent interview responses; and finally, conceptualization, which involved an iterative process of mapping and remapping concepts and themes, their properties and dimensions, and their interrelationships, until a coherent narrative tightly linked to the data emerged.[50]

To indicate the weight of evidence for any given finding, we generally chose to use adjectives such as "most," "many," and "some" to convey the prevalence of a theme (i.e., a coded account, experience, or view) across the interviews rather than reporting exact percentages of people mentioning the theme in their interview. References to particular themes are technically countable but reporting percentages often lends a false precision to the data; in addition, percentages do not take into account the strength of people's statements. Instead, we use "most" to denote the vast majority of interviewees in a given

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50. JULIET CORBIN & ANSELM STRAUSS, BASICS OF QUALITATIVE RESEARCH: TECHNIQUES AND PROCEDURES FOR DEVELOPING GROUNDED THEORY (3d ed. 2007). Robinson did initial coding of the interviews. Sturm then read and coded every interview to enhance coding reliability and more systematically coded for particular patterns suggested in the initial coding. Throughout the coding process, we prepared a series of analytical memoranda identifying emerging themes, which aided in the conceptualization phase of the analysis.

referent group (e.g., FYEs, women, and 1Ls). We refer to "many" to indicate about half of the interviewees in the referent group. "Some" people means that, although the theme was not representative of the referent group as a whole, it was shared by more than a few people, suggesting a noteworthy pattern. Every finding presented in the Report had multiple sources of support. No quotation was included if it expressed an outlier point of view.

Confidentiality

We took particular care to protect the confidentiality of all interviewees and authors of e-mail communications shared with us. When necessary to preserve confidentiality, we omitted potentially identifying information, such as the gender or status of the interviewee or summarized comments from multiple interviews with sufficient generality so that individuals could not be identified. Where there was a risk of disclosing identity by quoting directly, Sturm e-mailed the speaker to ask for permission to use their words in the Report and excluded quotations for which permission was not granted.

2. Social Network Surveys

To facilitate our understanding of student variability in well-being and in the relationships that may affect their participation on *YLJ*, we administered three surveys: (1) a survey of FYEs of Volume 123 in early February 2014, prior to the selection and announcement of the new *YLJ* Editorial Board for Volume 124;[51] (2) a survey of SYEs of Volume 123, also in early February 2014; and (3) a survey of students from the Class of 2016 in April 2014 (Class of 2016 1L survey), immediately before their decision to participate in the Sourcecite Exam. Where possible, questions were identical on the three surveys to permit aggregation and construction of interaction networks among FYEs and SYEs.

One hundred and four students in the Class of 2016 took the survey in April of their 1L year (out of a total class of 194 who were on the e-mail list of 1L students supplied by *YLJ*). Of those, 87 were usable (meaning that they had completed enough of the survey to include their data), for a response rate of 45%. Women are over-represented in the Class of 2016 1L survey sample (51 women or 58.6%, as compared to 33 men and 3 of

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51. "Slating" is the process by which FYEs apply for the editorial positions they will hold as SYEs. Before the completion of the slating process and the announcement of the results, all SYEs and FYEs of Volume 123 received an e-mail from Sturm inviting them to participate in the survey, with the following language:

> I am following up on the email you have received from Ben Eidelson inviting you to participate in a survey designed to map interaction and support networks and other aspects of your experience as a Journal member and YLS student. This survey is part of a larger YLJ initiative to deepen the understanding of and capacity to address the structural forces that give rise to differential participation in Journal membership, leadership, and authorship, as well as the connections between these dynamics and broader currents in the Law School.

E-mail from Susan Sturm, Principal Investigator, to All FYEs and SYEs of Volume 123 (Feb. 3, 2014, 16:15 EST) (on file with authors).

unknown gender). The racial and ethnic breakdown of the sample was as follows: 7 black/African American students, 3 Latino(a)/Hispanic students, 12 Asian students, 56 white students, and 7 other students.

Fifty FYEs from Volume 123 took the survey; 47 of those survey responses were usable, out of 56 editors on the e-mail list of FYEs supplied by the *Journal*, for a response rate of 83.9%. Twenty-two women (46.8%) completed the survey, as compared to 19 men (40.4%) and 6 (12.8%) of unknown gender. Given the relatively small number of students of color on *YLJ*, we are unable to report the racial breakdown beyond white/nonwhite without risking disclosing the identity of survey respondents. Thirty white students (70%), as compared to 17 nonwhite and race unknown students (30%) completed the FYE survey.

Thirty-two SYEs from Volume 123 took the survey; 30 of those survey responses were usable, out of a total of 49 SYEs on the e-mail list of SYEs provided by *YLJ*, for a response rate of 61.2%. Nine women (30%) and 21 men (70%) completed the survey. Again, to preserve confidentiality we do not report the racial breakdown of SYEs. Twenty-three white students (76.7%) completed the survey as compared to 7 nonwhite and race unknown students (23.3%).

These surveys were designed to assess students' interaction networks—with whom they interacted at important junctures along their educational pathway—and their level of satisfaction with their interactions at YLS and in relation to *YLJ*.[52] To assess student interaction networks on *YLJ*, we asked respondents to name up to five *YLJ* colleagues in three categories: (1) with whom they had conversations about joining *YLJ* and slating, (2) with whom they are friends, and (3) to whom they give or from whom they receive help with editing and writing.[53] We asked about students' experiences with *YLJ* admissions buddies, Notes and Comments writing, edit memos, and *YLJ* social events.

We assessed satisfaction by asking students: (1) how satisfied they were with their interactions, including the quality of research support, the level of support overall, social interactions, and things they would like to retain or change in the YLS culture; (2) the amount they interacted with people in different roles generally and around socializing, figuring out how things work at YLS and *YLJ*, selecting classes, getting help with research and writing, participating in different activities and organizations at YLS, and participating in the *YLJ* competition and, where applicable, in the slating process (using 5-point Likert-type scales); (3) how central they are to YLS and, where applicable, to

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52. The network research employed methodologies widely used by network researchers. For an overview of these concepts, see generally CHARLES KADUSHIN, UNDERSTANDING SOCIAL NETWORKS: AN INTRODUCTION TO SOCIAL NETWORK CONCEPTS, THEORIES AND FINDINGS 3-12 (2011); STANLEY WASSERMAN & KATHERINE FAUST, SOCIAL NETWORK ANALYSIS: METHODS AND APPLICATIONS 28-66 (1994).

53. This convention of limiting the number of relationships an individual can report is widely used among network researchers. *See* CORBIN & STRAUSS, *supra* note 50.

YLJ; and (4) whether they experienced any interactions at YLS where they felt group identity was playing a significant role.

These data enabled us to assess systematic differences among students in satisfaction, centrality, and networks as well as how network features are related to student satisfaction and centrality.[54] Open-ended questions from the survey data were coded using the coding categories and process developed through the coding of the interview data, described above.

Document Analysis

We reviewed and analyzed documents shared by *YLJ*, including:

- Nonconfidential communications between *YLJ* and the YLS student body and faculty, as well as between the officers and FYEs and between student organizational leaders and their membership;

- Materials used by *YLJ* to inform, recruit, prepare, and select editors;

- Materials and tools used to inform, recruit, prepare, and select officers;

- Materials used to inform, recruit, prepare, and select Notes, Comments, and *Forum* pieces;

- Reports prepared by *YLJ* on aspects of its operation, including about *YLJ*'s mission, diversity, and challenges; and

- Publicly available reports and studies on YLS culture, diversity, and first-year experience.

These documents were coded using the coding categories developed through the axial coding process for the interview data, described above.

3. Structured Inquiry and Reflective Practice

We conducted several focus groups with *YLJ* officers to provide background information about *YLJ*, build a shared understanding of the Project, better understand *YLJ*'s mission, build shared purposes for the year and beyond, and share results that might be useful to *YLJ* decision making along the way. We also invited the leadership of student organizations to meet with us individually, and held several conversations with small groups of student leaders to get their perspective on the study, *YLJ*, and its relationship to their organizations.

We conducted inquiry and reflection sessions with *YLJ* leadership to identify key junctures, events, experiences, and observations, as well as emerging opportunities for intervention and experimentation. We also worked with *YLJ* leadership to enable them

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54. The concept of network centrality is discussed in more depth *infra* Part V.B.

to conduct their own reflective inquiries about significant interactions and decision making, particularly confidential decision making concerning selection of Notes and Comments, as well as of *YLJ* leadership for the following year.

Finally, we reviewed Ayres and Cozart's report analyzing the quantitative data on applications and success rates in the admissions process and in submission of Notes and Comments to *YLJ*,[55] and considered the relationship between that analysis and the findings resulting from the analysis of the interview data, network surveys, documents, and reflective practice inquiry.

Sturm presented initial findings to members of the YLS community in April 2015, and received feedback on the findings' resonance, salience, and actionability. Based on that feedback, we further refined and clarified the analysis, and updated the findings in light of ongoing developments at YLS and on *YLJ*. We also received feedback on earlier drafts of the Report from *YLJ* officers of Volumes 123, 124, and 125 and *YLJ*'s Board of Directors. They provided editorial suggestions to clarify and strengthen the presentation.

We now turn to the findings derived from this conceptual framework and methodology.

II. *YLJ* AS A GOLD STAR WITH A MISSION: COEXISTING AND CONFLICTING VALUES

Students at YLS experience *YLJ* as a vehicle for both purpose and prestige. By purpose we mean meaningful goals related to advancing a mission, contributing to a field of importance to them, or cultivating their professional capabilities—goals that students care about and hope to achieve through their *YLJ* participation. Students also seek *YLJ* participation for its prestige—the standing and esteem it holds in the eyes of other people. They may seek *YLJ* membership for the credential value it carries for jobs they hope to attain. They may also seek *YLJ* simply because it is a marker of high status at YLS and in the legal profession. Students' relationship to *YLJ* often stems from a combination of purpose and prestige. The dynamic of navigating the relationship between prestige and purpose significantly affects the patterns of participation in *YLJ*. To comprehend these patterns of participation, then, one must first understand the cultural dynamics that powerfully shape students' interactions, relationships, and decisions at YLS.

A. *YLJ*'s Multiple Missions and Meanings

YLJ is an organization with multiple missions. On its website, under the heading "Mission," *YLJ* refers to its long and respected history and its role in publishing and shaping legal scholarship:

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55.   Ayres & Cozart, *supra* note 5.

> For over a century, the *Yale Law Journal* has been at the forefront of legal scholarship, sparking conversation and encouraging reflection among scholars and students, as well as practicing lawyers and sitting judges and Justices.
>
> The *Journal* strives to shape discussion of the most important and relevant legal issues through a rigorous scholarship selection and editing process.[56]

YLJ publishes eight issues each year. These issues include (1) Articles, Essays, Features, and Book Reviews written by nonstudents; (2) Notes and Comments written by YLS J.D. students; and (3) online *Forum* pieces written by professors, practitioners, and students. Many SYEs devote much of their time and energy to soliciting, selecting, editing, and publishing content.

YLJ also describes itself as an intellectual community with a shared interest in engaging students in the significant issues of our time:

> The *Yale Law Journal* is a community of students interested in engaging in depth with innovative and provocative ideas about the law. At the *Journal*, students can contribute to dialogue regarding areas of the law about which they are passionate. *Journal* members apply their experiences to a variety of careers after graduation, from firm work to public interest to academia . . . . Whatever your ultimate goals, *YLJ* offers a tremendous opportunity to learn alongside your peers, to get to know new people in new ways, and to help make a mark on the way people think about the law.[57]

Officers of Volume 123, Volume 124, and Volume 125—the three volumes studied in this Report—expressed a strong desire to have a positive impact on the law through nonstudent and student publications, to make *YLJ* more of an intellectual community, and to contribute to the broader YLS community. *YLJ*'s recent activities and initiatives reflect these interests in building intellectual community and encouraging more diverse participation by YLS students.[58]

At the same time, many students associate *YLJ* with its selective admissions process and its status as a coveted credential. *YLJ* membership is widely understood in the legal

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56. *About the Yale Law Journal*, YALE L.J. (Jul. 31, 2015 4:00 PM), http://www.yalelawjournal .org/about-the-yale-law-journal [http://perma.cc/2Y7N-BCP5].

57. E-mail from the Yale Law Journal to First-Year Students of Yale Law Sch. (Mar. 6, 2014 14:27 EST) (on file with authors) (describing the *Journal*'s admissions process).

58. Many of these activities are described in the communications between the *YLJ* officers and the larger YLS community, and are discussed in greater detail *infra* Parts III and IV.

community to signify prestige.[59] Like most "flagship" law reviews, *YLJ*'s selection process is competitive and has become an annual ritual at YLS:

> The *Journal* selects editors, usually after the spring of their first year of law school, in a process that typically includes assessment of source and citation skills in addition to skills at analyzing legal scholarship. Students may also be offered admission if they write a Note that is accepted for publication in the *Journal*.[60]

Many students are interested in *YLJ* for both purpose-driven and prestige-driven reasons. The 1L survey asked students who expressed interest in becoming a *YLJ* editor to select the reasons for their interest. The table below provides the results:

Reasons for Interest in Becoming a YLJ Editor

Reason	Percentage
Clerking	70%
Law jobs	60%
Editing	51%
Prestige	50%
Writing and publishing	48%
Intellectual community	46%
Social community	46%
Bluebooking	44%
Academic career	30%
Other	6%

N=84

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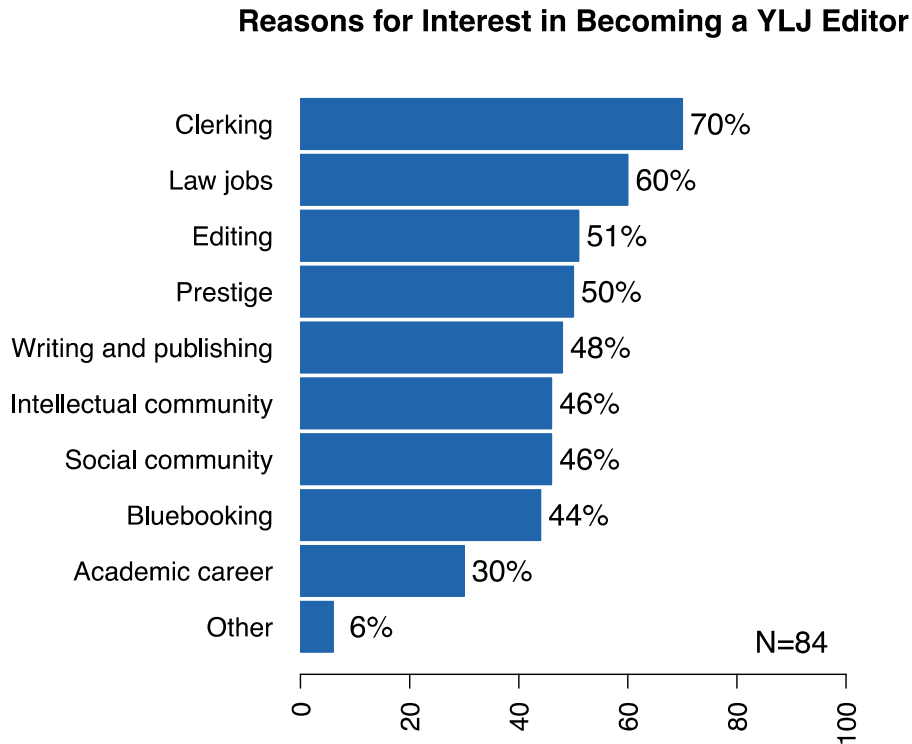
59. *YLJ*'s relationship to prestige is far from unique. Many law reviews have come to function as "honor societies" in certain respects, and the practices of some judges and employers reinforce the reviews' role as status symbols. However, historians have also documented that one of the most significant factors contributing to the increase in the number of law reviews was "the educational benefits of such student-run operations." *E.g.*, Swygert, *supra* note 7, at 779 (1985). Indeed, the initial goals of *YLJ* were: "to provide a means of communication between graduates and students, to serve them both as a common arena for discussion of legal matters, and to aid in the education of student editors and contributors." *Id.* at 780.

60. Yale L.J*., supra* note 56.

Clerking and law jobs rank highest among the reasons students provided. The survey results show that about half the students included editing, writing, and publishing as the basis for their interest in *YLJ.* However, many students checked off both status-related reasons, such as prestige, and reasons related to *YLJ*'s mission, such as editing, writing and publishing, and intellectual community. Some students pursued *YLJ* membership because they "wanted to have a say in how to change how legal pedagogy works" and "figured [that the] *Journal* was [the] best place to exert some say over how legal scholarship is conceived." Interview data provide further support for the notion that many students are motivated to participate in *YLJ* for multiple reasons.

The data also show that students value *YLJ*'s prestige both as a credential important for certain jobs and as a conveyor of status at YLS and in the legal profession. Fifty percent of the survey respondents identified prestige as an independent motivation. Most people interviewed—*YLJ* members and nonmembers, faculty, and administrators— characterized *YLJ* as a quintessential "gold star." More than half the students interviewed used the language of "gold stars" or "shiny things" to define a significant dimension of success at YLS, and the concept of "gold stars" arose in almost every interview. Gold stars are essentially markers of prestige, and many students explicitly referred to a "prestige economy." Because the language and concept of gold stars emerged as a recurring reference in the interviews, we coded all of the interviews for direct and indirect references to gold stars. Most of the students and faculty participating in the study described a "gold star" culture as a widespread dimension of their experience of YLS, both for those who embrace and those who reject the values it conveys.

Many students described the pursuit of gold stars at YLS and on *YLJ* as an experience of seeking status for its own sake, either because they valued prestige in-and-of-itself or because they felt they would be devalued in the YLS community if they did not collect at least some gold stars. As one student noted, gold stars are "important in terms of your social place in the law school and your career," so "there is a premium placed on *YLJ.*" Some students differentiated this status-enhancing motivation to pursue "gold stars" from motivation of enabling them to achieve an outcome or position that they found interesting and worthwhile. Some students who pursued gold stars for status-based reasons also valued the prestige associated with gold stars for its utility in achieving a purpose or goal important to them. Many described the pursuit of gold stars in terms that revolved around status negotiation.

Interviews revealed a widely shared understanding of the meaning and significance of gold stars. As a 2L student explained:

> So it's ticking off a checklist of things that sound prestigious. They can be useful in and of themselves, but they are also things that are very useful just because they're prestigious . . . . It's just whatever the best thing is in each category, whatever is the shiniest, the most prestigious, something that's

> perceived as being the most sought-after . . . . Even if you didn't care about it at all, it would still look good and have value on your resume.

Students shared a common understanding of the accomplishments that are considered gold stars at YLS: "'Gold star' is a term that everyone, including professors, use[s] to describe activities like clerkships, moot court, and [the] *Law Journal.*" When asked to define gold stars at YLS, interviewees consistently placed *YLJ* on the list. One student referred to *YLJ* as "one of the external indicia of success that people are concerned about"; another described it as "the place where the conflict between the institutional value system and a student's personal values becomes the most clear." One *Journal* member crystalized a widely shared perception that *YLJ* is "a lightning rod for discussions about access to competitive opportunities."

Students, including a *YLJ* editor, commented that gold stars, including *YLJ*, are often treated as the baseline even when people disclaim the necessity of pursuing them:

> You're measured against them as the default path, so "you don't need to do moot court if you don't want to, but hey, it looks really good for your fancy clerkships," and "don't do the *Journal* unless you really want to, but it is going to help you get clerkships," and "it is going to help you become an academic one day. It looks really good on your C.V. when you're on the job market."

Many of the interviewees associated the collective frenzy associated with *YLJ* admissions with a more general process of narrowing and funneling pathways and interests over the course of the 1L year. In particular, many students described the phenomenon of arriving at YLS with a diversity of interests and definitions of success, and then witnessing the gold star culture narrow or even homogenize students' goals. As one 2L student mentioned: "We came to law school with different value systems, wanting to do different things, which we absolutely "can do"—but we're then told that a few shiny stars we probably didn't care about before are all that matters, and it's hard to feel like other ambitions are worthwhile." A *YLJ* Editor also stated:

> We refer to various stages at Yale as the rush to the shiny thing because you come in and, especially if you come from family with not a lot of lawyers, you sometimes don't know what some of these things are. And then people will tell you about that and there will be this sudden rush, like "everybody has to get that!" . . . You can go from not knowing what something is to watching everyone around you lunge for it in a very small space of time here.

Statements like the following from a *YLJ* editor were equally likely to come from students of all different backgrounds and identities: "From the first day I walked in the building, students, professors, administrators . . . everybody uses the words "gold stars,"

and I [noticed the] pressure people feel to achieve them and then to publicize them once they have them."

As a result, it is no surprise that many students seek *YLJ* membership to increase their personal and professional status. As one *YLJ* editor observed, "I think of it so clearly as just a marker for applications to judges and firms and not something that's valuable in its own right." Another student placed *YLJ* in the broader context of her experience of the gold star culture: "I did not think this environment would shape what you wanted to be through valuing different things above others. I did not expect there to be so many prizes that people were grabbing for, like *YLJ*."

A gold star culture thus influences many students' decisions about whether to participate in *YLJ*. High-achieving students who are competing for a select subset of prestigious clerkships and jobs feel the need to distinguish themselves by collecting accolades during their tenure at YLS, and *YLJ*—by virtue of its visibility, storied history, and selectivity—is among those sought-after stars. At the same time, many students strive to pursue meaningful activities related to having an impact as students and future lawyers. *YLJ* both represents and experiences this tension between prestige and purpose. This cultural dynamic shapes how students view *YLJ*, how they approach the admissions process, and how they decide upon their degree of involvement upon joining.

YLJ experiences an *institutional* version of the tension between prestige and purpose that students navigating choices about *YLJ* and other gold stars experience on an *individual* level. *YLJ*'s officers have been actively engaged in navigating the tension between *YLJ*'s prestige-related function and its interest in engaging YLS students in substantive activities relating to ideas and impact. *YLJ* editors and officers conveyed different views about this tension. Some explicitly valued *YLJ*'s prestige and felt it was important to maintain, in part because they thought that it motivated the best students to apply and because the legal profession values law review participation as a credential. Others thought that the emphasis on prestige discouraged the participation of some students who were most interested in *YLJ*'s substantive mission, and created skewed relationships between *YLJ* and the YLS community. They expressed interest in exploring ways to maintain *YLJ*'s high standards while de-emphasizing the practices that encourage students to participate simply for reasons of prestige. A view in between these polar perspectives values both the prestige and activities of *YLJ*, and seeks more effective ways to reconcile and even align these dual aspects of *YLJ*'s mission. Editors generally experienced the tension between prestige and purpose both in their institutional roles as *YLJ* editors and in their experiences as individuals navigating the YLS culture.

B. Factors Contributing to *YLJ*'s Gold Star Status

Interview and survey data shed light on the factors predisposing students to equate *YLJ* with gold stars. As explained further below, *YLJ*'s status as a signifier of prestige seems related to the influence of the larger legal culture, the preoccupation with clerkships, the

admissions process, the emphasis on sourceciting, and questions about whether *YLJ* participation will provide meaningful opportunities to focus on writing and publishing.

First, the larger legal culture contributes to students' perceptions of *YLJ* as a coveted credential. Across a wide variety of law schools, law review participation is associated with prestige.[61] Some YLS students received encouragement to participate in the *Journal* from family members and law school alumni because of its value as a credential. Some judges and legal employers inquire about law review participation during interviews. Formal applications for some positions, such as clerkships and certain fellowships, ask students to indicate whether they are on the *Journal*. As one *YLJ* editor explained:

> I think the *Law Journal* comes close to being [a gold star] because throughout the legal profession it's recognized as something. And I think here in particular it can be important since we don't rank or have any other way of meaningfully distinguishing a subset of people within the class . . . . On a lot of applications, it's a checkbox—"Were you on the *Journal*?" And so I've been asked about that when I applied to work for [a government job] this last summer. It's on the first page of your clerkship application and when you submit it through the online system it will ask you whether you were on the *Journal*.

Second, clerkships now play a particularly potent role in amplifying the importance of gold stars and their corresponding impact on the culture at YLS. As of 2014, 36.3% of YLS employed graduates held federal clerkships—the highest percentage in the country.[62] Many students described clerkships as a focus and even a preoccupation beginning in their 1L year. This group included students who did not understand how a clerkship related to their interests and ambitions, as well as students who did not want to clerk. Many students also believed that *YLJ* participation would increase their likelihood of obtaining a prestigious clerkship. Seventy percent of the survey respondents identified clerking as a reason for their interest in becoming a *YLJ* editor, making it the most prevalent explanation for *YLJ* participation. Students who are motivated by the desire to clerk may be more willing to devote time and energy to studying for the Sourcecite Exam. Successful *YLJ* applicants were more likely to have been motivated by an interest in clerking than applicants who were unsuccessful. Ninety-five percent of the thirty-seven survey participants who became editors of Volume 124 checked off clerkships, as compared to seventy-two percent of the survey respondents who were unsuccessful applicants.[63]

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61. *See supra* note 59 and accompanying text.

62. Robert Morse, *Grads of These Law Schools Get the Most Judicial Clerkships*, U.S. NEWS & WORLD REP. (June 12, 2014, 9:30 AM), http://www.usnews.com/education/blogs/college-rankings-blog /2014/06/12/grads-of-these-law-schools-get-the-most-judicial-clerkships [http://perma.cc/V4WR -MWLE].

63. It is worth noting that students filled out this survey before they actually applied to *YLJ* and knew the results of the selection process.

Clerkships appear to play a significant role in shaping how people think about participation on *YLJ*. During interviews, students raised issues relating to clerkships more than any other topic. Some, though certainly not all, students believe that *YLJ* membership is a prerequisite for particularly prestigious clerkships, including appellate clerkships with judges who feed law clerks to the Supreme Court. A cultural emphasis on "feeder clerkships" is thus directly connected to students' discourse and experience of *YLJ*. Many students perceive increased pressure to line up "gold stars" by the end of their first year in order to increase their odds of clerking for a prestigious judge. Many students describe the experience of learning about clerkships and being told that they should wait to apply, and then realizing that they were "behind" other students in pursuing clerkships (or that they had missed an opportunity entirely). The uncertainty surrounding the clerkship process—and students' desire to make their applications as competitive as possible—contributes to *YLJ*'s status as a gold star.

Third, *YLJ*'s application process—with its up-front emphasis on sourceciting—contributes to its gold star status. Students' first significant experience with *YLJ* is preparing for and taking the Sourcecite Exam (commonly referred to as the "*Bluebook* Exam"), which takes place in the spring, followed by a writing component, which typically takes place over the summer. Students' experience of preparing for and taking the Sourcecite Exam significantly colors their perceptions of *YLJ*. The fact that the Sourcecite Exam takes place during the school year, along with *YLJ*'s collective effort to prepare applicants for this exam, influence students' perceptions of *YLJ*. As one editor explained, "the first hurdle is the *Bluebook* Exam which, honestly, most people do pass, but it feels like a big hurdle." The *Journal's* emphasis on sourceciting during the collective application experience, along with its primacy during the FYE experience, lead many students to equate sourceciting with the *YLJ* experience. For those who do not like or see much intrinsic value in sourceciting, they may conclude that the only reason to do *Journal* is because it is a gold star that advances purely instrumental goals related to status.[64]

YLJ's instrumental value is further reinforced by the message that the time commitment to *YLJ* in the first year is minimal. This message is delivered, at least in part, as a strategy for increasing the participation of people who have strong competing commitments, like clinic students or people running other student organizations. 1Ls' interactions with FYEs are thus likely to reinforce the perception that *YLJ* is mostly valuable as a gold star and/or for the experiences you can have as a SYE.

Finally, students with a strong interest in writing and publishing also expressed reservations about whether *YLJ* participation was the best way to pursue those interests.

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64. This issue is discussed in greater depth *infra* Part IV.A, which delves into sourceciting and its relationship to full participation. In part in response to this Project, *YLJ* officers have devoted increasing attention to improving the intellectual content of the FYE experience. *See infra* Part V.A.

Some aspiring authors did not want to spend the time on sourceciting required of FYEs. Some students interested in publishing scholarship also perceived that they were better off working on their own papers, rather than selecting or editing other people's work. A third issue involved more fundamental questions about the format and relevance of the legal scholarship most likely to be published. Some students detected a skew in favor of publishing public law and corporate scholarship, and against publishing pieces that are fact-intensive and relevant to pressing legal or policy problems or that are likely to be used by judges, policymakers, and practitioners.[65] These factors discouraged some students from publishing a Note or becoming more involved in *YLJ*'s content-related work. These students expressed interest in publishing work in other venues, including some specialty law reviews at YLS, which encouraged more policy-oriented or practical approaches to fields they cared about.

Thus, a constellation of factors contributes to students' experiences of *YLJ* as part of a prestige economy with instrumental value. This experience coexists with students' interests in pursuing possibilities at YLS that have meaning to them as a way to have impact, build intellectual community, and build capacity to accomplish their professional and personal goals. The question then becomes how students navigate the relationship between *YLJ*'s gold star status on one hand and its relationship to purpose on the other.

C. Navigating the Tension Between Prestige and Purpose

Students' broader experiences with thriving in relation to success at YLS connect directly with how they navigate the gold star culture, which in turn shapes how students interact with *YLJ*. Most students did not feel that they were thriving at YLS unless they were succeeding in areas important to them. Most students defined their own success in relation to the norms of the gold star culture, whether or not they subscribed to those norms. When discussing success and thriving at YLS, students consistently mentioned the cultural importance of gold stars.

For some YLS students, success and thriving overlap. As the following quotation from a *YLJ* member illustrates, however, this is not the case for all YLS students:

> Success and thriving are two very different concepts. And sometimes . . . my peers see these two concepts the same, but I actually think they're vastly different. I think thriving is about being satisfied with what you've achieved, being optimistic and confident about the future, being hopeful, and also having made peace in thinking about [goals] you've achieved and things you could not achieve.

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65. Some commentators expressed the view that law reviews tend to focus on a limited range of topics and discourage innovation. *See* Kotkin, *supra* note 15, at 32 (reporting the finding that "constitutional law and legal theory account for one-third of all Articles, at 17% and 16% respectively"); Wise et al., *supra* note 13, at 13.

A significant subset of students reported tension between their own values and the culture they experienced at YLS, particularly in their first year. How students experienced this tension—in particular whether they found ways to navigate it—affected both their experience of thriving and their approach to pursuing gold stars at YLS, including *YLJ.*

We sought to understand more concretely how students experience the relationship between prestige and purpose. This tension emerged through a set of questions asking students to identify first what success means at YLS and in *YLJ*, and then what thriving means in those contexts. We first coded all the interviews for students' experiences of success and thriving.[66] We then examined individual cases of students' decision making at critical junctures, with a particular focus on how those decisions related to students' values.

By analyzing students' descriptions of their experiences of success and thriving, we identified patterns in how students navigate the relationship between prestige and purpose, mediated by their informal relationships and identities. These patterns fall into five clusters: (1) prestige as purpose; (2) purpose aligned with prestige; (3) purpose over prestige; (4) prestige destabilizing purpose; and (5) prestige derailing purpose.

1. Prestige As Purpose: Students Whose Personal and Professional Values Are Defined by Gold Stars

One cluster of students valued prestige for its own sake, and thus pursued *YLJ* for the status it conferred. For these students, their personal and professional values were defined by gold stars. They were comfortable with—and focused on—pursuing *YLJ* (and other gold stars), and felt supported by the institution in these pursuits. As one editor explained: "I personally value prestige a lot. And the institution, similarly, values prestige tremendously; I think potentially over everything else."

Students mainly motivated by prestige expressed minimal interest in seeking ways to make their involvement with *YLJ* more substantive or relevant to their professional development. If they became editors, they felt comfortable investing the minimum amount of time and energy in *YLJ* needed to reap the extrinsic rewards associated with *Journal* membership. Some FYEs, for example, found sourceciting intrinsically unrewarding, but had sufficient clarity that they really wanted the prestige and perks associated with being an editor that they experienced little ambivalence about applying and working hard to prepare and participate in *YLJ.*

It is worth noting that many YLS students who described themselves as motivated by prestige for its own sake also wanted to do interesting and meaningful work. Some

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66. A more comprehensive description of the coding methodology was provided *supra* Part I.D.

editors initially sought *YLJ* membership solely for the prestige, and then came to value the activities and relationships they experienced on the *Journal*.

2. Purpose Aligned with Prestige: Students Whose Independent Personal and Professional Values Align with Gold Stars

A second cluster of students pursued prestige to advance other personal and professional goals they care about and that were aligned with the gold stars. Since their personal and professional interests aligned with gold stars, this group experienced minimal disconnect between their intrinsic values and this aspect of the reward structure at YLS. Officers and editors who worked on issues they care about, who participated in intellectual activities that interested them, who published their own work or whose friends also joined *YLJ* described relative ease in squaring prestige and purpose. Not surprisingly, SYEs engaged in the substantive work of the *Journal* comprised a much larger proportion of this group than FYEs. FYEs who were seriously considering slating for a content or Executive Editor position were also represented in this group.

Public interest oriented students who saw *Journal* work as a way to have impact on important issues through publication also came to see *YLJ* as aligned with their values. One editor gave a vivid description of the process for discovering the alignment between *YLJ* participation and her values:

> I was away from campus over spring break and alone one day and trying to make the decision about whether to apply for clerkships and also *YLJ*. I ended up thinking, if you had told me about this before I started law school, does it sound like something I would have said, "yes I want to do that," if I didn't know anything about the culture or what it might get me down the road? And the answer was, yes, it's something I would want to do. And so I decided to do it.

There were also some FYEs who found intrinsic benefit in sourceciting. As one student explained, "I like this very detail-oriented thing and looking for small mistakes." Another student and *YLJ* editor described how, in part through interactions with a law firm partner about the value of painstaking attention to detail, *YLJ*'s prestige value became an entryway to something with more intrinsic value:

> As I spent more time doing *Journal* work, I realized it's not just about a line on your resume: it's also about developing those critiquing skills [and] attention to detail that [are] really useful. I don't do [*YLJ*] fully for instrumental value, because when you do something like that you just feel very empty, and you just end up with something shiny. So when I look for things I want to do, I look for other gains that are to be had.

Those students, who decided to apply for *YLJ* based on their deeper goals of strengthening their writing, also found genuine value in sourceciting as a way to figure out what works and does not work in legal writing.

3. Purpose over Prestige: Students Whose Personal and Professional Values Derive from Independent Sources

A third group of students described personal and professional values they developed outside the gold star culture, through involvement in activities and relationships either predating their enrollment at YLS or developed during their 1L year. They relied on these independent sources to define and maintain their values and goals while at YLS. Many of these students described themselves as having strong ambitions and interest in achievement and success. However, they defined their own success in relation to a set of goals related to impact and fulfillment. They differentiated between prestige, which they viewed as status, and ambition, which related to significant outcomes they wanted to achieve. One student described the importance of grounding her decisions and activities in her strongly held values: "I wanted to find myself doing the thing that I know that I love, and fighting for that, and having that be a grounding force."

Thriving was described by students in this group as finding a way to focus on success in the terms that matter to them intrinsically, as one *YLJ* editor mentioned:

> I feel as if I'm really happy and thriving when I'm doing something for its own sake—because I think it's interesting, or valuable, or making a difference to someone—rather than just because it looks good on a resume, or it seems like a shiny star that should be grabbed.

A 2L student also echoed this sentiment:

> The key to being successful here is to figure out what you want and do it. And so I think it requires some self-reflection: do I really want to emerge [from] here with that Supreme Court clerkship or something else that's going to signify to other people that I'm one of the top five or ten people in my class? Or do I have a pre-existing passion that I want to pursue? And I think recognizing what you want and seizing it from this place is what makes people thrive.

Indeed, students defined thriving as having the space to define what success means to them. Many students defined thriving in terms of doing work that they found interesting and meaningful, making a difference in an area of importance to them, and being happy. Students also expressed strong interest in being part of a community of common concern and having a community of people whom they value—and who value them in return.

Students with these independently defined values and ambitions have typically forged significant relationships with people either at or outside YLS who share those values and

are engaged in work connected to those values. Some students came to the law school with those relationships and projects already in place. Others did not have those relationships when they arrived, but developed a strong community at YLS, particularly in their 2L and 3L years. Those communities spanned an array of areas, including the professional (such as human rights, business, environment, technology, or social justice) and the personal (such as religious communities, athletics, or music). Some students in this cluster deliberately distanced themselves from mainstream YLS culture and focused outside the law school. Others remained more connected but operated comfortably outside the activities related to pursuing gold stars. If they pursued prestige-related activities, including *YLJ*, they did so while maintaining strong ties with people and projects that mattered to them, and pursued *Journal* based on some assessment that those activities would advance their long-term goals. For example, one student struggled for a while, but ultimately decided to apply for *YLJ* because "even if 80% of [*YLJ*] is instrumental, if it's instrumental to something that you know you actually want, then you just have to do it and you have to stop having these deep emotional, existential questions about your morality."

This group includes students who pursued gold star activities primarily because they will help advance a personal or professional goal, such as attaining a clerkship, a law job, or another position that they genuinely value for the professional experience it affords. These students did not necessarily value prestige and were likely to be critical of the culture's preoccupation with it. Nonetheless, they were willing to participate in gold stars that they believed would further their independent personal and professional aims. These students were comfortable doing only what is necessary to obtain the gold star, and directed most of their energy to pursuing their passions and commitments elsewhere.

The quotation below from a survey respondent who participated in *YLJ* illustrates that some clinic students who participated in *YLJ* placed themselves in this category:

> Clinic is the only one of these activities that I consider to be intrinsically valuable, so it is the most important to me. I do all the others [including *YLJ*] to help me get clerkships. I neither learn much through doing these other [activities] nor . . . feel like I am doing meaningful work, but mentors have told me that I have no choice but to jump through these hoops if I want a competitive clerkship (which I do).

Other students decided, either based on their interests and values coming in or based on dialogue with people they respect, that *YLJ* did not make sense for them. They concluded that they can achieve their goals without *YLJ*, and they are comfortable with not pursuing this gold star. Some students explicitly linked their well-being to their decision not to pursue gold stars. One student reported: "I was happier here than probably almost everyone because I didn't go for the things that really stress people out. I didn't take the *Bluebook* Exam. I didn't [apply] for *Journal*."

Some students who might otherwise have been interested in *YLJ* resisted the pressure and what some referred to as the "outsized significance" of the activity. Among survey respondents who did not intend to apply to *YLJ*, many said that they did not want to pursue *Journal* membership solely in an effort to obtain its instrumental or "gold star" benefits. One member from the Class of 2016 mentioned: "I decided before law school that I was done doing instrumental, 'gold star,' [or] resume-builder activities, because YLS was enough of a credential, and I wanted to put time into things that were inherently valuable and interesting [to me] instead." Another member agreed: "I have enough confidence in my unique skill set and background to not want to drag myself through the misery of checking footnotes solely for credential- or prestige-related reasons."

Some also invoked a desire to avoid the stress and competition that YLS students associate with competing for *Journal* membership, which outweighed their interest in *YLJ* as a site for developing ideas that could have impact in the field they care about. The narrative explanations of the importance of clinic or policy work highlight students' search for work that is meaningful, builds community, and has impact in areas of need.

Many students in this category expressed the view that the things they valued were not adequately appreciated or rewarded in the larger community, in part because they experienced prestige as the only collectively shared value. One editor noted: "[F]or people to whom [prestige] is not something that is important, they feel this tension because the institution values these things that [they] don't value and doesn't value things [they] do value."

4. Purpose Destabilized by Prestige: Students Who Become Ambivalent and Insecure About Their Personal and Professional Values

A fourth cluster of students consists of those who arrived at YLS with high expectations and ideals, but then found themselves surprised and destabilized by the gold star culture. One *YLJ* editor provided a representative account of this kind of experience:

> The first thing someone said at Admitted Students Weekend was, "Yale has more Supreme Court clerks than every other school per capita." Which just entirely threw me off, because that's never something I ever even thought about, and that was so far from my list of priorities that year. And I was like, wow, this guy is coming in, and he's already thinking about this . . . . I think also, like, I just didn't know the place at all . . . . So it was just a disaster after another disaster.

Students in this group came in with a set of expectations and then found themselves losing perspective, shifting or narrowing focus, and becoming somewhat unmoored from determining what they want and value, such as one *YLJ* editor:

> Being in this place you lose perspective very quickly. It takes a while to parse apart what it is that you want and what you should want . . . and whether you can actually identify whether you don't want those things because you're opting out in some meaningful way, or because you legitimately don't want those things.

Many students experienced a conflict between pursuing *YLJ* for prestige-related reasons and their own values: "*YLJ*, to a lot of people, and sometimes to me, feels like the pinnacle of prestige for prestige's sake and doing something for its instrumental value and not much else . . . . [This produces] a tension between what the outside world values and what students internally value." Another *YLJ* editor agreed:

> I knew my parents wanted me to do it; I knew it was something prestigious. I thought I really needed validation from these prestigious things. There's so little to distinguish yourself [at YLS] that you grasp for the gold stars. Because it's the only way that you can stand out amongst the group of peers who all seem to be running in the same rat race.

A 2L student also described this conflict:

> It's [generally perceived as] a gold star that you need on your resume to help you get other things, so therefore everyone wants to do it, because everyone feels like they should do it, even if they don't know what it really is or does or means . . . .

This group's ambivalence about joining *YLJ* sometimes related expressly to the collective anxiety experienced in relation to the application process, as one Class of 2016 member explained:

> To the extent that I'm hesitant about joining, it's because I think the admissions process this year has been excessively competitive and frenzied. The *Journal*'s laudable efforts to reach out to more students have created sort of a craze among the student body . . . . It would be better, I think, for the *Journal* to be there for the students who want it, but [for] people [not to] feel bad for not wanting to join.

Some of the 2L students we interviewed observed that they started out ambivalent and unsure about how to square their own values with those of YLS, and then stayed ambivalent throughout 1L year. As 2L students, some felt that they were finding more solidity in their values and relationships and felt better equipped to navigate the gold star culture. Several said they might now make different decisions regarding *YLJ* than they originally did, and also that they perceived some avenues as being closed to them as a result of their decisions in the first year.

5. Prestige Derailing Purpose: Students Who Disengage from Pursuing Personal and Professional Values at YLS

Students who are ambivalent and unconnected may stop attempting to figure out what they value and how to get there, at least while at YLS. Some described struggling to find an intellectual home and to build relationships with knowledgeable people, including faculty members, who would support them as they figured out their direction. Many students described a small group of friends and peers who, in reaction to the gold star culture, became more and more disconnected from YLS; *YLJ* was sometimes a part of that narrative. For example, some students were already feeling alienated from the gold star culture and then reacted to the frenzy associated with the *YLJ* competition by completely avoiding the law school. We do not have much direct evidence from these students because so few of them participated in the study. We learned about their experience of withdrawal mostly from students who were not themselves disengaged but who expressed concern about the impact of the gold star culture on their friends, as well as the loss to *YLJ* and to these friends that resulted from this disengagement.

These differences in how students mediate the relationship between their values and the YLS gold star culture figure prominently in the story of full participation on *YLJ*. The prestige culture prompted some students to question whether they can or should pursue directions that are not valued as gold stars. Their resulting ambivalence showed up in the timing of their decision to apply, the level of investment brought to the preparation process, the way students related to others in the community about applying, and the happiness and stress they experienced along the way. This ambivalent group appears to consist disproportionately of students from identity groups who have not been full participants of *YLJ*—a dynamic we discuss further below.

D. Relationship Between Identity and the Experience of *YLJ* and the Gold Star Culture

We examined whether any patterns emerged from the qualitative data concerning how students of different identities experience the gold star culture as it relates to *YLJ*. Students experienced identity to matter in important interactions at YLS, including *YLJ*. At the same time, students had complex and subtle ways of understanding the relationship of their identity to success and thriving.

1. Identity Salience Alongside Identity Complexity: Understanding the Relationship Between the Quantitative and Qualitative Findings

Many students who participated in our interviews or surveys linked their experiences with *YLJ* to their overall experiences of identity at YLS. Students from all different backgrounds and identities described YLS as a place where their identity mattered significantly to how they experienced important interactions, including those relevant to *YLJ* and other gold stars. Eighty-six percent of survey respondents (seventy-two out of eighty-four) reported that they have had interactions at YLS in which they felt that group

identity was playing a significant role.[67] Students reported being more conscious of their identity at YLS than at previous educational institutions, including elite undergraduate institutions. Students from a variety of identity groups—including race, ethnicity, gender, socioeconomic status, and political affiliation—reported this heightened salience of identity. The literature suggests that this phenomenon of heightened identity salience is one that has been observed at other elite law schools.[68]

Coexisting with this identity salience is an understanding that single identity categories do not adequately explain how students in these different groups experience themselves at YLS. Many students spoke about the need to understand identity in more complex ways, while also looking carefully at the specific ways in which a particular identity category affects students' participation at YLS and in *YLJ*. For example, some white women and women of color talked about ways in which their racial and gender identity mattered, but reported that other aspects of their background and identity *also* defined their experience at YLS and that these identities interacted in complex and subtle ways. One student of color observed that her race and gender affected how she interacted with peers and in class. At the same time, she was "coming to think of [herself] as really privileged during [her] time here" because she graduated from an undergraduate institution with a highly respected pedigree and strong presence at YLS, has family members who are lawyers, and worked in a legal organization before coming to YLS. Another female student noted that being a woman is a dimension of diversity but that "[she] never felt like [she], as a woman, felt differently or unwelcome, but that's probably because of [her] other background aspects." Some white men who went to state schools and were not from privileged backgrounds also discussed feeling as if they were outsiders

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67. Students were asked to indicate "yes" or "no" in response to the question: "Have you had any interactions or experiences at YLS in which you felt your group identity was playing a significant role? Group identity is any identity salient to you, such as gender, race, age, sexual orientation, religion, undergraduate college, discipline, professional interest, etc." Respondents checking yes were then asked to explain their response.

68. Institutional studies have examined the role of race and gender in shaping students' law school experiences. *See, e.g.*, Timothy T. Clydesdale, *A Forked River Runs Through Law School: Toward Understanding Race, Gender, Age, and Related Gaps in Law School Performance and Bar Passage*, 29 LAW & SOC. INQUIRY 711 (2006) (reporting data suggesting that "(1) women, minorities, and other atypical law students confront stigmatization throughout legal education; (2) for women (entering law school in 1991), this stigmatization is new, rejected, and consequently unassociated with law school outcomes; (3) for minorities, this stigmatization is continuous with prior socialization, making resistance difficult and consequent impact sizable; and (4) for other atypical law students, this stigmatization varies with visibility of difference, as do resistance and impact"); Lani Guinier et al., *Becoming Gentlemen: Women's Experiences at One Ivy League Law School*, 143 U. PA. L. REV. 1 (1994) (examining the differential experiences of women law students at the University of Pennsylvania); Neufeld, *supra* note 11 (exploring the gender gap at Harvard Law School); Lisa R. Pruitt and Celestial S.D. Cassman, *A Kinder, Gentler Law School? Race, Ethnicity, Gender, and Legal Education at King Hall*, 38 U.C. DAVIS L. REV. 1209 (2005) (examining surveys of students at King Hill and finding that students of color and women do not experience as supportive of an environment as others); Claire G. Schwab, *A Shifting Gender Divide: The Impact of Gender on Education at Columbia Law School in the New Millennium*, 36 COLUM. J.L. & SOC. PROBS. 299 (2003) (summarizing studies regarding gender differences in student experiences conducted at several law schools); Catherine Weiss & Louise Melling, *The Legal Education of Twenty Women*, 40 STAN. L. REV. 1299, 1300-1303 (1988) (investigating the experience of twenty women at Yale Law School).

at YLS, even as they identified the advantages they experienced in relation to their race and gender.

Thus, identities seem to be operating in complex and countervailing ways. They affect yet do not determine the experiences of people who would be classified the same on the available demographic data. These complexities provide a useful context for interpreting the quantitative data analysis provided by Ayres and Cozart. That analysis is helpful but incomplete in interpreting the dynamics of participation on *YLS*. In particular, the qualitative data suggest caution in determining whether identity is playing a role in students' thriving and success on *YLJ*, based on the findings from the statistical analysis. Ayres and Cozart's analysis "in many instances fails to uncover robust statistically significant shortfalls for minorities, women, or LGBTQ students (relative to white/male/heterosexual students)."[69] They also find:

- Among first-year students, black and Asian students were statistically more likely than white first-year students to register to take the Sourcecite Exam;

- Among those students who took the Sourcecite Exam, Hispanic students were statistically less likely than non-Hispanic white students to pass;

- Among those who passed the Sourcecite Exam, black women were marginally statistically less likely than white women to become editors, and for Volume 123 applicants, black students were marginally less likely than white students to become editors;

- Among students eligible to submit Notes and Comments, black and Hispanic students for some volumes were marginally less likely than white students to submit, and for Volume 123, women were statistically less likely than men to submit; and,

- Among editors whose initial publication submissions were rejected, women were less statistically likely than men to resubmit. [70]

It is important to recognize that because each student's identity has multiple facets— which may coexist in harmony or in tension—statistical forms of tracking students with respect to quantifiable dimensions of identity are incomplete. They may fail to take account of the interactive effects of these multiple categories, and thus oversimplify or miss the patterns that actually reflect differing experiences of people who would be classified for statistical analysis in the same identity group. For example, one group of women may experience relatively high levels of support and success, in part because they were able to navigate the gold star culture effectively and had relationships or cultural capital they could draw on, while another group of women with less cultural capital may struggle to thrive and succeed. Systematic analysis of the interview and survey data thus

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69. Ayres & Cozart, *supra* note 5, at 36.

70. *Id.* at 35-36.

suggests that people experience interactions among their multiple identities, and that these interactions mean that people in the same formal identity categories may have different and even opposite experiences of success.

The qualitative data also establish the operation of important variables that affect students' experiences and that cannot be taken into account in the quantitative analysis. Some of the variables that emerged as salient in the qualitative data, such as prior work experience, professional interests, and prior relationships, could not be accounted for in the quantitative analysis.

In considering the quantitative data, it is also important to bear in mind the problem we are trying to understand. There is evidence from the qualitative data that applicants' experience of the process leading up to selection also affects editors' experiences of success and thriving on the *Journal.* The goal of this study was to identify and understand YLS students' differential experiences of full participation in *YLJ.* Are students at YLS from different backgrounds and experiences taking advantage of what the *Journal* has to offer? This is not just a function of being accepted onto the *Journal.* It also involves how students go through the experience, what the experience means for different students, and how the experience of applying affects the level of engagement and participation by students in different identities on the *Journal.*

Like the qualitative analysis, the quantitative analysis is best seen as a partial understanding, both important and limited as a tool for understanding students' experiences. The qualitative data are helpful in providing nuance in two ways. The qualitative data help understand the ways in which identity groups that appear identical are in fact not homogeneous. The qualitative analysis also enables us to identify other factors that are not considered in the quantitative data set, and to provide insight into the impact that those factors might have on students' experiences.

2. YLJ *in Relation to Identity Salience*

Interviews and survey data suggest that identity plays a role in shaping how some students navigate the gold star culture, including *YLJ.* Many students of color referred to a lack of sufficient representation of their identity group in the student body and on the faculty as one factor contributing to their experience of identity as salient. Students concerned about *YLJ* diversity repeatedly pointed to the necessity of increasing diversity in the student body, particularly for traditionally underrepresented groups, in order to make real progress in diversifying *YLJ.* This concern about the need for greater faculty and student diversity is shared by students at other peer institutions.[71]

Some students who experienced heightened identity awareness also associated it with interactions triggering the experience of being judged about their performance and

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71.   *See generally* sources cited *supra* note 16.

status at YLS.[72] Some students in underrepresented groups linked the prevalence of the gold star culture to experiences at YLS in which they felt the need to prove their intelligence and legitimacy, which were in turn triggered by law students' focus on signals of status and prestige. Some students of color, particularly African Americans, described interactions, mostly with peers, but also with faculty, in which they perceived their counterpart to be questioning whether they belonged at YLS at all.[73] Some students also referred to identity-based stereotypes that they experienced in day-to-day interactions with peers and faculty, both in class and in less formal interactions. For example, some female Asian students reported regularly being confused for other female Asian students; these interactions negatively affected their sense of belonging. These dynamics have surfaced in other law schools and in the elite legal profession more generally.[74]

Some identity group members linked their *YLJ* participation with their efforts to increase their perceived legitimacy at YLS. Some interview and survey respondents explicitly attributed their interest in *YLJ* to their desire to dispel presumptions about whether they "deserved" to be at YLS.

At the same time, some students in these groups reported experiencing a generalized concern to increase the participation of members of their group in *YLJ*, but were not sure they were sufficiently interested in joining *YLJ* themselves: "We would like to see someone [from our group] do it but we don't necessarily feel so passionate about the mission of *YLJ* that we ourselves want to do it." Some students who were not intrinsically interested in *YLJ* because of how it related to their personal interests and professional development felt compelled to consider applying because of these group-participation concerns.

To the extent that students are participating in the *YLJ* process to establish their legitimacy and rebut presumptions about their abilities, they may be primed to experience stereotype threat.[75] Stereotype threat is a phenomenon whereby culturally shared stereotypes that devalue and marginalize views of certain groups can, when made relevant in a context involving the stereotype, disrupt performance of an individual who identifies with that group. [76] The concept of stereotype threat makes visible how

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72. Yale Law Women (YLW) has conducted studies of gender at YLS, with a focus on class participation. *See* YALE LAW WOMEN, *supra* note 16.

73. The interviews are quite detailed and vivid about these interactions, but the small number of minority students at YLS and on *YLJ* necessitates reporting these data more generally to assure continued confidentiality.

74. *See generally* sources cited *supra* notes 16-17.

75. Claude Steele, *A Threat in the Air: How Stereotypes Shape Intellectual Identity and Performance*, 52 AM. PSYCHOL. 613 (1997); Claude Steele & Josh Aronson, *Stereotype Threat and the Intellectual Test Performance of African-Americans*, 69 J. PERSONALITY & SOC. PSYCHOL. 797 (1995); Claude Steele, *Stereotyping and Its Threat Are Real*, 53 AM. PSYCHOL. 680 (1998).

76. *See generally* sources cited *supra* note 75.

performance in academic contexts can be undercut by the awareness that one's performance might be viewed through the lens of stereotypes.

The Roles of Student Organizations Related to Identity

Many students described positive associations with their identity, reflected both in informal interactions and in their involvement in student organizations. Students across the board reported that they relied on student organizations as a significant source of information, social support, professional networking, and community. Some of the student organizations that emerged as most important to students' experiences at YLS are organized around particular identities, like race, gender, political orientation, religion, sexual orientation, and age.

These organizations also play significant roles in the larger law school community. They were identified by many students as important and positive ways of connecting with other students at YLS. Students who were not particularly active in these identity communities in college were drawn to affinity groups at YLS because they are "incredibly well organized and . . . an additional support network. And also a great source of information." Many students in these organizations described extensive and active mentorship networks assigned to 1Ls, and that they "leaned on [these networks] a lot." Students reported that some of these organizations—such as the Asian Pacific American Law Students Association (APALSA), the Black Law Students Association (BLSA), the Federalist Society (FedSoc), the Latino/a Law Students Association (LLSA), the Native American Law Students Association (NALSA), OutLaws, the South Asian Law Students Association (SALSA), and Yale Law Women (YLW)—also provided a way to avoid feeling isolated in a larger community where they felt outnumbered. For example, a survey respondent who identified the Women of Color Collective (WoCC) as her most important activity at YLS explained: "WoCC addresses the profound feelings of alienation that many women and students of color feel as they enter the legal profession, and YLS in particular."[77]

Student organizations, particularly affinity groups, have also been very involved in *YLJ*-related issues. Some have focused significant attention on the issue of persistent racial and gender disparities on *YLJ* and in other gold stars, as well as on increasing the diversity of the faculty and student body. For example, BLSA has focused on the lack of representation of black students in clerkships and on *YLJ*. Volumes 123, 124, and 125 of *YLJ* have met with affinity groups regarding these issues, and have been engaged over the last several years on increasing *YLJ* diversity. For example, *YLJ* and affinity groups have planned information and training sessions related to sourceciting for their members.

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77. We learned during the interviews that a student group focused on First Generation Professionals had just formed "for students who are the first in their families to go to professional school or who are from a working class or lower-income background." *First Generation Professionals*, YALE L. SCH. http://www.law.yale.edu/student-life/student-journals-and-publications/student-organizations/first-generation-professionals [http://perma.cc/5UGH-9JJH].

Students also described different experiences in the way student groups relate to the gold star culture, including *YLJ*. Students who participated in FedSoc reported receiving relatively clear messages that *YLJ* and other gold stars are worthwhile. FedSoc members reported receiving strong and consistent messages from FedSoc leadership urging members to apply. For example, an e-mail from FedSoc leaders to FedSoc members noted: "We've already given you the hard sell on the *Journal*'s value in the clerkship market, but as you get down to studying, you may find you need some additional motivation." The e-mail emphasized valuable benefits both to the individual—in terms of increased access to clerkships and other markers of prestige and being able to influence the larger legal landscape—and to the group, by having the perspectives of FedSoc better represented in a journal that is "devoted to analyzing laws."[78]

Other student organizations communicated more complex relationships to *YLJ* participation. They supported members' engagement, but also entertained questions about whether *YLJ* was a good idea for students who questioned the desirability of the gold star culture. These organizations created a space for students to question the relationship between *YLJ* and their values. For example, an e-mail from the YLW Board to YLW members invited the members to "think seriously about whether *YLJ* is a good fit for [their] interests and career goals." YLW set out "to provide [members] with resources to help [them] make a fully informed decision." Toward that end, the e-mail provided a list of 2L and 3L women who agreed to "answer questions or talk through . . . particular circumstances." These women "represent[ed] a diverse set of experiences and perspectives" and included: *YLJ* officers and Projects Editors, FYEs with leadership roles in other organizations and clinics, individuals who tried out for but did not get on *YLJ* and have clerkships or officer positions on other journals, and women who decided not to try out for *YLJ* so they could focus their energies elsewhere.[79]

Students suggested in the interviews that BLSA's focus on increasing the participation of black students on the *Journal* heightened the interest of some black students in applying for *YLJ*. This finding from the qualitative data may provide some context for the estimate in the quantitative data that "black first-year students are 21 percentage points more likely than white first-year students to take the Sourcecite Exam."[80]

Students who participated in student organizations that expressed ambivalence about *YLJ* participation reported that this ambivalence played a role, both positive and negative, in shaping how they related to *YLJ*. Some students expressed appreciation that their affinity group did not take a strong stance on whether they should pursue *YLJ*, but instead created space for students to figure out whether it made sense for them. Some

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78. Posting of Federalist Soc'y Leadership, fedsoc@yale.edu, to federalist-society-list@panlists.yale.edu, (Mar. 4, 2014) (on file with authors).

79. Posting of YLW Board to ylw16@mailman.yale.edu (Mar. 13, 2014) (on file with authors).

80. Ayres & Cozart, *supra* note 5, at 12.

described collective celebrations for the students who decided not to apply for *YLJ.* Others experienced pressure from peers not to become involved with *YLJ* because of what it stands for—a gold star. This led some students to hide the fact that they were applying for *YLJ*, which also led some individuals to study alone.

The tension between individual ambivalence about *Journal* and collective concern about reducing group disparities might also play a significant role in black students' experiences of *YLJ.* The interview data, along with responses to the surveys, suggest that identity influences how students experience their ambivalences and ambition relating to *YLJ.* This, in turn, affects whether and how students relate to and prepare for the *YLJ* application process. Indeed, ambivalence about participating in the gold star culture, in combination with some identity group's efforts to gain legitimacy through competing successfully for *YLJ* as a gold star, produced a dynamic that affected participation of some women and students of color.

Another tension emerges from these complex dynamics. On the one hand, because *YLJ* is perceived as an elite organization and a gold star, and because it has also struggled with diversity, it has to work hard to overcome barriers to entry. Persistent disparities lead both *YLJ* and other organizations concerned about those disparities to focus explicitly on increasing participation. On the other hand, when *YLJ* and other organizations frame their diversity efforts as ways to equalize access to gold stars for disenfranchised groups, they may actually *accentuate* the experience of the gold star culture and thus unwittingly discourage ambivalent students from participating or contribute to stereotype threat. This tension illustrates the difference dilemma: *either* paying attention to *or* ignoring difference is likely to preserve disparities. To move beyond the dilemma, it may be necessary to rethink *YLJ*'s mission and policies as part of the strategy for enhancing full participation. Part IX offers possible directions for linking full participation to *YLJ*'s mission by decreasing the emphasis on *YLJ* as a gold star, increasing its substantive value as a means to have impact and to increase writing and critical thinking capabilities, and collaborating closely with affinity groups on both of these goals.

The qualitative data suggest that identity plays a contributing role in the experiences of the gold star culture at other critical junctures along their pathway, and that these identity dynamics are also part of broader patterns of interaction not limited to those identity groups. Part III.B describes the heightened experience of ambivalence about gold stars and prestige that some women and students of color reported experiencing as they considered whether to apply, and how it affected preparation. Part IV.C discusses the way different students responded to the Diversity Statement. Part V.B describes the interaction patterns among women and men on the *Journal.* Part VI.A.3 analyzes the Notes and Comments submission patterns. Part VII discusses identity in relation to leadership and governance, and Part VIII examines the need to build capacity for cross group dialogue and collaboration.

III. ENGAGEMENT: DECIDING WHETHER TO APPLY TO YLJ

We now turn to the critical junctures shaping students' interest in and preparation for participation in *YLJ* and the areas in which *YLJ* is in a position to influence those interactions. We explore students' differential ways of navigating the gold star culture at these junctures, and how current processes and practices influence students' experiences of full participation. We begin by exploring how students learned about and decided to apply for *YLJ*, then proceed to preparation and application, move to participation on *YLJ*, then examine Notes and Comments submissions and selection. We end with a discussion of leadership, governance, and deliberations related to diversity and full participation.

A. Differential Knowledge and Early Interactions Concerning *YLJ*

The first critical juncture of YLS students' participation in *YLJ* is the process of learning about and deciding whether to apply for *YLJ* membership. Students come to YLS with very different levels of knowledge, different relationships to *YLJ* members, and different levels of information and support regarding *YLJ* through these relationships. Although *YLJ* provides students with a variety of structured opportunities to learn about *YLJ* and the application process, informal relationships provide some students with earlier and more tailored information and support, often as part of providing information about how to navigate the wider array of gold stars at YLS. Differences in knowledge and access to informal relationships seem to have an impact on when and how students decide to apply, their level of certainty or ambivalence, and how they prepare. This Part examines these patterns affecting YLS students' knowledge and decision making concerning *YLJ.*

YLJ has an extensive process for communicating with students about *YLJ* and its application process. In fact, several students commented that the *YLJ* admissions process was more transparent than any other evaluation process at YLS.[81] This public process does not, however, begin until the second semester, when the newly elected Editor-in-Chief communicates with the student body about the *YLJ* admissions process. *YLJ*'s practice of waiting until the second semester to begin recruitment and training reflects a widely shared view among *YLJ* members that 1L students do not need to think about or prepare for *YLJ*'s Sourcecite Exam before the middle of second semester. Many members also expressed the desire to minimize the stress associated with the *YLJ* application process.

However, like many interactions regarding gold stars, students often interact informally about *YLJ* participation before *YLJ*'s more formal process begins in earnest. The data suggest that students come into the spring *YLJ* process with different levels of knowledge, clarity about their interest, and overall support.

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81.   For a description of this process, see *infra* Part IV.

1. Information Channeled Through Relationships Predating Law School

We wanted to understand whether there were any differences in when and how students learned about *YLJ*, and if so, how those differences affected students' knowledge, orientation, and approach to their *YLJ* application as 1Ls. In the survey administered to the Class of 2016 during the spring semester of their 1L year (before the Sourcecite Exam), we asked when and how students first learned about *YLJ*. We also asked those we interviewed who had relationships with *YLJ* editors to describe what kinds of information and support they received. The patterns we observed suggested that relationships formed before law school played a significant role in conveying informal knowledge and support early on. They also affected how different students navigated the relationship between prestige and purpose.

Out of seventy-nine students who answered this survey question, forty-eight (60.75%) knew about *YLJ* before they applied to law school. The survey comments reflected that many in this group learned about *YLJ* from family or in grade school—or, in one respondent's words, "always knew *YLJ* existed." Some indicated that *YLJ*'s existence is general knowledge; another survey respondent observed: "Everyone knows about law review/law journals coming to law school. I also had parents who were both articles editors on their respective journals so I knew it was a thing."

Nine respondents (11.39%) learned about *YLJ* at Admitted Students Weekend (ASW), which took place in spring 2013 just before the Sourcecite Exam. As one respondent noted, he/she learned about *YLJ* "when some 1L friends already at the law school were studying frantically for the Sourcecite Exam—not a positive introduction, I'd say." After learning about these findings, and because students involved in affinity groups are often busy with activities during ASW, Volume 124's officers and Volume 125's officers scheduled the Sourcecite Exam so that it would not coincide with ASW.

Some students interviewed have lawyers in their family or experience with lawyers at work and in college. These students spoke concretely about the help and information family members provided and how that eased their way into both YLS and *YLJ*. These students came in knowing what *YLJ* was, how it was related to prestige, and why it was something they wanted to pursue. As one student explained:

> Because my parents were lawyers, and they were on law review, I knew about it going in . . . . And so I knew going in that the *Journal* was something that I wanted to do. I knew that it would be a very good resume line and a way to distinguish [myself] especially here where you don't have a GPA going into a job interview. So it's one of the few things that's easy to distinguish for employers. And so I knew going in that it was absolutely something that I wanted to do. I have no shame in saying that. That's why I wanted to do it.

The survey and interview data also suggest that students' undergraduate institution made a difference in the support network they could draw on when they arrived at YLS. The survey asked: "How many *YLJ* editors did you know when you first arrived at YLS?" The results are reported below, analyzed by undergraduate institution.

Percentage of 1Ls Who Knew *YLJ* Editors Upon Arrival at YLS[82]

Undergraduate Institution	Knew 0 Editors	Knew 1 Editor	Knew > 1 Editor
Harvard, Yale, Princeton (HYP)	47%	30%	23%
Non-HYP "Ivies," plus Stanford and MIT	87%	0%	13%
All Other Schools	76%	12%	13%

Over fifty percent of the respondents who went to HYP knew at least one *YLJ* editor and twenty-three percent knew more than one editor. That number is more than twice the corresponding percentage for entering students who attended schools that were not Ivy League schools, Stanford, or MIT. Forty-six percent of *YLJ* editors in Volume 124 went to HYP for their undergraduate degree. We did not find any other statistically significant relationship between any demographic category (race, gender, income) and knowledge of *YLJ* editors. It is worth noting that on average, twenty-nine percent of the applicants to Volumes 123, 124, and 125 of *YLJ* went to HYP.[83]

Undergraduate institution was a recurring theme in shaping access to relationships relevant to *YLJ* and to cultural capital generally. As a *YLJ* editor recounted:

> I think it helps a lot to have upperclassmen in your first year who show you the ropes a little bit and/or faculty who tell you how this place works. I think going to Harvard [for] undergrad and just showing up here and already knowing a couple of people was an advantage to me . . . . I would imagine that it's more of a challenge [for people who don't already know upperclassmen]. I mean you just have to work to build those relationships if you don't already have a couple of friends floating around.

Another *YLJ* editor echoed these sentiments:

> I describe it as the Harvard-Yale-Princeton Pipeline. If you come here from Harvard, Yale, or Princeton, you're bound to meet a lot of people

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82. The three categories of undergraduate institutions presented in this table were selected in consultation with *YLJ*'s editorial board. The *p*-value is 0.078, which is marginally significant and above the .05 level of significance.

83. Ayres & Cozart, *supra* note 5, at 9.

> who are already in your communities at those other schools who are now here, who have graduated from here, who you can contact, who can give you the inside information.

The interviews shed light on the kinds of support that relationships based on undergraduate institution provide for students once they arrive. Students who had friends from the same school described concrete interactions that enabled them to feel like they knew what to look for and how to navigate *YLJ*. This included, for example, being brought up to *YLJ*'s offices within the first month of law school and told to apply to *YLJ* and to start preparing early. Students also received concrete advice on things they could do to prepare. For example, one student heard from a friend: "[Y]ou should sign up to do some sort of job on a secondary journal where you can get experience writing an edit letter or something like that if you're interested in applying for a law journal." This form of support provided comfort that came from knowing what to expect and being able to plan accordingly. One *YLJ* editor expressed it this way:

> From October or November of that year I had a sense of how the process would play out. And I don't know that I actually got a head start except psychologically that I knew it was coming. I knew I was going to have to shape my semester around this period of study and essay writing.

Some students also received strong encouragement early on from friends who are *YLJ* editors to apply and take the process seriously, such as this *YLJ* editor:

> A couple of friends of mine were on the *Journal* and they said, "Look, you should take this very seriously." So, the way I went into it was I'm going to do as well as I can on this exam . . . . I have so much time that I'm going to set aside and I'm going to dedicate my time to it. And I made it a top priority to get on the *Journal*.

In short, a subset of students have strong ties coming into YLS, giving them early access to support from people "in-the-know" about *YLJ*. First-year students who had these prior relationships often received information about *YLJ* as part of a more general discussion of access to gold stars—what one editor called "inside baseball stuff," meaning "the kinds of things you should think about doing if you're aiming for different gold stars" at YLS. The data suggest that, by the time *YLJ* publicly communicates with the 1Ls about applying in the spring semester, some students have already had extensive contact with peers, faculty, and family about *YLJ*. These students have a relatively clear sense of what *YLJ* is and whether it is something they want to pursue.

This earlier contact makes it possible for a subset of students to decide in the first semester or at the beginning of the second semester whether to apply to *YLJ*. It also helps them figure out their strategies for dealing with *YLJ* and the gold star culture overall. The data suggest that many students valued the opportunity to think this through before they entered the collective application process and the accompanying

pressure in the second semester. Students receiving this early and clear encouragement from their HYP colleagues may be less ambivalent about applying and studying for the Sourcecite Exam. These interactions thus provide a possible explanation for the finding in the quantitative study that attending HYP is a positive and marginally statistically significant predictor of passing the Sourcecite Exam.[84]

2. Information Channeled by Students in Leadership, Mentorship, and Teaching Positions

Information also travels through students in formal leadership, mentorship, and teaching positions at YLS; these students also provide 1Ls with information about *YLJ* and encouragement to apply. These relationships made a significant difference to 1Ls, particularly when they were with upper level students with whom they shared interests or history and who had the skills and investment necessary to be an effective mentor.

As the chart below shows, survey respondents identified *YLJ* editors, 2Ls and 3Ls, and Coker Fellows as the most frequent sources of encouragement to apply to *YLJ*[85]:

Individuals Who Encouraged 1Ls To Apply to *YLJ*

Category	Percentage
YLJ Editor	65%
2L or 3L	63%
YLJ Officer	48%
Coker Fellow	45%
1L	29%
Faculty	29%
Leaders of SO	24%
Family	18%
Past Editor or Officer	14%
Friends Outside of YLS	11%
No One	4%
Other	4%
Undergraduate Mentor	4%
Writing Instructors	1%
Graduate School Mentor	1%
LLMs	0%
YLS Administrators	0%

N=83

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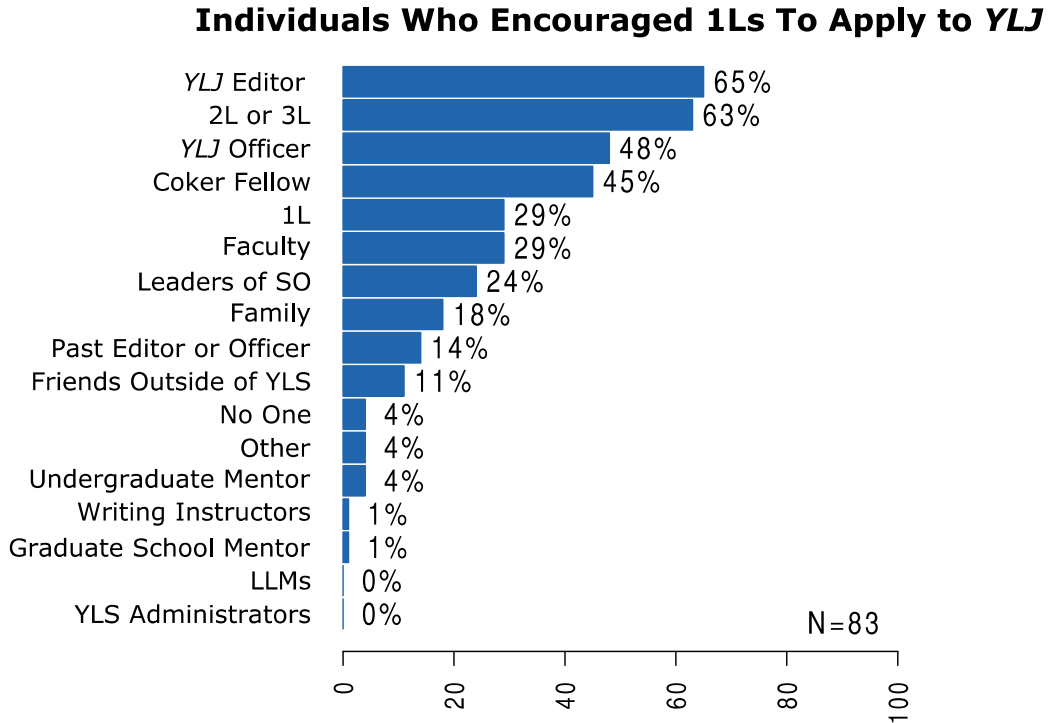
84.   *Id.* at 12-13.

85.   In the chart, "SO" refers to "Student Organizations."

The highest level of encouragement, unsurprisingly, came from *YLJ* editors. *YLJ* has an extensive outreach process, introduced in part to increase the participation of underrepresented groups. *YLJ*'s recruitment and support process included: lunches with affinity groups, a buddy system that matched all 1Ls with a *YLJ* member to talk about the *Journal*, 1L-wide and affinity group-specific training sessions, and office hours. Students generally described this process as transparent and helpful.

In interviews, students also described significant and varied interactions with Coker Fellows about *YLJ* participation.[86] Coker Fellows are crucial sources of information about *YLJ* and other choices facing 1Ls. Students described varying advice from Coker Fellows about *YLJ* participation, based on Coker Fellows' approach to their advisory role as well as their own experiences with *YLJ*. Some Coker Fellows, particularly those who were on *YLJ* and really valued their experience, strongly encouraged students to apply to *YLJ* and offered concrete and strategic advice. In the process of coaching students about access to *YLJ*, some Coker Fellows also reinforced its value as a gold star. One editor described this dynamic:

> [M]y Coker Fellow, who was wonderful, is one of those people who knows what these [gold stars] are and I think in the process of trying to coach each of us [was] like "Oh you're interested in this, you should talk to this person; they did this thing, which is really awesome. These are things you might want to consider applying for." He, I think, in striving to help us also communicate[d] this particular value system for better or worse.

Another set of students had Coker Fellows who advised students to think hard about whether participation on *YLJ* would advance their values and professional interests, and to make their decisions in light of that assessment. For example, one 2L student reported: "I asked my Coker Fellows if I needed to do *Journal*. And they took a poll of their friends who were in [my field] and they said no." Another 2L reported a similar experience:

> My Cokers actively told us that you really, really don't have to do this; this is not something that you're supposed to do or whatever. They were both on the *Journal*, and they were pretty adamant that it's something that may not be for you and why you don't have to do it.

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86. Coker Fellows' importance as a source of informal information extends beyond *YLJ*. According to the survey of 1L students, eighty-four percent of survey respondents identified Coker Fellows as helpful in figuring out the rules of the road. People reported relying heavily on them, not only for feedback about legal research and writing, but also for information about course selection and whether to do *YLJ* and other gold star activities.

Coker Fellows who were themselves ambivalent about *YLJ* communicated this ambivalence to their students.[87] One *YLJ* editor reported:

> One of my Cokers wasn't on the *Journal*. The other was on it but was super checked out. She was in a position that no longer exists . . . which requires no work at all. And so she was actually an okay resource in terms of giving me a fuller picture . . . but she didn't quite dissuade me from doing it.

A third cluster of students explained that their Coker Fellows focused primarily on providing feedback on writing assignments, and offered less help in navigating when and how to pursue *YLJ* and other opportunities along their YLS pathway.

Student organizations also emerged as a significant source of information about rules of the road, including *YLJ*. Most of those interviewed referred to the YLW guides, mentors from all the affinity groups, or FedSoc as important sources of information. In fact, some students who were not in any student organization reported that they got some important information from friends and roommates who were active in affinity groups. As described above, student organizations have varied in the messages they convey to their members about *YLJ* participation.

3. YLJ *and the Informal Information Economy*

Some YLS students had multiple relationships that provided information, support, and encouragement for participating in *YLJ*, both from those in formal roles and informal relationships. In contrast, some students described having few or no sources of this informal knowledge and support. The network survey results suggest a relationship between socioeconomic status and the number of sources of support students received for participation in the *Journal*. Students in the over $100,000 family income group received encouragement and support from more sources overall, on average.[88] As the following quotation illustrates, these students received both the general encouragement provided to all 1Ls and more targeted encouragement and support: "Our whole class got a lot of encouragement to apply. I got one-on-one encouragement from [a friend on the *Journal*] and then a few other people I knew and then from both of my Coker Fellows, who were on the *Journal* as well."

Thus, interactions with students about *YLJ* proved to be the most significant source of information and encouragement for 1L students considering whether to seek *YLJ* membership. We observed differences in the level of informal information and support

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87. An analysis of the forty-two interviews describing interactions with Coker Fellows revealed a subset (about a quarter) who were described as providing unhelpful or no advice about whether to pursue *YLJ.*

88. *p*-value = 0.048.

received, depending on students' access to prior relationships and the extent and quality of the information conveyed by those in formal leadership or mentorship positions. Given the significance of interactions with knowledgeable students in providing support and encouragement related to *YLJ* (and other valued activities), it is worth considering ways to support effective, informed, and inclusive mentoring by those in formal leadership and teaching roles.

Most of the students interviewed identified the informal information economy as a significant aspect of law school culture. Particularly for students interested in *YLJ* primarily as a gold star, the discourse about information access regarding *YLJ* was filtered through the lens of the gold star culture. As one *YLJ* editor stated:

> It's almost like there's two economies of information. There's what the official line is and then there's what you have to make an effort to plug yourself into different channels of information . . . . I think that the informal networks are most important when it comes to how we think through trying to get certain prestigious things.

Many students expressed concerns that informal knowledge created an unequal playing field for competitive opportunities generally, with *YLJ* mentioned as one such opportunity. Some students felt that they did not understand what the arc of a law school experience could look like, what mattered, and where something like *YLJ* fit in to the overall experience. As a 2L student put it:

> Maybe *Journal* admissions is similar to getting certain summer jobs, or getting fellowships for after graduation or even firm jobs with FIP. I think that the informal networks are the primary way people learn about the real story, find out how to get these things. That's problematic because people have different access to informal networks.

Information concerning clerkships figured prominently in students' discussions and concerns about differential access to information. Many students spoke with emotion about this issue, including both those who received early information and those who did not. Not surprisingly, concerns about access to informal knowledge about clerkships seemed to shape students' overall perceptions of the "information economy," including informal knowledge regarding *YLJ* and other gold stars.

B. Ambivalence, Identity, Networks, and *YLJ* Participation

The interviews and survey data reveal a group of students that remained ambivalent about whether they wanted to apply to the *Journal* through the spring semester; they had not yet decided whether to apply for *YLJ* as of the time *YLJ* had suggested that students start studying. Some students were still deliberating a week before the sourceciting portion of the admissions process. Interview data suggest that students'

relationship to the gold star culture and their identities factor into whether they are in that category of ambivalence.

Interviews suggest that ambivalence and limited knowledge affected when and how students prepared for the Sourcecite Exam. Students who were ambivalent about competing postponed making a decision about participation until close to the time of the Sourcecite Exam. These students also described investing less time and energy in preparing for the exam and having competing commitments that took priority over preparation for the exam. As one *YLJ* editor explained:

> I took myself out of those training meetings because I was so busy and I tried to keep up a little bit at home. I managed to get through most of the training materials . . . . But some people really made this their mission. And I care but I wasn't one of those people. So I did *The Bluebook*. Then I found out that I made it to the next stage and again I almost didn't do it. I had a lot of conversations; I wasn't really sure.

The interviews suggest some relationship between ambivalence and some identity groups, particularly women, students of color, first generation law students, public interest oriented students, and students who went to undergraduate schools with low representation at YLS. This pattern emerged from a systematic analysis of interviews with students who ultimately did not apply, who applied and became editors, and who applied and did not become editors. We analyzed their description of whether and why they were interested in *YLJ*, their goals in applying, and the timing of their decision to apply or not. Out of forty-five sources, fourteen were white men, thirteen white women, fourteen women of color, and four men of color. About half of the white women and two-thirds of the women of color in the sample expressed some form of ambivalence about *YLJ*, as compared to one-quarter of the white men.

Students' ambivalence took different forms. One group expressed concern that they would not feel like they belonged or that they shared anything in common with those already on the *Journal*. Officers who interacted with students of color reported hearing from them that "they were interested in the *Journal* but they didn't know anyone who was on the *Journal* and they had received a lot of messages from their peers that 'not many people like us are on the *Journal*.'"

Some students felt drawn to apply because of the pressure they felt in the law school environment or because they were afraid to risk not applying. One student who decided she did not want to apply continued to revisit the decision afterward: "It's hard because you're constantly reminding yourself that these are not the things I want." Another student described being drawn into applying even though she did not know what she wanted or how *Journal* advanced her goals:

> I think a lot of it was having heard that it was really important to be on *Journal* and if you're not on *Journal*, you won't get the things that you

want, regardless of what those are or whether you really want them. So I think some of it was risk aversion and then wanting to make sure I kept all the doors open. So I applied.

Public interest oriented students expressed ambivalence both about the trade-offs of applying for the *Journal* and discomfort with both doing and not doing something because of its prestige value:

I'm still not sure. As someone who wants to do public interest work and is not interested in an academic career, I just don't know if it's a good use of my time (considering that there are many other things at the law school that interest me). I also don't like the idea of doing something just because it's "prestigious."

A lot of my friends were just like, "No, no, no." And I felt a little ambivalent because my reaction was to run the other way but then I would be like, I don't want to knee-jerk go after the things because everybody's going after them, but it's also just as bad to knee-jerk not go after them.

A few students who decided to apply to the *Journal* experienced some critique from members of their organizations. At the same time, these organizations were very concerned about the differential participation and success of their members and were active in advocating for their members' increased participation and success.

Some of the students in these groups reported waiting longer to decide whether to prepare for the *Journal* competition, starting their studying later, and distancing themselves from the process as much as possible. Some students did not discuss their decision to go out for *YLJ* with others, and studied for the Sourcecite Exam by themselves rather than in a group. These students also reported experiencing high levels of stress associated with the *YLJ* competition. As a result, some students completely avoided the *YLJ* sourcecite training sessions to minimize what they experienced as a counterproductive frenzy.

Several students of color, particularly African American students, explicitly connected their levels of stress to the sense of responsibility they felt to be successful not only for themselves but for the sake of their identity group. They linked their interest in *YLJ* participation explicitly to the desire to gain greater legitimacy for themselves and their identity group in the eyes of both peers and faculty. One student expressed a more widely shared experience of a disconnect between her clear interest in advancing participation of underrepresented groups in general, coinciding with her uncertainty about whether she wanted to apply: "I do want the *Journal* to be both men and women and with some valid representation of people of color, but does that mean that I should do it? I don't know." This pattern was also observed by faculty and administrators, as well as by students on *YLJ* who recruited and trained first-year students for *YLJ* participation.

In addition, some students of color expressed ambivalence and unwillingness to invest in work that they felt was boring and unrelated to their interests. It is worth exploring how substantive engagement with ideas and writing connected to areas of genuine student interest might enhance interest in *YLJ*, invite greater levels of investment, and decrease the experience of *YLJ* as a high stakes test of worth.

Some students in these groups, along with some faculty and administrators, observed that they did not have access to the same quality of information about *YLJ* as their better-connected peers. The relatively low representation of African American and Latino/a students on previous *YLJ* editorial boards may have been a factor, given the importance of informal relationships in providing support and the importance of identity groups in shaping students' interactions relating to *YLJ.* Although students from these groups reported having *YLJ* buddies and open lines of communication with *YLJ* officers about specific issues, interviews with faculty and students suggest that some students of color, particularly African American and Latino/a students, had fewer informal relationships with *YLJ* officers and editors. SYEs and faculty reported that some students in these groups were still seeking basic information about *YLJ* late in the process. This suggests that these students had not yet decided to participate or that they had not received specific guidance about how to prepare. One student of color, for example, observed that "people ha[d] these outside sources of information that I did not have. I did not have help in knowing how to edit an Article versus other people who did."

The data further suggest that persistent ambivalence may delay preparation for *YLJ* and mute the level of enthusiasm or commitment that students bring into the application process. If it remains unresolved, that ambivalence may also suppress editors' interest in actively participating in the substantive work of the *Journal*, as well as in becoming an active member of the *YLJ* community.

Thus, the Report describes a dynamic whereby ambivalence about the gold star culture affects how and when some students decide whether to apply for *YLJ.* Some students who expressed interest in participating on *YLJ* described resisting a strong urge to avoid the process. Their reasons included: (1) a disconnect between what they care most about and the gold star culture; (2) a reaction against the gold star culture itself; (3) an interest in *YLJ* because of its importance to a group with which they identify, but a question about whether they personally want to invest the time and energy in preparing; and (4) unanswered questions about whether *YLJ* is a venue that will enable them to pursue interests relevant to them, including writing, public impact, critical theory, policy, and more.

These patterns revealed in the qualitative data provide a context for understanding the finding in the Ayres and Cozart report that Hispanic applicants "are less likely than white

applicants to pass the exam."[89] Although the results from the qualitative interviews are only suggestive due to small sample size, those results indicate two possible explanations for these findings. First, several students participating described a lack of interest in *YLJ* participation by LLSA, although they observed that there may be some students in the organization with greater interest in *YLJ* outcomes. These interviews suggest the possibility that lesser emphasis and focus on *YLJ* may have contributed to lower pass rates on the Sourcecite Exam. Second, although we do not have sufficient data to report about network effects, interviews suggested that Latino students may have fewer relationships with students currently on *YLJ*, and thus may receive less encouragement early on to invest time and energy in preparing for the Sourcecite Exam.

This relationship between *YLJ* as a gold star and as an activity valuable in its own right creates a tension in how *YLJ* recruits participation of new members. On the one hand, emphasizing *YLJ*'s prestige value within a gold star culture offers tremendous leverage in recruiting students and motivating them to seek high levels of responsibility within the organization. Using this leverage may facilitate *YLJ*'s desire for excellence by providing the most competitive and invested membership base. On the other hand, to the extent that *YLJ* seeks to create an intellectual community and facilitate a focus on writing and editing for impact, recruiting students who are motivated by prestige and are simultaneously pursuing as many gold stars as possible is in tension with this goal.

The gold star status of *YLJ* also invites stigmatization of the organization as one preoccupied with prestige. It thus risks alienating students who share YLS's and *YLJ*'s ambition to build intellectual community and have impact on important legal issues through publication, but do not want to become enmeshed in the gold star culture. Over the last three years, *YLJ*'s officers have taken steps to increase the involvement of students motivated at least in part by interest in editing, writing, publishing, and participating in an intellectual community. Those efforts are described more fully in the sections below, describing students' experiences of these aspects of *YLJ* participation.

C. The Pivotal Role of Relationships for Students on the Fence

The qualitative interviews strongly suggest the importance of interactions with knowledgeable and respected individuals in producing shifts in students' understanding of *YLJ*, which in turn produced more clarity about whether to apply and invest in being successful. Students who initially questioned *YLJ*'s relationship to their intrinsic interests or their place at YLS described interactions that changed their perspective and helped them gain clarity and conviction about the decision to apply. Some students were

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89. Ayres & Cozart, *supra* note 5, at 14. Ayres and Cozart's estimates "suggest that the long odds of passing the Sourcecite Exam component for Hispanic applicants are between 0.929 and 1.317 lower than those for white applicants. These coefficients are statistically significant at the 90% and 95% confidence levels." *Id.*

not initially planning to participate in *YLJ* because they did not think that *YLJ* published scholarship in areas important to them, such as human rights or immigration law, and thus did not think they would get the chance to work on issues that mattered to them. Interviews also referred to students who just did not want to take the risk of failing. For both of these categories of students, interactions with people they respected addressed their concerns and nudged them to apply. Students whose interests did not align with *YLJ* but feared forgoing *YLJ*'s gold star status also reported the significance of pivotal interactions in equipping them to follow their interests.

Public interest oriented students and students active in affinity groups seemed to place high value on the input of other students whom they viewed as successful and who shared their values. They described pivotal interactions with students on *YLJ* who shared their interests and identity, and who responded directly and personally to questions about whether *YLJ* was relevant for them, how they would balance the time commitment, and whether *YLJ* publishes scholarship in their areas of interest. For example, one student described an interaction with a YLW 2L mentor who was on the *Journal* and told her that the *Journal* is interested in publishing scholarship on gender, has nice people on the Board, and did not have to take much time. These conversations led her to apply. For public interest oriented students who saw publication as a vehicle for having an impact on significant legal problems, interactions with like-minded and experienced 3Ls were described as pivotal in moving them off the fence and equipping them to commit time and energy to being successful. As one *YLJ* editor expressed:

> [The *Journal*] had a few talks about public interest students doing the *Journal* and clinical students doing the *Journal*. I thought that was incredibly valuable and we should keep doing it. But after those talks I heard from some really inspiring 3Ls, who said: "You should do this for the sake of public interest law so that you can push the *Journal* to publish public interest pieces." That was very compelling to me.

A significant portion of students who described themselves as ambivalent referred explicitly and passionately to the importance of seeing students like them on *YLJ* and interacting directly with those like-minded people about their concerns and interests. They also observed that interactions with students who had very different interests and values were not particularly helpful in their deliberations.

Some students had formed preconceptions that students who applied to *YLJ* were likely to be "gunners" or people that they would not enjoy being around. In contrast, some first-year students reported that interactions with the *YLJ* officers had been quite positive, and thus challenged the 1Ls' assumptions about the kinds of people *YLJ* attracts. Students who had *YLJ* buddies with overlapping interests spontaneously named those individuals when asked to identify turning points in their decision-making process. In contrast, students were less likely to describe buddies as pivotal if they did not share their interests, including those who were generally helpful and supportive. Thus, buddies who could provide information tailored to their mentees' interests played a significant

role in enabling students to decide whether to apply and, if they decided to do so, to invest time and energy in preparing.

Some students of color described the pivotal role that particular conversations with a *YLJ* member of the same identity played in their decision whether to apply, and if they did apply, how to approach the process of preparing for the selection process. Some women and students of color described interactions encouraging them to apply to *YLJ* to benefit their identity group, rather than because of what they would individually contribute or because of the opportunity to have an impact on issues they care about. One student explained an experience she had along these lines:

> A lot of upper-year students on the *Journal* had approached me last year to say, "Oh like you should go out for *Journal* because we need more people like you" as in because I'm a minority and because I'm a woman. As opposed to saying, "Because it would be interesting and more helpful," and so that also made me not want to do it.

Students on both sides of these interactions reported that, particularly for students who were ambivalent because of the gold star culture, references to *YLJ*'s prestige or how participation might create a presumption of competence were not persuasive reasons to try out. As one *YLJ* editor explained: "Women care about prestige but those arguments are not as appealing. Some students may not want to think of themselves as being driven to do something as boring as *Bluebook*ing for reasons only connected to prestige." Instead, as another *YLJ* member mentioned, it was more effective to say: "You care about these issues. If you get on the *Journal*, we might see more Articles or Notes like this. You will have a chance to look at cutting edge ideas that are pushing the envelope or imagining the world in another way."

Some students who ultimately decided to apply to *YLJ* described initially adopting a strategy of avoiding the question of whether they would apply. One student, for example, initially found it easier and cleaner to sidestep the question that underlay this student's ambivalence about *YLJ*: whether the benefits of having the opportunity to influence what *YLJ* published outweighed the risks of participating in an institution associated with privilege. "I was like, 'I'm really stressed out. I'm going to put the decision off until April.'" The student described the value of interactions with *YLJ* officers, student organization leaders, and Coker Fellows who shared her values and who encouraged her not to opt out, but rather to make an affirmative decision one way or the other. After reflecting on the experiences of respected peers who faced similar choices and comparing them to his/her own (and being told that it was enough to try), this student decided to participate and, having made that decision, invested in doing as well as possible on the various admissions components.

Ambivalent students who ultimately decided not to pursue *YLJ* also described the importance of interactions with trusted, informed, and knowledgeable students. Several students reported that they did not want to pursue *YLJ* but were anxious about forgoing

a widely coveted gold star. They initially lacked sufficient knowledge or confidence to trust their inclination not to apply—despite their lack of interest. They described the importance of interactions that compared the activities and benefits of *YLJ* (such as honing editing and critical skills) with other activities that interested the student (such as research, transactional work, or policy work).

Students described the importance of these interactions—when they were tailored to students' needs, interests, and options—in enabling them to figure out what made the most sense for them without second guessing their decision. One woman of color reported that she was initially "really nervous about the application process." She told her buddy about her concerns, particularly of her "fear of not getting on." Her buddy told her that this was "not a good reason not to go for it. Guys aren't thinking that. You should just go for it." This student reported that this interaction was pivotal in her decision to apply, and to invest in the preparation process.

Students on the margins also discussed the critical role that faculty members played in influencing their decision and the way they approached *YLJ* preparation. Students on the fence about their own abilities described the impact of "nudges" and conversations initiated by faculty members to encourage them to try out for *YLJ*. As a *YLJ* editor described one faculty member's influence:

> [A professor] actually brought it up with me. She said, "You should do this." And I found that really encouraging. I think there was a certain point when I was thinking *Journal* sounds like something that I would really like. It sounds like something that would match my interests, but I might not get it. And I think that last tag[line] was probably the biggest reason I was thinking of not doing it. Having a professor sit down with me and say, "You should do this; I think you should go out for this" really helped.

Faculty members who took an interest in students' writing and encouraged them to publish also had an impact on students' interest in the *Journal*. For example, one student described an interaction with a faculty member who pulled her aside after class and told her how to submit her paper to *YLJ*. This student attributed her subsequent submission to *YLJ* to that faculty member's encouragement, which "was a very validating experience for me." Many students expressed a desire for greater interaction with faculty members about their writing.

Some students also reported interactions with faculty members who discouraged them from participating in *YLJ*. These interactions included conversations with faculty members who questioned the usefulness of journals or the value of spending time on sourceciting or editing when students could be engaged in developing their own scholarship or policy work. Several students also described receiving conflicting messages about the value of *Journal* participation from the faculty, and even from the same faculty member.

Interactions with clinic students and other public interest oriented students and faculty who were critical of *YLJ* also emerged as a factor in students' views. Students expressed appreciation for a more nuanced assessment that helped students figure out whether *YLJ* was something they really wanted to do. One student with both *YLJ* and clinic involvement suggested:

> [T]here is a general false dichotomy between public interest people and *Journal* people. It's a real thing. I remember my Coker emailed a few people in my small group who are public interest oriented. "I really think you should talk to me if you want to be on *Journal*. I am not on *Journal*, but don't be discouraged because it is a good opportunity for all kinds of people." I appreciated it because [coffee] mugs [exist] like [one saying "make love not *Journal*"].

In fact, our data indicate that many clinical students do participate in *YLJ*. Out of forty-four FYEs completing the survey, twenty-one students also participated in clinics. Of these fifteen identified clinics as their most important organizational activity at YLS; three listed *YLJ* and clinics together as their most important activities. Some students reported valuing *YLJ* both for its prestige and for its influence as a thought leader in the legal profession and the policy arena. Students' involvement in multiple activities and communities offers a possibility for building linkages based on common areas of interest.

Thus, relationships with students and faculty who share students' interests and value their contributions made a big difference to the decision making and follow-through of ambivalent 1Ls. Evidence of this potential exists from descriptions of the particularly effective informal interactions initiated by one SYE of Volume 124. This SYE was credited by at least seven students with providing them with invaluable support that students viewed as pivotal to their interest and preparation. That support included moral support, useful information, and concrete strategies for studying. Interviews pointed to the impact of this SYE who invested in supporting students, particularly those with whom she shared interests and who were not already connected to *YLJ* editors. *YLJ* might consider facilitating these kinds of interactions among 1Ls and *YLJ* editors, student leaders, and faculty who are knowledgeable about the *Journal* and committed to building full participation of diverse groups of prospective editors.

IV. THE *YLJ* ADMISSIONS PROCESS: PREPARATION AND SELECTION

This Part presents findings on students' preparation leading up to their participation in each component of the *YLJ* application process. This analysis includes any preparation students received before they began studying for each component of the process, the preparation and support they received from *YLJ* and other sources, and other factors that the data suggest played a role in students' success in the *YLJ* selection process.

The admission processes for Volumes 123, 124, and 125 had two parts: a Sourcecite Exam and a writing component, consisting of a Critical Essay and a Diversity Statement. First, applicants took the Sourcecite Exam at the end of the spring semester. Those who passed the Sourcecite Exam then participated in the writing component. Applicants to Volumes 124 and 125 were then scored and weighted as follows: thirty-five percent for the Sourcecite Exam, fifty percent for the Critical Essay, and fifteen percent for the Diversity Statement. *Bluebook*ing errors were worth one point, and source errors were worth two points, reflecting the *Journal*'s intention to emphasize content accuracy (such as mischaracterization of sources' arguments) over citation issues. The composite of these three scores produced the final determination of admissions.[90] The selection process is blind and *YLJ* takes careful steps to maintain anonymity throughout the application process.

YLJ has taken steps to increase the transparency, accountability, and consistency of its admissions procedures. After the results were announced, Volume 125 shared a memorandum with applicants describing in detail the steps taken by *YLJ* to evaluate students' exams. Volume 125 continued to use a rubric developed by Volume 124 to evaluate the Critical Essay, along with an error-free model Sourcecite Exam, as a guide to grading. Volume 125 also performed the following steps: (1) meeting of the officers to "calibrate" and standardize individual grading practices; (2) assignment of four reviewers to each Critical Essay—and standardization of their scores—to assure consistency of assessment across exams; and (3) statistical standardization of each component "to ensure that the given weights accurately represented each component's actual impact."[91]

The Report discusses each component of this process below.

A. The Sourcecite Exam

YLJ devotes considerable attention and resources to supporting students in their preparation for the Sourcecite Exam. Those efforts begin with extensive outreach to the general 1L community through e-mail communications, postings to the Wall (the all-YLS listserv) and information sessions. *YLJ* also engages in more targeted recruitment and information-sharing efforts, including lunch and information sessions with various student organizations, clinics, and affinity groups, aimed at encouraging diverse students

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90. Yale Law Journal, Volume 124 Admissions Process (unpublished instructions) [hereinafter Yale Law Journal, Volume 124 Admissions Process] (on file with authors). The weighting for Volume 123 was as follows: twenty-five percent Sourcecite Exam; sixty percent Critical Essay; and fifteen percent Personal Statement (which had a diversity-centered prompt but was not called a diversity statement). Yale Law Journal, Volume 123 Admissions Instructions: Critical Essay and Personal Statement (unpublished instructions) [hereinafter Yale Law Journal, Volume 123 Admissions Instructions] (on file with authors).

91. Yale Law Journal, Volume 125 Admissions Process Overview (unpublished instructions) (on file with authors).

to apply. *YLJ* has put in place a buddy system that matches all first-year students with an SYE to answer questions about *YLJ* and to provide support for 1Ls in their preparation. In addition, *YLJ* offers a series of training sessions on the Sourcecite Exam both for the general law school community and for affinity groups, as well as office hours for students who have questions. All training sessions are videotaped and then made available to all applicants.

Students who participated in the Sourcecite Exam generally reported experiencing *YLJ*'s role as helpful, fair, and transparent. Survey respondents commented on the helpfulness and consistency of support for sourceciting that they received both from their *YLJ* buddies, their affinity groups, and *YLJ* officers. The survey results show that close to seventy percent of the sixty-seven survey respondents who reported having a buddy found that buddy helpful. Many of the students interviewed—both those who were selected and those who were not selected for *YLJ*—found that *YLJ*'s application process, particularly the Sourcecite Exam, was extremely helpful and fair. As one *YLJ* editor expressed:

> I was very impressed by how much the people on [the] *Law Journal* try to get people to join and go through the process and how many practice *Bluebook* things that they gave and how attentive they were to giving people a fair shake. I didn't feel like . . . some people came in with a big advantage. Everybody can study *The Bluebook*. And everybody had access to the same practice questions if they wanted to. I think law journals in general have a reputation of being very hierarchical and all these white men sitting around doing whatever. But I didn't feel that way at all going through the process. I felt very much like everybody was telling me everything that I needed to know and all the resources were there for me if I wanted to use them.

Another *YLJ* editor commented on the helpfulness of the affinity group *Bluebook* sessions: "[My affinity group] had their own *Bluebook*ing sessions, which ended up being three *Law Journal* people and two 1Ls. But I went to those every single week, which was really, really, really helpful."

Students also commented on the responsiveness of *YLJ* to questions and learning styles in connection with sourcecite trainings: "I really give tremendous credit to James [Volume 124's Executive Development Editor] for being so open to the many different people and learning styles and groups—visually, on e-mail and office hours—to really create this vast suite of options."

Students also expressed appreciation for the transparency of the Sourcecite Exam, including the process, preparation, and scoring: "I was very, very impressed with the way that it was handled. I felt like it was one of the few areas of the law school where actually

all of the information [was] accessible. And I think that that should be replicated to some extent in other areas."[92] The transparency of the *YLJ* process has increased over time.

The general consensus among students was that *YLJ*'s process relating to the Sourcecite Exam is fair. Students widely experienced the process as fair in the sense that the rules were clear, anyone could pass if they did the work, and the evaluation left little room for discretion. Officers and applicants alike agreed that the current *YLJ* selection process rewards students who really want to be on *Journal* and who devote the time and energy necessary to master sourceciting. One editor summarized this general understanding of what it takes to succeed on the Sourcecite Exam: "It's just a matter of how much you practice and how devoted you are to studying it." Another student agreed: "When I decided I really wanted to do it, I wanted to really do it." Editors generally concurred with the characterization of one editor that the Sourcecite Exam "is a test of diligence, not innate brilliance." Yet another editor summed up this dynamic: "It was just a matter of: 'Is this something I really want? Yes.' So if I want to get it done, well, then do it right."

Because the current experience of FYEs revolves around sourceciting, students also viewed the selection process's emphasis on sourceciting to be fair in the sense of selecting for a skill that related directly to what FYEs have to do. One of the strongest indications of the perceived fairness of the *Bluebook* training came from those who did not pass. These individuals described the training and administration of the Sourcecite Exam as fair. One unsuccessful applicant attributed his lack of success to his preparation, particularly the amount of work he invested, rather than "any defect with the test or anything that was unfair." He observed that he was not willing to sacrifice other things that were more important and had "no regrets" because he "learned *Bluebook*ing."

Sourceciting and *Journal* Disinterest

Notwithstanding the general perception that *YLJ*'s preparation for and administration of the Sourcecite Exam are transparent and formally fair, survey responses and interviews indicate that sourceciting played a significant role in discouraging students from applying for *YLJ*. Students who answered "no" to the question about their intention to apply for *YLJ* were asked to explain the basis for their lack of interest. Out of the eighty-four students completing the survey from the Class of 2016, twenty-one indicated that they were considering not applying for *YLJ*, and provided narrative explanations for their lack of interest. The responses from the survey also echoed the explanations given by those who were interviewed and did not apply for *YLJ*.

Lack of interest in sourceciting constituted the most common response to the question of why students were not interested in applying to *YLJ*, both in the survey and in the interview data:

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92. This view was also expressed by applicants who did not pass the Sourcecite Exam.

> I like reading legal scholarship, but I don't particularly feel good at, or enjoy, *Bluebook*ing. If I were to try out for the *Journal*, which I still may, it would be basically entirely instrumental. It would just be to have it on my resume when applying for jobs and clerkships, as a little sign that says "I worked hard to study *The Bluebook* one time."

Many FYEs from Volume 124 reported that their experience was largely defined by sourceciting. Some described that experience as useful and worth doing for the chance to become an officer. Even those most positive about the experience, however, described it as "grunt-work." Many of those who grew to love their experience as SYEs nonetheless found the FYE experience less rewarding. One such SYE distinguished her FYE experience, where "for the most part I didn't feel like I was making a great contribution. The work is necessary but it wasn't that meaningful or interesting."

Some students who were attracted to *YLJ* because they were interested in editing and community building expressed unwillingness to "pay their dues" for a year before getting the opportunity to engage seriously in those activities:

> I might have applied to *YLJ* for the critique and editing of legal scholarship work, if not for the *Bluebook* Exam and the need to spend an entire year doing weekly sourcecites that should be outsourced . . . . Given the proportion of interesting to boring work, I decided I'd rather RA and do my own research projects instead.

Another student stated that he/she "would be interested in being an officer, but not an editor."

Not surprisingly, then, the 1Ls interviewed and surveyed reported that their interactions with FYEs were characterized by complaining about sourceciting, even though FYEs were clear that the time commitment was relatively limited unless people chose to do more. Some students viewed the Sourcecite Exam as arbitrary in the sense that it did not select for skills that could not be learned as part of the orientation process for those accepted as members. Some students questioned the value of having *YLJ* focus so extensively on sourceciting for FYEs. For example, one editor bemoaned "the fact that law journals are so fixated on *Bluebook*ing and *Bluebook*ing rules," and observed that the qualities required for people to excel at sourceciting might exclude students who would be good *YLJ* leaders or content editors who "are less obsessed with rules and more interested in the heart of the idea." Several officers questioned whether the emphasis on sourceciting in the first-year process could be achieved without prioritizing it in the selection process. As one officer stated, "the *Bluebook* is just too vast and dull to get people to learn on a voluntary basis once they've already been admitted."

Students thus both relished the transparency and rule-boundedness of the Sourcecite Exam and chafed under its tedium. Some students—both *YLJ* members and nonmembers—saw the Sourcecite Exam as a way to test for willingness to do the work of

FYEs. Students interested in *YLJ* for its value in building intellectual community and having an impact on the law were more likely to view *YLJ*'s emphasis on sourceciting as emblematic of a gap between *YLJ*'s stated mission and its actual practices and priorities. As we discussed earlier, each Volume has undertaken efforts to making the FYE experience more substantive.

Many students also described two unintended byproducts of *YLJ*'s transparency and institutionally supported preparation for the Sourcecite Exam. First, many students reported experiencing high levels of "collective anxiety" generated by the large training sessions. One student questioned whether it was socially responsible to create such a collective emphasis on *The Bluebook*: "The problem with sharing training materials broadly is that the *Bluebook* Exam takes on this huge mammoth size. Suddenly you have the first-year class studying *The Bluebook* broadly." Some students deliberately avoided these sessions because they found that the sessions heightened stress in ways that were counterproductive. This group of students expressed ambivalence about the process and about gold stars in general. The anxiety some students experienced led them to study alone:

> I realized that sitting in a room with a bunch of other people who were really freaked out over the *Bluebook* Exam was not a great place for me because it made me anxious about this thing that I didn't care that much about and certainly didn't want to become anxious about. And so I really disassociated from the social nature of the sourceciting process and [decided], "I'm just going to do this on my time in the library."

Second, students associated the frenzy accompanying the Sourcecite Exam preparation with the message that *YLJ* was a gold star to be pursued for its instrumental value even though it may not be personally rewarding. Several editors worried that the process was "becoming a rat race," and that "more and more people are studying earlier." At the same time, students who were ambivalent about their participation reported that they avoided making a decision, which meant that they did not invest time up front in the process. Deciding late in the process meant that some students had to cram at the end. One applicant stated:

> I decided to go out for the *Bluebook*. Mainly I wasn't really sure what I wanted to do, so I just wanted to preserve all my options. I didn't study nearly as much as most people. I took myself out of those training meetings because I was so busy and I tried to keep up a little bit at home. Some people really made this their mission. And I wasn't one of those people.

Officers from Volume 125 have devoted considerable effort to engaging FYEs in more substantive work, and in making sourceciting itself more substantive, in part in response to the findings of this Report. Although we have not conducted follow-up interviews with FYEs from Volume 125, officers report experiencing greater levels of substantive

interaction with FYEs. Ongoing assessment of the FYE experience would help *YLJ* assess the success of efforts to increase substantive involvement of FYEs.

The Value of Individualized Study and Support

Interviews revealed that some students experienced more tailored or individualized study processes, usually because of a particularly committed buddy or preexisting relationships with students, faculty, and family. Students experienced these relationships quite differently—and much more positively—than their experience in the large *YLJ* training. Some students described developing small group study strategies that enabled them to stay focused. Some even came to enjoy the process of studying for the Sourcecite Exam. Students with buddies or other *YLJ* officers who were good teachers and invested in their success reported that this made a significant difference, particularly for students who were ambivalent or were worried about their performance. These one-on-one or small group interactions also were described as valuable to students on the fence because these interactions enabled students to avoid or counteract the anxiety produced by the collective information sessions.

In short, the issues students experienced regarding the Sourcecite Exam did not relate to its formal fairness. Instead these issues had to do with *perceiving The Bluebook* as an expression of the gold star culture and its emphasis on prestige. Their concerns related to what the emphasis on sourceciting conveys to YLS students about *YLJ*, how that shapes interest, and whether and how *YLJ* can best advance its interest in attracting students interested in publication, impact, and the scholarship community.

Some also questioned whether *YLJ* was adequately set up to identify in FYEs the strengths related to the leadership positions that FYEs would eventually fill. These editors expressed concern that the current process may discourage students who were genuinely interested in devoting time and energy to the *Journal*'s substantive work, and who cared enough about *YLJ*'s mission to be committed to and effective in their roles as SYEs. These concerns led some editors to the conclusion that the admissions process should be reexamined. These findings raise the question of how to balance the Sourcecite Exam's objectivity and transparency against the impact of its centrality to the *YLJ* experience and how students perceive and experience *YLJ.* Assessing this balance also depends on the way applicants experience the writing component of the selection process.

Officers and editors expressed different views about how to address these challenges. One view underscored the value of learning to sourcecite, and that everyone should try out for *YLJ* because the admissions process is fair, the Sourcecite Exam is an effective way to master sourceciting, and the time commitment for FYEs can be minimal. Some *YLJ* editors view the Sourcecite Exam as an objective way to test commitment and prepare students for sourceciting. Another view, by contrast, questions the emphasis on sourceciting both in the selection process and in the experience of FYEs. Some think that the centrality of sourceciting in the admissions process and 1L experience discourages

students who are not motivated by prestige and are unwilling to spend a year doing activities they do not find useful or interesting. This group proposed that *YLJ* should become less of a gold star and should focus instead on attracting students solely interested in writing, editing, and impact through publication.

B. The Critical Essay

YLJ invited students who passed the Sourcecite Exam to complete the Critical Essay component (along with the Diversity Statement, which is discussed in the next Section). It is important to note that there is a threshold (often sixty percent) to pass onto the second stage, but the scores are nonetheless cumulative. The determination of who becomes an editor results from the combined score of the Sourcecite Exam, the Critical Essay, and the Diversity Statement.[93]

The Critical Essay component, which accounted for fifty percent of applicants' overall score for Volumes 124 and 125 and sixty percent for Volume 123, asked students to summarize and critique a piece of legal scholarship. Students were provided with "three pieces of legal scholarship, all of which ha[d] been accepted for publication by the *Journal*." Applicants had to "choose one of these Articles and compose a 1,500-word, closed-universe essay evaluating that piece."[94]

The Critical Essay portion of the admissions process took place after students left YLS for the summer. Before law school exams began, *YLJ* notified students about the results of the Sourcecite Exam,[95] congratulated students who passed, and supplied them with: (1) instructions on the Critical Essay component;[96] (2) a Critical Essay rubric; (3) Critical Essay tips; (4) several samples of Critical Essays, with comments from officers explaining their strengths and weaknesses; and (5) two training sessions on the Critical Essay component, which were also available online by video recording post-exams and throughout the summer. Volume 124's officers developed these materials to increase the level of transparency and support for the Critical Essay. The Volume 123 materials included a set of annotated examples and writing tips, as well as the instructions. Volume 123 also had a public Google Document, where editors answered questions as they came in during the summer. Volume 124 expanded the written materials on the Critical Essay and added in-person writing trainings, e-mail correspondence, and other opportunities for individualized support for students preparing for the Essay.

The Critical Essay component is the aspect of the selection process that relates most directly to *YLJ*'s publication mission, with the exception of "Noting on," a process

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93. Yale Law Journal, Volume 124 Admissions Process *supra* note 90.

94. Yale Law Journal, *supra* note 4.

95. *YLJ* notifies students if they passed before exams start, and then releases the writing component after exams are over.

96. *Id.*

through which a very small number of students become editors by submitting a Note that is accepted for publication. Several applicants who passed the Sourcecite Exam, but were still ambivalent about applying, stated that they loved the available pieces for the Critical Essay and that this discovery played a role in their decision to complete the application.

Since the Critical Essay takes place over the summer, students had much less opportunity to interact with each other, or with the *YLJ* officers, regarding the Essay. Many reported that the Critical Essay component received somewhat less attention during the spring semester from the *YLJ* officers, with fewer training sessions and no structured training exercises.

Interviews suggested that the information distributed by officers of Volume 124 about the Critical Essay provided greater guidance to applicants about the criteria that would be used to assess the Critical Essay than the prior year. Yet the data also suggest that applicants continued to experience the Critical Essay component as less understood and systematically supported than the Sourcecite Exam. Interviews also suggested that, although all applicants received a *YLJ* buddy, they received differential levels and quality of support, varying with the nature of the relationship between the buddy and the applicant as well as with the *YLJ* buddy's capacity to offer useful strategies for critical essay writing.

The data suggest that preparation either before law school or during 1L year played a role in students' familiarity with strategies for critical writing and editing, and that this knowledge was unevenly distributed among the student body. Timing also emerged as a factor affecting some students' abilities to invest sufficient time in preparing for and writing the Critical Essay. Several students who had been forewarned about this issue made advance arrangements with their summer employers to enable them to take the necessary time. The unevenness of this informal knowledge suggests another place where relationships had an impact on students' experiences. Thus, the absence of more systematic support for the Critical Essay may accentuate (or miss opportunities to address) differences in experience.

1. Previous Writing or Editing Experience

One factor that could play a role in differentiating how students performed on the Critical Essay component involves writing or editing experience before coming to law school. Although we were not in a position to establish a causal relationship between prior writing experience and performance on the Critical Essay, we did ask students to identify any experiences that they felt prepared them for the Critical Essay component. We then coded all of the interviews for previous writing and editing experience. We have analyzed the results of those responses.

Many of the editors we interviewed identified some kind of experience with editing or critical writing before they came to YLS, including journalism, undergraduate or graduate thesis writing, serving as an editor or teacher for other students, or completing

a doctoral dissertation. Students used terms like "muscle memory" and "drawing on previous experience" to describe how these prior experiences seemed relevant to them. One editor stated that the writing component "really rewards people who have done that kind of writing before. And there's not a lot in the way of instruction on how to do it." Another editor noted the value of prior experience as an editor of his undergraduate newspaper "where paying attention to every punctuation mark is important." Others described in detail the value of having received edit letters in the past: "In college I had taken a lot of writing workshops, so I had done a lot of sitting around talking about ways to improve [my writing]. And from my fiction writing, I had received edit letters. And that was actually probably helpful because I know what I like to see and what I don't."

Some students wondered whether culturally specific preferences related to writing style may have come into play in evaluating the Critical Essay, in light of the strong representation of students from HYP on the Volume 124 board conducting the evaluation. Students who did not have experience with these institutions before law school described a form of culture shock they experienced when they came to YLS, and specifically noted differences in communication style among those who had attended these elite undergraduate institutions.[97] The differences they observed led them to want to better understand whether stylistic preferences associated with particular academic cultures played a role in how writing was assessed.

Finally, some students identified their experience with specialty journals during their 1L year as a source of some preparation that was relevant to the Critical Essay component. Although most applicants participated in a specialty journal during 1L year, survey results show that this participation varied widely, from students who did a few sourcecites to those who were in substantive editorial roles with significant editing opportunities. Students who had done substantive editorial work were the ones who identified secondary journal work as helpful with *YLJ*'s Critical Essay component. For Volume 125, over fifty percent of the students who performed in the top half of the pool on the Critical Essay had had a substantive role or participated in more than one journal, as compared to twenty-three percent of those who scored in the bottom half of the pool on the Critical Essay component.[98] The data also suggest that substantive experience writing edit memos helped students prepare for the Critical Essay.

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97. For example, one student who did not have previous experience at an elite higher education institution observed: "I think that the way of speaking just didn't come naturally to me, and I really do think it was a matter of acculturation. I think that a lot of my peers . . . who had gone to private schools for secondary education, and then had gone to the top private schools as undergrads, had already been acculturated."

98. Volume 125 provided us with scores on the Critical Essay as well as self-reported information about whether applicants had participated in a specialized journal and, if so, what role they had played. We compared the rates of participation in substantive or leadership roles by students who scored in the top half of *YLJ* applicants with the roles played by those who scored in the bottom half on the Critical Essay.

Analysis of the survey results also provides support for the conclusion that participation in other law journals during 1L year is associated with increased success in the *YLJ* application process. Eighty-four percent of editors participated in a journal other than *YLJ* in their first year, as compared to sixty-two percent of unsuccessful applicants.[99] The quantitative analysis also estimates that participation on a specialty journal has a positive and statistically significant relationship with becoming a *YLJ* editor, providing additional support for the finding that students benefit from the experiences and the opportunities for critical inquiry they may afford.[100]

Many of those who did participate on a specialty journal described ways in which those experiences may have helped prepare them for the *YLJ* application process. One editor highlighted "the unique way that these edit letters go. There is a certain set of things that you should be considering in terms of structural organization. I wasn't aware of that but doing that edit letter for [another law review] helped." As one *YLJ* editor described: "I had already done some things for the secondary journal because that selection process was much earlier. And I had been through a training on how to write an edit letter for that journal. That was really helpful. I just had a better sense of, like, what they were looking for."

Another *YLJ* editor further explained the importance of specialty journals: "I did a round of submissions to [another journal] before the *YLJ* process, so I did have some exposure to how to think about legal scholarship and how to edit . . . . When I sat down to write the critical essay I had a template in my head for what an edit letter should look like."

Several students also had experiences with specialty journals that cut the other way. Some survey respondents described negative experiences with *Bluebook*ing during 1L year as a factor that discouraged them from applying to be on *YLJ*. These conflicting reports suggest the value of substantive editing or writing experience with a journal.

Several students who benefitted from their involvement in another journal commented that this preparation was not planned, and was an unanticipated aid that they hoped would be more available to other students who wanted it. Some 1Ls learned informally from peers or Coker Fellows that participation in a journal other than *YLJ* in the first year can be helpful preparation for *YLJ*, both in learning how to sourcecite and in having the experience of writing an edit letter. *YLJ* also sponsored a fall event introducing all the specialty journals, but did not actually describe *YLJ* or encourage students to apply because the selection process was not scheduled to take place until the spring. Several students commented that they inferred from this set-up that it would be a good idea to

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99. $p = 0.076$. Although this *p*-value is only marginally significant, these data still warrant consideration because of the small sample size and the presence of independent data supporting the existence of an effect.

100. A joint test of statistical significance for other journal participation confirms this conclusion. Ayres & Cozart, *supra* note 5, at 28.

try a specialty journal as a prelude to *YLJ* participation. However, other students reported learning too late that this prelude might have been helpful. Students with relationships and insider knowledge made this connection early on in the first semester. These students seemed more likely to consider participating in a journal in their first year, both to test their interest and to get experience with the skills on which they would be evaluated during the *YLJ* competition.

Two ideas for consideration related to students' involvement in specialty journals emerged from the interviews: (1) *YLJ* should consider collaborating more explicitly with other journals (and perhaps Coker Fellows and/or faculty) to prepare students for the Critical Essay, and (2) *YLJ* should support students in making informed decisions about whether and how to participate in specialty journals. Interviewees suggested that journals might collaborate on training related to critical essay writing, as well as organize joint workshops on issues of shared concern that could give rise to student writing that would be suitable for publication.

2. Legal Writing in the First Year

Both the survey data and the interviews suggest that classroom instruction on legal writing during 1L year does not play a significant role in students' interest in, or preparation for, the Sourcecite Exam or the Critical Essay. Students generally described receiving limited feedback from faculty in their first semester courses and, with few exceptions, did not characterize first-year interactions with faculty as useful in developing critical-analysis skills or otherwise preparing them for the Critical Essay.[101]

One exception is worth noting because a cluster of students referred to it as particularly useful. These students received feedback from Professor Anne Alstott in the context of commenting on the overall class's performance on an exam. This feedback apparently concretely described how to perform legal analysis. Several students described this contribution as an example of how feedback from professors in the first and second semester could help students learn valuable critical-writing skills. This kind of feedback might also even the scales for students who have not had exposure to this kind of writing before coming to YLS.

Students generally expressed interest in more substantive interactions with faculty that would prepare them for writing and research, including but not limited to the Critical Essay component of the *YLJ* application process. A number of students indicated that they would find those kinds of interactions more helpful than interactions that are more strategically geared. Several students expressed frustration about repeatedly receiving

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101. Students had not generally done critical-essay writing in their first semester, and any legal writing instruction in the first semester had come from their small-group professor and their Coker Fellows. *Cf. Yale Law School Expands Legal Writing Instruction*, YALE L. SCH. (Oct. 26, 2010), http://www .law.yale.edu/yls-today/news/yale-law-school-expands-legal-writing-instruction [http://perma.cc /GN5B-WXJK].

advice about the importance of connecting with faculty and strategies for doing so, and much less advice about how to improve their critical thinking and writing capabilities or their knowledge of legal culture. Students who had come to YLS without extensive editing experience placed particular emphasis on this point.

A "positive deviant" workshop could help improve critical writing. Positive deviant approaches focus on "discovering positive variance in a community and mobilizing people to disseminate and integrate superior practices into the cultural DNA."[102] In such a workshop, students, legal writing instructors, and faculty could identify situations in which a faculty member or student has been effective in improving students' critical essay writing, and then analyze the strategies and tools that accounted for the positive impact.

3. YLJ *Preparation for the Critical Essay Component*

This Section addresses the extent to which *YLJ* provides training materials for the Critical Essay. *YLJ* has recognized the need for additional support for the Critical Essay portion. Students who took the Critical Essay portion for Volume 123 observed that they had difficulty figuring out what would be valued or how their Essays would be evaluated. In response, Volume 124's officers added additional training and materials, and Volume 125 has increased that support still further. Students recognized that the materials shared online and the additional training sessions offer guidance on the expectations and criteria for the Critical Essay. Applicants for Volume 124 reported that the sample edit letters were "very helpful." One successful applicant to Volume 124 summarized just how useful this information was to her:

> I think it was a good thing that the *Journal* allowed there to be more transparency into what the Critical Essay was supposed to look like and [that] they gave us some examples . . . . [W]hat I ended up producing was not what I would have produced without knowing what they were looking for.

Some applicants who hadn't had access to a helpful SYE—an assigned *YLJ* buddy or a friend—reported floundering and not knowing how to prepare. Some thought that this opaqueness and subjectivity was inevitable and irreducible in any writing assessment. Others, especially those who had provided or received useful informal feedback and strategies, challenged the notion that "good writing is just an art, that it has this ineffable quality, and that it is impossible to specify the components of it." Some buddies provided informal information and others did not, and so the identity of one's buddy heavily influenced whether one received useful individualized support from *YLJ* regarding the Critical Essay. Many students who received this informal support indicated that it proved

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102.   *See* RICHARD PASCALE ET AL., THE POWER OF POSITIVE DEVIANTS: HOW UNLIKELY INNOVATORS SOLVE THE WORLD'S TOUGHEST PROBLEMS 103 (2010).

useful in their classes and in other legal writing and analysis calling for similar skills.

Students who applied to Volume 124 observed that *YLJ* had many more sessions for the Sourcecite Exam than it did for the writing component. Part of the reason for this was that the semester was ending and exams were approaching. As a result, there was a time crunch while the writing-component sessions were taking place. Volume 125 offered four sessions in the spring, but several were poorly attended.

Students also recognized that the current timing of the Critical Essay, which is conducted over the summer, makes it more difficult for the *YLJ* officers to provide across-the-board support, other than through access to *YLJ* buddies, which reportedly varied in both intensity and concreteness. Students applying for Volume 124 reported having few collective opportunities to practice for and get actual feedback on the Critical Essay: "They gave samples from last year, which were very, very helpful. And obviously I read those thoroughly. But it wasn't really the same as the *Bluebook* [training, where we had the chance] to practice. I didn't do that, but I felt that they were good about giving examples."

As a result, the level of coaching that applicants received for the Critical Essay varied depending upon how one's assigned buddy performed his or her role. Although some students received individual support for this component of the application process, it was less prevalent overall. Some students reported receiving very specific and useful support from their *YLJ* buddy, particularly if they had a prior relationship or shared an organizational affiliation such as YLW or FedSoc.

During the interviews, some editors described extremely well-developed strategies for writing the Critical Essay. For example, one editor used the following approach to her Critical Essay preparation:

> I broke it down to weekends. So the weekend before it was due, I read the Article. I didn't even read all of the Articles. I was just looking at which one seemed the most interesting to me. So I chose one of them. And I read it twice that first weekend. And then when I was commuting to work the next week, I'd be going through the Article after I had read it twice. And then I read it a third time and I went through each paragraph and I jotted down some of the structure and jotted down—what's the main point of this paragraph, the main point of this paragraph and had a sense of each paragraph and then the larger parts. What is the point of this part and how do these paragraphs connect to that part, creating a structure of the argument throughout the whole piece. And so I basically spent the week figuring out the structure and then finding holes in the argument and the structure. And I had this separate document where I'd take Notes—oh here's a gap here; this is something potentially I could write about; and here's another thing. And then also that helped me with the summary. So

> now we're creating this and then trying to figure out different ways to frame the summary, showing more overarching themes that run throughout the piece, which may be something I did thematically. And so I did that throughout the week and then that weekend I wrote. I figured out what all of the things I was going to focus on and critique.

In response to a question about whether this process was something he/she had done before, the editor responded: "No, well, it was actually my *YLJ* buddy. She has her own way of preparing for that. She sent me this humongous e-mail. She was like, 'this is how I did the writing competition.'"

In contrast, other applicants reported receiving only general advice and limited concrete guidance about how to prepare for and write the Critical Essay. The following 2L student's comments illustrate the general kind of advice that some students received: "I knew an outgoing [officer] and his advice to me was to make everything as clear as possible, which I guess is helpful but it's not helpful enough." Another applicant "did the written portion over the summer and was not around any Yale Law students, and so [he/she] just watched the video tutorials that they posted online and read the Article and wrote something that was clearly lackluster."

Ayres and Cozart found "marginally significant evidence that among students who passed the Sourcecite Exam . . . black women were 15 percentage points less likely than white women to become editors (p-value = 0.076)."[103] This Report describes a series of contextual dynamics that provide ways to understand this finding. In particular, dynamics suggest heightened ambivalence about participating on *YLJ* among women of color, associated delays in deciding to participate, reports of limited access to and interactions with editors and officers from the same identity group about writing and editing, and a disconnect between a generalized interest in greater *YLJ* involvement by women of color coexisting with serious questions about whether individuals want to or should participate.

The data suggest the value of exploring how differences in the level and quality of informal support and feedback may play a role in differential performance. We also learned of ways that *YLJ* might improve the level of support, particularly for those who did not come to YLS with significant editing or writing experience. For example, *YLJ* might collaborate with faculty on improving legal writing support at YLS.

4. Timing and Time Conflicts

Interviews suggested that the current order of the selection process may also differentially select for students who are willing to work hard for credentials over those who are interested in the *Journal* as an avenue for pursuing ideas or making an impact.

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103. Ayres & Cozart, *supra* note 5, at 4.

Several interviewees reported that they made up their minds at the very last minute to complete the Critical Essay and received encouragement from *YLJ* officers to participate nonetheless. This practice creates openings for students who are ambivalent, and yet it may decrease their chances of success if they do not sufficiently invest or have time to prepare and write. If *YLJ* enhances opportunities for students to get effective support earlier in their decision making, this may reduce the likelihood that students will decide so late to apply. Otherwise, it might not be worth encouraging students to complete the Critical Essay if they do not have enough time.

Several students noted direct time conflicts with other selection processes that were occurring at the same time as the Sourcecite Exam, or with summer job requirements that might interfere with the Critical Essay, that influenced their decision not to participate in the *YLJ* application process. When those conflicts arose, students who were more ambivalent also reported that they simply invested less time in preparing and completing the Critical Essay. For example, one 2L reported: "I started work right after exams, and I just did not leave any time to spare for work on the packet. The day it was due, I realized I hadn't done anything. I wrote my writing packet the day it was due. It was a complete disaster."

In contrast, students who knew in advance about the *YLJ* competition, particularly those who received advice about working out the timing ahead of time, indicated that they were able to structure their summer activities to give them adequate time to complete the Critical Essay. By providing training to *YLJ* buddies, Coker Fellows, affinity-group leaders, and others in a position to advise *Journal* applicants, *YLJ* might increase the likelihood that students will receive timely and useful information about planning ahead to assure that students have sufficient time to focus on the Critical Essay. Such training would also provide these *YLJ* ambassadors with more systematic support and materials, so that they can, in turn, provide useful individualized assistance to students preparing for the Critical Essay. Given how valuable students found this process for the *YLJ* application, as well as for other law-related work, students who have not had prior opportunities to engage in critical writing might be encouraged to pursue such possibilities before the end of their 1L year. Those efforts might help level the playing field for the Critical Essay, as well as provide students with helpful preparation that applies in other areas important to effective lawyering.

C. Diversity, Selection, and *YLJ*'s Mission

YLJ's adoption of a Diversity Statement in the selection process represents part of a larger effort to increase its diversity. Over the past three years, *YLJ* has been engaged in a series of conversations, both within the *Journal* and with the larger YLS community, about how to increase the diversity of its membership and authorship. The interviews revealed that students at YLS acknowledged the expression of this commitment in a wide variety of outreach practices intended to increase diversity.

During the course of the interviews, many editors expressed an interest in more explicit and extended discussions about the relationship between diversity, selection, and *YLJ*'s mission, and observed value in greater integration of that inquiry with important decisions, such as the selection of Notes and Comments. In interviews, students described the value of having various kinds of diversity represented in the *YLJ* officers and committees, where the *Journal* makes many of its content decisions. Officers and committee members recounted experiences where having students with different backgrounds, fields of expertise, and identities contributed concretely to the quality of the decision-making process. *YLJ* editors and officers noted the importance of FYEs who had experience interacting with diverse communities and who could work well with groups and engage in deliberations, considering that the officers and committee members are selected from the FYE class. Interviewees also sought ways to integrate these discussions—and the practices of *YLJ* more generally—with the mission of building an intellectual community and having impact through publication. Many editors and officers thought that such conversations should be a focus of sustained discussion among the *YLJ* officers and committees, and were looking for concrete ways to connect these discussions with actions that would produce change.[104]

The Diversity Statement was identified by many officers and applicants alike as the one area where the admissions process gathers information related to qualities beyond the capacity to sourcecite and edit, particularly qualities that might be relevant to *YLJ* community building and leadership. The Diversity Statement, weighted as fifteen percent of an applicant's total score, reflects YLJ's belief that "a diverse membership furthers the *Journal*'s educational mission of developing and publishing high-quality legal scholarship."[105] The prompt asked students "to write about one or more ways that you will contribute to the diversity of the *YLJ* community."[106] It is also the area that most people raised in the interviews when asked about how diversity is discussed on *YLJ*.

Many students identified the *Journal*'s use of the Diversity Statement as the source of considerable discussion and tension, both among *YLJ* editors and in the larger student

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104. We offer some preliminary ideas for how *YLJ* might initiate and structure discussions to encourage constructive interactions designed to lead to informed action. *See infra* Part IX.

105. Yale Law Journal, Volume 124 Admissions Process, *supra* note 90. Volume 123 called the statement a "Personal Statement" focused on "combating the historical underrepresentation of certain groups, including women and people of color, in our membership," and asked applicants to "tell us how you would contribute to the diversity of our membership." Yale Law Journal, Volume 123 Writing Component Instructions (unpublished instructions) (on file with authors). Volume 124 called the statement the "Diversity Statement," retained the language on historically underrepresented groups, included new language linking diversity to the educational mission of developing and publishing high-quality legal scholarship, and asked people to "reflect on how these or any aspects of your personal experience might contribute to the *Journal* community." Yale Law Journal, *supra* note 4. Volume 125 focused on the *Journal*'s educational mission and asked the same question as Volume 124. Yale Law Journal, Volume 125 Writing Component Instructions (unpublished instructions) (on file with authors).

106. Yale Law Journal, Volume 124 Admissions Process, *supra* note 90.

body. Interviews with a wide range of people—including those on the *Journal* and not on the *Journal*—suggest that students' views about the Diversity Statement are nuanced and varied, and that views about the Diversity Statement reflect the intersectional patterns of experience and identity that we saw generally in the data. They also reflect the complexity accompanying the effort to advance diversity and the value of connecting this challenge to institutional mission. Students exhibited considerable capacity to understand and address issues of difference in insightful and productive ways. If *YLJ* can create a context where those insights might be shared, that kind of nuanced dialogue offers an unusual opportunity for *YLJ* to make progress on a challenge that confronts many law reviews, law schools, and organizations around the country.

We have analyzed the content and breakdown of the views that students expressed in the interviews about the Diversity Statement. Those interviews included students of different races and genders, students who were currently on *YLJ*, students who had applied and not been selected, and students who had not applied.[107] Because of the relatively small sample (about thirty-five responses), the results cannot speak to how the community at large views the issue. However, the range of views expressed echoes the earlier discussion highlighting the intersectional nature of identity. Opinions clustered around different themes, summarized below, about the wisdom and desirability of the Diversity Statement. Each of the opinion clusters included students from different races and genders. Below we summarize the range of opinions expressed.

The largest group—about half of the thirty-five students, including *YLJ* members and nonmembers from a variety of races, genders, and backgrounds—expressed enthusiasm and support for the Diversity Statement. This group included close to an equal representation of white students and nonwhite students. Some loved the Diversity Statement and found it to be an affirming signal of a commitment to important diversity values: "Even if it was flawed, I was just so grateful and glad that they were really considering it and being transparent and forthright about the fact that they care about diversity. That also made me want to be a part of that institution." Some saw it as an opportunity to share aspects of themselves that they thought would be important to *YLJ*'s work, such as exercising leadership, assessing scholarship, and building intellectual community. Several equated the Diversity Statement with their law school admissions essay and found that it required "a lot of personal reflection in only 350 words" but found it a useful and worthwhile exercise. Students in this group also valued the opportunity to self-identify rather than check a box.

Next in size—about a quarter of the total—was a group that viewed the Diversity Statement as vague and confusing. Those in this group felt that the Statement did not

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107. We did gather information about other categories of identity, including SES, sexual orientation, and political affiliation. However, we are unable to report results reflecting the full complexity of identity categories because: (1) the numbers of people in each intersectional category are too small to be meaningful, and as a result (2) sharing information broken down by the full range of identity categories risks breaching confidentiality.

make clear what *YLJ* was seeking. Some saw the Statement as a way to ask about students' identity without having them check a box, and at the same time discuss the relationship of people's identity to *YLJ*'s mission. This group was concerned about the potential for misunderstanding and unfairness that could arise from the ambiguity they detected in the assignment. Several described interactions with *YLJ* officers who also expressed confusion about what the Diversity Statement was about; for one editor, it was "the least transparent part of the whole application process."

A third group of four students expressed personal discomfort about completing the Diversity Statement. One source of discomfort was their feeling that the Diversity Statement forced them to claim something as part of their identity that they did not personally feel was important; these students "would have preferred to check a box." Another was a worry about reinforcing stereotypes.

The fourth group, consisting of five students from diverse backgrounds, including students of different races and genders, found the Diversity Statement to be unfair and unwise. Everyone in this group thought that having the Diversity Statement diluted the value of getting on *YLJ* for those who might be perceived to have benefited from it, particularly students of color. A subset also expressed concern that students who did not think they had anything to say because they were not in an underrepresented group, particularly wealthy white men, might be disadvantaged.

Several students in each of the groups that supported the use of the Diversity Statement also expressed worry about resentment and backlash that they heard expressed regarding the Diversity Statement. Students across groups, but particularly those in the group that was most critical of the Diversity Statement, stated that they would be reluctant to express their views unless in a confidential setting or with close friends. This reluctance to speak openly stemmed in part from negative experiences students had experienced at YLS around these and other issues related to race.

Going forward, it will be worthwhile to think about how to structure a constructive dialogue that can potentially bridge these different perspectives. Ideas for how these conversations might proceed are included in Part IX.

V. SEARCH FOR INTELLECTUAL COMMUNITY

A unifying theme ran through the interviews of students both on and off *YLJ*: the thirst for intellectual community, areas for sustained engagement around ideas with impact, and opportunities to write and publish in areas where they can have impact. Students generally wanted more of their interactions at YLS to focus on identifying, linking, and exploring shared professional and intellectual interests with both peers and faculty; many wanted *YLJ* to play more of this role. Many FYEs and SYEs would like to enhance *YLJ*'s place as an intellectual community. Some students view *YLJ*'s operation as a gold

star as an obstacle to this goal. This Part explores how students' *YLJ* experiences relate to that theme.

A. Involvement in Substantive Work as FYEs

Building greater intellectual community on *YLJ* has been an increasing focus over the three volumes participating in this Project. FYEs of Volumes 123 and 124 wanted their FYE experience to be more connected to writing, editing, and critical engagement with ideas. Survey results show that a minority of editors identified *YLJ* as their most important activity or organization at YLS. Thirty percent (fourteen out of forty-four) of responding FYEs and twenty-nine percent (nine out of thirty-one) of responding SYEs identified *YLJ* as their most important organization or activity at YLS. Of this group roughly half of the respondents identified community building as the reason. One FYE explained that the *Journal* "provided the sense of community that I felt was so sorely lacking in my 1L year." Officers of all three volumes shared the goal of increasing the experience of *YLJ* as an intellectual community, particularly for FYEs.

Volume 123 introduced opportunities for FYEs to become more involved in the intellectual life of *YLJ*, such as writing edit letters and participating in a reading group; many students participated in at least some of these activities. Volumes 124 and 125 have built on these efforts. Yet many Volume 124 FYEs (current Volume 125 SYEs) still experienced a divergence between these instances of substantive work related to *YLJ*'s mission and their overall FYE experience. That disconnect may stem in part from the primacy of prestige as a motivator for some students, and in part from the lack of interaction between SYEs and FYEs. Building this intellectual community offers a way to ground efforts toward the goal of full participation in aims widely shared at YLS and central to *YLJ*'s mission.

Many FYEs in Volumes 123 and 124 expressed a desire for increased intellectual community on *YLJ* and at YLS. These FYEs understood *YLJ*'s stated mission as impacting the legal community through scholarship, and experienced a disconnect between that mission and their FYE experience. As one FYE put it, "it would be nice if there were a way for [FYEs to] feel more involved with things that felt closer to [*YLJ*'s] mission." Another FYE expressed a similar view: "I feel relatively distant from [*YLJ*'s] mission because the fun part of that mission is deciding what constitutes high quality legal scholarship, not the sort of double, triple, quadruple checking that the work we're publishing is properly cited and formatted."

FYEs raised questions about the limited opportunities to connect their sourceciting responsibilities to substantive interests or to forming an intellectual community. SYEs seemed more likely than FYEs or non-*YLJ* students to describe the substantive dimensions of sourceciting, such as correcting a substantive error (when a citation misrepresents an underlying source). Most students experienced sourceciting as a nonintellectual activity. Some indicated that, due to the piecemeal manner in which

sourceciting is currently conducted, "you don't actually know what the piece is about. You can get a sense, but you're not really reading the pieces or interacting with them on a substantive level. You're just checking and *Bluebook*ing." FYEs and SYEs alike expressed strong interest in finding ways for sourceciting to engage FYEs in the substantive contributions of an author, and to work on publications in areas related to their interests. Some proposed more collaborative approaches to sourceciting that would build in opportunities for students to discuss what they were editing.

In addition, most *YLJ* editors did not experience a connection between *YLJ* membership and publishing in the *Journal*, particularly as an FYE. *YLJ* does not currently require editors to publish a Note or Comment, and a relatively small percentage of members publish work of any kind in *YLJ*. For Volume 124, FYEs generally were not involved in writing or intellectual engagement with authors. One student who went on to serve as an editor on a content committee noted: "As [an FYE] I hadn't read much that we had published, aside from the couple of articles I had been exposed to in sourcecites."

Over the last few years, the *Journal* has taken concrete steps in that direction. *YLJ* has introduced activities that aim to involve FYEs in more substantive issues and activities, including hosting a reading group that discusses its forthcoming legal scholarship, inviting FYEs to submit edit memos and line edits that suggest ways to improve accepted pieces, and providing opportunities for FYEs to participate in significant intellectual activities such as symposia. They can also sit in and observe Articles & Essays Committee meetings and receive sourceciting credit for submitting or publishing their own scholarship.

Most of the FYEs who wrote edit memos, particularly in areas they found interesting, enjoyed being able to write about topics that they cared about and found engaging with an early stage of scholarship "really cool," "fun," and "a good experience." Edit memos also gave FYEs "more of an understanding of what it is that a Note[s] Editor does [and] what it is that an Articles Editor does, so that I know what those roles even mean." Several editors also described their experiences with the reading group as a welcome innovation.

Editors interested in *YLJ* as an intellectual community spoke with excitement about the opportunities offered by *YLJ* to engage in the substantive work of the *Journal*. Those opportunities received prominent mention in the information packet provided by *YLJ* to prospective applicants, including writing edit memos and serving "as lead editors for essays published in a special issue on constitutionalism and the legacy of Bruce Ackerman's We The People series."[108] Working on this symposium issue was described enthusiastically by some as providing FYEs with an opportunity to work collaboratively with other editors and to interact directly with issues and authors. FYEs "want to talk about ideas and they want to write about ideas, and they want to be engaged in that

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108.   Yale Law Journal, Volume 123 Admissions Instructions, *supra* note 90.

conversation, versus working on isolated chunks intermittently spread out throughout the process." Students who had their Notes accepted for publication, not surprisingly, found considerably more intellectual connection to *YLJ*.

Nonetheless, many FYEs on Volume 124 did not experience this work as core to their FYE experience. Editors reported that the edit memo "was a lot of work for not that much credit." Interviews also suggest that some FYEs experienced innovations aimed at increasing substantive engagement through the lens of the gold star culture. As one FYE stated, "I think there are definite opportunities, but they are very much opt-in, and I don't think that they are the majority culture on *YLJ*." Those who joined *YLJ* largely for the prestige value, or who did not identify with the *YLJ* community, were interested in minimizing their time commitment rather than increasing their substantive engagement with ideas, editing, and publishing.

Activities aimed at increasing the substantive engagement of FYEs were described by some editors in terms of whether they would enhance their prospects in the officer slating process. One editor explained the decision not to do an edit memo as a judgment that "it was not a good use of my time" because "the slating process would be more about interpersonal dynamics." An editor who did write an edit memo did so in part "to impress the officers" and to "be seen as getting involved in the *Journal*." Another editor "elected not to do edit memos, in part because [the editor] wasn't aware [until later] of the instrumental role that . . . they end up playing."

Many FYEs did not associate their sourceciting experience with their goals of building an intellectual community or publishing their work. Many editors really enjoyed the social aspects of sourceciting—dinner and a sense of commiseration—but for many FYEs, those sourceciting experiences did not translate into an intellectual community. One officer noted that, "when sourcecites take place, everyone is in the library, people are on their laptops to do them electronically, and so it's very tempting to browse Gmail for a while instead of sourceciting." Another *YLJ* member did not mind the sourcecites, but reported that "it's not a community building experience. If you spend too much time socializing or community building, you would not get your footnotes done, and then you would be the person who would have to reassign your footnotes to other people, and everybody just wants to get it done and go home." Because sourceciting dominated the FYE experience for so many, its nonintellectual quality overshadowed the less frequent and optional opportunities to engage in substantive work.

A recurring theme was a desire for "more intellectual engagement." As one editor put it, "I wish for myself that being part of *YLJ* had led to my community supporting me and encouraging me and helping me to write things, because I would have wanted to." Many SYEs, particularly those on content committees and in leadership roles, did experience *YLJ* as an intellectual community, and one that they really enjoyed and were committed to advancing.

Many students both on and off the *Journal* described their experience in clinics, policy projects, and intensive writing seminars as the most engaging and exciting part of their YLS experience, and the place where they germinated ideas that they would like to pursue and publish. Clinical work emerged as a significant venue for advancing ideas through writing. Yet many clinic students we interviewed have experienced direct interactions with clinic faculty who discouraged *YLJ* participation, saying that it is a waste of time. Also students do not necessarily know how to connect writing they did for classes or seminars with publication—a subject discussed further below in the context of student publications. Some students with explicit interests in publication decided not to pursue *YLJ* because they were advised by faculty to avoid *YLJ* membership and to focus instead on building research relationships with faculty and writing their own articles.

Students expressing this thirst for opportunities to integrate their intellectual work with their passions and commitments were themselves a diverse group. That group cut across identity groups and professional interests. It included students of color, women, and students cutting across the political spectrum who spoke passionately about wanting to connect their law school experience with building capacity to address pressing issues through writing. If more students and faculty "saw the *Journal* as a site for social justice activism and could make it into a site for discussion of different issues, different voices," that shift would engage a different group of students. Students active in public interest who participate in *YLJ* expressed an interest either in participating in work that would influence the selection of publications or in submitting their own writing to be published by the *Journal.*

The officers of Volumes 123, 124, and 125 have made concerted efforts to increase the involvement of FYEs in the intellectual life of *YLJ.* They have offered opportunities for FYEs to write edit memos and line edits, participate in a reading group, and work on symposia. FYEs in Volumes 123 and 124 could get sourceciting credit for an edit memo. In part as a result of engaging with the findings of this Report, officers of Volume 125 have prioritized increasing the intellectual engagement of FYEs and the relevance of *Journal* publications to legal practice and policy. FYEs are encouraged to participate in edit memos and line edits and the reading group, to write *Forum* pieces (and Notes and Comments), and to be the "Lead Editor" for one of their fellow FYEs who is publishing on the *Forum. YLJ* is currently emphasizing in its "News" section on the *YLJ* website the many times that courts rely on *YLJ* work.[109]

The FYE experience is one place where the officers of Volume 125, building on efforts begun by Volume 123's officers and Volume 124's officers, report making significant

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109. *See, e.g.*, Charles C. Bridge, *Forthcoming* Forum *Essay Cited by Government Brief in D.C. Circuit*, YALE L.J. (Aug. 29, 2015), http://www.yalelawjournal.org/news/forthcoming-forum-essay -cited-by-government-brief-in-dc-circuit [http://perma.cc/VPG5-W65F]; Charles C. Bridge, *Seventh Circuit Opinion (*Mullins*) Discusses Volume 124 Note*, YALE L.J. (Aug. 11, 2015), http:// www.yalelawjournal.org/news/seventh-circuit-opinion-mullins-discusses-volume-124-note [http:// perma.cc/RTM8-DQBM].

changes to the FYE experience in light of what they have learned through the Full Participation Project. If FYEs so choose, they need not only sourcecite. FYEs can write edit memos or perform line edits on pieces accepted for publication, or submit their own Note or Comment for publication, and receive "sourcecite credit." Volume 125 also offers sourcecite credit for planning various membership events, such as Tuesday Morning Breakfasts or Wednesday Afternoon Teas. Others have formed an Environmental Committee and are working on ways to "green" *YLJ*'s operations. FYEs may also participate in the Full Participation Committee planned by the officers of Volume 125. FYEs are also invited to sit in on and participate in Articles & Essays Committee meetings. All of this is part of an intensified effort to transform the FYE experience and build more of an intellectual community.

Officers of Volume 125 report undertaking efforts to increase engagement with issues of importance where they can have impact through scholarship and dialogue, and that these efforts have produced a genuine intellectual community for many on Volume 125. This community includes FYEs, SYEs, and other YLS students interested in public engagement and research concerning these issues. They also report that they have undertaken a series of initiatives to provide students and the larger legal community with opportunities to engage issues in areas of importance to students and the larger community. They have made writing with impact a focal point of their Features & Book Reviews Committee, and convened conversations and scholarly exchanges involving *YLJ* editors, students at YLS, and national leaders with significant and pressing public issues including Title IX,[110] solitary confinement,[111] and police misconduct.[112]

B. Separate Spheres: Distinct Interaction Patterns for FYEs and SYEs

The interaction patterns of FYEs and SYEs also played a role in how editors experience *YLJ* as an intellectual community. FYEs' core responsibilities and activities differed substantially from those of SYEs. Based on interviews and network surveys with Volume 124's officers and editors, FYEs and SYEs occupied largely different and nonoverlapping social worlds, bridged by a few key brokers. Most FYEs did not interact with SYEs in a structured way until the slating information process for SYE positions began in November. Gender patterns, described below, also shaped the interactions among

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110. *See* Email from the Yale Law Journal to thewall@mailman.yale.edu (Sept. 24, 2015) (on file with authors) (inviting the Yale Law School community to "*YLJ*'s Conversation on Title IX").

111. *See* Email from Forum Executive Editor to 125_forum@mailman.yale.edu (Oct. 12, 2015) (on file with authors) (describing line-up of authors to respond to *Time-In-Cell* report, and planning to enlist FYEs in line editing those responses).

112. *YLJ* officers report that they are planning to publish a series of *Forum* pieces from the Association of American Law Schools panel discussion titled "Police and Policing: Remembering Selma Fifty Years Later."

officers and editors. These dynamics had implications for how FYEs experience *YLJ*, as well as their preparation for assuming leadership positions when they become SYEs.

To understand the dynamics of interpersonal student interaction more fully, we collected survey data through an online platform from three populations: (1) the Class of 2016 during the spring of their 1L year before taking the Sourcecite Exam, (2) the FYEs of Volume 123 just before slating for SYE positions in Volume 124, and (3) the SYEs of Volume 123 at the same time that the FYEs were surveyed. This survey collected demographic details and information on participation in various activities at YLS and on *YLJ*, including social interactions and interactions about editing and writing. Its objective was to map different sources of support and interaction. To perform this mapping, we administered standard network questions using a name generator that is widely used in the network literature.[113]

In the network survey questions the respondents were asked to name up to five individuals with whom they interacted around a specific topic (such as editing and writing or slating) or with whom they had a specific kind of relationship (such as receiving encouragement to apply to *YLJ*). The answers to these questions were then de-identified, which allowed the researchers to link demographic data (if available) to all individuals in the network, but not to reveal the identity of the respondents.

We then used an algorithm to map the relationships of students who interacted with each other and to depict those interactions in a network graph, which is included below.[114] Network graphs are figures that represent the interactions among participants (nodes) in a network. Nodes here are the individuals who relate to one another in different ways in a network, and they are typically represented in a network graph by dots. Network graphs also show the relationships between nodes by connecting them with lines (edges); often those lines end with an arrow showing the directionality of relationships. Directed networks are ones that report whether interactions are mutual or unidirectional. Directionality is thus the term reflecting who reports relationships with whom. Each person responds to the questions about their interactions based on their own experience of the relationship. Asymmetric situations occur where person *A* reports a relationship with person *B*, but person *B* does not report a relationship with person *A*. By limiting to five the number of people that each respondent could identify, the survey prompted them to select people with whom they had shared meaningful, repeated interactions.[115]

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113. *See* Peter V. Marsden, *Network Data and Measurement*, 16 ANN. REV. SOC. 435 (1990); Vasja Vehovar et al., *Measuring Ego-Centered Social Networks on the Web: Questionnaire Design Issues*, 30 SOC. NETWORKS 213 (2008).

114. This Section draws on concepts and methodologies widely used by network researchers. For an overview of this methodology, see CHARLES KADUSHIN, *supra* note 52, at 3-12; WASSERMAN & FAUST, *supra* note 52, at 28-66 (1994).

115. This convention of limiting the number of relationships an individual can report is widely used among network researchers. *See* sources cited *supra* note 114.

We were interested in understanding how students' relationships and positions in interaction networks affect the flow of information through relationships in those networks. This analysis assumes that at least some important information travels through informal relationships—an assumption supported by the interview data. Students in different interaction networks are likely to have different kinds of information. To illustrate this in the context of *YLJ*, there are two groups—FYEs, who know a lot about some things (such as what kind of experiences they are having with *YLJ*, sourcecites and their peers), and SYEs, who know a lot about other things (such as slating, the roles of different officers, how publication decisions are made, and many other things related to running *YLJ*). We know that different groups have access to different kinds of information, and that some important information sharing occurs informally through relationships in social interaction networks. Thus, a person who interacts socially with people who belong to different groups (and have different kinds of information) is well positioned to be an information conduit across these groups. That person is called a broker.[116]

As part of the network analysis, we analyzed three different populations in Volume 123: (1) the FYEs separately, (2) the SYEs separately, and (3) the combined population of FYEs and SYEs. We asked who is central in the network. We measured centrality using a measure called "betweenness centrality," which is calculated by a simple algorithm described here. The algorithm takes each person (or node) in the network and asks, if that person wants to send a message to everyone else in the network (assuming that people do share information through each of their relationships), through whom would that message need to travel if information were to be transmitted along the most efficient path, i.e., the one that involves the least amount of nodes. For each node we have a frequency-distribution for all other nodes that gives the number of times each node was used along a shortest path. This exercise is carried out for each node and then aggregated. In other words, the algorithm counts how many times each node appears on the shortest path for communicating information from any node to any other in the network.

Through this algorithm, we obtain an ordering on the nodes in the network from highest to lowest. The people who have high numbers are brokers; they are more central from this information-flow perspective explained above. When anyone in the network wants to send a message to anyone else in the network, the best way to reach the most people in the network is through the brokers and betweenness centrality helps us identify them. Betweenness centrality ranks highly individuals who, through interactions with people in largely distinct social groupings, are the holders of different kinds of information, as "messages" held by distinct groups (such as FYEs and SYEs) need to travel through them. Brokers do not necessarily have a large number of contacts, but are connected to relatively disjointed groups.

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116. *See generally* Ronald S. Burt, *Structural Holes and Good Ideas*, 110 AM. J. SOC. 349 (2004); Mark S. Granovetter, *The Strength of Weak Ties*, 78 AM. J. SOC. 1360 (1973).

These brokers are strategically important because they may circulate information that is crucial for individual actions and decision making. For example, the Report identifies the importance of relationships between 1L students and *YLJ* editors in providing timely information enabling students to decide early whether to apply for *YLJ*, plan their time, and develop strategies for the Sourcecite Exam and Critical Essay. [117] Many students also reported receiving information from fellow 1Ls, which they had gained from their relationships with 2Ls. With regard to the search for intellectual community on *YLJ*, relationships between FYEs and SYEs provide information equipping FYEs to learn about the substantive aspects of *YLJ* work and inform them of the roles SYEs play in cultivating, selecting, and editing submissions.

Organizations literature demonstrates that being a broker is associated with positive outcomes: individuals in broker positions tend to be more innovative and are more likely to become leaders. We wanted to ascertain whether there were brokers in the *YLJ* context, and, if so, whether they shared any identity-based characteristics.

What you see below is a visual representation of the patterns of interaction among FYEs and SYEs. Each dot, or node, represents an individual in the interaction network. The lines represent relationships between those individuals. Green dots (or nodes) represent female FYEs, blue nodes represent male FYEs, yellow nodes represent female SYEs, and red nodes represent male SYEs. The lines are marked with arrows because each respondent described his or her relevant social circle from his or her own perspective.

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117. *See supra* Parts III.A.2, IV.B.3. Mapping these interactions between 1Ls and upper-class students would have required surveying the entire student body, which we were not in a position to do. For that reason, our discussion of network data focuses on interactions between FYEs and SYEs.
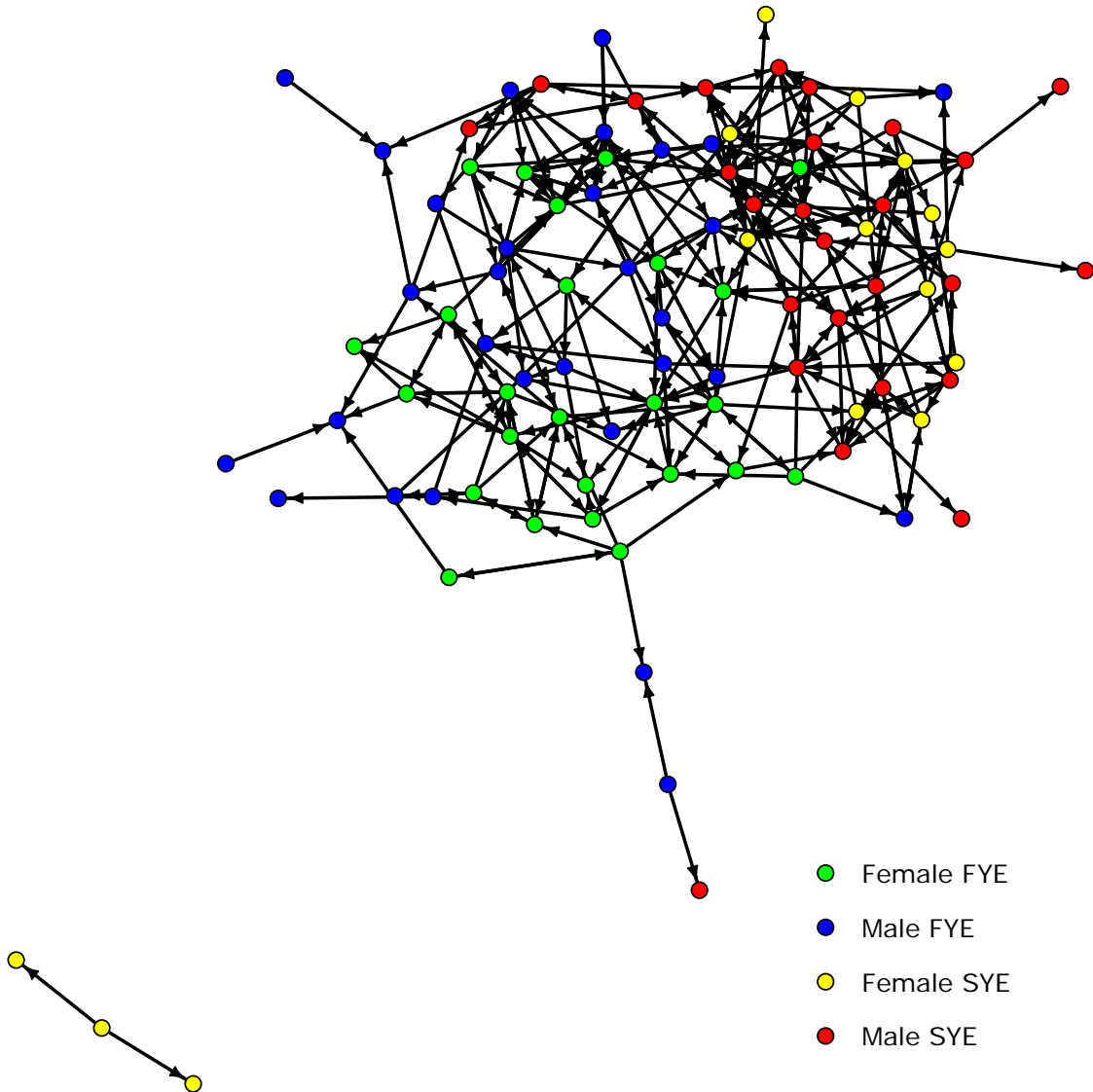
The algorithm uses two principles to arrange the differently colored dots or nodes. First it aims to put nodes close to one another that are connected by a relationship, and closer still when there are other nodes that they are both are connected to. The nodes will be close if two people are connected to each other, and closer still if those two people are both connected also to the same other people. Second, the algorithm aims to minimize the number of times that the lines connecting people cross so every interaction can be separately viewed.

Looking at the above network graph, we see that almost all of the blue and green are on the left and almost all of red and yellow are on the right. That can only happen if there are two distinct interaction groups. Then the question becomes whether there are any brokers—people who are on the boundary and interacting with at least some people from the other groups. We determine whether there are any brokers by searching for nodes

that are blue and green and close to red and yellow dots or look for nodes that are red and yellow and are close to blue and green dots.

The network analysis, combined with the qualitative data, shows that interactions on *YLJ* during Volume 123 were defined by cohort: FYEs and SYEs operated as largely distinct social networks. These patterns are confirmed by interview data: FYEs generally did not report significant interactions with SYEs and vice versa. As one officer noted, "I don't feel like I have a ton of interactions with First-Year Editors in general." Most FYEs interacted primarily through sourceciting. Their interactions with SYEs were structured by this activity and much of the communication occurs over e-mail and pertains to logistics and organization.

A subset of individuals, called brokers, operates as the link between the FYEs and the SYEs. These individuals, as explained below, lie on the boundary between the first and second year cohorts, which, at least for Volume 123 were largely distinct. All but one of the brokers among the FYEs are women, and all the SYE brokers are men. The fact that all of the SYEs who are brokers are men is not surprising when we consider that all six of the officers of Volume 123 were men. It is also worth observing that being a broker as a FYE did not predict the position that those editors would occupy as SYEs. The eight FYEs who were brokers of relationships between FYEs and SYEs subsequently occupied positions ranging from Projects Editors to content committee members. This result is not surprising, given that the roles of FYEs have differed substantially from those of SYEs, and for many FYEs, interactions with SYEs were more related to informal relationships than to performance of *YLJ* responsibilities.

These patterns reflect a structural dynamic built into *YLJ* as it currently operates. Interview data suggest that relationships between FYEs and SYEs were largely based on either pre-existing relationships or proactive efforts by FYEs to connect with SYEs or engage in more substantive work. FYEs with different relationship networks beyond *YLJ*'s formally structured interactions seemed to have different levels of knowledge about the work of the *Journal*. Notably, students who had significant relationships with SYEs prior to joining *YLJ* described much more extensive informal interactions:

> I knew a lot of [SYEs] through various capacities and got to know them better through the *Journal*. So I interacted with [SYEs] in the limited ways in which I was working with them in the *Journal*, but then also socially. A number of second year editors were friends of mine and [people] who I interacted with in different activities in clinics, moot court etc., so I certainly felt like I was in . . . contact with people who were second-year editors on the journal. I knew a lot of them and engaged with them in a lot of different capacities.

Another *YLJ* editor stated "A lot of my friends are on the *Journal*. It's fun. There's Tuesday morning breakfast, you have dinner for the sourcecites, and it's fun to have those social times."

The network data support the qualitative data showing that pre-existing informal relationships enhance the level and quality of interactions that FYEs have with SYEs. Those data show a statistically significant difference in interactions around slating for students from HYP.

The differences in experience among FYEs and SYEs also show in differential levels of satisfaction with *YLJ* as an intellectual community. Of the Volume 123 FYEs surveyed, 49% indicated that they were somewhat (40%) or very (9%) dissatisfied with *YLJ* as an intellectual community. Only 12% described themselves as very satisfied with *YLJ* as an intellectual community. In contrast, of the 29 SYEs who responded to this question, 34% described themselves as very satisfied, 34% described themselves as somewhat satisfied, 17% were somewhat unsatisfied, and 14% were very unsatisfied.

These interaction patterns among FYEs and SYEs are worth thinking about because of the pivotal role of FYEs in defining the future of *YLJ*. FYEs are a crucial interface with 1Ls considering whether to apply for *YLJ*. They are also the future leadership of *YLJ*. For this reason, it makes sense that the *Journal* has been actively exploring ways to build intellectual community and to link FYEs with the work of SYEs and the mission of the *Journal.* As the next Part shows, this move also offers a way to increase participation in the core activity of the *Journal*—publication.

VI. PUBLICATIONS AND FULL PARTICIPATION

The process of selecting, editing, and publishing work lies at the core of *YLJ*'s mission to shape discussion of the most important and relevant legal issues.[118] Through its publication activities, *YLJ* interacts with the YLS student body, faculty, and the larger legal academic community. *YLJ*'s publications constitute the enduring output of each volume. Given publication's centrality to *YLJ*'s mission and impact, an analysis of full participation in *YLJ* must include an inquiry into participation in the submission, selection, editing, and publication of work.

YLJ officers from Volumes 123, 124, and 125 have expressed interest in increasing the number of students who submit Notes, Comments, and *Forum* pieces to *YLJ* for publication. This goal dovetails with the *Journal*'s mission of building an intellectual community and publishing high-quality scholarship with an impact on important legal issues;[119] efforts to encourage students to develop and resubmit Notes, Comments, and *Forum* pieces constitute a significant focus of *Journal* activity, and are described in Part VI.A, below.

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118. YALE L.J., *supra* note 56.

119. *See supra* Part II.A.

The *Journal* has expressed a particular interest in increasing the diversity of student submissions of Notes, Comments, and *Forum* pieces, as well as the diversity of published Notes, Comments, *Forum* pieces, and Articles. Racial and gender disparities in Notes, and Comments submissions, along with disparities in publication of Notes and Comments, constituted a significant source of concern leading to the Full Participation Project.[120]

Ayres and Cozart's report provides summary statistics of student scholarship submissions, which are reproduced below:[121]

Table 12. Summary Statistics of Student Scholarship

	Volume 123	Volume 124	Volume 125
Panel A: Unique Submissions, by Gender			
All	161	160	111
Men	108	91	61
Women	53	66	46
Gender: Did Not Disclose	0	3	4
Panel B: Resubmissions, by Gender			
All	30	29	26
Men	22	24	16
Women	8	5	10
Panel C: Accepted for Publication, by Gender & Type			
All	21	24	19
Notes	14	13	10
Comments	7	11	9
Men	15	17	13
Women	6	7	6
Panel D: Unique Submissions, by Race			
White	106	114	78
Black	9	7	5
Hispanic	6	7	4
Asian	30	27	21
Other	5	0	1
Race: Did Not Disclose	5	5	2
Panel E: Unique Submissions Per YLS Student, by Race			
White	0.28 (385)	0.30 (385)	0.20 (382)

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120. *See supra* Part I.A.

121. Ayres & Cozart, *supra* note 5, at 29-30. It is important to observe that Volume 125 has not yet completed its data analysis, so the information provided here is incomplete.

Black	0.23 (40)	0.16* (43)	0.12 (42)
Hispanic	0.14 (43)	0.16* (43)	0.10* (42)
Asian	0.39** (76)	0.31 (87)	0.27 (79)
Other	0.17 (29)	0.00** (24)	0.05* (22)
Race: Did Not Disclose	0.12** (42)	0.11** (44)	0.05** (40)

Notes. The number of accepted Notes and Comments differs from the number of published Notes and Comments as a result of students electing to not publish the scholarship. Panel E expresses the number of unique submissions by students of each race as a fraction of the total number of students at YLS of each race (reported parenthetically); this data comes from the same ABA disclosures that are discussed in Section II and in the appendix of the Ayres and Cozart's report. * and ** denote statistical significance at the 10% and 5% levels. "Other" includes students who did not report as white, black, Hispanic, and Asian, or did not disclose.

This summary submission data alone does not permit estimates of the impact of race and gender on initial submission of a Note or Comment. It simply describes observed disparities in the number and proportion of submissions by gender and race. Ayres and Cozart find that, "[a]mong students eligible to submit Notes and Comments, black and Hispanic students for some volumes were marginally less likely than white students to submit, and for Volume 123, women were statistically less likely than men to submit."[122] *YLJ* officers and editors have expressed continuing concern about those observed disparities.

YLJ officers have also expressed concern about the rates of resubmission of Notes and Comments, both in general and for women and students of color. Students who submit a Note or Comment may receive a "Revise and Resubmit Letter" (R&R), which "evaluates the strengths and weaknesses of the Note and provides constructive feedback on how the author should revise the Note to increase the likelihood of acceptance."[123] *YLJ* officers have expressed strong interest in increasing the overall rate of resubmissions among students who receive an R&R. Ayres and Cozart's report estimates that female students are "less likely than male students to resubmit a Note or Comment, conditional on the scholarship not being accepted immediately for publication; the log odds that a female student resubmits a Note or Comment are 0.70 lower than for male students, and this result is statistically significant."[124] We do not have data on the pool of Articles submitted to *YLJ*, although the *Journal* also expressed concern about patterns that have produced differential publication of Articles based on identity.

This Section draws on the interview and survey data to shed light on possible interaction and decision-making patterns that contribute to differences in submission and resubmission outcomes, and how these patterns might relate to the overarching

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122. *Id.* at 35.

123. Memorandum from *The Yale Law Journal* Volume 125 Notes Comm. to All J.D. Candidates at Yale Law Sch. 4 (Aug. 10, 2015), http://www.yalelawjournal.org/files/125NotesSubmissionGuidelines_ev8y26mj.pdf [http://perma.cc/8J4W-VPR9].

124. Ayres & Cozart, *supra* note 5, at 32.

dynamics relating to navigating the gold star culture, described in Part II above. We gathered information about participation patterns for each type of publication. To understand dynamics relating to submissions of Notes, Comments, and *Forum* pieces, we asked the students we interviewed to describe how they experienced writing, whether they considered submitting writing for publication to *YLJ* or any other law review, what factors and experiences influenced their decision, who they interacted with about writing, and how they went about the process of writing and submitting (or resubmitting) their work.[125] We coded their responses to identify patterns in students' experience. We then examined each cluster of shared experience to see whether any patterns emerged relating to identity. We supplemented these analyses with relevant responses from the survey data pertaining to students' experiences with editing and writing at YLS and with *YLJ.*

We also sought to understand how *YLJ* practices and decision making might play a role in shaping the processes and outcomes related to publication. Because *YLJ*'s internal deliberations and decisions about selecting submissions are confidential, we do not have direct data on the selection processes for Articles, Notes, Comments, or *Forum* pieces. We did, however, interview officers from both Volumes 123 and 124 about the selection process. To keep these officers anonymous, we report that information in the aggregate, across all the content committees for both Volumes 123 and 124. Additionally, we focus mainly on student submission of Notes and Comments because this is the area about which we have the most information. It is also the area in which *YLJ* has the greatest potential to impact student participation and advance its goal of building intellectual community at YLS.

The interview data, supplemented by patterns from the network analysis, provide some clues about the dynamics shaping publication processes and outcomes. The qualitative data suggest that students' publication practices may be affected by: (1) the extent and timing of their opportunities to develop ideas that excite them and are suitable for publication; (2) their access to individualized feedback and encouragement from respected faculty, officers, and other students who know their work; and (3) their perceptions of the relevance of writing to their ambitions and goals. This data also suggest that these dynamics differentially affect how some women and students of color experience decisions to submit their work to *YLJ*, and those differences may help explain differences in submission and resubmission rates.

A. Participation in the Notes and Comments Process

This Part describes and analyzes how students experience the decision to prepare and submit a Note or Comment to *YLJ.* It begins with an overview of the process and *YLJ*'s efforts to encourage and support student submissions. It then analyzes the data.

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125. We conducted these interviews between October 2014 and January 2015 with students in the Class of 2016 who were not on the *Journal*, as well as of Volume 124's FYEs (mostly in the Class of 2016) and SYEs (in the Class of 2015).

1. An Overview of the YLJ Notes and Comments Process

YLJ devotes a significant amount of time, energy, and resources to soliciting, selecting, editing, and publishing student scholarship. Students may publish their work in *YLJ* in one of three forms: Notes, Comments, and online *Forum* essays. Members of the 1L and 2L class who are sole authors of accepted Notes, along with 3Ls who submit by the end of September, are invited to become a FYE (this process is called "Noting on"). All J.D. students are invited to submit their work for publication.[126]

The Notes Submission Guidelines provide:

> A Note makes an original, well-supported argument that advances the frontier of legal scholarship in a particular field. Publication in the *Journal* allows student authors to communicate their ideas to the legal community, to develop their scholarly voice, and to join a time-honored tradition of excellence and innovation in student scholarship. We are strongly committed to publishing an array of Notes that reflect the diversity of intellectual interests at the law school.[127]

A Comment is "a short piece that presents an original and concise argument." A *Forum* piece is "scholarship that is short, timely, and accessible to a general audience," preferably "[a] piece[] that grapple[s] with current issues as they unfold, and [is] writ[ten] in a style targeted toward policymakers and practitioners."[128] Based on the interviews, Comments and *Forum* Essays seem to be less well-known avenues for publication among YLS students who are not editors of *YLJ*.

Publication decisions for Notes, Comments, and *Forum* Essays are made by the Notes Committee, Comments Committee, and *Forum* Committee, respectively. The general criteria for selection are published on *YLJ*'s website.[129] All three committees require anonymous submission, and the Notes and Comments Committees in particular are "strongly committed to blind, impartial review." *YLJ* has established strict procedures to prevent committee members from learning student authors' identities while reviewing their Notes and Comments submissions.

Publishing student scholarship is one of the most tangible ways in which *YLJ* advances its mission of building an intellectual community at YLS. *YLJ* officers from Volumes 123

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126. Memorandum from *The Yale Law Journal* Volume 125 Notes Comm. to All J.D. Candidates at Yale Law Sch., *supra* note 123, at 1.

127. *Id.*

128. Memorandum from the *Yale Law Journal* Volume 125 Comments Comm. to All J.D. Candidates at Yale Law Sch. 1 (Feb. 17, 2015), http://www.yalelawjournal.org/files/125_Comments_Submissions _Guidelines_idqdbbmf.pdf [http://perma.cc/P8YP-GA9U].

129. *What To Submit*, YALE L.J., http://www.yalelawjournal.org/files/Vol.125ForumSubmissions Guidelines_rbyh694e.pdf [http://perma.cc/T9J4-GWX8].

and 124 described engaging in an extensive process of outreach and development to support student submissions:

> We view ourselves [as] an integral part of the law school community. We [view] providing Revise and Resubmit memos as providing feedback on writing for other students. That's lacking in general. So one thing that *YLJ* does is serve as a writing center for everyone at the law school. Even if you do not get your piece published, we are going to give you a lot of feedback on your writing.

YLJ has adopted a number of strategies to increase the number of student submissions and improve the quality of student scholarship at the law school. Notes Development Editors "work with student authors and provide substantive, stylistic, and organizational advice at any stage of the Notes development process, from formulating an idea to polishing a finished piece."[130] Notes Development Editors have office hours, engage in outreach, and provide detailed feedback on student's ideas and drafts. Comments Development Editors perform a similar role.

One of *YLJ*'s main contributions to improving student writing is the "Revise and Resubmit" process, which was described above. Most student work that is ultimately published initially receives an R&R. *YLJ* explicitly encourages students who receive an R&R to work with a Notes Development Editor on revising the piece for resubmission.[131] The interviews show that many of those who participate in these *YLJ* programs recognize their value for fostering student scholarship and providing feedback and support for students' writing at YLS. As one 2L stated, "I really appreciate the Revise and Resubmit process. I think that's a really wonderful process that they do for the school. I love that Second-Year Editors do that for 1Ls, 2Ls, and 3Ls. You can submit something that you submitted for classes. And you'll have a ton of people who will engage with it and give you comments. That's amazing!"

In addition, *YLJ*'s Notes and Comments Committees offer extensive support for students who wish to identify a suitable Note or Comment topic or seek help in preparing a Note. *YLJ* has posted guides to writing a Note or Comment based on students' work in clinic, RA positions, or summer jobs. *YLJ* also provides a sheet of Common Suggestions for Notes and Comments and circulates an anonymous Google form where students can receive advice about their Note and Comment ideas from *YLJ* editors.[132] *YLJ* also hosts writing workshops and information sessions on how to write a Note or Comment. The

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130. Memorandum from *The Yale Law Journal* Volume 125 Notes Comm. to All J.D. Candidates at Yale Law Sch., *supra* note 123, at 2.

131. *Id.*

132. These initiatives are described on *YLJ*'s website. *Student Submissions*, Yale L.J. http://www.yalelawjournal.org/student-submissions [http://perma.cc/8LRJ-2MHP].

Notes Committee has asked faculty and administrators to encourage students with promising papers or ideas to submit work to *YLJ*.[133]

YLJ's efforts to increase participation by women and students of color have focused most intensively on increasing the diversity of the submissions pool. *YLJ* engages in extensive consultation and outreach to encourage students from different parts of the YLS community to submit Notes and Comments. *YLJ* has met with affinity groups and the Clinical Student Board to encourage student members to submit their work for consideration.[134] *YLJ*'s Guidelines and Forms provided on its website include a "Guide to Writing a Note or Comment Based on Summer, Clinical, or RA Work."[135] *YLJ* has also sought to diversify the Notes and Comments Committees, who review the submissions for publication. Finally, *YLJ* has implemented processes to track submissions and examine the results after every drop date to help identify and address patterns.

YLJ's officers have recently adopted changes to increase the involvement of YLS students in publications addressing issues of importance. Volume 125 decided to allow the *Forum* to post "draft" essays online if they relate to pressing issues. They also encourage FYEs to write *Forum* pieces (and Notes and Comments); FYEs can be the "Lead Editor" for one of their fellow FYEs who is publishing in the *Forum*; and *YLJ* currently emphasizes in its "News" section on the *YLJ* website the many times that courts rely on *YLJ* work, as part of its effort to emphasize how *YLJ* work is relevant to legal practice.

2. Factors Influencing Student Writing, Submission, and Publication Experiences: Early Inspiration and Investment, Individualized Encouragement, and Relevance

Analysis of the interviews reveals three clusters of experiences related to writing and submission for publication: (1) time and timing of identifying work students want to pursue and publish, (2) opportunities to interact with faculty or helpful officers about those ideas, and (3) developing confidence that they had something important to say that was relevant to their ambitions and interests.

First, many students discussed the value of early opportunities to explore the development of ideas that excited them—and ways to translate those ideas into an original and doable contribution. Students consistently emphasized their struggle to translate their interests into topics that could lead to publication. One officer

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133. For example, after communicating with the *YLJ* officers, Dean Alvin Klevorick sent out a communication to the YLS community encouraging students to submit to law journals. Posting of Alvin Klevorick, alvin.klevorick@yale.edu, to Yale Law School student body (June 11, 2014) (on file with authors).

134. Volume 123 of *YLJ* also experimented with summer writing fellowships for rising 2Ls and 3Ls to help students from diverse backgrounds submit their work for consideration.

135. *Guide to Writing a Note or Comment Based on Summer, Clinical, or RA Work*, YALE L.J., http://www.yalelawjournal.org/files/GuidetoWritingaNoteorCommentBasedonSummerClinicalorRAWork_e855wwei.pdf [http://perma.cc/PF3P-Y863].

summarized a widely shared sentiment: "[O]ften the biggest problem for me in writing is coming up with some sort of claim to make." Another *YLJ* member described this as "how you have a pretty idea and how you slowly cultivate it into a paper." Some students cultivated those ideas in research seminars. Several described interest-oriented student groups that were oriented around shared interests and that provided a vehicle for brainstorming ideas that might be suitable for publication. These groups included reading groups, informal conversations with like-minded peers, and student organizations that explored academic and policy work related to their mission. These interactions underscored the importance of having an opportunity to brainstorm about nascent ideas.

In part in response to these findings, Volume 125 has begun to explore ways to provide support for idea generation and follow through. One such idea involves *YLJ* sponsorship of a reading group in the spring that invites professors to talk about interesting areas for new research/writing in their field.

Second, many students who submitted Notes and Comments discussed the significance of interactions with helpful faculty or *Journal* officers who provided help in translating ideas into topics, individualized feedback, and encouragement to publish. These interactions mattered most when they involved faculty or officers with whom students identified and who provided specific encouragement about a promising piece of work. Some students also described early interactions with *YLJ* officers about "the kind of Notes students are publishing and how they come to those legal questions that they end up writing about." One student explicitly attributed her submission of work for publication to a faculty member who, in one student's words, was "always pushing [me] to write." For students with prior publication experience who intended to pursue an academic career, publishing a Note was already on their minds; nonetheless, interactions with faculty helped them crystallize their interests into more focused topics and propelled them to follow through. Students who did not come to YLS aspiring to publish a Note or Comment or become a professor described as pivotal and even life-changing the targeted encouragement to publish their work they received from respected faculty members or *Journal* officers.

For students who were not already predisposed to submit work for publication, generalized encouragement did not seem to have the same level of impact as specific encouragement from faculty and *YLJ* editors. Statements or e-mails to groups of students about the value of publication was not reported to have much impact. In contrast, individualized encouragement to submit a specific paper or case study based on its promise made a huge difference. Several students mentioned that interactions with faculty or *YLJ* officers who encouraged submitting a paper or case study as a Note or Comment led them to follow through. Reading other Notes and Comments relevant to students' interests also helped develop ideas and confidence in students' own work. Several editors also identified faculty who assigned student-written Notes or Comments as course reading to be a major motivator for students to submit their own work, and

suggested that "this strategy could be deployed much more widely as a great way to show students that they are capable of doing what their peers have done."

Many students who expressed interest in writing and publication but had not yet pursued this goal expressed a need for greater individualized support at the early stages, when they were developing ideas for publication. Some data suggest that students were unaware of opportunities for *YLJ* assistance during the early stages of the writing process, but many students felt that they had to have a fully developed thesis before they could consult with the faculty (or the *YLJ* editors, for that matter). Some students expressed reluctance to talk about their ideas or interest in publication until they had a clear idea of what they wanted to write about or knew they were going to try to publish. Some students did not have a well-developed sense of what a legal publication looked like or what would make a paper publishable. Some students questioned their own reluctance to ask for input or help in submitting something for publication, sometimes saying in the same breath that they "should have done that already." For some, these concerns were directly connected to the pressure and self-doubt generated by the performance culture described in Part II.

Some students expressed particular reluctance to approach faculty for help with their ideas or feedback on their work. Some referred to office hours as either remedial or instrumental, and thus not a useful setting for connecting with faculty about ideas. RAing was not generally viewed as a good strategy for developing students' own ideas, and some students expressed regret that they devoted excessive time to supporting faculty research (sometimes to gain references for clerkships) at the expense of developing their own writing and publication.

A third factor playing into students' publication experiences was the timing of their readiness to think about publication, and the relationship of that timing to *YLJ*'s publication deadlines. We observed a pattern of students who expressed dissatisfaction that they had not submitted writing for publication—many reported that they did not undertake a writing project until late in their law school careers. As one *YLJ* editor stated, "My one regret is that I did not write early or think about writing early. Otherwise the time pressure will sap your creative energy." One common explanation for their late start was that they did not know the importance of taking seminars and embracing other writing opportunities early on. They also did not believe themselves ready to write, and doubted the merits of what they had to say and whether it was important or original enough to warrant trying to publish. 2Ls in particular who had considered submitting a piece for publication but did not follow through described the difficulty of juggling the "madness of looking for a job in the fall" with the demands of writing.

Some students who had a strong interest in impact-oriented writing and publishing raised questions about whether the Note format lent itself to exploring issues that are more fact intensive and policy oriented. Several students expressed increasing frustration with "the kinds of answers that people in the legal academy are giving to important questions," and questioned whether issues likely to produce impact are the

kinds of topics that would be published in a law journal. *YLJ* editors expressed interest in linking the conversation about who submits a Note with the conversation about what makes a good Note. Some students raised a question about whether there is an implicit preference for forms of scholarship such as public law, or a writing style that may have some correlation to gender or race. Although this is not an area where there can be outside study, *YLJ* officers expressed interest in an internal reflection process that could shed some light on the patterns influencing how people assess different kinds of scholarship.

Students also perceived people may be "typed" into academics or nonacademics, and some concluded that publication is only for people who know that they intend to pursue an academic career. Some people had the idea that one had to be an academic already—a Rhodes Scholar or a Ph.D.—to publish, and by the time they learned otherwise it was relatively late in their law school career. However, many students and faculty talked about the importance of publication beyond those interested in academic careers as a way to inform public policy and discourse.

3. Submission Patterns Relating to Identity

We analyzed the data from forty students who expressed some interest in submitting work for publication—including both *YLJ* members from Volume 124 and other students in the Class of 2016—and who spoke in some depth about the barriers and challenges affecting their follow through on this interest. Several patterns relating to identity emerged from this analysis.

Twelve students in this group—three white men, five women of color, and four white women—discussed challenges related to the general category of time and timing, establishing priorities, and dealing with overcommitment. Nine of the students in this group—seven of whom were women—experienced timing as a barrier to submitting writing for publication. Some of them echoed the reflections of one woman of color: "I was thinking about actually meeting with someone from the *Journal* to see if I could turn it into a Note, but I haven't gotten around to it because it's not number one on my priority list." Another white woman explained: "I submitted a Note once, and I got the Revise and Resubmit, and I might do that. But if I'm pursuing publication, I'm not pursuing it very fiercely. I'm not ruling out that I would never you know send something out again. I just, I guess I haven't prioritized it."

The four 2Ls in this group spoke about the mismatch between their fall commitments and the deadlines for submitting Notes and Comments. One student insisted: "[I]t's definitely something that's still on my radar for sure. I just haven't had the time to focus on it as much but potentially next semester when I'm not still playing catch-up. At the beginning of the year with law firm interviews, it was just madness. I think that that's something that I would want to come back to." Another version of the timing mismatch involved not knowing enough to prioritize writing early on in law school. Six out of the seven women in this category indicated that they were overcommitted early on. One

woman of color stated: "I keep toying with that idea but I really don't have time right now and that made me think, how do these people write their Notes and Comments? And I realize I probably overcommitted myself the way that these other people did not because they want to have time to write."

Another version of the timing issue involved students—again mostly women—who felt early on that that they were not ready to think about submitting work for publication: "Now I'm finding more interesting issues that could be written about. And now I have no time. So I can adjust that in the next three semesters, but I'm still thinking through whether I will submit." One student observed: "[Y]ou need to have someone at the beginning telling you all the constraints on your optimization." Some women, including *YLJ* officers, reported waiting until the third year to write so that they had courses and technical knowledge under their belt. They then found that "balancing the *Journal* work with all the rest of my work is constantly putting me in tradeoffs which make me unhappy." For some students in this group, by the time they were ready to write, they thought it was too late to proceed.

Several students, including women and men of both races, described the pivotal role of classes that enabled them to focus early on an area of strong intellectual interest; for these students, the opportunity to do this intensive writing as part of their coursework in the second semester of their 1L year made a huge difference in setting them up to think of publication as realistic and then to make it a priority.

The data also suggest differing responses of some men and women to receiving an R&R. The five white men who discussed receiving an R&R in the interviews characterized their submission of a Note or Comment as some version of "testing the water." They thought the R&R was more encouraging than they expected, and they all expressed a clear intention to resubmit. As one man stated, "[C]ertainly I will submit; I submitted the paper that I wrote last semester to several journals. And I will continue to submit revised versions of it and other pieces." Similarly, another man reported that he "submitted something as a Note [because] I more or less wanted to get their feedback." A third described going in to the submission process with curiosity and low expectations:

> In the fall I submitted a boiled-down version of the paper I wrote in the spring, without a lot of expectation that it would be accepted, but I was just curious to see whether it was in the ballpark of something they would want to accept. And the answer was "kind of." And so it was not accepted, which was not at all a surprise. But I got a great Revise and Resubmit letter in response. They clearly read it; they clearly actually thought about it. They gave me some really good suggestions for revising it. I haven't had time really the rest of this fall to tinker with it more. But I will definitely resubmit. I went into it with pretty low expectations so that helps a lot in terms of exceeding them.

The response of the six women who reported receiving an R&R was considerably more vague and ambivalent in tone. One woman "got an R&R memo and [is] still thinking about the revision. [It] will take some work and [she is] still thinking about whether she] wants to do that work or not." Another woman mentioned that she "reached out to get a Notes Editor who translated to me what was in the edit memo, which was not very clear to me. And that was very helpful. This was relatively early in the semester. And I've been sitting on this for a while now."

There was also a group of eight students—consisting entirely of women—who questioned whether their work was strong enough to submit or resubmit. One woman explained that

> part of the reason that I feel like I don't have ideas to publish was that I would like the first workable idea I came up with for a paper I would write up, and then I might get to the end and think, "Well that wasn't very insightful; I can do better than that" or "I actually kind of disagree with my own conclusion here on a fundamental level even if I can't prove it in the way that I've laid out for myself."

This woman also had not yet taken advantage of *YLJ* resources or raised her ideas with a professor with whom she was working. Another woman felt she had "dropped the ball" on her work, only to learn that her professor thought it was a really good paper and should be submitted for publication. The student reported that "but for her support and actually forcing me to do so, I would have never ever submitted anything to the law *Journal*. And that was a very validating experience for me." Another woman who did receive encouragement to submit a paper for publication at the next note drop date shied away from submitting because "it seems unlikely to me that it would get picked up." Experience on the Notes Committee "reading hundreds of Notes" led another woman to recognize that "this doesn't look that hard; maybe I should try to write a Note"— something she did not think she would have otherwise considered feasible. Yet another woman reported: "I don't necessarily feel comfortable talking about something I'm going to publish when I don't even really know if I'm that good or can get accepted."

Some officers who have prepared R&Rs wondered "how we can make our R&Rs clearer and how we can avoid losing pieces that we really want but we feel aren't quite there." Ideas included accepting pieces at an earlier stage and learning how to write more positive rejection letters. It is also important to emphasize that there were women we interviewed who were not ambivalent about submitting their work for publication, and that there were men who expressed ambivalence about writing. But the interview data specifically about responses to R&Rs strongly suggested a gendered pattern of response.

In terms of gender, the network analysis of interactions among *YLJ* editors suggests that there are differential interaction patterns between men and women about research and writing assistance. We asked survey respondents (both FYEs and SYEs) to name up to five people they interact with about research and writing, both in giving and receiving assistance. As we have shown previously, social interactions are first and foremost

patterned by FYE and SYE cohort. We also find that women are more likely to socialize among themselves than what we would expect by chance; in other words, the proportion of woman-to-woman relationships in the network is five percentage points higher than what one would expect by chance, and this difference is significant at the 0.05 level. However, women seem to seek and provide research and writing help among themselves much less often than what we would expect by chance. Only four percent of relationships that entail seeking and providing writing help are among females, compared to the expected twenty-four percent. This remarkable difference is significant at the 0.05 level. Women instead seek help from and provide help to men at a twelve percent higher rate then what we would expect by chance, again a difference significant at the 0.05 level.[136] These interaction patterns may be a contributing factor to the lower rates of resubmission by women.

Finally, eleven students described the importance of resonance between their ambitions for impact and the publication venue they chose. This group included five students of color. These students reported seeking the opportunity to be able to write for publications that valued having an impact on important issues. Seven of these students expressed doubt about whether the Notes format lent itself to publishing in order to have impact. One *Journal* member worried that "you have written this thing that's not going to be read by very many people and doesn't at least to me seem to progress society in any way." One student questioning whether to invest the time to meet the requirements for submitting a Note observed, "If I can get this published somewhere, or even get it into a policymaker's hands, it does all it needs to do." Several of these students preferred publishing in *YLJ*'s *Forum* or in another venue that would better meet their objectives for impact.

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136. This analysis considered each network using the *YLJ* data by focusing on each type of interaction: socialization, discussion of slating, encouragement for slating, seeking writing and editing help, and provision of writing and editing help. We asked the question if these interactions are structured by any identity category that might be relevant given the way those groups operate in the larger YLS community gleaned from the interviews. To this end we constructed "mixing matrices" among demographic categories for each of these networks that show the proportion of relations or interactions among all interactions of members across those categories. Using gender and the network containing the socialization patterns (i.e., the relationships among people who socialize outside of formal activities relating to *YLJ* research and writing) as an example, we computed the proportion of relationships between females, between males, and across the gender groups. We then simulated the distribution of proportions (the proportions of interactions between males and males, females and females, and across gender groups) by looking at the structure of the socialization network, but varying the demographic characteristics of individuals within each simulated network. The simulated networks have the exact same number of individuals, the same number of first- and second-year editors who are female and who are male, the same degree distribution (the distribution of the number of connections an individual has in the network), and the number of links between the different cohorts (FYEs and SYEs). For each of these simulated structures we computed the mixing matrix explained above; and by repeating this procedure 1,000 times we were able to compare the random distribution of male-male, male-female, female-male, and female-female relationships to those that we actually observed. If the observed mixing matrix differed from the simulated proportions at a statistically significant level, we determined a statistically significant relationship between the identity category, here gender, and the kind of interaction, here socialization. We repeated this procedure for each of the above mentioned networks.

We also learned that fourteen students out of the group of forty—including nine women—decided to submit their work for publication to a specialty journal, rather than *YLJ*. One explanation offered by six of these students was that they felt more of a connection with the community and liked that the journal was more related to the subject matter they cared about. Several students also discussed valuing a law review they experienced as collaborative, and felt that in their third year of law school, it wasn't so important to pursue *YLJ* as a gold star. Students also mentioned the higher likelihood of publication as a factor influencing their submission decisions. Volume 125's officers have expressed strong interest in increasing the opportunity to write for relevance.

To the extent that interactions are shaped to some extent by identity and organizational membership, it may be that students with no connections to anyone on the Notes and Comments Committees may be less likely to have interactions that encourage them to submit. In that vein, the lack of representation of students of color on the *YLJ* officer board at the time the interviews were conducted (Volume 123) could have been a factor in limiting interaction among students of color that might encourage Notes and Comments submissions.

The interviews with participants in affinity groups suggested that these groups may not currently play a significant role in enabling and promoting *YLJ* publications by their members. Participation in publication does not appear to have been a major focus of the affinity groups. Most of the focus with respect to *YLJ* in particular has been on the outcomes of the *YLJ* admissions competition and on reducing disparities in the participation of their group members. Several students both on *YLJ* and in affinity groups expressed interest in building substantive collaborations with *YLJ* and other law journals, as well as with faculty. These collaborations could heighten focus on writing for publication in areas of substantive interest to various affinity groups.

We also learned of a challenge relating to the timing of the Notes recruitment process in relation to publication. The process of encouraging and supporting students to write Notes and Comments seems to be most important in the fall, when students arrive on campus. Students who respond to that effort at recruitment will most likely submit their Notes and Comments in the spring. By that point the officers will change over, so that the board doing the recruitment may not see the results in their own Volume.

Finally, interviews suggest a possible disconnect between the role of clinics as a site for generating ideas for publication and the involvement of clinic students in Note and Comment publication. As one *YLJ* editor interested in increasing collaboration between *YLJ* and the rest of the YLS community observed, "I feel like there's a lack of student scholarship based on clinical work, and we should be trying to involve the clinical community more into scholarship." Many of the people interviewed—faculty and students alike—pointed to clinics as the place where many students get ideas that are publication-worthy. Clinical and summer work opportunities also generate interest in having an impact on issues of current significance to the legal community and the public through publication. Student and faculty interviews indicate that women and students of

color disproportionately enroll in clinics. Yet, interviews also suggest that students who participate in clinics also are less likely to explore publication through *YLJ*. The lower profile of Comments and the *Forum* suggests that the opportunity for more practical and impact-oriented publications in *YLJ* may not be widely known. These venues are also significantly less competitive than Notes.

4. The Selection of Notes and Comments for Publication

The discussion thus far has focused on the differential patterns of submissions and resubmissions. The process of selecting Notes and Comments for publication constitutes another site for understanding full participation. As noted above, *YLJ* has taken steps to diversify the composition of the selection committees. Because of confidentiality constraints, we did not have access to direct information about the dynamics of the selection process. We instead invited each of the content committees to conduct reflection sessions after their decision making about publication, including the Notes and Comments Committees. The Committees were provided questions to guide these reflections, which encouraged discussion about the goals informing the selection process, the criteria as stated and as applied, patterns of interaction within the committee, patterns observed about how different kinds of scholarship were discussed and assessed, ways in which diversity of different kinds may have been operating in the discussion, and perspectives on understanding any patterns that resulted from the deliberations. These deliberations were confidential, but subsequent feedback suggested that committee members found them useful. To preserve confidentiality for each of those processes, these issues will be addressed as part of the more general discussion of *YLJ* governance and decision making.

B. Articles and *Forum* Pieces

In addition, *YLJ* does not systematically collect and analyze demographic data on Articles submissions. The absence of systematic pool data makes it difficult for *YLJ*, alone or in collaboration with other law reviews, to understand and address the disparities in outcomes reflected in the publication of Articles. Interviews with Articles Editors from Volumes 123 and 124 suggested that it would be valuable to figure out how to reflect more systematically about the patterns relating to Articles submission and selection, consistent with *YLJ*'s commitment to blind submissions and the confidentiality of the deliberation process. This issue could be the subject of future study. In the interest of preserving confidentiality, the Report aggregates the findings from interviews of officers in Volumes 123 and 124 in the Notes, Comments, and Articles Committees concerning patterns of interaction that may affect participation and outcomes of the selection process.

A significant number of students both on and off *YLJ* expressed reservations about the direction of legal scholarship. Some went into the *YLJ* process thinking they were interested in legal scholarship, and realized that they "did not like legal scholarship, specifically the type of legal scholarship that *YLJ* tends to publish—a lot of public law,

constitutional law, and administrative law." This group included students who joined *YLJ* because of interest in legal scholarship and who became "jaded with legal scholarship in general" and thus slated for positions that would involve "a low commitment type of job." Others sought to define their role on *YLJ* as a way to raise questions about the direction of legal scholarship and expand publication of Articles with the potential for impact on important issues relevant to law. This issue was linked to broader patterns in legal scholarship that could potentially be addressed in dialogue with faculty and the leadership of other law reviews.

We also learned that *YLJ*'s recent expansion into writing more directly connected to impact and policy opens up possibilities for engaging students who have an interest in having an impact in the policy or advocacy arenas. *YLJ* has introduced a series of innovations that have offered concrete opportunities for intellectual engagement between FYEs and SYEs. *YLJ* held a *Forum* brainstorming session during Fall Work Week, which was reported to be quite successful. Students could come in to brainstorm ideas with the Executive *Forum* Editor and another *Forum* Committee member. Three of the FYEs who came in subsequently wrote pieces and are publishing them in the *Forum* this fall. *YLJ* is also hoping to sponsor a reading group in the spring that invites professors to talk about interesting areas for new research/writing in their field. Volume 125 has also held a series of "Writing Boot Camps" where they provide writing assistance to any YLS students interested in submitting scholarship to the *Journal*.[137]

Faculty and administrators we interviewed seemed less aware of this aspect of *YLJ*'s involvement in publication and community building. Perhaps because acceptance of Comments and *Forum* pieces do not yield invitations to join *YLJ*, these aspects of the publication process received considerably less attention in the interviews. Interest was expressed by some officers and editors in exploring more fully the role of the *Forum* in building intellectual community among diverse members of the student body.

VII. *YLJ* LEADERSHIP AND GOVERNANCE

Leadership emerged as a key issue in defining how *YLJ* is perceived in the larger community. The lack of diversity among Volume 123's officers weighed heavily in the interviews as a trigger for broader questions about *YLJ* diversity. Similarly, students viewed increased diversity among *YLJ* leadership as a significant and crucial improvement. Leadership and governance also emerged as a challenge; many wondered if the *Journal*—which turns over leadership every year and membership every two years—can sustain and build its capacity to advance full participation over time. This

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137. *See* Posting from the Yale Law Journal to thewall@mailman.yale.edu (Oct. 16, 2015) (on file with authors) (inviting the Yale Law School community to participate in the "*YLJ* Fall Writing Boot Camp").

Part reports the findings related to leadership and governance as they relate to full participation on *YLJ.*

A. Leadership

Since Volume 123, *YLJ*'s leadership has become increasingly diverse. For Volume 123, the three Executive Editors, two Managing Editors, and Editor-in-Chief were all white men. With the Executive Development Editor and the two Executive *Bluebook* Editors (a role that no longer exists), the composition was six white men, one Asian-American man, and one white woman. The roles of the officer board have changed since Volume 123, along with the demographic composition of *YLJ.* The officer board for Volume 124 included four women, two of whom are Asian, and four white men. The officer board for Volume 125 includes three white men and five women, including an Asian American woman and an African American woman.[138]

Students interviewed for the study commented on the increased diversity in the *YLJ* leadership, and some spoke specifically about interactions with diverse officers, as well as officers committed to diversity, as a factor that helped overcome their initial skepticism about participating in the application process. Students also expressed an interest in sustaining the focus on addressing issues of diversity on *YLJ.*

We also analyzed the slating patterns for leadership of Volume 125—each person's stated preferences for different positions—and found no statistically significant difference in the positions slated for or assigned by demographic group. Interview data suggest that, among SYEs, patterns of interaction were structured by role, with limited interaction among SYEs outside of those roles or preexisting relationships. Students who were better connected or more strategic described engaging in more strategic interactions in the fall semester that would bring them to the attention of SYEs. FYEs generally felt that they had little idea about what SYEs did until the slating process, and expressed an interest in more transparent information.

Students who are ambivalent about participating on the *Journal* or who participate primarily for the prestige value may be less likely to take on substantive or leadership roles, and identity may play a role in these dynamics producing ambivalence. The qualitative data discussed in Part VI.A.3 also raises a question about patterns involving the participation of women and students of color in submitting work for publication.

Perhaps the biggest issue raised about leadership involved the challenges around succession. Across all three volumes, officers described a process of being somewhat in

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138. Volumes 122, 123, 124, and 125 have also added a Diversity & Membership Editor position. For that position to play a role in integrating full participation concerns into the ongoing work of *YLJ*, it is crucial for the Diversity & Membership Editor to participate in key policy decisions involving decision making, access, and participation on the *Journal.* Officers for Volume 125 and the Diversity & Membership Editor report that this kind of participation has occurred.

the dark about the work, governance, and issues facing *YLJ* as FYEs, and then learning for the first time about the work of the officers when they were introduced to the slating process. Officers also expressed interest in knowing more about the issues and challenges facing the different committees before the slating process. Their experiences suggested that slating was also the place where officers learned most about how other committees than their own had functioned up to that point. We also heard from each set of officers about the challenges of being selected and then immediately jumping into leadership positions that are quite demanding and leave little time for reflection and planning. One officer used the analogy of having to redesign a ship while sailing in high wind. As part of the slating process, candidates generated ideas for improving *YLJ*, but stepped into roles that are extremely demanding and labor intensive, which makes it difficult to pursue new initiatives. FYEs expressed strong interest in greater involvement in substantive activities, and in learning more about what each of the committees does. They also described different levels of knowledge about the work of the different committees. Informal relationships or more strategic involvement with SYEs played a role in equipping some FYEs with greater knowledge about the work of the committees, which was reported to help those editors determine which positions to slate for.

Officers also discussed a disconnect between when they have the most access to the outgoing officers and when they have enough experience to know what questions to ask and to absorb and apply the lessons of the previous officer board. Typically, officers seemed to have the most access to their predecessors at the very beginning of their leadership, at a time when a number of them said they were still learning how things work. It was then that committees seemed most likely to talk about mission and its relationship to policy and practice. By the time officers learned enough to know what questions to ask and which of their ideas seemed worth pursuing, the prior officers had stepped back from *YLJ*, in part to create the space for the new leadership to assert their own vision. Specifically in relation to issues of diversity and full participation, officers across volumes expressed interest in exploring ways they might maintain the autonomy of each volume's leadership and yet build in more capacity for cross-volume learning and continuity around areas of long-term interest.

B. Governance

Much of *YLJ*'s work involves some form of collective interaction and decision making, which raises important governance questions. Officers described different dynamics on the varying committees, depending on the composition of the committee, leadership style, and the nature of the decision making.[139] Some SYEs on the different content committees in Volumes 123 and 124 raised questions about how the patterns of interaction around deliberation correspond to broader interaction patterns shaped by the larger performative YLS culture. They wondered whether outcomes were influenced

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139. While it might be interesting to explore these dynamics in greater detail, such specificity would violate the principles of confidentiality under which these discussions were conducted.

by interaction dynamics on the various content committees. One committee member, for example, observed a level of closed-mindedness and even "arrogance about their particular field or their particular body of scholarship. And so I don't know how deliberative we really are. There's no response or clash between us. It was more, I think this, and we vote, and it usually gets rejected." It is worth noting that the dynamics of each committee change from year to year, depending on their composition and how well the personalities mesh.

Many officers from different volumes were interested in exploring ways to equip incoming boards to structure deliberative patterns that would take advantage of knowing more about the governance practices used by previous committees, and that would be intentionally structured to encourage committee members to listen to each other and avoid dominance by a particular officer or field.

Greater interaction among FYEs and SYEs was mentioned as one way to build leadership capacity among FYEs, which will prepare them for the leadership roles that many will inevitably assume. Enhancing the experience of FYEs thus emerged as a pivotal area that could simultaneously have an impact on them as information brokers for 1Ls and as maintainers of institutional memory. Volume 125 has taken seriously this challenge of exposing FYEs early on to the decision-making processes of the *Journal.* One strategy the Volume is trying involves inviting FYEs to sit in on Articles & Essays Committee meetings.

Some mentioned the role of intellectual and identity diversity in shaping the deliberations on the content committees. These individuals expressed interest in building regular reflection into the internal deliberative process. This regular reflection would potentially enhance the quality of deliberations and increase the participation of people who bring diverse fields, backgrounds, and identities to the conversation. Some editors described the value of the reflection processes that emerged from the Full Participation Project and expressed interest in exploring how those processes could be carried forward.

Each board faces the challenge of assuming leadership and having an extremely quick transition time. Officers from all three volumes described the difficulties of stepping into a new role and assuming responsibility very quickly, with little time to plan or discuss group norms. Deliberations about things like the mission of *YLJ* and the various content committees take place right at the beginning of the transition, and a number of people spoke about the difficulty of connecting those deliberations about mission to the actual work.

Finally, a number of officers talked about the challenge of innovation under the constraints imposed by their heavy workload and the relatively short duration of their leadership roles. At the same time, some Projects Editors expressed interest in taking on more substantive work that would enable them to advance *YLJ*'s mission, including its

interest in increasing the diversity of its membership, the relevance of its intellectual engagement, and collaborative relationships with the larger YLS community.

In short, each set of officers has faced structural constraints that are endemic to the annual turnover of leadership. However, these constraints also stem from insufficient attentiveness to building institutional memory and systems for effective leadership succession that will offer support to new leadership while maintaining the commitment to autonomy for each new set of officers. This is something *YLJ* is and should continue to focus on in the future.

VIII. THE NEED TO BUILD CAPACITY FOR CROSS-GROUP DIALOGUE AND COLLABORATION

Many YLS students, along with faculty and administrators, perceived that sensitive topics, problems, criticisms, and areas of disagreement were very difficult to address constructively in the public venues where students typically interact: the classroom, public forums, and the Wall. This pattern was especially pronounced in dialogues with those likely to hold different views. Many students described recurring issues relating to gold stars and identity that affect them personally and YLS more broadly, but they did not feel safe raising them. During the interview process, it was common for students to observe that they had not previously spoken about the issues we discussed, or if they had, those discussions were only with very close and trusted friends. Many people mentioned that they would not have spoken frankly or shared as openly in their interview without the strong confidentiality assurances that were provided.

Several cultural dynamics, rooted in the larger culture as well as in YLS's patterns of interactions, shape whether and how students engage with people who differ from them. Many students described an overall sense that they were always performing in their interactions with peers and faculty, both in and out of the classroom. They expressed a further sense of risk associated with making mistakes, failing, or saying something that would lead to their being pigeonholed. As a result, most students, faculty, and administrators shared the view that it was challenging to find spaces where open and risky conversations could be had.

Students also reported that they generally speak about these issues primarily with people like themselves. A recurring theme in the interviews was the observation that students mostly spoke about issues relating to identity (race, gender, politics, religion, sexual orientation) with people like them or people who basically agreed with them. Many also expressed fear of and reluctance to speak openly with people in mixed groups; many could not identify a space where these kinds of conversations take place. One *YLJ* member noted, somewhat ironically, that "one of the few (perhaps only?) places where I've had this sort of open, mixed group conversation around issues of identity is in the *YLJ* lounge following a NALSA event," suggesting that *YLJ* itself could be a place where

these conversations occur. Some students in affinity groups reported that they speak mainly with those active in their group, and that as a result, they "don't know how minorities outside those groups or people outside those groups really talk." They reported separate conversations taking place among different groups, with little opportunity for genuine dialogue outside of their groups. Other students described being somewhat disconnected from the conversations about identity, such as one *YLJ* editor:

> I'm not usually involved in the broader conversations about identity and experiences by nonwhite men because let's be honest: I'm a white man; I went to an Ivy League school; I'm pretty privileged in all those dimensions. So I don't feel as if I have a lot of personal experience to contribute to that discussion. I think it's an important conversation for the institution to have. I want to provide support to my friends who are involved with that but I'm not sure I have the time to contribute personally.

Some students explicitly described having different kinds of conversations with friends of different genders or races, and that each group seemed unaware of how the other group thought or talked about those same issues. Students, faculty, and administrators reported that the primary locations where interactions across identity groups occur tend to discourage meaningful and open discussion of difficult issues, including those related to identity.

The two spaces most frequently identified where issues of identity are discussed were the Wall and classroom discussions. Both places were described as spaces that were highly performative, risky, and not representative of the more nuanced views that many students express in settings more conducive to dialogue. Yet, students described a tendency for these spaces to become a defining site for cross-identity interaction: "I have been surprised at the degree to which people are inferring that a sentiment expressed on the Wall is representative of what most students think. My view is that . . . there is a silent majority problem."

Many students and faculty spoke with great respect and appreciation of the public space for discussion created by YLW's *Speak Up* report and the public events associated with it. However, interviews describing in-class and informal conversations that followed that event suggested that people in different groups did not engage across groups in a constructive manner, and that many may keep their mouths shut and simply retreat to their corners for more fulsome discussion with close friends and like-minded people. Many students and faculty struggled to identify a space or form of interaction that would connect them with other people.

Several referred to recent events—particularly the protest related to Ferguson—as a space where cross-racial, cross-gender, faculty-student collaboration occurred, and were eager to build on that foundation.

This Project, and the conversations it is intended to initiate, offers an opportunity to

construct spaces where this kind of cross-group, difficult, yet constructive dialogue can occur. This aim requires self-consciousness about how to frame the discussion so that diverse groups will participate, the size and composition of the group, and the shared aspirations that could motivate engagement in these dialogues and possible actions they generate. Without the capacity and space to engage in difficult yet constructive conversations about issues of difference, *YLJ* will find it difficult to advance its stated goal of increasing full participation on *YLJ*.

IX. NEXT STEPS: DISCUSSION, ENGAGEMENT, AND ACTION

This Report has identified a set of dynamics affecting full participation in *YLJ* that stem from both current practices and larger dynamics built into the law school and legal cultures within which it sits. This study underscores that these dynamics are complex, as are the identities affecting students' experiences. Continuing to address these dynamics will require consistent and constant effort. Given the investment already made in understanding the complexities of the issues, *YLJ* has the opportunity to build a long-term commitment to addressing these issues and at the same time take concrete steps that can make a difference in the short run.

A. *YLJ*'s Past and Current Efforts

YLJ has already built a strong foundation to further its ambitious goals. Over the course of this Project, *YLJ* has adopted a variety of processes and practices designed to improve full participation. These practices fall into five clusters: (1) data gathering, monitoring, and reflection; (2) transparency and accountability about its practices; (3) leadership related to full participation goals; (4) outreach and capacity building relating to admissions and publications; and (5) opportunities to engage in substantive work relating to *YLJ*'s mission of having impact through publication and building intellectual community on *YLJ* and at YLS.

Data Gathering, Tracking, and Reflection

YLJ's officer board has already demonstrated a high level of interest in understanding its patterns and processes, and in thinking through how to improve its diversity. Over the last two decades, *YLJ* has at various times undertaken to document and track the patterns relating to application, Notes and Comments selection, and Article selection.

Over the past two-and-a-half years, *YLJ* has increased its level of tracking and reflection about its practices generally and in relation to full participation. It has taken steps to systematize its data gathering practices, and to use that data to inform its decision making.

As this Project reflects, Volumes 123, 124, and 125 have been gathering and analyzing information regarding application pass rates, student scholarship submission and resubmission rates, and Article publication rates. The exact data gathered has varied from board to board, making it more difficult to draw comparisons across volumes.

The *Journal* is now considering retaining a statistical expert who would work with successive volumes to collect consistent and reliable data and enable *YLJ* to learn about its patterns without compromising its commitment to blind and confidential decision-making processes. The *Journal* may also extend this data gathering and tracking process to Articles submissions.

YLJ has also been involved in a process of reflection about its practices, both in the context of interacting with the researchers and among the officers. That reflection has included some self-examination of *YLJ*'s decision-making practices, using templates co-designed with the researchers. Research has shown that this level of mindfulness about practice goes a long way toward minimizing the expression of bias and connecting goals and practices. The templates and research tools used as part of this research could be employed going forward to equip *YLJ* to maintain a practice of reflection and assessment related to full participation goals. *YLJ* might explore how to build the capacity to sustain these data gathering practices from one volume to the next, including setting up data management practices and templates that can be transferred easily to successor boards.

Transparency and Accountability

This Report represents the commitment made by *YLJ* to make the results of this in-depth study of its processes and practices, along with the Ayres and Cozart report on admissions and publication patterns public. This inquiry and transparency in the results presents an opportunity to address issues of diversity and full participation in a serious and consistent manner, grounded in understanding the dynamics as they actually unfold. *YLJ* has shared information about its practices with the larger community and initiated ongoing dialogue with affinity groups, faculty, and other students about how it can best realize its full participation goals. It is also hosting a series of dialogues with the *YLJ* and YLS community about the findings of the reports.

Leadership Related to Full Participation

YLJ has introduced and sustained the role of Diversity & Membership Editor, introduced other roles that are devoted to supporting the writing and involvement of YLS students, and recently developed a Full Participation Committee to sustain the work begun through the Full Participation Project. Volume 125 has taken steps to involve the Diversity & Membership Editor in *YLJ*'s core decision making, which is crucial for enabling the *Journal* to integrate knowledge and practice across its various committees and activities, and to sustain a coherent focus on full participation in relation to its mission. It has also sustained the use of the Diversity Statement to learn about students' contributions to the leadership and governance of the *Journal* and to increase its capacity to build diversity into its practice. *YLJ* has begun to involve FYEs in the work of

its committees, as a strategy to build more connections between FYEs and SYEs, and to give the incoming SYEs more exposure to the leadership challenges and opportunities ahead. It has begun consideration of ways it might harness the knowledge and commitment of prior officers and editors who have been deeply involved in the efforts to advance full participation on *YLJ*.

Outreach and Capacity Building Related to Admissions and Publication

Over the last three years, *YLJ* has expanded its outreach and recruitment efforts for student admissions and publications. It has also provided multiple forms of feedback and support to students on ideas for Notes and Comments' submissions, as well as training sessions, office hours, and buddies aimed at building student success.[140] It has developed the practice of meeting early and often with leaders of student organizations interested in supporting the access and success of their members in *Journal* work.

Encouraging Substantive Work Relating to *YLJ*'s Mission

The Report has invited *YLJ* to consider additional systematic engagement of interested FYEs in substantive work, and interactions between FYEs and SYEs. Many of these steps have already been undertaken. Beginning with Volume 123 and moving forward, the *YLJ* Officers have introduced the opportunity to write edits memos, write original pieces for the *Forum*, Lead Edit pieces of other FYEs for the *Forum*, observe the meetings of the Articles Committee, participate in a reading group that invites *YLJ* authors to discuss their scholarship, line-edit pieces in the publication pipeline, and work on symposium pieces. *YLJ* has also increased its focus on publishing work related to important legal issues. These initiatives include an online forum inviting publications aimed at having impact on pressing legal and social problems.

The question is, how can *YLJ* sustain and build upon this platform of innovation? The research shows that students, faculty, and administrators share an appetite to build more opportunities for communities organized around impact and meaning. Survey results indicate that many students are eager to consider ways to reduce the focus on prestige and the gold star culture's tendency to narrow students' interests and aspirations; 61% of the 74 survey respondents identified these goals as something they would like to change at YLS. Many students connected their aspirations for *YLJ* to this concern.

The research surfaced many opportunities to build on the foundation that *YLJ* has laid for advancing diversity and full participation as part of its overarching goal of building intellectual community and impact. Some of these efforts could be undertaken within the current structure and admissions policies and practices. Some would require more thorough exploration of those practices. This section proceeds in the spirit of brainstorming, to offer ideas and possible directions for consideration, elaboration, and possible action.

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140. *See supra* text accompanying note 132.

B. Connect *YLJ*'s Mission of Impact and Intellectual Community with Full Participation and Diversity Goals

Many students (and faculty) expressed a strong interest in building intellectual community and the capacity to cultivate ideas that can have impact. These goals lie at the core of *YLJ*'s stated mission. They also emerge as strategies that are likely to engage groups that will increase full participation on *YLJ*. This intersection between *YLJ*'s mission and students' interests offers a promising direction for exploration.

To move forward, it will be important for *YLJ* to figure out how to reconcile the multiple missions that currently pull in different directions. The Report identifies a tension between *YLJ*'s reliance on prestige to attract participation and its attractiveness to students more interested in the substantive goals of impact and intellectual community. How can *YLJ* set itself up so that it can align its mission, selection practices, and activities? How can *YLJ* manage the diversity of motivations for participating in *YLJ* and different levels of commitment to making *YLJ* a major time commitment?

There are different strategies that *YLJ* could employ to move this agenda forward. Making progress would require making some decisions about how to reconcile its multiple missions, and particularly how *YLJ* seeks to square its prestige value with the purposes *YLJ* strives to achieve. *YLJ* might expand the existing option of Noting-on so it is available to more students, and explore additional ways to match the form of participation with students' interests in the roles they play.

YLJ could also consider developing and adopting a purpose or mission statement that connects diversity and full participation to its interest in intellectual community development and impact through ideas and publication. It could identify and pass along to the next year's leadership a set of strategies that can be built into its practices to advance this mission, such as data gathering and regular reflection. If done in a way that links directly to people with responsibility for doing the work and passing that responsibility on to the next group of leaders, this process could be a way to build long-term commitment and capacity to a vision and set of goals, without limiting the decision-making authority of subsequent boards of officers.

YLJ has already adopted strategies for increasing access and participation for diverse groups, and could discuss how to build on those strategies. There are also immediate changes that could further expand access to information particularly for those who are ambivalent about participation in *YLJ*. These include issues of timing and scheduling, how information about *YLJ*'s substantive work is communicated to 1Ls, building on the areas of interaction with the YLS community that will engage diverse constituents, and identifying how to engage SYEs, including Projects Editors, in building intellectual community both within *YLJ* and in relation to the larger community.

C. Build Ongoing Examination of Key Decision Points and Practices in Relation to Full Participation and *YLJ*'s Mission

To sustain this kind of inquiry and embed it into everyday practices, diversity and full participation have to be experienced as a way to advance things that people care about and that relate to mission and purpose. The interviews showed that many students—both *YLJ* members and others, agree with this goal.

One area of possible innovation would be to devote more attention to supporting student's preparation for the Critical Essay, such as by working with those who have successfully edited other's work—both on *YLJ* and among the faculty and staff. *YLJ* might also rethink the order and emphasis of its selection process. Switching the order of the application process to begin with the Critical Essay may increase the emphasis and preparation for the Critical Essay, and invite more students interested in the substantive work of the *Journal* to apply. Another possible experiment suggested by an officer is to have everyone do the entire exam. As noted above, most applicants "pass" the exam and proceed to the second stage. The benefits of unifying the two stages might outweigh the time/effort saved by cutting applicants after the exam.

Experimenting with ways to increase engagement with ideas, invite students' participation based on substantive interest, enhance the quality of students' access to information and networks, and reduce the operation of stereotypes promises independently to contribute to student thriving and success.

The Report puts some issues out in the open about *YLJ*'s relationship to the gold star culture. *YLJ* could also consider more far-reaching changes in its selection process that engage with this larger question. It could generate a conversation about the role of sourceciting, its relationship to *YLJ*'s mission, and whether its role should be reconsidered to give it less weight and prominence in the selection process. This approach may not work under current circumstances, but the Report invites ideas about how to proceed.

It might also be possible to engage *YLJ* editors who have less consuming work in the process of building reflection, network development, and accountability. Editors with roles that are less defined, such as Projects Editors, expressed interest in being engaged in a more meaningful way, and this kind of reflective practice could be a part of their roles. Similarly, FYEs could combine these roles with an opportunity to learn about the leadership and management of *YLJ* before they step into positions with demanding portfolios.

YLJ could also identify issues that cut across volumes, where it would be useful to collect data and assess impact to encourage one volume to lay the foundation for the next. One of the challenges that emerged in the data gathering process involves both tracking and seeing impact related to actions taken by past volumes. So, for example, Notes that have

been cultivated by the officers from one volume may be submitted or resubmitted and published in the next.

D. Facilitate Constructive Dialogue about *YLJ* and Full Participation

Perhaps one of the most important steps for *YLJ* is to create occasions that enable constructive engagement with the issues raised in the course of this inquiry, both within *YLJ* and with the stakeholders interested in *YLJ* in the larger YLS community. There is a need to build the capacity and the spaces to have a more sophisticated conversation about these complex issues. This issue cannot be solved simply through asking the question: how can *YLJ* be more representative? While that question must be a significant and ongoing part of the conversation, it is insufficient to get at the complex dynamics that are producing the disparities we see. This question insufficiently captures the scope of the problem, the way differences are experienced, or the culturally rooted dynamics that lock in underparticipation. This Project offered full participation as one approach to building an affirmative project that links diversity to *YLJ*'s mission. *YLJ* could make an important contribution by reframing the diversity project to enable the both/and move of both considering identity and framing issues more broadly to enable the institution to continue to identify and address cultural dynamics at play, whether it does so through full participation or another framework.

YLJ could work with other student organization leaders and key faculty to structure a series of dialogues organized around themes of shared interest. These conversations would also provide an opportunity for students in affinity groups to build relationships with *YLJ* members who share common interests, and to do so in a nonstrategic or instrumental way. The frame for these conversations will be quite important, and could be developed in collaboration with the groups *YLJ* hopes to engage. The Report suggests that there is widespread interest in building intellectual communities and sustaining connections focused on issues of importance.

YLJ could be part of a broader dialogue with groups and faculty, student leaders, and others that are interested in figuring out how to stay connected to the values and goals that brought them into law school and that are genuinely meaningful to them.

One of the topics that editors expressed interest in addressing concerns the direction of legal scholarship and the role of law reviews and student editors in cultivating scholarship that comes from diverse authors, reflects multiple disciplinary perspectives, and engages effectively with some of the most difficult issues facing the profession and the communities it serves. One way of doing this is by putting this dialogue in the context of *YLJ*'s broader mission. *YLJ* might consider picking an issue of public importance, and combining a conversation about that issue with a facilitated dialogue about *how* to have conversations about race, and how those issues can be addressed in both formal settings and informal interactions at YLS and in the community. *YLJ* might consider undertaking

substantive collaborations with affinity groups that could help shape these dialogues. Doing so will probably require thinking about the relationship between *YLJ*'s prestige-related mission and its commitment to a diverse intellectual community. Students also expressed interest in having *YLJ* engage directly in issues relating to race that have galvanized the YLS community (and the nation), and using these kinds of interactions to build informal relationships and communicate the value of *YLJ* to students who are currently not well represented as editors or officers.

One possibility would be to focus attention on building collective capacity to engage in difficult and important conversations relating to issues of difference and inequality, and to connect those conversations to *YLJ*'s decision-making practices (and those of other organizations interested in advancing full participation). This conversation might also identify the capabilities and skills that are needed to enable people to engage constructively with difference so that diverse perspectives can inform important decisions. It might be helpful to engage a facilitator who would be an asset at the outset in helping to structure these conversations.

Another approach might grow out of a dialogue focused on identifying shared areas of intellectual, scholarly, and practical concern among *YLJ* and other organizations concerned with building intellectual community and having an impact through ideas. *YLJ* could work with affinity groups to identify areas of shared interest that have intellectual and professional urgency and that implicate various forms of difference. Once these areas are identified, the groups could structure a series of conversations that would bring together people with different identities to discuss these issues and to link them to areas ripe for research, publication, and action. In the course of these conversations, participants could be invited to pay attention to occasions when the dialogue gets stuck, siloed, or segregated, and then draw on the competencies and skills developed in the dialogue about difficult conversations to engage these issues.

YLJ could also explore how to structure inquiry about what people with diverse backgrounds bring to the work of *YLJ*, and how best to develop practices that take advantage of this diversity. *YLJ* could develop a set of questions that prompt content committees (Notes, Comments, Articles, Features and the *Forum*) to reflect periodically about (1) their process and outcomes in relation to *YLJ*'s mission, and (2) patterns of participation in decision making and outcome. They could then share their insights and learning with the incoming officers so these values could be taken into account in the admissions process.

E. Identify and Support Student and Faculty Brokers Who Can Provide Effective Individualized Support to Diverse Students

Many thoughtful people interviewed through this Report identified recurring dilemmas associated with sharing information about *YLJ* and other gold stars. Should people be equipped to navigate more effectively within the existing culture? Should the focus be on

enabling them to engage critically with that culture? To change it? In the short run, how can information be more available to those who do not come in with relationships that will support their ability to navigate the culture, and to pursue their own definitions of success? If information about how to access gold stars is made widely available, it may further entrench the gold star culture and equip those best positioned to navigate that culture. If it is not shared, then the lack of information flow risks privileging students who already have the networks and cultural capital to succeed within the current gold star culture.

There is no quick fix to resolve these issues, nor is it likely that rules or formal policy will suffice. However, the Report identifies several roles within *YLJ* and YLS that play a key role in shaping how students make decisions, what information they have, and students' navigation of YLS. These include Coker Fellows, the leadership of student organizations, buddies, *YLJ* officers, and faculty actively engaged in supporting students. *YLJ* could work with other leaders at YLS to build the capacity of people who are key points of contact with 1Ls, including those in groups that are not related to deciding whether and how to participate in *YLJ*, making those choices in an informed way, and connecting those choices to students' goals and values.

These conversations could proceed on different tracks. They could be built into the orientation process for new FYEs. *YLJ* could initiate conversations with different groups related to the Report, and explore together how the issues raised here relate to their own concerns, and find points of common ground. The Report identifies the issue of critical thinking and writing, for example, as an area of overlapping interest and concern for *YLJ*, other journals, Coker Fellows, and faculty. It might be worth considering whether preparation for the Critical Essay could be thought of as one point of entry to a set of efforts to equip those in high-touch positions to build this capacity. Greater attention could also be paid in the matching process for buddies to connect people who share interests or who have relevant knowledge and skills to be shared.

It is also worth considering conversations with people in student leadership positions about how to support the success of underrepresented groups in ways that encourage them to pursue what they care about and that address the dynamics that limit their sense of being full participants in the YLS community.

F. Develop Opportunities for Cross-Identity Collaboration around Issues of Mutual Interest

How does *YLJ* work with other student organizations in the law school on these issues? There is already a track record of outreach and consultation. *YLJ* has also worked with other journals at YLS and with student organizations on projects of shared interest. A number of the challenges facing *YLJ* are shared with other student organizations. It would be worth exploring whether, for example, there are possible collaborations with other law journals to build capacity for critical inquiry and writing. Affinity groups and

other student organizations may be interested in building collaborations around exploring issues of ongoing interest related to the law.

It may be possible for *YLJ* to facilitate interactions with diverse groups related to issues of substantive interest, particularly in areas that have taken on national significance and that require the capacity to address issues of race and other aspects of identity. These could be developed in collaboration with student organizations, other journals, clinics, and faculty with overlapping intellectual interests.

It is also important to address how *YLJ* can work with the faculty on these issues. Some of the issues and challenges will require faculty collaboration, such as supporting students' writing, thinking about the direction of legal scholarship, and providing support for diverse groups of students at critical junctures. The Report both flags some challenges and identifies concrete opportunities for collaboration. These kinds of challenges and opportunities face law reviews in all law schools. The question is, how can these issues be put on the table as part of the move to aligning practices with purpose?

Law reviews' relationships to the faculty pose opportunities and challenges in any law school. How can *YLJ* structure these relationships in ways that are consistent with the concerns about autonomy and independence that are so important to both *YLJ* and the faculty? One area ripe for discussion involves the direction of scholarship and how to make the *Journal*'s work relevant, meaningful, and have the greatest impact. This area is of core interest to law reviews and to faculty, as well as to people who seek to have impact through ideas, including those who are considering or pursuing an academic career.

By taking on these larger issues, *YLJ* also occupies a place of possibility for learning and leadership on a broader scale. *YLJ* could potentially explore how to bring law reviews together to address issues of impact, diversity, and full participation. No one law review can solve these problems, many of which are rooted in the larger legal environment, but because *YLJ* has opened up the conversation, it is in a position to exercise leadership in putting these issues on the table.

The Report identifies many strategies already in use by students and faculty for sharing information, supporting writing, and providing mentorship. *YLJ* could host "positive deviant" workshops in which people could explicitly learn from practices that have proven effective in supporting students' development in areas relevant to *YLJ*'s work. This would first involve forming a group that wants to make progress on a shared challenge, such as how to strengthen critical writing capabilities and connecting them to publications that will have impact. The next step is to identify examples of successful

efforts Then, the group evaluates why those examples were successful. The final step is figuring out ways to scaffold these kinds of practices in ongoing routines.[141]

G. Cultivate Capacity for Critical Engagement Through Editing and Writing

The Report identifies a significant set of activities that *YLJ* currently undertakes that are focused on critically evaluating written work and generating original content. These are both areas of strong interest among the larger YLS community. *YLJ* could consider opportunities to strengthen these areas of support (such as providing individualized support for the Critical Essay component of the writing competition).

Another idea generated in the interviews involves building on the base already established to make collaborative intellectual opportunities an integral part of the regular work of FYEs, for example, by having sourcecites organized around areas of substantive interest and completed collaboratively; using the symposium and workshop format to engage students more fully in intellectual work; building in opportunities for collaborative brainstorming, and formulating ideas for projects in early stages, before they are ready for Notes or Comments submissions. The *Journal* has already made significant moves in this direction.

YLJ might also enlist a group of students to undertake research and experimentation aimed at increasing the rates of submission and resubmission, particularly by women and students of color. This could be done with the dual aim of building substantive connections among groups that share the goal of writing and publishing work related to issues of importance. It could focus on understanding more fully the experience of students who do not submit or resubmit their work. It could also use positive deviant workshops to identify effective strategies for supporting students in their writing and publication, based in part on those who have had successful experiences. The project could be done in collaboration with other journals at YLS and with affinity groups interested in building an intellectual community.

H. Build Capacity for Ongoing Inquiry

YLJ's officer board has already demonstrated an unusual level of interest in understanding its patterns and processes, and in thinking through how to improve its diversity. Over the last two decades, *YLJ* has at various times undertaken to document and track the patterns relating to application, Note selection, Comment selection, and Article selection. As this Project reflects, Volumes 123, 124, and 125 have been gathering and analyzing information regarding application pass rates, submission and

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141. For a fuller discussion of positive deviance as a strategy for tackling complex problems requiring changes in practice, see RICHARD PASCALE ET AL., *supra* note 102.

resubmission rates regarding student publications, and publication rates regarding Articles. The exact data gathered has varied from board to board, making it more difficult to draw comparisons across volumes. This issue is one example of a broader challenge: how does *YLJ* facilitate consistent policies and practices regarding full participation while preserving the autonomy and leadership of each successive volume?

YLJ now plans to institutionalize reflection on diversity issues by standardizing its decision-making processes, and increasing consistency in data gathering and analysis going forward. This step makes it possible to build ongoing reflection into the practice of deliberations and decision making, and pass this on to the new leadership. We saw in the context of the study both the possibility and the value of building reflection into ongoing practices. Given a template and a time frame, the content committees themselves asked questions about their priorities, how they interacted, and what the results were, and they did that at a point in the process when it was still possible to learn from and change in light of the patterns and outcomes observed. This kind of reflection could be built into the way committees do their work, and this practice could be passed onto the next volume.

It might also be possible to engage *YLJ* editors who have less consuming work in the process of building reflection, network development, and accountability. Editors with roles that are less defined, such as Projects Editors, expressed interest in being engaged in a more meaningful way, and this kind of reflective practice could be a part of their roles. Similarly, FYEs could combine these roles with an opportunity to learn about the leadership and management of *YLJ* before they step into positions with demanding portfolios.

YLJ could also identify issues that cut across volumes, where it would be useful to collect data and assess impact to encourage one volume to lay the foundation for the next. One of the challenges that emerged in the data gathering process involves both tracking and seeing impact related to actions taken by past volumes.

I. Consider Strategies for Long-Term Sustainability and Leadership Succession, Consistent with Board Autonomy

Sustaining this agenda will require tackling the question of leadership succession in an organization where the leadership turns over every year, and where the leaders have full time responsibilities as students. Institutional change efforts with systems implications often have a five- to seven-year time frame. How can *YLJ* build the ability to preserve the dynamics over time and do so in a way that is consistent with a commitment to the autonomy of each board of officers? Is there a way to build the capacity to pursue long-term values and preserve the power of each new set of officers to exercise its leadership?

Answering these questions requires designing roles and practices that enable *YLJ* to be dynamic enough to modify its structure so it can pursue what the organization wants to

achieve and do this while it is carrying out the work of putting out a legal publication on a regular basis. Some of the leadership roles are so demanding in their workload and press of business that it is impossible for those editors to have the space to build in sustained attention to these issues. Some ways of making progress in this regard are already happening. *YLJ* has created roles that do not have the same press and relentlessness of day-to-day responsibility, such as the Diversity & Membership Editor and the Executive Development Editor. There are also Projects Editors who are interested in some targeted or time-limited responsibilities. Exploring ways to design and enable editors in these roles offers promise.

It is also crucial for *YLJ* to take steps toward building and sustaining leadership with the capacity to advance this agenda. How can this year's leadership build next year's leadership so that people are prepared to take on the substantial responsibilities of managing the *Journal* and still be able to reflect, learn, think, and lead? Sustaining this interest will be easier if *YLJ* decides how it wants to manage the diversity of motivations for participating in *YLJ* and different levels of time commitment students want to make to *YLJ*. There are different avenues that *YLJ* could take to move down this road. Making progress requires making decisions about how to reconcile the multiple missions *YLJ* currently pursues, and how to square prestige value (which is generated in part by the external environment) with the purposes *YLJ* strives to achieve.

YLJ could also consider developing an advisory group that includes people from past volumes who have a continuing interest in *YLJ*, and have that group work with current SYEs and FYEs to advance a long-term commitment to full participation, create institutional memory, brainstorm about solutions to persistent challenges, and build sustainable practices when they are shown to work.

X. CONCLUSION

By undertaking this Project, *YLJ* has made a commitment to transparency, diversity, and building intellectual community. The next steps involve inviting the larger community into a dialogue that critically engages with the findings and their implications for deliberation and action. By being willing to look fully at its patterns and engage openly with the larger community about its struggles, *YLJ* has already undertaken the hard work of advancing full participation in *YLJ*. There is room to grow, but there is also reason to be encouraged.