

# Inequality in the Legal Academy - Gaining Insight into the *Unequal Profession*

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Meera E. Deo, [Unequal Profession: Race and Gender in Legal Academia](#) (2019).

In the wake of the killing of George Floyd, many U.S. law schools published messages supporting social justice and anti-racism, including promoting the role of law schools in educating students to become agents for change.<sup>1</sup> These statements were generally outward-facing, aimed at addressing the experiences of people of color in communities and organizations outside of the schools. But internally, law schools reflect the racial and gender hierarchies permeating the legal profession and society generally, and this in turn frames their role in shaping future lawyers' perceptions about who belongs in the legal profession. The faculty exerts an overarching influence on this question of belonging both through its own composition and in the language and agenda communicated through teaching.<sup>2</sup>

Meera Deo explores these dynamics in her book, *Unequal Profession*, which focuses on women of color law professors. By capturing the voices of this particular group of law professors and contextualizing them in an organizational and comparative context, the book makes a crucial contribution to understanding the divide between the experiences and career paths characteristic of women of color and those of their colleagues.<sup>3</sup>

It is among women of color that the effects of structural racism are most acutely felt, and where being a member of an elite organization does not offset being "othered." Women of color are "doubly marginalized;" Deo uses the term "raceXgender" to indicate intersectionality, or the "compound effects often caused by holding multiple devalued identity characteristics." (P. 8.) "Compound" is the operative word here, signifying the magnification that is at the heart of intersectionality.

Deo, a sociolegal scholar, draws on in-depth interviews with 63 women of color law professors selected to "reflect diversity in a number of domains, including race/ethnicity, age, tenure status, leadership status, public vs. private institution, selectivity of institution, and region." (P. 172.) When Deo began gathering data, nearly 80% of the 9,759 law faculty occupying positions of tenured, tenure-track, clinical, deans, associate and vice deans at ABA-approved law schools identified as Caucasian; women of color represented 9.6% of the group, white women 32% and men of color 9.4%. In the course of her research, she interviewed nearly 7% of women of color in this pool of law faculty, and attempted to include individuals from different vantage points of race, ethnicity and other individual and school-level characteristics in order to "include appropriate numbers from each group to ensure a diverse range of opinions in the final study." (P. 172.) Her work is enhanced by its comparative framework, offered through additional interviews with 11 men of color, 11 white women and 8 white men. (Table 1, P. 10.) These permit readers to consider what Kimberlé Crenshaw has described as "all of the ways our systems reproduce these inequalities, and that includes the privileges as well as the harms" - meaning expanding attention beyond "unfair exclusion but also [to] . . . unearned inclusion."<sup>4</sup>

Deo's interviews inform an analysis of the hiring and entry process, issues related to collegiality, relationships with students, tenure and promotion, leadership and work/life balance. I'll offer just a couple of examples in an attempt to highlight the richness of the book.

In the context of hiring, experiences were in line with findings from other settings,<sup>5</sup> with women of color describing being perceived as “a political – not an academic – appointment” (P. 23.) and as “the ‘dumb one,’ sort of an affirmative action hire in the worst sense of the word [meaning . . . unqualified, but hired because of . . . race and gender].” (P. 24.) One of these women saw her new colleagues shower favoritism on a white male hired at the same time; Deo describes this informant “internaliz[ing] her colleagues’ intersectional discrimination until she too ‘felt like he was the real deal, and I’m not.’” (P. 24.) While these experiences did not necessarily upend the careers of Deo’s informants, they tainted their perceptions, even forcing them to question whether it was worthwhile to remain in academia. (P. 46.)

In a chapter on relationships with students, Deo’s interviewees highlight a number of common challenges, including being “overburdened by service” to the law school and particularly to students, on one hand, but also experiencing “open hostility and even gender-based physical intimidation at the hands of white male students” on the other hand. (Pp. 58-59, 64.)

Overburdening in this context reflects that women of color faculty are wanted by law students as mentors and advisors, even when they do not share a classroom relationship. (P. 59.) One interviewee described being sought out by students who “likely . . . ‘feel comfortable and they seek my help,’” which she attributed to her approach in class of addressing “real-life legal implications of the law [as well as] relevant context . . . of substantive law through diversity discussions.” (P. 59.) Overburdening is common for women of color (and women generally) in other contexts, too.<sup>6</sup> And while “[a] small percentage of men of color share the experience of their female counterparts of being inundated by student requests . . . [,] most men in the . . . sample do not.” (Pp. 72-73.)

Hostility, on the other hand, reflects the mismatch of students’ expectations and reality. As one of Deo’s informants described, students’ “‘image is the white male professor who scares them, and that’s just not a model that I can follow. Not being a white male, and not really being privileged enough to be able to scare them.’” (P. 60.) This mismatch sometimes led to open hostility in the classroom, which bled over into teaching evaluations, too. (Pp. 61, 69-70.) In contrast, for white male faculty the challenge was limited to “mastering the material, not fighting to earn [students’] respect.” (P. 74.) This divide is nicely captured in an explanation of the difference in how two professors – one a women of color and the other a white man – responded when a student poses a complicated question in class. The woman of color offered an in-depth and complex response to the student, while the white male colleague indicated he would have said “‘I don’t know, I’m going to have to get back to you on that,’ which [the black female law professor interviewee explained as] the privilege of being a white man; you can say, ‘I don’t know,’ and it’s not going to damn you to being the ignorant law professor. But I don’t have that privilege.” (P. 74.)

In exploring the topic of collegiality, Deo unpacks various ways in which white male privilege leads to silencing and invisibility for women of color. These include *mansplaining* (“[w]hen men take it upon themselves to interpret for women or explain to women, [indicating their assumption] that a woman is simply ‘an empty vessel to be filled with their wisdom and knowledge’”), *hepeating* (“when a man simply repeats what a woman has already said, claiming and accepting credit for her original thoughts and words”) and *whitesplaining* (signaling that “[w]hite validation of [the] suggestions or observations [of a woman of color] would give them more weight, highlighting ongoing white privilege”). The combined effect of these tactics conveys the message that “women do not belong, should know their place, and remain silent.” (P. 45.)

It is no wonder, then, that in this climate Deo’s interviewees describe feeling the need to “suppress their emotions at work to succeed.” (P. 47.) But it isn’t only emotions that they must suppress. They described having to present themselves to colleagues and students as synced with the norms of the law

school and their roles there, despite the fact that these felt foreign and in conflict with their experiences. (Pp. 47-48.) These descriptions are consistent with other research on women in the legal profession, including Joyce Sterling and Linda Chanow's exploration of why women leave practice. A Black female lawyer explained to Sterling and Chanow that she had to conform to white culture by being more open about her experiences and background in order to be accepted enough to advance in her firm.<sup>7</sup> Tsedale Melaku describes this sort of pretense and transformation as part of the concept of an "inclusion tax," meaning "the additional resources black women are forced to 'spend' such as time, money, and emotional and mental energy to be included in white spaces."<sup>8</sup>

Deo tries to leave her readers with some hope for the future, including through a discussion of the importance of mentors and supportive professional networks, two factors that were mentioned repeatedly by her informants as having enormous consequence. In addition, she stresses the importance of intentional and focused action by law school deans and other leaders to create awareness of the effects of existing policies and practices. Deo's book is one part of the growing body of research and reporting on race and gender in the US, and by focusing exclusively on law faculty – and specifically on those in power in the hierarchical structure of legal education (and higher education generally) – she has positioned this book as a foundation for law faculties to consider how their histories, policies and structures marginalize and exclude. *Unequal Profession* elucidates that even as law schools aim to promote justice and equality in other contexts, there is much work to do internally to reach these goals.

1. Karen Sloan, [Law Schools Have an 'Obligation' to Help End Racism and Injustice, Deans Argue](#), **Nat'l L.J.**, June 2, 2020.
2. See generally Elizabeth Mertz, **The Language of Law School: Learning to "Think Like a Lawyer"** (2007) (analyzing implicit lessons embedded in U.S. legal education).
3. Deo's study is restricted to faculty with tenure or on the tenure track. While this is a limiting choice, it also may strengthen the power of her findings by eliminating the potential for readers to attribute disparities between women of color and others to differences in status or even to perceptions that status implicates quality.
4. Katy Steinmetz, [She Coined the Term 'Intersectionality' Over 30 Years Ago. Here's What It Means to Her Today](#), **Time**, Feb. 20, 2020.
5. Nadia Owusu, [Women of Color in Academia Often Work Harder for Less Respect](#), **Catapult**, Feb. 26, 2020 (describing the effects of reverse racism); Tsedale M. Melaku, **You Don't Look Like A Lawyer** (Rowman & Littlefield Publishers 2019) (describing negative consequences of being perceived as an "affirmative action hire").
6. See Laura E. Hirshfield & Tiffany D. Joseph, 'We need a woman, we need a black woman': gender, race, and identity taxation in the academy, 24 **Gender & Educ.** 213 (2011) (describing overburdening of faculty of color outside of the law school context).
7. The lawyer explained: 'It's not our culture to be vocal about who we are, what our background is. But I've learned that very early on, in order for you to advance, people have to know who you are. You've gotta share bits and pieces of your background.'" Joyce Sterling & Linda Chanow, *In Their Own Words: Experienced Women Lawyers Explain Why They Are Leaving Their Law Firms and the Profession*, commissioned by the ABA Commission on Women in the Profession (forthcoming).
8. Melaku, *supra* note 5, at 3.

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