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## ESSAY

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### PANDEMIC PRESSURES ON FACULTY

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#### INTRODUCTION

Academics are incredibly privileged. They are paid relatively well to read, think, write, teach, learn, and provide service to their institutions and communities. Yet law professors, like every other segment of society, have struggled during the pandemic. The negative effects of COVID, which go far

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beyond health consequences, are not distributed equally either within or outside of legal education. Those faculty who were in vulnerable positions before March 2020 have borne the brunt of these difficulties during the pandemic. In the hierarchical structure of legal academia—one that prioritizes scholarship over service, the Socratic method above skills-based learning, and normative doctrinal scholarship more than identity-based research—underrepresented and marginalized populations have faced heightened challenges due to COVID.

This Essay shares preliminary findings from the *Pandemic Effects on Legal Academia* (PELA) study, the first national empirical study to document challenges facing law professors with varying personal and professional responsibilities during COVID. The data reveal disturbing findings of worsening inequities, a lack of structural support, and negative health effects, especially for caregivers, women of color, white women, and untenured faculty. Although the research subjects included in this empirical project are law professors, the findings and implications are relevant for marginalized populations in myriad employment contexts, including graduate students who are mothers, junior associates in law firms, and women working outside the home in virtually any field. More specifically, the findings that vulnerable populations have been performing extra service at work and at home during COVID, leaving little time for labor that is more valued (in terms of recognition or compensation), reflect workplace contexts far beyond academia; similarly, the proposed solutions—including directives to be flexible and to implement creative support mechanisms—should be applied to elevate precarious workers in every sphere.

Certainly, inequities existed before COVID. In academia, women, and especially women of color, have always provided more service on campus, including prioritizing student needs; untenured faculty, many of whom are parents to young children, face added workplace pressures, given extra caregiving duties at home and a lack of job security.<sup>1</sup> However, the pandemic has intensified inequities for vulnerable populations. Left unchecked, these deepening disparities will further divide and entrench hierarchies in legal academia, resulting in a loss of the very diversity institutions now tout.<sup>2</sup> Instead of ignoring these challenges or assuming they will fade as the

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<sup>1</sup> For baseline findings on race and gender inequities in legal academia, see MEERA E. DEO, *UNEQUAL PROFESSION: RACE AND GENDER IN LEGAL ACADEMIA* (2019). Existing and ongoing barriers facing vulnerable populations are discussed at greater length, *infra* Parts II & III.

<sup>2</sup> In summer 2020, dozens of law schools issued antiracism statements and faculty resolutions committing to improve diversity, equity, and inclusion in legal education. Danielle M. Conway, Danielle Holley-Walker, Kimberly Mutcherson, Angela Onwuachi-Willig & Carla D. Pratt, *Law Deans Antiracist Clearinghouse Project*, ASS'N. OF AM. L. SCHS., <https://www.aals.org/about/publications/antiracist-clearinghouse> [<https://perma.cc/86Q5-SMNZ>].

pandemic subsidies, administrators and policymakers should recognize the need to intervene. We must act now, and we must act fast, or academia may lose a disproportionate share of scholars from diverse backgrounds. If we do nothing, we risk losing their perspectives in the classroom, their voices at faculty meetings, and their scholarship from the law review canon.

## I. THE PELA STUDY

Until now, there has been no empirical study of pandemic effects on law faculty. Scholars have not collected, analyzed, nor disseminated data to understand the challenges law professors have endured, how they have been coping, or what administrators and faculty can do to better support one another as we enter the third year of the COVID crisis.<sup>3</sup> Other academic disciplines have already documented negative effects on vulnerable populations.<sup>4</sup>

The PELA study is the first national empirical study to document law faculty challenges during COVID and strategize solutions.<sup>5</sup> The study uses

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<sup>3</sup> There has been one gathering of scholars who shared research and experiences to document how the increase in caregiving duties affected law faculty and other academics, and to strategize solutions. The author of this Essay was one of the organizers of that COVID Care Crisis Symposium, along with Professors Shruti Rana and Cyra Choudhury. *COVID Care Crisis Symposium*, IND. UNIV. HAMILTON LUGAR SCH. OF GLOB. & INT'L STUD., <https://hls.indiana.edu/covid-symposium/2021-symposium.html> [<https://perma.cc/D8FC-EVPT>]. A second Symposium is currently scheduled for June 2022. *The COVID Care Crisis Symposium: Part II: Imagining Solutions and Taking Action*, IND. UNIV. HAMILTON LUGAR SCH. OF GLOB. & INT'L STUD., <https://hls.indiana.edu/covid-symposium/index.html> [<https://perma.cc/GQ9X-3RY9>].

<sup>4</sup> Giuliana Viglione, *Are Women Publishing Less During the Pandemic? Here's What the Data Say*, 581 *NATURE* 365, 365 (2020); Noam Scheiber, *Pandemic Imperils Promotions for Women in Academia*, *N.Y. TIMES* (Oct. 6, 2020), <https://www.nytimes.com/2020/09/29/business/economy/pandemic-women-tenure.html> [<https://perma.cc/4ATZ-BTYD>].

<sup>5</sup> The PELA study draws from a national sample that includes clinical, legal writing, academic support, bar preparation, library, and doctrinal faculty. There is one other study of clinical law faculty experiences during COVID. See AALS Pol'y Comm. & CLEA Comm. for Equity & Inclusion, *Clinicians Reflect on COVID-19: Lessons Learned and Looking Beyond*, 28 *CLINICAL L. REV.* 15 (2021). Studies by institutions that surveyed their own faculty in various disciplines reached similar conclusions to those presented here. See, e.g., Letter from Nw. Org. of Women Fac. to Morton O. Schapiro, President of Nw. Univ., Kathleen Hagerty, Provost of Nw. Univ. & Sekile M. Nzinga, Assoc. Provost of Diversity & Inclusion of Nw. Univ. (Sept. 21, 2020), <https://cpb-us-e1.wpmucdn.com/sites.northwestern.edu/dist/0/2419/files/2020/09/OWFCallforImmediateActionSept2020-final.pdf> [<https://perma.cc/W8VE-2DR5>] ("Women faculty are overrepresented in the teaching track and other relatively low-paid faculty positions, and in academic positions that lack job security. They often have heavier teaching, student advising and service responsibilities, alongside disproportionate caregiving and home responsibilities. Now these existing inequities are being exacerbated by the pandemic."); ANNE JOSEPH O'CONNELL, MARGOT GERRITSEN & SARA SINGER, STANFORD UNIV. FAC. WOMEN'S F. STEERING COMM., STANFORD UNIV., *COVID FACULTY SURVEY* (2020), [https://facultydevelopment.stanford.edu/sites/g/files/sbiybj9996/f/fwf\\_covid-19\\_survey\\_discussion\\_as\\_presented\\_with\\_corrections\\_december\\_10\\_2020\\_reduced.pdf](https://facultydevelopment.stanford.edu/sites/g/files/sbiybj9996/f/fwf_covid-19_survey_discussion_as_presented_with_corrections_december_10_2020_reduced.pdf) [<https://perma.cc/D9CF-EGUX>] (finding women faculty and junior scholars had more stress, less time for research, and spent more time on childcare during COVID).

target sampling to gather survey and interview data from law faculty during the academic year 2020–2021, and oversamples vulnerable law teachers, including the overlapping categories of caregivers, untenured faculty, women of color, and white women.<sup>6</sup> A painstaking data collection process, following established as well as innovative target sampling techniques, ensured the final sample was broadly representative according to race, ethnicity, gender, region of the country, school selectivity, caregiving involvement, leadership status, field of teaching, and employment status (including professors who are tenured, pre-tenure, and contract-based).<sup>7</sup> Each of the thirty-five participants in the study completed an online Qualtrics survey, which asked about the professor's background, online teaching experience, time spent on personal and professional responsibilities, and various perspectives on legal education.<sup>8</sup> The quantitative data were then analyzed using Qualtrics and Excel.<sup>9</sup>

After completing the survey, participants joined an online, in-depth, one-on-one interview with the author of this Essay (who is also the Principal Investigator of the PELA study). The interview protocol covered experiences in academia overall as well as those specific to the pandemic.<sup>10</sup> The recorded interview was later transcribed, coded, and analyzed to identify patterns using customary qualitative data analysis techniques.<sup>11</sup> The quotes shared throughout this Essay are excerpts from the qualitative data, grouped together by common themes and experiences.<sup>12</sup> While pseudonyms are used to protect confidentiality and preserve anonymity, no modifications have been made to

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6 The findings note when faculty participants are tenured or untenured, as well as their race, gender, and occasionally their status as caregivers and administrators. Although those labeled as untenured faculty may refer to either pre-tenure or contract-based faculty, they are not identified at that level of detail in order to protect their anonymity given the low numbers of faculty, especially women of color professors, in these positions. For similar reasons, those teaching Legal Writing, Academic Support, Bar Preparation, Library, and Clinic courses are included in the data but not identified as such individually.

7 For more information on effective usage of target sampling, see John K. Watters & Patrick Biernacki, *Targeted Sampling: Options for the Study of Hidden Populations*, 36 SOC. PROBS. 416 (1989) and DEO, *supra* note 1, at 172–74.

8 The PELA study survey instrument is on file with the author.

9 The PELA study received a formal Institutional Review Board (IRB) exemption in August 2020. For more on PELA methods, see Meera E. Deo, *Investigating Pandemic Effects on Legal Academia*, 89 FORDHAM L. REV. 2467, 2490–92 (2021).

10 The PELA study interview protocol is on file with the author.

11 See, e.g., BARNEY G. GLASER & ANSELM L. STRAUSS, *THE DISCOVERY OF GROUNDED THEORY: STRATEGIES FOR QUALITATIVE RESEARCH* 2–6 (1967) (describing “grounded theory,” which revolves around “the discovery of theory from data systematically obtained from social research”).

12 No citations are provided for the quotes because they are original empirical data from the qualitative (interview) portion of the PELA study. As required by IRB protocols and the protection of human research subjects, all transcripts will remain on file with the author while dissemination of the data is ongoing. They will not be shared with others or released to the public to maintain confidentiality and preserve anonymity.

the data. Through the qualitative data, the faculty participants of the PELA study speak for themselves.

Together, the mixed-method approach of the PELA study captures a wide range of law-faculty perspectives, gathering broad-strokes information through the survey as well as more nuanced details and explanations during interviews.<sup>13</sup> In order to delve deeper into their unique experiences, the project design also purposefully oversamples professors from vulnerable populations, including those who are women of color, caregivers, white women, and untenured. As a whole, the sample includes perspectives from women as well as men, junior scholars and senior scholars alike, those teaching doctrinal as well as skills-heavy courses, and contract-based, pre-tenure, and tenured faculty.<sup>14</sup> Racial and ethnic diversity is built into the sample, including multiple professors who are Black, Latinx, Native American, Asian American, Middle Eastern, and white. The survey results frame the heart of the study: qualitative data displayed as quotes, representing pervasive experiences gleaned from patterns in the interviews, presented in the actual words of faculty.

There are some limitations. The non-random sample is relatively small, and results rely on preliminary analyses.<sup>15</sup> Yet a target sample of thirty-five for a primarily interview-based study can reveal meaningful insights into the experiences of law faculty, especially vulnerable populations.<sup>16</sup> Furthermore, because there is no direct listing of law faculty of color, women law faculty, or faculty who are caregivers, the target sampling method is the most

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<sup>13</sup> JOHN W. CRESWELL & VICKI L. PLANO CLARK, *DESIGNING AND CONDUCTING MIXED METHODS RESEARCH* 1 (2007) (explaining the benefits of “bring[ing] together both quantitative and qualitative data to tell the story”).

<sup>14</sup> The term “doctrinal” is used here to distinguish these professors from others teaching more “skills-heavy” courses. Of course, Legal Writing, Library Sciences, and other skills-heavy areas are themselves full of doctrine and worthy of scholarly engagement, and many “doctrinal” faculty infuse their courses with skills-based learning. Some scholars instead use the term “podium faculty” to describe “doctrinal” faculty, though many teaching Civil Procedure or Constitutional Law walk the classroom and engage fully with students as much as Clinical or Academic Support professors who are rarely behind a podium. There is no perfect term to distinguish between these professors—perhaps because it is a distinction without much difference as all are (or should be) called “professors”. In this Essay, I do refer to all faculty participants as professors, regardless of their formal titles.

<sup>15</sup> Non-traditional methodological approaches can not only be valid, but are sometimes the most reliable options for reaching vulnerable populations. Furthermore, reaching *saturation*—the point at which the same patterns are readily established from existing data—is a more effective determinant of when data collection is complete than reaching an arbitrary numeric goal. ASHLEY T. RUBIN, *ROCKING QUALITATIVE SOCIAL SCIENCE: AN IRREVERENT GUIDE TO RIGOROUS RESEARCH* 147-53 (2021).

<sup>16</sup> As Political Scientist Efrén Pérez writes, “In-depth interviews like these are incredibly useful for developing one’s understanding of a new concept [with resulting insights viewed] as exploratory, with the aim of theory building, rather than hypothesis testing.” EFRÉN O. PÉREZ, *DIVERSITY’S CHILD: PEOPLE OF COLOR AND THE POLITICS OF IDENTITY* 35 (2021).

methodologically effective, reliable, and valid way to ensure access to and capture the experiences of these vulnerable populations.<sup>17</sup> Finally, preliminary findings provide a starting point for more robust future analyses.<sup>18</sup> Because the importance of the results was evident during data collection, it became critical to avoid additional delay, quickly complete data collection, conduct preliminary analyses, and disseminate findings in order to effect immediate and meaningful improvements in legal education while the pandemic is ongoing.

## II. DATA ON WORSENING INEQUITIES

The PELA findings are deeply disturbing. They document how challenges have been exacerbated during COVID, especially for already vulnerable professors who may leave law teaching altogether if circumstances do not rapidly improve. A full forty-three percent of participants in the PELA survey have considered leaving legal academia since the start of the pandemic; those in vulnerable positions are even more likely to leave. Two of the thirty-five professors who participated in the PELA study during academic year 2020–2021, both from underrepresented and marginalized populations, have left law teaching already. Without immediate action, we risk losing the participation of a significant share of scholars from vulnerable backgrounds due to pandemic effects.

The different vulnerable populations highlighted in the PELA study face distinct challenges, though each of them is devalued or lacks security due to their status as traditional outsiders in legal academia.<sup>19</sup> Women of color face unique barriers to professional success due to ongoing institutional

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<sup>17</sup> See generally Watters & Biernacki, *supra* note 7 (discussing the target sampling method). See also DEO, *supra* note 1, at 172–74.

<sup>18</sup> Works in progress include Meera E. Deo, *Pandemic Effects on Legal Education*, 63 SANTA CLARA L. REV. (forthcoming 2023) [hereinafter Deo, *Pandemic Effects on Legal Education*] (on file with author); Meera E. Deo, *Pandemic Parenting* (in progress) [hereinafter Deo, *Pandemic Parenting*] (on file with author).

<sup>19</sup> See Elizabeth Mertz, *Canaries in the Mines of the U.S. Legal Academy*, in POWER, LEGAL EDUCATION, AND LAW SCHOOL CULTURES 262, 272 (Meera E. Deo, Mindie Lazarus-Black & Elizabeth Mertz eds., 2019) (“[T]raditional outsiders on U.S. law school faculties were having differentially difficult times both with the tenure process and in terms of overall satisfaction with their work situations.”); Deborah Archer, Caitlin Barry, G.S. Hans, Derrick Howard, Alexis Katerton, Shobha Madhev & Jeff Selbin, Clinical Legal Educ. Ass’n Comm. for Fac. Equity & Inclusion, *The Diversity Imperative Revisited: Racial and Gender Inclusion in Clinical Law Faculty*, 26 CLINICAL L. REV. 127 (2019) (discussing difficulties faced by clinical law faculty); Renee Allen, Alicia Jackson & DeShun Harris, *The “Pink Ghetto” Pipeline: Challenges and Opportunities for Women in Legal Education*, 96 U. DET. MERCY L. REV. 525 (2019) (describing challenges facing law faculty teaching skills-heavy courses).

*raceXgender bias*, while ongoing gender disparities affect all women.<sup>20</sup> Faculty who take on primary caregiving duties for children, elderly parents, or others, face compound pressures to perform at work while carrying extra responsibilities at home.<sup>21</sup> For untenured faculty, whether pre-tenure or teaching on a contract basis, a lack of job security fuels extra pressure to perform at high levels year after year.<sup>22</sup> Furthermore, these are largely overlapping categories: many women, including women of color, hold untenured positions and also provide extra caregiving at home.<sup>23</sup> In fact, women from all walks of life have been shouldering the caregiving burden throughout the pandemic, often sacrificing their own professional success.<sup>24</sup> The effects compound and intensify for those inhabiting multiple sites of vulnerability.

The PELA study as a whole delves into broad questions of pedagogy, distance learning, personal challenges, institutional support, and more; future publications will explore many of these themes and disaggregate data further.<sup>25</sup> The purpose of this Essay is to share preliminary findings about three urgent areas of inquiry that legal education must immediately address: Prioritizing Students, Scholarly (Un)Productivity, and Mental Health Effects.

#### A. Prioritizing Students

Vulnerable professors are doing all they can to support students—but not always receiving the support they need. Some administrators issue edicts for faculty to support students at all costs. A tenured Native American professor named Jean shares, “I was actually told repeatedly that if I could just get to ‘count day’ in mid-October, that I was supposed to do everything possible

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<sup>20</sup> Bias based on *raceXgender* refers to “the compound effects often caused by holding multiple devalued identity characteristics, namely the intersection of race and gender.” DEO, *supra* note 1, at 8. *Unequal Profession* provides baseline data on the *raceXgender* challenges facing women of color faculty from hiring through promotion, including interactions with colleagues, students, and administrators as well as ongoing gender disparities affecting women of color and white women alike. *Id.* at 4-5.

<sup>21</sup> *Id.* at 124-31.

<sup>22</sup> Allen et al., *supra* note 19; Katherine Barnes & Elizabeth Mertz, *Is It Fair? Law Professors’ Perceptions of Tenure*, 61 J. LEGAL EDUC. 511, 511 (2012) (noting that tenure is an “important gateway to professional success and stability”).

<sup>23</sup> Archer et al., *supra* note 19; DEO, *supra* note 1, at 138 (“Overall, women from all racial backgrounds take on more not only at work but also at home—highlighting the pervasive gender privilege of men who more easily enjoy a comfortable work/life balance.”).

<sup>24</sup> In September 2020, 865,000 women dropped out of the workforce (four times the number of men who did so), largely to care for children who were out of school due to COVID. Andrea Hsu, *Even the Most Successful Women Pay a Big Price*, NPR (Oct. 20, 2020, 5:07 PM), <https://www.npr.org/2020/10/20/924566058/even-the-most-successful-women-are-sidelining-careers-for-family-in-pandemic> [<https://perma.cc/7WNJ-JB8X>]. The “mom penalty” has particular implications for women in elite jobs who risk losing “promotions, future earning power and also their roles as leaders . . .” *Id.*

<sup>25</sup> See, e.g., Deo, *Pandemic Effects on Legal Education*, *supra* note 18; Deo, *Pandemic Parenting*, *supra* note 18.

[until then] to placate students.” She explains that “count day” is “the day in which they calculate what our median GPA and LSAT scores are for *US News and World Report*.” Because her administration worries about student attrition hurting their rankings, Jean says, “I was told that it was my job to keep the students happy, at least through mid-October.”

Despite providing support, only forty percent of PELA respondents agree with the statement, “This past year, I received the institutional support I needed to succeed as a law professor.” Alice, an untenured Asian American professor, is drowning under student demands. While she acknowledges that “students are themselves facing a really hard time,” she also feels frustrated by constant “pressure on faculty to try to provide more support and more time to the students.” She adds, “[F]aculty, like myself, [are] also struggling to handle our own situations.” Many women professors agree with Alice: they want to be there for students and are proud that their investment benefits students and their institution, but worry that providing support can be all-consuming. Amelia, an untenured white professor, admits, “I think the student meetings are the toughest because they take so much time and there’s just only so many hours in the day.” It is not only an increase in time, but an increase in *emotional labor* as women faculty strive to provide the institutional connection and sense of belonging students crave at an especially lonely and difficult period in their lives.<sup>26</sup> PELA data reveal that many professors have redoubled efforts at supporting students, going far beyond clarifying concepts from Torts, Evidence, or Legal Writing. The purpose of office hours has never been solely to review course material, but COVID has further blurred the line between academic and emotional support. Paulette, a Black professor, echoes many others from the PELA study in saying, “I feel like I’m trying to carry the weight of a therapist in addition to being a faculty member.” Paulette had already been performing extra service pre-pandemic; yet as COVID intensifies student needs, she and other women of color professors do even more, all while juggling additional COVID-related challenges in their own lives.

Despite working harder, survey data reveal that over one-quarter (twenty-six percent) of law professors in the PELA study have taken up to a fifteen percent salary reduction since the start of the pandemic. Additionally, over one-third (thirty-four percent) of PELA respondents report that since March 2020, their institutions have reduced or eliminated

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<sup>26</sup> *Emotional labor* requires women faculty to set aside their actual emotions to comply with workplace norms. ARLIE RUSSELL HOCHSCHILD, *THE MANAGED HEART: COMMERCIALIZATION OF HUMAN FEELING* 7 (1983). “It is the unpaid, invisible work we do to keep those around us comfortable and happy.” GEMMA HARTLEY, *FED UP: EMOTIONAL LABOR, WOMEN, AND THE WAY FORWARD* 13 (2018).



research funds and stipends, sabbaticals, support for research assistants and teaching assistants, or compensation for overload teaching. In short, professors are doing much more, with much less.

Faculty are expected to continue producing exceptional teaching, service and scholarship despite greater pressures in their professional work (i.e., increased service) and their personal lives (i.e., increased childcare) as well as less support in both spheres.<sup>27</sup> Because excelling at all three has become virtually impossible, many professors triage, prioritizing immediate demands. This is particularly significant for faculty with young children, who carry the extra burden of simultaneously providing full-time childcare as a result of the pandemic.

The top priority for almost all professors is teaching. Renee, a Black professor with two children under the age of five who have been home with her for months, notes, “One of the things I just had to say to myself is that to get through this, I’m going to do only the things that I have to do. And I have to teach, you know, my 1Ls must be taught. So, I have solely focused on teaching.” For faculty who are also formal leaders, the top of the to-do list is filled with administrative work. Mindy, an untenured Asian American professor and administrator, explains what prioritizing means to her: “The reality is, you focus on what’s on fire. Whatever’s on fire—or the biggest fire—will get your attention first.” Elizabeth, a white full professor and Associate Dean, is clear about her priorities, saying, “When service or administrative stuff is roughly 70% of my life, I cannot do [research too]. So, I’m lucky that I have that privilege to just let [scholarship] go [because I’m tenured].” Even completing the bare minimum is a struggle for those in precarious positions, including junior faculty working towards tenure who also have significant caregiving responsibilities. Alice, who is in her first year of tenure-track teaching and has no consistent childcare for her toddler, is working herself to the bone. She confesses: “I do two all-nighters every week, just to be able to prep for class.” Because her focus is on teaching, and her daylight hours are consumed with childcare, she notes, “[I] agonize over the lack of research [since I’m] not really making any progress.”

### B. *Scholarly (Un)Productivity*

Alice is not alone. Many professors have not found the time, space, nor mental energy to produce scholarship during the pandemic. Women, caregivers, and untenured faculty respondents to the PELA survey report

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<sup>27</sup> These three criteria—scholarship, teaching, and service—are the traditional pillars of tenure or other advancement in legal academia. See *Frequently Asked Questions*, ASS’N OF AM. L. SCHS.: BECOMING A L. TEACHER, <https://teach.aals.org/tenure-track-faq> [<https://perma.cc/9TVK-UJET>] (“Generally, tenure-track faculty are evaluated in three areas: scholarship, teaching, and service.”).

spending significantly more time during COVID on service and teaching, leaving much less time for research. A tenured Native American professor named Kyle is disappointed to admit, “I haven’t published anything in the last 14 months. I just have no energy.” Analyses of qualitative data from the PELA study reveal that Kyle’s experience is representative; many people of color cannot get in the right mindset to produce scholarship, given their understandable preoccupation with the pandemic, Black Lives Matter protests, election stress, the Capitol insurrection, family separation at the border, an increase in anti-Asian hate crimes, and the resumption of mass shootings.<sup>28</sup> Renee states, “I have things that I want to write, but I just can’t get in the right space to really get them done.”

Others are overwhelmed by mundane tasks that feel necessary due to COVID but take time away from the usual writing routine. During her interview in December 2020, a Black scholar named Fay recalled, “Summer [2020] was spent sterilizing groceries.” By spring 2021, when vaccines were available, many women of color described spending hours every day seeking appointments for less tech-savvy relatives. Lila, a tenured Middle Eastern law professor, noted in February 2021, “[E]very single day I’m online, checking in the morning, noon, and then in the afternoon [for vaccine appointments for my parents].” COVID forces these faculty away from scholarship toward lifesaving and health-preserving tasks; they protect their families, join Zoom school with kindergarteners, and buy groceries for elderly neighbors—at the expense of their scholarly trajectory.

Some women of color faculty manage to publish despite competing demands on their time and mental space; most recognize both their privilege and the price they pay for that productivity. While they meet institutional expectations, each publication comes at a significant cost to themselves and their families. Fay is acutely aware of this irony, noting: “I actually managed to write and get stuff out during the summer, in part because I ignored my

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<sup>28</sup> E.g., Larry Buchanan, Quoc Trung Bui & Jugal K. Patel, *Black Lives Matter May Be the Largest Movement in U.S. History*, N.Y. TIMES (July 3, 2020), <https://www.nytimes.com/interactive/2020/07/03/us/george-floyd-protests-crowd-size.html> [<https://perma.cc/HZL6-TQ44>] (describing the enormous scope and impact of the Black Lives Matter movement); STOP AAPI HATE, STOP AAPI HATE NATIONAL REPORT 3.19.20–8.5.20 (2020), [https://www.asianpacificpolicyandplanningcouncil.org/wp-content/uploads/STOP\\_AAPI\\_Hate\\_National\\_Report\\_3.19-8.5.2020.pdf](https://www.asianpacificpolicyandplanningcouncil.org/wp-content/uploads/STOP_AAPI_Hate_National_Report_3.19-8.5.2020.pdf) [<https://perma.cc/RB4G-BLR2>] (detailing dramatically increased hate crimes against Asian Americans since the start of the pandemic); Teo Armus & Maria Sacchetti, *The Parents of 545 Children Separated at the Border Still Haven’t Been Found. The Pandemic Isn’t Helping.*, WASH. POST (Oct. 21, 2020), <https://www.washingtonpost.com/nation/2020/10/21/family-separation-parents-border-covid/> [<https://perma.cc/Y2TA-DRUM>] (“I was very shaken by the number . . . This was torture.”); *Capitol Insurrection*, PBS: NEWSHOUR, <https://www.pbs.org/newshour/tag/capitol-insurrection> [<https://perma.cc/B4JF-5ZZB>] (linking to numerous articles covering the January 6 insurrection and ongoing repercussions); see also *infra* pp. 138.

children and ignored my husband, ordered DoorDash for five weeks. And I'm glad [my article] found a good home. But I'm aware that I was robbing Peter to pay Paul." As a tenured professor in a stable relationship with a healthy and employed partner, she could afford to pay this price though she understandably laments the costs.

Sleep was another casualty of the pandemic. While all faculty in the PELA study report sleeping less now than pre-COVID, some professors forego sleep to work. Untenured professors worry that their lack of productivity will ruin opportunities for promotion, tenure, or contract renewal, especially because most institutions value scholarship above all else. Paulette notes, "I did more work at night after my girls went down [and am] up before the sun comes up in the morning." Arthur, a Black junior scholar with young children at home, has a similar schedule, noting: "I try getting up at 5:00 to get a head start on the day before the kids wake up." Almost everyone is managing increased stress, pressure, and anxiety related to work and family—with those in difficult workplace and caregiving roles carrying heavier burdens.

### *C. Mental Health Effects*

Every respondent to the PELA survey reports elevated stress levels now, compared to pre-COVID. Professors are lonely, hitting their limits, and feeling both psychological and physiological effects. Virtually every person interviewed shared some version of what an untenured Asian American professor named Jay says: "It's been a hard year for everyone." Nina, a tenured Black professor, wonders aloud, "Wasn't it the worst? Like the hardest year ever?" An untenured Asian American professor named Maya states wryly, "There's a Peloton right there, staring at me. I never get on it because there's just not enough time in the day." Her physical health is not the only thing suffering: "Mental health wise, it was really bad [at first. And though it briefly got better,] I'm starting to flag now and really feeling the pressures." PELA survey results confirm that women in particular have less time now for exercise and leisure, largely because they spend much more time on childcare and household management.

Some professors avoided interactions with anyone outside of their immediate household, especially in the first year of the pandemic, before vaccines were widely available. Fred, an untenured Black professor with a toddler and infant at home, notes, "We took the social distancing very seriously." He explains, "We haven't seen any family members. We've had like a couple close church friends come and say hello [outside] from a distance." Many single people living alone endured months without any physical contact. During his PELA interview in spring 2021, Jay said he had not touched another person since "last summer," eight months prior. Similarly,

when a tenured Black professor named Rose (who lives alone) was asked whether she was comfortable spending time with anyone in person, her response was, “Oh, yes. I still am going out to the grocery store. Sometimes I walk in the park, and I do see people there. And I ride my bike and I see people in the neighborhood walking around.” Watching people from a distance is the only human interaction Rose has had.

While COVID itself created and intensified many existing challenges, the pandemic does not exist in a vacuum. Since March 2020, faculty of color have faced compound mental health effects based on racial trauma from significant external stressors.<sup>29</sup> While managing their own pain, faculty of color and especially women of color professors also have supported students from all backgrounds as they process their grief. Renee confides that in addition to COVID, she carries “the psychological impact of . . . George Floyd, of Breonna Taylor. Black people dying at the hands of the police is awful. I’m thinking about my children.” Many professors wonder how much longer they can continue with so many pressures hitting them at once. As Paulette says, “Everyone has a certain threshold of what they can take, and I felt like I was definitely pushing against that boundary a lot.” She explains, “Really it was the whole racial explosion [in addition to COVID]. I had multiple deaths in my family. Losing people, not being able to get together, seeing everything with George Floyd, and then seeing how everyone responded to that. I felt like I was spread thin.” Jean recalls that due to the overwhelming pressure, she called an administrator “one day crying and I said, ‘I am going to have a mental breakdown. I cannot do this.’”

The personal and professional challenges also impact family life, exposing layered burdens particularly for women of color. There are marital troubles, especially from the early days of the pandemic, including for Alice who notes, “That was not a great period for our marriage.” Professors, like others in society, must navigate the pain of losing a parent or other family member during COVID. One professor of color shared, “My mom died in October.” Now, as the caretaker for her elderly father and the primary caregiver for her young children, she acknowledges through tears, “So that’s been a lot and COVID makes it harder. Yeah. It’s been tough.” She is aware that her stress has compounded based on COVID, parent death, caretaking, and work demands, but she has not been able to address her pain, noting, “I thought about it, but it’s just like, when would I schedule that grief counseling?” Her mental health took a back seat to her students, her children, and her workplace duties. A Latina professor named Ariana also faces multiple personal challenges that impact her mental health, admitting, “I had a hard

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<sup>29</sup> Some examples of recent incidents causing racial trauma are recounted earlier in this Part and in note 28, *supra*.

time focusing between the COVID pandemic, quarantine, being away from my family, not being able to see my family, [multiple] deaths on my husband's side, feeling isolated, like, questioning all of my choices. I had a miscarriage in the spring. So, it's been hard, it's been hard." Through it all, Ariana has been pressured to be on campus, prioritizing in-person support to students over her own physical and mental health needs.

### III. THE CONTINUUM OF BARRIERS

While these empirical findings are shocking, many of the barriers revealed in the PELA data existed long before March 2020. Research conducted pre-pandemic documented some of these same structural inequities in legal academia. As one glaring example, service burdens have long been borne disproportionately by women faculty who rarely receive reward or recognition, despite the institutional benefit of their efforts.<sup>30</sup> Additionally, women professors, especially women of color, are more likely to innovate in the classroom, accommodate students, and provide service beyond formal committee duties—including advising student organizations, mentoring students and peers, and tackling diversity issues.<sup>31</sup> Furthermore, hierarchies in legal academia ensure that the very law professors who consistently have significant contact with students and provide substantial feedback (including those with expertise in legal writing, clinics, academic support, bar preparation, and library sciences) often receive less pay, little job security, and few opportunities for faculty governance.<sup>32</sup> While many women faculty enjoy working with students and providing other forms of service, research pre-pandemic documented that the time spent on these commitments comes at the expense of working on scholarship, which law schools value most

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<sup>30</sup> Meera E. Deo, *The Paradox of Faculty-Student Interactions*, 69 J. OF LEGAL EDUC. 36, 37 (2019) (“[The] accessibility [of women of color faculty] can result in service overload, with constant student meetings and events that are rarely acknowledged or rewarded by colleagues or administrators.”).

<sup>31</sup> See Colleen Flaherty, *Relying on Women, Not Rewarding Them*, INSIDE HIGHER ED (Apr. 12, 2017), <https://www.insidehighered.com/news/2017/04/12/study-finds-female-professors-outperform-men-service-their-possible-professional> [<https://perma.cc/H3NG-RWBW>] (“[W]omen in the national sample performed 30 more minutes per week of service than men and 1.5 more service activities per year than men in the local sample.”).

<sup>32</sup> See Allen et al., *supra* note 19, at 534 (“These skills positions are plagued with salary inequity, limited opportunities for promotion and professional development, and other distinguishable differences from ‘traditional podium’ faculty.”); Olivia Smith Schlinck, *Academic Law Librarians Are Paid 47% Less than Their Faculty Counterparts*, RIPS L. LIBRARIAN BLOG (Feb. 4, 2022), <https://ripslawlibrarian.wordpress.com/2022/02/04/academic-law-librarians-are-paid-47-less-than-their-faculty-counterparts> [<https://perma.cc/XH6Q-GE74>] (describing the extreme salary disparities between law librarians and other law faculty).

for promotion, tenure, and other advancement.<sup>33</sup> The PELA data discussed above reveal the anxiety involved when overwhelming (but undervalued) service demands diminish time that would otherwise be spent on high-priority research.

Beyond workplace challenges, many of the faculty who consistently contribute more on campus have also carried more weight at home. Mothers in heterosexual relationships tend to be the *default parent*, responsible for managing day-to-day childrearing as well as tending to the emotional, *life admin*, and long-term needs of dependents.<sup>34</sup> This personal caregiving role has added significant time and stress to the daily lives of many women faculty throughout the pandemic, as documented in the PELA findings shared above. Again, these extra obligations, both personal and professional, existed long before COVID, have intensified during the pandemic, and will likely continue far into the future.

As PELA data confirm, external forces due to the pandemic have created even greater pressures on law faculty who were already vulnerable, marginalized, and underrepresented. In March 2020, over 100 colleges and universities closed or moved online, as did most K-12 schools throughout the country.<sup>35</sup> Parents assumed full-time responsibility for children who could no longer attend in-person school, camps, or after-school programs, while childcare assistance from babysitters and grandparents was often deemed too risky.<sup>36</sup> Even two years into the pandemic, with vaccines readily available

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<sup>33</sup> See *supra* Part II; YOLANDA FLORES NIEMANN, GABRIELLA GUTIÉRREZ Y MUHS & CARMEN G. GONZÁLEZ, PRESUMED INCOMPETENT II: RACE, CLASS, POWER, AND RESISTANCE OF WOMEN IN ACADEMIA 4 (“There is a penalty for service, which universities claim to value, including student mentoring, but there is no penalty for lack of service.”). One structural solution to the inequities discussed in this Essay is to reformulate the tenure calculus such that scholarship, service, and teaching are weighted and valued more equitably.

<sup>34</sup> *Life admin* can be defined as the many mundane but necessary tasks that comprise “the office work of life.” ELIZABETH F. EMENS, LIFE ADMIN: HOW I LEARNED TO DO LESS, DO BETTER, AND LIVE MORE 3 (2019). The *default parent* handles the family’s minutiae as well as “the emotional, physical, and logistical needs of the children.” M. Blazoned, *The Default Parent*, HUFF. POST (Dec. 6, 2017), [http://www.huffingtonpost.com/m-blazoned/the-default-parent\\_b\\_6031128.html](http://www.huffingtonpost.com/m-blazoned/the-default-parent_b_6031128.html) [https://perma.cc/X9MB-YTDV].

<sup>35</sup> *Pandemic Triggers Chaos*, INSIDE HIGHER ED (Mar. 12, 2020), <https://www.insidehighered.com/news/2020/03/12/coronavirus-news-updates-wed-march-11> [https://perma.cc/H8HR-M9R2]; see also Stacey Decker, Holly Peele, Maya Riser-Kositsky, Hyon-Young Kim & Emma Patti Harris, *The Coronavirus Spring: The Historic Closing of U.S. Schools (A Timeline)*, EDUC. WEEK (July 1, 2020), <https://www.edweek.org/leadership/the-coronavirus-spring-the-historic-closing-of-u-s-schools-a-timeline/2020/07> [https://perma.cc/2Y3Y-C48Q] (“Eventually, 48 states, four U.S. territories, the District of Columbia, and the Department of Defense Education Activity ordered or recommended school building closures for the rest of their academic year [2019–2020], affecting at least 50.8 million public school students.”).

<sup>36</sup> Deo, *supra* note 9, at 2487–88; Tovia Smith, *Coronavirus Crisis Interrupts Plan for Many Summer Camps*, NPR (May 15, 2020, 5:03 AM), <https://www.npr.org/2020/05/15/856594233/coronaviruscrisis-interrupts-plans-for-many-summer-camps> [https://perma.cc/V24V-N2YE]; Katherine Harmon Courage, *Day Care, Grandparent, Pod, or Nanny? How to Manage the Risks of Pandemic Child Care*,

and many children back to in-person school, daycares and classrooms have frequently closed due to staff shortages and COVID surges.<sup>37</sup> Default parents, usually mothers, are still picking up the slack.

At the same time, professors quickly pivoted to teaching online, an endeavor most had never undertaken.<sup>38</sup> PELA data reveal that those who had already been carrying heavier service loads found themselves tasked with making changes to student handbooks, revising faculty policies, and scheduling and leading committee meetings to address the ever-changing crisis of the earliest days of COVID. Many of these same professors had already been engaged in innovative pedagogy (especially women faculty, junior faculty, and those teaching skills-heavy courses); now, they strove to modify their courses further to meet the needs of remote students.<sup>39</sup>

The needs of students themselves have exploded far beyond the challenges of online classroom learning. According to PELA data and other sources, many professors notice their students struggling and strive to connect with and support them through targeted emails, individual Zoom meetings, and even by phone.<sup>40</sup> National aggregate data from the Law School Survey of Student Engagement (LSSSE) reveal that law students are more lonely, depressed, anxious, and unable to concentrate due to COVID; many suffer increased financial pressures, eviction worries, and even food insecurity.<sup>41</sup> Nevertheless, students report high rates of satisfaction

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NPR (Aug. 21, 2020, 5:00 AM), <https://www.npr.org/sections/healthshots/2020/08/21/902613282/daycare-grandparent-pod-or-nanny-how-to-manage-the-risks-of-pandemic-child-care> [<https://perma.cc/3WWU-V3UH>].

<sup>37</sup> Maanvi Singh, *Staff Shortages, Fear and Confusion: Los Angeles Schools Grapple with Covid Chaos*, GUARDIAN (Jan. 10, 2022, 6:00 AM), <https://www.theguardian.com/us-news/2022/jan/10/us-schools-covid-omicron-los-angeles-unified> [<https://perma.cc/YU93-8U8F>].

<sup>38</sup> E.g., Anya Kamenetz, *“Panic-gogy”: Teaching Online Classes During the Coronavirus Pandemic*, NPR (Mar. 19, 2020, 9:00 AM), <https://www.npr.org/2020/03/19/817885991/panic-gogy-teaching-online-classes-during-the-coronavirus-pandemic> [<https://perma.cc/EYN5-AX84>] (describing faculty challenges adapting to remote teaching).

<sup>39</sup> Deo, *Pandemic Effects on Legal Education*, *supra* note 18.

<sup>40</sup> Stephanie Francis Ward, *As the Pandemic Drags on, Law Professors Are Making Changes*, A.B.A. J. (Jan. 18, 2022, 8:41 AM), <https://www.abajournal.com/web/article/as-pandemic-drags-on-how-are-law-professors-changing-ways-they-help> [<https://perma.cc/655G-J8N9>] (discussing how professors were more flexible and inclusive with a variety of pedagogical practices, including granting extensions, holding extra office hours, and providing more hands-on assistance); Katie Stancombe, *Changing Course: Law Professors Alter Teaching Styles, Balance Exhaustion to Support Students*, IND. LAW. (Feb. 2, 2022), <https://www.theindianlawyer.com/articles/changing-course-law-professors-alter-teaching-styles-balance-exhaustion-to-support-students> [<https://perma.cc/H75P-XQJ4>] (recounting changes professors have made to boost engagement both virtually and in class in light of pandemic-related exhaustion).

<sup>41</sup> MEERA E. DEO, JACQUELYN PETZOLD & CHAD CHRISTENSEN, IND. UNIV. CTR. FOR POSTSECONDARY RSCH. LAW SCHOOL SURVEY OF STUDENT ENGAGEMENT, 2021 ANNUAL REPORT: THE COVID CRISIS IN LEGAL EDUCATION 6 (2021), <https://lssse.indiana.edu/wp->

with the overall law school experience as well as overwhelmingly positive interactions with faculty, noting that ninety-three percent of their professors have shown them “care and concern” during the pandemic.<sup>42</sup>

All students in higher education should receive the institutional support they need to succeed; empathetic and accessible faculty will continue to play an important role in this process. Similarly, faculty should be supported on their path to professional success; while producing scholarship will likely continue to be necessary for advancement in legal academia, models that place greater value on teaching and service would be more equitable. Furthermore, mental health challenges will continue to affect students and faculty even post-pandemic, due to lingering effects of COVID as well as new and other ongoing stressors. PELA findings reveal that professors have been navigating intensifying pressures due to COVID. Faculty in vulnerable positions pre-pandemic are in even more precarious situations now, and the barriers will remain long after COVID subsides. Given the continuum of these challenges, our priority must be to make necessary changes to address these concerns or risk losing not only vulnerable faculty, but also the students those professors have long supported.

#### CONCLUSION

In a traditional law review piece, the author would now share clear-cut solutions—a normative proposal or suggestions for improvement. This Essay advocates for going beyond the basics.

Tenure and promotion delay is one common faculty-support strategy that many institutions implemented soon after COVID upheavals began in spring 2020.<sup>43</sup> As we enter the third year of COVID restrictions, stress, and limitations, it is obvious that a one-year optional tenure delay is insufficient. Renee recognized this in the first year of the pandemic, noting, “I was offered to put my [upcoming promotion] review off to the next year and I chose not to. My publication record wasn’t going to get better if I waited for a year, rather than doing it now. We’re still in COVID, COVID is now.” This remains true even today.

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content/uploads/2015/12/COVID-Crisis-in-Legal-Education-Final-10.28.21.pdf [https://perma.cc/BE7R-M8BR].

<sup>42</sup> A full 78% of law student respondents to the 2021 LSSSE survey report that their law school experience has been “good” or “excellent,” while 72% report positive relationships with faculty; both findings are relatively consistent with data collected in recent years. *Id.* at 7.

<sup>43</sup> *E.g.*, Lauren Scungio, *Adapting in Times of Crisis: Navigating Tenure Clock Stoppage*, HARV. UNIV. GRAD. SCH. OF EDUC. COLLABORATIVE ON ACAD. CAREERS IN HIGHER EDUC.: BLOG (Mar. 31, 2020), <https://coache.gse.harvard.edu/blog/adapting-times-crisis-navigating-tenure-clock-stoppage> [https://perma.cc/VPW7-8RHE].



Renee also considered others in her tenure cohort, wondering, “What if I’m up against men who took an additional year, and they have more pieces and then I’ll be compared to them?” Renee’s concerns are warranted. Participants in the PELA study who had little to no caregiving responsibilities have been publishing more. For instance, an untenured Asian American professor named Neel published over half a dozen pieces during academic year 2020–2021 alone; he recognizes that having “no caregiving responsibilities obviously [is] a huge reason why I’ve been able to be productive.”

A tenure delay does not take disparate resources or responsibilities into account. Nor does it acknowledge the gender imbalance in service, where women have been overburdened by an explosion of student needs, institutional priorities, and campus-wide initiatives.

Tenure delay similarly ignores the innovative pedagogical approaches to online learning that have been the hallmark of many contract-based professors, those teaching skills-heavy courses, and tenured and tenure-track women teaching doctrinal courses. Furthermore, tenure deferral offers nothing whatsoever to the many contract-based faculty who have been carrying significant burdens long before as well as throughout the pandemic, since they are not eligible for tenure now or later. Similarly, those who are already full professors derive no support or benefit when institutions respond to pandemic pressures on faculty simply by providing opportunities to delay tenure or promotion.

Administrators must also address many additional negative financial consequences of the pandemic for vulnerable populations that are less likely to receive merit increases, cost of living adjustments, or bonuses for scholarly productivity if they are overburdened with personal and academic caretaking.<sup>44</sup> Delaying promotion also delays financial benefits that often accompany tenure, with lasting effects throughout the faculty trajectory. Additionally, the barriers are not time-limited as opportunities to make a lateral move to a new institution, secure a coveted chaired faculty position, or procure research or grant funding are also implicated, with effects reaching far into the future. Tenure delays cannot be the only option.

How can we think bigger? One suggestion comes from a white professor named Amy, who has no caregiving responsibilities herself and enjoys the

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<sup>44</sup> Cassandra M. Guarino & Victor M.H. Borden, *Faculty Service Loads and Gender: Are Women Taking Care of the Academic Family?*, 58 RSCH. HIGHER EDUC. 672, 690-91 (2017) (finding that women faculty, on average, report performing more service than male faculty, and that such service loads reduce productivity in areas like research and teaching, which in turn leads to salary differentials).

security of tenure but recognizes how the pandemic has exacerbated ongoing inequities in legal academia. She says:

What I think we should do is reduce the scholarship requirement by 50%. If someone wrote one article and the normal expectation is two, look at that one article and give them tenure based on what they actually were able to produce instead of just moving the date. I mean, when is anyone going to have more time to write that second article? Just evaluate people based on what they were able to do. In a sense, give an accommodation, the way you might with respect to disability. Just prorate what people have done. We know how to do that. We're lawyers.

We should also consider other out-of-the box strategies for addressing the changing needs of vulnerable faculty. Because many of these challenges existed for decades before being exacerbated during COVID, solutions have been available for years.<sup>45</sup> For instance, women of color faculty who carry a disproportionate share of the student service burden—hosting individual meetings, providing emotional labor, and centering student needs—could be released from one or two formal service committees in order to preserve more of their time for research and make service loads more equitable. Other barriers that are unique to COVID will need novel and innovative solutions. For example, administrators might offer teaching relief, extend contracts until the pandemic is over, or fund more research assistants to serve the needs of students and faculty alike.

These academic-specific solutions are useful considerations to mitigate ongoing pandemic effects not only for law professors, but also for graduate students and academics in other disciplines.<sup>46</sup> Many American workers are in much more precarious positions, both personally and professionally. Single parents, parents of children with disabilities, and those with disabilities themselves are navigating even more challenging situations, often with less structural support.<sup>47</sup> Furthermore, front-line workers and others with less flexible and more physically or mentally taxing jobs also face stressors far beyond what many professors are managing. Whether working more

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<sup>45</sup> For a comprehensive list of structural solutions to ongoing inequities in legal academia, see DEO, *supra* note 1, at 158-69.

<sup>46</sup> Tina Cheuk, *The Invisible Woman: Student Parents and the COVID-19 Pandemic*, AJE F. (Aug. 13, 2021), <https://www.ajeforum.com/the-invisible-woman-student-parents-and-the-covid-19-pandemic-by-tina-cheuk> [<https://perma.cc/2CC4-CQJK>] (discussing the adverse effects of the pandemic on student parents in higher education).

<sup>47</sup> The PELA study sample includes participants who are single parents, parents of children with disabilities, and faculty with disabilities as well as those in same-sex marriages, in the LGBTQ community, and from other groups traditionally excluded from legal academia. They are not identified as such in the reported findings in order to protect their anonymity due to the small number of people with those background characteristics teaching in law schools today.

demanding jobs or caretaking in more demanding circumstances, many individuals face additional and unique barriers due to COVID. The PELA findings and solutions should be applied to their circumstances too.

If we think broadly about the findings documented in the PELA data—the expectation that people from marginalized populations serve those in need, leaving less time for work that is more valued, which adds to negative mental health effects—it becomes clear that the implications of this research extend to virtually all women in the workforce, caregivers juggling extra responsibilities at work and at home, and those working in positions with little pay, security, or opportunity for advancement. Similarly, if we consider the primary solution as “thinking creatively to support those in need,” improvements in other arenas must go far beyond immediate fixes to reimagine the structure of the workplace and strike at the heart of existing inequities before we lose these workers to ongoing pandemic pressures. For some institutions, that may mean giving workers the option to continue working from home; others could offer flex time, or job-shares, or assess advancement based on different (and more equitable) metrics than they have used in the past.

While the pandemic has been awful in myriad respects, it also has provided an opportunity to make meaningful change. We can choose to work together to eliminate barriers in order to not just maintain but increase diversity, equity, and inclusion. At a time when so many law schools have pledged to support antiracism and social justice, promoting greater equity in legal academia through innovative measures and novel policies would prove their commitment.<sup>48</sup> Not doing so means we run the risk of losing the gains we have made over the past two decades—as well as the very people who represent that progress.<sup>49</sup> PELA data has documented that large percentages of law faculty from marginalized populations, like professors in other

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<sup>48</sup> *Supra* note 2.

<sup>49</sup> In the alternative, faculty will push back through strikes, walk outs, and other measures; this is also already occurring. Jonathan Franklin, *Howard University Faculty Are Threatening to Strike over Working Conditions and Wages*, NPR (Mar. 18, 2022, 6:00 AM), <https://www.npr.org/2022/03/18/1087415895/howard-university-faculty-are-threatening-to-strike-over-working-conditions-and-https://perma.cc/N7AU-RG7S> (“Hundreds of faculty members at Howard University in Washington, D.C., say they are threatening to go on strike next week over complaints of unfair working conditions [including] . . . low pay for non-tenured, full-time teaching faculty and adjunct professors.”); Foon Rhee, *Cal State and Faculty Union Make a Deal*, CAL MATTERS (Dec. 21, 2021), <https://calmatters.org/newsletters/whatmatters/2021/12/california-unions-calstate-faculty-deal-https://perma.cc/KL8C-QXU7> (noting that California State University faculty will receive a raise and “a \$3,500 COVID bonus in recognition of the colossal upheaval to instruction as classes moved online in the 2020–21 school year” in order to avoid “a possible walkout and class cancellations”).

disciplines, are considering leaving academia.<sup>50</sup> Some have left already, including two participants from the PELA study.

This Essay begins the conversation about addressing challenges facing vulnerable populations during COVID. As initial PELA findings show, the stakes are high. Without these professors, institutions will have fewer individuals invested in service, classrooms will be less innovative, and students will lack opportunities for meaningful mentorship. We must make necessary structural improvements to the foundations of legal education and work towards a more equity-focused future, or risk losing the intellectual contributions of a generation of law teachers from diverse backgrounds to the lingering effects of the pandemic.

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<sup>50</sup> CHRON. OF HIGHER EDUC., “ON THE VERGE OF BURNOUT”: COVID-19’S IMPACT ON FACULTY WELL-BEING AND CAREER PLANS 2 (2020), [https://connect.chronicle.com/rs/931-EKA-218/images/Covid%26FacultyCareerPaths\\_Fidelity\\_ResearchBrief\\_v3%20%281%29.pdf](https://connect.chronicle.com/rs/931-EKA-218/images/Covid%26FacultyCareerPaths_Fidelity_ResearchBrief_v3%20%281%29.pdf) [<https://perma.cc/LQ6M-D4T5>] (“More than half of all faculty are considering retiring or changing careers and leaving higher education . . . .”); Jillian Kramer, *The Virus Moved Female Faculty to the Brink. Will Universities Help?*, N.Y. TIMES (Oct. 6, 2020), <https://www.nytimes.com/2020/10/06/science/covid-universities-women.html> [<https://perma.cc/HX6L-DUE7>] (“[T]he issues that women in academia are now facing . . . are more severe versions of longstanding gender gaps that already cause universities to hemorrhage female faculty, particularly women of color, and will require measures that go beyond institutional responses to the pandemic.”); Holly Else, *Pandemic Pressures Made Parents Consider Quitting Academia*, NATURE (June 28, 2021), <https://doi.org/10.1038/d41586-021-01761-x> (noting the stressful impact of increased childcare responsibilities caused by the pandemic on women healthcare researchers).