

The *Yale Journal of Law and Feminism* Twenty Years Ago: Reflections from Our Founding Members

Sherrie Nachman[†]

What stands out most in my mind was just how easy it was to start the *Yale Journal of Law and Feminism (YJLF)*—much easier than I imagine it was to publish all of the issues that have followed.

During my third year at law school, it struck me that Yale Law School should have a “women’s” law journal, similar to those that existed at some of the other law schools. After a casual conversation with some of my friends to determine if there was any interest, I approached then-Dean Guido Calabresi with a list of all the things that we would need to start our journal—an office, a computer, and a budget. While I was prepared for the hard sell, Guido simply said “yes.” Our next step was to find a faculty advisor, and Professor Owen Fiss also easily agreed to help out. He even provided several contacts who wrote the articles that set the tone for the first issue.

We organized a meeting to present the publication to the law school—I remember having a little bit of stage fright as I explained our vision before about 100 people. But around twenty students, including one man, showed up at our first meeting and we began hammering out a plan. I was thrilled when the first issue came out the semester after I graduated. *YJLF* was such a success that at least one other new law journal was started shortly thereafter.

Over the last twenty years, I have perhaps not remembered as often as I should one of my favorite lessons from the *Journal*—that starting something new and magnificent does not have to be all that difficult.

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Sarah E. Ricks[†]

I look forward to the periodic arrival of the *Yale Journal of Law and Feminism*. I know I will be engaged by a wide variety of current issues in feminist thought. Each arrival is tangible evidence that current students and authors are willing to devote intellectual energy to issues similar to those that motivated students to organize the *Journal* twenty years ago. When I see the growing volume number and the editorial staff of tens of students, I am proud of your success. It is a far cry from the small staff meeting in late spring 1988 when, in the spring of my 1L year, I first joined the *Journal*. The proposal for the *Journal* had already been approved by the law school. The next step was to turn the aspirations of our little community into a working journal. A handful of returning students decided to commit time over the summer and the following year to work toward publishing the first issue. Joined in September 1988 by a big group of energetic first-year students, we did.

The climate at Yale was different then. During my years in law school, 1987-1990, the one Yale faculty member who focused on feminist scholarship left for Buffalo. Her departure, coupled with the murmurings of hostility toward Visiting Professor Catherine MacKinnon, who brilliantly taught Sex Equality to a packed room 127¹ but was not offered a permanent position, suggested to some of us that feminist views were not merely overlooked, but also unwelcomed, by some in the law school. In our visits to faculty to solicit support for our fledgling journal, one faculty member (since departed) told me, in refusing, that feminism was not a legitimate academic discipline but simply a political stance.

Other faculty enthusiastically supported our efforts. Then-Dean Guido Calabresi readily pledged office space, a computer, and a budget. Associate Dean Barbara Safriet, now retired, affirmed that ours was a needed voice and, along with several other faculty members, agreed to serve on our original Board.

The *Journal* staff meetings were a fun, welcome haven and a comfortable place to make sense of the law school experience. Our willingness to challenge traditional law journal content meant we were receptive to material traditionally excluded from law journals. We considered, and sometimes published, photography, briefs, interdisciplinary work, and essays by non-lawyers.

One way we communicated our openness to a wider variety of material was by creating a non-verbal symbol of the *Journal*, a logo. We chose a hand-

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1. Room 127 is the largest classroom in the law school.

drawn, colored image of Justice removing her own blindfold. The first logo was deliberately racially ambiguous. To create a visual manifestation of *YJLF*'s openness to work by feminists of many races, we rotated different versions of the logo that allude to specific races.

We saw the *Journal* as an alternative to the traditional hierarchy of a law school classroom. We experimented with collective decision making, non-hierarchical structures, and different rules for verbal participation, such as non-interruption. Some techniques worked well. Others reminded me why hierarchy can be more efficient.

Working on the *Journal* enriched my law school experience and colors my work today. Among my most rewarding intellectual experiences in law school was *Journal* staffer Jacqueline Coy Charlesworth's rigorous editing of my essay on the abortion pill RU-486.² Our working relationship, forged at the *Journal*, continued later that summer when Jacqueline and I worked at the ACLU Reproductive Freedom Project, drafting portions of petitioners' brief to the U.S. Supreme Court in an abortion case.³

The *Journal*'s receptivity to a wider variety of material as legitimate sources of legal understanding informs my work as a law teacher today, as I draft a constitutional litigation textbook that contextualizes the students' learning of doctrine by including photographs, briefs, interviews with litigants and lawyers, and information on the working conditions of police, prison guards, and social workers.⁴ Our *Journal* conversations helped me find my voice within law school and, as a law teacher now, I try to honor that experience by experimenting with ways to encourage my students to find their own voices within law school and in their working lives. Hopefully, part of the *Journal*'s continuing influence on its editors and readers is a willingness to encourage new voices in legal and policy debates and an openness to reforms of legal education rooted in practical, real-world experience.

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2. Sarah Ricks, *The New French Abortion Pill: The Moral Property of Women*, 1 YALE J.L. & FEMINISM 75 (1989).

3. *Hodgson v. Minnesota*, 497 U.S. 417 (1990).

4. SARAH E. RICKS, CURRENT ISSUES IN CONSTITUTIONAL LITIGATION: ROLES OF THE COURTS, ATTORNEYS, AND ADMINISTRATORS, CONTEXT AND PRACTICE SERIES (Michael Hunter Schwartz ed., Carolina Academic Press, forthcoming 2010).

Elizabeth Kaplan[†]

Twenty years are nothing, a blink of the eye. Twenty years are an eternity, an entire generation. It all depends on your perspective. A college classmate of mine returned to Yale to pursue a Ph.D. in history a mere year after graduating in 1985, and her undergraduate students, learning that she'd once been a Yale undergrad, too, asked her in all seriousness, "So, what was it like to be at Yale in the 1960s?" "In the 1960s I was in kindergarten," she replied.

But I really was at Yale in the 1980s: the years of Ronald Reagan and George Bush, Sr., before the fall of the Berlin Wall, when computers gradually began to replace typewriters, the early years of AIDS awareness and deaths. No cell phones, no internet, but plenty of shoulderpads. People were talking about Baby M,¹ an early surrogacy case, and reading Margaret Atwood's cautionary *Handmaid's Tale*.² When a soft-core porn movie was shown in the Law School auditorium by an undergraduate film society, I stood next to Dean Calabresi holding a sign that said "Our Bodies are Not Speech." I remember chillingly prescient dinner-time debates about how and whether the United States could shift towards fascism.

In 1988, the *Yale Journal of Law and Feminism* came into being, and its first issue was published in 1989. My name is listed on the *YJLF* masthead as "Member." Like the other women (and one man) on the first *YJLF* staff, I had no title. We conceived of and ran the *Journal* as a non-hierarchical organization. The process by which we produced the publication was as important to us as its content.

The original idea of starting a women's law journal sprang from Sherrie Nachman, a third-year friend. After discussing the idea excitedly among a fairly wide group of interested students, we held an evening meeting to discover how many people in the Yale Law School community wanted to work on a feminist law journal, and how we should go about creating it. In retrospect, I realize that many of the people who attended that first meeting—which filled a large lecture hall—were simply curious. In any case, the meeting didn't go well. One male student, who deemed himself a feminist (or at least an expert on feminism) dominated the proceedings. I don't recall exactly what he said, but I do recall how, by the meeting's end, the vast majority of attendees voted by a show of hands to restrict the *Journal's* staff to women. Although I believe that he did not consciously intend to sabotage the project before it even got off the ground, I doubt he ever had any intention of actually working on the *Journal*.

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1. *Matter of Baby M*, 537 A. 2d 1227 (N.J. 1988).

2. MARGARET ATWOOD, *THE HANDMAID'S TALE* (1985).

Suffice it to say, bad feelings and discord all but killed off the idea for several months. But it didn't die altogether. Sherrie and I and a handful of mostly first-year students revived it the following semester. We held another meeting—much less well-attended than the first—and the group voted that men could work on the *Journal* if they wanted to (in the end, only one man, Steve Sowle, wound up doing so). The Dean of the Law School, Guido Calabresi, agreed that the Law School would provide a meeting space, a computer, and all necessary financial and technical support to the new journal. This was actually the easiest part of all—a group of us went in to meet the Dean with trepidation, prepared to argue our case, but his support was immediate and unconditional.

As I mentioned earlier, we wanted the process by which we produced the *Journal* to reflect our feminist ideals. All the staff's decisions were reached by consensus. No one was the boss or the editor. Every meeting was mediated by one person, who planned and organized the agenda, and this task rotated among the entire group. At meetings, we went around the circle and explicitly gave everyone an opportunity to speak out. Although we wanted to break with tradition, we chose a name for the new journal which was serious and a little solemn, and purposefully included both the name "Yale" and the word "feminism." The *Journal's* cover graphics were provided by Ann Mackey, my college roommate, and Jacqueline Schafer, another founding member, who drew the woodcut-like image of Justice uncovering her eyes. Although there was no shortage of strong personalities in the group, we got along well, energized by the experience of inventing a law journal from the ground up. We invited every famous name we could think of to join our board of faculty advisors, and every one did. We solicited submissions and were thrilled by the ease which with they arrived and their high quality. The name "Yale" worked its magic.

When the first issue came out, we held a small celebration in the YLS common room. I remember standing on a chair to say a few words of congratulations, and feeling moved and very proud. I still feel moved and proud to think that the *Yale Journal of Law and Feminism* is going strong after twenty years, and grateful that the current editors (I notice that they're no longer called members) have seen fit to recapture a little bit of historic memory.

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Stephanie Cotsirilos[†]

My reflections on this twentieth anniversary are fairly simple. Of course, it's hard to believe that so much time has passed, but good to know that the project we started twenty years ago still provides a connection among us. I remember, when my classmates and I launched the *Yale Journal of Law and Feminism*, how supportive the administration was of the project and what controversy ensued from the conversations among students about whether only women would be involved in running *YJLF*. This required some fairly sharp examination of personal feelings, biases, and visions of what was equitable.

Snapshots of memory from that time include the passion of a beautiful, dark-haired woman saying to a young man outraged at being excluded from the proposed *YJLF* staff, "Now you know how it feels." Another scene comes to mind, that of women and men saying, "Isn't this kind of exclusion precisely what we seek to remedy in founding *YJLF*, and shouldn't we decline to engage in it?" I remember sitting down with a classmate at lunch and asking him about his discomfort with an all-female *YJLF* staff, adding a second question—namely, whether he wanted to join the *Journal*. I can see him now, his hair glowing with the diffuse sunshine seeping through the cafeteria's gothic leaded windows. His answer was that he did not want to join but, in principle, did not want to be excluded. And then there were the many young women and men, quiet, watching, torn by thoughts of sympathy, justice, respect, hurt, and pride.

This may come as a surprise: I remember less about the outcome of that debate than I do about its process. I remember that the faculty and administration let it play out, as they must. I remember its being a daily wake-up call about otherwise abstract concepts of law, privilege, justice, and the ethics of payback.

Today, I live in Maine with my teenage son. In a range of capacities, I work with the nonprofit sector, which is unusually important economically in this state. I don't often have the opportunity to return to Yale Law School, so writing this reflection is particularly welcome. Having been an older, nontraditional law student, I take a moment this morning to remember the intelligent, visionary young women who honored me with the chance to become part of founding *YJLF*. Sitting here at my desk, surrounded by Maine's North Woods, I'm enjoying my memories. My thoughts move on to the women and men I knew who walked through changes in their lives at Yale Law School—those who argued, those who agreed, those who kept their silence,

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those who challenged my thinking. *YJLF* was emblematic of a journey that involved all that, and I was lucky to be part of it.

An August rain has begun here. Through you, I am thinking about New Haven. Thank you all.

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Jacqueline C. Charlesworth[†]

I arrived at Yale Law School in 1988 as a devoted feminist (among other things) and found that there was no one on the faculty whose studies were dedicated to women and the law (the introduction to the first issue of the *Yale Journal of Law and Feminism* quite accurately describes a “void” in feminist scholarship at Yale).¹ On the other hand, there was the newly established *Yale Journal of Law and Feminism*—welcoming to anyone willing to do the work—and the possibility of filling it with all the scholarship that was missing.

From my vantage point twenty years later, I see the *Journal* not just as a counterpoint to the male-dominated landscape at Yale but also as part of the longer and broader feminist tradition of consciousness raising. This was a publication, after all, the stated mission of which was to “expose and analyze issues bearing specifically on women, as well as continue the feminist struggle to look at the world as a whole through a gender-conscious lens.”² We sought to raise awareness (including our own) of how women’s experiences were reflected, deflected—and, at times, erased—by the law. True to the spirit of our 1970s foremothers, we were collective, inclusive, and operated (sometimes infuriatingly, but always committedly) by consensus. We were pre-post-feminist.

For the inaugural issue of the *Journal*, I edited a carefully researched and thoughtful article on the so-called French abortion pill RU-486 by founding member Sarah Ricks.³ Though I lacked experience for the job, I remember my author as a patient subject.

I also contributed the cover design: an image of Justitia (Ursula Werner, writing in the first issue about the design, invoked her proper Latin name).⁴

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1. *Introductory Statement*, 1 YALE J.L. & FEMINISM, at ix (1989). A notable development after my arrival was the temporary presence of Catharine A. MacKinnon, a visiting professor at the law school in the spring semesters of 1989 and 1990.

2. *Id.*

3. Sarah Ricks, *The New French Abortion Pill: The Moral Property of Women*, 1 YALE J.L. & FEMINISM 75 (1989).

4. Ursula Werner, *Dis-Covering Our Cover*, 1 YALE J.L. & FEMINISM 1 (1989).

Justitia, as might be expected, is cradling her scales protectively. But she is also lifting her blindfold. As I remember it, in creating the cover drawing, I had initially sketched in the conventional blindfold, but ultimately felt compelled to empower my subject with the ability to see the world around her. The issues of women are so often obscured in our legal system: If something cannot be seen, how can it possibly be fixed?

In this vein, while rereading the disquieting words of Catharine MacKinnon in her address to the 1989 graduating class of Yale Law School, published in Volume Two of the *Journal*—that “some proud mothers must, statistically, sit here at graduation next to their batterers; when some excited graduates must sit a row or two away from their rapists, relieved to be leaving their sexual harassers”⁵—I can see the graduates and their guests shifting uncomfortably in their folding chairs as this particular truth invaded expected platitudes (though one could not fairly expect platitudes from MacKinnon). I am also struck by the memory of a classmate who confided in me not long after that speech was given. She, who very much wanted a federal judicial clerkship, was trying to figure out what to do about the federal judge who had offered his assistance with the *quid pro quo* of a sexual relationship.

I also recall our communal consideration of an intimate and vivid submission by *Journal* member Bobbi Carr (now McGehee), eventually published in Volume Three, chronicling the events of her miscarriage.⁶ Bobbi exposed the self-serving attitudes of the doctors who treated her and the painfulness of her loss on every level. For those of us focused on protecting abortion rights, it was unfamiliar and unsettling to view reproductive autonomy from the other side of the “gender-conscious lens.” Far removed from my own experience at the time, I came to understand this perspective more in a later chapter of my life.

Notably, the “lively discussion” we sought to encourage in our publication⁷ sometimes materialized. My *Journal* experience was testament to the fact that not all feminist thinkers agree on the sources of female oppression or strategies to end it. The dialectic—and dialogue—of the consciousness raising project can sometimes be harsh.

In our first issue, Andrea Dworkin contributed a brief but pointed piece characterizing the ACLU as “a handmaiden of the pornographers, the Nazis, and the Ku Klux Klan” on account of the ACLU’s adherence to what Dworkin deemed “unembodied principle.”⁸ Responding in the subsequent issue with a dissertation on the ACLU’s feminist credentials, ACLU defenders Mary Ellen Gale and Nadine Strossen fired back, accusing Dworkin of “a kind of verbal

5. Catharine A. MacKinnon, *Graduation Address: Yale Law School, June 1989*, 2 YALE J.L. & FEMINISM 299, 301 (1990).

6. Bobbi Carr, *Neither Sound Nor Sight*, 3 YALE J.L. & FEMINISM 153 (1990).

7. *Preface*, 2 YALE J.L. & FEMINISM, at v (1989).

8. Andrea Dworkin, *The ACLU: Bait and Switch*, 1 YALE J.L. & FEMINISM 37, 37, 39 (1989).

rape, meant to violate the identity and the integrity of the rhetorical victim.”⁹ Footnote 107 of the Gale and Strossen piece further asserted that the New York Civil Liberties Union (NYCLU) had once represented Dworkin in connection with Dworkin’s protest of body-cavity searches after her arrest in a demonstration against the Vietnam War.¹⁰ Dworkin complained about the accuracy of this claim, vociferously. After considerable deliberation, the *Journal* members ultimately felt compelled to acknowledge that they had been “unable to substantiate the existence” of appropriate supporting documentation, with the result that the footnote in question “seriously overstate[d] the NYCLU’s involvement while omitting credit toward Ms. Dworkin’s well-documented protest against the brutal internal examinations of women.”¹¹ But, of course, this was much more than a cite-checking issue.

Today, on the other side of the culture wars of the late twentieth century, the unrepentant feminism of the *Journal* is a rarity to encounter, even a luxury to contemplate, for those of us whose careers have proceeded down other paths. But consciousness raising is an enduring and essential mission. We live in a time where there are t-shirts for sale in our nation’s capital that refer to a female presidential candidate and Yale Law School graduate as fried chicken parts: “Try our NEW ‘Hillary Meal’: 2 fat thighs with small breasts and a left wing.”¹² Verbal rape indeed.

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Bobbi McGehee[†]

My recollections of working on the early volumes of the *Yale Journal of Law and Feminism* are inextricably connected to my memories of my wonderful friends and co-workers, particularly Ursula Werner and Susan Mathews. These incredibly talented women helped me broaden and refine my own views on feminism. I attended Yale in the late 80s, a time when women in my home state of Alabama were deeply divided over the issue of working outside their homes. It was seen as a feminist move to choose a career in any field, but to choose one in a predominantly male profession such as law was almost brazen. Naturally, Yale’s view of feminism was far more liberal than anything I could have imagined given my prior experiences. My understanding

9. Mary Ellen Gale & Nadine Strossen, *The Real ACLU*, 2 YALE J.L. & FEMINISM 161, 172 (1989).

10. *Id.* at 180 n.107.

11. *Correction*, 3 YALE J.L. & FEMINISM, at v (1990).

12. T-shirt on sale at Union Station, Washington, D.C. (Apr. 11, 2008).

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was enlightened both by the great feminist writers of the day and by my classmates.

Sadly, when I returned to Alabama after completing my degree, I was even more out-of-step with the general social milieu than before Yale. I became an ardent supporter of change in our legal system's handling of domestic violence. Yet, to desire change where no one else even perceives a problem is incredibly frustrating. Although my post-Yale experiences are limited to Alabama and Florida, in my opinion, people here have been educated to know that domestic violence is "bad." However, prose and practice are disconnected. As an attorney, I saw time and again how women and children were re-victimized in court, how certain lawyers had drinks on Wednesday nights with the judge and settled next week's cases quite apart from the facts or the courtroom, and how a lawyer could taint one judge who would then pass along the "information" to the judge handling the relevant case ("circuitous ex parte"). Other attorneys told jokes about real women who had reported domestic violence. These women were always seen as having ulterior motives or mental problems. Perhaps this is a rural phenomenon. Perhaps it is an Alabama/Florida issue. I only know that I remain deeply troubled.

We light candles in vigils to remember the fallen, but we do so little to stop the war against women in their homes. Hanging ribbons to encourage violence/abuse awareness only seems to encourage a sense that something has been accomplished when, in truth, we have reduced only our sense of helplessness regarding the problem. There is so much work remaining to be done if we are to realize the promise of every woman's potential.

My hope is that the *Journal* will be a force for change that awakens and empowers women. May you continue to enjoy success in the important endeavors of the *Journal*.