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# Starting gendered career pathways early? Differences between women and men students in optional module composition among UK law school undergraduates

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## ABSTRACT

Women's inequalities in the legal profession are an enduring concern. Women are over-represented in junior positions and under-represented in senior roles, especially in large corporate firms. This pattern is compounded for women from Black and minority ethnic backgrounds in comparison to both men of all ethnicities and white women. This is informed not by ability, but by masculinity-privileging working cultures and practices. Women legal academics are also under-represented in senior roles. However, less is understood about women law students' experiences, particularly in the UK and in recent research. This article reports on a new project which explored undergraduate student allocation on module options at York Law School, University of York, UK. There were marked gender differences in student composition in just over half (36) of the 66 different optional modules between 2014 and 2022. Women were under-represented on modules relating to commercial, corporate and financial law and over-represented on modules relating to family, health, social welfare, gender and sexuality. While there are many possible causal factors, there is clear resonance with the literature on gender inequalities in the legal profession and legal academia. The curriculum and careers guidance implications are considered, and a research agenda proposed.

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**KEYWORDS** Gender; equality; law; student; women; curriculum

## Introduction

There is growing recognition that legal career pathways are shaped by sex (biological) and gender (social constructions of feminine and masculine). Women and men fare differently when they enter the legal profession and as their careers progress.<sup>1</sup>

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<sup>1</sup>Judith K Pringle and others, "Women's Career Progression in Law Firms: Views from the Top, Views from Below" (2017) 24 Gender, Work & Organization 435; Law Society, "Influencing For Impact: The Need for Gender Equality in the Legal Profession" (Law Society 2019).

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According to the Solicitors Regulation Authority (SRA),<sup>2</sup> women comprise 52% of lawyers in law firms,<sup>3</sup> while they make up 48% of the workforce in England, Scotland and Wales,<sup>4</sup> meaning that the legal profession is slightly disproportionately represented by women. However, while 61% of solicitors are women, only 35% of law firm partners are women,<sup>5</sup> while women are over-represented among “other staff” working in law firms (74%), namely those in “other fee earning roles, roles directly supporting fee earners, managerial roles, IT/HR/other corporate services roles”.<sup>6</sup> Women are notably more under-represented at senior levels in the largest law firms, where they also experience both a “gender pay gap”<sup>7</sup> and a “gender bonus gap”.<sup>8</sup> In terms of legal specialism, women are under-represented in criminal law (39%) and corporate law (46%) and slightly over-represented in private client (56%) and mixed (55%) work.<sup>9</sup>

Women from Black and minority ethnic (BAME) backgrounds are affected at the intersection of race, ethnicity and gender,<sup>10</sup> being less likely than both men from BAME backgrounds and white women to become partner/senior partner in most employment contexts.<sup>11</sup> In terms of LGBTQ legal careers, in England and Wales, heterosexual men earn, on average, more than gay men, while both heterosexual and gay men earn more than lesbians and heterosexual women.<sup>12</sup> There is a need to better understand the position of transgender and gender non-binary individuals in the profession.<sup>13</sup>

Women’s reduced promotion prospects are not understood to be associated with ability; indeed many women law graduates outperform men in their fields.<sup>14</sup> Instead, connections have been made with cultural capital, gender stereotyping, masculinised social networking, long working hours, and limited or no opportunities for flexible working (particularly for those – primarily women – with caring responsibilities).<sup>15</sup> The new “Women in Law Pledge”<sup>16</sup> (a collaboration between the Law Society of England

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<sup>2</sup>Solicitors Regulation Authority (SRA), “How Diverse Is the Legal Profession?” (SRA 2022).

<sup>3</sup>*ibid* 4.

<sup>4</sup>Susannah Irvine and others, “Women and the UK Economy” (Research Briefing Number 6838, House of Commons Library 2022).

<sup>5</sup>SRA (n 2) 4.

<sup>6</sup>*ibid* 5.

<sup>7</sup>Law Society, “Gender Pay Gap Reporting: What Can We Learn from the 2020 Snapshot?” (Law Society 2021).

<sup>8</sup>*ibid*.

<sup>9</sup>*ibid* 4.

<sup>10</sup>Spencer Headworth and others (eds), *Diversity in Practice: Race, Gender, and Class in Legal and Professional Careers* (Cambridge University Press 2016); Jennifer Tomlinson and others, “Privileges and Penalties in the Legal Profession: An Intersectional Analysis of Career Progression” (2019) 70 *The British Journal of Sociology* 1043; Robert L. Nelson and others, “Perceiving Discrimination: Race, Gender, and Sexual Orientation in the Legal Workplace” (2019) *Law & Social Inquiry* 1051.

<sup>11</sup>Sundee Aulakh and others, “Mapping Advantages and Disadvantages: Diversity in the Legal Profession in England and Wales” (Solicitors Regulation Authority 2017) 7.

<sup>12</sup>InterLaw Diversity Forum, “LGBT+ Factsheet: Key Findings from the 2021 Report, Career Progression the Legal Sector” (2021) <[https://5aa06e50-1b3c-4843-b70a-a841ab933579.usrfiles.com/ugd/5aa06e\\_b8150387ca1243418743b2b75f675414.pdf](https://5aa06e50-1b3c-4843-b70a-a841ab933579.usrfiles.com/ugd/5aa06e_b8150387ca1243418743b2b75f675414.pdf)> (accessed 21 April 2023).

<sup>13</sup>Solicitors Regulation Authority, “Lesbian, Gay, Bi, Trans and Non-Binary Inclusion” (SRA 2023). <[www.sra.org.uk/solicitors/resources/diversity-toolkit/lesbian-gay-bisexual-transgender-inclusion/](http://www.sra.org.uk/solicitors/resources/diversity-toolkit/lesbian-gay-bisexual-transgender-inclusion/)> (accessed 21 April 2023).

<sup>14</sup>Janet Walsh, “Not Worth the Sacrifice? Women’s Aspirations and Career Progression in Law Firms” (2012) 19 *Gender, Work & Organization* 508.

<sup>15</sup>Richard Collier, “Naming Men as Men in Corporate Legal Practice: Gender and the Idea of Virtually 24/7 Commitment in Law” (2015) 83 *Fordham L Rev* 2387; Aline Bütikofer, Sissel Jensen and Kjell G. Salvenes, “The Role of Parenthood on the Gender Gap Among Top Earners” (2018) 109 *European Economic Review* 103; Law Society, “Advocating for Change: Transforming the Future of the Legal Profession through Greater Gender Equality” (International Women in Law Report, Law Society 2019).

<sup>16</sup>Law Society of England and Wales, the Bar Council and CILEx, “Women In Law Pledge: A Commitment for Gender Equality across the Legal Profession” (Law Society 2020).

and Wales, the Bar Council, CILEx and other organisations associated with the legal profession) calls for a commitment to, and enactment of, key strategies to promote gender equality. The pledge commits organisations to supporting women's career progression into senior roles in the legal profession via action plans, objectives and targets.

Despite growing interest in improving women's positions in the legal profession, and literature on gendered legal academic careers,<sup>17</sup> far less is understood in relation to women law students. Research has primarily come from the US, much of which was conducted in the 1980s, 1990s and early 2000s. This article offers new insights, based on a research project conducted at York Law School (YLS), University of York, UK. Analysis of the profiles of YLS undergraduate law students on elective module options across a seven-year period found that over half the modules had disproportionate numbers of women and men students, with women under-represented on topics relating to commercial, corporate and financial law, and over-represented on modules relating to family, health and social welfare law.

These findings are discussed in relation to the literature on women and inequality in legal academia and in the wider legal profession. The curriculum and careers guidance implications are considered. It is essential to address these issues, to ensure equitable legal education experiences for all.

## Background

The disadvantaging of women in law firm cultures has been the focus of much previous research and, despite increasing diversity rhetoric among law firms, remains a present-day concern.<sup>18</sup> Theories of gender regimes in organisations<sup>19</sup> highlight the structuring of organisations and organisational cultures in gendered ways which involve associating women and men with certain occupations, roles and activities, and related gendered power dynamics. This has been applied to the gendered patterns of women's representation in the legal profession.<sup>20</sup> Sommerlad has described:

... hyper-masculine work cultures in which women figure as backrooms technicians ... the intensification of work ... the heightened significance of client care, leading to the development of "boundary spanning roles" that generate even greater demands in terms of time and emotional labour, and the accentuation of misogyny and harassment consequent on the eclipse of traditional gentlemanly professionalism by a sexualised corporate culture.<sup>21</sup>

In a study of UK women lawyers, Walsh found that there was a preoccupation with the actual or anticipated need to balance work-life commitments, particularly family responsibilities, within the context of gendered working cultures. This had a negative impact on women's career aspirations and outcomes and led to disproportionately

<sup>17</sup>Ulrike Schultz and others (eds), *Gender and Careers in the Legal Academy* (Bloomsbury 2021).

<sup>18</sup>Pringle and others (n 1); SRA (n 2).

<sup>19</sup>Joan Acker, "Inequality Regimes: Gender, Class, and Race in Organizations" (2006) 20 *Gender & Society* 441; Raewyn Connell, "Glass Ceilings or Gendered Institutions? Mapping the Gender Regimes of Public Sector Worksites" (2006) 66 *Public Administration Review* 837.

<sup>20</sup>SRA (n 2).

<sup>21</sup>Hilary Sommerlad, "A Pit to Put Women In': Professionalism, Work Intensification, Sexualisation and Work-Life Balance in the Legal Profession in England and Wales" (2016) 23 *International Journal of the Legal Profession* 61, 61.

earlier departures by women from the legal profession,<sup>22</sup> echoing similar findings in other research on this topic.<sup>23</sup>

Research on women's experiences in legal academia has raised related concerns.<sup>24</sup> According to an analysis of Higher Education Statistical Agency Data 2015–16, women and men are fairly evenly split in legal academia, women comprising 50.4% of all law academics and men comprising 49.6%.<sup>25</sup> However, this even balance is not reflected in seniority: women comprise only 31% of all professors and 38% of all heads of school.<sup>26</sup> The authors of the study concluded that:

... the masculine culture that the [previous] legal education studies revealed ... may have weakened, but there appear to be ongoing inequalities within pathways to promotion and/or promotion processes that have differential impacts on men and women (p. 12).

Collier<sup>27</sup> is among the authors to have argued that the neoliberal turn in university education has had significant implications, in three main ways. First, workplace cultures have been refocused towards "the capitalisation and exploitation of learning"<sup>28</sup> which frames the student both as a consumer to be satisfied and as a product to reflect increased institutional "'commercial awareness' in the curriculum and embedding of corporate cultures within law schools more generally".<sup>29</sup> This, Collier argues, has fostered a new type of masculinist dominance among senior managers typified by a "business-entrepreneurial" approach, rather than "older style paternalistic, masculinity".<sup>30</sup> Secondly, increased managerialism and top-down governance has both prompted increased standardisation and eroded "institutional collegiality".<sup>31</sup> Third, Collier proposes, "these changes have brought about an incremental shift in the boundaries of 'acceptable' knowledge within universities, which, in the context of legal education in particular, has led to increased 'vocationalisation'"<sup>32</sup> and decreased critical and/or sociolegal thinking embedded in the curriculum. This, as Collier acknowledges, links in closely with Margaret Thornton's arguments that "corporatisation has induced a cultural shift in our understanding of the traditional idea of the university",<sup>33</sup> resulting in "jettisoning the critical"<sup>34</sup> and "sloughing off the

<sup>22</sup>Walsh (n 14).

<sup>23</sup>Fiona M Kay and John Hagan, "Raising the Bar: The Gender Stratification of Law Firm Capitalization" (1998) 63 *American Sociological Review* 728; Mary C Noonan and Mary E Corcoran, "The Mommy Track and Partnership: Temporary Delay or Dead End?" (2004) 596 *Annals of the American Academy of Sociology and Political Science* 130; Hilary Sommerlad and Peter Sanderson, *Gender, Choice and Commitment: Women Solicitors in England and Wales and the Struggle for Equal Status* (Ashgate 1998).

<sup>24</sup>Eg, Fiona Cownie, "Women Legal Academics – A New Research Agenda" (1998) 25 *Journal of Law and Society* 102; Clare McGlynn, "Women, Representation and the Legal Academy" (1999) 19 *Legal Studies* 68; Richard Collier, "Love Law, Love Life: Neo-Liberalism, Wellbeing and Gender in the Legal Profession – The Case of Law School" (2014) 17 *Legal Ethics* 202; Susan Hanley Duncan, "Reducing Gender Inequity in the Academy and the Legal Profession" (2019) 69 *Journal of Legal Education* 95; Schultz and others (n 17); Angela Melville and Amy Barrow, "Persistence Despite Change: The Academic Gender Gap in Australian Law Schools" (2022) 47 *Law & Social Inquiry* 607.

<sup>25</sup>Liz Duff and Lisa Webley, "Gender and the Legal Academy in the UK: A Product of Proxies and Hiring and Promotion Practices" in Schultz and others (eds) (n 17) 4.

<sup>26</sup>*ibid* 7.

<sup>27</sup>Collier (n 24).

<sup>28</sup>*ibid* 212.

<sup>29</sup>*ibid*.

<sup>30</sup>*ibid* 223.

<sup>31</sup>*ibid* 213.

<sup>32</sup>*ibid*.

<sup>33</sup>Margaret Thornton, *Privatising the Public University: The Case of Law* (GlassHouse Press 2012) 208.

<sup>34</sup>*ibid* 59.

social”<sup>35</sup> in legal education. This, she has argued, has resulted in the “downgrading of feminist jurisprudence”<sup>36</sup> in the curriculum, alongside increased emphasis on legal skills and less on social welfare and social justice considerations. These arguments resonate with other recent literature suggesting the de-prioritisation and sidelining of gender issues in marketised UK university contexts.<sup>37</sup>

Despite the literature on gender in relation to legal academics, there is only limited research so far on gender in relation to law students.<sup>38</sup> There is, more broadly, a growing body of literature on the role gender plays in choice of degree subjects, both internationally and in the UK.<sup>39</sup> The under-representation of women in science, technology, engineering and mathematics (STEM) subjects is now well recognised.<sup>40</sup> Women tend to choose degrees/majors in the humanities, education and social sciences (eg psychology) while men, by contrast, tend to choose subject areas which focus on business and/or STEM subjects.<sup>41</sup> Women predominate in careers involving emotional labour in the (often undervalued and underpaid) caring professions.<sup>42</sup> By contrast, in a US study which explored why men choose STEM and related subjects for their college majors, rather than “softer” arts and humanities subjects, Beutel and colleagues argued that this is associated with “adherence to dominant masculine norms” particularly “emotional control”.<sup>43</sup> While earlier authors, notably Gilligan,<sup>44</sup> argued that there were fundamental differences between men and women in terms of their caring responses, more recent scholarship, eg that of Butler, has resisted such essentialism, focusing instead on the pervasive social construction of gender norms.<sup>45</sup> Previous research from Canada and the US has suggested that expected earnings may be less important for females than for males when making their college major choices.<sup>46</sup> This can then, in turn affect women’s long-term earnings, as they tend to pursue careers with other intrinsic/extrinsic rewards (eg work/family balance, working cultures, job satisfaction, etc.<sup>47</sup>), but which tend to be less well remunerated than those of men.<sup>48</sup>

<sup>35</sup> *ibid* 67.

<sup>36</sup> *ibid* 79.

<sup>37</sup> Charlotte Morris and others, “Gender Back on the Agenda in Higher Education: Perspectives of Academic Staff in a Contemporary UK Case Study” (2022) 31 *Journal of Gender Studies* 101.

<sup>38</sup> Jessica Guth, Fiona Cownie and Emma Jones, “Experiencing English Law Schools: The Student Perspective” (2021) 2 *Amicus Curiae* 390.

<sup>39</sup> Diane Reay, Miriam E David and Stephen J Ball, *Degrees of Choice: Class, Race, Gender and Higher Education* (Trentham Books 2005); Thomas Buser, Muriel Niederle and Hessel Oosterbeek, “Gender, Competitiveness, and Career Choices” (2014) 129 *The Quarterly Journal of Economics* 1409; Anna Cohen Miller and others (eds), *Leading Change in Gender and Diversity in Higher Education from Margins to Mainstream* (Taylor & Francis 2023).

<sup>40</sup> Hyun Kyoung Ro, Frank Fernandez and Elizabeth J Ramon, *Gender Equity in STEM in Higher Education: International Perspectives on Policy, Institutional Culture, and Individual Choice* (Taylor & Francis 2021).

<sup>41</sup> Adriana D Kugler, Catherine H Tinsley and Olga Ukhaneva, “Choice of Majors: Are Women Really Different from Men?” (2021) 81 *Economics of Education Review*, Article 102079; Higher Education Statistics Agency (HESA) “What Do HE Students Study?” (HESA 2023) <[www.hesa.ac.uk/data-and-analysis/students/what-study](http://www.hesa.ac.uk/data-and-analysis/students/what-study)> (accessed 21 April 2023).

<sup>42</sup> World Health Organization (WHO) *Delivered by Women, Led by Men: A Gender and Equity Analysis of the Global Health and Social Workforce* (Human Resources for Health Observer Series No 24, WHO 2019) <<https://apps.who.int/iris/handle/10665/311322>> (accessed 21 April 2023).

<sup>43</sup> Beutel Ann M, Stephanie W. Burge and B. Ann Borden, “Masculinity and men’s choice of college major” (2019) 36 *Gender Issues* 4, 374–391.

<sup>44</sup> Carol Gilligan, *In a Different Voice: Psychological Theory and Women’s Development* (Harvard University Press 1993).

<sup>45</sup> Judith Butler, *Gender Trouble: Feminism and the Subversion of Identity* (Routledge 1990).

<sup>46</sup> See, eg, Claude Montmarquette, Kathy Cannings and Sophie Mahseredjian, “How Do Young People Choose College Majors?” (2002) 21 *Econ Educ Rev* 543.

<sup>47</sup> Basit Zafar, “College Major Choice and the Gender Gap” (2013) 48 *Journal of Human Resources* 545.

<sup>48</sup> Joseph G Altonji, Peter Arcidiacono and Arnaud Maurel, “The Analysis of Field Choice in College and Graduate School: Determinants and Wage Effects” in Eric A Hanushek, Ludger Wößmann and Stephen J Machin (eds), *Handbook of the Economics of Education*, vol V (Elsevier 2016) 305–96.

There is limited recent research on gender and the experiences of women students in law schools, particularly in the UK.<sup>49</sup> Research in the 1980s, 1990s and early 2000s, predominantly based in the US, suggested that “women have distinct and frequently alienating experiences in law school”<sup>50</sup> and that “the law school experience is in some ways more unpleasant and uncomfortable for women than it is for men”.<sup>51</sup> More recent research by Kindschy and others, again from the US, has suggested that women law undergraduates find classroom participation particularly challenging, in terms of being anxious not to be perceived as overly emotional or personalising issues; concern about raising “women’s issues”; perceiving men as more willing to speak up and sometimes dominating discussions; experiencing sexist attitudes from male peers; and witnessing female law professors being treated less well, and perceived more negatively compared with male law professors.<sup>52</sup>

Granfield, writing in the 1990s, also reported findings from the US that women law students were “more interested in social change than their male counterparts”.<sup>53</sup> Similarly, Guinier and others, also writing in the 1990s and reporting on research from the US, found that women were more likely than men to “enter law school with commitments to public interest law, ready to fight for social justice”.<sup>54</sup> This was echoed more recently by Stone, who has suggested that women law students are more committed to “public interest” subjects and are also more inclined to engage in pro bono work.<sup>55</sup> Also reporting on research from the US, Carroll and Brayfield found that first year law students varied by gender in relation to the factors they took into account when envisaging future legal careers and specialisms.<sup>56</sup> Notably, the women students were much more likely to take into account future parenthood, family life, and work–life balance, compared with their male students. However, much of this research is now quite dated. There is a need for more up-to-date research, both internationally and in the UK.

## The undergraduate programme at YLS

### The programme

YLS was established in 2007, with its first student intake in the autumn of 2008. It has rapidly become a highly respected UK law school, currently ranking 12th out of 109 law

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<sup>49</sup>Lianne Krakauer and Charles P Chen, “Gender Barriers in the Legal Profession: Implications for Career Development of Female Law Students” (2003) 40 *Journal of Employment Counseling* 65.

<sup>50</sup>Robert Granfield, “Contextualizing the Different Voice: Women, Occupational Goals, and Legal Education” (1994) 16 *Law & Pol’y* 1, 4.

<sup>51</sup>Janet Taber and others, “Gender, Legal-Education, and the Legal Profession: An Empirical Study of Stanford Law Students and Graduates” (1988) 40 *Stanford Law Review* 1209, 1256. For a detailed discussion of the literature, see Dara Purvis, “Female Law Students, Gendered Self-Evaluation, and the Promise of Positive Psychology” [2012] *Mich St L Rev* 1693; and Emily Kindschy, Jeffrey Perrin and Jennifer O’Neil, “Exploring Women’s Experience in Ivy League Law School Classrooms” (2014) 2 *Int’l J Soc Sci Stud* 82.

<sup>52</sup>Kindschy, Perrin and O’Neil (n 51).

<sup>53</sup>Granfield (n 50) 8.

<sup>54</sup>Lani Guinier, Michelle Fine and Jane Balin, “Becoming Gentlemen: Women’s Experiences at One Ivy League Law School” (1994) 143 *U PA L Rev* 1, 3.

<sup>55</sup>Adrienne Stone, “Women, Law School and Student Commitment to the Public Interest” in Jeremy Cooper and Louise G Trubek (eds), *Educating for Justice: Social Values and Legal Education* (Routledge 2018) 56–87.

<sup>56</sup>Catherine Carroll and April Brayfield, “Lingering Nuances: Gendered Career Motivations and Aspirations of First-Year Law Students” (2007) 27 *Sociological Spectrum* 225.



schools in the UK.<sup>57</sup> YLS has a clearly stated commitment to gender equality and achieved the Athena Swan<sup>58</sup> bronze award in 2021.<sup>59</sup>

YLS's pedagogical approach is different from that of traditional law schools. It places greater emphasis on self-directed learning applied to realistic scenarios in small-group "problem-based learning" (PBL).<sup>60</sup> YLS students tend to graduate with a significant amount of self-reliance, initiative and capacity to work with others. The School's undergraduate programme comprises a range of other subjects, in addition to PBL core modules, including foundational subjects of law, plus further optional modules in Years 2 and 3.

### **Module allocation**

Each year, second- and third-year students are offered a range of optional modules to choose from, ranking their preferences. Students are then allocated to modules by a dedicated algorithm, using the Gurobi Optimizer,<sup>61</sup> on a "best-effort" basis.<sup>62</sup> This means that, generally, students are assigned to modules "in a way that gives the best overall result (makes the most people happy)"<sup>63</sup> via "linear optimisation":

Given a set of inputs (student choices), and a set of constraints (e.g. module X can only take 5 students) it can calculate the optimal outputs e.g. a solution where the highest number of students get their first or second choices.<sup>64</sup>

The Optimizer is the preferred choice over manual allocations, to avoid human error or bias.<sup>65</sup> However, it is not without problems. For example,

It may be that depending on the choices made by students, the best solution is disproportionately unfair to one or more students, e.g. a scenario where in order for four students to get their first choice, another student must get their sixth. [If a cap is applied so that no student can lower than their fifth choice] then perhaps the module in question doesn't run and the first four students get their third choices. This is a less optimal solution, but fairer overall.<sup>66</sup>

The Optimizer also currently does not take a student's sex into account. Sometimes departments, including YLS, will make individual adjustments to allocations if significant discrepancies are identified and/or if a student requests a change of module. However, there is currently no manual rebalancing of module allocations according to sex.

<sup>57</sup>The Complete University Guide, "Subject League Table 2023 – LAW" (2024) <[www.thecompleteuniversityguide.co.uk/league-tables/rankings/law](http://www.thecompleteuniversityguide.co.uk/league-tables/rankings/law)> (accessed 21 April 2023).

<sup>58</sup>Advance HE, "Athena Swan Charter" (Advance HE 2022).

<sup>59</sup>York Law School, "Gender Equality" (University of York 2022) <<https://bit.ly/3B17RGz>> (accessed 21 April 2023).

<sup>60</sup>Jenny Gibbons, "Oh the Irony! A Reflective Report on the Assessment of Reflective Reports on an LLB Programme" (2015) 49 *The Law Teacher* 176, 178–79; York Law School, "Problem-Based Learning" (University of York 2022) <[www.york.ac.uk/law/undergraduate/pbl/](http://www.york.ac.uk/law/undergraduate/pbl/)>; York Law School, "York Law School: Seven Stages of PBL" (You Tube video, 2022) <[www.youtube.com/watch?v=lomv0\\_ehf2M](https://www.youtube.com/watch?v=lomv0_ehf2M)> (accessed 21 April 2023).

<sup>61</sup>Michael Lindahl, Matias Sørensen and Thomas R Stidsen, "A Fix-and-Optimize Metaheuristic for University Timetabling" (2018) 24 *Journal of Heuristics* 645.

<sup>62</sup>Gurobi Optimizer <[www.gurobi.com](http://www.gurobi.com)> (accessed 21 April 2023).

<sup>63</sup>IT Dept, University of York, "Optional Modules" (PowerPoint Presentation, University of York 2021) Slide 4 (available on request).

<sup>64</sup>*ibid* Slide 6.

<sup>65</sup>*ibid* Slide 7.

<sup>66</sup>*ibid* Slide 14.

Methodology

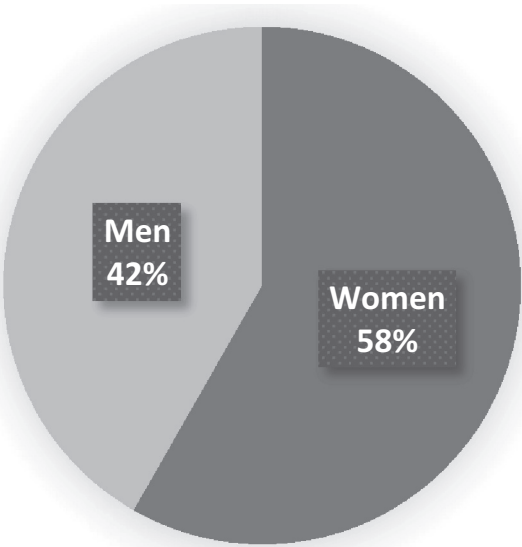
Data were analysed based on student allocation for each module for academic years 2014–15 and between 2016 and 2022. Data for 2015–16 were missing and records for initial preferences were not available. Data were sifted to remove non-YLS undergraduate students (such as students from other departments and visiting students). Student codes were matched manually according to whether they were women or men.<sup>67</sup> Total numbers were then analysed using simple statistical analysis (percentages). These were compared with total student percentages for years 2014–15 and 2016–22. Data were analysed and cross-checked by an academic researcher and a research assistant.

Results

The total number of YLS students 2014–15 and 2016–22 was 4685, comprising 2730 (58%) women and 1955 (42%) men (Figure 1).

There were 66 modules presented between 2014 and 2015 and 2016 to 2022. Not all were presented every year.

To see an even sex representation in module cohorts, there should be similar proportions of women and men on the modules as in the total student population, ie 54% women and 46% men. However, as can be seen from Table 1, this was not always



**Figure 1.** Proportion of women and men undergraduate students at York Law School, University of York, academic years 2014–15 and 2016–22. Total number of women students = 2730 (58%). Total number of men students = 1955 (42%).

<sup>67</sup>It should be noted that there is currently only a binary gender records system, with no option for fluid/ non-binary gender self-identification.

**Table 1.** Module options with proportions of women and men students within  $\pm 10\%$  of the total undergraduate student population at York Law School, University of York (ie between 48% and 68% of female students and between 32% and 52% of male students) academic years 2014–15 and 2016–22. (NB “=” denotes the same as the total YLS undergraduate student population).

Module	Women students	$\pm$ % of all YLS UG women students (58%)	Men students	$\pm$ % of all YLS UG men students (42%)
1. Civil, Employment & Discrimination Case Study	49 (64%)	+6%	27 (36%)	-6%
2. Clinic	259 (63%)	+5%	151 (37%)	-5%
3. Corporate Social Responsibility	30 (53%)	-5%	27 (47%)	+5%
4. Counter-Terrorism	61 (54%)	-4%	52 (46%)	+4%
5. Counter-Terrorism, Media & Family Law Case Study	146 (63%)	+5%	84 (37%)	-5%
6. Crime and Punishment	120 (67%)	+9%	60 (33%)	-9%
7. Criminal Justice and Policing	17 (57%)	-1%	13 (43%)	+1%
8. Criminology & Criminal Justice	27 (61%)	+3%	17 (39%)	-3%
9. Drugs Prevention, Policy and Policing	16 (48%)	-10%	17 (52%)	+10%
10. Employment Law	80 (51%)	-7%	78 (49%)	+7%
11. Environmental Law	39 (61%)	+3%	25 (39%)	-3%
12. Financial Citizenship & Social Justice	14 (54%)	-4%	12 (46%)	+4%
13. Human Rights & Wrongs in a Global World	96 (60%)	+2%	60 (40%)	-2%
14. Human Rights: Law, Power & Global Challenges	66 (65%)	+7%	35 (35%)	-7%
15. Illicit Drug Use	34 (67%)	+9%	17 (33%)	-9%
16. Intellectual Property	163 (52%)	-6%	153 (48%)	+6%
17. International Trade Law & Regulation	15 (60%)	+2%	10 (40%)	-2%
18. Key Themes in Criminal Justice	72 (66%)	+8%	37 (34%)	-8%
19. Law & History	50 (49%)	-9%	52 (51%)	+9%
20. Law & the Business Environment	132 (48%)	-10%	147 (52%)	+10%
21. Law Commerce & Finance	97 (48%)	-10%	103 (52%)	+10%
22. Legal Practices, Technology & Computer Science	27 (48%)	-10%	29 (52%)	+10%
23. Personal Property Law	10 (56%)	-2%	8 (44%)	+2%
24. Philosophy of Criminal Law	8 (62%)	+4%	5 (38%)	-4%
25. Philosophy of Law	56 (58%)	=	41 (42%)	=
26. Policing and the Police	11 (58%)	=	8 (42%)	=
27. Private International Law	24 (49%)	-9%	25 (51%)	+9%
28. The Criminal Trial	33 (50%)	-8%	33 (50%)	+8%
29. War, Humanitarianism & Law	31 (60%)	+2%	21 (40%)	-2%
30. Wellbeing of Children & Young People	3 (50%)	-8%	3 (50%)	+8%

the case. Of the 66 modules presented across the seven-year period, 30 (just under half) had student percentage representation ( $\pm 10\%$ ) similar to the total student population, ie 48% to 68% of women and 32% to 52% of men.

The remaining 36 modules had wider variations than the  $\pm 10\%$  margin. In 18 of these (thus, half of the modules), women students were under-represented and men students were over-represented. Some of these involved modules with very small numbers of students, ie under 20 in total (Comparative Constitutional Law; Crime, People and Place; Housing Policy; International Law; Private Law & Judicial Process in UK's Court of Final Appeal; Law & Language; Public Interest Litigation). Variations in such small numbers could be attributable to a wide range of factors, and so those

modules were excluded from further analysis. However, 11 modules where women students were under-represented had total student numbers of between 28 and 306, and these were analysed (Table 2).

In the other 18 cases with marked variations, women students were over-represented and men students were under-represented. Again, some of these module figures were very small, with total student numbers under 20 in the following: Anti-Social Behaviour, Law & Policy; Environmental Justice, Harm and Policy; Gender, Violence & Justice; Migration, Immigration & Social Policy; The Modern Actors of International Law; Vulnerability, Deviance, and Social Control; and Youth Justice. These were also excluded from further analysis. However, 11 of these modules had total student numbers of between 22 and 264, and these were analysed (Table 3).

Modules where women students are over-represented are Art Law; Criminal Law, Criminal Process; Family Law; Family Law in Practice; Healthcare Law; Housing, Welfare

**Table 2.** Module options where women students are under-represented and male students over-represented by more than  $\pm 10\%$  of the total York Law School, University of York, undergraduate student population for academic years 2014–15 and 2016–22, on modules with total student numbers  $>20$ , in ranked order of variation.

Module	Women students	$\pm$ % of all YLS UG women students (58%)	Men students	$\pm$ % of all YLS UG men students (42%)
1. Company Law	122 (40%)	–18%	184 (60%)	+18%
2. International Criminal Justice	17 (40%)	–18%	25 (60%)	+18%
3. Financial Crime	47 (42%)	–16%	64 (58%)	+16%
4. History of Law	17 (42%)	–16%	23 (58%)	+16%
5. The Business of Trusts	36 (44%)	–14%	46 (56%)	+14%
6. Corporate and Commercial Case Study	98 (46%)	–12%	114 (54%)	+12%
7. International Foundations in Law	13 (46%)	–12%	15 (54%)	+12%
8. Alternative Dispute Resolution	46 (47%)	–11%	51 (53%)	+11%
9. Competition Law	64 (47%)	–11%	71 (53%)	+11%
10. Foundational Issues in Law	27 (47%)	–11%	30 (53%)	+11%
11. Principles of Financial Regulation	31 (47%)	–11%	35 (53%)	+11%

**Table 3.** Module options where women students are over-represented and male students are under-represented by more than  $\pm 10\%$  of the total YLS undergraduate student population for academic years 2014–15 and 2016–22, on modules with total student numbers  $>20$ , in ranked order of variation.

Module	Women students	$\pm$ % of all YLS UG women students (58%)	Men students	$\pm$ % of all YLS UG men students (42%)
1. Prisons and Penal Policy	24 (86%)	+28%	4 (14%)	–28%
2. Law, Gender & Sexuality	60 (85%)	+27%	11 (15%)	–27%
3. Housing, Welfare & Immigration Case Study	18 (82%)	+24%	4 (18%)	–24%
4. Family Law in Practice	22 (81%)	+23%	5 (19%)	–23%
5. Healthcare Law	97 (78%)	+20%	27 (22%)	–20%
6. Medical Law	68 (76%)	+18%	22 (24%)	–18%
7. Mental Health & Mental Capacity Law	114 (73%)	+15%	42 (27%)	–15%
8. Criminal Law, Criminal Process	30 (73%)	+15%	11 (27%)	–15%
9. Art Law	63 (70%)	+12%	27 (30%)	–13%
10. Family Law	184 (70%)	+12%	80 (30%)	–12%
11. Law in the Welfare State	49 (70%)	+12%	21 (30%)	–12%

& Immigration Case Study; Law in the Welfare State; Law, Gender & Sexuality; Medical Law; Mental Health & Mental Capacity Law; Prisons and Penal Policy. If the figures for modules with a  $\pm 10\%$  variance (see Table 1) are also included, then Drugs Prevention, Policy and Policing (+10%) would be added to the list.

Modules where women students are under-represented are Alternative Dispute Resolution; Company Law; Competition Law; Corporate and Commercial Case Study; Financial Crime; Foundational Issues in Law; History of Law; International Criminal Justice; International Foundations in Law; Principles of Financial Regulation; The Business of Trusts. Again, if the figures for  $\pm 10\%$  variance (see Table 1) are also included then the following modules are added to the list: Law & the Business Environment (−10%); Law Commerce & Finance (−10%); Legal Practices, Technology & Computer Science (−10%).

Women students are over-represented in greater proportion (12–28%) than they are under-represented (11–18%), ie the gap between women and men was wider on modules over-occupied by women than on modules over-occupied by men. For example, the Law, Gender & Sexuality module was markedly disproportionately represented by women, comprising 85% women students and only 15% men students.

## Discussion

There could be a wide range of reasons for the findings. There may be, for example, divergences in module option preferences depending on whether a UK university is an “old” one or a “new” one, a public or a private one. The fact that the study was conducted at a university with an unusual PBL pedagogy may mean that its findings may not be representative of universities with other more traditional approaches to teaching law. Women students may be concerned about the challenges they could face in terms of career progression in corporate and/or commercial contexts.<sup>68</sup> The module leader’s gender and/or pedagogic style, class size, anticipated class gender composition (and issues of sexual safety<sup>69</sup>), module format, types and number of assessments, and scheduling could also be factors. Further research is now being conducted by the author to better understand the underlying causal factors.

Nevertheless, despite the wide range of potential causes for the findings, their resonance with the literature on gendered trends in degree subject choice<sup>70</sup> and gendered patterns in legal careers, including in legal academia,<sup>71</sup> and in legal education, would suggest that there are some parallels which can be drawn with that literature. The women students in this study are over-represented in legal topics relating to care, support, families, relationality, health, welfare and gender/sexuality. They are under-represented in modules relating to corporate, commercial and financial law. This echoes the under-representation of women in similarly themed legal professional roles, especially at senior levels, and the over-representation of women in the legal fields of family and social welfare law.<sup>72</sup> It also echoes the predominance of women students on arts, humanities and social

<sup>68</sup>Krakauer and Chen (n 49).

<sup>69</sup>Kaitlin M Boyle and Ashleigh E McKinzie, “The Prevalence and Psychological Cost of Interpersonal Violence in Graduate and Law School” (2021) 36 *Journal of Interpersonal Violence* 6319.

<sup>70</sup>Ro, Fernandez and Ramon (n 40).

<sup>71</sup>Schultz and others (n 17).

<sup>72</sup>*ibid.*

science degrees, the high prevalence of women in careers relating to care and caring,<sup>73</sup> and the under-representation of women on degrees relating to business and finance, and in associated careers.<sup>74</sup>

The over-representation of women students on the “Law, Gender and Sexuality” module at YLS can best be understood from standpoint theory:<sup>75</sup> women students are more likely to be sensitised to gender inequalities from their “bottom-up”<sup>76</sup> lived experience, particularly given current concerns about women students’ experiences of sexual harassment and sexual violence on UK campuses.<sup>77</sup> The lack of engagement by men students, by contrast, arguably reflects their comparatively greater, gendered, “top-down”<sup>78</sup> perspectives of power and privilege.

It has previously been suggested that “learning to think like a lawyer” is gendered, privileging (masculine-associated) objectivity, logic, detachment and competitiveness.<sup>79</sup> It may also be the case that learning to think like specific types of lawyers and in relation to particular legal subject areas is also gendered, with some subjects requiring more emotional labour, empathy, compassion, connectivity and engagement with social justice issues (eg family law, the Law Clinic, health and social welfare law, etc.).<sup>80</sup> It is these types of subject areas in which women students are over-represented at YLS. This resonates with earlier research suggesting that women students are more likely to be drawn to social justice and welfare issues,<sup>81</sup> and Beutel and colleagues’ argument that male students are more likely to be drawn to legal subjects in which “emotional control” is the norm.<sup>82</sup> The findings also connect with feminist critiques of law, and in particular resistance to notions of the atomistic autonomous legal subject, which discounts the relational, interpersonal and mutually dependent.<sup>83</sup> The subjects where women students are over-represented are people-focused, and more relationship-orientated, which suggests greater interest in care, caring and the law<sup>84</sup> among women students at YLS.

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<sup>73</sup>World Health Organization (n 42).

<sup>74</sup>Kugler, Tinsley and Ukhaneva (n 41).

<sup>75</sup>Sandra G Harding (ed), *The Feminist Standpoint Theory Reader: Intellectual and Political Controversies* (Psychology Press 2004).

<sup>76</sup>Pringle (n 1).

<sup>77</sup>Guth, Cownie and Jones (n 38).

<sup>78</sup>*ibid.*

<sup>79</sup>Kurt Saunders and Linda Levine, “Learning to Think Like a Lawyer” (1994) 29 *University of San Francisco Law Review* 121; Debra Schleef, “Thinking Like a Lawyer: Gender Differences in the Production of Professional Knowledge” (2001) 19 *Gender Issues* 69.

<sup>80</sup>Chalen Westaby, “A Qualitative Study of the Impact of Law Clinics on Students’ Perceptions of Emotional Labour Expectations” (2014) 48 *The Law Teacher* 248; Chalen Westaby and Emma Jones, “Empathy: An Essential Element of Legal Practice or ‘Never the Twain Shall Meet?’” (2018) 25 *International Journal of the Legal Profession* 107; Kate Seear and others, “Exploring the Role of Emotions in Clinical Legal Education: Inquiry and Results from an International Workshop for Legal Educators” (2019) 53 *The Law Teacher* 487; Chalen Westaby and Andrea Fowler, “Emotional Labour in the Legal Profession” in Jake Phillips and others (eds), *Emotional Labour in Criminal Justice and Criminology* (Routledge 2020) 34–53.

<sup>81</sup>Guinier, Fine and Balin (n 54); Stone (n 55).

<sup>82</sup>Beutel, Burge and Borden (n 43).

<sup>83</sup>Rosemary Hunter, Clare McGlynn and Erika Rackley (eds), *Feminist Judgments: From Theory to Practice* (Bloomsbury Publishing 2010); Martha A Fineman, *The Autonomy Myth: A Theory of Dependency* (New Press 2005).

<sup>84</sup>Jonathan Herring, *Caring and the Law* (Bloomsbury 2013); Marian Barnes, *Care in Everyday Life: An Ethic of Care in Practice* (Policy Press 2012).

It is also possible that gender norms and stereotypes, gendered microaggressions,<sup>85</sup> and the subtle reproduction of masculinities<sup>86</sup> are more likely to be present, or perceived to be present, in some specialist subjects in legal education than others, which may, in turn, deter some women students. Purvis has also suggested that female law undergraduate students may be harsher self-critics than male students, comparing themselves less favourably with their male peers.<sup>87</sup> This may also make them less inclined to opt for modules where those male peers are in the majority. It could also be suggestive of more subtle and nuanced ways in which legal education, and legal educational organisations, might potentially be gendered.<sup>88</sup>

The findings have implications for curriculum design. Authors such as Duff and Webley, and Collier and Thornton<sup>89</sup> have argued that the commercialisation of higher education and the emphasis on “business-entrepreneurial” approaches have been paralleled by a cultural shift which has, among other things, involved a reduced focus on social welfare and social justice considerations. There are calls for greater attention to emotion in the teaching of law, and the need for the development of curricula and infrastructures which actively promote gender equality, social justice and social change.<sup>90</sup> As Rosemary Auchmuty has argued, the curriculum needs to “incorporate subjects relevant to women’s experience”<sup>91</sup> as well as those legal subjects which are of particular interest to them.

Most optional modules at YLS are run by a single lecturer, reflecting individual teaching and research interests. If that person is unavailable – eg they are on maternity or research leave – then, unless another person is assigned to deliver the module, it does not run. Recently, at YLS, two module leaders were on research leave. A very popular module, with roughly equal representation of women/men students (Intellectual Property Law) was allocated a substitute lecturer and so still ran. However, the equally popular Social Welfare Law, on which women are over-represented, was not allocated a substitute lecturer, and so did not run, indirectly disadvantaging the women students who would have wished to undertake that module. This suggests a need for an annual gender equality impact assessment<sup>92</sup> of module availability, to avoid any inadvertent disadvantage. This might also feed into staff recruitment, ensuring that a balance of teaching specialisms can be offered by academic staff, including those in which women undergraduate students (greater in number than men students) are particularly interested.

The findings also suggest the need for gender-sensitive careers support. McKee and others have recently reported on “The Fairness Project” conducted at three UK law schools, which emerged from academics’ “concerns regarding structural diversity

<sup>85</sup> Jamie R Abrams, “Feminism’s Transformation of Legal Education and Unfinished Agenda” in Deborah L Brake, Martha Chamallas and Verna L Williams (eds), *The Oxford Handbook of Feminism and Law in the United States* (Oxford University Press 2021).

<sup>86</sup> Ann C McGinley, “Reproducing Gender on Law School Faculties” [2009] *BYU L Rev* 99; Dara E Purvis, “Legal Education as Hegemonic Masculinity” (2020) 65 *Villanova Law Review* 1145.

<sup>87</sup> Dara E Purvis, “Female Law Students, Gendered Self-Evaluation, and the Promise of Positive Psychology” [2012] *Mich St L Rev* 1693.

<sup>88</sup> Cownie (n 24); McGlynn (n 24); Collier (n 24); Hanley Duncan (n 24); Schultz and others (n 17); Melville and Barrow (n 24).

<sup>89</sup> Duff and Webley (n 25); Thornton (n 33).

<sup>90</sup> Emma Jones, “Transforming Legal Education through Emotions” (2018) 38 *Legal Studies* 450.

<sup>91</sup> Rosemary Auchmuty, “Agenda for a Feminist Legal Curriculum” (2003) 23 *Legal Studies* 377, 377.

<sup>92</sup> Sara Clavero and Yvonne Galligan, “Delivering Gender Justice in Academia through Gender Equality Plans? Normative and Practical Challenges” (2021) 28 *Gender, Work & Organization* 1115.

barriers within the legal profession”,<sup>93</sup> including those relating to gender. The project aimed to raise student awareness of structural barriers in the legal profession, help students to develop strategies to overcome these barriers, and raise awareness of personal unconscious bias. The authors reported that the project had a positive effect, and “provided a focus and catalyst for students in the processes of self-reflection and planning”.<sup>94</sup> However, they also noted that the students’ focus was on what they could do as individuals to adapt to a biased employment system, rather than how the bias in that system could be remedied. Such a project is now being considered at YLS, based on these research findings.

The research potential in this area is vast, with many aspects requiring further inquiry, including in the following areas:

- exploring *why* these undergraduate law module options variations occur;
- exploring how such variations are informed by the intersection with other key social locations (age, disability, race and ethnicity, religion or belief, sexual orientation);
- contextualising this knowledge by understanding how law undergraduates perceive the way in which sex and gender operate in law schools;
- understanding what students think about curriculum design and module availability, from the perspectives of sex and gender;
- understanding what students think about sex, gender and careers guidance;
- conducting comparative research involving multiple UK law schools to understand more about context and how it shapes student undergraduate careers and career futures.

## Limitations

Ethnicity could not be analysed immediately, as it constitutes special category data under data protection regulations. A Data Protection Impact Assessment and ethics committee application have now been approved and ethnicity data are currently being analysed; this will be reported on in due course.

Furthermore, the data show module option allocation, not student preferences. Data for the latter will be available under a new recording system as of 2023 and subject to future analysis. As the allocation algorithm is preference-orientated, it is likely that students are on modules they prefer. However, this is not certain – although students are allowed to switch allocated modules if they wish.

In addition, the data apply to a single UK law school. Further insights could be gained by comparing data with other undergraduate law programmes, and it is hoped that a further collaborative research project will be conducted in the future.

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<sup>93</sup>Tina McKee and others, “*The Fairness Project: The Role of Legal Educators as Catalysts for Change. Engaging in Difficult Dialogues on the Impact of Diversity Barriers to Entry and Progression in the Legal Profession*” (2021) 55 *The Law Teacher* 283, 285.

<sup>94</sup>*ibid* 309.



## Conclusion

Based on the findings from this study, and from earlier research, it would seem that inequalities between women and men in legal careers start early, including in undergraduate studies. It is essential that every effort is taken to remedy these early inequalities as part of a wider initiative to improve the position of women in legal academia and the wider legal profession.

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