

CONCLUSION TO RESPONSES
THE ARCHITECTURE OF INCLUSION:
INTERDISCIPLINARY INSIGHTS ON PURSUING
INSTITUTIONAL CITIZENSHIP

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Structural inequality has captured the attention of academics, policy-makers, and activists. This structural reorientation is occurring at a time of judicial retrenchment and political backlash against affirmative action. These developments have placed in sharp relief the mismatch between structural diagnoses and the dominant legal frameworks for addressing inequality. Scholars, policymakers, and activists are faced with the pressing question of what to do now. They share a need for new frameworks and strategies, growing out of a better understanding of institutional and cultural change.

I am honored that the *Harvard Journal of Law & Gender* has used the publication of *The Architecture of Inclusion: Advancing Workplace Equity in Higher Education*¹ as a catalyst for an interdisciplinary inquiry focused on developing this much-needed knowledge. The Journal used its convening power to assemble a group of creative scholars from such diverse disciplines as history, sociology, political science, economics, psychology, organizational theory, business, and, of course, law. The example of the National Science Foundation's ("NSF") ADVANCE program created the common text unifying the inquiry across disciplines. The interplay between practice and theory, exemplified in *The Architecture of Inclusion*, set the tone for the collective inquiry. The result was an extraordinarily dynamic and generative dialogue, which yielded the important interdisciplinary scholarship published in this response issue.

Despite their methodological differences, these scholars share several qualities that enabled the group to overcome barriers to interdisciplinary collaboration. The participants all brought a problem orientation to the issue of structural inequality and were eager for the opportunity to situate their particular approach within a broader institutional and disciplinary array. They all saw the need to link micro, institutional, and macro levels of analysis. Participants also shared a common goal: the development of new frameworks, strategies, and locations for addressing structural inequality. Everyone at the table was interested in change: why it is needed, where it happens, what it looks like, and how it is sustained.

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¹ 29 HARV. J.L. & GENDER 247 (2006).

What resulted was a genuinely *trans*-disciplinary conversation. It transcended the “law-and” mode of interdisciplinary analysis, by knitting together multiple methodologies to understand and address structural bias. The discussion was genuinely collaborative. As the articles themselves reflect, the conversation led scholars to draw on these different methodologies to build the work of each. People gained exposure to new literatures and common themes emerging across different disciplines that were simultaneously addressing these problems. The Workshop in many respects modeled the kind of knowledge sharing, problem solving, and networking that *The Architecture of Inclusion* seeks to promote.

The articles growing out of this Workshop elaborate the three main ideas comprising an architectural approach for developing and sustaining efforts to address structural inequality, set forth in *The Architecture of Inclusion*. That article first articulated the norm of institutional citizenship as a justification and goal for diversity initiatives. Institutional citizenship involves creating the conditions enabling people of all races and genders to realize their potential and participate fully in institutional life. Second, the article identified a crucial institutional role, called an “organizational catalyst,” as a mechanism of institutional change. This role involves individuals with knowledge, influence, and credibility in positions where they can mobilize change within complex structures such as modern research universities. They do this by connecting and leveraging knowledge, ongoing strategic relationships and collaborations, and forms of accountability across systems. Finally, the article develops the role of institutional intermediaries in sustaining and providing accountability for this institutional change process. Institutional intermediaries are public or quasi-public organizations that leverage their position within preexisting communities of practice to foster change and provide meaningful accountability.

This Response Essay provides a more complete explanation of the architectural metaphor as the organizing frame for the project of addressing structural inequality. It then draws on the articles in this issue to clarify and elaborate the concepts of institutional citizenship, organizational catalyst, and institutional intermediary. Finally, it considers the question of the applicability of these ideas to race and its implications for the role of law and lawyers.

WHY THE ARCHITECTURAL METAPHOR MATTERS

As the articles in this issue demonstrate, structural inequality is a multi-dimensional and embedded problem. Its remediation requires operating both deeply within particular contexts (to get at the micro-level and cumulative interactions) and broadly across contexts (to enable the reworking of the environmental conditions and incentives that shape internal practices). Multi-dimensional problems require multi-dimensional solutions. Particular

programs that work in a particular context must be sustained over time and connected with other programs that influence overall gender and racial dynamics. This requires a sustained institutional change strategy that bridges and sustains the different interventions needed to change culture.²

The architectural metaphor places multi-dimensionality at the center of analysis in several important respects. First, architecture connotes structure, and thus underscores the centrality of structure in understanding and responding to problems of exclusion and marginalization. Structure regularizes human interaction,³ establishes value hierarchies,⁴ steers information flows,⁵ frames perception,⁶ and channels movement and status within social systems.⁷ It creates the social context influencing how people understand themselves, what they perceive, and what they value.⁸ It determines whether the norms we espouse will match the decisions we make. As such, structure profoundly affects patterns of inclusion and exclusion. In the design of human systems and institutions, structure is often invisible unless it is made the explicit focus of attention. Indeed, law and regulation tend to assign responsibility to individual actors who make biased decisions or to overall institutional policies. Remedies often superimpose new policies or programs on dysfunctional institutional structures. The architectural metaphor locates those programmatic and policy aspirations within the institutions and systems that determine their meaning.

Second, architecture projects an image of multiple levels that are linked and interdependent. The micro level of interaction within a particular system (such as the classroom or the search committee) is affected by the institutional structure (such as the committee formation and leadership selection process), which is in turn affected by social systems and the larger environment. Architecture entails mapping components or elements in a system, which explicitly constructs the relationships among those components.⁹ Each level is designed to take account of its location in a larger system, even

² *Id.* at 257.

³ Frank Dobbin & Alexandra Kalev, *The Architecture of Inclusion: Evidence from Corporate Diversity Programs*, 30 HARV. J.L. & GENDER 279, 282–85 (2007); Bonita London, Vanessa Anderson & Geraldine Downey, *Studying Institutional Engagement: Utilizing Social Psychology Research Methodologies to Study Law Student Engagement*, 30 HARV. J.L. & GENDER 389, 393–95 (2007); Debra Meyerson & Megan Tompkins, *Tempered Radicals as Institutional Change Agents: The Case of Advancing Gender Equity at the University of Michigan*, 30 HARV. J.L. & GENDER 303, 305–07 (2007).

⁴ Dobbin & Kalev, *supra* note 3, at 282–83; Londa Schiebinger, *Getting more Women into Science: Knowledge Issues*, 30 HARV. J.L. & GENDER 365, 372–73 (2007).

⁵ Dobbin & Kalev, *supra* note 3, at 282–83, 295–97; Meyerson & Tompkins, *supra* note 3, at 305–07.

⁶ Richard R.W. Brooks & Valerie Purdie-Vaughns, *The Supermodular Architecture of Inclusion*, 30 HARV. J.L. & GENDER 379, 384–85 (2007).

⁷ Guy-Uriel E. Charles, *Toward a New Civil Rights Framework*, 30 HARV. J.L. & GENDER 353, 358–59, 362 (2007).

⁸ Meyerson & Tompkins, *supra* note 3, at 305–07.

⁹ Wikipedia: Architecture, <http://en.wikipedia.org/wiki/Architecture> (last visited May 28, 2007).

as it operates as a self-contained space. Remedying the problem of structural inequality requires an approach that operates simultaneously on multiple levels of institutional and social practice.

Third, architecture suggests explicit attention to institutional and systems design. An architectural approach is essential for constructing the conditions and practices enabling institutional mindfulness—careful attention to decisions that accumulate to determine whether women and men of all races will have the opportunity to succeed and advance.¹⁰ Of course, institutional design implies a designer, or more precisely, an architect. It is here that the architect metaphor falls short. When most people think of an architect, they think of a single person who prescribes a design that governs the implementation of the building process. The design process contemplated in *The Architecture of Inclusion* is instead one of co-creation. It is self-conscious but constructed from multiple locations that, in turn, shape each other's design. There are participatory designers not only of institutions, but also of initiatives, practice communities, networks, and systems. NSF ADVANCE illustrates this concept. Using its institutional transformation grant program, the government agency has constructed a network of universities involved in institutional redesign and collective problem solving. These grantees work with NSF to develop metrics to evaluate their success.¹¹ Regular reporting and periodic peer review connect external accountability to internal self-reflection. These periodic assessments also push NSF to revise how grantees interact with each other and provide systems of accountability in the next iteration.¹²

Finally, the architectural metaphor evokes the idea of space, including third spaces, experimental spaces, and intermediary spaces that are created through active intervention and open up possibilities to reconfigure relationships, ideas, and information. Space plays a role in its physical manifestation, such as by providing central and symbolic locations for convening people from different parts of the institution to meet, plan, and collaborate. It also has symbolic, conceptual, and interactive dimensions, representing the creation of leverage points for gathering information, institutional arrangements for making decisions, and focal points for accountability. This is figurative flexible space—bringing ideas, decisions, and resources into new configurations.

The Architecture of Inclusion offers an approach to developing and sustaining this architectural focus on structure, interaction, design, and space. This approach includes a concept to guide its design, roles to construct it and revitalize its critical potential, and institutional intermediaries located at key leverage and pivot points to connect and sustain it. The articles prepared for

¹⁰ Sturm, *supra* note 1, at 257.

¹¹ *Id.* at 314–15.

¹² *Id.* at 320–21.

this Workshop illustrate and deepen the meaning of these ideas, as the subsequent discussion makes clear.

INTERDISCIPLINARY ELABORATIONS OF INSTITUTIONAL CITIZENSHIP

The Architecture of Inclusion develops the norm of “institutional citizenship” as a justification and goal. Institutional citizenship connotes a strong conception of full participation, mutual responsibilities, and shared benefits. It involves creating conditions so that people of all races, genders, and backgrounds can realize their capabilities as they understand them and participate fully in the life of the institution. This goal has a positive valence; it engages participants in articulating an affirmative vision of full participation in their community and of building the capacity for individuals and the group to achieve those values. It requires a critical assessment of the barriers and obstacles to full participation at the various institutional locations that shape inclusion and advancement. “Institutional citizenship” carries a second meaning, focused on the position of institutions in a broader democracy. Universities occupy a crucial location where public citizenship is expressed, the benefits of participation are distributed, and public values are elaborated. They are gateways to leadership and definers of social and political status. They bear responsibility both for creating broad access and for developing knowledge to benefit diverse communities. They must, then, define their membership in light of a university’s responsibilities to serve the public values of the broader community.¹³

The interdisciplinary commentaries in this issue take the idea of institutional citizenship beyond the context of the university. Guy-Uriel Charles’s important essay provides a clear and persuasive argument for moving from equality to institutional citizenship as the conceptual framework animating policy, advocacy, and institutional change.¹⁴ Charles argues that institutional citizenship evokes normative responsibility, is forward-looking, and proceeds from a premise of obligation to investigate and justify distinctions in the lived lives of community members.¹⁵ He also fleshes out the role of socio-economic institutions as partners with the state in promoting inclusion norms and sites of citizenship. “[I]nstitutions matter because they are the primary entities with which folks of color interact. If socio-economic institutions can be induced to serve as promoters of inclusion norms it becomes possible to improve the lived lives of citizens of color.”¹⁶ Charles also points the way for future work, including the need to map the territory and identify the critical socio-economic institutions that are crucial determinants

¹³ *Id.* at 304.

¹⁴ Charles, *supra* note 7.

¹⁵ *Id.* at 359–62.

¹⁶ *Id.* at 359.

of full participation.¹⁷ His essay thoughtfully acknowledges the value of a more open-ended relationship between formal legal rights and the goal of institutional citizenship.¹⁸ The meaning of these aspirations can take shape in multiple locations and will not be constrained by the limits of judicially enforced constitutional doctrine.¹⁹

Charles's essay also points to the need for further elaboration of institutional citizenship's meaning, including its political, institutional, and social dimensions. The essays in this volume illustrate the value of integrating different disciplinary analyses to develop the meaning of the term. Charles applies political science analysis and data to the institutional citizenship question.²⁰ He looks at socio-economic indicators of differential status as one indicator of less-than-full citizenship, drawing on the Urban League's Equality Index as an indicator of differences in the lived lives of citizens of color.²¹ His approach resonates with the citizenship analysis provided in *Disparity Rules* by Olatunde Johnson.²² Johnson has conceptualized the "failure to address pronounced racial disparities" as "a denial of equal citizenship," building on Glenn Loury's analysis of racial stigma.²³ Loury argues that "racial disparities reflect racial stigma—who a disfavored minority 'at the deepest cognitive level [is] understood to be.'"²⁴ He observes that "the public is mute in the face of dramatic racial disparities because the harms suffered by African Americans are not given equal weight or importance in political discourse."²⁵ Johnson connects this "fundamental lack of regard or failure to care about the harms or disadvantages minorities experience" to "the denial of their equal humanity, acting as an impediment to equal citizenship."²⁶

Bonita London, Vanessa Anderson, and Geraldine Downey examine institutional citizenship through the lens of social psychology. Their powerful article provides texture and meaning to the question of what full participation looks like at the micro-level of interaction. They define an inclusive environment as "one in which all institutional members (particularly those who have been historically excluded and/or marginalized from the institution) are supported and expected to thrive both academically and socially, contributing not only to their individual success, but to the success of the institution as a whole."²⁷ They then connect the idea of institutional citizen-

¹⁷ *Id.*

¹⁸ *Id.* at 362–63.

¹⁹ *Id.*; see also Olatunde C.E. Johnson, *Disparity Rules*, 107 COLUM. L. REV. 374 (2007).

²⁰ Charles, *supra* note 7, at 355–58.

²¹ *Id.*

²² Johnson, *supra* note 19, at 378.

²³ *Id.*

²⁴ GLENN C. LOURY, THE ANATOMY OF RACIAL INEQUALITY 79–84 (2002), quoted in Johnson, *supra* note 19, at 112–13.

²⁵ Johnson, *supra* note 19, at 378.

²⁶ *Id.*

²⁷ London, Anderson & Downey, *supra* note 3, at 391–92.

ship to the degree of engagement within a domain. Engagement “refers not only to the academic investment, motivation and commitment that students demonstrate within their institution (both in and out of the classroom context), but also to the psychological connection, comfort, and sense of belonging that students feel toward their institution, their peers, professors and administrators.”²⁸ This particular research focuses on law schools, but their methodology has applicability in other institutional settings.

London, Anderson, and Downey’s discussion of Carol Dweck’s work provides another interesting insight from social psychology into the meaning of institutional citizenship. Dweck’s research shows that learning-focused environments, which emphasize developing the capacity to learn from error, foster greater levels of engagement and academic success than performance-ranking environments, which emphasize proving intrinsic intelligence.²⁹ This work introduces the importance of status-defining metrics in achieving institutional citizenship. When status is zero-sum and depends largely upon out-performing others, institutions tend to be more exclusionary and to discourage engagement, full participation, and advancement. When, in contrast, the institution has a responsibility to develop each person’s status as a learner with the capacity to succeed, it is more likely to encourage full participation and engagement.

Richard Brooks and Valerie Purdie-Vaughns’s fascinating essay shows the importance of moving the inquiry about institutional citizenship from individuals to groups. They harness economics and social psychology to demonstrate that “diversity is a group phenomenon—not an individual one—and one might reasonably expect more diversity, we propose, when hiring agents are encouraged to pursue their tasks with a focus on the hires as a group.”³⁰ Brooks and Purdie-Vaughns show that “supermodularity” induced participants in cluster hiring decisions to perceive discriminatory patterns, to think of their selections holistically, and to foster demographic diversity.³¹ They also suggest that considering citizenship as a group phenomenon may improve the experience of underrepresented groups.³² This suggestion dovetails the synthesis provided by Lani Guinier and Martha Minow. “An institutional citizen belongs to, forges, maintains and is accountable to a community of commitments. . . . Obligations and actions are horizontal as well as vertical; a disaggregated notion of equality is replaced by an interconnected idea of citizenship.”³³

Londa Schiebinger brings a history of science perspective to the question of what it would take for women to be fully included in the domain of

²⁸ *Id.* at 392.

²⁹ *Id.* at 405.

³⁰ Brooks & Purdie-Vaughns, *supra* note 6, at 380.

³¹ *Id.* at 380, 384–85.

³² *Id.*

³³ Lani Guinier & Martha Minow, *Dynamism, Not Just Diversity*, 30 HARV. J.L. & GENDER 269, 271 (2007).

science. Her analysis expands the meaning of institutional citizenship to go beyond participation in the workplace of science to defining the culture of science.³⁴ Institutional citizenship must include full partnership in knowledge production. This would require participation and voice in determining the questions asked, the subjects studied, and the knowledge valued.³⁵

Of course, the language of institutional citizenship is not without its limitations, as Susan Carle points out. Carle raises an important limitation of the citizenship paradigm: it necessarily excludes those who are not currently defined as citizens.³⁶ In Jennifer Gordon's words, "Declarations of citizenship are circle-drawing exercises. As Alexander Aleinikoff noted, 'By defining insiders, the concept of citizenship necessarily defines outsiders.'" ³⁷ Carle applies this critique, "Who challenges the unexamined 'insider' assumptions of internal change agents?,"³⁸ to the approach exemplified by ADVANCE.³⁹

This is an important question and one that must be taken to heart by the architects of inclusion. Indeed, ADVANCE has been justly criticized for its initial failure to include race in the definition of its institutional transformation goals. However, the architectural approach exemplified by ADVANCE shows how building communities of accountability into the design can assure that these questions get raised as part of the ongoing work. The process is set up to expose itself to the question: Who is not at the table and why? This is done by involving those with a stake in the underlying interest in the doing of the work and making the results of the change process (both positive and negative) available to those in a position to ask questions about the process's adequacy. By asking questions about whose interests are left out, the change initiative assures that those who can and should be involved are brought into the process. It also makes transparent who is not at the table, and thus invites a kind of outsider critique that appropriately questions the complete legitimacy of a decision-making process that excludes some affected interests. In this sense, the process can achieve what Grainne de Burca calls a democratic-striving/democracy-developing approach:

The democratic-striving approach insists that the democratic aspiration should always be present in whatever governance structures are being worked out, that the design of processes should be influenced by this aim, rather than being directed only or mainly to-

³⁴ Londa Schiebinger, *supra* note 4, at 370.

³⁵ *Id.* at 369.

³⁶ Susan Carle, *Progressive Lawyering in Politically Depressing Times: Can New Models for Institutional Self-Reform Achieve More Effective Structural Change?*, 30 HARV. J.L. & GENDER 323, 343-45, 349-51 (2007).

³⁷ Jennifer Gordon, *Transnational Labor Citizenship*, 80 S. CAL. L. REV. 503, 580 (2007) (quoting Alexander Aleinikoff, *Citizenship Talk: A Revisionist Narrative*, 69 FORDHAM L. REV. 1689, 1692 (2001)).

³⁸ *Id.*

³⁹ Carle, *supra* note 36, at 343-45, 349-51.

wards goals such as policy effectiveness without regard to questions of fair participation. . . . In that sense the language of democracy-developing or democratic-striving—i.e. the idea that the system or process is designed to strive continuously to develop the best possible degree of participation, rather than that it is somehow already democratic, perfectly democratic, or democratic in the way that that term is understood in the state context—is deliberate. . . . The notion of striving also has within it the idea of likely failure and the expectation of the need for regular revision of the process as a whole, thereby exemplifying precisely one of the classic strengths and cardinal virtues of the democratic idea as a form of governance, which is its self-correcting character.⁴⁰

That is indeed the dynamic that has occurred within the ADVANCE program. NSF responded to criticisms by and behalf of those not at the table by taking steps to focus attention on barriers to racial and class-based participation as part of its funding program and change network.⁴¹ ADVANCE has made an explicit effort to connect research universities and historically black colleges, public universities, and less well-endowed programs, and to give high priority to issues involving women of color.⁴²

CLARIFYING THE ROLE OF ORGANIZATIONAL CATALYST

The organizational catalyst role is one of the key mechanisms for developing and sustaining structural change.⁴³ Many of the commentaries focus on the organizational catalyst as a change agent and show that this role has broad applicability as a means of promoting and sustaining institutional change. Frank Dobbin and Alexandra Kalev's cutting-edge work documents the generalizability of the organizational catalyst role to the corporate world, based on a longitudinal study of diversity efforts at more than 800 firms over thirty years.⁴⁴ Their article also fulfills a qualitative scholar's dream by concluding that their findings "lend striking support" to the theory of change advanced in *The Architecture of Inclusion*, more particularly, to the effectiveness of creating hybrid roles that fold responsibility for gender equity

⁴⁰ Grainne de Burca, *Developing Democracy Beyond the State* 17 (Feb. 2007) (unpublished manuscript, on file with author).

⁴¹ See ADVANCE, PROGRAM SOLICITATION, 4TH ROUND (Apr. 15, 2005), available at http://www.nsf.gov/funding/pgm_summ.jsp?pims_id=5383&from=fund.

⁴² *Id.*

⁴³ The following discussion builds on my earlier work describing and analyzing the organizational catalyst role. See Emma Freudenberger, Jean E. Howard, Eddie Jauregui & Susan Sturm, *Linking Mobilization to Institutional Power: The Faculty-Led Diversity Initiative at Columbia University*, in RECONSTRUCTING THE ACADEMY: FACULTY TAKE THE LEAD (Mary Hartman, Cheryl Wall & Winnifred Brown-Glaude, eds., forthcoming 2007); Sturm, *supra* note 1, at 287–301.

⁴⁴ Dobbins & Kalev, *supra* note 3, at 291.

into leadership roles and that leverage communities of practice.⁴⁵ Their results support the idea that “equity efforts will be most fruitful when the roles of organizational leader and equity expert are merged.”⁴⁶ They also find “surprising efficacy of diversity taskforces, which typically bring together division chiefs to brainstorm for equal opportunity strategies and then implement those strategies in their own departments.”⁴⁷ Their research thus provides strong validation of the hypothesis generated by the close case study of the role of organizational catalysts and their participatory task forces that play such a prominent role in the analysis of ADVANCE’s success.

The commentaries on the organizational catalyst role also illustrate the need to further clarify the functional qualities of the role, particularly the importance of their location within a broader institutional change initiative. Organizational catalysts are individuals with knowledge, influence, and credibility in positions where they can mobilize change within complex structures such as modern research universities. Several features of the role are crucial to its capacity to generate and sustain structural change. First is their boundary-spanning institutional position. Organizational catalysts occupy a position at the convergence of different domains and levels of activity. They have the mandate to connect information, ideas, and individuals and thereby solve problems and enable change. This boundary-spanning position enables the office to cut across the bureaucratic silos that typically constrain innovation. This position at the nodal point of multiple systems provides a vantage point for observing patterns and bringing that knowledge to bear on particular problems. In addressing the problems brought to their attention, they can bring together the individuals from different institutional locations who otherwise would not connect and whose participation is necessary to address cross-cutting problems, such as lack of childcare or partner-placement challenges.

A second feature of organizational catalysts is their capacity to leverage legitimacy based on their connection both to traditional power and to the constituencies concerned about racial and gender justice. Organizational catalysts occupy a hybrid role, one that requires knowledge, legitimacy, and social capital to get powerful people to the table, include relevant constituencies in decisions, and to allow the diversity initiative to influence their practices. Organizational catalysts must also be able to instill hope and trust in groups that have become skeptical about the possibility of change. The legitimacy of diversity as a goal must itself be continually re-established as part of the change process, often by a spokesperson with sufficient credibility and status to be taken seriously. The role requires a person of sufficient knowledge, expertise, skill, and gravitas to work effectively with a wide range of constituencies.

⁴⁵ *Id.* at 280.

⁴⁶ *Id.* at 300.

⁴⁷ *Id.*

A third crucial feature is organizational catalysts' organization of work around projects and problem solving. Organizational catalysts provide an overarching conceptual framework for pursuing inclusiveness, one that connects an understanding of the culturally and institutionally rooted dimensions of the problem to programmatic intervention, system design, and institutional change. This conceptual orientation prompts actors to think about their efforts in relation to each other and to larger goals and analyses. The office defines projects that respond to identified problems in order to achieve specified and measurable results. This project-oriented approach creates occasions and incentives for people in positions of responsibility to act and for people who care about diversity to press for change. It maintains the institution's focus on diversity as part of its core mission. Organizational catalysts thus keep gender and racial inclusion on the front burner and put together workable solutions, making it harder not to take action. They help create multiple constituencies for change—constituencies who otherwise would not see their interests as overlapping. As one faculty member has said, "Our job is to hold the institution's feet to the fire" and make sure that change gets institutionalized.⁴⁸

Finally, organizational catalysts sustain change networks through distributing leadership. The Columbia University change initiative exemplifies this aspect of the organizational catalyst role. The Columbia initiative has developed a strategy for achieving both by identifying and empowering formal and informal leaders who are part of larger networks and in a position to solve problems.⁴⁹ The Vice Provost for Diversity Initiatives—Columbia's particular version of the organizational catalyst role—uses central resources to strengthen the role of local leaders. The office leverages its own committees and task forces to provide an infrastructure for the development of formal and informal diversity leadership distributed around the university. It works to sustain activism by enlisting existing networks, such as the institutes on gender and race, the Earth Institute's ADVANCE program, and the Commission on the Status of Women. The office has also fostered the creation of local diversity leadership—respected faculty who are charged with formal responsibility for leading a diversity effort within their department or school. The Vice Provost's office operates as the "mother ship" creating and supporting home grown satellite offices. This dynamic interaction between the local and the center helps sustain the momentum in each location. It also maintains involvement in the face of the inevitable obstacles and failures that could easily derail isolated efforts. Through distributing leadership, the diversity initiative helps create multiple constituencies for change.

As noted in *The Architecture of Inclusion* and underscored by Debra Meyerson and Megan Tompkins's essay, organizational catalysts bear a re-

⁴⁸ Freudenberger, Howard, Jauregui & Sturm, *supra* note 43 (manuscript at 28, on file with author).

⁴⁹ *Id.* (manuscript at 29).

semblance to other intermediary roles, such as Meyerson's tempered radicals and Malcolm Gladwell's "connectors, mavens, and salesmen."⁵⁰ However, there are some crucial distinctions in the position and strategies of organizational catalysts as compared to tempered radicals. Meyerson defines tempered radicals as individuals who "are marginalized within the institution they wish to change and are therefore exposed to contradictions between their interests or identities and the dominant logics."⁵¹ Tempered radicals "rely on incremental and subversive change tactics that range from subtle, identity-based moves to small, isolated acts to grass-roots coalition building."⁵² They need not be, and often are not, part of a broader institutional change initiative. Their critical consciousness comes from their dual identity as insiders who are also members of marginalized groups. This identity-based definition of the tempered radical role differs in significant respects from the organizational catalyst role. The organizational catalyst's capacity to prompt institutional mindfulness comes not from her identity per se but rather from her position of accountability to constituencies built into her experience and role, as well as her boundary-spanning position and ongoing collaboration with a broader change initiative that builds on communities of practice. Moreover, organizational catalysts are not defined by their marginal status but rather by their position as a respected member of multiple communities of practice.

It is also important to distinguish organizational catalysts from bureaucratically-defined positions that are not embedded in a larger change initiative. As Evelyn Hammonds's remarks at the Workshop underscore, this role cannot be fulfilled if individuals are placed in positions without adequate authority and resources and are disconnected from a mobilized group of faculty.⁵³ It is crucial that these individuals come to the position with the stature and track record to bring people to the table. Without a mobilized constituency to hold the organizational catalyst accountable and keep the pressure on, no single individual can sustain a program requiring institutional and cultural change. Hammonds also showed that it can be particularly challenging to sustain this kind of change dynamic around issues of race in an institution where the constituency for that kind of change is small and itself potentially marginalized from power.⁵⁴ Hammonds insightfully showed how the emphasis on the "pool problem" for African Americans can play into cognitive biases and stereotypes about blacks' capacity for intellec-

⁵⁰ Sturm, *supra* note 1, at 325 (citing MALCOLM GLADWELL, *THE TIPPING POINT: HOW LITTLE THINGS CAN MAKE A BIG DIFFERENCE* 34 (2000); DEBRA E. MEYERSON, *TEMPERED RADICALS: HOW PEOPLE USE DIFFERENCE TO INSPIRE CHANGE AT WORK* 124 (2001)).

⁵¹ Meyerson & Tompkins, *supra* note 3, at 311.

⁵² *Id.* at 310.

⁵³ Evelyn Hammonds, Senior Vice Provost for Faculty Development and Diversity at Harvard University, Remarks at the Harvard Journal of Law & Gender *Architecture of Inclusion* Faculty Response Workshop (Oct. 20, 2006).

⁵⁴ *Id.*

tual leadership.⁵⁵ She also described the difficulty of sustaining momentum for change in the face of continual frustration and lack of support from those in leadership positions.⁵⁶

Hammonds's remarks also underscore the importance of the observation that organizational catalysts cannot sustain institutional change if they are acting alone. The transformative moments described in *The Architecture of Inclusion* are nested in an ongoing process that pursues a vision of institutional citizenship through fostering communities of accountability and distributed leadership. Those processes create the contexts for those transformative moments to occur and then provide the structure to build on the momentum they create.

CULTIVATING INSTITUTIONAL INTERMEDIARIES

Institutional intermediaries play a crucial role in crafting the architecture of inclusion. They establish common metrics so that problems can be identified and progress assessed. They pool knowledge about the problem of under-participation and effective strategies for addressing it. They connect networks of similarly situated actors, so that they can collaborate on problems that transcend institutional boundaries. Perhaps most importantly, they provide a crucial source of external accountability. Change initiatives are difficult to sustain over time. They require sustained involvement and attention. Leadership transitions pose particularly significant opportunities and risks to the continued efficacy of these initiatives. They can serve as occasions of renewal—of commitment, energy, and ideas. They can also derail an initiative if the structures are not in place to assure the initiative's continued efficacy. Pressure of some form is needed to maintain the commitment to the values motivating the initiative and the attention required to achieve institutional mindfulness. Without some form of external support and accountability, initiatives will depend too heavily on the cooperation of internal leadership or the effective mobilization of internal constituencies. Ongoing accountability to external intermediaries is necessary to sustain the internal architecture.

The Architecture of Inclusion uses the example of NSF ADVANCE to sketch the role of institutional intermediaries in developing and sustaining institutional inclusiveness. NSF's public intermediary role works through the operation of three key factors: reciprocity in its relationship with grantees, a capacity-building orientation, and the leveraging of its central location within a preexisting university network and practice community.⁵⁷ Frank Dobbin and Alexandra Kalev show that NSF is not unique in its capacity to play this intermediary role. They conclude that, "while its regulatory role is

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ Sturm, *supra* note 1, at 314.

quite different from that of the NSF ADVANCE program, during the 1970s the OFCCP served a similar function of disseminating evidence from test cases.”⁵⁸ Dobbin and Kalev used their extensive data set to test the proposition that “gender and racial equity will improve when the federal government seeks to identify and diffuse successful recruitment, hiring, and promotion strategies that increase equality of opportunity.”⁵⁹ They found that:

In the 1970s, OFCCP compliance reviews had surprisingly strong positive effects on the diversity of the managerial workforce, as our studies show. Firms that underwent compliance reviews subsequently had significantly more women and black men in management.⁶⁰

Their study showed that the OFCCP was effective when it saw its job as identifying successful equity strategies and encouraging employers to adopt those strategies.

Dobbin and Kalev’s finding that the OFCCP, at a particular point in its history, was an effective institutional intermediary has important implications for the generalizability of the role. It shows that the capacity to perform this intermediary role is not limited to public funding agencies and that it can be performed by very different kinds of public and private institutions. The OFCCP example also shows, however, that institutional position alone does not enable an agency to perform as an effective institutional intermediary. When the Reagan administration sought to turn over more control for compliance to employers themselves, the OFCCP ceased playing this effective intermediary role. “The OFCCP increased the number of compliance reviews significantly, but reduced sanctions and cut staffing, with the overall effect that compliance reviews were more rapid and less intrusive than they had been. The new regulatory strategy put an end to efforts to spread successful innovations.”⁶¹ Thus, an agency’s success as an institutional intermediary turns on its location as a capacity-building agency within an ongoing community of practice and its role in harnessing the incentives and communications channels of that network. That capacity turns on the way the agency performs its function. Going forward, the architecture of inclusion cannot be developed simply by designating a formal category of institutions to play the intermediary role. Instead, it requires a domain-specific analysis of the institutions that are in a position to perform this role.

⁵⁸ Dobbin & Kalev, *supra* note 3, at 290.

⁵⁹ *Id.* at 295.

⁶⁰ *Id.* at 301.

⁶¹ *Id.* at 290.

THE IMPORTANCE OF LINKING RACIAL AND GENDER INITIATIVES

The Architecture of Inclusion documents an initiative which was defined at its outset to focus on gender. This decision has been controversial and contested from the start. It has been justified by the fact that the dynamics accounting for racial and gender under-participation differ in important respects.⁶² It is undeniable that racial dynamics indeed differ from those accounting for persistent gender disparities. As Charles and Hammonds note, racial disparities are rooted in macro-structural dynamics that have created limited opportunities for people of color in the United States.⁶³ Moreover, the interpretation of the issue as a “pool problem” reinforces structurally embedded and hard-to-surface stereotypes that justify passivity in the face of persistent failure to include people of color on faculties.

However, the differential diagnosis of the problem does not warrant segregating race from gender initiatives. At the level of intervention, these problems must be addressed simultaneously, even if differences in the nature of the problem require differences in strategy. Responses designed to address gender will necessarily affect people of color, because the same processes will be used for hiring, promotion, and advancement. Because of the tendency for institutions to acquiesce in racial disparities,⁶⁴ it becomes that much more important to make sure that race is addressed as part of initiatives focused on advancing institutional citizenship for women.

Experience attempting to address race and gender disparities simultaneously shows that it can be done. For example, Columbia has, from the outset, focused its diversity initiative on advancing the full participation of both women and people of color. The group that mobilized this initiative “recognized that gender and race are so differently constructed and differently experienced that distinct strategies will have to be found for each set of issues. We also know, however, that gender and race intersect in crucial ways at Columbia, as elsewhere, and cannot profitably be isolated from one another.”⁶⁵ The resulting diversity initiative has focused inquiry on the institutional dynamics underlying under-participation of both women and people of color and on addressing institutional dysfunctions that have undercut the quality of decision making and academic life across the board. It has also forced attention beyond the boundaries of the institution, to create collaborations designed to bring people into the institution and to enable them to succeed when they are here. In 2006, the first results of these efforts became visible. Underrepresented minorities made up 11% of the faculty hired in 2005 and 26.5% in 2006.⁶⁶ Women made up 34% of those hired in 2005 and

⁶² Sturm, *supra* note 1, at 274.

⁶³ Hammonds, *supra* note 53; Charles, *supra* note 7, at 354.

⁶⁴ See Johnson, *supra* note 19, at 385–86; LOURY, *supra* note 24, at 166.

⁶⁵ Columbia’s Race and Gender Initiative (Feb. 12, 2004) (unpublished manuscript, on file with author).

⁶⁶ Freudenberger et al., *supra* note 43.

38% in 2006.⁶⁷ Analysis suggests that these increases are due to a combination of more inclusive search practices and targeted recruitment efforts.⁶⁸

THE ROLE OF LAW AND LAWYERS

Finally, Susan Carle's commentary prompts a few additional thoughts on the role of law and lawyers in *The Architecture of Inclusion*. Susan Carle's comments⁶⁹ make lawyers much more central than they actually were to ADVANCE or than they necessarily should be. The most pivotal role played by lawyers involves in-house counsel, who function as gate-keepers for any university initiative aimed at advancing racial or gender participation. Beyond this institutional representation role, lawyers in fact played a minimal role in the ADVANCE story. I agree with Carle's view that lawyers should not call the shots, that they should be accountable to an organization or a group that is directly affected, and that those who are directly affected should themselves be at the table.⁷⁰ But these concerns seem inapposite when lawyers acting on behalf of excluded groups are largely absent from the institutional change process, as they were in the ADVANCE institutional change initiatives. Lawyers representing excluded groups must figure out what their role is when litigation does not drive an institutional change process. They confront new kinds of questions, including: How do they find an avenue of participation and voice for those who are not currently at the table?, How do they construct systems and communities of accountability that will sustain attention to these issues in an era of legal risk?, and most importantly, How can they help build the capacity of groups inside and outside universities to pursue institutional citizenship as a value? In the wake of case law and legislation limiting the ways that universities may lawfully pursue inclusion and diversity, lawyers representing those interested in inclusive institutions of higher education must roll up their sleeves and help figure out what to do now.

This is an important time to step back and rethink the strategies and frameworks for advancing equality in higher education. Of course, lawyers cannot construct new strategies on their own. This process requires collaboration across roles, disciplines, institutions, and communities. *The Architecture of Inclusion*, and the conversations it has generated, illustrates the promise of such collaborations to produce concrete and usable frameworks for change.

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ Carle, *supra* note 36.

⁷⁰ *See id.*