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Combating Gender Inequities in Law School: Time for a New Feminist Rhetoric that Encourages Practical Change

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COMBATING GENDER INEQUITIES IN LAW SCHOOL: TIME FOR A NEW FEMINIST RHETORIC THAT ENCOURAGES PRACTICAL CHANGE

By
Caitlin Howell*

INTRODUCTION

Despite the fact that law schools are admitting men and women in relatively equal numbers, they are failing to adequately prepare women for success.¹ Not only do women report feeling marginalized in law school classrooms, but also they statistically under-perform men.² Additionally, men continue to dominate the upper levels of the legal profession.³ Recently though, it has also become clear that men experience law school negatively.⁴ Just like women, men are not being taught all the skills they need to be effective attorneys.⁵

Over the course of contemporary women's legal history, different feminist scholars have attempted to identify solutions to gender inequities in law school.⁶ Many feminist legal scholars have hypothesized that the adversarial nature of law school is inherently discriminatory against women because it rewards masculine behavior.⁷ They argue that the Socratic method, the hierarchical nature of law school journals, the fierce competition for clerkships and externships, and mock/moot court competitions all reward such behavior. These feminist scholars, therefore, propose a reinvention of law school pedagogy that would reward feminine behavior. They also propose to insert feminist perspectives into the curriculum.⁸ This essay argues that while this approach could benefit women and men, it may perpetuate gender inequity by stereotyping a highly diverse group of women.⁹

In Part II, I will provide a background on the concept of gender inequity and negative experiences in law school. Then, I will also sketch the different feminist approaches to address gender inequity in law school.¹⁰ In Part III, I will identify the gaps in such feminist scholarship. I will also argue that feminists should shift their critique to how law schools are failing to provide both women and men with all the skills they need to be effective attorneys.¹¹ Finally, in Part IV, I will suggest that law schools would lessen gender inequity if they commit to producing lawyers who are capable of meeting diverse professional demands.¹²

BACKGROUND

GENDER INEQUITY AND NEGATIVE LAW SCHOOL EXPERIENCES

The scholarship devoted to examining the marginalization of law students on the basis of gender has risen with the increase of women entering law school.¹³ By conducting empirical studies through the lens of feminist theory, scholars have identified significant gender inequities in law school that negatively impact students' experiences.¹⁴ Generally, in law school women under-perform men in terms of grades.¹⁵ They are also unrepresented on grade-based law journals.¹⁶ Specifically, studies show that women participate less than men do in the class-

room.¹⁷ Women are discouraged from participating partly because the majority of first year professors are males.¹⁸ Women also report higher levels of anxiety, stress, and depression in law school than men do.¹⁹ Studies indicate that, after their first year of law school, women are less confident in their ability to become successful lawyers.²⁰ Some women attribute their lower rates of classroom participation, feelings of anxiety, and lack of confidence in part to the Socratic method and competitive classroom environment.²¹ They also attribute these feelings to the limited professor feedback in classes culminating in a "one-shot," end of the year exam.²²

FEMINIST APPROACHES TO ADDRESSING GENDER INEQUITY

Feminist scholars have attempted to devise a variety of solutions in response to finding that women under-perform men and experience law school negatively.

INSERTING WOMEN AND WOMEN'S ISSUES INTO LAW SCHOOL

Some scholars suggest that a basis for reforming legal education should be inserting gender and feminist perspectives into first year classes, such as torts and contract law.²³ This approach would insert into the curriculum the legal accomplishments and contributions of women.²⁴ This approach would also recast classes on feminism and the law as essential.²⁵ These scholars argue that integrating women's issues into the law could help female students feel less alienated from law school.²⁶ Not only would women participate more in the classroom, but male students would also learn about pervasive gender attitudes in the legal field.²⁷

To achieve equality for women in law school, this approach would also increase both, the sheer number of female law professors as well as the number of female professors in positions of seniority.²⁸ In order to achieve equality for women in law school, scholars argue that female faculty members are essential as role models because they bring greater diversity in pedagogy and perspectives to the classroom.²⁹ Scholars also assert that having female role models would increase the comfort level of women in the classroom and female students' self-esteem would rise by seeing successful women in the profession.³⁰ This higher level of confidence could translate into higher grades and improved overall performance rates for women in law school.³¹

ADOPTING "WOMEN-FRIENDLY" TEACHING METHODS

Some scholars suggest going beyond introducing more women and women's issues into law school. They advocate restructuring the current adversarial law school model by using more feminized teaching methods³² to make it friendlier to

women.³³ Specifically, these scholars recommend making law school a more “nurturing environment”. They suggest eliminating or tempering the Socratic method, encouraging small-group discussions and smaller class sizes. They also suggest increasing professor feedback. Professors would be encouraged to establish a good rapport with students.³⁴ As a result, women would be less anxious and be more likely to participate in a “comfortable classroom” environment where professors provide positive reinforcement and create a sense of community.³⁵

Scholars that advocate making law school friendlier to women also suggest importing aspects of feminist pedagogy into the classroom.³⁶ This would include encouraging more collaborative and cooperative styles of teaching and learning to decrease adversariness.³⁷ Using more feminist teaching methods could empower women to assert themselves in the classroom and later, in the professional world.³⁸

“HUMANIZING” LAW SCHOOL

Instead of changing law school to accommodate women’s different learning style, some scholars argue that humanizing law school eliminates gender inequity without stereotyping women.³⁹ Humanizing law school means fostering an ethic of care in the classroom. This would include providing positive reinforcement to students and demonstrating respect for students’ opinions and ideas.⁴⁰ For instance, professors would encourage cooperation in class by asking students to assist their colleagues or “co-counsel” when a student gets nervous and then, return to the student after she or he has regained composure.⁴¹

Demystifying the learning process is another hallmark of the humanizing approach.⁴² Instead of eliminating the Socratic method, professors should explain the purpose for using it.⁴³ Explaining to students that the Socratic method is more of a dialogue rather than their only opportunity to demonstrate that they can “think like a lawyer,” could relieve anxiety in the classroom.⁴⁴ When professors explain to students that the Socratic method is meant to generate discussion rather than a single “correct” answer, law schools would reward women’s ability to think with a multiple consciousness, or a greater variety of perspectives.⁴⁵

SETTING ASIDE THE ASSUMPTION OF GENDER DIFFERENCE

Arguing from a very different viewpoint, some scholars advocate setting aside gender differences as something occurring prior to women’s marginalization in law school.⁴⁶ Instead of looking at gender as the problem, feminists should examine the concept of gender as the consequence of the power structure of law school.⁴⁷ In other words, “gender” is nothing more than a construct perpetuated by male-dominated law schools to keep women from advancing with the same rates of success.⁴⁸

Addressing gender inequity in law school then becomes a question of examining operations of power rather than generalizing about women’s perspectives.⁴⁹ Law schools should change their focus from attempting to make law school a more “feminine” place to increasing the political representation of feminist ideas.⁵⁰ This approach contends that by imbuing the content of legal education with feminist politics, not femininity, women’s law school experiences would improve.⁵¹

ANALYSIS

GAPS AND PROBLEMS IN CURRENT FEMINIST SCHOLARSHIP

“STIRRING IN” WOMEN AND FEMINIST PERSPECTIVES

Feminist perspectives should be included in the law school curriculum. However, introducing separate “women’s issues” in basic classes may exacerbate the notion that these are “outsider” interests or “asides to the more important objective business that is the true subject of the class.”⁵² Moreover, addressing women’s issues in separate courses may perpetuate the notion that women’s interests are personal having limited relevance to the law generally.⁵³ Merely introducing feminist perspectives as asides also fails to address the current law school methods and institutions that perpetuate gender inequity.⁵⁴

Similarly, merely increasing the number of women on law school faculty will not automatically alleviate gender inequity in the classroom.⁵⁵ Female professors who heavily utilize the Socratic method also intimidate women students.⁵⁶ In fact, seeing women “do law like men” can only heighten feelings of inadequacy for female law students.⁵⁷ Therefore, inserting more women onto law school faculty without also restructuring the pedagogy may only perpetuate gender inequity.⁵⁸

SEX-STEREOTYPING GENDER NORMS

Attempting to humanize law school or make it more women-friendly based on stereotypically feminine characteristics, necessitates defining what is feminine because it does not escape essentializing both men and women.⁵⁹ Restructuring law school based on sex-stereotypes of masculinity and femininity excludes from the discourse women that are “unfeminine” and men that are more “feminine.”⁶⁰ The humanizing approach purports to circumvent sex-stereotyping. However, it still seeks to accommodate stereotypical feminine traits such as thinking with multiple consciousnesses.⁶¹ The Socratic method does not disserve all women, just as it does not benefit all men.⁶² Envisioning femininities and masculinities as homogeneous norms only serves to sex-stereotype a highly diverse student body. Sex-stereotyping marginalizes differences with regard to race, class, and sexual orientation.⁶³

LOWERING EXPECTATIONS FOR WOMEN

Feminist rhetoric advocating that law schools should become more women-friendly exacerbates gender inequity and lowers the expectations for women in law school. This rhetoric encourages the notion that women cannot succeed in law school unless it “softens up.”⁶⁴ Advocating the need to make law school more “nurturing” or “women friendly” as essential for women’s success perpetuates female law students’ feelings of inadequacy in the legal profession.⁶⁵ This rhetoric does not address the law schools’ failure to meet demands on lawyers. Instead, it can wrongfully lead to the conclusion that restructuring law school to accommodate women comes at the expense of professional training for all students.⁶⁶ Instead of addressing the way in which gender inequity in law school is inextricably linked to the failure of law schools to adequately depict the range of demands on lawyers, the women friendly approach lowers the expectations for women in law school.⁶⁷

Feminist legal scholarship largely ignores the negative impact that the adversarial law school model also has on men.⁶⁸ Studies on gender inequity in law school show that men experience law school negatively as well.⁶⁹ Although 41% of females reported a loss of confidence in law school, 16.5% of men did too.⁷⁰ While 16.5% is a significant percentage, the number of men that experience a loss in self-esteem may be even higher since men are less likely to report or seek help for feelings of distress.⁷¹ Another study indicated that while one in two female law students reported feeling less intelligent in law school, so did almost one in three male students.⁷² The law school model, therefore, is harming men as well as women.⁷³ This is particularly true for men who represent a minority or less-traditional male perspectives. By not stressing the fact that legal education is failing everyone, feminists risk giving the impression that reform should occur purely to accommodate women.⁷⁴

SHIFT IN FOCUS

Feminist legal scholars should re-focus their critique of law school to address the practical failings of the adversarial model, which negatively impacts women and men as students and professionals. By couching recommendations for reform of law schools purely in terms of gender, feminists are not effectively identifying the gross failings of legal education. Addressing the failure of law schools to adequately prepare women and men to meet the range of demands on lawyers could push law schools to make real changes without exacerbating gender inequity.⁷⁵

THE CURRENT LAW SCHOOL MODEL DOES NOT ADEQUATELY DEPICT THE RANGE OF DEMANDS ON LAWYERS

Law school currently overemphasizes certain skills and underemphasizes others, failing to prepare women and men for a diverse professional world.⁷⁶ Currently emphasized skills include adversarial competition, aggressiveness, abstract doctrinal analysis, quickness, and performance.⁷⁷ Underemphasized skills include collaboration, counseling, mediation, lawyer-client relationships, problem solving, and facilitating transactions.⁷⁸ The former model, primarily based on litigation and doctrinal analysis, only applies to a small fraction of real-world practice.⁷⁹ Many lawyers do not litigate, go to court, or even work in large firms.⁸⁰ Additionally, “for those employed as in-house counsel or are engaged in transactional lawyering, negotiation contrasts starkly to the classic notion propagated by the Socratic method of advocating one side before an appellate court.”⁸¹

Instead, the legal profession increasingly values collaboration, group problem-solving, role flexibility, and proffering question as well as criticisms.⁸² The American Bar Association has identified problem-solving, comprised of generating alternative strategies and keeping the planning process open to new ideas, to be a fundamental lawyering skill.⁸³ Therefore, learning collaborative skills is essential for students as lawyers and firms expand the kinds of services they provide to meet their clients’ diverse needs.⁸⁴

Law schools committed to producing lawyers that are more capable of meeting diverse professional demands should recast academic priorities. Recasting these priorities would simultaneously lessen gender inequity.⁸⁵ Combining more collaborative teaching styles with current law school pedagogy would alter both the academic structure and educational substance of law school in a way that would benefit women and men.⁸⁶

In terms of academic structure, law schools should rely far less on large lectures or Socratic questioning. Law schools should, instead, add more emphasis to clinical programs and experiential learning.⁸⁷ With more emphasis on hands-on lawyering skills and less on abstract and authoritarian interchange between students and professors, law schools should give students more of an inside look at what it takes to be a professional instead of “hiding the ball.”⁸⁸

Law schools should also increase small group discussion sections in basic courses. Small group discussion would help students develop collaborative skills necessary for real world practice. By developing collaborative skills, small group discussions would simultaneously break down competitiveness in the classroom.⁸⁹ In addition, unlike an end of the year, one-shot exam, more exercises and class simulations would give students increased feedback on a regular basis. Using diverse teaching methods such as small group discussions, therefore, would increase possibilities for students with different learning styles and more accurately reflect the demands on lawyers in practice.⁹⁰

In terms of educational substance, more focus should be on the contextual application of the law rather than on abstract doctrinal analysis.⁹¹ Topics such as race, gender, class, ethnicity, and sexual orientation should become more central to the discussion of legal institutions and lawyer-client relationships.⁹² Instead of the occasional insertion of gender and race into the curriculum,⁹³ these issues should become an integral part of the core curriculum.⁹⁴ Analysis that uses dimensions such as gender to socially contextualize cases would move beyond the “add women and stir” approach.⁹⁵ Moreover, emphasis on interpersonal skills and diversity would more adequately equip students to deal with clients and colleagues. Students would move away from the false notion that lawyering is always about adversariness.⁹⁶ Focusing on the contextual application of the law, therefore, will address the current professional failings of lawyers to understand and better represent a diverse client body.⁹⁷

CONCLUSION

Since the 1980’s, more women have been admitted into law schools. However, ever since then, feminist legal scholars have identified more subtle forms of gender inequity in law school.⁹⁸ Many feminists argue that the source of inequity is the inherently masculine law school model. This model, they argue, rewards male behavior and penalizes women in terms of performance and experience.⁹⁹ Similarly, scholars have proposed solutions to the disparate law school experiences in terms of gender without problematizing femininities or masculinities.¹⁰⁰ However, these solutions rest on stereotypical definitions of what is “male” and “female.” Stereotypical definitions only risk

perpetuating gender inequity in law school.¹⁰¹ By using rhetoric and strategies that suggest law schools should accommodate women, feminists bolster the notion that women do not belong in law school unless it “softens up.”¹⁰²

The studies that feminist scholars have conducted show that men, women, and minorities are all experiencing law school negatively. Law schools are failing to teach everyone the skills they need to be effective lawyers.¹⁰³ Like the metaphor commonly used to describe women in law school, the canary is just the first indication that the mine is toxic.¹⁰⁴ Through their studies, feminist scholars have identified the institutional failings of law school. It is time for a new feminist rhetoric that encourages

practical changes without sex-stereotyping men and women.¹⁰⁵ Feminist rhetoric should encourage law schools to equip students to meet diverse professional demands. To meet these demands, law schools should change both the academic structure and substance of legal education. These changes would simultaneously lessen gender inequity.¹⁰⁶ Whether certain skills or behaviors are “male” or “female” or whether “masculine” skills are currently overemphasized in law school while “feminine” skills are underemphasized is irrelevant. One thing is clear: law schools are failing a diverse range of students and need to change.

ENDNOTES

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¹ See Sari Bashni & Maryana Iskander, *Why Legal Education is Failing Women*, 18 YALE L.J. & FEMINISM 389, 391 (2006) (criticizing law schools for cultivating patterns of behavior more likely to be found among men that do not necessarily reflect the skills students need to be good lawyers).

² See Lani Guinier et al., *Becoming Gentlewomen: Women's Experience at One Ivy League Law School*, 143 U. PA. L. REV. 1, 3 (1994) (determining that women have lower grades in their first year of law school because they feel alienated from the law school environment); WORKING GROUP ON STUDENT EXPERIENCES, HARVARD LAW SCHOOL Study on Women's Experiences at Harvard Law School, 26 (Feb. 2004), available at www.law.harvard.edu/students/experiences (noting that women under-perform slightly). But see Marsha Garrison, *Succeeding in Law School: A Comparison of Women's Experiences at Brooklyn Law School and the University of Pennsylvania*, 3 MICH. J. GENDER & L. 515, 520 (1996) (finding no discrepancy in grades earned by male and female law students at Brooklyn Law School).

³ See Bashni, *supra* note 1, at 394 (noting that women represent only 19.8% of federal judges and 17.3% of law firm partners).

⁴ See Joan M. Krauskopf, *Touching the Elephant: Perceptions of Gender Issues in Nine Law Schools*, 44 J. LEGAL EDUC. 311, 328 (1994) (finding that although 41% of females indicated a loss of confidence in law school 16.5% of males did too); see also Banu Ramachandran, *Re-Reading Difference: Feminist Critiques of the Law School Classroom and the Problem with Speaking From Experience*, 98 COLUM. L. REV. 1757, 1762 (1998) (noting that men may suffer distress at equal or even greater rates but may be less likely to report it); Garrison, *supra* note 2 (citing numerous sources supporting the proposition that the first year of law school is a highly stressful, isolating, and alienating experience for men and women).

⁵ See Lani Guinier, *Lessons and Challenges of Becoming Gentlemen*, 24 N.Y.U. REV. L. & SOC. CHANGE 1, 10 (noting that the skills involved in lawyering are complex and are not captured in the current law school model that presents lawyering as a contest).

⁶ See generally, Banu Ramachandran, *supra* note 4 (discussing the wide variety of feminist perspectives on gender inequity in law school).

⁷ See, e.g., Guinier, *supra* note 2, at 51 (noting that hostile questioning may cause many women to remain silent in the classroom); see generally Susan P. Sturm, *From Gladiators to Problem Solvers: Connecting Conversations About Women, the Academy, and the Legal Profession*, 4 DUKE J. GENDER & POL'Y 119, 121 (1997) (describing that the adversarial or “gladiator” model visibly excludes women from participating in the classroom); Morrison Torrey, Jennifer Ries & Elaine Spiliopoulos, *What Every First-Year Law Student Should Know*, 7 COLUM. J. GENDER & L. 267 (1998) (citing many sources implicating that women's perception of law school as a hostile environment decreased their participation).

⁸ See, e.g., Guinier, *supra* note 5, at 1 (arguing that the on-size-fits-all law school model needs to be changed to remedy the pervasively negative law school experiences of women).

⁹ See Ramachandran, *supra* note 4, at 1794 (suggesting that understanding gender as the consequence, not the cause, of women's marginalization in law school can prevent sex-stereotyping).

¹⁰ See *infra* Part II (exploring women's negative experience in law school and feminist approaches to ameliorate gender inequity in legal education).

¹¹ See *infra* Part III (discussing the gaps in feminist theory with regard to gender inequity and suggesting that feminists shift their focus to the way law school is

failing to provide women and men with professional skills).

¹² See *infra* Part IV (concluding that law school should change the structure and substance of legal education to more adequately train lawyers to meet diverse professional demands).

¹³ See Ramachandran, *supra* note 4, at 1757 (noting the explosion of feminist studies in response to the recent surge in the number of women attending law school).

¹⁴ See *id.* at 1760 (describing the variety of difficulties women face in law school).

¹⁵ See Guinier, *supra* note 2, at 28 (finding that men were three times more likely to be in the top 10% of the law school class after their first year); see also Suzanne Homer & Lois Schwartz, *Admitted but Not Accepted: Outsiders Take an Inside Look at Law School*, 5 BERKELEY WOMEN'S L.J. 1, 30, 39 (1989) (finding that one in six men received grades in the top ten percent of their first-year contracts class, while only one in sixteen women did so); see also Working Group on Student Experiences, *supra* note 2, at 26 (finding that 31% of men's grades were an A- or better compared with 25% of women).

¹⁶ See *id.* at 20.

¹⁷ See Guinier, *supra* note 2, at 130 n.86 (finding that men reported speaking twice as often as women); see also Homer, *supra* note 12, at 29 (finding that the majority of women indicated they never volunteered or asked questions in class compared with two-thirds of white males who stated they did so frequently); see also WORKING GROUP ON STUDENT EXPERIENCES, *supra* note 2, at 18 (finding that men are 142% more likely than women to speak voluntarily three times or more in class).

¹⁸ See Homer, *supra* note 13, at 35 (finding that women reported they would be more likely to speak in class if it was taught by a woman and prefer a female professor's approach).

¹⁹ See Guinier, *supra* note 2, at 44 (finding that women were more likely than men to report disorders as a result of law school); see also Janet Taber, *Gender, Legal Education, and the Legal Profession: An Empirical Study of Stanford Law Students and Graduates*, 40 STAN. L. REV. 1209, 1251 (1988) (finding that women students are more likely to cry, have nightmares, and suffer from insomnia than men); see also Working Group on Student Experiences, *supra* note 2, at 23 (finding that women students have higher rates of anxiety, depression, and sleeping difficulties than male respondents).

²⁰ See Krauskopf, *supra* note 4, at 328 (finding that women were more likely than men to agree with the statement “Before law school I thought of myself as intelligent and articulate, but often I don't feel that way about myself now”); see also Homer, *supra* note 12, at 33 (finding that 51% of women students “agreed with the statement that although they felt intelligent and articulate prior to law school, they did not feel that way at Boalt”).

²¹ See Guinier, *supra* note 2, at 278-79 (finding that many female students felt disabled from participation in the classroom by the Socratic method); see also Catherine Weiss & Louise Melling, *The Legal Education of Twenty Women*, 40 STAN. L. REV. 1299, 1327-28, 1333, 1337-39 (1988) (finding that first year women at Yale Law expressed a fear of speaking in class because of the aggressive nature of the Socratic method).

²² See Sarah E. Theimann, *Beyond Guinier: A Critique of Legal Pedagogy*, 24 N.Y.U. REV. L. & SOC. CHANGE 17, 22 (1998); see also Torrey & Reis, *supra* note 7, at 289 (explaining how women are more likely to internalize lack of positive feedback in a way that affects their performance on exams).

²³ See Lucinda M. Finley, *A Break in the Silence: Including Women's Issues in A Torts Course*, 1 YALE J.L. & FEMINISM 41, 42 (1989).

²⁴ Nancy E. Dowd, Kenneth B. Nunn, & Jane E. Pendergast, *Diversity Matters: Race, Gender, and Ethnicity in Legal Education*, 15 U. FLA. J.L. & PUB. POL'Y

ENDNOTES CONTINUED

11, 41 (2003).

²⁵ See Melissa Harrison, *A Time of "Passionate Learning: Using Feminism, Law, and Literature to Create A Learning Community*, 60 TENN. L. REV. 393, 425 (1993).

²⁶ See Finley, *supra* note 25, at 42 (stating that acknowledgment of gender issues in torts can help women feel less like outsiders to the enterprise of the law).

²⁷ See *id.* at 43.

²⁸ See Dowd, *supra* at note 26, at 44.

²⁹ See *id.*

³⁰ See Heather A. Carlson, *Faculty Mentoring As A Way to End the Alienation of Women in Legal Academia*, 18 B.C. THIRD WORLD L.J. 317, 333 (1998); see also Judith D. Fischer, *Portia Unbound: The Effects of A Supportive Law School Environment On Women and Minority Students*, 7 UCLA WOMEN'S L.J. 81, 111-12 (1996) (noting that female students complained that the lack of elite women contributed to lower levels of self-esteem).

³¹ See *id.* at 334.

³² See e.g. Theimann, *supra* note 22, at 20 (asserting that the law school curriculum should be more accessible to women); see also Fischer, *supra* note 30, at 82 (arguing that a "student-supportive" approach to legal education would decrease gender inequity).

³³ *Id.*

³⁴ See generally Theimann, *supra* note 20; see also Torrey & Reis, *supra* note 7, at 308 (advocating the elimination or drastic reform of the Socratic method to make women more comfortable in the classroom).

³⁵ See *id.* at 21, 23.

³⁶ See Linda Morton, *Creating A Classroom Component For Field Placement Programs: Enhancing Clinical Goals With Feminist Pedagogy*, 45 ME. L. REV. 19, 49 (1993).

³⁷ See Theimann, *supra* note 20, at 25.

³⁸ See Morton, *supra* note 37, at 420 (arguing that importing feminist pedagogy into law school classes would equip women to succeed in a male dominated profession).

³⁹ Jennifer L. Rosato, *The Socratic Method and Women Law Students: Humanize, Don't Feminize*, 7 S. CAL. REV. L. & WOMEN'S STUD. 37, 39 (1997) (arguing that adopting a "women-friendly" approach to reform law school sends the message that women cannot withstand the rigors of law school).

⁴⁰ See *id.* at 59-60.

⁴¹ See *id.* at 60-61.

⁴² See *id.* at 61.

⁴³ See *id.* at 61-62 (suggesting that debriefing students after the Socratic inquiry is over will lessen their anxiety).

⁴⁴ See *id.* at 62.

⁴⁵ See *id.* at 39 (stating that women are more likely to view the world from a variety of perspectives and therefore the Socratic method is an invaluable teaching method for female students).

⁴⁶ See Ramachandran, *supra* note 4, at 1794.

⁴⁷ See *id.*; see also Catherine A. MacKinnon, *FEMINISM UNMODIFIED: DISCOURSES ON LIFE AND LAW*, 32 (Harvard University Press 1987) (asserting that gender is a by-product of male dominance that is used to maintain male hierarchy).

⁴⁸ See Ramachandran, *supra* note 4, at 1794.

⁴⁹ See *id.* at 1786.

⁵⁰ See *id.* at 1792.

⁵¹ See *id.* at 1793.

⁵² See *id.* at 1782-83.

⁵³ See Mary Joe Frug, *Re-Reading Contracts: A Feminist Analysis of a Contracts Casebook*, 34 AM. U. L. REV. 1065, 1091-92 (1985).

⁵⁴ See Ramachandran *supra* note 6, at 1783 (arguing that dominant perspectives must be explicitly challenged in order to avoid marginalizing minority perspectives).

⁵⁵ See Paula Gaber, "Just Trying To Be Human in This Place." *The Legal Education of Twenty Women*, 10 YALE J.L. & FEMINISM 165, 202 (1998) (finding that women may be more intimidated by female law professors using adversarial teaching methods).

⁵⁶ See *id.* (finding that women had the "worst time" with a female law professor using the Socratic Method).

⁵⁷ See *id.* at 202-03 (reporting that a female law student seeing a woman use the Socratic Method made her feel like the whole law school embraced the adversarial model).

⁵⁸ See Guinier, *supra* note 5, at 16 (suggesting that the problem of gender inequity is located in the institution of legal education not in women).

⁵⁹ See Ramachandran, *supra* note 6, at 1790-91 (noting that reliance on masculine and feminine traits to reform law school marginalizes members of each sex

who do not possess majority viewpoints); see also *United States v. Virginia*, 518 U.S. 515, 546-56 (1996) (describing the injury to women in establishing a separate women's leadership program based on sex-stereotypes).

⁶⁰ See Ramachandran, *supra* note 4, at 1789 (discussing the way in which some feminists assume that all women are "feminine" upon entering law school).

⁶¹ See Rosato, *supra* note 39, at 39 (asserting that a reformed Socratic Method would reward women's strength of thinking from a variety of different viewpoints).

⁶² See Guinier, *supra* note 5, at 1 (noting that the negative experience of women in law school is not based on gender per se as evidenced by the fact that not all women perceive law school as a hostile environment).

⁶³ See Ramachandran, *supra* note 4, 1789. (arguing that defining what is feminine subsumes diversity among women).

⁶⁴ See Rosato, *supra* note 39, at 39 (suggesting that adopting women friendly teaching methods would send a dangerous message that women cannot withstand the rigors of the Socratic Method and therefore do not belong in law school).

⁶⁵ See *id.* at 39-40 (proposing that accommodating women by making law school more women friendly could prevent female students from realizing their potential as students and practitioners).

⁶⁶ See Ramachandran *supra* note 4, at 1791 (describing the way anti-feminist critics have used such language to stereotype women as unfit for law school).

⁶⁷ See Guinier, *supra* note 5, at 10 (describing the way in which the singularity of the current adversarial law school model fails to provide men or women with the skills they need to be effective practitioners).

⁶⁸ See Morrisson Torrey, *Yet Another Gender Study? A Critique of the Harvard Study and A Proposal For Change*, 13 WM. & MARY J. WOMEN & LAW 795, 797 (2007) (pointing out that men are also being deprived of a quality legal education).

⁶⁹ See Guinier *supra* note 2, at 1 (describing findings that indicate men experience law school negatively too).

⁷⁰ See Krauskopf, *supra* note 4, at 328.

⁷¹ See Ramachandran, *supra* note 4, at 1794 n.21 (noting that men "may suffer distress at equal or even greater rates, but may simply be less likely to report such traditionally feminine indicia of psychological distress").

⁷² See Homer, *supra* note 13, at 33.

⁷³ See Sandra Janoff, *The Influence of Legal Education on Moral Reasoning*, 76 MINN. L. REV. 194, 217, 222, 226-34, 238 (1991).

⁷⁴ See Torrey, *supra* at note 68, at 797 (noting that "substantial numbers of men are also being deprived of a quality legal education").

⁷⁵ See Symposium, *Missing Questions: Feminist Perspectives on Legal Education*, 45 STAN. L. REV. 1547, 1548 (1993) (noting that many law school professors recognize the failure of law schools to adequately prepare students for the professional world).

⁷⁶ *Id.* at 1559 (describing how the abilities that legal education overlooks are those most important to the actual practice of law).

⁷⁷ See *id.* at 1554 (discussing how the dominant paradigm for legal education that focuses on the Socratic Method and doctrinal analysis is not "an effective way of teaching skills that are most essential to effective legal practice").

⁷⁸ See *id.* at 1558-59 (noting that efforts to address interpersonal or emotional dimensions of the legal practice are absent in law school); see also Ann Shalleck, *Constructions of the Client Within Legal Education*, 45 STAN. L. REV. 1731 (1993) (noting that clients are "mostly absent from classroom discussions).

⁷⁹ See Guinier, *supra* note 2, at 13 (describing how lawyering requires more diverse perspectives and skills than those currently being taught in law schools).

⁸⁰ See Law School Admission Council/Law School Admission Services, *LAW AS A CAREER: A PRACTICAL GUIDE 17* (1993) (stating that many lawyers do not litigate at all); see also A.B.A., *THE STATE OF THE LEGAL PROFESSION 15* (1991) (showing that the majority of lawyers in private practice spend 0 to 20 percent of their time in the courtroom and finding that only 16 percent of lawyers in private practice are employed by firms comprised of more than ninety lawyers).

⁸¹ See Guinier, *supra* note 2, at 10.

⁸² *Id.* at 11 (noting that conventional pedagogy "may not be up to the task" of training students how to be lawyers).

⁸³ See A.B.A., *NARROWING THE GAP: LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT-AN EDUCATIONAL CONTINUUM*, 1992 A.B.A. Sec. Legal Edu. & Admissions B. 138.

⁸⁴ See Sturm, *supra* note 7, at 139 (describing the way in which lawyers need to be able to "facilitate collaborations between diverse groups of professionals and clients").

⁸⁵ See Symposium, *Missing Questions: Feminist Perspectives on Legal Education*, *supra* note 75, at 1564 (suggesting that law schools committed to teaching more empathetic lawyering would further feminist agendas and produce more

ENDNOTES CONTINUED

capable attorneys).

⁸⁶ See Torrey, *supra* note 68, at 803 (noting that there is no evidence that men learn best from the Socratic Method).

⁸⁷ See Symposium, *Missing Questions: Feminist Perspectives on Legal Education*, *supra* note 75, at 1563 (recommending that law schools adopt a more interactive model of teaching that gives students a better idea of real-world practice).

⁸⁸ See Rosato, *supra* note 39, at 41 (criticizing the Socratic Method for failing to provide students with answers and, instead, humiliating them).

⁸⁹ See Symposium, *Missing Questions: Feminist Perspectives on Legal Education*, *supra* note 75, at 1563 (suggesting that small discussion groups would break down large classes in a way that would foster interpersonal skills).

⁹⁰ Susan Sturm & Lani Guinier, *Learning From Conflict: Reflections On Teaching About Race and Gender*, 53 J. LEGAL EDUC. 515, 528 (2003) (asserting that alternative teaching formats encourage brainstorming and innovative problem-solving).

⁹¹ See Symposium, *Missing Questions: Feminist Perspectives on Legal Education*, *supra* note 75, at 1563 (arguing that less emphasis on doctrinal analysis and more emphasis on socially contextualizing the law could lessen gender inequity).

⁹² See Deborah L. Rhode, *Midcourse Corrections: Women In Legal Education*, 53 J. LEGAL EDUC. 475, 488 (2003) (suggesting that these topics should receive more effective treatment in legal education).

⁹³ See Symposium, *Missing Questions: Feminist Perspectives on Legal Education*, *supra* note 75, at 1563-64 (asserting that law schools need to provide a more diverse analysis of legal structures).

⁹⁴ *Id.* at 1564 (noting that the way in which law schools "stir women in" is falsely represented as curricular diversity).

⁹⁵ *Id.*

⁹⁶ See Shalleck, *supra* note 78, at 732 (arguing that law schools should emphasize legal ethics and interpersonal skills to teach students about lawyer-client relationships).

⁹⁷ *Id.* at 1741 (noting the failure of lawyers to relate to their clients).

⁹⁸ See Mary L. Clark, *The Founding of the Washington College of Law: The First Law School Established By Women For Women*, 47 AM. U. L. REV. 613, 674-75 (1998) (describing the rise in scholarship identifying gender inequity in law school in response to the increasing number of women in law school).

⁹⁹ See Sturm, *supra* note 7, at 121 (describing how the "gladiator" model of lawyering and legal education hurts women).

¹⁰⁰ See Ramachandran, *supra* note 4, at 1794 (asserting that current feminist legal theories essentialize gender differences).

¹⁰¹ See *id.* at 1789 (explaining how defining what is feminine risks sex-stereotyping a highly diverse group of women).

¹⁰² See Rosato, *supra* note 39, at 39 (suggesting that advocating the need to make law school more accommodating to women could send the message that women do not belong in law school at all).

¹⁰³ See Torrey, *supra* note 68, at 813 (suggesting that law school is harming men and women as students and professionals).

¹⁰⁴ See Sturm, *supra* note 7, at 126 (describing how miners brought canaries into the mine to indicate the level of toxicity and when the canaries got sick, it was indicative of the fact that the environment was toxic for everyone).

¹⁰⁵ See *id.* at 122 (arguing that the "one-size-fits-all gladiator" model does not adequately prepare students to meet diverse professional demands).

¹⁰⁶ See Symposium, *Missing Questions: Feminist Perspectives on Legal Education*, *supra* note 75, at 1548 (asserting that improving legal education to better prepare students for the professional world would lessen gender inequity).

Announcing

FEBRUARY 4, 2009

3:00 pm – 8:00 pm

The First Annual Lambda Law Society Symposium on Marginalized Issues in the LGBT Community: Race, Class and Domestic Violence

The symposium seeks to offer a forum to discuss marginalized issues faced by many in the LGBTQ community both nationally and in our nation's capital. This year's symposium will begin with a panel on Domestic Violence in LGBTQ relationships. A second panel will follow entitled "Out on the Street," which focuses on issues facing low-income and minority LGBTQ in the Washington D.C area. The symposium will conclude with an alumni dinner.