Women Faculty in Education

Aleea Sharp

Follow this and additional works at: https://scholarsarchive.byu.edu/byuplr

BYU ScholarsArchive Citation


Available at: https://scholarsarchive.byu.edu/byuplr/vol12/iss1/12

This Article is brought to you for free and open access by the Journals at BYU ScholarsArchive. It has been accepted for inclusion in Brigham Young University Prelaw Review by an authorized editor of BYU ScholarsArchive. For more information, please contact scholarsarchive@byu.edu, ellen_amatangelo@byu.edu.
Women Faculty in Legal Education

Aleea Sharp

The female struggle for opportunity, acceptance status, and eventual equality in today's legal education system has been a long and arduous one—it is still far from over for women seeking to establish a career in this traditionally male field. The focus of this paper will be: why women might choose to teach law, how they overcame past discrimination, the problems still encountered today, and reasons why women are essential to the legal education.

The reasons why a woman may pursue a career as a legal educator are many and yet largely encompass the dual roles that society has placed upon her: that of helpmate/bread winner, and the more traditional wife/mother. In her "bread winner" role, law professorship pays well and yet does not carry the tremendous pressures that practice (with its clients, deadlines, court appearances, and briefs) sometimes can. She has a great degree of control over her job: setting the syllabus, selecting the curriculum, and writing the tests. It is an honored, prestigious career that does not demand the compromise of principles that a firm or client may.
The most advantageous factor to her in her wife/mother role is a schedule which allows her to work in a way that suits her needs and can be adjusted to fit her particular "family" responsibilities. Her hours allow her to work during the day doing research and teaching classes, and then to be with her family in the evening while grading papers, reading, and writing should she so choose. Further, as one female law professor explains, "as a legal educator, I would participate in shaping minds, and thereby shaping events. As a practitioner, I was just reacting to them" (Driessen). Law professorship allows a woman to have both a family and a career, should she wish, and can give her the feeling of making a real difference that cannot always be achieved in practicing law.

Despite the fact that being a law professor appears ideal for women, it was not until the 70's that universities seriously considered them for such positions. Although there were women faculty as far back as the 40's-50's, most were librarians who did little, if any, teaching, and these were replaced with men as the jobs became more professionalized and prestigious (Fossum 254). Of the 1200 law professors in 1950, five were women. By 1960, the number had only increased to 11 out of 1600, and most of these taught in family law, trusts and estates, or legal research and writing (254).

Why so few women were hired has to do with the process used to select law professors. To teach at a law school, one had to meet three criteria. The first, a good academic record at a top law school, was difficult enough to achieve because most prominent schools refused to enroll women until after the 50's. The second requirement, having been an editor on a law review, was also rare due to discrimination by the overwhelming male majority. Clerking for an important and highly reputable judge, the third requirement, was impossible until women were allowed to clerk for Supreme Court justices in the 70's. It was not until 1972 that colleges were ordered by the Courts to hire more women (Fenton 220).

Meeting the criteria for law professorship (and tenure) did not necessarily guarantee a woman candidacy, for she was then "subjected to a second set of standards and limited by the rationalizations of self-appointed 'gatekeepers'" (Epstein 229). Most women were restricted in the routes they could take into law faculties-ending up in law librarianships and then teaching, rather than the direct approach enjoyed by most men (Fenton 224-7).

Upon becoming a law professor, the battle was far from over. Some women professors were "fairly well-respected and treated as a colleague" by students and other faculty (Sharp). This was increasingly common at the more liberal schools. For others, the classroom seemed a battle zone where they encountered resistance with a 'prove-it' nature as the students waited for their female teacher to make a mistake (Bevier 223). Even though in the 70's women began teaching courses not previously offered (women and the law, sex discrimination, etc.), these courses were still regarded as less valuable for building a career and women still did not teach the "important" core classes.

Entering the male-dominated legal institution proved more difficult than women anticipated, and the
The most advantageous factor to her in her wife/mother role is a schedule which allows her to work in a way that suits her needs and can be adjusted to fit her particular "family" responsibilities. Her hours allow her to work during the day doing research and teaching classes, and then to be with her family in the evening while grading papers, reading, and writing should she so choose. Further, as one female law professor explains, "as a legal educator, I would participate in shaping minds, and thereby shaping events. As a practitioner, I was just reacting to them" (Driessen). Law professorship allows a woman to have both a family and a career, should she wish, and can give her the feeling of making a real difference that cannot always be achieved in practicing law.

Despite the fact that being a law professor appears ideal for women, it was not until the 70's that universities seriously considered them for such positions. Although there were women faculty as far back as the 40's-50's, most were librarians who did little, if any, teaching, and these were replaced with men as the jobs became more professionalized and prestigious (Fossom 254). Of the 1200 law professors in 1950, five were women. By 1960, the number had only increased to 11 out of 1600, and most of these taught in family law, trusts and estates, or legal research and writing (254).

Why so few women were hired has to do with the process used to select law professors. To teach at a law school, one had to meet three criteria. The first, a good academic record at a top law school, was difficult enough to achieve because most prominent schools refused to enroll women until after the 50's. The second requirement, having been an editor on a law review, was also rare due to discrimination by the overwhelming male majority. Clerking for an important and highly reputable judge, the third requirement, was impossible until women were allowed to clerk for Supreme Court justices in the 70's. It was not until 1972 that colleges were ordered by the Courts to hire more women (Fenten 220).

Meeting the criteria for law professorship (and tenure) did not necessarily guarantee a woman candidacy, for she was then "subjected to a second set of standards and limited by the rationalizations of self-appointed 'gatekeepers'" (Epstein 229). Most women were restricted in the routes they could take into law faculties—ending up in law librarianships and then teaching, rather than the direct approach enjoyed by most men (Fenten 224-7).

Upon becoming a law professor, the battle was far from over. Some women professors were "fairly well-respected and treated as a colleague" by students and other faculty (Sharp). This was increasingly common at the more liberal schools. For others, the classroom seemed a battle zone where they encountered resistance with a 'prove-it' nature as the students waited for their female teacher to make a mistake (Bevier 223). Even though in the 70's women began teaching courses not previously offered (women and the law, sex discrimination, etc.), these courses were still regarded as less valuable for building a career and women still did not teach the "important" core classes.

Entering the male dominated legal institution proved more difficult than women anticipated, and the
process towards working as equals was slow. The 70's brought about the real change in two waves: the modern women's movement (including many women students working to get more women hired) and the Vietnam War (which resulted in a 14 fold increase in the number of women going to law school) (Fossom 255-260). The government also became involved by taking legal action with President Johnson's Executive Order 11375 prohibiting sex discrimination by federal contractors. The Higher Education Action of '72, Title IX, prohibited discrimination based on sex in employment, admissions policies, and the practices of all places receiving federal aid (which included most law schools) (Epstein 220; Fossom 255-9). The affirmative action guidelines forced schools to search for promotable women (Driessen).

Again, this was accomplished mostly at liberal, non-elite schools that wished to gain more students and improve status. Nonetheless, by the 1980's, only 12-13% of the law profession were women, and half of all law schools still employed two or less (Fossom 259).

Despite the progress that has been made, there are still inequalities. Although women continue to make less money than men, approximately a $20,000+ difference on average (Bureau of the Census 60), they also now teach a wide array of courses, the majority of which do not fall into sex-typed categories as before. The career pattern for women law professors is now closer to that of men, although females still do not get tenure as quickly. Opposing forces are at work both to keep women out and to hire more women professors. It is thus predicted that "although women will maintain their numbers, there will be no new upsurges" (Epstein 236). It is hoped however, that since women are now inside the institution of legal education, their status will continue to improve.

It is inside this educational institution that there are yet problems which adversely affect students' experiences there, and which can be alleviated by the presence of women professors. First, professors are hired because of the prestige they bring the school, not necessarily for the teacher's teaching ability. The Socratic Method, which works only when done in 'non-attack' mode and with a dynamism for the subject, is largely misused. Rather than mentoring students or encouraging them to explore answers, many male professors use this method to humble students, turning classes into oral pop quizzes (Jones 17-20, 40). Further, because women are still underrepresented in many institutions, they have become mere "token professors" and this puts women law students at an immediate disadvantage because they do not have equal access to the informal networks of education.

In light of the problems presented, there are solutions found in what women bring to the legal education. The benefits are multifaceted: development of an informal referral system, easing the burden of the female professor who is the sole woman on a school's faculty, insuring women's interests are protected, and alleviating the students' sense that the one woman on faculty is in some way unique from all other women (Epstein 233). Women can inspire and advise future professional women on how to balance career and family and show them what they may have to face in a male-dominated field. For some, especially women or racial
process towards working as equals was slow. The 70's brought about the real change in two waves: the modern women's movement (including many women students working to get more women hired) and the Vietnam War (which resulted in a 14 fold increase in the number of women going to law school) (Fossom 255-260). The government also became involved by taking legal action with President Johnson's Executive Order 11375 prohibiting sex discrimination by federal contractors. The Higher Education Action of '72, Title IX, prohibited discrimination based on sex in employment, admissions policies, and the practices of all places receiving federal aid (which included most law schools) (Epstein 220; Fossom 255-9). The affirmative action guidelines forced schools to search for promotable women (Driessen). Again, this was accomplished mostly at liberal, non-elite schools that wished to gain more students and improve status. Nonetheless, by the 1980's, only 12-13% of the law profession were women, and half of all law schools still employed two or less (Fossom 259).

Despite the progress that has been made, there are still inequalities. Although women continue to make less money than men, approximately a $20,000+ difference on average (Bureau of the Census 60), they also now teach a wide array of courses, the majority of which do not fall into sex-typed categories as before. The career pattern for women law professors is now closer to that of men, although females still do not get tenure as quickly. Opposing forces are at work both to keep women out and to hire more women professors. It is thus predicted that "although women will maintain their numbers, there will be no new upsurges" (Epstein 236). It is hoped however, that since women are now inside the institution of legal education, their status will continue to improve.

It is inside this educational institution that there are yet problems which adversely affect students' experiences there, and which can be alleviated by the presence of women professors. First, professors are hired because of the prestige they bring the school, not necessarily for the teacher's teaching ability. The Socratic Method, which works only when done in 'non-attack' mode and with a dynamism for the subject, is largely misused. Rather than mentoring students or encouraging them to explore answers, many male professors use this method to humble students, turning classes into oral pop quizzes (Jones 17-20, 40). Further, because women are still underrepresented in many institutions, they have become mere "token professors" and this puts women law students at an immediate disadvantage because they do not have equal access to the informal networks of education.

In light of the problems presented, there are solutions found in what women bring to the legal education. The benefits are multifaceted: development of an informal referral system, easing the burden of the female professor who is the sole woman on a school's faculty, insuring women's interests are protected, and alleviating the students' sense that the one woman on faculty is in some way unique from all other women (Epstein 233). Women can inspire and advise future professional women on how to balance career and family and show them what they may have to face in a male-dominated field. For some, especially women or racial
minorities, a female law professor offers refuge and functions as both teacher and symbol for certain students' voices and aspirations (Guinier 89).

The 'mentor' idea is one of the most beneficial in correcting legal education problems. It reinforces and monitors student performance and helps the teacher see learning as "a dynamic process that builds on students' emotional engagement and emphasizes the mutuality of their role in educational conversation" (95). In the case of mentoring, women are more likely than men to mentor female students and are perceived as being more approachable (65). Once shunned and discounted because of their 'emotional' nature, women can bring needed dynamism and passion to the Socratic Method and the classes that use it. If one truly wishes to shape events through students' minds, it must be done by reforming the teacher. She must teach students to be responsible and mature, rather than "place her own brilliance on display" (Jones 53).

A student's experience is influenced by the way a law professor responds to comments—physically or verbally. Here again, women have an advantage because they tend to be more apt to listen and build on a response rather than summarily dismissing it. Thus, some of the best ways of overcoming the negative aspects of law school can be accomplished simply by hiring more women.

In conclusion, women are as qualified as men to teach law and are perhaps even more prone to teach in a way most conducive to learning. Although there has been past discrimination, and there are still some inequalities, these are and will be less common as time goes on. Women currently in positions of professorships have a responsibility to speak for females and, "as they climb the ladder of success, must reach down and give a hand to other women" (Conlin 95). It is in this way that women faculty in the legal education can continue by example and employment, to correct past wrongs and help set up a system where anyone, male or female, can perform in their chosen career with both success and aptitude.

Works Cited


minorities, a female law professor offers refuge and functions as both teacher and symbol for certain students' voices and aspirations (Guinier 89).

The 'mentor' idea is one of the most beneficial in correcting legal education problems. It reinforces and monitors student performance and helps the teacher see learning as "a dynamic process that builds on students' emotional engagement and emphasizes the mutuality of their role in educational conversation" (95). In the case of mentoring, women are more likely than men to mentor female students and are perceived as being more approachable (65). Once shunned and discounted because of their 'emotional' nature, women can bring needed dynamism and passion to the Socratic Method and the classes that use it. If one truly wishes to shape events through students' minds, it must be done by reforming the teacher. She must teach students to be responsible and mature, rather than "place her own brilliance on display" (Jones 53).

A student's experience is influenced by the way a law professor responds to comments—physically or verbally. Here again, women have an advantage because they tend to be more apt to listen and build on a response rather than summarily dismissing it. Thus, some of the best ways of overcoming the negative aspects of law school can be accomplished simply by hiring more women.

In conclusion, women are as qualified as men to teach law and are perhaps even more prone to teach in a way most conducive to learning. Although there has been past discrimination, and there are still some inequalities, these are and will be less common as time goes on. Women currently in positions of professorships have a responsibility to speak for females and, "as they climb the ladder of success, must reach down and give a hand to other women" (Conlin 95). It is in this way that women faculty in the legal education can continue by example and employment, to correct past wrongs and help set up a system where anyone, male or female, can perform in their chosen career with both success and aptitude.

Works Cited


Women Beneath the Glass: Gender Bias in the Legal Field

D. Loren Washburn

In a 1986 article in the Wall Street Journal, a new phrase, "the glass ceiling," was introduced to describe the invisible barriers that face women as they climb to the top of the employment ladder. Since then, public awareness about gender bias in all major employment fields has increased. In the legal field, however, progress has come slowly. Over eighty percent of women attorneys surveyed perceive a subtle attitude of gender bias in their field (Women in Law Committee 2). The gender bias pervasive in the American workforce in general is prevalent in the legal field.

The Glass Ceiling Commission, a group appointed by President Bush in 1991, studied gender bias in the American workforce in general. Among its findings, it concluded that three major reasons exist for the glass ceiling. The first reason is "societal barriers, which may be outside the direct control of business educational opportunity and attainment" (Glass Ceiling Commission 7-8). The second reason for the existence of the glass ceiling is internal structural barriers within the employing organization. Finally, government barriers exist which