

The Role of Women in Law School: A Call for Enhanced Reform

Nalanda Badekar¹, Ajay Rai², John Asahel³

Assistant Professor¹, 2nd Year LLB², Advocate³

Nalanda Law College, Gorai, Borivali (W), Mumbai, Maharashtra, India

Abstract: *Over the past decade, women have made significant strides toward equality in many areas of the legal profession. The large increase in the number of women attending law school and the growing percentage of women associates at major law firms are just two examples.' In other areas, however, particularly at the profession's highest levels, women have yet to achieve full partnership with their male colleagues. Women still constitute a disappointingly small percentage of state and federal judges, partners in private law firms and tenured law school professors. Indeed, a recent American Bar Association Journal article entitled Women in Law queried whether a "glass ceiling" keeps a majority of women "from enjoying the full rights and privileges of being a lawyer."*

As legal educators, we recognize that law schools play a unique and critical role in shaping our attitudes toward the law and the legal profession. For most future lawyers, law school transmits the first and the most enduring messages about appropriate behavior within their chosen profession. Law schools also educate and mold the future lawyers who will guide the profession and society into the twenty-first century. For these reasons, the experiences of women in the law school, either as students or as professors, profoundly affect the status of women in the legal profession and in society as a whole.

Keywords: Women lawyers, Legal profession, pedagogy, law school

I. INTRODUCTION

I. Student/Faculty Interactions

Interactions between law students and faculty members play an important role in educating lawyers and transmitting the values that govern the legal profession. When these student-faculty interactions devalue women or minimize women's potential contributions as lawyers, students of both sexes learn that women are still not fully welcome in the legal profession. Law schools that tolerate the sexual harassment of women students seriously undermine efforts to ensure women's full and equal participation in the legal profession. Sexual harassment can take several forms.

Student-faculty interaction in the classroom is also a critical component of women's law school experience. Law schools must critically re-examine traditional classroom dynamics and course materials to determine how these may exclude or silence women students. Women law students across the country have identified many attitudes and behaviors that make them feel like outsiders in the classroom and, ultimately, the legal profession. These behaviors include sexist and sexual jokes in class; professors not calling on women students to the same extent or in the same way as they call on men; professors not listening or not responding to women's comments; professors using "he" exclusively or not including women in their classroom hypotheticals; professors using classroom problems that overemphasize women as sexual objects or victims, particularly the undue focus on rape and other sex crimes in some criminal law and evidence classes; and professors using fact patterns on exams that focus on predominantly male experiences (e.g. football or auto racing) that ignore women altogether or that place women exclusively in stereotypically female roles. To respond to these problems, law professors need to examine their own classroom dynamics and behaviors, both individually and as part of a collective faculty effort. Law faculties should enlist the aid of individual women students, student groups and outside experts to identify classroom issues of concern to women and to find ways to address these issues. As feminist scholars have demonstrated, a critical reassessment of law school pedagogy is necessary to ensure that women as well as men law students receive an education that credits their experience and values their involvement."

II. Placement

Although state and federal anti-discrimination laws prohibit discrimination against women lawyers and law students on the basis of sex in hiring decisions and conditions of employment, women law students complain regularly that discrimination occurs. For example, interviewers from major law firms ask women law students about their family plans, but do not raise similar questions with male applicants.' Some employers appear to assume that women law students will have traditional life patterns involving marriage and childcare, and that their careers will take second place. Similarly, female candidates for judicial clerkships are often queried about daycare arrangements and birth control methods.

Both women and men students today have concerns about combining and balancing career and family responsibilities. Because women in our society still bear the greater burden of caring for families, women law students are likely to have greater concerns in this regard. Employers wishing to recruit at law schools should be required to respond to these concerns by providing placement offices with written policies about maternity and parenting leave, part-time work opportunities and daycare facilities available to employees at or near the office. Placement offices also should inform students about potential employers who fail to provide adequate information. Although the percentage of women law students has grown rapidly in recent years, women lawyers who have been in practice for more than a decade are still relatively rare. As a result, women have little information about how gender may affect the development of their legal careers. Moreover, because of the small number of experienced women attorneys, and the sexism that still exists in society, women law students do not find legal mentors as readily as men. Placement offices should respond to these needs by initiating programs that put women law students and lawyers in touch with each other and by encouraging all alumni to develop mentoring relationships with junior women and minority lawyers. Many women lawyers depart from the beaten path of the traditional law firm private practice career. They develop careers in the government, the labor movement and public interest law. Placement offices thus should make a special effort to provide information about employment opportunities and career development in these areas.

Student Experience Law students, whether male or female, do not arrive at law school untouched by gender bias and by culturally-approved ideas about gender roles. As a result, and despite significant strides toward workplace equality, women as a group retain primary responsibility for child care and housework. Ensuring women's full participation in the legal profession requires that law schools, as well as employers, accommodate these responsibilities. For example, law schools should ensure that class schedules do not preclude family time and that part-time day programs be available to students with major child care responsibilities. Affordable child care facilities with daytime, evening and weekend hours should also be available, either on or near campus. Law school practices in this regard are particularly important since law schools serve as models for the profession and for other legal employers. Another consequence of societal gender bias is that students may discriminate against each other in student-run activities and in the classroom. Law schools need to be sensitive to the potential for peer group discrimination and take necessary steps to ensure that women and minority students have equal opportunities to participate in student activities, including law review and student government. In addition, law schools must be vigilant to prevent student-to-student sexual harassment. Law schools should also be sensitive to the needs of older students, many of whom are women, for special assistance in placement and financial aid. Older students often have particular financial needs such as supporting children or elderly parents. Many older students complain of subtle discrimination by employers

III Faculty Recruitment and Retention

Very few law schools can boast of having the same percentage of women faculty members as they have of women students. In part, the smaller numbers are a result of the relatively recent entrance of large numbers of women into law. In part, however, the small numbers are the result of recruiting efforts that overlook women or discriminate against women applicants and women tenure candidates. These practices cannot be tolerated. On the contrary, law schools must make affirmative efforts to include and retain more women on their faculties. Increasing the numbers of women faculty is in part a matter of simple fairness to women candidates. It is also a matter of educational fairness to women students who want and need female role models. The legal profession also benefits because both male and female lawyers learn early in their careers that women as well as men hold positions of high professional esteem, such as law professorships and deanships. To improve their recruitment of women faculty, law schools must broaden both the group of people

considered for positions and the criteria used for evaluating candidates. For example, faculty hiring committees should actively seek names of potential women candidates from both male and female faculty members at other schools. Law schools should also consider, as experience relevant to teaching, practice in public interest, government and labor union offices, career paths frequented by women lawyers. Increasing the number of women hired by law schools will not be enough to produce lasting change, however, particularly in times of declining budgets and concern about continuing levels of student enrollment. Recent tenure battles involving well-known feminist scholars at Harvard and the University of Pennsylvania Law Schools underscore the fragility of the gains that women academics have made. Law schools must be vigilant to ensure that sex discrimination and sexist attitudes toward legal scholarship do not infect the tenure process. Law schools must also pay special attention to the difficulties women can face in gaining tenure. Unfortunately, women are entering law teaching at a time when fewer and fewer professors are receiving tenure. It thus becomes even more critical to remove any barrier that affects women more heavily than men on the road to tenure. In many law schools, women faculty are recruited and hired, but then are treated as second-class citizens. In some law schools, they are "ghettoized" by teaching assignments in legal writing, legal method and clinical programs. While these women contribute to the education of law students in many important ways, their own careers are not equivalent to those of most male faculty. Often, they are ineligible for tenure and may hold only short-term appointments. Even if they are eligible for tenure, overwhelming teaching loads can interfere with the production of scholarly work. The important work they do produce, such as innovative teaching materials or impressive writing for purposes of litigation or public service, is overlooked in the tenure process, where only traditional types of scholarship count.

As scholars, many women find that they have difficulty in developing useful mentoring relationships with senior faculty members. Such mentoring relationships can help a junior faculty member develop his or her scholarly potential, and their absence can hamper development. Women also may face problems getting accurate and timely feedback about their scholarship from senior faculty members and deans because, as women, they are not taken seriously as scholars. This attitude may be particularly damaging for women who choose to write about gender-based discrimination and other issues of particular concern to women.

II. CONCLUSION

Efforts to incorporate women as full and equal members of the legal profession must begin with reforms in legal education. Law schools should jettison faculty behaviors and pedagogies that devalue women and should replace them with teaching methods and materials that encourage women's participation and engagement in legal learning. As employers, and as models for other legal institutions, law schools must strengthen efforts to recruit and retain women faculty and must remove barriers that inhibit the advancement of women scholars. In short, law schools must work actively to eliminate, rather than reinforce, the "glass ceiling" that impedes the careers of so many women lawyers.

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