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Perspectives on Gender: A Personal Opinion

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Gender bias in legal education is once again a hot topic, due to two recent studies documenting that on average, women students are more likely to experience law school as a hostile and intellectually

alienating environment that silences or trivializes their perspectives and life experiences. The findings of these two studies — one by the Ohio Joint Task Force on Gender Fairness sponsored by the Ohio State Bar Association and the Supreme Court of Ohio, and the other published in the *University of Pennsylvania Law Review* by Professors Lani Guinier, Michelle Fine, and Jane Balin — are depressingly reminiscent of past studies of Yale Law School and Stanford Law School, and of the findings of the ABA Commission on Women in the Profession. They also echo experiential accounts published by numerous women law professors and law students.

Indeed, when I read the article about the University of Pennsylvania Law School in the mid-1990's, many of the quotes from students about their perceptions and experiences of an

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environment that undermined or reacted with hostility to articulate, active women struck me as if they could have come verbatim from interviews I and others had conducted with Yale Law students seven and eight years ago.

Initially I was depressed about how little had changed despite the flurry of studies of gender bias that seem to crop up every five or so years, replete with calls for law schools to perform self-examinations. I then reflected on how I personally found UB Law School to be a vastly more welcoming environ-

of Yale and Stanford are replicated at UB. But on the whole, UB Law provides a far more supportive atmosphere for women and for diverse viewpoints than the schools scrutinized in the gender bias studies.

To the extent there are gender bias issues at UB Law, most in my experience are connected to student-to-student interaction or to student groups, rather than to faculty attitudes or course content. My perception is substantiated by a survey that just appeared in the November 1995 issue of *The National Jurist*, a law students' magazine, ranking law schools accord-

intellectual and administrative talents of so many women students here, have there been hardly any women editors-in-chief of the *Buffalo Law Review* or women Student Bar Association (SBA) presidents, or women heads of the moot court organizations? Why was a recent woman candidate for SBA president subjected to disparaging comments by some classmates, who wondered whether she could do the job and still meet her familial responsibilities, when male candidates actively involved in their family lives never received similar

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ment for women faculty than Yale. And, while at Yale I was besieged almost daily with alienated, angry, tearful, or frightened women students, expressing that law school had provoked a crisis of confidence, or that they felt silenced in the classroom, or that women's issues were routinely ignored or actively discouraged, and on a discomfiting number of occasions I even heard troubling stories of harassment. Yet at UB such crisis sessions in my office with women students were relatively few and far between.

Does this suggest that the reported experiences of gender bias are primarily a phenomenon afflicting the so-called elite and Ivy League schools, which have, as the Penn article noted, a unique tradition of patriarchal elitism and an attitude that "outsiders" should change to fit their traditions? Based on my experience at UB and my conversations and meetings with many students, some of the gender issues reported in the recent studies of Penn, of Ohio law schools, and

ing to which provided the best atmospheres for women. This survey of 18,000 law students ranked schools on the basis of percentage of women in the student body and on the faculty, on students' perceptions of equal treatment by faculty, and on women's representation in student body and law review leadership positions. UB was ranked 74th out of 168 schools, slightly above the middle. (Harvard was ranked next to last, and Yale, Penn, Cornell, Chicago, Michigan, and Duke also scored very low as inhospitable environments for women. All Ohio law schools but one also scored well below UB.)

Yet on numbers of women students and perception of equal treatment, UB's scores equaled or exceeded most of the schools ranked in the top twenty. UB's number of women faculty was a bit below the top ranked schools, but what pulled UB down was a very low score on women's representation in student leadership.

This low score echoed the questions I had wondered about since coming here: Why, given the extraordinary

scrutiny? Why have I heard so many chilling tales from women on Law Review about harassing interactions with their male colleagues?

On the issue of student-to-student interaction, the Penn, Ohio, and Yale studies all reported that women who frequently speak in class, and in particular women who attempt to bring issues relevant to women's lives into class discussion, are met with overt hostility and gender-based harassment by other students, especially but not exclusively male students. For example, the Penn study reported that while men who speak up frequently are rarely referred to as anything worse than a "nerd" or "jerk," articulate women are the targets of opprobrium and harassing comments of a very sexualized nature, such as castigations about their sexuality or the label "feminazi." And, male students were far more likely to question the qualifications or ability of female faculty than male faculty, or to speculate that female faculty may have obtained their jobs in sexual ways.

The study concluded that successful women are far more threatening than successful men, particularly to first-year male students.

Unfortunately, some of these findings mirror what I have observed at UB. In the six-and-a-half years I have taught here, there have been several incidents where women students who frequently spoke in class — especially women perceived as interested in women's issues — have been the target of vicious or sexualized graffiti, anonymous notes left in their mail slots, or anonymous attack "personal ads" in campus publications. One such incident last fall prompted several women in my first year class to seek me out to express that they were now literally afraid to speak in class, lest the anonymous hate mailer should strike at them.

Every year I have taught a first-year class here, I have had women students come to see me to express their concern that numerous male students whisper, snicker, make facial gestures, or generally tune out whenever certain frequent-speaking women offer a comment in class. According to the reports I have received, such reactions are especially pronounced when the woman student is perceived as a feminist.

I have also been consulted by women students who express reluctance to take classes overtly dealing with gender issues, even though they want to specialize in the area of law, because of concerns that they will be disparaged or shunned by male classmates. I have even had a male student tell me he wouldn't consider taking a class on Gender and the Law because the topic had nothing to do with him. When I congratulated him on being the first person I had ever met without a gender, and the first lawyer who would have clients without a gender, he still didn't get the point.

Obviously, the education of women students does occasionally suffer at UB Law due to the reactions and peer pressures of their classmates. If a student feels that the wiser course to peer acceptance is to remain silent, or

to not mention a certain type of salient point, or to avoid a certain subject, then not only is her educational experience diminished, but so is that of all other students, who have lost the wisdom of her voice and her important perspective.

In response to some of the more egregious incidents or to the more anxious reports, I and several other first year faculty have responded by bringing these concerns out in the open, and leading class discussions about the professionalism and collegiality and harassment issues raised by the incidents. There have been times, judging by facial expressions, when I have realized that some of the students had never previously thought of the prospect that the women in their class would some day be their professional colleague or supervisor, their client's judge or regulator, or the adversary who held the power to decide whether or not to offer their client a plea bargain or other dispensation. This insight — that the people you treat with contempt today may hold real power over you someday — provides a necessary wake-up call for many students.

While I experience resonance at UB with some of the reports of peer problems described in the Penn and other studies, many of the other descriptions of gender bias are not, in my perception, as significant problems at UB Law. The studies report that a significant reason women students feel like marginalized outsiders is that they have few women faculty as role models, and that issues of crucial relevance to women's lives are rarely mentioned in classes or are rudely dismissed or trivialized when students bring them up. Women are much better represented on the UB faculty than at the elite schools examined in the recent studies.

But that does not mean that there is no need for significant improvement at UB. With 19 out of 48 full-time instructional staff female, or 39.6%, virtually all UB law students will encounter women faculty at the heads of their classrooms right from the outset of the first year. However, a closer examination of the faculty data reveals

that at UB, like many law schools, women are disproportionately represented in the untenured or non-tenure track ranks. Of 35 tenured or tenure track full-time faculty for the 1995-96 school year, 12, or 34.2% are women. Of the 27 tenured faculty, only 7 are women, or 25.9%. In the ranks of non-tenure track full-time faculty — mostly clinical faculty and research and writing faculty — 7 out of 13 are women, for a comparatively large percentage of 53.8. Thus, it is only at the faculty ranks with the least job security, the least pay, and the least prestige, that women are represented in numbers close to their representation in society or in law school student bodies.

Moreover, many women faculty perceive a glass ceiling problem in terms of the likelihood of women being accepted into the top ranks of administration and policy-making responsibility. While more and more law schools today — including some of the most elite — have had women Deans or academic Vice Deans, UB Law has never had a woman Dean, and only three women have ever been asked to serve as the top academic Vice Dean (formerly Associate Dean), only one of whom served more than a one semester interim appointment. And, when I was elected this year to head up what some consider the most important faculty committee — the faculty appointments committee responsible for screening potential new faculty — I was told by several others that I was only the second woman ever to hold this position at UB Law. Yet I've been communicating with women appointments committee chairs at other law schools for several years. During my time here, no woman has chaired the budget committee, the admissions committee, the academic standing committee, or other significant faculty committees. While other law schools have, with mixed success, recruited several women professors at UB to consider their deanships, UB does not appear to be as willing to recognize its own leadership talent.

As for course content and taking women's issues seriously, in my view

this is one of UB Law's great strengths. Despite the occasional immature or unprofessional reactions of some students described above, several faculty at UB, male and female, make concerted efforts to integrate gender issues into their basic courses, ranging from torts to tax, thus signaling to students that issues of central importance to women's lives are of central importance to the law. In contrast to the reported experiences of women faculty at several other law schools, who feel it is exceptionally risky both in terms of student and faculty reactions to bring gender issues into the classroom, most faculty at UB with whom I have discussed this issue feel that making law relevant to the majority of the U.S. population is much more accepted here. While there is some perception among women faculty at UB that student evaluations sometimes tend to be more harsh or personally nasty towards women faculty perceived as feminist, faculty support on this problem is well regarded.

UB Law also offers more courses concentrating on gender issues than most law schools. In any given year, from several faculty, students can choose a rich array of courses dealing with subjects such as domestic violence, child abuse, gender and the law, reproductive rights, employment discrimination, legal and policy issues affecting women of color, feminist jurisprudence, family transactions and property. In addition, it has been my personal experience that faculty colleagues are quite interested in scholarship that actively engages with gender issues. Several male colleagues have excitedly acknowledged that their own scholarly interests have been expanded and enriched by the diverse array of scholarship on gender produced by many of the women faculty at UB Law. For example, this coming summer, myself and another woman colleague will present a panel with Dean Boyer at a major international scholarly conference where he reflects on how our work on gender issues in tort and workers' compensation and insurance law has given him important new

insights about his field of environmental law. This receptive attitude towards diverse scholarship stands in sharp contrast to my own experience on other law faculties and to the numerous reports I hear from women faculty at many other law schools of reactions ranging from open hostility, warnings of tenure problems if one persists in examining gender issues, to grudging tolerance.

So, what is my bottom line on gender bias at UB Law? Be very glad you're not a woman student or faculty member at Penn, Harvard, Yale, Chicago, or most of the law schools in Ohio — you're at a much better law school. In all seriousness, while UB Law obviously has some serious issues to work on, particularly in improving student-to-student acceptance of successful and articulate women, it has much to be proud of for offering a supportive environment of equality and respect. Thanks to this environment and good reputation as a school with relatively few gender bias problems, UB Law will continue to attract an increasing number of exceptional women students and faculty. I even think there is strong potential for the administrative glass ceiling to shatter soon. ■

Lucinda M. Finley received her B.A. from Barnard College and her J.D. from Columbia University. She has been an associate professor of law at Yale University and a visiting lecturer at the University of Sydney in Australia and has practiced privately with Shea and Gardner, a Washington, D.C. firm. She has served as law clerk to Judge Arlin Adams on the U.S. Court of Appeals for the 3rd Circuit. She has published extensively, especially in the area of gender issues. Her teaching interests include feminist theory, tort law, reproductive issues and employment law. She currently serves as director of the Law School's Research and Writing Program.

times? Within the Law School there's a movement to do more writing and do more things on which to base grades than just one exam. It might require you to do more work along the way, but I think it will result in fairer grades.

Jeanne Kupinski: I don't think your grades reflect your ability or your knowledge. But (the grading system) does take the pressure off. I don't know too many people here competing for what tenth of the class they're in. ■

These Class of 1995 UB Law students took part in the Forum discussion:

Sally Broad has been a registered nurse for 22 years. She holds a master's degree in nursing administration, and most recently served as nursing supervisor at Millard Fillmore Suburban Hospital, in Amherst, N.Y. She is now doing malpractice defense work with the Buffalo law firm Damon & Morey.

Moises Juliao, a native of Colombia, did his undergraduate work at the City College of New York. He is working as an investigator for the federal public defender's office in Buffalo, also doing some legal research and writing.

Laura Kniaz graduated from the University of Virginia. At UB she served on the Law Review and was active in Students of Law for Animal Rights. Her plans include doing public interest work in the Maryland/District of Columbia area.

Jeanne Kupinski graduated from Ohio's Mount Union College. At UB she was active in the Domestic Violence Task Force and ran a legal clinic for targets of domestic violence. She also worked for the Niagara County district attorney's office, and plans a career in family law or criminal prosecution.

Helen Punders, a graduate of Fordham University, earned a dual degree in law and social work at UB. She served as co-director of the Buffalo Public Interest Law Program, and has taken a position with the New York City Office of Corporation Counsel, Family Court Division.

Bill Raffel, a graduate of Ithaca College, is pursuing a joint degree in law and communications. A graduate assistant at UB public radio station WBFO-FM, he plans to teach communication law at the university level.