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**The Shadow of Professor Kingsfield:
Contemporary Dilemmas Facing Women Law
Professors**

Martha Chamallas*

*Michael E. Moritz College of Law, The Ohio State University, chamallas.1@osu.edu

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Martha Chamallas

Abstract

This essay discusses the predicament of women law professors in an era when the representation of women on law faculties has reached a “critical mass.” It explores three mechanisms for reproducing gender inequality: (1) self-fulfilling stereotypes, (2) gender-specific comparison groups, and (3) the accumulation of small disadvantages. Chamallas uses stories from her own and colleagues’ experiences to illustrate contemporary forms of bias.

The Shadow of Professor Kingsfield: Contemporary Dilemmas Facing
Women Law Professors

Martha Chamallas*

I. Introduction

A good deal of my career has been devoted to thinking and writing about 'tokenism.'¹ The term, 'tokenism,' was first coined

* Robert J. Lynn Chair in Law, Moritz College of Law, The Ohio State University. Many thanks to Carolyn Jones for her help in preparing my initial remarks for the symposium and to Jana Brown for her excellent work as my research assistant. I should point out that I have tried to draft this essay so as not to reveal the identity of the persons in my examples, and I have occasionally altered the facts for this purpose.

¹ See MARTHA CHAMALLAS, INTRODUCTION TO FEMINIST LEGAL THEORY 178-79 (2d ed. 2003); Martha Chamallas, *The New Gender Panic: Reflections on Sex Scandals and the Military*, 83 MINN. L. REV. 305 (1998); Martha Chamallas, *Structuralist and Cultural Domination Theories Meet Title VII: Some Contemporary Influences*, 92 MICH. L. REV. 2370 (1994); Martha Chamallas, *Jean Jew's Case: Resisting Sexual Harassment in the Academy*, 6 YALE J. L. & FEMINISM 71 (1994); Martha Chamallas, *Listening to Dr. Fiske: The Easy Case of Price*

by Dr. Martin Luther King, Jr. during the civil rights movement, to describe the slow pace of racial integration in schools and factories in the South.² In the 1970s, sociologists used the term to describe the predicament of social groups, such as women, who entered nontraditional fields and found themselves dramatically underrepresented.³ Tokens are forced into serving as representatives of their group because of their rarity.

Women law professors in the 1970s were clearly tokens: our gender was both highly visible and highly salient with respect to everything we did. When it came to evaluations, token women were often noticed and rated on a scale that applied to women only — a scale that focused selectively on a woman's style of dress, appearance, body, social grace, and other traits not directly linked to a her ability to perform her job.⁴

As one of two token women on a law faculty in 1976, I felt

Waterhouse v. Hopkins, 15 VT. L. REV. 89 (1990).

² See Martin Luther King, Jr., *The Case Against 'Tokenism,'* N.Y. TIMES MAG., Aug. 5, 1962, at 11.

³ See e.g., ROSABETH MOSS KANTER, MEN AND WOMEN OF THE CORPORATION 206-42 (1977).

⁴ See Martha Chamallas, *Structuralist and Cultural Domination Theories Meet Title VII: Some Contemporary Influences*, 92 MICH. L. REV. 2370, 2380 (1994) (discussing the phenomenon of selective perception).

my token status most acutely in the faculty lounge. My appearance in the faculty lounge would invariably trigger a discussion about some 'women's issue.' The topic might be whether children suffered if their mothers worked, or whether women's accounts of date rape should be believed. I would often be asked, by a male colleague how 'women felt' about an issue and when I expressed my views, I was often met with skepticism. My colleague's response would inevitably be that his wife had a different view and thus I must be wrong. I would then be forced into the uncomfortable position of either attacking the absent wife or backing down. Professors Devon Carbado and Mitu Gulati recently theorized in their scholarship on identity in the workplace that being a token is exhausting and creates extra work for the 'outsider' law professor.⁵ In my first academic job, I was constantly scrutinized and forced to strategize about how I would 'present' myself. I was constantly forced to decide whether to be the strident feminist who somehow maintained her sense of humor, the reasonable woman who could see both sides of the issue, or the woman who just ate her lunch alone in her office.

Social scientists tell us that tokenism persists until a group reaches a 'critical mass' – somewhere between 15% and 35%,

⁵ See Devon W. Carbado & Mitu Gulati, *Working Identity*, 85 CORNELL L. REV. 1259, 1262 (2000).

depending on the context.⁶ After that point, it is more accurate to refer to the group as a 'minority group.' According to tokenism theory, the shift from token to minority status is significant.⁷ Once a group is large enough, it can form alliances and coalitions and engage in effective strategies to influence the culture of the organization.⁸ Once there are more than a token number of women, diversity among women becomes more apparent and individual women may no longer be routinely expected to represent every other woman in the world.

The number of women on law faculties has now grown beyond the bounds of tokenism.⁹ 33% of law faculty were women in 2001,¹⁰ and the figure for full professors was 24%.¹¹ Perhaps most

⁶ See Kanter, *supra* note 3, at 209.

⁷ See *id.*

⁸ See *id.*

⁹ See RICHARD A. WHITE, ASS'N OF AM. LAW SCH., STATISTICAL REPORT ON LAW SCHOOL FACULTY AND CANDIDATES FOR FACULTY POSITIONS 2001-2002, Table 1A, available at <http://aals.org/statistics/2002statspage1.htm>. It should be noted AALS uses a broad definition of 'faculty,' which includes some non-tenure track instructors, such as legal writing instructors with the title of 'assistant professor,' who are disproportionately women.

¹⁰ See *id.*

¹¹ See *id.*

significantly, there has been an uptick in the number of women serving as deans of law schools. In 2001, that figure was only 12.5%.¹² By 2004, 17% of law deans are women.¹³ Many schools seem to think that it is time that they had their first woman Dean. Significantly, last year Harvard Law School chose Elena Kagan to be Dean. At Ohio State, the President, Provost, Dean of the Law School, and Associate Dean of the Law School are all women – and the place is still standing. For the first time since I started teaching law in the mid-1970s, many women serve in leadership positions, and there seems to be less anxiety about it than there was before it actually happened.

Of course, numbers do not explain or reveal everything. For women law professors, gender bias is still a major fact of life. In a study of law faculty who started teaching in the 1980s, Professor Deborah Merritt found that women were more likely to leave the teaching profession than men, and the departure rate was especially high for women of color.¹⁴ Approximately one-fifth of white men left teaching, compared to one-quarter of white

¹² See *id.*

¹³ See ASS'N OF AM. LAW SCH., THE AALS DIRECTORY OF LAW TEACHERS 2003-2004 (2004) (finding this number through a hand count by author from listings by individual schools).

¹⁴ See Deborah Jones Merritt, *Are Women Stuck on the Academic Ladder?*, 10 UCLA WOMEN'S L. J. 241, 245 (2000).

women and one-third of women of color.¹⁵ Even in this 'critical mass' era, many women colleagues I have talked to believe that their careers have been stunted, they have been devalued because they are women, and there is something still preventing women from being 'all that we can be.' So my question becomes, Now that we have gone beyond tokenism, what could be keeping us down?

I want to keep my remarks simple so I will blame it all on one man, and a fictitious man at that. I point the finger at the legendary Professor Kingsfield, whom many of us know from the 1973 movie *The Paper Chase*,¹⁶ which took place during a time in history when law schools first began opening their doors to a significant number of women law students. Kingsfield is to blame because he remains the 'prototype' of the law professor – even in a time when law students are more likely to have seen *Legally Blond*¹⁷ than *The Paper Chase*.¹⁸

Played brilliantly in the movie by John Houseman, Kingsfield teaches contracts law at Harvard.¹⁹ Kingsfield is sixty-something, white, meticulously dressed, and demanding.²⁰ He is

¹⁵ See *id.*

¹⁶ THE PAPER CHASE (Twentieth Century Fox 1973).

¹⁷ See LEGALLY BLONDE (Metro Goldwyn Mayer Pictures 2001).

¹⁸ See THE PAPER CHASE, *supra* note 16.

¹⁹ See *id.*

²⁰ See *id.*

the epitome of confidence, expertise and sharp analytical thinking.²¹ He makes students believe that if they can only survive his class and his humiliating treatment of them, they will somehow be transformed.²² In a famous scene in the movie, Kingsfield tells the class, "you come in here with a skull full of mush and you leave thinking like a lawyer."²³

Kingsfield is the prototype of the law professor because he actually defines 'competence' in the law. In a thumbs up review of the movie, Roger Ebert explained that "[Kingsfield] is the kind of teacher who inspires total dread in his students, and at the same time a measure of hero worship; he doesn't just know contract law, he wrote the book."²⁴

Despite profound changes in the composition of law faculties, the Kingsfield prototype is alive and well. Students still view teachers who look and sound like Kingsfield as competent, while others have to prove their competency. Even when a female professor actually writes the book for her course, she doesn't "write the book"²⁵ in the sense that she is the final

²¹ See *id.*

²² See *id.*

²³ See *id.*; *The Paper Chase Viewing Guide*, at <http://mailer.fsu.edu/~slynn/paperchase.html>.

²⁴ See *The Paper Chase Viewing Guide*, *supra* note 23.

²⁵ See *id.*

authority.

The tenacity of the Kingsfield prototype was driven home when a younger, African-American male professor told me about his experience teaching a first-year course. This man was clearly a rising star: his first two articles had been published in top ten journals, and he was a mesmerizing public speaker. Another professor teaching the same course that year, by contrast, was a Kingsfield-like character who insisted that his students focus on obscure rules of state tort doctrine. He was close to retirement and had not published anything in twenty years. At a law school reception, the younger colleague's wife overheard a student in her husband's class saying it was unfair that their section had not gotten 'Kingsfield' as their professor and that they were disadvantaged because they had to settle for the younger professor. You can imagine how that comment stung, even though the younger professor knew in his heart that the student's evaluation was unfounded.

The shadow of Professor Kingsfield continues to haunt women and other outsiders on law faculties because expectations play such an important role in the social construction of reality. Stereotypes, after all, are simply expectations about people. In her new work on gender and leadership, Professor Deborah Rhode reminds us that the prototypical law professor is imbued with three characteristics traditionally associated with leadership:

strength, assertiveness, and authoritativeness.²⁶ If those who do not fit this prototype wish to be judged equally competent, they must affirmatively prove that they possess those three qualities.

In this era of a 'critical mass' of women law professors, in addition to more covert forms of sex discrimination, gender inequality is reproduced by the persistence of stereotypes, negative perceptions, and unconscious cognitive biases.²⁷ This is not your mother's sex discrimination. Recent scholarship has uncovered new mechanisms of gender bias, or has, at least, developed new understandings of the ways that gender bias operates in contemporary organizations and workplaces. Three gender-bias mechanisms are: (1) Self-Fulfilling Stereotypes, (2) Gender-Specific Comparison Groups, and (3) The Accumulation of

²⁶ See Deborah L. Rhode, *Keynote Address: The Difference "Difference" Makes*, 55 ME. L. REV. 16, 17 (2002).

²⁷ See of the burgeoning legal scholarship on cognitive biases and unconscious discrimination at Martha Chamallas, *Deepening the Legal Understanding of Bias: On Devaluation and Biased Prototypes*, 74 S. CAL. L. REV. 747 (2001); Linda Hamilton Krieger, *The Content of Our Categories: A Cognitive Bias Approach to Discrimination and Equal Employment Opportunity*, 47 STAN. L. REV. 1161 (1995); Jody Armour, *Stereotypes and Prejudice: Helping Legal Decisionmakers Break the Prejudice Habit*, 83 CAL. L. REV. 733 (1995).

Small Disadvantages. This article will address the causes of disparate treatment of men and women in the legal academy in terms of these mechanisms.²⁸

II. Self-Fulfilling Stereotypes

The term 'self-fulfilling stereotypes' comes from a recent article by Lu-in Wang on situational racism.²⁹ She uses the term to describe the phenomenon by which expectations influence a situation and then produce and become reality.³⁰ Professor Wang notes that the term appears every day in the stock market: for example, "predictions of a sluggish economy lead consumers and investors to reduce their spending and investing – thereby causing the economy actually to slow down."³¹ Wang also recounts the example of a predicted gas shortage in California in which

²⁸ I don't discuss work/family conflicts and the difficulty of being simultaneously a mother and a law professor. It's not because I don't believe this topic is an important and pressing one. It clearly is. It is simply due to the constraints of time and the fact that my daughter is finally a senior in college.

²⁹ See Lu-in Wang, *Race as Proxy: Situational Racism and Self-Fulfilling Stereotypes*, 53 DEPAUL L. REV. 1013, 1020-1021 (2004).

³⁰ See *id.* at 1018.

³¹ *Id.* at 1049 (citing Robert K. Merton, *The Self-Fulfilling Prophecy*, 8 ANTIOCH REV. 193, 196 (1948)).

motorists decided that they had better fill up their tanks to be safe.³² This surge in demand exhausted reserves and actually brought about a shortage, even though the California allotment of gas had not actually been reduced.³³

Wang explains how the self-fulfilling stereotype works in gender and race bias, citing studies in which African-Americans interviewed for professional jobs.³⁴ The European-American interviewers believed that they were fair-minded people and that they did not discriminate on the basis of race, but the interviewers and screeners consistently rated the minority candidates lower than similarly situated majority candidates.³⁵ In interview situations, unconscious bias often manifests itself in the form of distancing behaviors with minority interviewees.³⁶ The interviewer acts a bit more coldly and is a bit less receptive toward a minority candidate than he or she would be

³² See *id.* (citing Paul Watzlawick, *Self-Fulfilling Prophecies*, in *THE PRODUCTION OF REALITY: ESSAYS AND READINGS ON SOCIAL INTERACTION* 425 (Jodie O'Brien & Peter Kollock eds., 2d ed. 1997)).

³³ See *id.*

³⁴ See *id.* at 1061-62 (citing Carl O. Word et al., *The Nonverbal Mediation of Self-Fulfilling Prophecies in Interracial Interaction*, 10 J. EXPERIMENTAL SOC. PSYCHOL. 109 (1974)).

³⁵ See *id.* at 1063-64.

³⁶ See *id.* at 1062.

toward a majority candidate.³⁷ The candidate notices the behavioral difference, although the interviewer is rarely aware of it.³⁸

This distancing behavior in turn influences the candidate's behavior.³⁹ She is likely to respond by being cool and aloof herself, and even defensive.⁴⁰ The interviewers see this behavior and are not impressed; they now find a 'neutral' reason for rejecting the candidate in her poor performance in the interview.⁴¹ The interviewers believe that they have not discriminated against the candidate because their own initial frosty behavior is invisible to them. They believe they are basing their judgment on facts, not biased expectations. This vignette shows the pernicious role of stereotypes in recurring social situations. The stereotype which produced the distancing behavior influences the interview situation and ultimately plays a role in dooming the interaction. The candidate believes that she has been treated unfairly, but is not certain, and in any event, knows she can not prove it.⁴²

³⁷ See *id.* at 1062-63.

³⁸ See *id.* at 1064.

³⁹ See *id.* at 1063.

⁴⁰ See *id.*

⁴¹ See *id.* at 1064.

⁴² See *id.*

A variant of the self-fulfilling prophecy has been studied in the context of high-stakes testing.⁴³ In a series of experiments, John Aronson, Claude Steele, and their colleagues have documented what they call a 'stereotype threat.'⁴⁴ These researchers found that when members of a stereotyped group, specifically African-American, Latino, and female students, were reminded before a test that their group typically performed poorly on such standardized tests, they fulfilled the prophecy and scored worse than white males.⁴⁵ When they were not so reminded, however, the minority groups performed as well as the white males.⁴⁶ The researchers hypothesized that the negative expectations expressed before the test produced feelings of apprehension and anxiety in the test-takers and caused them to become distracted, ultimately interfering with their performance

⁴³ See *id.* at 1052-54 (citing Joshua Aronson et al., *The Effect of Stereotype Threat on the Standardized Test Performance of College Students*, in READINGS ABOUT THE SOCIAL ANIMAL 403, 404 (Elliot Aronson ed., 8th ed. 1999) and Claude M. Steele & Joshua Aronson, *Stereotype Threat and the Intellectual Test Performance of African Americans*, 69 J. PERSONALITY & SOC. PSYCHOL. 797, 797 (1995)).

⁴⁴ See *id.*

⁴⁵ See *id.* at 1052.

⁴⁶ See *id.*

on the test.⁴⁷ What is important to see here is that it was not something inherent in the minority groups that made them poor performers; instead, it was their reaction to a negative situation.⁴⁸ When European-American men were told that they were expected to perform worse than Asians on a math test, their scores also decreased.⁴⁹

I have experienced and witnessed this phenomenon as it affects female law professors in the classroom. I have come to believe that no one is immune to the 'stereotype threat,' not even the most popular and experienced teachers. Consider one example of a class that went badly: a woman accepted an offer to visit for a semester at another school. The school chose her because of her reputation as a scholar and her record as a popular and effective classroom teacher. The school failed to publicize her credentials because it never really does much to promote visitors.

The school assigned the professor to teach a high-enrollment, upper-level course, which many students take only because it is tested on the bar examination. During the first week of class, a pair of male students made it known that they felt bored with the class and unimpressed with the teacher. One

⁴⁷ See *id.* at 1052.

⁴⁸ See *id.* at 1052-1053.

⁴⁹ See *id.* at 1053.

particularly rude student sitting in the front of the class made it a point to pull out his newspaper and read it as the professor lectured. This angered her, but she refrained from saying anything about it in class because she was not on her home turf and did not want to highlight the behavior. She found it harder to concentrate and respond effectively to student questions. A few students dropped the course because it failed to meet their expectations.

By the third week of class, the professor found that she dreaded teaching it. When the rude male student pulled out a newspaper again, she told him to put it away, and he complied; an awkward silence ensued in the room. The classes during the latter part of the semester seemed to go better. The student evaluations at the end of the course were not impressive and were considerably lower than she typically received at her home institution. The negative evaluations did not specifically mention the rude student's behavior, but it seemed clear from the comments that the atmosphere in the class was adversely affected by the subtle power struggle that took place during the first few weeks of class.

Of course, the nagging thing about the self-fulfilling stereotype is that, insofar as perception constructed reality, the teacher was less effective in this particular course.

III. Gender-Specific Comparison Groups

Expectations affect the lives and status of female faculty in their dealings with colleagues and administrators outside the classroom. In connection with the Kingsfield prototype, one gender-related expectation relevant to explaining gender bias in the workplace is the expectation that men are more competent than women.⁵⁰ Sociologist Cecilia Ridgeway suggests that this stereotypical belief generates expectations about rewards – notably salary, promotions, and other status-related benefits.⁵¹ Men tend to react negatively if placed on the same reward level as a similarly situated women, and may experience this treatment as threat to their status in the organization or institution.⁵² It seems that men expect to automatically earn more money than women and are upset when they do not.⁵³

These deep-seated assumptions also affect the way women value themselves⁵⁴ and other women.⁵⁵ One recurring finding of

⁵⁰ See Cecilia L. Ridgeway, *Interaction and the Conservation of Gender Inequality: Considering Employment*, 62 Am. Sociological Rev. 218, 221 (1997).

⁵¹ See *id.* at 221-22.

⁵² See *id.* at 222.

⁵³ See *id.*

⁵⁴ See *id.*

⁵⁵ See *id.* at 223.

social scientists is that women tend to compare their treatment to that of other women and to rely on gender-specific comparison groups.⁵⁶ If you reflect for a moment, you can see how such women-only comparisons are likely to undervalue women's performance. In most law schools, the salaries of professors are not published and may not even be accessible through open records requests. Thus, when the Dean determines annual raises in salaries, there is often no way of knowing whether your raise is higher or lower than those of your colleagues. Often, a female faculty member will turn to a friend on the faculty to compare raises. If her social network is composed mostly of other women, then the comparators will likely also be women. This comparison tells her only how she ranks vis-a-vis other women in the group and does not reveal her rankings compared to male colleagues. When I have had the opportunity to see the salary structure at some of the schools at which I have taught, I have always been startled to find large disparities in salaries and some male faculty members with only average records garner the highest salaries. With respect to salaries, gender bias may manifest itself as the unjustified favoring of a subgroup of average performing men rather than disadvantaging all women relative to all men.

A kind of segregationist mindset exists that makes comparing

⁵⁶ See *id.* at 223-224.

women to other women almost automatic. When I read studies about gender-specific comparison groups, I realized that I am in the habit of looking for other women and comparing their position to mine. When I see a brochure about a torts conference, I might look to see whether any of the headline speakers are women. When a school publicizes who has recently received a Chair, I pay special attention to the women. I thought I did this because I am a feminist and am always on the lookout for potential gender bias; however, such gender-specific practices also have a subtle way of measuring one's own value. Women will continue to be underrated if they do not notice their treatment relative to men's and fail to insist on absolute parity.

IV. Accumulation of Small Disadvantages

The final mechanism of gender bias helps to explain why progress toward gender equality seems so slow and why simply putting more women into 'the pipeline' does not solve the problem. The sociological concept of the accumulation of advantage and disadvantage will be familiar to those of you who have debt and for those lucky few who have savings. Like interest on debt, disadvantage accumulates; like interest on capital, advantages accrue over time.⁵⁷

⁵⁷ See LINDA BABCOCK & SARA LASCHEVER, *WOMEN DON'T ASK: NEGOTIATION AND THE GENDER DIVIDE* 7 (2003).

A graphic example of the phenomenon of the accumulation of small disadvantage is discussed in economist Linda Babcock's book on women and negotiation, *Women Don't Ask: Negotiation and the Gender Divide*.⁵⁸ Her study of Carnegie Mellon graduate students showed that the starting salaries of men were 7.6% higher than those of women, representing an almost \$4000 difference on average.⁵⁹ Babcock shows how such relatively small differences can eventually result in huge disparities over the course of a career.⁶⁰ She uses the example of two twenty-two-year-olds hired for the same job.⁶¹ The man receives \$5000 more than the woman because he successfully negotiates a higher salary.⁶² Assuming that the two receive the standard three percent per year salary increase, by age sixty the gap in their salaries will have widened to \$15,000 per year.⁶³ Most importantly, the man would have earned over \$360,000 more than the woman over his career and, if he had invested this sum in a three percent interest-earning account, it would amount to over \$560,000.⁶⁴ Babcock

⁵⁸ See *id.* at 1.

⁵⁹ See *id.* at 1.

⁶⁰ See *id.* at 5.

⁶¹ See *id.*

⁶² See *id.*

⁶³ See *id.*

⁶⁴ See *id.*

notes that this difference in wealth is enough to underwrite a comfortable retirement, second home purchase, or college education for a few children.⁶⁵

The accumulation effect interacts with gender-biased expectations.⁶⁶ In her book, *Why So Slow? The Advancement of Women*, psychologist Virginia Valian illustrates the interaction of these two concepts in the context of a committee meeting.⁶⁷ Recall that there is a deep-seated notion that women are not as competent as men and that a woman's contributions are therefore less valuable.⁶⁸ Frequently, a woman walking into the room is not afforded the same status as an her male equivalent. Experiments have shown that when a man sits at the head of a table for a meeting, there is a presumption that he is the leader, while no such presumption exists for a woman seated in the same place.⁶⁹

Valian asks you, the reader, to imagine attending a meeting with people that you know but with whom you, as a new faculty member, have not previously interacted with closely.⁷⁰ You notice

⁶⁵ See *id.* at 5.

⁶⁶ See VIRGINIA VALIAN, *WHY SO SLOW? THE ADVANCEMENT OF WOMEN* (1999).

⁶⁷ See *id.* at 4.

⁶⁸ See *supra* discussion Part II.

⁶⁹ See Rhode, *supra* note 15, at 17-18.

⁷⁰ The following example is taken from Virginia Valian, *supra* note 27, at 4-5.

that the group takes some people's comments seriously, while it ignores others. You try to assess individual participants from your own evaluation based on the content of their remarks, but such independent evaluation may be difficult, if not impossible, for one new to the group. The reactions of others in the group will likely influence your assessment of the individuals. Observing the group's dynamics teaches you which members do or do not hold high status. By the conclusion of the meeting, people whom you regarded as equal in the beginning are now unequal.

In the meeting, those participants whose remarks were ignored suffered a small loss of prestige because the rest of the group labeled their contributions as less important or significant than remarks from other participants.⁷¹ More importantly, because they now have even lower prestige, their remarks will carry even less weight in future meetings.⁷² Each subsequent negative experience further diminishes that member's prestige and standing.⁷³ The gap between them and the people who are gaining attention and prestige will continue to increase, resulting in a greater likelihood of future negative

⁷¹ See *id.* at 4.

⁷² See *id.*

⁷³ See *id.*

encounters.⁷⁴ This pattern is the accumulation effect.⁷⁵

This phenomenon helps to explain why senior faculty women, often highly valued and respected in the greater academic community, have less prestige and respect in their own institutions.⁷⁶ Perhaps these women lost standing when their colleagues observed others ignore or dismiss these women's comments at faculty and committee meetings. Outside their home institutions, these women are able to achieve a higher status because they are more likely to be seen at the podium giving an address or voicing their opinions on a panel of experts at a symposium.

The accumulation effect, or fear thereof, may also help explain why women tend to speak less in public and professional settings than their male counterparts.⁷⁷ Logic dictates that women's fear of a negative or no reaction to their remarks results in women deciding that they are better off not speaking at all.⁷⁸ Silence will not elevate anyone's status or prestige. However, the effect/impact of saying nothing may be less detrimental than that of speaking and being ignored. Silence can

⁷⁴ See *id.*

⁷⁵ See *id.* at 3.

⁷⁶ See generally, Merritt, *supra* note 12, at 244-245.

⁷⁷ See VALIAN, *supra* note 27, at 5.

⁷⁸ See *id.*

become a habit and for many women as they feel more comfortable listening rather than speaking.⁷⁹

It is important to see the other side of the accumulation effect and notice how a woman can parlay small gains into bigger gains.⁸⁰ Successful people do indeed 'sweat the small stuff.' It seems that the conventional wisdoms — "don't make a mountain out of a molehill" and "pick your battles" — may not be the best advice for either the individual woman or for women in general.

V. Antidotes for Gender Bias

I conclude by identifying and examining possible courses of action concerning these new forms of gender bias and the strategies these biases suggest for going forward. The mechanisms of bias might suggest their own antidotes. Consider the self-fulfilling stereotype and the example of the student rudely reading his newspaper during the woman professor's lecture. The best antidote for that student's behavior is prevention. Many professors believe they could solve the problem by immediately telling the student to, "Put that away." This response is better than saying nothing, but it is important to realize that the

⁷⁹ See *id.*

⁸⁰ See *id.* at 5. ("Successful people seem to recognize that one component of professional advancement is the ability to parlay small gains into bigger ones.").

professor loses prestige the moment the student challenges her, even if the student is quickly rebuked. A professor's harsh response creates its own dynamic,⁸¹ possibly destroying the kind of classroom atmosphere the professor desires. The student might not take out his newspaper if he clearly understands that the professor is a 'big shot,' whose authority it would not be wise to challenge. Advance publicity of the visiting professor's credentials might help. At the very beginning of the course, the professor could tell the class something about herself that highlights her experience and status, without boasting. It is helpful to place one's official title on the course syllabus. At one school where I was a visiting Chair, I used a syllabus saying only 'Professor Chamallas.' On the evaluations, more than one student expressed hope that I would get tenure. Believe me, that misperception clearly resulted from my gender and not my age.

For gender-specific comparison groups, I think the antidote is avoiding reliance on all-female or predominately female networks for information. Avoiding such reliance can help to assure a woman receives comparable treatment to similarly-situated men. When the Associate Dean asks a woman to teach torts for the twenty-eighth time in her career because "we need women in the first year," she can simply refuse, feeling safe in the knowledge that the Associate Dean is not making the same request

⁸¹ See Rhode, *supra* note 15, at 17.

of the male professors.

To counter the accumulation effect, I believe women need to make an issue out of everything, building up the small advantages, and minimizing the disadvantages, even those occurring on a daily basis.

I do not think that it is this simple. Sometimes the cure can be worse than the disease. The disease here is the Kingsfield prototype. Turning into Kingsfield to counter the prototype is not an attractive option. Feminists have been saying for a generation that any strategy that results in not resisting the male norm will not be satisfying in the long run.⁸² We should not have to boast about our credentials to win students' respect in the classroom. We want to maintain our all-female networks because they sustain us and make our jobs enjoyable. Finally, for our own sanity and conservation of energy, we may have to allow some molehills to accumulate, knowing that self-promotion is not the most important demand on our time.

Sexism's resilience comes from its capacity for creating new double binds to accompany new forms of gender bias. Knowing the way this bias works and developing an individual strategy to overcome the bias is a good start but not sufficient in itself. There is a continuing need for collective solutions, solidarity

⁸² See CHAMALLAS, INTRODUCTION TO FEMINIST LEGAL THEORY, *supra* note 1, at 6-8 (discussing male norms and implicit male bias).

among different groups of women, and creativity in devising new methods of protest and pressure. The antidote for the new, as well as the old, forms of gender bias is promotion and support of feminist groups, courses, and conferences, and, most importantly, feminist journals.

