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## Why are YOU Taking *Gender and the Law*? Deconstructing the Norms that Keep Men Out of the Law School's "Pink Ghetto"

Corey Rayburn\*

During the time I was taking Professor Anne Coughlin's *Gender and the Law* class at the University of Virginia,<sup>1</sup> not a week went by when I did not hear the simple question: "Why are YOU taking Gender and the Law?" Every time I was asked, I stumbled because I knew my answer would reveal a lot about my identity. I knew my classmates were wondering why a man would want to learn about gender.<sup>2</sup> As the semester passed, it became increasingly obvious how many subtle and not-so-subtle assumptions were built into that basic query from my friends. I considered a variety of answers to the question but all of them left me unsatisfied and wondering what my peers would think about my (potential) responses. Imagined (and real) conversations played out in my head as I considered what to say.

Me: *"I've done a lot of reading about feminist<sup>3</sup> jurisprudence and have*

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\* Associate at Shearman & Sterling. J.D., University of Virginia School of Law, 2002. B.A. in Political Science, University of Iowa, 1999. I wish to thank Professor Anne Coughlin for teaching a class that had a meaningful effect on everyone in it. She is the best teacher I have ever had. I would also like to thank Professor John Nelson for expanding my horizons and pushing me in new directions.

1. Professor Anne M. Coughlin offers a one-semester class entitled *Gender and the Law* at the University of Virginia School of Law. I was enrolled in the class during my last semester at the law school during the spring of 2002. This essay represents the culmination of my work in that seminar and is in part based on my experiences in the class.

2. This essay uses the term "gender" as distinguishable from "sex." Whereas "sex" is a strictly biological conception of identity, "gender" embodies an array of potentially culturally informed characteristics and does not exist on a simple male-to-female continuum. Questions of transsexuality, transvestitism, sexual orientation, and self-reflexive gender identity are all included within this essay's conception of "gender."

3. This essay will use the words "feminist" and "feminism" to include a wide array of ontological, political, and epistemological perspectives (and people who believe in those perspectives). There is no intent to homogenize and essentialize these varied views but there is also no attempt to differentiate them within the scope of the essay. My limited defense for this use of "feminism" is that since the primary questions here focus on male inclusion in any form of "feminism," the particulars of the different strains are not as important.

*always found the issues involved to be very interesting."*

Friend: *"Oh, so you are one of those guys. You know – the ones who sit at Starbucks (or more likely the local coffee shop that is yet undiscovered by the really hip), sipping their latté, talking about Marx, Heidegger, and every now and then, MacKinnon. That coffee house intellectual bit is soooooo tired – you should just go to Coughlin's Law and Literature class and leave the womyn<sup>4</sup> in Gender and the Law alone. You are probably just in the class to try your act on the intellectual 'chicks' and get a few dates out of the deal."<sup>5</sup>*

Me: *"Actually, I was raised in a household by three womyn and gender issues dominated my upbringing. This makes my perspective somewhat unique on gender matters."*

Friend: *"So, you are either a 'girly-man' or confused. After all, being a momma's boy with three moms makes you three times the 'sissy.' And if you were raised that 'girly,' you probably played with dolls and that means you are definitely gay. I guess it is alright for a gay boy to take the class, but hopefully you realize that while you may get one or two classes to talk about your 'issues,' you should sit quietly in the corner during the rest of the time."*

Me: *"I thought it would be interesting and I had heard Professor Coughlin was a good teacher."*

Friend: *"Well that makes sense; filling up your third year with 'fluff' classes is an age-old tradition. I mean, Gender and the Law is not 'real' law. The class reminds me of that course they taught at college on Elvis and American culture or something like that. No serious student or scholar works in 'gender' areas; it is just touchy-feely nonsense."*

4. This essay chooses to adopt the gender-neutral term "womyn" to refer to the people traditionally called "women." There are several reasons this linguistic change is made. The etymology of "woman" was from the Old English term "wif-man" whereas "man" was "wer-man." Over time, the "wer" was dropped as a "man" was recognized as the significant and "normal" sex. ROSALIE MAGGIO, *THE DICTIONARY OF BIAS-FREE USAGE: A GUIDE TO NONDISCRIMINATORY LANGUAGE* 285 (1991). Changing "women" to "womyn" is not just a way to break from patriarchal linguistics but is also a way to problematize social constructions of womyn because language is an important vehicle for deconstructing cultural norms and exposing gender hierarchies. See *id.*; Onilley McNoan, *We like women, what about womyn?*, IMPRINT ONLINE (Mar. 26, 1999), at <http://imprint.uwaterloo.ca/issues/032699/4Human/features01.shtml>. "Womyn" has also been accepted by at least one major mainstream dictionary as a gender-neutral replacement for "women." See RANDOM HOUSE WEBSTER'S COLLEGE DICTIONARY 1478 (2d ed. 1997). This author does not, however, change exact quotes within this essay out of respect for those who may intentionally use the term "women."

5. The italicized section of this essay uses a variety of potentially degrading terms such as "chick" and "babe" as well as stereotypes that equate femininity with being gay. In case it is not obvious from the context of this part of the paper, I wish to make clear that the use of gender stereotyped language is meant only to illustrate some of the dangerous rhetorical subtext to American culture. This author and essay do not endorse any of the ideas contained in this section except as to illustrate the dilemmas faced by men entering classes like *Gender and the Law*.

Me: "Someone told me that it was a good class."

Friend: "I see. Do you have a ring? No. Well, if you don't have a wife, you must have a serious girlfriend who made you take the class. Did you call her 'babe' or 'chick' and she ordered you to sign up for *Gender and the Law*? Coughlin will straighten you out since gender and womyn's classes are about teaching people to be politically correct. You are so whipped!"

Me: "I wanted to take a class that had a greater emphasis on political theory."

Friend: "Party-crasher. Saboteur. 'Emphasis on political theory' – I know what that means – you are just joining the class to ruin it. You should take your right-wing zealotry and go stink up some law and economics class."

I replayed the hypothetical conversations in my mind and they made me wonder. I was never asked, "Why are you taking *Complex Civil Litigation*?" because no one could read much into that class selection. On the other hand, students and friends viewed the choice to take *Gender and the Law* as a statement about my politics, gender, and life. How I explained or justified that choice further compounded the normalizing assumptions of my identity and pigeonholed my politics and character into a neat, readily-identifiable category. Assumptions made about me included that I was gay, the product of an unusual gender-sensitive upbringing, interested in "hitting on" the womyn in the class, a pseudo-intellectual trying to play smart, taking a fluff course, a right-wing saboteur, or sent to the course by my partner to compensate for some past wrong. Even though there was truth to at least one of the above assumptions, answers to the question that reflected that reality seemed to play into dominant, masculine norms of identity. I felt the need to justify what was perceived as a heavily politicized choice, and every potential reply seemed to carry a culturally informed subtext that fundamentally devalued that reply.

The questioning of the class choice reflects an array of assumptions that not only explain why *Gender and the Law* is seen as a course for womyn, but also offers an interpretative lens to understand why men in society are loath to identify themselves as feminists or be aligned with feminist causes.<sup>6</sup> This essay attempts to deconstruct and problematize the heavily-packaged norms that go into a man's decision not to partake in the projects of exploring gender issues in the law school environment.

In Section I, this essay explores the reasons why gender-conscious men choose not to involve themselves in gender-focused seminars. Section II addresses the various arguments made on why a male presence in gender

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6. In response to the question, "Do you consider yourself a feminist?" only 20% of men said "yes." See Gallup: 25% of Women Consider Themselves Feminists, THE HOTLINE, Jun. 27, 2001.

classes is dangerous. Some tentative conclusions are offered as to the weight of these various positions so that the proposals offered in Section III can address them. Section III offers four ideas that those concerned with bridging the sex composition gap in gender classes should adopt to combat the norms against male inclusion. Section IV offers conclusions for society based on the *Gender and the Law* classroom setting and attempts to open avenues for future work and perspectives to be included in the feminist project.

### I. WHY WOULD A MAN (NOT) WANT TO BE IN A WOMYN'S CLASS?

The conventional wisdom holds that men do not belong in a womyn's class.<sup>7</sup> When a man decides to enroll in *Gender and the Law*, there is a sense that it is somehow unnatural. The basis for this accepted norm is found, in part, in the various assumptions described in the opening of this essay. In my *Gender and the Law* class, there were five men among the sixteen total students. That ratio is not atypical, as men are hesitant to attend gender seminars at law schools around the nation.<sup>8</sup> This reluctance can be traced to a worry that being identified as interested in womyn's issues will frighten potential employers who will see them as radicals.<sup>9</sup>

Consistent with the tendency of male students to avoid taking gender-focused classes, the percentage of male teachers and scholars in the area of gender politics is shockingly low.

The AALS Directory of Law Teachers 1999-2000 lists 234 women and eighteen men who presently teach or have taught Women and Law classes. Only six of the men are presently teaching such a course. Thus only 3% of the approximately 180 law schools nationwide have a male currently teaching a class or seminar on gender. Relatively few men publish in the feminist theory area – it may be a risky career move – and those who do so may be viewed as infiltrators. Nobody wants to crash into the pink ghetto.<sup>10</sup>

For the most part, men are not teaching, writing about, or taking classes that address gender issues. The numbers are astonishing and if institutional arrangements remain the same there is little hope for change since the norms against male involvement are deeply imbedded in the educational

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7. See Andrew Webb, *U. New Mexico Women Studies Program Has 250 Students, Offers Major*, UNIVERSITY WIRE, Aug. 14, 2000 (noting that the majority of enrollees in womyn's studies programs are womyn).

8. Linda Ammons, *Dealing With the Nastiness: Mixing Feminism and Criminal Law in the Review of Cases of Battered Incarcerated Women—A Tenth-Year Reflection*, 4 BUFF. CRIM. L. REV. 891, 911 (2001).

9. *Id.*

10. Nancy Levit, *Keeping Feminism in Its Place: Sex Segregation and the Domestication of Female Academics*, 49 U. KAN. L. REV. 775, 782 (2001).

environment.<sup>11</sup>

Why *Gender and the Law* is perceived to be a womyn's class is not initially clear. After all, men also confront issues of gender identity, traditional patriarchal roles, and gender and sex equity (albeit from a different vantage point than womyn). While some may find it understandable that a gay man would have a gender studies interest, it is only because there is a presumed norm of heterosexuality. Examining why gender classes are taken to be womyn-only clubs provides a launching point for understanding why men do not join these forums.

#### MEN HAVE NO GENDER

Because our culture uses masculine norms to define identity, womyn are viewed as non-men and men do not know what their gender is.<sup>12</sup>

Most men do not consider themselves gendered beings. . . . The privilege of privilege renders the terms of privilege invisible. Only those marginalized by some category understand the power of that category when deployed against them. The lack of an adequate mechanism for men to experience a secure gender identity makes it more difficult for men to experience gendered self-awareness and the influences of gender in their lives.<sup>13</sup>

The absence of an experienced gender identity is what allows men to deploy cultural norms as rational counter-arguments to feminism. Religious leader Pat Robertson referred to feminism as a "socialist, anti-family political movement that encourages women to leave their husbands, kill their children, practice witchcraft, destroy capitalism, and become lesbians."<sup>14</sup> While Robertson's perspective is on the more extreme end, it represents the rational conclusion from the perspective of male heterosexual privilege. Feminism is seen as challenging the dominant, disciplining paradigm because it often seeks to interrogate core values of American society such as capitalism, Christianity, family, and heterosexuality. When male norms dominate inter-sex discourse, womyn's views that do not fit neatly into patriarchy's instrumental rationality schema are vehemently attacked.<sup>15</sup> When feminists seek to change society, their claims are often reduced to peripheral "womyn's issues," and the

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11. Ammons, *supra* note 8, at 892.

12. This essay takes for granted that male heterosexual privilege is the basic gender rule in America and that patriarchy is the dominant gendered politics. See generally CATHERINE A. MACKINNON, *TOWARD A FEMINIST THEORY OF THE STATE* (1989).

13. Michael S. Kimmel, *Issues for Men in the 1990s*, 46 U. MIAMI L. REV. 671, 675 (1992).

14. Howard Fineman, *Some Hard Right Turns for the GOP*, NEWSWEEK, June 20, 1994, at 38 (quoting letter from Pat Robertson).

15. ALLAN G. JOHNSON, *THE GENDER KNOT: UNRAVELING OUR PATRIARCHAL LEGACY* 7 (1997).

dominant social order remains supported by non-gendered male norms. Male privilege creates a self-reifying logic that insulates patriarchy from criticism and blocks intellectual introspection by men in power.

The result of this insulated logic is that privilege often prevents men from confronting their own gender issues. A man comes to see himself as a normal human and womyn as abnormal. While this has devastating effects for womyn, it also denies most men an opportunity to explore the gender that they do not realize they have. Culturally defined masculinity fills this vacuum and men try to become what is expected of them by society.<sup>16</sup> It should not be surprising then that men do not know what a *Gender and the Law* class has to do with being a man.

#### THE PATRIARCHAL DIVIDEND

The most obvious reason why men, at least white heterosexual men,<sup>17</sup> do not join gender-focused forums is that they reap the material benefits of their privilege. Patriarchy is rampant in so many aspects of our society that it makes little sense, from the dominant vantage point, to question the privileges given to white heterosexual men.<sup>18</sup> The "patriarchal dividend" serves as a substantial impediment to any move by men toward recognizing and deconstructing their culturally informed gender identity.<sup>19</sup> To engage in such a project would risk parting with the material and societal advantages such a dividend affords. Thus far, feminism has offered little to men in return for sacrificing their dividend.<sup>20</sup> While an event like signing up for classes may seem innocuous, it may symbolically represent the surrender of significant benefits afforded heterosexual males in our society. The high-paying job, summer home on the Cape, traditional wife waiting to serve dinner, and new BMW are too salient a dream for most men to risk giving up by signing up for a touchy-feely law school course. One may think that a simple course could not hold so much power, and that is probably true. However, a decision to partake in transformative personal politics may call into question the benefits one receives from patriarchy. While it is certainly possible to take gender-focused classes without changing your ideals, it does not make sense under the dominant paradigm to engage in a low-reward class if it risks making a man "soft" or guilty

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16. Kimmel, *supra* note 13, at 676.

17. It should not be surprising that even when men join gender classes they are often members of an intersecting group that suffers oppression. At least one scholar has noted that the class at their school has a composition such that half the men in it are gay men of color. Jeffrey C. Mingo, *More Colors Than the Rainbow: Gay Men of Color Speak About Their Identities and Legal Choices*, 8 *LAW & SEXUALITY: A REVIEW OF LESBIAN, GAY, BISEXUAL, AND TRANSGENDER LEGAL ISSUES* 561, 604-05 (1998).

18. R. W. Connell, *Gender Politics for Men*, in *FEMINISM AND MEN: RECONSTRUCTING GENDER RELATIONS* 225, 226-27 (Steven P. Schacht & Doris W. Ewing eds., 1998).

19. *See id.* (arguing that men gain from the patriarchal dividend and it would not be in their self-interest to change the status quo).

20. *Id.*

about his privileges.

#### WHAT WILL PEOPLE SAY?

The beginning of this essay illustrates the pervasive fear men have in identifying themselves as interested in gender. Sissy, gay, or whipped are not preferred labels for most men because they internalize the dominant culture's sexist and heterosexist perspective about "proper" masculine roles. It is much simpler for them to take *Civil Procedure II* or *Securities Regulation* than to face scorn and questioning. There is an inherent fear of what people will say and what they will think based on the assumptions derived from masculine cultural norms. The problem for men does not end when they sign up for the class. Once inside the classroom, they fear the same stares and jokes from the womyn who may or may not believe men belong in the course.<sup>21</sup> While these fears are substantial, it is important to be clear that none of these attacks are close to the subjection womyn often feel in a law school environment. Men are affected in significant ways by patriarchy, but there is no symmetry of experience with womyn.

Doris Ewing and Steven Schacht explained the double-edged deterrent that keeps men out of feminism:

Many men are sympathetic to issues of gender equity and supportive of feminist goals, but see feminism as basically irrelevant to their interests. . . . Too often feminism has been seen as a "woman-only" arena or defined in competitive terms of male versus female privilege, rather than a cooperative effort to improve the quality of life for everyone. The few men who have attempted to embrace a feminist worldview often have been marginalized by women who view them with suspicion and by men who see them as gender traitors (or as a friend says, "The worm in the sperm").<sup>22</sup>

Thus, the real and perceived backlashes that men must inevitably endure are a powerful force that ensures that men will continue to avoid gender-focused seminars.

#### THE "PINK GHETTO"

The concept of a "pink ghetto" was originally employed to describe the way womyn were pushed into lower-paying jobs that were in line with patriarchal conceptions of womyn's work.<sup>23</sup> The designation has since been applied in the law school setting to describe the institutional

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21. Mingo, *supra* note 17, at 603-05.

22. Doris W. Ewing & Stephen P. Schacht, *Introduction*, in *FEMINISM AND MEN: RECONSTRUCTING GENDER RELATIONS*, *supra* note 18, at 1, 1 (footnote omitted).

23. See Berta Esperanza Hernandez-Truyol, *Concluding Remarks, Making Women Visible: Setting an Agenda for the Twenty-First Century*, 69 ST. JOHN'S L. REV. 231, 248 (1995) (using "pink ghetto" to describe the plight of Puerto Rican womyn).



discrimination against womyn professors who teach gender issues.<sup>24</sup> Professors (both female and male) teaching gender classes face concerns that shed light onto the problems faced by men deciding to take gender classes.

The domestication of womyn professors into pink ghettos occurs for many reasons and takes the form of both segregation by subject matter and habituation of womyn to domestic roles within the academic setting.<sup>25</sup> Nancy Levit offered this sober account of law professor domestication and its effects:

The domestication of female professors is accomplished in . . . forthright ways as well. Some women who engage in radical or provocative theorizing suffer negative employment consequences. A number of these celebrated tenure and promotion battles may have been in part sex discrimination and in part efforts to tame radical feminists. These cases are not just anachronisms that occurred during the late 1980s; they are ongoing cases from the late 1990s alleging pay and treatment disparities, intolerance, and hostility toward women generally and feminist scholars specifically. They serve as warnings to other feminists not to engage in provocative work.<sup>26</sup>

That men would not want to enter this field of study is not surprising. In addition to risking the scorn of their student peers, they must recognize that learning about gender issues risks turning their career into a dead-end. The pink ghetto is a place of high risk and rare reward, and male students wondering if adding a gender class might be worthwhile cannot help but think there is no future for them there. As long as teachers and students participating in gender-focused forums are seen as practicing unimportant work, people (womyn and men) will choose not to enter those settings.

## II. NO MEN ALLOWED — FEMINIST ARGUMENTS FOR SEPARATION

Recognizing the factors that cause men to self-select out of gender-focused seminars is only half of the picture. There are also powerful reasons for believing that men should not be there in the first place. Even if a gender-conscious heterosexual male is willing to risk scorn, a dead-end career, and his patriarchal dividend, it may be that feminism is best served without him being involved. This section of the essay attempts to address the many arguments against male involvement in feminism and determine if they truly necessitate separatism in gender education.

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24. Levit, *supra* note 10, at 778.

25. *Id.* at 775-76.

26. *Id.* at 793-94 (footnotes omitted).

## THE IMPOSSIBILITY THESIS

The strongest form of the argument against male involvement in gender-focused forums is that it is impossible for a man to be a feminist. The impossibility thesis takes two primary forms: That feminism is womyn's political territory, and that feminist forums must have separate space "to escape male epistemological dominance."<sup>27</sup> The traditional impossibility thesis has been described as follows:

Women are the subjects of feminism, its initiators, its makers, its force; the move and the join from being a woman to being a feminist is the grasp of that subjecthood. Men are the objects, part of the analysis, agents of the structure to be transformed, representatives in, carriers of the patriarchal mode; and my desire to be a subject there too in feminism – to be a feminist – is then only also the last feint in the long history of *their* colonization.<sup>28</sup>

This formal separatism of the feminist struggle from men assumes a very limited conception of what men will bring to the struggle. That is, there is a presumption by proponents of the impossibility thesis that male feminists would simply acknowledge their privilege and attempt to join hand-in-hand with womyn in the fight.<sup>29</sup>

There are at least two reasons to deny the separatist mantra espoused by the impossibility thesis. First, male feminism should not be designed to merely replicate the work of feminism in general.<sup>30</sup> Male feminism should offer a distinct voice that does not pretend to speak for or on behalf of womyn. "With . . . gender awareness, men are in a political position to challenge the ways in which they enact and naturalize the patriarchal codes of manhood in their everyday social encounters."<sup>31</sup> Men, as the actors that make patriarchy possible, are in an important position to any feminist struggle because they must recognize their privilege and abdicate their stranglehold on power. Without a desire to replicate the traditional story of men saving womyn, bell hooks explained this argument against impossibility:

Separatist ideology encourages us to believe that women alone can make feminist revolution – we cannot. Since men are the primary agents maintaining and supporting sexism and sexist oppression, they can be successfully eradicated only if men are compelled to assume responsibility for transforming their consciousness and the

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27. Devin W. Carbado, *Straight Out of the Closet*, 15 BERKELEY WOMEN'S L.J. 76, 79 (2000) (footnotes omitted).

28. Stephen Heath, *Male Feminism*, in MEN IN FEMINISM 1 (Paul Smith & Alice A. Jardine eds., 1990).

29. Carbado, *supra* note 27, at 82-85.

30. *Id.* at 84-85.

31. *Id.* at 87.

consciousness of society as a whole . . . . This does not mean that they are better equipped to lead feminist movement; it does mean they should share equally in resistance struggle.<sup>32</sup>

There is an ever-present danger of overstating the male role in the feminist struggle (thus replicating the domination and colonizing techniques used to incorporate feminist ideology into liberalism), but that need not preclude links between men and feminism. Having some of the privileged on-board in a resistance movement does not guarantee colonization by the powerful, but rather is a necessary step for struggles against oppression to succeed.

A second reply to the impossibility thesis is to separate feminist ideology from gender identity.<sup>33</sup> Men cannot experience the life of womyn. Men, however, can align themselves with a political commitment and ideology which is feminism.<sup>34</sup> This model of separating ideology from identity has been a powerful force even in radical race struggles, and illustrates the importance of the privileged revoking their "natural" status.<sup>35</sup> The renouncement of white, male, heterosexual, or economic privilege can allow those who are in power to align themselves with the oppressed, albeit in a more limited fashion. While those of privilege may lack the identity-informed elements of a feminist, they can support the same causes and politics.

#### PRESUMPTION OF SYMMETRY

A constant danger with a male feminist effort is to presume symmetry of experience and oppression.<sup>36</sup> Heterosexual men, by cultural design, are the privileged group. No matter how much societal norms shape and control them, their experience cannot be equated to what womyn must go through. When a man speaks about joining the struggle and attempts to identify the various ways patriarchy has shaped his life, one cannot help but wonder if he realizes the qualitative and quantitative differences in his pain compared to that of womyn. This has been the mistake made by several incarnations of men's movements during the last thirty years. Radical feminist male struggles in the mid-1970s fell prey to presuming similar experiences of oppression between men and womyn.<sup>37</sup> These groups posited that patriarchy was essentially gender-neutral and had equivalent

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32. bell hooks, *Men: Comrades in Struggle*, in *FEMINISM AND MEN: RECONSTRUCTING GENDER RELATIONS*, *supra* note 18, at 265, 278.

33. Carbado, *supra* note 27, at 87.

34. *Id.* at 88.

35. *Id.* at 87-88.

36. Michael A. Messner, *Radical Feminist and Socialist Feminist Men's Movements in the United States*, in *FEMINISM AND MEN: RECONSTRUCTING GENDER RELATIONS*, *supra* note 18, at 67, 69.

37. *Id.*

(albeit different) effects on men and womyn.<sup>38</sup> In my *Gender and the Law* class, well-intentioned comments by men to describe the way patriarchy affected their upbringing and childhood development were occasionally met with a polite but harsh word to make sure men realized that while their experience is tragic, it cannot compare to a womyn's experience. Even within the scope of this essay, there is an inherent problem of assuming and presuming symmetry. The impact of this phenomenon is that men either redirect the struggle to non-feminist ends or that they themselves break away from feminist efforts. Still, this concern is one that men can be on guard against, and if they are, they can play a role in feminism without denying womyn's experiences and voices.

#### AUTHENTICATION

There is an inherent danger of epistemological dominance in any discussion of feminism by men because all knowledge production is gendered.<sup>39</sup> Men who attempt to add to feminist scholarship and discourse necessarily go about framing the ideas of womyn and risk canonizing their perspectives in a traditionally male way.<sup>40</sup> The major emphasis of this point was handled in this essay's discussion of the "impossibility thesis," but there remains a second, related concern: male perspectives add authenticity to womyn's views in feminist intellectual circles because male feminists are seen as gender-traitors.<sup>41</sup>

There is a risk that womyn's voices will be ignored because they are seen as self-interested, and only validated by a man arguing against his privilege. When men act to give womyn street credibility, they dominate the underlying feminist discourse because men become the authority figures in feminist discourse.<sup>42</sup> It would be a horrible mistake for womyn to need male feminists to give "objective" support for progressive arguments. Doing so would reinforce dominant hierarchies with men providing the voice of a feminist movement. It is easy to imagine a gender-focused class where everyone turns to the men in the room to validate accounts of womyn about sexual harassment. Such a scenario places female voices under a hierarchy of authority derived from self-interest and results in men replicating their traditional role as rational authorities concerning truth.

Like the danger of presuming symmetry, this is a serious problem to keep in mind when forming potential alternatives, but it does not negate an attempt by men to join the feminist struggle. Men who seek to join gender-focused groups and forums should seek to avoid being authenticators or

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38. *Id.*

39. Carbado, *supra* note 27, at 89.

40. *Id.*

41. *Id.* at 123-24.

42. *Id.* at 124.

figureheads in order to diminish the risk of discursive domination.

#### DOMESTICATION AND CO-OPTION

The pattern of men domesticating womyn's radical work and integrating it in a watered-down form is an old gambit.<sup>43</sup> Mainstream ideologies have often co-opted and integrated progressive movements in order to diminish their liberatory potential. Patriarchy survives in part because it can include liberal feminism's calls for equality and maintain a veneer of legitimacy.<sup>44</sup> There is, as a result, a danger that male voices will colonize feminist jurisprudence and marginalize its more radical elements. The legal academic environment has been a common site for past domination.<sup>45</sup> Men often vacillate between lesbian-baiting womyn who are assertive and then co-opting the womyn's perspectives to legitimize the underlying patriarchal structure.<sup>46</sup> Thus, calling womyn "bitches" or "dykes" can invalidate their views while men simultaneously integrate feminist perspectives in a watered-down, equality-focused way consistent with the dominant ideology. The male heterosexual matrix serves as a powerful means to domesticate womyn and the messages they deliver (especially when addressing alternative modes of delivery like narrative structures).<sup>47</sup> In many ways, the only replies to the co-option fear are the ones used to answer the impossibility thesis. That is, men who truly attempt to de-gender themselves and de-naturalize heterosexuality can aid the feminist agenda but only if they engage in serious self-reflexive criticism along the way. Co-option and patriarchal redeployment are constant fears, but as long as men maintain an ideology consistent with feminism, it can be limited in effect.

#### THE SOCIAL MOVEMENT MODEL

A common mistake for men attempting to undertake a progressive politics to question masculinity is to use the feminist model of a social movement.<sup>48</sup> It is in this form that many of the above dangers are most salient. The danger of this movement model is that it necessarily reinforces connections between men. "Seeking the unity of 'men' can only mean emphasizing the experiences and interests men have that separate them from women, rather than the interests they share with women that might lead toward social justice."<sup>49</sup> This potential pitfall is less likely to apply in

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43. Levit, *supra* note 10, at 777.

44. Schacht & Ewing, *supra* note 22, at 6.

45. Banu Ramachandran, *Re-Reading Difference: Feminist Critiques of the Law School Classroom and the Problem with Speaking from Experience*, 98 COLUM. L. REV. 1757, 1787-88 (1998).

46. *Id.* at 1787-89.

47. *Id.* at 1789.

48. Connell, *supra* note 18, at 231.

49. *Id.*

the legal seminar environment (because there is little in the way of a movement at that level) but it should inform the projects that can spring forth from the academic setting.

The movement model has been a major part of historical failings of feminist male movements in the past. The American group MOVE (Men Overcoming Violence), while initially a powerful male movement against domestic violence, eventually came to reinforce male bonds and focused exclusively on “male liberation.”<sup>50</sup> Similarly, the Robert Bly-inspired men’s movement of the 1980s turned from understanding masculinity to celebrating it in a largely misogynist way.<sup>51</sup> The current academic focus on “men’s studies” has also become perverted and has treated womyn as secondary and of marginal importance.<sup>52</sup> Each of these well-intentioned movement models failed because they inevitably focused on bonds between men and developed aims antithetical to feminism.

### III. CHALLENGING *GENDER (AND THE LAW)* NORMS

Based on the conclusions above, our next task is to determine how the barriers that surround gender-focused educational environments can best be combated. Given the impediments that have been erected by men, womyn, and society, there should be reason to temper any optimism in this regard. Nonetheless, this essay offers four ideas that can serve as launching pads for deconstruction of the “pink ghetto” walls.

#### A NEW VOCABULARY

One of the most significant impediments to sex integration in gender classes is that most men see gender forums as focused on womyn. This can be explained, in part, by the conflation of gender and sex rhetoric. There is also substantial content overlap. It would be foolish to proclaim that womyn’s studies and gender studies are wholly separate disciplines. Thus, there appears to be an inevitable rhetorical impediment to men crossing the gender line in education because they feel like intruders and/or outsiders. This does not have to be the case if we are willing to explore a new vocabulary for gender education.

In Germany, an important rhetorical distinction has developed between “gender-specific” and “gender-relevant” programs.<sup>53</sup> “Gender-specific” classes are meant for one sex, whereas “gender-relevant” programs are meant for everyone.<sup>54</sup> This linguistic difference has never developed in any

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50. *Id.* at 231-32.

51. Schacht & Ewing, *supra* note 22, at 126.

52. *Id.* at 128.

53. Connell, *supra* note 18, at 235.

54. “Gender-specific” programs could include such things as early sex education or instruction about issues so sensitive that sex separation is warranted. “Gender-relevant” programs include anything that benefits both sexes including courses like *Gender and the*

English-speaking country and is a major reason why gender classes are seen only as gender-specific.<sup>55</sup> Developing programs in America that are seen as gender-relevant may be an important step in men seeing gender inquiry and learning as important to their education.<sup>56</sup> The difficult part is finding a new vocabulary and having it take hold. The current predominant interpretation of gender is too over-determined such that it may not be recoverable to achieve gender-relevant meaning.

Perhaps a broader move to the rhetoric of identity would be helpful. While formations of identity are much broader than gender in scope (including race, class, gender, religion, national origin, etc.), it may be necessary to move to imprecise but less loaded terms. While a forum aimed at teaching "*Identity and the Law*" reveals little about content, it does not carry the same baggage as *Gender and the Law*. This seemingly small change in label (coupled with a more specific but less gendered class description) could serve to ameliorate men's fears surrounding the linguistic patterns associated with participating in gender-focused seminars.

#### FOCUS ON AWARENESS

One of the areas that has generated the most success for men in the feminist struggle is awareness-raising.<sup>57</sup> Men have successfully brought focus to an array of important feminist issues including domestic abuse, rape, and sexual harassment.<sup>58</sup> The group Men Acting for Change (MAC) based in Durham, North Carolina, has had a powerful effect in combating sexual harassment.<sup>59</sup> One observer offered this impression of MAC's efforts:

As I listened, I realized that these young men had taken the meaning of sexual violence to heart in some intensely personal and generationally specific new ways. Everyone in the group knew friends who had been sexually assaulted. At one point . . . one [man] told something he had never shared with his fellow MAC members: he himself had been sexually molested in his youth . . . . I came to understand that what these college-age males had to say is historically unprecedented: they had each become aware, through personal experience, of their own stake in confronting

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*Law.*

55. Connell, *supra* note 18, at 235.

56. *Id.*

57. John Stoltenberg, "I Am Not a Rapist!": Why College Guys Are Confronting Sexual Violence, in FEMINISM AND MEN: RECONSTRUCTING GENDER RELATIONS, *supra* note 18, at 89, 90.

58. *Id.* at 89-92.

59. Jon Marcus, *College Men Target Sexual Harassment*, CHICAGO SUN-TIMES, Mar. 9, 1993, at 11.

sexual violence.<sup>60</sup>

MAC is not alone; other men's groups have successfully engaged in consciousness-raising efforts on numerous gay and womyn's issues.<sup>61</sup>

It is important to note, however, that these awareness campaigns did not focus on movement mobilization. As explained above, the male movement model is filled with potential pitfalls but, thankfully, the efforts of groups like MAC avoid most of the traditional snares. A single-issue focus that does not seek a unifying agenda should not end in a path of male unity. These awareness-raising groups can build bonds with feminist groups that do not fetishize an understanding of male masculinity.

Integrating awareness-raising within a law school environment is a tricky task and one that reflects a pedagogical choice. Nonetheless, for those willing to remove the normal, insular boundaries that separate learning from a project-oriented environment, involving men in consciousness-raising efforts is an idea with numerous benefits. Men can be integrated in ways that do not compete with the "safe space" necessitated by some feminist moves. Further, men themselves are involved in a way that allows them to become activists and not just ideologues. Including men in academic feminist forums does not complete the task; putting them in activated positions adds more people to the frontlines without compromising fundamental aspects of feminism.

#### UTOPIAN RECONCEPTUALIZATION

Feminist ideology is at its most powerful when it fundamentally alters our perspective on the world. The insights of radical feminism into the nature of sex, rape, and pornography have foundation-shaking potential just as the old slogans like, "the personal is political" did. One of the most under-explored methods of gender-conscious, gender-neutral education is the use of utopian fiction.<sup>62</sup> For the most part, such writing falls into the genre of science fiction and fantasy.<sup>63</sup>

Science fiction and fantasy are popular fictional genres that have traditionally been characterized by their sexism and their stereotyping of male and female characters. But in the hands of a new generation of writers, the potential of these forms to describe other worlds and societies – in opposition to the dominant realism of mainstream popular fiction – has been richly developed . . . . Although these recent writings have similarities with some early

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60. Stoltenberg, *supra* note 57, at 90.

61. *See id.* at 91.

62. Peter Fitting, *Constructing Our Future: Men, Women, and Feminist Utopian Fiction*, in *BEYOND PATRIARCHY: ESSAYS BY MEN ON PLEASURE, POWER, AND CHANGE* 298, 298-315 (Michael Kaufman ed. 1987).

63. *Id.* at 298-99.



utopias (such as economic and political reorganization emphasizing communitarian goals), they stress changed social and sexual relationships.<sup>64</sup>

The use of utopian reconceptualization in fiction represents a potent vehicle for problematizing and deconstructing masculine and heterosexist norms. The ability to unsettle some of society's most essential conceptions about sex and gender through radical fiction should be an area of exploration for any teaching environment. *The Dispossessed*,<sup>65</sup> *Triton*,<sup>66</sup> *The Female Man*,<sup>67</sup> and *Woman on the Edge of Time*<sup>68</sup> are just a few works that offer this liberatory potential.<sup>69</sup>

More significantly, for the scope of this essay, utopian fiction affords men the ability to write valuable feminist literature as well as participate in interpreting it. Often, reading womyn's narratives or feminist positionality works fails to engage men in feminist dialogues. Works that are fundamentally gender-conscious but not gender-exclusive, like some post-modern feminist science fictions, provide a safe inlet for men to learn about feminist scholarship. Further, science fiction and fantasy are extremely potent because they do not take the patriarchal norms that exclude men from feminist forums for granted. The ambiguous utopian strategy used in some feminist science fiction can serve as an effective means of bridging the gender gap in political theory and legal structure discussions.

#### DISMANTLE MALE SOLIDARITY

Another essential component of integrating men into law school gender studies is to break the bonds of solidarity that they hold with patriarchy. As long as men participate in gender forums while still maintaining a "good ol' boy" persona around male friends, gender-consciousness is not even a half-step. Male solidarity and the notion that feminism has a particular place and time (but should be limited to that place and time) are immense threats to any intellectual endeavor to reconfigure gender relations.<sup>70</sup> As long as our education system keeps men out of gender classes, men will continue to be constructed as the product of patriarchy and masculinity.<sup>71</sup> The effect of such exclusion robs many men of the ability to confront their gender identity resulting in confusion and, according to at least one researcher, violent outbursts and suicide.<sup>72</sup>

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64. *Id.* at 299 (footnote omitted).

65. URSULA K. LEQUIN, *THE DISPOSSESSED* (1974).

66. SAMUEL DELANY, *TROUBLE ON TRITON: AN AMBIGUOUS HETEROTOPIA* (1976).

67. JOANNA RUSS, *THE FEMALE MAN* (1975).

68. MARGE PIERCY, *WOMAN ON THE EDGE OF TIME* (1976).

69. Fitting, *supra* note 62, at 299.

70. BOB LINGARD & PETER DOUGLAS, *MEN ENGAGING FEMINISTS: PRO-FEMINISM, BACKLASHES AND SCHOOLING* 169-70 (1999).

71. *Id.* at 170.

72. *Id.*

Conceptions of male solidarity are also potent forces in maintaining a heterosexist order. Male bonds have built-in homophobic safety valves that require policing of any behavior that is seen as “queer.” However, limiting the effort to break male solidarity to a “gay issue” can obfuscate the intersection of heterosexism and sexism.<sup>73</sup> Men must not just be exposed to their role in heterosexist ideology but also must be confronted with their place in patriarchy. While this technique may seem to play into traditional men-versus-feminism stereotypes of gender classes, there is something slightly different proposed here.

Men participating in gender classes should not be lambasted or ostracized for their privilege. Rather, there must be an open dialogue about the various privileges they enjoy and the avenues for surrendering those advantages. Gender classes must simultaneously be places where people feel free to share personal experiences and local sites that unsettle the basic assumptions of patriarchal culture. The presence of men in such environments has historically been problematic because they have deterred womyn from speaking openly. Thus, there is a fine line for students and teachers, but it is also a path that is essential to accomplishing the very important goal of deconstructing male solidarity.

#### IV. CONCLUSIONS? LAW SCHOOL AS MICROCOSM

Law students occupy a unique place in the ivory tower. They have not insulated themselves to the extent that most academics are accused of doing. Yet they are so occupied by other concerns that they are typically not good candidates to be social activists. Still there is a lot about a law school community that makes them a microcosm for society. The same forces that divide men and womyn throughout society persist in law school environments. In a given law school day, you can witness the same person champion affirmative action for women, gays, and racial minorities and then call womyn “pussies” while joking around with friends later that night.<sup>74</sup> This duality found among educated men represents one of the ongoing dilemmas for feminism in society-at-large. Understanding how we can combat sexism and gender divisions in a local law school setting can reveal new alternatives for a broader, cultural gender learning experience.

A primary concern for feminism must be the constant backlashes it encounters from the male power structure. These backlashes continue because of the ever-growing gap between men and feminism. As the feminist movement itself deals with turmoil within its ranks, it has become increasingly fashionable to separate men from the struggle. While the

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73. *Id.*

74. Such an experience is hardly uncommon at law school. Personally, I’ve witnessed such behavior on a regular basis from even the most “liberal” of the male student body.

proponents of the impossibility thesis sought to maintain these divisions for feminist reasons, a growing voice believes that men must be kept out of feminism to preserve manly values.<sup>75</sup> This counter-movement comes at a time when the “angry white male” is back in vogue and unrestrained masculinity is being celebrated as a virtue.<sup>76</sup> This makes now a pivotal time for feminism. Finding ways to include gender-conscious men into the resistance must be a high-priority to stave off the renewed backlash against the movement. Many men have made the gender-conscious leap and others stand ready for a paradigmatic shift.<sup>77</sup> Capitalizing on this potential must be a mission of feminist educators (which includes teachers and anyone else who wants to “spread the word”) in order to push feminism forward.

Learning from the lessons of *Gender and the Law*-type classes and from the law school environment can aid the efforts to deconstruct the borders erected around the pink ghetto. Rhetorical shifts, utopian reconceptualizing, old-fashioned awareness-raising, and dismantling male solidarity are ideas not just for law schools but for all of us. While preserving the political and safe space of womyn within feminism is always important, including men in those ways where they do not intrude is essential to attacking patriarchy.

I return now to the place where I started. Why did I take *Gender and the Law*? I still cannot answer that simple question. It is too loaded with normalizing baggage and, even with all my attempts to unwrap its various assumptions, I feel the need for more examination and introspection. What I have learned is that the process of criticism and reflexive analysis is a valuable step for local resistance. Breaking down the lines that separate men from feminism is an important element of furthering a feminist agenda. Asking why we do or do not participate in gender-focused forums like *Gender and the Law* takes us half-way there. Hopefully, the conclusions I've derived from that questioning can build upon efforts to reconceptualize and reinterpret the dominant means of transferring knowledge about womyn and gender and push the struggle forward.

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75. See generally GEOFF DENCH, *TRANSFORMING MEN: CHANGING PATTERNS OF DEPENDENCY AND DOMINANCE IN GENDER RELATIONS* (1996).

76. Charlotte Allen, *Return of the Guy; Manliness without Apology has made a Comeback since Sept. 11—And not a Moment too Soon*, PITTSBURGH POST-GAZETTE, Mar. 17, 2002, at E-1.

77. MICHAEL S. KIMMEL, *CHANGING MEN: NEW DIRECTIONS IN RESEARCH ON MEN AND MASCULINITY* 9 (1988).