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

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# THE SHADOW OF PROFESSOR KINGSFIELD: CONTEMPORARY DILEMMAS FACING WOMEN LAW PROFESSORS

MARTHA CHAMALLAS\*

## I. INTRODUCTION

I have spent a good deal of my career thinking and writing about 'tokenism.'<sup>1</sup> The term, 'tokenism,' was first coined 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.<sup>2</sup> Starting 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.<sup>3</sup> Because of their rarity, tokens were often forced into serving as representatives of their group.

As women law professors in the 1970s, we 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 graces, and other traits not directly linked to her ability to perform her job.<sup>4</sup>

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\* 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 have occasionally altered the facts a bit 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) [hereinafter Chamallas, *Structuralist and Cultural Domination Theories*]; 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 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 Chamallas, *Structuralist and Cultural Domination Theories*, *supra* note 1, at 2380 (discussing the phenomenon of selective perception).

As one of two token women on a law faculty in 1976, I felt my token status most acutely in the faculty lounge. My appearance there 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 then be asked by a male colleague how women felt about this issue. When I expressed my views, however, I was often met with skepticism. The colleague's response would be that his wife had a different view and thus I must be wrong about how women felt. I would then be forced into the uncomfortable position of either attacking the absent wife or backing down. As Professors Devon Carbado and Mitu Gulati have recently theorized in their scholarship on identity in the workplace, being a token is exhausting and creates extra work for the 'outsider' law professor.<sup>5</sup> In my first academic job, I felt like I was constantly on the spot and was forced to strategize about how I would 'present' myself. Would I be the strident feminist who somehow maintained her sense of humor? Or the reasonable woman who could see both sides of the issue? Or should I just eat my lunch alone in my office?

Social scientists tell us that tokenism persists until a group reaches a 'critical mass' — somewhere between 15% and 35% percent, depending on the context.<sup>6</sup> 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:<sup>7</sup> once a group is large enough, it can form alliances and coalitions and engage in effective strategies to influence the culture of the organization.<sup>8</sup> Mercifully, 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.

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

6. See KANTER, *supra* note 3, at 209.

7. See *id.*

8. See *id.*

The number of women on law faculties has now grown beyond tokenism.<sup>9</sup> In 2001, 33% of law faculty were women.<sup>10</sup> The figure for full professors was 24%.<sup>11</sup> Perhaps most significantly, we have finally seen an uptick in the number of women serving as deans of law schools. In 2001, that figure was only 12.5%.<sup>12</sup> By 2004, however, 17% of law deans were women.<sup>13</sup> I have the impression that many schools seem to think that it is time that they had their first woman Dean, and it does not hurt that last year Harvard Law School chose Elena Kagan to be Dean. I can report that at my school — 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, I see many women in leadership positions and there seems to be less anxiety about it.

Of course, numbers do not tell us everything. For both new and senior 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 teaching than men, and the departure rate was especially high for women of color.<sup>14</sup> Approximately one-fifth of white men left teaching, compared to one-quarter of white women and one-third of women of color.<sup>15</sup> Even in this 'critical mass' era, many women colleagues I talk to believe that their careers have been stunted, that they have been devalued because they are women, and that there is something still preventing us from being 'all that we can be.' So my question is, "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

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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> (last visited Jan. 11, 2005). It should be noted that the 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,' a group which is disproportionately female.

10. See *id.*

11. See *id.*

12. See *id.*

13. See ASS'N OF AM. LAW SCH., THE AALS DIRECTORY OF LAW TEACHERS 2003-2004 (2004) (using hand-count calculation 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).

15. See *id.*

the 1973 movie *The Paper Chase*,<sup>16</sup> which took place during a moment in history when law schools first began opening their doors to significant numbers 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*<sup>17</sup> than *The Paper Chase*.<sup>18</sup>

Played brilliantly by John Houseman in the movie, Kingsfield teaches contract law at Harvard.<sup>19</sup> Kingsfield is sixty-something, white, meticulously dressed, and demanding.<sup>20</sup> He is the epitome of confidence, expertise, and sharp analytical thinking.<sup>21</sup> He makes students believe that if they can only survive his class and his humiliating treatment of them, they will somehow be transformed.<sup>22</sup> 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."<sup>23</sup>

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 does not just know contract law, he wrote the book."<sup>24</sup>

Despite profound changes in the composition of law faculties, the Kingsfield prototype is alive and well. Students still expect teachers who look and sound like Kingsfield to be competent, while others have to prove their competency. And even when a female professor actually writes the book for her course, she does not "write the book" in the sense that Ebert meant it, in the sense of being the final authority.

The tenacity of the Kingsfield prototype was driven home to me when a younger, African-American male professor told me about his experience teaching a first-year course. At that time, this man was clearly a rising star: he had published his first two articles in top-ten journals and was a mesmerizing public speaker. Another professor teaching the same course that year,

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.*

21. See *id.*

22. See *id.*

23. See *id.*; *The Paper Chase Viewing Guide*, at <http://mailer.fsu.edu/~slynn/paperchase.html> (last visited Jan. 11, 2005) [hereinafter *Viewing Guide*].

24. See *Viewing Guide*, *supra* note 23.

however, was a Kingsfield-like character who insisted that his students focus on obscure rules of state law. 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 dog 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.<sup>25</sup> 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, the reproduction of gender inequality is not limited to overt forms of sex discrimination; it is also reproduced by the persistence of stereotypes, negative perceptions and unconscious cognitive biases.<sup>26</sup> This may not sound like anything new, but it is not your mother's sex discrimination. Recent scholarship has uncovered new mechanisms of gender bias, or has, at least, given us new understandings of the ways that gender bias operates in contemporary organizations and workplaces. In this essay, I focus on three such mechanisms: (1) self-fulfilling stereotypes, (2) gender-specific comparison groups, and (3) the accumulation of small disadvantages.

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

26. For a taste of the burgeoning legal scholarship on cognitive biases and unconscious discrimination, see 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).

## II. SELF-FULFILLING STEREOTYPES

The term 'self-fulfilling stereotypes' comes from a recent article by Lu-in Wang on situational racism.<sup>27</sup> She uses the term to describe the phenomenon by which expectations influence a situation and then produce and become reality.<sup>28</sup> Professor Wang notes that we see the phenomenon 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."<sup>29</sup> Wang also recounts the example of a predicted gas shortage in California in which motorists decided that they had better fill up their tanks to be safe.<sup>30</sup> This surge in demand exhausted reserves and actually brought about a shortage, even though the California allotment of gas had not actually been reduced.<sup>31</sup>

Wang explains how the self-fulfilling stereotype works with respect to gender and race bias, citing studies in which African-Americans were interviewed for professional jobs.<sup>32</sup> Suppose that white interviewers believe that they are fair-minded people and profess that they do not discriminate on the basis of race. Nevertheless, studies have shown that white interviewers and screeners consistently rate black candidates lower than similarly situated white candidates.<sup>33</sup> In interview situations, unconscious bias often manifests itself in the form of distancing behaviors when blacks are interviewed.<sup>34</sup> The interviewers act a bit more coldly and are less receptive toward a black candidate than they would be toward a white candidate.<sup>35</sup> The behavioral difference is noticed and picked up on by the candidate, although the interviewers are rarely aware of it.<sup>36</sup>

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27. See Lu-in Wang, *Race as Proxy: Situational Racism and Self-Fulfilling Stereotypes*, 53 DEPAUL L. REV. 1013, 1020-21 (2004).

28. See *id.* at 1018.

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

30. 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)).

31. See *id.*

32. 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)).

33. See *id.* at 1063-64.

34. See *id.* at 1062.

35. See *id.* at 1062-63.

36. See *id.* at 1064.

This distancing behavior in turn influences the candidate's behavior.<sup>37</sup> She is likely to respond by being cool and aloof herself, and even defensive.<sup>38</sup> The interviewers see this behavior and are not impressed; they now have a 'neutral' reason for rejecting the candidate because of her poor performance in the interview.<sup>39</sup> Most importantly, the interviewers believe that they have not discriminated against the candidate because their own initial frosty behavior is invisible to them. As far as they are concerned, 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 cannot prove it.<sup>40</sup>

A variant of the self-fulfilling prophecy has been studied in the context of high-stakes testing.<sup>41</sup> In a series of experiments, John Aronson, Claude Steele, and their colleagues have documented what they call a 'stereotype threat.'<sup>42</sup> 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.<sup>43</sup> When they were not so reminded, however, the minority groups performed as well as white males.<sup>44</sup> 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 on the test.<sup>45</sup> 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

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37. See *id.* at 1063.

38. See *id.*

39. See *id.* at 1064.

40. See *id.*

41. 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)).

42. See *id.*

43. See *id.* at 1052.

44. See *id.*

45. See *id.* at 1052.

reaction to a negative situation.<sup>46</sup> Significantly, when white men were told that they were expected to perform worse than Asians on a math test, their scores also decreased.<sup>47</sup>

Time and again, I have experienced and witnessed this phenomenon as it affects women law professors in the classroom. And I have come to believe that no one is immune, not even the most popular and experienced teachers. Consider one example of 'the class that went badly.' A woman accepts an offer to visit for a semester at another school. She is chosen because of her reputation as a scholar and her record as a popular and effective classroom teacher. The school, however, fails to publicize her credentials because it never really does much to promote visitors.

The woman professor is assigned to teach a high-enrollment, upper-level course, which many students take only because it is tested on the bar examination. During the first weeks of class, a few male students make it known that they are bored with the class and unimpressed with the teacher. One particularly rude student sitting in the front of the class makes it a point to pull out his newspaper and read it as the professor is lecturing. This angers the professor, but she refrains from saying anything about it in class because she is not on her home turf and does not want to highlight the behavior. As a result, she finds it harder to concentrate and respond to student questions. A few students drop the course because it is not what they expected.

By the third week of class, the professor finds that she dreads teaching the class. When the same male student pulls out a newspaper again, she tells him to put it away. Then, there is an awkward silence in the room. The classes during the latter part of the semester seem to go better; however, the student evaluations at the end of the course are not great, considerably lower, in fact, than she typically receives at her home institution. The negative evaluations do not specifically mention the rude student's behavior, but it seems 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.

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46. *See id.* at 1052-53.

47. *See id.* at 1053.

### III. GENDER-SPECIFIC COMPARISON GROUPS

Expectations also affect the lives and status of female faculty in their dealings with colleagues and administrators outside the classroom. The gender-related expectation most relevant to explaining gender bias in the workplace is the expectation that men are more competent than women.<sup>48</sup> Sociologist Cecilia Ridgeway explains that this stereotypical belief generates expectations about rewards — notably salary, promotions, and other status-related benefits.<sup>49</sup> It is still the case that men tend to react negatively if placed on the same reward level as a similarly situated woman and may experience this treatment as a threat to their status in the organization or institution.<sup>50</sup> It seems that men expect to earn more money than women and are upset when they do not.<sup>51</sup>

These deep-seated assumptions also affect the way women value themselves<sup>52</sup> and other women.<sup>53</sup> One recurring finding of social scientists is that women tend to compare their treatment to that of other women, that we tend to rely on gender-specific comparison groups.<sup>54</sup> If you reflect for a moment, you can see how such women-only comparisons are likely to undervalue women's performance. For example, in most law schools, the salaries of professors are not published and may not be accessible even 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 your colleagues'. Suppose that you, a female faculty member, turn to a friend on the faculty to compare raises. If your social network is composed mostly of other women, then the comparators will likely also be women. This comparison, however, tells you only how you rank vis-à-vis other women in your group and does not reveal how your ranking compares 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 been startled to find out that there are large disparities in salaries and that some male faculty members with only average records garner the highest salaries. With respect to salaries, gender bias

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48. See Cecilia L. Ridgeway, *Interaction and the Conservation of Gender Inequality: Considering Employment*, 62 AM. SOC. REV. 218, 221 (1997).

49. See *id.* at 221-22.

50. See *id.* at 222.

51. See *id.*

52. See *id.*

53. See *id.* at 223.

54. See *id.* at 223-224.

may take the form of unjustifiably favoring a subgroup of average performing men, rather than disadvantaging all women relative to all men.<sup>55</sup>

I believe that a kind of segregationist mindset exists that makes comparing women only 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 positions to mine. When I see a brochure about a torts conference, for example, I might look to see whether any of the headline speakers are women. Or 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. The problem is that women will continue to be underrated if they fail to notice their treatment relative to men's and do not 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.<sup>56</sup>

A graphic example of the phenomenon of the accumulation of small disadvantages is discussed in economist Linda Babcock's recent book on women and negotiation, *Women Don't Ask: Negotiation and the Gender Divide*.<sup>57</sup> 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.<sup>58</sup> Babcock shows how such relatively small differences can eventually result in huge disparities over the

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55. Cf. Martha Chamallas, *The Market Excuse*, 68 U. CHI. L. REV. 579, 595 (2001) (reviewing ROBERT L. NELSON & WILLIAM P. BRIDGES, *LEGALIZING GENDER INEQUALITY: COURTS, MARKETS AND UNEQUAL PAY FOR WOMEN IN AMERICA* (1999)).

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

57. See *id.* at 1.

58. See *id.*

course of a career.<sup>59</sup> She uses the example of two twenty-two-year-olds hired for the same job.<sup>60</sup> Starting out, the man receives \$5000 more than the woman, in part because he successfully negotiates a higher salary.<sup>61</sup> Assuming that the two receive the standard 3% per year salary increase, by age sixty the gap in their salaries will have widened to \$15,000 per year.<sup>62</sup> 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 3% interest-earning account, it would amount to over \$560,000.<sup>63</sup> Babcock notes that this difference in wealth is enough to underwrite a comfortable retirement, purchase a second home, or pay for the college education of a few children.<sup>64</sup>

The accumulation effect can interact with gender-biased expectations.<sup>65</sup> 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.<sup>66</sup> 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.<sup>67</sup> That means that when a woman walks into the room, she often is not afforded the same status as an equivalent man. Experiments have shown, for example, that when individuals see a man seated at the head of a table for a meeting, they typically assume that he is the leader; they do not make the same assumption when a woman is seated at the head of the table.<sup>68</sup>

Valian asks you to imagine attending a meeting of people who already know each other, but with whom you have not before interacted closely — imagine going to your first committee meeting as a new faculty member.<sup>69</sup> You notice that some people's comments are taken seriously by the group, while others are ignored. You try to assess the individual participants from your own evaluation of their remarks, but such independent evaluation is difficult, particularly because you are new to the group and you are likely to

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59. See *id.* at 5.

60. See *id.*

61. See *id.*

62. See *id.*

63. See *id.*

64. See *id.*

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

66. See *id.* at 4.

67. See discussion *supra* Part II.

68. See Rhode, *supra* note 25, at 17-18.

69. This example is taken from VALIAN, *supra* note 65, at 4-5.

be influenced by the reactions of others in the group. Through observing the group's dynamics, you learn who has high status and who does not. By the conclusion of the meeting, people who were equal in your eyes when the meeting began are now unequal.

Those participants whose remarks were ignored in the meeting suffered a small loss of prestige because their contributions were labeled lower in value.<sup>70</sup> More importantly, because they now have less prestige, they will be listened to less in the future.<sup>71</sup> They will carry that label into the next meeting and lose a little more standing with each negative experience.<sup>72</sup> The gap between them and the people who are gaining attention and prestige will accrue, making negative encounters more likely.<sup>73</sup>

I believe that this accumulation effect helps to explain why senior women faculty, who are often highly valued and respected in the larger academic community, seem to have less clout in their own institutions.<sup>74</sup> It may well be because the women lost standing when their colleagues saw them being treated as 'not so special' at faculty meetings and committee meetings. It was only outside their home institutions, where they were more likely to be seen at the podium giving an address or singled out for attention on a panel of experts at a symposium, that they could achieve higher status.

The accumulation effect may also help explain why women tend to speak less in public and professional settings than men do.<sup>75</sup> Logic dictates that if women fear that their remarks are likely to be ignored, they may decide they are better off not speaking at all.<sup>76</sup> Of course, being silent will not elevate anyone's status. However, the loss brought about by saying nothing may be smaller than the loss of prestige incurred by speaking and being ignored. Because many women confront this double bind every day, it is not surprising that silence can become a habit and that many women feel more comfortable listening rather than speaking.<sup>77</sup>

70. *See id.* at 4.

71. *See id.*

72. *See id.*

73. *See id.*

74. *See generally*, Merritt, *supra* note 14, at 244-245.

75. *See* VALIAN, *supra* note 65, at 5.

76. *See id.*

77. *See id.*

Finally, with respect to the accumulation effect, it is important to see the flip side and notice how small gains can eventually produce bigger gains.<sup>78</sup> It appears that 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 either for individual women or for women as a group.

#### V. ANTIDOTES FOR GENDER BIAS

At first blush, the three mechanisms of bias seem to suggest their own antidotes. Consider the self-fulfilling stereotype and the example of the rude student who reads his newspaper during the professor's lecture. In my mind, the best antidote would be to prevent the student from acting that way in the first place. I realize that many would say that the problem could be solved simply by telling the student to "put that away" the first moment he takes out the newspaper. Although I regard that response as better than saying nothing, it is important to realize that the professor loses prestige the moment the student challenges her, even if the student is quickly rebuked. We know that a professor's harsh response can create its own negative dynamic, possibly destroying the kind of classroom atmosphere the professor desires. Perhaps the student would not dare to take out his newspaper if he clearly understood that the professor was a 'big shot,' whose authority it would not be wise to challenge. This is where some advance publicity of the visiting professor's credentials might help. At the very beginning of the course, the professor might even consider telling the class something about herself that highlights her experience and status (all the while trying not to make the boasting obvious). As petty as it seems, I have found it helps to place one's title on the course syllabus. At one school where I held a visiting Chair, I prepared a syllabus using only 'Professor Chamallas.' On the evaluations, more than one student expressed the hope that I would get tenure. Believe me, that misperception clearly resulted from my gender and not my age.

With respect to gender-specific comparison groups, I suppose the antidote might be to avoid relying on all-female or predominately female networks for information, so that you can be sure you are being treated comparably to similarly situated men. It may also

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78. 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.")

mean that when your Associate Dean asks you to teach contracts for the twenty-eighth time in your career because "we need women in the first year," you simply refuse, safe in the knowledge that the Associate Dean is not making the same request of your male colleagues. Finally, to counter the accumulation effect, I suppose we could make an issue out of everything, try to build up the small advantages, and take the time to minimize the disadvantages, even when they happen on a daily basis.

I do not think for a moment, however, that it is as simple as that. Sometimes the cure can be worse than the disease. The disease here is the Kingsfield prototype. We do not want to turn into Kingsfield just to counter the prototype. As feminists have been saying for a generation, any strategy that does not resist the male norm will not be satisfying in the long run.<sup>79</sup> We do not want to have to boast about our credentials to teach a good class. We also want to keep our all-female networks because they are what sustain us and make our jobs enjoyable. Finally, for our own sanity and conservation of energy, we may have to let some molehills accumulate, knowing that there are more important demands on our time than self-promotion.

I am convinced that what makes sexism so resilient is its capacity to create new double binds to accompany new forms of gender bias. In this era of a critical mass of women, having knowledge of the way this bias works and developing individual strategies to overcome the bias is good, but it is not enough. Instead, there is a continuing need for collective solutions, for solidarity among different groups of women, and for creativity in devising new forms of protest and pressure. The antidote for the new — as well as the old — forms of gender bias is to promote and support feminist groups, courses, and conferences, and, most of all, feminist journals.

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