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## Multiple Myths and Outcomes of Sex Segregation

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## Multiple Myths and Outcomes of Sex Segregation

Cynthia Fuchs Epstein<sup>1</sup>

The question of the equation between the benefits and the disadvantages of single-sex institutions is only a tiny element in a much larger and extremely important issue---the question of women's equal access to opportunity and equal position in society,<sup>2</sup> and that of the justification for segregation of individuals who fall within socially constructed categories of any type.<sup>3</sup> I will assess some of the social science arguments and data used in the debate regarding the justification of separate sex education by advocates of East Harlem's Young Women's Leadership School, but I believe it is important to stress the larger issue in which it is embedded. That is the maintenance of sex distinctions in societies through social controls codified in the law, and through the social conventions of everyday life.<sup>4</sup> The distinctions--

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<sup>1</sup> Cynthia Fuchs Epstein is a Distinguished Professor of Sociology at the Graduate Center of the City of New York. Professor Epstein received her Ph.D. in sociology from Columbia University in 1968. Professor Epstein received a Guggenheim Fellowship and was a Fellow of the Center for Advanced Study in Behavioral Sciences at Stanford, California. She has served as a consultant for the White House under two administrations, and the National Academy of Sciences on the Committee on Women's Employment and Related Social Issues. Professor Epstein's numerous publications include *Women in Law* (Basic Books 1981), (University of Illinois Press, 2d ed. 1993), and *Deceptive Distinctions: Sex, Gender and the Social Order* (Yale University Press, 1988). She is currently working on a book addressing demographics, technological and organizational changes in the workplace and their impact on women and men (Free Press, forthcoming).

<sup>2</sup> See Cynthia Fuchs Epstein, *The Myths and Justifications of Sex Segregation in Higher Education: VMI and the Citadel*, 4 DUKE J. GENDER L. & POL'Y 101 (1997) (stating that access to education is one of the best indicators of equality in any society because it provides intellectual capital along with opportunity).

<sup>3</sup> See *id.* at 102 (noting that the gap is closing between women who historically have had access to elite education and women who have not had this access. It is now more possible than ever before for both men and women from diverse backgrounds to prepare for specialized careers); Carrie Corcoran, *Single-Sex Education After VMI: Equal Protection and East Harlem's Young Women's Leadership School*, 145 U. PA. L. REV. 987, 990 (April 1997).

<sup>4</sup> Corcoran, *supra* note 3, at 994. See also Valorie K. Vojdik, *Girls' Schools After VMI: Do They Make the Grade?*, 4 DUKE J. GENDER L. & POL'Y 69, 70 (Spring 1997) (stating that the

invariably resulting in invidious distinctions between men and women<sup>5</sup>--are kept in place by physical and symbolic segregation.<sup>6</sup> This observation, and its logical conclusion<sup>7</sup> notes that segregation, no matter what the intention behind it, is an important tool in the continuity of the restrictions on equality, in this case, of women's inequality.<sup>8</sup> Further, given the history of the consequences of segregation<sup>9</sup>--both intended and unintended<sup>10</sup>--I find it ironic, but not surprising--that segregation is not only defended by those who wish to support men's advantages in society<sup>11</sup> but by those who claim to be devoted to women's equality.<sup>12</sup> It is not surprising, because the

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same gender stereotypes and generalizations used throughout history to exclude women from traditionally male professions and public education are being used to support single-sex schools).

<sup>5</sup> Epstein, *supra* note 2, at 106-07, 117. See generally Corcoran, *supra* note 3, at 1005 (stating that the inherent differences between women and men "remain cause for celebration," not a reason to deny women opportunities that men are receiving).

<sup>6</sup> See generally Corcoran, *supra* note 3, at 1005 (noting Virginia's claim that the differences between men and women should be kept in place or else both men and women would suffer; men would not get the unique training they were expecting and the women would know that their participation was the reason the program lost its distinctive character).

<sup>7</sup> See Vojdik, *supra* note 4, at 85 (stating that theorists accept that women and men are "bipolar categories of persons").

<sup>8</sup> *Id.* at 83 (stating that few supporters would claim that single-sex education is the best long term solution, but many would still prefer to rely on it in the meantime to maximize the opportunities available to girls today).

<sup>9</sup> *Id.* at 100 (noting that segregation based on gender is not a new concept. Instead, it is a return to the past when the state used its power to enforce traditional gender roles and norms).

<sup>10</sup> See Linda L. Peter, *What Remains of Public Choice and Parental Rights: Does the VMI Decision Preclude Exclusive Schools or Classes Based on GENDER*, 33 CAL. W. L. REV. 249, 273 (Spring 1997) (stating an intended consequence of segregation as: "The idea behind the all male academics is to focus on special needs of adolescent boys and direct their energy and attention toward academic achievement and social responsibility"); Epstein, *supra* note 2, at 110 (stating that an intended consequence of segregation is that supporters of single-sex institutions claim that both females and males achieve more by attending single-sex schools). "Sex segregation in any social institution has overwhelmingly destructive consequences for women. It reinforces the disadvantages women face when they attempt to gain access to the opportunities and networks of association that are available to men." *Id.* at 117.

<sup>11</sup> See Epstein, *supra* note 2, at 101, 106.

<sup>12</sup> See *id.* (stating that supporters of women's advancement are among those who defend segregation).

cultural themes articulated in society largely go unchallenged even by those who are not served by their message.<sup>13</sup> Many social analysts, including Karl Marx,<sup>14</sup> Michel Foucault,<sup>15</sup> Talcott Parsons<sup>16</sup> and Lewis Coser,<sup>17</sup> have noted how people in power tend to justify their position by philosophies and ideologies that become grounded in popular thought and that serve to augment their control.<sup>18</sup> Of course "gatekeepers of ideas" are not always entirely successful because with the development of consciousness regarding their subordination,<sup>19</sup> some groups develop social movements to challenge such views.<sup>20</sup> Examples are, of course, the black movement and the women's movement.<sup>21</sup> However, long held cultural perspectives hold even when some groups make economic and social gains.<sup>22</sup> That is because ideas supporting differences often are lodged in

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<sup>13</sup> See generally Dwight L. Greene, *Justice Scalia and Tonto, Judicial Pluralistic Ignorance, and the Myth of Colorless Individualism in Bostick v. Florida*, 67 TUL. L. REV. 1979, 1992 (1979) (noting that both cultural and racial stereotypes are unchallenged); see also Jennifer M. Russell, *The Race/Class Conundrum and the Pursuit of Individualism in the Making of Social Policy*, 46 HAST. L.J. 1353, 1439 (1995) (suggesting that policies purporting individualism reproduce disadvantages and advantages among racial lines that are left unchallenged).

<sup>14</sup> Karl Marx was a German socialist and philosopher, and the founder of Marxism. 5 ENCYCLOPEDIA OF PHILOSOPHY 171 (Crowell Collier & Macmillan Inc. eds. 1967).

<sup>15</sup> A noted structuralist philosopher who examined the principles society was to define for itself (i.e., how society distinguished between the sane and the insane). 5 ENCYCLOPEDIA OF PHILOSOPHY 173-4 (Crowell Collier & Macmillan Inc. eds. 1967).

<sup>16</sup> A United States sociologist whose work analyzing social structure has had a profound effect upon modern sociological theory. 5 ENCYCLOPEDIA OF PHILOSOPHY 171 (Crowell Collier & Macmillan Inc. eds. 1967).

<sup>17</sup> Lewis Coser is a sociologist his works include *The Functions of Social Conflict* (1956) and *Greedy Institutions: Patterns of Undivided Commitment* (1974).

<sup>18</sup> See *supra*, notes 14-17

<sup>19</sup> See generally Paul Thomas, *Marxism and the Leap to the Kingdom of Freedom: The Rise and Fall of the Communist Utopia*, AM. POL. SCI. REV., 1996, at 414.

<sup>20</sup> See Romand Coles, *Liberty, Equality, Receptive Generosity: Neo-Nietzschean Reflections on the Ethics and Politics of Coalition*, AM. POL. SCI. REV., June 1, 1996, at 375.

<sup>21</sup> See Cynthia Fuchs Epstein, *It's Still a Tough Climb for Women in the Law*, NEWSDAY, May 20, 1993 (discussing women's advancement in today's society); see also Hazel M. McFerson, *Rethinking Ethnic Conflict*, 40 AM. BEH. SCI. 18 (1996).

<sup>22</sup> See Coles, *supra* note 20, at 375.

“local knowledge”<sup>23</sup> with some germs of truth that resonate with people's experience<sup>24</sup>--although it is often an experience understood through selective perception.<sup>25</sup> Justifications for invidious distinctions also become lodged in biases that infect even those most oriented toward understanding the mechanisms of the social order. Thus, even in the sciences, investigations regarded as value free,<sup>26</sup> often are contaminated with biases, some ideological<sup>27</sup> and some methodological.<sup>28</sup> Not the least of these, is the concentration on sex as a causal variable,<sup>29</sup> without controlling for other attributes of people such as class, education, family background, and educational environment (e.g. lodging in small versus large institutions and time period in which research on environment is conducted).<sup>30</sup> Bearing these issues in mind, the following is a reaction to the case presented in favor of segregated girls' schools.

The argument in support of sex segregation is two pronged: 1) women's nature<sup>31</sup> and 2) women's situation.<sup>32</sup> For the first, advocates claim there are physiological and psychological differences between men

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<sup>23</sup> See CLIFFORD GEERTZ, LOCAL KNOWLEDGE

<sup>24</sup> See ROBERT K. MELTON, SOCIAL THEORY AND SOCIAL STRUCTURE (1968) (discussing stereotyping based on the idea of "germs of truth").

<sup>25</sup> See Anthony Woodiwiss, *Searching for Signs of Globalization*, 30 SOCIOLOGY 799, 799-810 (1996).

<sup>26</sup> See Woodiwiss, *supra* note 25.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> Cynthia Fuchs Epstein, *What's Right and What's Wrong With the Research on Gender*, SOCIOLOGICAL VIEWPOINTS, 1991, at 1-14.

<sup>30</sup> See Mikyong Kim & Rodolfo Alvarez, *Women-Only Colleges: Some Unanticipated Consequences*, 66 J. HIGHER EDUC. 641, 653 (1995) (providing an explanation for the supposed success of women who attended single-sex schools); Epstein, *supra* note 2, at 107 (stating that the statement that women in single-sex colleges perform better is a statistical misrepresentation); CYNTHIA FUCHS EPSTEIN, DECEPTIVE DISTINCTIONS: SEX, GENDER, AND THE SOCIAL ORDER 38 (1988) (claiming gender studies are often carried on “at only one point in time” and are therefore unreliable because of the speculative, rather than scientific, nature of the generalizations drawn from those studies).

<sup>31</sup> See *infra* notes 33-45, and accompanying text.

<sup>32</sup> See *infra* notes 46-51, and accompanying text.

and women.<sup>33</sup> Females are said to be more emotional,<sup>34</sup> more relational,<sup>35</sup> less aggressive,<sup>36</sup> and tend more to have low self evaluation.<sup>37</sup> The list of qualities regarded as different between males and females is longer than the one cited,<sup>38</sup> but this core list has been the focus of much current debate.<sup>39</sup> It is regarded as leading to different styles of behavior,<sup>40</sup> and choices<sup>41</sup>--women opting for traditional women's careers in social work

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<sup>33</sup> See Brief Amicus Curiae In Support of Petitioner by the American Association of University Professors et al., at 4, *United States v. Virginia*, 116 S. Ct. 2264 (1996) (No. 94-1941) [hereinafter AAUP Brief] (referring to testimony of VMI witnesses that women are physically weaker than men). See generally CAROL GILLIGAN, *IN A DIFFERENT VOICE: PSYCHOLOGICAL THEORY AND WOMEN'S DEVELOPMENT* 6-8 (1982) (comparing Sigmund Freud and Nancy Chodorow's theories of sexual differences in psychoanalytic theory).

<sup>34</sup> See AAUP Brief, *supra* note 33, at 4 (citing pro-segregation witness testimony that women "are more emotional and cannot take stress as well as men"). See also GILLIGAN, *supra* note 33, at 8 (discussing Nancy Chodorow's theory that females develop greater empathy than males).

<sup>35</sup> See GILLIGAN, *supra* note 33, at 8-9 (regarding "[t]he quality of embeddedness in social interaction and personal relationships that characterizes women's lives").

<sup>36</sup> See AAUP Brief, *supra* note 33, at 6 (citing testimony that there is "no need to beat upityness [sic] and aggression and all that out of young women"). See also EPSTEIN, *supra* note 30, at 56 (describing hormonal theories of aggression which claim that testosterone affects the human brain at the fetus stage of development, predisposing males to "more aggressive behavior" than females).

<sup>37</sup> See Epstein, *supra* note 2, at 101, 111 (explaining the perceived need to build self-esteem in women, whereas there is a perception that male self-esteem is strong and must be undermined).

<sup>38</sup> See generally Deborah L. Rhode, *Definitions of Difference*, *THEORETICAL PERSPECTIVES ON SEXUAL DIFFERENCE* 197, 197-212 (Deborah Rhode ed., Yale Univ. Press, 1990) (analyzing various historically-prevalent gender differences).

<sup>39</sup> See AAUP Brief, *supra* note 33.

<sup>40</sup> See generally Caren Dubnoff, *Does Gender Equality Always Imply Gender Blindness? The status of Single-Sex Education for Women*, 86 W. VA. L. REV. 295, 326 (1983-84) (stating that society has viewed certain characteristics as traditionally male and certain characteristics as traditionally female, and from those defined characteristics boys and girls determine what is acceptable behavior). See also Dr. Beth Willinger, *Single Gender Education and the Constitution*, 40 LOY. L. REV. 253, 254 (1994) (explaining how society uses gender to determine the different traits and characteristics that are acceptable for men and women; these gender-defined traits and characteristics lead to different types of behavior among men and women).

<sup>41</sup> See Dubnoff, *supra* note 40, at 326-27 (explaining that a person's perception of acceptable behavior may affect the qualities they develop and the careers they pursue). See also Willinger,

rather than atomic physics, for example.<sup>42</sup> Thus, reasoning goes, in order to increase female interest in fields formerly and currently defined as male,<sup>43</sup> and which are regarded as more prestigious and important,<sup>44</sup> they require different learning environments.<sup>45</sup> The second argument rests on the idea that the symbolic segregation women face--the perception of them as inferior,<sup>46</sup> and the poor treatment they get from teachers and boys in mixed environments,<sup>47</sup> requires further segregation.<sup>48</sup> That is, women face discriminatory treatment by men,<sup>49</sup> or become unable to speak up in the

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*supra* note 40 (suggesting that men and women view their possibilities in terms of gender-defined behaviors and roles accepted by society).

<sup>42</sup> See generally Kristin S. Caplice, *The Case for Public Single-Sex Education*, 18 HARV. J. L. & PUB. POL'Y 227, 265 (1994) (stating that women who are products of single-sex education are less likely to choose a traditionally female career in teaching or nursing).

<sup>43</sup> See *id.* at 245 (noting that male dominated fields include engineering, science and math).

<sup>44</sup> See generally Corcoran, *supra* note 3, at 987, 1028 (stating that evidence suggests that graduates of single-sex women's colleges are more likely to obtain a job in politics, business or science, which are male dominated fields and are considered more prestigious).

<sup>45</sup> See generally Caplice, *supra* note 42 (contending that the environment in which females learn affects their choice of study, and because women feel more confident and motivated in single-sex schools they are more likely to pursue traditionally male fields).

<sup>46</sup> See Sharon K. Mollman, *The Gender Gap: Separating the Sexes in Public Education*, 68 IND. L. J. 149, 170 (1992) (stating that the discriminatory environment of coeducational schools creates a feeling of inferiority in the girls attending such schools).

<sup>47</sup> Roberta Hall and Bernice Sandler, *The Classroom Climate: A Chilly One for Women*, Association of American Colleges, Project on the Status and Education of Women (1982). Roberta Hall and Bernice Sandler, *Out of the Classroom; A Chilly Campus Climate for Women*, Association of American Colleges, Project on the Status and Education of Women (1984) ("Chilly Campus Climate"). Roberta Hall and Bernice Sandler, *The Campus Climate Revisited: Chilly for Women Faculty, Administrators, and Graduate Students*, Association of American Colleges, Project on the Status and Education of Women (1986) ("Campus Climate Revisited").

<sup>48</sup> See Mollman, *supra* note 46, at 171 (suggesting that coeducational schools have treated girls as a lower class of people, and in order for girls to overcome these effects of discrimination they need to be placed in single-sex schools where they will be treated as equal citizens). See also Caplice, *supra* note 42, at 286-87 (noting that critics assert that all-girls schools offer girls an environment free of perceived notions of female inferiority that are prevalent in coeducational schools and society).

<sup>49</sup> Mollman, *supra* note 46, at 169-170 (stating the girls in coeducational schools are subject to stereotyping and discrimination based on their gender).

presence of assertive males,<sup>50</sup> or are neglected by women teachers who prefer men over women students in coeducational settings.<sup>51</sup> As a result, the reasoning goes, many do worse than boys in school, and they can learn better and take on more demanding science and math programs in schools where male students are not permitted.

Let me point out first what these discussions are not about. They are not about disrupting stereotypes that lead to the development of different interests and they are not oriented toward the improvement in the treatment of women, by their teachers and by their peers in coeducational schools, but toward their removal from the offensive treatment or presence.

More crucial, is the inaccuracy of the bases on which advocates of segregation locate their arguments: that by nature or situation girls and young women cannot become successful or learn well in coeducational institutions.

First of all, it is probably irresponsible to compare girls and boys, young men and women, only by their sex. It is well established that most traits vary much more within each sex than they do across sexes.<sup>52</sup> For example, upper class males and females have far more in common than females from upper and lower class backgrounds.<sup>53</sup> Even using large, undifferentiated populations of males and females, studies do not indicate that on average, females do not perform as well as males.<sup>54</sup> Indeed,

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<sup>50</sup> See *id.* at 171 (noting that girls do not express their thoughts in the classroom because the discussions are dominated by boys).

<sup>51</sup> *Id.* at 170 (stating that boys receive more attention from teachers in co-ed classrooms). See also *Campus Climate Revisited*, *supra* note 47, at 2-3 (noting that professors, by allowing and asking male students to participate more in the classroom, create a negative environment for women).

<sup>52</sup> See, e.g., CAROLE TAVRIS, *THE MISMEASURE OF WOMAN*; see also the extensive bibliography in *DECEPTIVE DISTINCTIONS*, *supra* note 30.

<sup>53</sup> See generally David R. Carlin Jr., *The Withering of the Working Class*, COMMONWEALTH, Oct. 7, 1994 at 11 (referring to sociologist Jeremy Bentham that anyone who believes "the male /female clash of interest is more serious than the rich/poor clash is out of touch with the real world").

<sup>54</sup> See generally Rogers Worthington, *Milwaukee Idea Shapes a New School*, CHI. TRI., Dec. 1, 1995, at 26 (stating that in Detroit, black girls graduate from high school at twice the



nationally, girls receive higher grades in school, than do boys.<sup>55</sup> This indicates that either they are not as poorly treated as some studies have reported,<sup>56</sup> or they do well in spite of poor treatment.<sup>57</sup> Second, the notion that females differ on average from boys with regard to verbal ability, math and science, does not stand up to recent assessments.<sup>58</sup> The work of Feingold documents the disappearance of gender differences in cognitive ability,<sup>59</sup> while Hyde and Linn show there are no longer differences in verbal ability performance<sup>60</sup> and virtually no differences in most measures of math ability.<sup>61</sup> Further, what differences there are show up in only one area, mental rotation.<sup>62</sup> Moreover, even where there are differences in other qualities, such as personality attributes or abilities,<sup>63</sup> they are on the order of a few percentage points at the end of a distribution,<sup>64</sup> meaning

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rate of boys).

<sup>55</sup> See Susan Mcgee Bailey & Patricia B. Campbell, *Gender Equity: The Unexamined Basic of School Reform*, 4 STAN. L. & POL'Y REV. 73, 84 (Winter 1992) (stating that although many girls are not adequately educated and are thus unprepared to face the world of employment and financial independence, they tend to get better grades while in school).

<sup>56</sup> See, e.g., Hall and Sandler, *supra* note 47. The research methods used in this study has been criticized for being biased by the observations of researchers who may have been predisposed to finding differential treatment. *Id.*

<sup>57</sup> See *id.*

<sup>58</sup> See Epstein, *supra* note 2, at 113 n.57 (noting Shibley Hyde's conclusions that there is no difference between the sexes in verbal ability, that the difference in mathematical ability is insignificant and that the only existing difference is in mental rotation).

<sup>59</sup> *Id.* at 103 (stating that recent studies on gender differences in cognitive ability have virtually disappeared).

<sup>60</sup> See *id.* at 113.

<sup>61</sup> *Id.*

<sup>62</sup> See Alice H. Eagly, *The Science and Politics of Comparing Women and Men*, 50 AM. PSYCHOLOGIST 145, 147 (stating that a substantial difference in favor of males exists in tests involving visuospatial ability, specifically mental rotation of three-dimensional figures).

<sup>63</sup> See *id.* at 147-48 (concluding that psychological findings confirm that differences between the sexes in social behavior and personality do exist). Men differ from women in tendencies to social behavior, for instance in the qualities they prefer in mates and their disclosure of personal concerns to others) *Id.*

<sup>64</sup> See Epstein, *supra* note 2, at 104 (stating that sex differences in males and females in the areas of abilities measured by psychologists may be found on the basis of a few percentage points and that these differences are not socially significant).

that the great majority of boys and girls test about the same.<sup>65</sup> A sweeping study of eighth graders, the Third International Mathematics and Science Study,<sup>66</sup> completed last year in 41 countries finds no gender gap in math and science achievement in the United States (and a number of other western countries).<sup>67</sup> The scholars conducting this study took measures of performance, and of "liking" science and math, and found no differences between boys and girls.<sup>68</sup> Many studies conducted in the past and cited to, show that girls who do better in science and math in single-sex institutions are drawn from other countries. Smaller studies now show similar results,<sup>69</sup> indicating that changes in the behavior of teachers and awareness of the problems reported before may have resulted in different outcomes in performance leading to more equality.<sup>70</sup> Because we know that more boys than girls go on to science careers,<sup>71</sup> it seems that there may be variables other than sex that account for career choices.<sup>72</sup> Some advocates

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<sup>65</sup> See *id.* (concluding that male and female test scores are usually equivalent).

<sup>66</sup> See Erica Curless, *National Panel Reports Progress in Math, Science Education*, GANNETTE NEWS SERVICE, Nov. 11, 1997 (stating that the Third International Mathematics and Science study "tested half a million students in 41 countries" in 1995).

<sup>67</sup> See Epstein, *supra* note 2, at 108 (stating that recent studies on cognitive differences between the two genders show virtually no difference); Elaine Woo, *Study Finds Few Signs of an Academic Gender Gap; Education: Boys' and Girls' Skills are Evenly Matched in Most Areas, Analysis of 15 Million Students' Scores Shows*, L.A. TIMES, May 7, 1997, at A1 (stating that "the study found that boys and girls are evenly matched. . . [in] math computation and the social sciences"); *U.S. Kids Soar in Science, Math Tests*, SACRAMENTO BEE, June 11, 1997, at A16 (noting that girls and boys do equally well in mathematics).

<sup>68</sup> See Melissa C. Gilbert, *Attributional Patterns and Perceptions of Math and Science Among Fifth-Grade Through Seventh Grade Girls and Boys*, 35 SEX ROLES 489, 489-506 (1996). A study of economically and culturally diverse fifth to seventh graders from Boston area schools rated their perceptions for liking and performing core academic subjects including math and science. *Id.* Inconsistent with earlier studies, girls and boys reported similar perceptions of core subjects. *Id.* Observations of classrooms found that teachers, aware of gender equity issues, attempted to teach their students in a gender-fair manner indicating change toward equality in the co-ed classroom. *Id.*

<sup>69</sup> See Gilbert, *supra* note 68 and accompanying text.

<sup>70</sup> *Id.*

<sup>71</sup> See Woo, *supra* note 67, at A1; Corcoran, *supra* note 3, at 1024.

<sup>72</sup> See Kristina Lindgren, *CSUF Course Aims to Close Science, Math Gender Gap*, L.A. TIMES, Apr. 2, 1990, at A1 (stating that women may be subtly undermined and other social

suggest the other variables are self confidence and self-esteem.<sup>73</sup> But, suggesting that personality variables account for career choice may also be faulty.<sup>74</sup> After all, only relatively few boys go into science.<sup>75</sup> Most boys, I believe, major in business because the jobs in astrophysics dried up a long time ago. Fewer girls major in business,<sup>76</sup> but almost as many women as men are enrolled in MBA programs.<sup>77</sup> Alexander Astin's study,<sup>78</sup> shows that during the educational process, whatever the school, girls and boys tend to end up in occupations traditional for their sex.<sup>79</sup> This is because of same sex peer pressure in which girls and boys reinforce each other into selecting careers stereotypical for their sex.<sup>80</sup>

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factors may be involved when it comes to prowess in math and social factors).

<sup>73</sup> See Albert Shanker, *Where We Stand*, N.Y. TIMES, Feb. 23, 1997, at E7. But see generally Epstein, *supra* note 2, at 111 (stating that the research regarding self esteem is contradictory).

<sup>74</sup> See generally Adriane Wilson, *Students Urged to Study, Test Career Interests*, DALLAS MORNING NEWS, Aug. 19, 1994, at 1H (stating that "[i]t doesn't necessarily take a psychological test to map out college major and career possibilities," but "a combined assessment of a student's personality, values and skills may help students land more satisfying jobs.").

<sup>75</sup> See Gary Chapman, *Job Market Threatens to Spawn Nation of Nerds*, STAR-LEDGER, Oct. 30, 1997, at 66 (indicating that evidence suggests "only a small number of people, most of them men, really take to technology in its current form.").

<sup>76</sup> See generally Mary Elizabeth Cronin, *Group Targets Gender Gap in Math, Science--Girls' Interest, Self-Esteem Declines as They Get Older*, SEATTLE TIMES, Mar. 22, 1991, at E1 (stating that "[b]y steering away from math and science in high school, women exclude themselves from a sizable number of opportunities among possible college majors.").

<sup>77</sup> But see Jayne Noble Suhler, *Freewheeling*, DALLAS MORNING NEWS, July 10, 1997 (noting that "more men do enroll in MBA programs than women").

<sup>78</sup> ALEXANDER ASTIN, *WHAT MATTERS IN COLLEGE? FOUR CRITICAL YEARS* (1993).

<sup>79</sup> But see Epstein, *supra* note 2, at 102 (stating that changes in the law and in societal norms have made it possible for women to prepare for careers in business, sciences, the arts, and the professions more than ever before). See generally Vojdik, *supra* note 4, at 83 (referring to stereotypes and generalizations used throughout history to exclude women from traditionally male professions). "The exclusion of women from educational opportunities was also rationalized by the different norms and expectations of men and women in society. Separate education for men and women paralleled the separate spheres that each was expected to occupy." *Id.*

<sup>80</sup> See Epstein, *supra* note 2, at 116 (stating that "in segregated settings, women may think more highly of men without the reality check of seeing them in natural surroundings. Without regular contact in early schooling, men and women may easily categorize and stereotype each other and be ill prepared for the public life in which they will need to interact"). See generally

Some claim that teachers in women's high schools and colleges encourage girls because they have no boys to encourage<sup>81</sup> (which, the reasoning goes, would be their first preference). Here too, it would be useful to look at variables other than sex to get the full picture.<sup>82</sup> For example, a recent study of classroom environments showed that students reported that women teachers had a more participatory classroom style than male teachers.<sup>83</sup> However, it turned out that women teachers tended to have smaller classes,<sup>84</sup> and when class size was controlled, there was no difference in perceptions of classroom climate by sex.<sup>85</sup> One widely cited study of the Emma Willard School,<sup>86</sup> an elite private girls' school highlights the benefits of the school to girls,<sup>87</sup> but does not use a comparative group of boys or a comparable coeducational private

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United States v. Virginia, 116 S. Ct. 2264, 2288-92 (1996) (stating that the record is sprinkled with references to what males and females should do and should be, reflecting not only stereotypical notions about the proper roles of men and women but also the plain intent to create two institutions that encourage students to conform to the stereotype for their sex).

<sup>81</sup> See Vojdik, *supra* note 4, at 86 (stating that males receive more attention from teachers than females, classroom activities appeal more to boys interests, and experts claim that these factors negatively affect female self-esteem and confidence, encourage silence, and discourage young women).

<sup>82</sup> *Id.* at 90 (listing numerous factors that need to be taken into consideration other than sex when comparing the success of female students to male students).

<sup>83</sup> *Id.* at 85 (discussing that female teachers have a participatory classroom style rather than the traditional lecture format).

<sup>84</sup> *Id.*

<sup>85</sup> *Id.* (stating that accounts of the classroom being a chilly environment for girls appear well-founded).

<sup>86</sup> See CAROL GILLIGAN, NONA LYONS AND TRUDY HANMER, MAKING CONNECTIONS: THE RELATIONAL WORLDS OF ADOLESCENT GIRLS AT EMMA WILLARD SCHOOL (Harvard Univ. Press, 1990).

<sup>87</sup> See generally Peter, *supra* note 10, at 256 (noting that research shows that schools without boys are good for girls, that girls have higher self-esteem, are more interested in nontraditional subjects, and achieve more in higher education and careers); Corcoran, *supra* note 3, at 998 (stating that there is a lot of research noting the benefits of single-sex education for girls, which includes, "females more frequently pursue nontraditional courses of study, have a better self-image, greater confidence in their own abilities, perform at a higher level in courses traditionally considered male, and have more modern notions of sex roles").

school.<sup>88</sup> The environment of East Harlem's Young Women's Leadership School is devised to be small and to give individual attention.<sup>89</sup>

The justifications for single-sex education rest on a handful of studies,<sup>90</sup> without regard to the new methodological techniques that have been developed to assess the relative weight of studies such as meta-analysis.<sup>91</sup> Additionally, many of the studies regarded as most salient to the debate<sup>92</sup> were conducted in prior decades in which the opportunity for elite coeducation at the level of higher education was rare.<sup>93</sup> Further, the measures of success used are no longer relevant,<sup>94</sup> (such as the use of *Who's Who of American Women*<sup>95</sup> which uses a different standard of accomplishment than *Who's Who*)<sup>96</sup> and the quality of the students attending separate sex institutions in prior decades was quite different.<sup>97</sup>

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<sup>88</sup> *But see* Epstein, *supra* note 2, at 112 (discussing that small, selective, coeducational schools achieve the same or better results for women as single-sex women's colleges, and that recent research suggests that coeducational schools are as likely to produce professional women as single-sex schools).

<sup>89</sup> *See generally* Vojdik, *supra* note 4, at 92 (discussing the advantages of all female classroom settings in that they allow teachers to "focus all of their attention on girls").

<sup>90</sup> *See* Epstein, *supra* note 2, at 108-9.

<sup>91</sup> *See generally* Corcoran, *supra* note 3, at 95, 99 (stating that supporters of the Young Women's Leadership School know that women will be better served in a supportive and nurturing educational environment due to their different educational needs). YWLS will "attend to the developmental needs specific to pre and early adolescents." *Id.*

<sup>92</sup> *See generally* Epstein, *supra* note 2, at 113 (noting that Elizabeth Tidball's studies are regarded as "the basic source for establishing a relationship between success and attendance at women's colleges . . .").

<sup>93</sup> *See generally* Kim and Alvarez, *supra* note 30, at 650-53 (referring to previous studies which have focused on measuring the impact of women's colleges against post college career achievements by former students).

<sup>94</sup> Epstein, *supra* note 2, at 113.

<sup>95</sup> *See id.* (stating that Tidball's studies measured success by being named in *Who's Who of American Women*).

<sup>96</sup> *See generally* Kim and Alvarez, *supra* note 30, at 641 (noting that it is unclear whether being listed in *Who's Who* comes more from family and SES and social involvements or from the impact of attending women's colleges).

<sup>97</sup> *See generally* Epstein, *supra* note 2, at 101. A relationship exists between a woman's social class and her access to elite and specialized education. *Id.* However, the gap is closing between these women of varying social classes due to change in laws and societal norms. *Id.*

After the 1980's, a majority of able women have chosen coeducational schools.<sup>98</sup> In fact, many private women's colleges are finding it difficult to attract as many able women as they have in the past.<sup>99</sup> The *New York Times* reported that a distinguished women's college, Mt. Holyoke, has been forced to be far less selective in its admissions policy because of decreasing applications.<sup>100</sup> In fact, there are fewer women's colleges than there were in the recent past; only eighty four remain from two hundred twenty eight in 1969 when the prestigious Ivy League and other prestigious men's colleges started going coeducational.<sup>101</sup> As the *New York Times* reported, "those that remain fight strong preferences for coeducation as well as perceptions that they are either convents or largely lesbian."<sup>102</sup> However, there is renewed interest, because of the advocacy of some women's groups and the arguments reviewed in this paper.<sup>103</sup>

It is also the case that the dimensions of character--such as self-esteem--believed to cause disparities in aspirations and performance are hopelessly contradictory.<sup>104</sup> Supporters of single-sex institutions argue that single-sex institutions build self-esteem for women who have a lesser

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Now it is possible for women of diverse social backgrounds to take advantage of this specialized education. *Id.*

<sup>98</sup> See generally *id.* at 113 (discussing the decline in women's colleges in that during the 1960's, approximately 300 women's colleges existed, but by 1995, only eighty-four remained).

<sup>99</sup> See, e.g., Karen W. Arenson, *Lauded Holyoke Must Work to Lure Students*, N.Y. TIMES, May 8, 1996, at B12 (noting that Holyoke has had to accept 65 percent of applicants this past year, in contrast to much lower percentages at nearby competitor schools).

<sup>100</sup> See *id.* (showing that, while the number of applications has risen in the past 5 years, the number of applications is lower than it was in the early 1980's).

<sup>101</sup> *Id.*

<sup>102</sup> *Id.*

<sup>103</sup> See Brief of Mary Baldwin College as Amicus Curiae in Support of Respondents, at 17, *United States v. Virginia*, 116 S. Ct. 2264 (1996) (No. 94-1941) [hereinafter *Mary Baldwin Brief*] (expounding upon the "advantages" of women's colleges in terms of female achievement); *Enrollment On The Rise At Women's Colleges*, GREENSBORO NEWS & REC., July 12, 1997, at B2A (attributing recent interest in women's colleges to studies showing that teachers have bias for males over females). *But cf.* Arenson, *supra* note 99, at B12 (attributing some of this interest to the rise to powers of Hillery Rodham-Clinton and geographical changes in recruiting).

<sup>104</sup> See Epstein, *supra* note 2, at 111 (citing to various studies on gender and self-esteem with disparate findings).

amount of it than men.<sup>105</sup> My research for a debate on sex segregation at the state-supported military colleges, the Virginia Military Institute ("VMI") and The Citadel, indicated a wide range of similarities and differences in measures of "self-esteem."<sup>106</sup> Some studies showed differences<sup>107</sup> while others showed none.<sup>108</sup> The populations studied were small--mostly college age students enrolled in psychology classes.<sup>109</sup> But we see from national sample studies that women and men have about the same amount of self-esteem;<sup>110</sup> and groups who have a poor chance of getting ahead, African-Americans,<sup>111</sup> often test higher in self-esteem than white students.<sup>112</sup> In fact, a follow up of the "fear of success" studies

<sup>105</sup> See AAUP Brief, *supra* note 33, at 5-6 (discussing the testimony of VMI witnesses characterizing young men as having an "inflated sense of self-efficacy" while characterizing young women as "self-distrustful"); Epstein, *supra* note 2, at 111 (referring to VMI's use of the "rat line" to undercut male self-esteem in contrast to Mary Baldwin's reliance on self-esteem building to justify its different approach to military education).

<sup>106</sup> See Epstein, *supra* note 2.

<sup>107</sup> See Mary Baldwin Brief, *supra* note 103, at 11-14 (citing various studies of high school and college-age women showing that women at single-sex schools have higher self-esteem than women at co-ed schools).

<sup>108</sup> See Epstein, *supra* note 2, at 111 (stating that "a comparative study of methods used to measure self-esteem . . . found that eliminating one of the items in a widely used measure of self-esteem produced a latent variable that showed no difference in self-esteem between men and women").

<sup>109</sup> *Id.* at 109, 118 n.60 (stating that "most of the studies were conducted by experimental psychiatrists using college-aged men and women as subjects").

<sup>110</sup> *Id.* at 111 n.82 (citing a study showing no difference in self-esteem between men and women). *But see id.* at 111 n.83 (noting the results of a large study of high school students which found that self-esteem is affected by gender).

<sup>111</sup> See Anne Stein, *Race Relations in America: What We Really Think of Each Other*, 21 SUM. HUM. RTS. 26, 27 (1994) (discussing the results of the poll, "Taking America's Pulse," which found "[i]n response to the statement that African-Americans' even if given a chance aren't capable of getting ahead,' 33% of Latinos, 22% of Asians, and 12% of whites agreed"); see also Joel F. Handler, *Women, Families, Work, and Poverty: A Cloudy Future*, 6 UCLA WOMEN'S L. J. 375, 389-90 (1996) (discussing studies showing that African Americans are disfavored by employers, hired last and fired first, and have a higher unemployment rate than whites).

<sup>112</sup> See PEGGY ORENSTEIN, *SCHOOL GIRLS: YOUNG WOMEN, SELF-ESTEEM, AND THE CONFIDENCE GAP* 159 (1994) (noting that African American girls have a higher self-esteem than white girls).

done by Matina Horner<sup>113</sup> found that a good proportion of women who scored high on "fear of success" nevertheless went on to quite successful careers.<sup>114</sup>

Thus, in my opinion, the focus on self-esteem or efficacy as an important variable is misplaced.<sup>115</sup> Most studies do not use consistent indicators that operationalize the concept "self-esteem," and use many different measures from self reports to scores on tests using different indicators.<sup>116</sup> Further, the causal relationship between self-esteem and career choice has not been established.<sup>117</sup> Many women have high self-esteem by performing traditional roles.<sup>118</sup> It is my observation that self-esteem can come from having an adoring mother,<sup>119</sup> a car in a car

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<sup>113</sup> See Matina S. Horner, *Femininity and Successful Achievement: A Basic Inconsistency*, in FEMININE PERSONALITY AND CONFLICT 45 (J.M. Bardwick et. al. eds., 1970) (reporting the high fear of success that women have and how it affects their career choices).

<sup>114</sup> See Cynthia Fuchs Epstein, *Justice & Gender*, 79 CALIF. L. REV. 577, 589 n.48 (1991) (reviewing *Justice & Gender* by Deborah Rhode, which noted that follow up studies to Horner's work found women who had a high fear of success actually became quite successful).

<sup>115</sup> See Epstein, *supra* note 2, at 112 (expressing her own opinion that self-esteem should not be considered an important variable).

<sup>116</sup> See *id.* at 111 n.81 (citing to six studies concerning self-esteem, showing the varied use of indicators and measures within each study).

<sup>117</sup> See Leah Guggenheimer, *Women Prisoners: A Forgotten Population*, 17 HARV. WOMEN'S L. J. 237, 238 (1994) (reviewing *Women Prisoners: A Forgotten Population*, which suggests a woman's employment status does not affect her self-esteem). *But see* Richard A. Posner, *Conservative Forum*, 189 U. CHI. LEGAL F. 191, 197 (1989) (suggesting that there is a connection between self-esteem and career, but unlike men, a woman's self-esteem is not as dependent on a career because traditionally they have assumed the role of care giver).

<sup>118</sup> See generally Jane Rutherford, *Duty in Divorce: Shared Income as a Path to Equality*, 58 FORDHAM L. REV. 539, 561 (1990) (suggesting a woman's choice to be a homemaker creates higher self-esteem). *But see* Guggenheimer, *supra* note 117 (reporting that findings indicate a woman's job as a mother does not increase her self-esteem). See also generally Carol Sanger, *Mis for Many Things*, 1 S. CAL. REV. L. & WOMEN'S STUD. 15, 66 (1992) (stating that the "role of motherhood [i]s a cornerstone of a woman's self-esteem").

<sup>119</sup> See Epstein, *supra* note 2, at 112 (voicing her own opinion that self-esteem may come from a loving mother). See also generally Marsha Garrison, *Why Terminate Parental Rights?*, 35 STAN. L. REV. 423, 464 (1983) (discussing a study of divorced families and concluding that a good relationship with the visiting parent was linked to high self-esteem).



culture,<sup>120</sup> or having a disproportionate number of “good-hair” days in a culture that places high value on silky hair.<sup>121</sup> Self-esteem that comes from mastering hard intellectual tasks or being chosen the head of a club may be useful in later life.<sup>122</sup> But many sociological studies indicate that social structural positions, such as being placed on an open opportunity track, having mentors and the opportunity to develop special skills through apprenticeship programs and mentoring, probably affects success more than general personality traits. This does not mean that personality is not important, but personality qualities that are useful, such as interpersonal competence, appears to be distributed throughout populations of males and females. My recent study of women lawyers’ mobility in large corporate law firms, shows that men rely on school ties for later business opportunities,<sup>123</sup> and women who lack such ties--because they did not have male friends in school--are disadvantaged in the process of rain-making later down the line.<sup>124</sup>

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<sup>120</sup> See generally Richard H. McAdams, *Relative Preferences*, 102 YALE L. J. 1, 81 (1992) (discussing the desire of individuals for relative position with respect to consumer products and citing an example in which an individual seeks to have the “nicest” car on the block and realizes that theoretically he could do so by paying his neighbors not to buy a better car; this demonstrates low self-esteem).

<sup>121</sup> See generally Meg Gehrke, *Is Beauty the Beast?*, 4 S. CAL. REV. L. & WOMEN'S STUD. 221, 224 (1994) (stating that an individual's level of beauty influences expectations of success and the individual's self-esteem).

<sup>122</sup> See generally Camilla Persson Benbow & Julian C. Stanley, *Inequity in Inequity: How Equity Can Lead to Inequity for High-Potential Students*, 2 PSYCHOL. PUB. POL'Y & L. 249, 274 (1996) (stating that promotion of intellectually gifted children enhances self-esteem); James P. Comer, *Educational Accountability: A Shared Responsibility Between Parents and Schools*, 4 STAN. L. & POL'Y REV. 113, 115 (Winter 1992/1993) (stating that if parents and/or teachers are nurturing yet foster independence, a child will produce esteemed works).

<sup>123</sup> See Cynthia Fuchs Epstein, Robert Saute, Bonnie Oglensky & Martha Gever, *Glass Ceilings and Open Doors: Women's Advancement in Legal Profession*, 135 FORDHAM L. REV. 291, 309, 314 (1995) (stating that women have a low representation as compared with men at upper level positions in large law firms). Women feel that they lack the social connections that men use for business relationships like college friendships, and “[t]he fact that a lot of men are running companies and their buddies went to the same college puts [women] at a disadvantage.” *Id.* at 332-33.

<sup>124</sup> See *id.* at 332 (stating that women are not regarded by men or by themselves as good rainmakers and very few men could imagine any woman partner they knew attaining the

Segregation is claimed to contribute to young women's learning and assumption of leadership roles,<sup>125</sup> as segregation of men in the most recent cases of The Citadel and VMI was said to contribute to male leadership.<sup>126</sup>

For supporters of segregation who claim benefits to women,<sup>127</sup> the kinds of evidence offered suggest that a greater proportion of women who have gone to sex segregated schools as contrasted to the proportion who have gone to coeducational institutions end up as the heads of organizations (often women's organizations), arts groups, go on to medical schools, or become top managers.<sup>128</sup> For the period in which these studies were conducted, the total number who became top managers is small.<sup>129</sup> In fact, it is virtually irresponsible to make any claims about their career routes,<sup>130</sup> but we can venture some educated guesses, which are supported by Alexander Astin's work,<sup>131</sup> that there is an impact by factors such as socioeconomic class,<sup>132</sup> the strength of networks among

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senior ranking of the male rainmakers in their firms).

<sup>125</sup> See Epstein, *supra* note 2, at 110 (stating that sex-segregation supporters feel that segregation in the school environment contributes to "learning and the assumption of leadership roles").

<sup>126</sup> See *United States v. Virginia*, 116 S.Ct. 2264, 2269 ("VMI's distinctive mission is to produce citizen-soldiers, men prepared for leadership in civilian life and in military service").

<sup>127</sup> But see Epstein, *supra* note 2, at 101, 114 (citing studies by Faye Crosby for the National Center for Educational Statistics and studies by Gwen Moore and Deborah White that showed women who graduated from coeducational institutions are more successful, and achieve more both academically and professionally).

<sup>128</sup> *Id.* at 112 n.88.

<sup>129</sup> *Id.* at 113 n.94.

<sup>130</sup> *Id.* at 113 n. 93 (stating that studies conducted by Elizabeth Tidball and her associates showed that the number of women in top positions was so small that it was impossible to make generalizations). But see Faye Crosby et al., *Taking Selectivity into Account, How Much Does Gender Composition Matter? A Re-Analysis of M.E. Tidball's Research*, 6 NWSA J. 107, 107-08 (1994) (challenging Tidball's claim that women who graduate from women's colleges accomplish more than women who graduate from coeducational colleges).

<sup>131</sup> See ALEXANDER ASTIN, *WHAT MATTERS IN COLLEGE? FOUR CRITICAL YEARS REVISITED* 429 (1993) (explaining how undergraduate students are affected by their college experiences).

<sup>132</sup> See generally *id.* at 249, 257, 353 (stating that students are more likely to choose certain careers if they come from high-income families; and that when peers come from well-to-

graduates in elite women's colleges,<sup>133</sup> their social class background and the clout of their fathers.<sup>134</sup> The facilitating impact of small classes and cultural messages about how great they are is no small thing.<sup>135</sup> Rice and Hemmings'<sup>136</sup> update on the impact of elite women's colleges on women achievers shows that women achievers going to the Seven Sisters schools drops to insignificance when the data is divided according to decade of those appearing in *Who's Who Among American Women*.<sup>137</sup> As noted above, there is no study of the origins of women listed in *Who's Who*.<sup>138</sup>

As an example of the impact of other selective education, the coeducational undergraduate school, Antioch College, that I attended, has produced seven MacArthur Fellowships, five of whom were women.<sup>139</sup>

do families, the peer climate thus created could discourage students from pursuing low paying professional fields; and peer socioeconomic status has a positive effect on preparation for graduate and professional school).

<sup>133</sup> See generally *United States v. Virginia*, 116 S.Ct. 2264 (1996) (stating that career routes can be such factors as the strength of networks among graduates in single-sex schools, even though in this case it (VMI) is an all-male school).

<sup>134</sup> See generally Mikyong and Alvarez, *supra* note 30, at 654-56 (stating that father's education and parental income are positively associated with the student's academic ability and social self-confidence).

<sup>135</sup> See generally *id.* at 658 (stating that women that received emotional support and encouragement from faculty were associated with improvement in job-related skills). See also Willinger, *supra* note 40, at 255 (explaining that a relatively small student body allows students to develop a sense of personalism and connectedness to a group and is an effective element of women's colleges).

<sup>136</sup> See J.K. Rice and A. Hemmings, *Women's Colleges and Women Achievers: An Update*, 13 J. WOMEN IN CULTURE & SOC'Y 546 (1988).

<sup>137</sup> See Mikyong and Alvarez, *supra* note 30, at 645 (explaining that a study by Tidball found that among achievers listed in *Who's Who of American Women* (WWAW), the proportion who graduated from women-only colleges was twice as high as that for coeducational institutions; however, when Rice and Hemmings replicated this study with a sample of recent graduates who appeared in the 1979-80, 1980-81, and 1983-84 editions of WWAW, the 1940-79 graduates of women-only colleges were represented 1.55 times more often than those of coeducational institutions in the recent listings - the ratio dropped considerably in the 60's and 70's).

<sup>138</sup> See *id.* at 645 (stating that it remains unclear whether being listed in *Who's Who* is more a function of family socioeconomic status and social involvements than of the impact of attending a women's college).

<sup>139</sup> The five women MacArthur Fellowship award winners from Antioch College are:

These awards, known as “genius” awards,<sup>140</sup> recognize leadership in creativity, innovation and ability to create social change.<sup>141</sup> Only four schools in the nation produced more MacArthur awards and two were tied (Yale, Harvard, Princeton, Berkeley --private and public, large and small institutions--none of which are segregated by sex). One of the Antioch MacArthur fellows is Deborah Meier, who created the model co-ed public school in East Harlem that is a prototype for excellence in education.<sup>142</sup> Further, this year, the *New York Times* printed the list of twenty Westinghouse Science Award winners in New York and New Jersey, half of whom were girls (if Whitney Paige Bowe is a girl).<sup>143</sup> None came from a single-sex high school (although one was educated at home).<sup>144</sup>

Current research by the sociologist and network expert Gwen Moore on a national sample of women elites in business and politics, shows that women who are executives in business, or who have won electoral office, have had a spread of educational experiences in which no greater proportion come from women’s schools.<sup>145</sup> For women in politics I have studied,<sup>146</sup> participation in mediating institutions such as school boards,<sup>147</sup> membership in political party clubs,<sup>148</sup> and today, wealth or

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Virginia Hamilton, Sylvia A. Law, Wendy Ewald, Debra Willen Meier, Lisa D. Delpit.

<sup>140</sup> See Anna Deavere Smith, *MacArthur Foundation Fuels the Independent Studies of "Black Genius"*, J. BLACKS HIGHER EDUC., Sept. 30, 1996, at 49 (explaining that “over the past 15 years, the Chicago based MacArthur Foundation has awarded more than \$150 million in so-called ‘genius grants’ to scholars, artists, community activists and other high achievers”).

<sup>141</sup> *Id.* (stating that “the purpose of these awards is to identify and honor accomplishments and to enable grantees to conduct research or otherwise further their work without the worries of financial obligations; these ‘genius grants’ go to highly creative people who are actively involved in academic scholarship, the arts, or community affairs”).

<sup>142</sup> Paul Schwarz, Deborah Meier, *Building and Maintaining a Culture of Change at CPESS, NAT'L F.*, Jan. 1, 1997, at 22.

<sup>143</sup> *Finalists from the New York Area*, N.Y. TIMES, Jan. 28, 1997, at B1, 4.

<sup>144</sup> *Id.*

<sup>145</sup> See Epstein, *supra* note 2, at 114 (discussing gender implications to effective education); Cynthia Fuchs Epstein, *The Roles of Women in Politics in the United States*, ACCESS TO POWER: CROSS-NATIONAL STUDIES OF WOMEN AND ELITES, (Cynthia Fuchs Epstein and Rose Laub Cose eds., Allen & Unwin, 1981).

<sup>146</sup> See Epstein, *supra* note 2, at 113 n. 96

<sup>147</sup> See Kim & Alvarez, *supra* note 30, at 653 (providing an explanation of how women may

access to money played an important part in their access to the public sphere.<sup>149</sup>

But even if there were meaningful statistics showing a disproportionate number of achievers came from women's colleges,<sup>150</sup> why assume sexual composition of students in the college experience is so all important in determining these particular outcomes?<sup>151</sup> What responsible social scientist or social observer would subscribe to a single factor explanation anymore,<sup>152</sup> or not be alert to the power of intervening variables?<sup>153</sup> In the past, most women who have gone to women's colleges did not run for office or become top executives, or become doctors or lawyers.<sup>154</sup> But they did form a pool of intelligent, educated and well situated women who could be tapped once laws struck down the discriminations of the past.<sup>155</sup> Today, most women lawyers practicing in the United States got their degrees after the late 1970's--when quotas against them in law schools went down and men's colleges were just beginning to admit women as well.<sup>156</sup> Thus, today women in the

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have succeeded in public life).

<sup>148</sup> See Epstein, *supra* note 2, at 113; see also Kim & Alvarez, *supra* note 30, at 653.

<sup>149</sup> See Epstein, *supra* note 2, at 113; see also Kim & Alvarez, *supra* note 30, at 653.

<sup>150</sup> See William Henry Hurd, *Gone With the Wind? VMI's Loss and the Future of Single-Sex Public Education*, 4 DUKE J. GENDER L. & POL'Y 27, 36, 39 (Spring 1997) (discussing how single-sex schools lead to greater achievement). But see Epstein, *supra* note 2, at 112 (stating that the statistic that women in all-women's colleges achieve more than those in coeducational schools is a misrepresentation).

<sup>151</sup> See, e.g., Brief Amici Curiae in Support of Respondents by Dr. Kenneth E. Clark et al., *United States v. Virginia*, 116 S.Ct. 2264 (1996) (No. 94-1941) (concluding that graduates of all-women's colleges are more likely to become achievers than graduates of co-ed institutions); see also Hurd, *supra* note 150, at 37 (suggesting that a belief still exists that attending an all women college leads to higher achievements).

<sup>152</sup> See Hurd, *supra* note 150, at 42, 54 (stating that single-factor explanations are no longer given much weight).

<sup>153</sup> See generally Epstein, *supra* note 2, at 114 ("Single-factor explanations are suspect due to the invisible power of confounding variables").

<sup>154</sup> *Id.*

<sup>155</sup> *Id.*

<sup>156</sup> See generally Jennifer R. Cowan, *Distinguishing Private Women's Colleges from the VMI Decision*, 30 COLUM. J.L. & SOC. PROBS. 137, 140 (Winter 1997) (stating that "many

remaining women's college, like women in top rank colleges that are coeducational, aspire to careers in the professions or in business.<sup>157</sup> It has become "the thing to do."<sup>158</sup> The thing to do two generations ago was to become a teacher,<sup>159</sup> or rise in the ranks of some voluntary organization, the Junior League, the League of Women Voters, the President of the P.T.A. or other women's voluntary organizations.<sup>160</sup>

It was the case that some "experts" in The Citadel and VMI cases, such as David Riesman,<sup>161</sup> expressed concerns that the dizzying component of sexuality in the post-puberty years impedes the learning process and is best eliminated through segregation of the sexes.<sup>162</sup> Obviously not an expert in the interaction effects between sexual energy, attraction and learning,<sup>163</sup> Riesman may not know that sexuality is part of social life and infuses into most interactions between men and women.<sup>164</sup>

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prestigious colleges began admitting women, recognizing demographic trends and acceding to women's demands for equal access to the same privileges as men").

<sup>157</sup> See Epstein, *supra* note 2, at 103 (stating that more women than ever are entering careers in business, the professions, and the sciences).

<sup>158</sup> See generally Kristin S. Caplice, *supra* note 42, at 245 (stating that a pattern is forming among women in all-female colleges to major in economics, math, and science).

<sup>159</sup> *Id.* at 265 (noting that teaching is considered to be a traditionally female field).

<sup>160</sup> See *Winners*, NEWSDAY (NEW YORK), Nov. 16, 1997, at G35 (describing ceremony honoring Mariann Florio, past president of the Junior League); Daryl Kelley, *Activist Carla Bard Killed in Car Crash*, L.A. TIMES, Nov. 17, 1997, at B1 (honoring Carla Bard, pioneer in the environment movement and member of League of Women Voters).

<sup>161</sup> See generally Vojdik, *supra* note 4, at 82 (explaining that the majority in the VMI case cited David Riesman, an expert for both the VMI and The Citadel, who recognized "that male colleges are likely to reinforce assumptions of male superiority in a world where men and women are not equal").

<sup>162</sup> Epstein, *supra* note 2, at 115 (stating that "the dizzying component of sexuality in the post-puberty years impedes the learning process and is best eliminated through segregation of the sexes").

<sup>163</sup> See Epstein, *supra* note 2, at 114 (explaining that while David Riesman testified for VMI, he did not mention how sexuality is part of social life and is a factor in male-female interactions).

David Riesman apparently was unaware of studies looking into the differences between the sexes. *Id.* at 188 n.39.

<sup>164</sup> See Epstein, *supra* note 2, at 115 (discussing how David Reisman failed to discuss that "sexuality is a part of social life and plays into most interactions between men and women.").

As a sociologist, he might have recognized that somehow it is regarded as a topic of concern only when women might get equal treatment as a result of desegregating an educational institution or workplace.<sup>165</sup> Somehow, when integration supports men's super-ordinate status there is no objection. Men cheerfully permit women into their workplaces when they are secretaries to their manager roles,<sup>166</sup> nurses to their doctor roles.<sup>167</sup> Do policy makers suggest that we eliminate marital cohabitation as a system because some women are endangered by physically abusive husbands? No, note that the argument only comes up when the hierarchy is disturbed.

Furthermore, removing from sight the person of the opposite sex does not mean the environment becomes desexualized.<sup>168</sup> Are not segregated sex institutions alive with same-sex sexuality (I refer to prisons, English public schools, the army, and single sex colleges in the United States).<sup>169</sup> And, consider the constant references to the other sex in these environments, often in a disparaging and tawdry way.<sup>170</sup> Valérie Lee's research shows in her work how sexist single-sex institutions can be.<sup>171</sup>

Time does not permit rebuttal of the other conclusions proposed. But rebutting this or that datum circumvents the most important issue. Globally, universally, or even within communities, what is the social meaning created by segregation?<sup>172</sup>

I return to my opening point. There are overwhelming destructive

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<sup>165</sup> *Id.* (stating that the threat of sexuality is evoked when the traditional hierarchy is about to be disturbed).

<sup>166</sup> Epstein, *supra* note 2, at 115.

<sup>167</sup> *Id.*

<sup>168</sup> *Id.* at 115 n.16.

<sup>169</sup> *Id.* at 115 (noting "it is well known that single-sex institutions are alive with same-sex sexuality"); Susan Faludi, *The Naked Citadel*, NEW YORKER, Sept. 5, 1994, at 62 (discussing homosexuality as part of The Citadel culture).

<sup>170</sup> See Epstein, *supra* note 2, at 115 n.117.

<sup>171</sup> See VALORIE LEE, U.S. DEP'T OF EDUCATION, SINGLE-SEX SCHOOLING: PROPONENTS SPEAK, 40 (1993) (finding that sexism almost always occurs in all-male settings); see also Vojdik, *supra* note 4, at 92-94 (stating that "the absence of one sex in single-sex classrooms does not ensure that sexism will not occur—in fact, the most serious incidents were in all boys' classes with male teachers.").

<sup>172</sup> Epstein, *supra* note 2, at 117.

consequences to women in maintaining segregation in any social institution.<sup>173</sup> The thrust of my research over the past thirty years, reported in *Deceptive Distinctions*<sup>174</sup> and other works, is on the ways in which society and sub-groups within society invest heavily in the maintenance of distinctions between men and women.<sup>175</sup> Far from relying on what comes "naturally"--what are claimed to be the simple and obvious differences between the sexes<sup>176</sup>--laws, rules, and social codes create, enforce and maintain sexually divided educational, political, and social spheres<sup>177</sup>--with the attendant consequences of women's subordinate status in most spheres of private and public life.<sup>178</sup> Women are thought less of as a result of segregation and think less of themselves,<sup>179</sup> and may not aspire to high office or a life of accomplishment.<sup>180</sup> Stereotyping sometimes leads to the self-fulfilling prophecy.<sup>181</sup> They also think more of men, without the reality check of seeing men in natural surroundings.<sup>182</sup> They get

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<sup>173</sup> For a more in-depth analysis, see CYNTHIA FUCHS EPSTEIN, *WOMAN'S PLACE: OPTIONS AND LIMITS IN PROFESSIONAL CAREERS* (1970).

<sup>174</sup> See EPSTEIN, *supra* note 30.

<sup>175</sup> See Epstein, *supra* note 2, at 117.

<sup>176</sup> *Id.* at 117 (stating that society does not rely on natural differences between the sexes).

<sup>177</sup> *Id.* (stating that rules and social codes divide the sexes with regard to education, politics, and in various social settings).

<sup>178</sup> See Laura W. Stein, *Living With the Risk of Backfire: A Response to the Feminist Critiques of Privacy and Equality*, 77 MINN. L. REV. 1153, 1161 (1993) (stating that women are excluded from the public realm due to "private" responsibilities such as giving birth or raising children and that this exclusion from the public sphere also works to subordinate women in the private sphere due to increased dependence on men for most social goods).

<sup>179</sup> Epstein, *supra* note 2, at 117 (stating that sex segregation in social or other institutions has destructive consequences for women because it leads to invidious distinctions and to subordination of women). Women who are led to believe that they are different sometimes think less of themselves. *Id.*

<sup>180</sup> *Id.* (concluding that women who become less confident due to segregation often do not aspire to a life of accomplishment).

<sup>181</sup> *Id.* at 118 (stating that stereo-typing of women may lead to women having less confidence in their abilities and thereby not attaining higher positions in the work force or in society in general).

<sup>182</sup> *Id.* (stating that women may think more highly of men than of themselves simply because they are accustomed to viewing them in an artificial setting and not in natural surroundings).



stereotyped and stereotype themselves and men because of the lack of visibility that comes from segregation.<sup>183</sup> Stereotypes are both descriptive and prescriptive.

A telling example is from my research reported in *Women in Law*.<sup>184</sup> Fledgling women litigators found that the fear they experienced going into the courtroom for the first time,<sup>185</sup> and which they attributed to their being women,<sup>186</sup> was common to all rookies, men as well as women.<sup>187</sup>

Lack of visibility causes each sex to mythologize each other,<sup>188</sup> demonize each other,<sup>189</sup> and ill prepares them for the public life in which they will need to interact.<sup>190</sup>

The few pitiful advantages women have from social assignments that confine them, isolate them, segregate them and shelter them,<sup>191</sup> are no match for the overwhelming disadvantages they suffer by the affirmation such boundaries serve,<sup>192</sup> to symbolically indicate that they are creatures

<sup>183</sup> Epstein, *supra* note 2, at 118 (stating that without regular contact in the school environment men and women may categorize each other and be unprepared for the public aspects of life in which they have to interact).

<sup>184</sup> CYNTHIA FUCHS EPSTEIN, *WOMEN IN LAW* (2nd ed., 1993).

<sup>185</sup> Suzanne E. Elwell & Christopher D. Carlson, *The Iowa Small Claims Court: An Empirical Analysis*, 75 IOWA L. REV. 433, 433 (1990) (stating that inexperienced litigants face a foreign and intimidating trial process).

<sup>186</sup> See generally Deborah Ruble Round, *Gender Bias in the Judicial System*, 61 S. CAL. L. REV. 2193, 2202 (1988) (stating that adverse reaction to female lawyers in the courtroom has existed since women were admitted to the bar).

<sup>187</sup> See Epstein, *supra* note 2, at 118 n.138 (explaining that all new litigators, men included, have admitted experiencing fear the first time they entered a courtroom).

<sup>188</sup> See generally *id.* at 118 (explaining that stereotypes and segregation in society cause men and women to view each other incorrectly which in turn creates societal myths regarding the roles each possess).

<sup>189</sup> *Id.* (“[A]ctual or symbolic segregation leads to invidious distinctions and to subordination of women.”).

<sup>190</sup> See *supra* note 188, and accompanying text.

<sup>191</sup> See Epstein, *supra* note 2, at 118 (contending that women receive few advantages “from social assignments that confine, isolate, and shelter them”).

<sup>192</sup> *Id.* (stating social assignments give women few advantages which make up for the overwhelming disadvantages women suffer from male insubordination).

in need of special care, protection, or discipline.<sup>193</sup>

The debates we are engaged in today, as did the arguments offered by VMI, The Citadel, by spokes-people for a number of womens colleges and other segregated institutions, show that even though women have demonstrated their strength, ability and drive,<sup>194</sup> their capacity to perform in a wide range of roles with a wide range of aspirations,<sup>195</sup> there is a tendency to regard them unilaterally, stereotypically, and ideologically.<sup>196</sup>

They do this by referring to fictions masquerading as facts,<sup>197</sup> by simplistically and irresponsibly regarding men and women as having dichotomous traits, and by denying the extraordinary diversity within each category of men and women.<sup>198</sup> They do not acknowledge the enormous social changes that have taken place,<sup>199</sup> and those that will continue to take place because human beings are capable of social and physical adaptation.<sup>200</sup>

<sup>193</sup> See Caplice, *supra* note 42, at 288-89 (explaining that the argument that single-sex education should be used as a remedy to correct the disadvantaged status of women is self-defeating, because the argument indicates that women need special help).

<sup>194</sup> See Epstein, *supra* note 2, at 114 (noting how women took advantage of various professional opportunities when those opportunities finally became available to them).

<sup>195</sup> See EPSTEIN, *supra* note 31, at 142 (examining how stereotypical views of women's career tracks have been the result of restrictive barriers, rather than a lack of aspirations).

<sup>196</sup> See Jane Flax, *Beyond Equality: Gender, Justice and Difference*, BEYOND EQUALITY AND DIFFERENCE: CITIZENSHIP, FEMINIST POLITICS AND FEMALE SUBJECTIVITY 193 (Cisela Bock and Susan James eds., 1992) ("Within contemporary western culture, differences . . . are certainly used to justify hierarchies and relations of domination, including gender-based (or gender-ascribed ones)"); see also EPSTEIN, *supra* note 31, at 84 (discussing the role of stereotypes in social interactions); cf. Gilligan, *supra* note 33, at 17 ("Women's place in man's life cycle has been that of nurturer, caretaker, and helpmate").

<sup>197</sup> See Epstein, *supra* note 2, at 118; see also AAUP Brief, *supra* note 35, at 10 (claiming that VMI's sex differences testimony was accepted by the court because they provided "ostensible statistical support" for gender stereotypes).

<sup>198</sup> See Epstein, *supra* note 2, at 109 (referring to psychologist, Alice Eagley, who stated that there is a "current trend in her profession toward a dismissal of sex differences").

<sup>199</sup> See generally *id.* (explaining that social change has made it possible for women of diverse social backgrounds to prepare for careers in business, sciences, the arts, and the professions to a greater extent than ever before).

<sup>200</sup> See, e.g., Stephen Silverman, *Are Marginalized Students Included in Your Lessons?*, 68 J. PHYSICAL EDUC., RECREATION & DANCE 12 (1997) (explaining how marginalized

In conclusion, I would like to point out that some of those who would stop the clock or turn it backward do boldly to maintain their institutional self interests;<sup>201</sup> and many, socialized as they are in the myths of the culture, do so with the best of intentions.<sup>202</sup>

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students socially and physically adapted to fit into their physical education class by fighting back, or by trying different strategies until success was achieved).

<sup>201</sup> Brief for the United States of America at 14, 19, *United States v. Commonwealth of Virginia*, 976 F. 2d 891 (4th Cir. 1992) (No. 94-1941) (supports the idea that institutions maintain their self interests by stating that the institution uses the concept of sex difference ambiguously and unscientifically in several respects; they embody stereotypical thinking, ignore reality, and “impose an over-simplified opinion that sees things that are not there while ignoring things that are;” furthermore, it states that VMI’s policy, “driven unchanged since its origin by a stereotypical view of the proper role and capabilities of women in society, reflects women’s historical exclusion from military-style culture; and that VMI’s policy thus serves to ratify and perpetuate invidious, archaic, and overbroad stereotypes about the relative abilities of men and women”).

<sup>202</sup> *See Epstein, supra* note 2, at 101, 106 (1997) (“People wishing for segregated patterns to continue may be found among supporters of women’s achievement and among conservative gatekeepers aiming at maintaining male privilege. Both of these groups argue that because of alleged biological, psychological, and sociological differences, men and women receive educational benefits from being educated separately.”).