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READING THE PINK LOCKER ROOM: ON FOOTBALL CULTURE AND TITLE IX

ERIN E. BUZUVIS*

ABSTRACT

This article examines the public controversy that erupted after local media reported on a comment I made about the University of Iowa's decision to renovate the football stadium's visiting team locker room entirely in pink. I submitted my statement in response to the University Steering Committee on NCAA Certification's request for feedback on a draft report and suggested that the "joke" behind the pink décor traded in sexist and homophobic values. As such, I concluded that it belonged in the comprehensive analysis of gender equity that the committee was preparing. I immediately received hundreds of hateful e-mails and was the subject of thousands of invidious online postings. The content of these messages intrigued the national media, whose reporting fueled the controversy for several months.

The controversy serves as a barometer of cultural values at the intersection of feminism and football that are both disappointing and useful to scholars and advocates of Title IX. The reaction to my statement from both within and beyond the "Hawkeye Nation" proves how deeply hegemonic patriarchal ideology is entrenched in football culture. Compromises involving football are often necessary to resolve gender disparities in college athletics, so this evidence suggests that cultural values must change before the guarantees of Title IX can ever be fully realized.

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INTRODUCTION

I. CULTURAL THEORY

II. SYMBOLISM OF THE PLR

A. *Pink and Femininity*B. *Pink Locker Room as Symbolic Emasculation of the Opposing Team*C. *PLR as Harmful Symbolism*

III. READING THE LAW AND THE PLR

A. *Title IX's Construction of the PLR*B. *PLR and the Construction of Title IX*1. *Obstacle to Proportionality Compliance*2. *Constructing Women's Interest*

CONCLUSION

INTRODUCTION

In the summer of 2005, the University of Iowa unveiled the *pièce de résistance* of its \$87 million football stadium renovation project: a visiting team's locker room decorated entirely in pink. That is to say, "Pink walls. Pink stalls. Pink seats. Pink ceiling. Pink carpet. Pink urinals."¹ According to university officials, the locker room design would honor Hayden Fry, head coach of the University of Iowa football team from 1979 to 1998.² During his first season as coach, Fry had the walls of the visiting team's locker room painted pink.³ According to some versions of the story, pink was the only color Fry could find. But Iowa legend also attributes the decision to Fry's undergraduate degree in psychology. Fry himself noted that there was, in fact, psychology behind the walls.⁴ He wanted to capitalize on the "passive" connotation of pink, the color of "sissies" and little girls' bedrooms.⁵ Even without considering Fry's explanation, the gendered symbolism of the 2005 pink décor is understood. One *Des Moines Register* columnist described the newly completed locker room as "Barbie's Dream House on acid, a pastel nightmare."⁶

The University was engaged in a year-long, self-study process at the same time that it was renovating the stadium and locker room. The NCAA requires its Division I member institutions to periodically

1. Sean Keeler, *Hayden Lives On: Visitors' Quarters Still Pretty in Pink*, DES MOINES REG., Aug. 21, 2005, at A1.

2. HAYDEN FRY & GEORGE WINE, HAYDEN FRY: A HIGH PORCH PICNIC 240 (1999).

3. *Id.* at 102.

4. *Id.*

5. *Id.*

6. Keeler, *supra* note 1.

conduct these studies as a condition for recertification.⁷ To this end, a committee of university faculty, staff, and students was examining the athletic department for compliance with NCAA requirements in areas such as academic standards, student-athlete welfare, and gender equity.⁸ The committee announced that it would hold two public forums on issues related to the study, as required by the NCAA procedure.⁹ Not long after learning about the locker room renovation, I received an e-mail from the committee chair “urg[ing]” any member of the public or the university community with “questions, concerns, or suggestions regarding any aspect of the [athletic] program . . . to attend one of the forums.”¹⁰

As a scholar of gender discrimination in sports, I was aware of the University of Iowa’s spotty record of compliance with Title IX,¹¹ the federal statute that prohibits gender discrimination in all facets of federally-funded schools.¹² I viewed the pink locker room (“PLR”) as particularly problematic in light of the newly-clarified Title IX enforcement standard that allows universities to use surveys. These surveys often point to women’s purported lack of interest in sports as a legal justification for offering fewer athletic opportunities to women than to men.¹³ I had previously analyzed the inherent circularity of the

7. NAT’L COLLEGIATE ATHLETICS ASS’N, 2006-07 DIV. I ATHLETIC CERTIFICATION HANDBOOK 5-6, 8, 12 (2006), *available at* http://www.ncaa.org/library/membership/d1_athletics_cert_handbook/2006-07/2006-07_athletics_certification_handbook.pdf.

8. UNIV. OF IOWA NCAA CERTIFICATION COMM., TENTATIVE WRITTEN PLAN FOR COMPLETING SELF-STUDY (Feb. 8, 2005), *available at* <http://www.uiowa.edu/~our/ncaa-cert/steering/050208revisedplan.pdf>; Press Release, Univ. of Iowa, UI Holds Forum on Athletics Program for NCAA Certification Study (Sept. 14, 2005), *available at* <http://www.news-releases.uiowa.edu/2005/september/091505ncaa-forum.html>.

9. Press Release, Univ. of Iowa, *supra* note 8.

10. E-mail from Patricia Cain, Vice-Provost and Chair of the Self-Study Steering Comm. to “All Faculty, Staff, and Students” (Sept. 14, 2005, 12:11 CST) (on file with author).

11. Specifically, I refer to compliance with prong one, which measures the difference between the percentage of female students overall and the percentage of female student athletes. *See* Title IX of the Education Amendments, A Policy Interpretation: Title IX and Intercollegiate Athletics, 44 Fed. Reg. 71,413, 71,418 (Dec. 11, 1979) [hereinafter 1979 Policy Interpretation]. According to the Chronicle of Higher Education’s 2005-2006 database of gender equity statistics, Iowa’s proportionality score is -10.82, which means it would have to increase the percentage of athletic opportunities for women by 10.82 percentage points (or reduce the percentage of athletic opportunities for men by the same amount) to achieve proportional distribution of athletic opportunities among men and women. *Gender Equity in College Sports*, CHRON. OF HIGHER EDUC. (Wash., D.C.) *available at* <http://chronicle.com/stats/genderequity>. The rest of the schools in the Big Ten conference have proportionality scores ranging from -9.39 (University of Illinois at Urbana) to +3.52 (Purdue University). *Id.*

12. Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1688 (2006); *see also* 34 C.F.R. § 106.41 (2005); 1979 Policy Interpretation, *supra* note 11.

13. Erik Brady, *Women’s Groups, OCR Spar over Title IX Surveys*, USA TODAY, May 16, 2005, at 10C. The University of Iowa has not yet sought to comply with Title IX using

interest survey approach to compliance: namely that disparate offering of athletic opportunities contributes to any relative lack of interest in sports among women, which the survey process then immunizes.¹⁴ At the time, I was also researching other ways in which university-sponsored speech, conduct, and symbolism creates the perception that men's sports are prioritized and receive more respect than women's sports. The University of Iowa's 2005 renovation of the pink locker room seemed to be another example.

With this concern in mind, on September 27, 2005, I attended the public forum and suggested that the steering committee consider including the PLR issue in its study and report to the NCAA. I stated that in light of the cultural association of pink with girls and sissies, which Fry personally acknowledged, the locker room symbolism could be perceived as a university-sponsored insult that trades in sexism and homophobia. I offered evidence that visiting teams have acknowledged the earlier version of the PLR as an insult.¹⁵ I asked, if it is an insult to call a male athlete a "girl" (or a "fag") what does that say about women's (or gay men's) status as athletes? A university that is striving for gender equity should not be complicit in such a put-down, I said. I concluded by asking the steering committee to study the issue and include it in its report to the NCAA.¹⁶

My comments elicited an intense and immediate reaction from the university community and the local press.¹⁷ The national media

the interest survey option, though the (now former) Athletic Director, Bob Bowlsby, had publicly stated support for the regulatory clarification that would allow it to do so. *Id.*

14. See Erin Buzuvis, *Survey Says . . . : A Critical Analysis of the New Title IX Policy and a Proposal for Reform*, 91 IOWA L. REV. 821, 845-46 (2006).

15. Most famously, University of Michigan coach Bo Schembechler required his staff to cover the walls with plain paper when his team played at Kinnick Stadium. See Keeler, *supra* note 1.

16. I also pointed out that endorsing the PLR was inconsistent with the athletic department's policy addressing other symbolism widely perceived as discriminatory, such as Iowa's refusal to schedule games against non-conference institutions with Native American mascots. Iowa is one of only a handful of schools with such a policy and has been praised by the NCAA for its progressive position on the issue.

17. Actually, the reaction started several days before the public forum when local station KCRG and its parent newspaper, the *Gazette* (Cedar Rapids-Iowa City), learned of and reported on my intention to make remarks about the PLR at the forum. I agreed to speak to the KCRG reporter because he asked to interview me for a story about the controversial nature of the pink locker room. The reporter did not air my statements in the context of a story about an external, general pink locker room controversy. Instead, the story was about the angry professor's crusade against the PLR. The first of the steady stream of negative e-mails and internet comments arrived within hours of KCRG's broadcast on the six o'clock evening news on Thursday, September 22. In retrospect, agreeing to appear in the KCRG broadcast was naïve. It seemed appropriate at the time because the reporter asked for expert opinion on a public issue, which is something that the Iowa law professors routinely provide as part of the service responsibilities of serving on a faculty at a state university.

picked up the story and covered it for several months.¹⁸ A *Daily Iowan* editorial cartoon that depicted Hayden Fry painting me with tar and feathers appropriately symbolized the public reaction not only to my comments, but to me personally.¹⁹ I was barraged with negative e-mails from people in Iowa and around the country telling me to shut up or move:

I have no real interest in Iowa or Iowa football, but by virtue of the comments stirred up in my local editorial column I feel compelled to write to you. You have obviously stepped into an arena where your opinion is not only off the mark, it is also not welcomed. I would suggest to you that if you would like for the "hate mail" to stop then you should begin by refraining from any further comment on the subject.²⁰

Another e-mail posited, "If you have a problem with tradition at Iowa, leave. Your crybaby feminist antics have no place here. Go teach at Tampax University, where such antics would be permissible . . . [G]et the hell out of Hawkeye Country."

18. In addition to newspapers and local news programs in Iowa, the *Washington Post*, *New York Times*, *Chicago Tribune*, *Chicago Sun-Times*, *Los Angeles Times*, *ESPN*, the *Chronicle of Higher Education*, and the *Advocate* all reported on or offered commentary on the story. See Sally Jenkins, *Tickled Pink by Iowa's Locker Room*, WASH. POST, Oct. 1, 2005, at E01; Hue Downs, N.Y. TIMES, Jan. 8, 2006, at 4A; P.J. Huffstutter, *Color Iowa Fans Furious Over Foe of that Pink Locker Room*, CHI. TRIB., Oct. 31, 2005, at 11 [hereinafter *Color Iowa Fans Furious*]; Carol Slezak, *Another Color, Another Gender Issue*, CHI. SUN-TIMES, Oct. 2, 2005, at 113; P.J. Huffstutter, *A Place Where Pink Has Special Meaning*, L.A. TIMES, Oct. 30, 2005, at A18; *Opponents See Red Over Iowa's Pink Locker Room*, ESPN, Sept. 28, 2005, <http://sports.espn.go.com/nfl/news/story?id=2174828>; Eric Hoover, *U. of Iowa Should Decide on Its Own What to Do about Pink Locker Room*, *Provost Says*, CHRON. OF HIGHER EDUC. (Wash., D.C.), Oct. 28, 2005, at 54; *University of Iowa's Pink Visitors' Locker Room Causes Uproar*, ADVOCATE.COM, Oct. 1, 2005, http://www.advocate.com/news_detail_ektid21228.asp. I'm told the topic was a favorite of sports radio and that the PLR story aired on *ABC World News* and *ESPN's College Game Day*. Many local papers throughout the country printed Associated Press or other syndicated articles. I turned down an offer to be interviewed on *ESPN's Cold Pizza* and by one of the correspondents from *Comedy Central's The Daily Show*. The media's interest was sustained for several months, long after the acute controversy had passed.

19. Bill Penistew, Editorial Cartoon, THE DAILY IOWAN, Sept. 29, 2005, at 8A. The caption reads: "So do you like this paint job better?"

20. This and all subsequent quotes attributed to informants are e-mails received by the author or were comments posted on the author's then existing blog, *Buzwords*, formerly at <http://buzwords.blogspot.com>. The *Journal* has decided not to include specific cites to these quotations for a number of reasons. First, many of the authors of the e-mails and postings wrote anonymously or used aliases. The *Journal* wishes to respect the privacy of e-mails and the expectations of the e-mail authors. Second, the author approaches this work as a piece of ethnography, where informants' identities are traditionally concealed. The author quotes from over three dozen distinct e-mails and postings, all of which were written within a two-week period in September and October 2005. All quotes have been verified and are on file with the *William & Mary Journal of Women and the Law*.

Even a University official²¹ seemed to endorse the view that I was an “[a]ttention whore” who was “asking for”²² verbal abuse and public ridicule. At the next home football game, thousands of Iowa football fans wore pink shirts, some bearing slogans such as “Locker Room Defense Fund” or “Give that Academia Nut Her Pink Slip.”²³ The blogosphere hosted hundreds, if not thousands, of comments that, anonymously authored, charged me with mental illness,²⁴ accused me of corruption or dereliction of duty,²⁵ and threatened or wished upon me death,²⁶ rape, and other personal harm.²⁷ Many were overtly misogynistic or homophobic, such as, “I wonder if Erin likes boys,” and “[l]et me guess, you’re not married. Big surprise that would be for a shrew like you,” and

You know I was going to address [this letter] to “Dear Liberal Lesbian (with the butch haircut),” but I decided to take the high road. I was also going to tell you to keep your nose out of other people’s business and keep it in your girlfriend’s pussy, but I decided to make my letter more professional.

Over a year later, I still get the occasional e-mails telling me I’m “pathetic” and to “keep [my] mouth shut about football.”

Two particular aspects of this reaction were surprising and impressive. First, the level of intensity of the response was shocking

21. Tom Owen, *Pink Protest: Kinnick Paint Peeves Professor*, CEDAR RAPIDS GAZETTE, Sept. 24, 2006, at 1A (showcasing a quote from University of Iowa Sports Information Director Phil Heddy that dismissed me as “someone trying to grab a little fame”).

22. Posting of Editor to State 29, <http://www.state29.blogspot.com> (Sept. 26, 2005, 08:23 CST).

23. Huffstutter, *Iowa Fans Furious*, *supra* note 18. Vendors around town could not keep shirts and other specially-made paraphernalia on the shelves. See Annie Hamm, *The Pink Revolution*, DAILY IOWAN, Sept. 30, 2005, at A1; see also photograph accompanying *Hawkeye Pink: It’s the New Black*, DAILY IOWAN, Oct. 3, 2005, at A1 (depicting jeering fans in protest t-shirts); *id.* at A8 (depicting the Iowa Hawkeye Marching Band performing sideline routine in pink protest t-shirts); P.J. Huffstutter, *Pink Is In as a Protest to Protest*, L.A. TIMES, Oct. 30, 2005 (describing the run on pink Hawkeye merchandise including toilet-seat covers, underwear, and baby clothes).

24. *E.g.*, “As an alumnus of the U of I, I consider your interpretation of the pink locker room as something for which you should seek professional help.”

25. *E.g.*, “What truly [sic] scares me about this whole thing is that you are in a position to teach our children.”

26. See Jeff Eckhoff, *Kinnick Locker Room Critic Receives Death Threats*, DES MOINES REG., Sept. 24, 2005, at 1A; James Q. Lynch, *UI Condemns Death Threats Against Prof.*, CEDAR RAPIDS GAZETTE, at 1A (reporting on comments such as “I hate you. The world will be a better place when you die,” and “I hope you get hit by a bus”); Marc Hansen, *Critic of U of I Pink Locker Room Stands in Left Field*, DES MOINES REG., Sept. 27, 2005, at 1B (reporting on comments such as “I hope you get AIDS” and referring generally to comments that “deteriorate[] from there”).

27. *E.g.*, “I’d love to lay you down and cock-stab you in the ovaries.”

and is best summed up by one stranger who wrote to me: "I cannot put into words how incensed myself [sic] and other people feel about your cause." This vehemence is interesting because it is incongruous with another central theme that emerged from these responses: namely, that the color of the locker room is a minor issue not worthy of my or anyone's time. One asked, "Are you serious? With all the crap going on in today's world, you're upset about the color in a football stadium locker room?" Another said, "You putting time into something as trivial as a locker room being pink is the perfect metaphor for why conservatives have taken over America."

Ironically, I too had initially assessed the pink locker room as unimportant in the hierarchy of discrimination. If I had not been invited to give comment at the public forum, the pink locker room would have ended up as nothing more than a footnote in my research about cultural forces contributing to the marginalization of women's sports and the resulting suppression of women's interest in athletics.²⁸ After the reaction to my comment began, I started to question my own initial assessment of the relative importance of the locker room. If it really is so minor, I wondered, why were people reacting to my opinion as if it posed a significant threat? Why was everyone so angry?

The second noteworthy aspect of the reaction was the widespread misappropriation and misunderstanding of my argument. Several accused me of saying that only boys can wear blue and only girls can wear pink. Many thought I opposed all forms or invocations of pink, including pink clothes, pink champagne, the Pink Panther, or the singer Pink. Others argued that there was nothing about the cultural connotation of pink or its incongruous placement in a collegiate football locker room that made it subject to interpretation as a misogynist or homophobic insult. I was intrigued that so many people had such visceral objections to what I considered a commonplace, obvious interpretation of the PLR. In general, I wondered why my criticism was tantamount to stepping on a landmine buried in the landscape of sports culture.

The law and cultural studies movement holds as a core belief the idea that law and culture are "mutually constitutive."²⁹ The movement invites us to interpret the cultural practices that confront law,³⁰

28. Buzuvis, *supra* note 14, at 858 n.217 (suggesting that the pink locker room contributes to stereotypes that women do not participate in contact sports like football, which in turn suppresses women's interest in those activities).

29. See Naomi Mezey, *Law as Culture*, in *CULTURAL ANALYSIS, CULTURAL STUDIES, AND THE LAW* 38 (Austin Sarat & Jonathan Simon, eds., 2002).

30. Cultural studies focuses on the quotidian world, including film, advertising, pop art, contemporary music, and other products of popular culture. Austin Sarat & Jonathan Simon, *Beyond Legal Realism? Cultural Analysis, Cultural Studies, and the Situation*

leading to redefined versions of law and culture.³¹ In this article, I attempt to “read” the PLR and offer this reading as a contribution to the narrative of cultural forces operating on and provoking resistance to Title IX. By “read” I mean “find[] the cultural meanings that circulate within narratives of particular incidents [with] critical attention to the ways that sexuality, race, gender, and class privileges are articulated in those accounts.”³² In reaction to the publicity attendant to my public comments, hundreds of people decided to write to me and thousands more to write publicly about the PLR and my comments in letters to newspapers and on various websites. This unique collection of sources both reflects and constructs the PLR’s meaning. I invoke the spirit of ethnography and refer to the authors of these sources as “informants.”³³ The discourse, which I examine qualitatively and through the lens of semiotics, constructs hegemonic meanings of the PLR that position my proposed meaning as the counterhegemonic one. I argue that this discourse is indicative of relative allocations of power along the lines of gender, sexuality, race, and class, in ways that have significant consequences for the goals and aims of Title IX.

First, I will describe the framework of cultural theory that is useful in understanding the PLR and its place in the fields of law, culture, collegiate football, and feminism. Second, I will examine the PLR and the discourse of the controversy. This discourse affirms that the PLR itself is a polysemic cultural text, capable of invoking multiple meanings. Additionally, this discourse can be read to demonstrate a successful use of cultural symbolism to “hail” adherents to a particular patriarchal ideology. This in turn actively perpetuates cultural

of Legal Scholarship, 13 YALE J.L. & HUMAN. 3, 17-18 (2001).

31. Mezey, *supra* note 29, at 57.

32. Susan Birrell & Mary G. McDonald, *Reading Sport: Articulating Power Lines*, in *READING SPORT: CRITICAL ESSAYS ON POWER AND REPRESENTATION* 3, 11 (Susan Birrell & Mary G. McDonald eds., 2000).

33. My methodology is, admittedly a rough approximation of typical ethnography. In-depth, face-to-face interviews with my informants, the hallmark of ethnography, might have revealed different or more nuanced interpretations of the PLR than the ones I gleaned from their e-mail and internet postings. On the other hand, a compensatory benefit to relying on e-mails and Internet postings is that they, especially the anonymous ones, reflect a visceral, unqualified, and genuine snapshot of the informants’ views.

I also admit that the typical ethnographer does not set out to analyze cultural moments that she herself created. Even though I was influenced by personal involvement in the controversy and the emotional reaction I had to many of the inflammatory and disparaging comments I received, I do not believe that this compromised my project. Many anthropologists and experts on culture reject the view that one must examine culture with detached objectivity, and it is common for an ethnographer to engage as a participant-observer. Some ethnographers freely acknowledge their emotional involvement in the culture of inquiry. See, e.g., Esther Newton, *My Best Informant’s Dress: The Erotic Equation in Fieldwork* (1992), reprinted in *MARGARET MEAD MADE ME GAY: PERSONAL ESSAYS, PUBLIC IDEAS* 243, 250 (2000).

hegemony. Third, I propose that the hegemonic themes decoded from the PLR discourse have consequences for Title IX, the law that seeks to regulate the same cultural space shared by collegiate football and feminism. Along the way, I will make a case for why law and cultural studies scholarship should intersect with sport studies more frequently than it does now.³⁴

I. CULTURAL THEORY

Much of the scholarship in the cultural studies tradition defines culture broadly to include the “texts and practices of everyday life” and positions it as a central location in the creation and operation of power.³⁵ The relationship between culture and power is frequently explored through the concepts of ideology and hegemony. Hegemony, as defined by Antonio Gramsci, refers to the dynamic by which the dominant class attains cooperation and consent of the subordinated class.³⁶ Hegemony does not operate by means of violence or force; rather, it attains voluntary adherence to the ideology of the dominant class³⁷ (for example, capitalism or patriarchy) by framing that ideology in such a way that it, and its consequences and attributes, appear

34. Legal scholarship is becoming more and more influenced by popular culture in the areas of television, film and music. *See, e.g.*, RICHARD K. SHERWIN, WHEN LAW GOES POP: THE VANISHING LINE BETWEEN LAW AND POPULAR CULTURE (2000) (discussing the impact of popular culture’s institutions, including film and television, on the law’s legitimacy); LEGAL REELISM: MOVIES AS LEGAL TEXTS (John Denvir ed., 1996) (containing articles using film to examine how the law operates within culture); Symposium, *Civil Litigation and Popular Culture*, 50 DEPAUL L. REV. 421 (2000) (containing articles on the law, stories, novels, and humor); Symposium, *Law and Popular Culture*, 48 UCLA L. REV. 1293 (2001) (covering articles on the law, film, and literature); Paul Butler, *Much Respect: Toward a Hip-Hop Theory of Punishment*, 56 STAN. L. REV. 983, 983-1016 (2004) (arguing that conceptualizations of punishment in hip-hop music can inform legal theories of punishment). However, there has been comparatively little effort to understand the convergence of law and the popular culture of sport. *See generally* Matthew J. Mitten, Foreword, Symposium, *Sports Law as a Reflection of Society’s Values*, 38 S. TEX. L. REV. 999, 999-1006 (1997) (encouraging greater awareness of the important relationship between sports, society, and the law); Kelly Basinger Charnley, Comment, *Is the Football Culture Out of Bounds? Finding Liability for Korey Stringer’s Death*, 12 VILL. SPORTS & ENT. L.J. 53 (2005) (identifying points of nexus between negligence law and football culture in an analysis of a National Football League player’s death from heat exhaustion during preseason practice).

35. JOHN STOREY, CULTURAL STUDIES AND THE STUDY OF POPULAR CULTURE: THEORIES AND METHODS 2 (1996). This broad definition is equally inclusive of “high” and “popular” culture. *Id.*

36. *See* JOHN STOREY, AN INTRODUCTORY GUIDE TO CULTURAL THEORY AND POPULAR CULTURE 12-13 (1993).

37. LOUIS ALTHUSSER, LENIN AND PHILOSOPHY AND OTHER ESSAYS 85, 88-89 (Ben Brewster trans., 2001) (1971); MICHAEL PAYNE, READING KNOWLEDGE: AN INTRODUCTION TO BARTHES, FOUCAULT, AND ALTHUSSER 39-40 (1996); STOREY, *supra* note 35, at 119.

natural or obvious.³⁸ Louis Althusser, a Marxist theorist, suggested that ideology is the means by which systems of dominance reproduce themselves.³⁹ In particular, he named “ideological state apparatuses” (“ISAs”) as the institutional sites where this reproduction occurs.⁴⁰ Althusser singled out education as the most effective ISA,⁴¹ but ISAs abound in religion, marriage and family, law, politics, the media, arts and literature, and sports.⁴² The practices of various ISAs operate to recruit individuals to the dominant ideology in a systematic and circular way.⁴³ ISAs are commonplace, accessible, and pervasive institutions.⁴⁴ As a result, their practices actually appear natural or obvious, and the individual consciously or unconsciously internalizes them.⁴⁵ The hallmark of hegemony, then, is that the subordinated individuals willingly adopt the dominant ideology that renders them subordinate, all the while believing they are autonomously coming to their own beliefs about the natural way of things.⁴⁶

ISAs recruit adherents to the dominant ideology by a process Althusser describes as interpellation, or “hailing.”⁴⁷ Althusser’s allegorical example of interpellation is that of a police officer who calls, “Hey, you there!” to someone on the street.⁴⁸ The hailed individual turns around in recognition that he is being addressed.⁴⁹ This moment

38. Patriarchy literally means “the power of the fathers.” ADRIENNE RICH, *OF WOMAN BORN: MOTHERHOOD AS EXPERIENCE AND INSTITUTION* 57 (1976). I use it to refer to the “familial-social, ideological, political system in which men — by force, direct pressure, or through ritual, tradition, law, and language, customs, etiquette, education, and the division of labor, determine what part women shall or shall not play, and in which the female is everywhere subsumed under the male.” *Id.*; see also ALLAN G. JOHNSON, *THE GENDER KNOT: UNRAVELING OUR PATRIARCHAL LEGACY* 5 (2005) (defining patriarchy as a society that “promotes male privilege by being male dominated, male identified, and male centered” and is “organized around an obsession with control and involves as one of its key aspects the oppression of women”).

39. ALTHUSSER, *supra* note 37, at 85-86.

40. PAYNE, *supra* note 37, at 40.

41. *Id.*

42. *Id.*; see also Jennifer B. Gray, *Althusser, Ideology, and Theoretical Foundations: Theory and Communication*, 3 J. OF NEW MEDIA & CULTURE 3 (2005), <http://www.ibiblio.org/nmediac/winter2004/gray.html>.

43. Gray, *supra* note 42, at 3.

44. *Id.* at 10 (discussing children’s television cartoons as a hypothetical example of an ISA).

45. Amy Allen, *Foucault on Power: A Theory for Feminists*, in *FEMINIST INTERPRETATIONS OF MICHEL FOUCAULT* 265, 269 (Susan J. Hekman ed., 1996); Simon During, *Introduction to THE CULTURAL STUDIES READER* 5 (Simon During ed., 1999); Paul Willis, *Women in Sport in Ideology*, in *WOMEN, SPORT, AND CULTURE* 36 (Susan Birrell & Cheryl L. Cole eds., 1994).

46. During, *supra* note 45, at 5.

47. ALTHUSSER, *supra* note 37, at 118; Gray, *supra* note 42, at 4.

48. ALTHUSSER, *supra* note 37, at 118.

49. *Id.*

of interaction between the subject and the police officer renders the individual a subject of whatever ideology the police officer represents.⁵⁰ This expression and recognition of dominance both constitutes ideology and proves that it had existed all along.⁵¹ Interpellation is, thus, the mechanism by which ideology is constantly perpetuated and constantly reaffirmed.⁵²

Interpellation can be accomplished by visual as well as verbal calls, which is to say that individuals' relationships to ideology are often "symbolically mediated."⁵³ Analysis of ideology and hegemony thus incorporates semiotics, the studies of signs.⁵⁴ Semiotics is incorporated into much of cultural theory because it positions the reader or consumer of cultural symbols as actively engaged in the construction of the meaning of symbols by producing symbols themselves.⁵⁵

As used by semioticians, a sign is the relationship between a signifier and the object or idea that is signified.⁵⁶ For example, a written word is a signifier that is understood to stand for whatever idea or object our language associates with that word. A symbol is a type of sign where this relationship is inherently arbitrary and supplied by cultural context.⁵⁷ The relationship that the reader supplies is what constructs the symbol's meaning.⁵⁸ When interpreting symbols, the reader is likely to rely on conventions, rules, and schemas that have themselves been normalized by the dominant ideology.⁵⁹ ISAs can effectively use cultural symbols to recruit ideological subjects by relying on these conventions.

Roland Barthes, another post-Marxist, provides a specific framework for reading cultural symbols to uncover the "ideological abuse" that is "hidden" there.⁶⁰ Barthes proposed that signs have two levels

50. *Id.*

51. In other words, the act of recognition does not just create ideology. There is no pre-ideology. Althusser declares that we are "always-already subjects." He explains this paradox with an example of how we are "always-already subjects" to the patriarchal ideology: even before a child is born "it is certain in advance that it will bear its [f]ather's [n]ame." *Id.* at 119.

52. Gray, *supra* note 42, at 4.

53. Paul Ricouer, *Althusser's Theory of Ideology*, in ALTHUSSER: A CRITICAL READER 44, 60 (Gregory Elliot ed., 1994).

54. ROBERT SCHOLES, SEMIOTICS AND INTERPRETATION, at ix (1982).

55. *Id.* at x; Haci-Halil Uslucan, *Charles Sanders Peirce and the Semiotic Foundation of Self and Reason*, 11 MIND, CULTURE, & ACTIVITY 96, 101 (2004).

56. SCHOLES, *supra* note 54, at 147.

57. *Id.* at 148. In nonsymbolic signs by contrast, the signifier bears some relationship (such as a causal relationship) to the object or idea that it signifies. Examples include icon signs (e.g., a photograph of a person) and index signs (e.g., a footprint or a symptom of disease). Uslucan, *supra* note 55, at 101.

58. See Uslucan, *supra* note 55, at 101.

59. *Id.*

60. STOREY, *supra* note 35, at 77 (quoting Roland Barthes).

of signification: primary (denotation) and secondary (connotation).⁶¹ His now-familiar example of his reaction to an image on the cover of a popular French magazine helps explain the difference.⁶² At the primary level, the image simply denotes what is in the picture: a black soldier in uniform, saluting the French flag. At the secondary level, the image connotes “that France is a great Empire, that all her sons, without any color discrimination, faithfully serve under her flag, and that there is no better answer to the detractors of an alleged colonialism than the zeal shown by this Negro in serving his so-called oppressors.”⁶³ The image successfully “hails” the reader to an ideology of French imperialism by making it appear natural and obvious rather than disputed or constructed.⁶⁴ The resulting connotation of ideology as natural, rather than constructed, is what Barthes calls myth.⁶⁵

Drawing on the work of Stuart Hall, much contemporary cultural theory attributes the meaning of cultural texts as much to their moments of “decoding” as to their moments of “encoding” on the connotative level.⁶⁶ By recognizing the reader’s active role in creating meaning, Hall acknowledges the possibility that individuals might read/decode a meaning that is different from the meaning the producer encoded.⁶⁷ He proposes three possibilities.⁶⁸ First, there is the preferred reading, in which the reader reproduces the dominant ideology.⁶⁹ Second, there is an oppositional or counterhegemonic reading, in which the reader understands the preferred reading but rejects it.⁷⁰ Counterhegemonic resistance is actually essential to hegemony because it creates the need for continuous interpellation to the dominant ideology.⁷¹ Third, there can be a negotiated reading, in which the reader recognizes the preferred reading and adapts it into something new.⁷² Unlike the counterhegemonic reading, a negotiated reading is not necessarily resistant to or subversive of the dominant ideology reflected in the preferred reading.⁷³ All three ways of reading cultural texts are reflected in the PLR discourse, as its close examination in Part II reveals.

61. *Id.* at 78.

62. ROLAND BARTHES, *MYTHOLOGIES* 116 (Annette Lavers trans., 1990) (1957).

63. *Id.* at 116.

64. *Id.* at 125, 129.

65. *Id.* at 129.

66. Stuart Hall, *Encoding, Decoding*, in *THE CULTURAL STUDIES READER*, *supra* note 45, at 507-09.

67. *Id.* at 515.

68. *Id.*

69. *Id.* As Hall describes, the reader is “operating inside the dominant code.”

70. *Id.* at 517.

71. JOHN FISKE, *READING THE POPULAR* 2 (1989).

72. Hall, *supra* note 66, at 516.

73. *Id.*

II. SYMBOLISM OF THE PLR

In the wake of the PLR controversy, one informant acknowledged the power and ideology ascribed in the PLR's symbolism: "[a] pink locker room is the ultimate symbol of this [male] environment and symbols mean everything." But there was very little consensus about this or any other proposed theory of meaning of the PLR. If nothing else, it is clear that the PLR has multiple, contested meanings. I suggest that reading the discourse on the locker room reveals a particular ideology and hegemony that operates in the context of football. First, there is a cultural meaning to the PLR in its physical form. In this context, I will consider whether the physical PLR operates as a symbol that conveys some meaning consistent with a dominant ideology, through its association with two common ISAs, education and sport. Both aesthetic and utilitarian elements can operate as symbols that convey meaning⁷⁴ and thus, potentially, interpellation.⁷⁵ Often, architecture is marked significant or meaningful by employing elements that contrast with the environment.⁷⁶ Color is a common element that conveys meaning in the built environment.⁷⁷ The PLR consists of utilitarian elements — what could be more utilitarian than a urinal? — but by emphasizing a particular color, its design invokes significance by its contrast to the home team's locker room as well as football locker rooms in general.

The second level of meaning derives from the controversy that erupted after my opinion on the PLR's meaning became the focus of public attention. The PLR's meaning resides as much in this external discourse as it does in the walls and fixtures internal to Kinnick Stadium at the University of Iowa. Reading the PLR occurs on at least these two levels of physical PLR and discursive PLR, and these two approaches are simultaneous and mutually constitutive. We read the discourse to understand the physical, as we can read the physical to understand the discourse.

74. AMOS RAPOPORT, *THE MEANING OF THE BUILT ENVIRONMENT: A NONVERBAL COMMUNICATION APPROACH* 44 (1982).

75. For an example of architectural analysis of ideology in the particularly salient context of locker rooms, see Caroline Fusco, *Bent on Changing? Imagining Postmodern Possibilities for Locker Rooms*, *CAN. WOMAN STUD.*, Winter-Spring 2002, at 12, 12-13 (suggesting that locker room architecture is consistent with patriarchal ideology because it normalizes the gender binary).

76. RAPOPORT, *supra* note 74, at 40-41.

77. *Id.* at 111-13. Color's meaning can be culture-specific. For example, cultures have differently constructed the colors associated with mourning and with stigma. On the other hand, some colors have pan-cultural meanings, such as the association of black with negative and white with positive. *Id.* at 112-13.

In my analysis of the physical and discursive PLR, I use my own theory of meaning as the organizing framework. I do this not to privilege my theory of meaning over opposing viewpoints, but because the discourse I am reading was offered in response and in reaction to my public comment on the PLR as it was either experienced first-hand or through a mediated form. I proposed that the PLR traded in sexism and homophobia because the PLR symbolized the common, puerile practice of girl-baiting (coextensive, as I shall explain, with the practice of gay-baiting) other boys. I analyze the formation of this theory through a semiotic framework and identify several context-specific schemata that influenced my interpretation of the PLR. First, pink is itself a cultural symbol of femininity. Second, in the context of a locker room designated for one's male opponents, an all-pink décor symbolically emasculates those opponents by suggesting they are girly and not manly. Finally, the act of disparaging another athlete by attributing to him feminine or non-normative masculine attributes is harmful because it marginalizes and derogates the athletic ability of women as well as men whose masculinities do not conform to a stereotypical, heteronormative paradigm. The discourse on each of these three ideas suggests that the PLR interpellates subjects to a patriarchal ideology.

A. Pink and Femininity

The theory of meaning I ascribe to the PLR begins with the general premise that the color pink operates as a marker of femininity in our culture. I was not, however, the first to suggest a connection between pink and femininity in the context of the PLR. Upon the completion of the Kinnick Stadium renovation last August (before the public controversy), the same *Des Moines Register* columnist who described the PLR as “Barbie’s Dream House on acid” remarked, “[Y]ou feel naked without a little dog in one arm and a handbag in the other.”⁷⁸ Both references in that account appear to rely on a connection between pink and femininity. Barbie dolls are among the objects most commonly associated with girlhood play. The little dog/handbag reference is similarly suggestive of feminine taste for purses and, apparently, Chihuahuas (perhaps the “little dog” reference was intended to invoke an image of Reese Witherspoon as the hyper-feminine Elle Woods from the movie *Legally Blonde*).⁷⁹ Coach Fry

78. Keeler, *supra* note 1.

79. The reference also could have been alluding to Paris Hilton, whose Chihuahua Tinkerbelle famously disappeared. Karen Thomas, *A Happy Ending for Tinkerbelle*, USA TODAY, Aug. 18, 2004, at 10B (reporting on the once-missing Tinkerbelle’s mysterious return and suspicions that she had been kidnapped).

concurred with this interpretation of pink as a symbol for femininity when he noted that pink was “often found in girls’ bedrooms . . . and some consider it a sissy color” twenty-five years ago.⁸⁰

In light of these indicators, I was surprised that much of the PLR discourse contested the symbolic relationship between pink and femininity. It was common for informants to expressly identify as male and then point out something like, “one of my favorite shirts is a pink Polo shirt,” so as to dispute my suggestion that pink operates as a gender construct. Similarly, people pointed out that pink was a very fashionable color. “If you know anything about style today, pink is cool.” But some informants, including many supporting the PLR (or at least opposing what they perceived as my attempt to dismantle it), chided those who denied the cultural association of pink and femininity. Nevertheless, many people remained resistant to the suggestion that as an element in the built environment, a color like pink can convey meaning through symbolism. “Look how ridiculous you sound saying ‘I’m fighting sexism by banning women’s colors from men’ when in fact no person has ever officially declared pink to be a woman’s color.”

Indeed, pink is not the subject of an official declaration. Rather, its association with femininity is a cultural convention consistent with a patriarchal ideology. Gender differentiation is a precursor to gender dominance so the patriarchal ideology normalizes a binary construction of gender.⁸¹ This encourages every individual to identify with and be readable as either one sex or the other.⁸² It resists gender ambiguity.⁸³ Individuals who have internalized the gender binary are genuinely uncomfortable when they cannot decode an individual’s

80. FRY, *supra* note 2, at 102. I frequently discuss Coach Fry’s purpose or intent not because I think it is directly revelatory of the “true” meaning of the PLR. Indeed, privileging the author’s intent in this way would be inconsistent with a semiotic approach to interpretation. SHOLES, *supra* note 54, at 14 (“[S]emiotics rejects authoritarian hermeneutics through its critique of the notion of author.”). Rather, the significance of Coach Fry’s intent lies in its invocation by other readers of the PLR who interpreted the PLR by purporting to decode the meaning that Coach Fry had encoded there.

81. JUDITH BUTLER, *GENDER TROUBLE: FEMINISM AND THE SUBVERSION OF IDENTITY* 30-33 (1999); JOHNSON, *supra* note 38, at 80, 83-85; Catherine A. MacKinnon, *Difference and Dominance, On Sex Discrimination*, in *THE MORAL FOUNDATIONS OF CIVIL RIGHTS* 146, 147 (Robert K. Fullinwider & Claudia Mills eds., 1986); CATHERINE A. MACKINNON, *Women, Self-Possession and Sport* (1982), in *FEMINISM UNMODIFIED: DISCOURSES ON LIFE AND LAW* 117-118 (1987).

82. MARJORIE GARBER, *VESTED INTERESTS: CROSS DRESSING AND CULTURAL ANXIETY* 1 (1992) (quoting Sigmund Freud as saying, “When you meet a human being, the first distinction you make is ‘male or female?’ and you are accustomed to make the distinction with unhesitating certainty”).

83. JUDITH HALBERSTAM, *FEMALE MASCULINITY* 20-24 (1998); Jennifer Nye, *The Gender Box*, 13 *BERKELEY WOMEN’S L.J.* 226, 226 (1998).

sex.⁸⁴ Even before it has any biological relevance, another individual's sex is the subject of scrutiny.⁸⁵ Pre-adolescents (especially babies) present a particular challenge, because they do not yet have visible sex characteristics.⁸⁶ To overcome this ambiguity and the discomfort that results, we rely on a color convention: pink for girls and blue for boys.⁸⁷ This has become effective symbolism through widespread repetition over time.⁸⁸ By dressing girls in pink, parents encode "femininity" onto their daughters⁸⁹ who, at least when wearing clothes, would otherwise be gender-ambiguous (and thus, subversive).⁹⁰ In other words, the color convention of pink-for-girls and blue-for-boys is one aspect of the cultural symbolism that interpellates the gender binary as the dominant ideology.⁹¹

Observers, in turn, will rely on pink to decode with certainty that those children are of the female sex.⁹² From this practice derives the related, common preference for pink as the color delineating girls' space (*e.g.*, bedrooms) and possessions (*e.g.*, toys).⁹³ Girls themselves

84. GARBER, *supra* note 82, at 2 (commenting on cultural anxiety produced by cross-dressing); HALBERSTAM, *supra* note 83, at 20-24 (commenting on cultural anxiety produced by masculine-looking women in the gender-segregated space of the women's bathroom); Nye, *supra* note 83, at 226.

85. See GARBER, *supra* note 82, at 1; Nye, *supra* note 83, at 226.

86. Madeline Shakin et al., *Infant Clothing: Sex Labeling for Strangers*, 12 SEX ROLES 955, 962 (1985).

87. See GARBER, *supra* note 82, at 1. This color convention is so transcendent that it is often evoked as metonymical of the gender binary itself. See, *e.g.*, LESLIE FEINBERG, TRANS LIBERATION: BEYOND PINK OR BLUE 9-10 (1998).

88. Some critiqued this premise by pointing out that Victorians once used pink to connote masculinity rather than femininity. Neal Broverman, *Locker Room Dustup*, ADVOCATE, Nov. 8, 2005, at 17 (quoting Ricki Wilchins, executive director of the Gender Public Advocacy Coalition, as saying "we don't need to worry about a locker room color" in part because before the turn of the last century "pink was considered a boy's color"). But this piece of historic trivia, while true, (see GARBER, *supra* note 82, at 2; Nye, *supra* note 83, at 230) does not contradict the idea that our contemporary culture strongly associates pink with femininity. It only tends to show, by virtue of the fact that its associations were once opposite, that the color convention is arbitrary and assigned, as opposed to essential or natural.

89. I am not suggesting that pink is the only way infants' femininity is encoded — only that it is a common, highly effective, and significant way.

90. Tracy L. Dietz, *An Examination of Violence and Gender Role Portrayals of Video Games: Implications for Gender Socialization and Aggressive Behavior*, 38 SEX ROLES 425, 427 (1998) (providing as an example of gender socialization the practice of dressing infant girls in pink and painting their rooms pink). Andree Pomerleau et al., *Pink or Blue: Environmental Gender Stereotypes in the First Two Years of Life*, 22 SEX ROLES 359, 365 (1990); Shakin et al., *supra* note 86, at 955-56, 962.

91. GARBER, *supra* note 82, at 1-2.

92. See Hall, *supra* note 66, at 511.

93. Nancy Levit, *Separating Equals: Educational Research and the Long Term Consequence of Sex Segregation*, 67 GEO. WASH. L. REV. 451, 511 (1999) ("[Gender] tracking begins at birth with color-coded blankets. We unthinkingly gravitate toward the pink or blue aisle at Toys 'R' Us to shop for gender-'appropriate' toys.").

internalize this constructed preference,⁹⁴ which gives way to a self-reinforcing loop between the encoders/ decoders of cultural texts. A toy manufacturer, for example, makes girls' toys pink because girls ostensibly prefer pink toys; girls prefer pink toys because that is the color in which they are made.⁹⁵

Adults, on the other hand, have visible sex characteristics such as facial hair, Adam's apples, breasts, or hips. As a result, their genders can be encoded/decoded without resorting to the pink/blue color convention. Thus, a grown man might wear a pink polo shirt or necktie without risking his gender being misperceived. Consequently, his decision to wear a pink shirt or tie might not undermine the convention of pink as a symbol of femininity and so does not undermine my suggestion on the PLR that pink and femininity are integrally entwined.

Similarly, women do not need to wear pink to encode femininity; nor do they necessarily encode masculinity by wearing blue. Nevertheless, there is evidence that pink connotes the femininity of (even) adult women.⁹⁶ For example, in the context of the PLR discourse, some informants pointed out that many people associate pink with breast cancer awareness.⁹⁷ The informants who invoked this association did so to dispute the PLR's encoded sexism: they argued that pink cannot be offensive in the context of a locker room because it is the color of breast cancer support. But the fact that an organization seeking to raise awareness about a disease that disproportionately affects women would choose pink as its signature color actually supports the general premise that pink is strongly associated with femininity of adult women.⁹⁸ An example from sport occurred in 2006, when Major League Baseball granted special permission for players to use pink baseball bats on Mother's Day to raise money for the Susan B. Komen Breast Cancer Foundation.⁹⁹ Many observed the sharp contrast between

94. See, e.g., Beverly I. Fagot et al., *Qualities Underlying Definitions of Gender*, SEX ROLES, July 1997, at 1, 5 (1997) (finding seventy percent or more of children surveyed defined pink as a feminine object; no other color was so gendered).

95. See, e.g., SHARON LAMB & LYN MICKEL BROWN, PACKAGING GIRLHOOD: RESCUING OUR DAUGHTERS FROM MARKETERS' SCHEMES 210-213 (2006); Peggy Ornstein, *What's Wrong With Cinderella?*, N.Y. TIMES MAG., Dec. 24, 2006, at 34.

96. Barbara Ehrenreich, *Welcome to Cancerland: A Mammogram Leads to a Cult of Pink Kitsch*, HARPER'S MAG., Nov. 2001, at 43, 46-47.

97. *Id.* at 46. Barbara Ehrenreich documents the Susan B. Komen Foundation's "cornucopia" of "pink-ribbon-themed breast cancer products" and goes on to critique the "infantilizing trope" of the "breast cancer marketplace." *Id.*

98. One could theorize that assigning pink to women with breast cancer, many of whom have undergone mastectomy or lost their hair from chemotherapy, has similar cultural origins as the color convention for pre-adolescent children whose sex is not outwardly visible.

99. See Brett Barrouquere, *Baseball Thinks Pink*, CINCINNATI POST, May 10, 2006, at C1.

the pink bats and the masculine players who would be using them, thus underscoring, through inversion, the default connotation of pink and femininity.¹⁰⁰

Interestingly, all the participants in the discourse of the symbolic association between pink and femininity seem to claim the mantle of counterhegemonic resistance. I believed pink was being used to interpellate adherence to a patriarchal ideology that relies on the gender binary. Several informants read me as perpetuating that ideology myself: “isn’t assuming that pink is just a color for women and effeminate men, plus assuming that pink equals weak, a bit close minded?” They sought to position their reading of pink as the counterhegemonic one, in resistance to my oppressive, rigid hegemonic one. In one sense, then, the discourse converged momentarily as both the informants who challenged my opinion on the PLR and I all sought to challenge the color convention that enforces the gender binary ideology. But this convergence proved brief. The informants’ readings of the PLR ended at this level, while my reading put the PLR in its physical and social context. I now turn to an examination of this other reading.

B. Pink Locker Room as Symbolic Emasculation of the Opposing Team

Whether or not they agreed that pink is symbolic of femininity, informants also overwhelmingly objected to my second premise: that pink in the context of a football team’s locker room can be read as an insult to the visiting team’s masculinity.

Most commonly, they rejected this premise because they adhered to an alternative theory of meaning. For example, some argued that the PLR is rooted in objective, scientific principles that are entirely separate from (and superior to) any gender implications. According to many informants, it is an undisputed and basic truism of psychology — or “Psych 101” as many called it¹⁰¹ — that pink has a calming effect.

100. “The thought of these big macho men, swinging pink bats to help women with breast cancer . . . what a novel idea.” *Id.* (quoting Louisville Slugger President John Hillerich). “My mom is the glue of our family, and I just want to do something to thank her for all that she has done.” *Id.* (quoting Texas Rangers player Michael Mench). “It takes a big man to swing a pink bat.” *Id.* (quoting Howard Smith, Senior Vice President, Major League Baseball).

Similarly, earlier in the year the National Hockey League decided to pay “tribute to hockey moms” and support breast cancer awareness by playing with pink sticks. The sticks’ manufacturer said, “[It will definitely be unique to see] a tough and rough player using a pink stick.” *NHLers to Use Pink Sticks*, TORONTO STAR, Mar. 16, 2006, at C04. Together with his employee’s statement that “pink is not usually synonymous with hockey,” one can read this statement as simultaneously coding pink as feminine and hockey as masculine. *Id.*

101. This wording seems to have been intended to suggest that Fry, or the informants

They claimed that this calming effect is gender-neutral and separate from any theoretical emasculating effect the color might convey:

The color has nothing to do with conveying a message that women and effeminate men are weak. It has to do with certain principles of psychology and Hayden Fry's belief in these certain principles.

and:

Fry's pink locker room was based on psychological studies having to do with color and moods. It has nothing to do with homophobia as you allege.

and:

From the beginning, the intent was always a psychological effect of calmness on the players! It does not relate to sexual orientation in any way.

and:

The color of the locker room [is] being used for psychological advantage by a sports team. . . . In the end it is a wall painted a color designed to have a calming effect on the opposing team. Nothing more.

Informants and the media alike invoked this legend,¹⁰² made plausible by the attendant, well-known fact that Coach Fry majored in psychology at Baylor University.¹⁰³ This knowledge constructs an image of Fry studiously consulting a body of scientific literature to determine how to gain a cognitive edge over his opponents.¹⁰⁴ In the context of the PLR controversy, this "Psych 101 theory" was deployed to contradict my theory that the PLR's meaning derived from sexism and homophobia. That is, pink's calming effect is scientifically proven, and consequently, its placement in the locker room reflects a strategy

themselves, had learned this principle in school. See Gregg Hennigen, *Pink Room Opponents Make Case*, IOWA CITY PRESS-CITIZEN, Sept. 28, 2005, at 1A (quoting Iowa football coach Kirk Ferentz as saying, "I took Psych 101 thirty-three years ago in college. It's supposed to have a calming effect. It sounded good to me, I bought it.").

102. Marc Hansen, Editorial, *Critic of Pink Locker Room Merits a 5-yard Penalty*, DES MOINES REG., Sept. 27, 2005, at 1B; Keeler, *supra* note 1.

103. Keeler, *supra* note 1.

104. See CNN Daybreak (CNN television broadcast Nov. 4, 2005). "I think when Coach Fry originally painted their locker room pink it was just based on what he had learned in a college psychology class that pink had a calming effect" (quoting Univ. of Iowa Relations Officer Steve Parrot).

that has nothing to do with gender. Therefore it is a harmless tradition. This version of the legend, in which pink's meaning and context is entirely separate from its gendered meaning,¹⁰⁵ could have rather easily been recognized as myth by reference to Fry's own words. Fry expressly acknowledges that the color selection has something to do with gender in his autobiography, when he states that he selected pink paint for the walls of the visitor's locker room, "because it's a passive color and we hoped it would put our opponents in a passive mood. Also, pink is often found in girls' bedrooms, and because of that some consider it a sissy color."¹⁰⁶

Notwithstanding this statement, Iowa football fans systematically attributed the color selection to gender-neutral, scientific principles. Even when the local press reported that "[p]rofessors who study color and psychology say there is little scientific evidence to suggest that painting visitors' locker rooms pink gives home teams an edge,"¹⁰⁷ informants continued to insist that pink's psychological calming effect is one of the basic tenets of psychology.

To be sure, a research paper published in 1981 suggested that a particular hue, "Baker-Miller" pink, has such an effect.¹⁰⁸ As a result, it has become a popular color for prisons and holding cells,¹⁰⁹ and perhaps inspired proposals for pink punitive license plates that have been considered by several state legislatures.¹¹⁰ This movement has

105. *E.g.*, "If pink were associated with men or masculinity, the color would still have the same effect psychologically."

106. FRY, *supra* note 2, at 102.

107. Madelaine Jerousek, *Pink Likely Doesn't Help Hawkeyes, Experts Say*, DES MOINES REG., Sept. 28, 2005, at 3B (quoting Robert Baron, a University of Iowa psychology professor, as saying "I've got a Ph.D. in psychology and I know of no data that pink has a calming effect"); *see also* Hamm, *supra* note 23, at 4A (describing University of Iowa psychology professor David Watson's skeptical view on the psychology of mood and colors and his belief that research supporting a connection between them is shaky).

108. A.G. Schauss, *Application of Behavioral Photobiology to Human Aggression: Baker-Miller Pink*, 2 INT'L J. BIOSOCIAL RES. 25, 25 (1981).

109. Curtis Krueger, *Calming Juvenile Offenders: Gritty and Pink*, ST. PETERSBURG TIMES, June 8, 2005, at 1B (reporting on a local juvenile detention center's participation in a study to see whether Baker-Miller pink walls calms inmates); Sheri Melvold, *Seeing Pink and Stars, Too*, QUAD-CITY TIMES, Dec. 13, 2005 (reporting on the "drunk tank" in the Jackson County, Iowa jail, that is "painted bubblegum pink" for its "soothing and calming effect" on prisoners). *But see Texas Jail Is Small, But in the Pink*, CBSNEWS, Oct. 10, 2006, available at <http://www.cbsnews.com/stories/2006/10/10/national/main2077390.shtml> (reporting that Mason, Texas prisoners who are required to wear pink jumpsuits opt out of external work detail because they are embarrassed to be seen in them).

110. Recently, several state legislatures considered proposals to require convicted sexual offenders (Kansas and Ohio) and drunk drivers (Florida) to sport pink license plates on their cars so that they can be easily identified by the public. Laura Bauer, *List of Convicted Sex Offenders: Registry Is Called Unfair to Young*, KANSAS CITY STAR, Feb. 5, 2006, at B1; Tom Jackson, *Pink Tags May Result in One Less for the Road*, TAMPA TRIB., Nov. 19, 2005, at 1; Shaheen Samvati, *Bills Would Identify Sex Offenders By Auto Plates*,

occurred despite expressed doubts within the scientific community,¹¹¹ including suggestions by some that Baker-Miller pink produces only a temporary calming effect that is soon replaced by elevated levels of aggression.¹¹² It appears that the popular psychology of Baker-Miller pink has influenced the legend surrounding the origins of the PLR.¹¹³ There is, however, little reason to believe that Fry actually relied on the theory of Baker-Miller pink when first constructing the PLR.¹¹⁴ Before the Baker-Miller pink theory became popular, the consensus in the psychology of color literature was that pink produced the exact opposite effect, and that it “increase[d] activation [and] alertness.”¹¹⁵ One color expert of Hayden Fry’s era recommended pink as appropriate for “an environment . . . conducive to muscular effort, action, and cheerful spirit” and called it a good choice “for factories, schools, [and] homes where manual tasks are performed or where sports are engaged in.”¹¹⁶ Instead, the dominant view attributed a psychological subduing quality to blue.¹¹⁷ Most likely, if Fry consulted any psychological literature from his college days, he would have found that the evidence counseled against painting the opponent’s locker room pink. Furthermore, if he was in fact relying on the 1981 study of Baker-Miller pink,¹¹⁸ one imagines that he would have been specific about

DAYTON DAILY NEWS, Nov. 17, 2005, at B2.

111. Leah M. Keller & Robert G. Vautin, *Effect of Viewed Color on Hand-Grip Strength*, 87 PERCEPTUAL & MOTOR SKILLS 763, 763 (1998) (finding no evidence that viewing pink has a weakening effect on hand-grip strength despite claims to the contrary); Jeffrey M. Smith et al., *The Influence of Color and Demand Characteristics on Muscle Strength and Affective Ratings of the Environment*, 113 J. OF GEN. PSYCH. 289, 297 (1986) (concluding that the public perception of pink’s supposed weakening effect has a stronger influence on strength than the color itself).

112. See Schauss, *supra* note 108, at 25; Melvold, *supra* note 109.

113. See Melvold, *supra* note 109.

114. See FRY, *supra* note 2, at 22; Hansen, *supra* note 102.

115. Faber Birren, *Psychological Implications of Color and Illumination*, 64 J. OF THE ILLUMINATING ENGINEERING SOC. 397, 400 (1969).

116. *Id.*; see also FABER BIRREN, *LIGHT, COLOR AND ENVIRONMENT* 31 (1969). These sources, property of the University of Iowa library, would probably have been available to Fry in 1979-1980 had he set out to conduct a scientific inquiry of the psychology of color.

117. BIRREN, *supra* note 116, at 27, 29; FABER BIRREN, *NEW HORIZONS IN COLOR* 108, 110-11 (1955); LOUIS CHESKIN, *COLORS: WHAT THEY CAN DO FOR YOU* 35 (1947) (stating blue has a “sedative effect” and is “proved to be very calming”); DEBORAH T. SHARPE, *THE PSYCHOLOGY OF COLOR AND DESIGN* 55 (1974) (stating color association studies show green and blue “to be peaceful, cool, restful”); Bernard S. Aaronson, *Some Affective Stereotypes of Color*, 2 INT’L J. OF SYMBOLOGY 15, 15, 24-26 (1970); Peggy Porter Kaplan, *The Symbolism of Color*, 6 INT’L J. OF SYMBOLOGY 1, 2-4, 6-7 (1975); Benjamin Wright & Lee Rainwater, *The Meanings of Color*, 67 J. OF GEN. PSYCHOL. 89, 97 (1962).

118. Notwithstanding that his autobiography attributes the pink locker room’s inception to the 1979-1980 season. See FRY, *supra* note 2, at 102.

using that exact shade, as the prisons do, so as not to risk producing the “activation” and “alertness” effect attributed to pink in general.¹¹⁹

Informants espoused the “Psych 101 theory” of meaning to refute my suggestion that pink, the cultural symbol of femininity used in the incongruous context of a men’s football locker room — in particular, the opponents’ locker room — can be read as an insult to the masculinity of the opposing team.¹²⁰ While I suggested that pink in the context of the opponents’ locker room was problematic for this reason only,¹²¹ many informants responded that the logical extension of my argument was that I was opposed to all forms of pink,¹²² or at least all occasions when pink is used by men. One informant asked, “So are you saying that boys can only wear blue and girls can only wear pink?” Another informant appears to have perceived my argument as one on quasi-trademark grounds: “Women and homosexuals do not own exclusive use of this color, and [for you] to assert so is just silly and childish.”

Relatedly, even some who saw pink as a symbol of femininity seemed genuinely to suggest that all colors are equally capable of connoting a derogatory message when used in the context of a visitors’ locker room. Along these lines, they feared that reading the PLR to stand for something derogatory would lead to all kinds of color-related political correctness.

I also recognize that [pink] is a color often associated with girls and women[.] (My 6-year old son points out that I can’t be Pink Power Ranger because Pink Power Ranger is a “girl” (his word) . . . [But t]he fact that the walls of the visitors locker room are pink does not offend me, and I guess I’m a little shocked that it would offend an empowered woman. If the walls were red/blue, would republicans/democrats [sic] be offended? If they were yellow, would we risk offending opposing teams because yellow is

119. See Birren, *supra* note 115, at 400. The 2005 reconstruction of the PLR employed a subdued shade of pink, called “innocence” or “dusty rose” rather than Baker-Miller pink, which is often compared to Pepto Bismol. Tyler Lechtenberg, *Opponents at Kinnick Still in the Pink*, GAZETTE (Cedar Rapids-Iowa City, Iowa), July 8, 2005, at C1; see also Huffstutter, *supra* note 23; Sally Jenkins, *supra* note 18; Krueger, *supra* note 109; Keeler, *supra* note 1.

120. See Keeler, *supra* note 1.

121. *Id.*; CNN Daybreak, *supra* note 104.

122. See, e.g., Jenkins, *supra* note 18.

That pink has such grim cultural connotations is going to come as a heck of a surprise to the makers of Pepto-Bismol. Also, to several million women who, unbeknownst to them, are walking around with hate speech painted on their toenails . . . What would happen to carnations? Or Cadillacs, or cardigan sweaters? Or Barbie Band-Aids? Bubblegum? Birthday cake? The effects of a proposed ban on pink are especially depressing to contemplate when it comes to alcohol. No pink champagne? No cosmopolitans?

Id.

associated with cowardice? If they were green, would we risk offending the medical community because green is associated with illness? If they were black . . . [last ellipses in original].

A slippery slope argument is one that warns against a particular decision on the ground that it will inevitably trigger a sequence of ultimately undesirable or dangerous outcomes.¹²³ When there is no principled distinction between the context of the first, actual decision, and the subsequent, hypothetical ones, the precedent set by the first decision will govern automatically, and undesirably, in the subsequent contexts as well. Informants' proposals that suggest objections to pink must lead to objections to red, blue, yellow, green, etc. are slippery slope arguments. The implication is that objections to these other colors would be absurd and oppressive. These arguments tend to suggest that these informants compartmentalize the color from its context when reading the PLR.

In contrast, reading the color in connection with its context allows one to distinguish between pink and other colors in a principled way. For example, calling an opposing team Republican or Democrat, assuming that a red or blue locker room would even be suggestive of that in the first place, does not tap into something that is antithetical to strength, power, or any other athletic attribute. Thus, it is neither relevant to nor objectionable in the context of football. Context also provides a principled distinction between a visiting opponents' locker room painted pink and one painted yellow. A yellow locker room could conceivably function as insulting the other team by associating it with cowards, but unlike a pink locker room, would not do so at the expense of women and nonnormative men.

Slightly closer to the mark, another informant argued that, by my logic, a black locker room would be offensive to black people, a blue one would offend men, and a red one would offend Native Americans. Although this argument addresses categories of people, it still divorces the context of football from the color. In our culture, these groups are not perceived as weak, cowardly, or unathletic.¹²⁴ Accordingly,

123. Eugene Volokh, *The Mechanisms of the Slippery Slope*, 116 HARV. L. REV. 1026, 1029, 1064-66 (2003).

124. See Timothy Davis, *Racism in Athletes: Subtle Yet Persistent*, 21 ARK. L. REV. 881, 884, 887-88, 899 (1999); Richard Delgado & Jean Stefancic, *Images of the Outsider in American Law and Culture: Can Free Expression Remedy Systemic Social Ills?*, 77 CORNELL L. REV. 1258, 1262-70 (1992); Aaron Goldstein, *Intentional Infliction of Emotional Distress: Another Attempt at Eliminating Native American Mascots*, 3 J. GENDER RACE & JUST. 689, 691-92 (2000); Otis B. Grant, *African American College Football Players and the Dilemma of Exploitation, Racism and Education: A Socio-Economic Analysis of Sports Law*, 24 WHITTIER L. REV. 645, 648-49 (2003); Jeffrey S. Miller, *Native American Athletes:*

a red or black visitors' locker room would not readily connote or operate as a football-appropriate insult to Native Americans or African Americans.¹²⁵ Pink is uniquely capable of being read as an insult in the context of a football-opponent's locker room, not only because of pink's association with femininity, but also because of the special relationship between sport, particularly football, and the social construction of masculinity, to which I now turn.¹²⁶

Pink is capable of operating as an emasculating insult in the context of football because of the co-constitutive relationship between sport and masculinity. It is no accident that sport is such a dominant part of popular culture and that football is dominant among sports.¹²⁷ Because of its tendency to display and exaggerate the "natural" differences between men and women,¹²⁸ the status of football in our culture both derives from and reinforces the hegemonic masculinity of sport and its role of interpellating the patriarchal ideology.¹²⁹ The gender differences exalted through sport are not neutral traits, but rather traits associated with dominance and power, including aggression, force, and violence.¹³⁰ By serving as "one of the central sites in the social production of masculinity,"¹³¹ sport ensures that masculinity

Why Gambling on the Future is a Sure Bet, 4 VA. SPORTS & ENT. L.J. 239, 246, 249-50 (2005); Rebecca Tsosie, *Reclaiming Native Stories: An Essay on Cultural Appropriation and Cultural Rights*, 34 ARIZ. ST. L.J. 299, 326 (2002).

125. To be sure, the appropriation of Indian imagery and symbolism as mascots and nicknames by football teams and other institutions is problematic. See, e.g., Tsosie, *supra* note 124, at 299-302, 308-14, 355. But unlike the PLR-analogous context suggested by the slippery slope informants, the insult is not achieved by creating an association between football-inferiority and Native Americans.

126. "Manhood is not the manifestation of an inner essence; it is socially constructed. Manhood does not bubble up to consciousness from our biological makeup; it is created in culture." Michael S. Kimmel, *Masculinity as Homophobia: Fear, Shame, and Silence in the Construction of Gender Identity*, in THEORIZING MASCULINITIES 119, 120 (Harry Brod & Michael Kaufman eds., 1994).

127. Lois Bryson, *Challenges to Male Hegemony in Sport*, in SPORT, MEN, AND THE GENDER ORDER: CRITICAL FEMINIST PERSPECTIVES 173, 174 (Michael A. Messner & Donald F. Sabo eds., 1990) (saying sport is "an important, admired social activity . . . something to which we are exposed daily and from very young ages . . . an immediate mass reality [which will only be magnified] with increasing commercialization and media exposure").

128. See *id.* at 175; Willis, *supra* note 45, at 41.

129. Willis, *supra* note 45, at 41-42; see also MARIAH BURTON NELSON, THE STRONGER WOMEN GET, THE MORE MEN LOVE FOOTBALL 54-55 (1994); Alina Bernstein, *Is it Time for a Victory Lap? Changes in the Media Coverage of Women in Sport*, 37 INT'L REV. FOR SOC. OF SPORT 415, 415 (2002) ("A number of authors [have] argued that, perhaps more than any other social institution, sport perpetuates male superiority and female inferiority.").

130. Bryson, *supra* note 127, at 175; NELSON, *supra* note 129, at 6-7. Simultaneously, activities that do not rely on traits that link dominance and masculinity are positioned at the margins of sport. Bryson, *supra* note 127, at 176; NELSON, *supra* note 129, at 53-55.

131. David Whitson, *Sport in the Social Construction of Masculinity*, in SPORT, MEN, AND THE GENDER ORDER, *supra* note 127, at 19.

is associated with traits of dominance,¹³² and that this association appears natural and, thus, legitimate.¹³³ As Donald Sabo and Ross Runfola put it:

A primary function of sports is the dissemination and reinforcement of such traditional American values as male superiority, competition, work, and success. . . . Through sports, boys are trained to be men, to reflect all the societal expectations and attitudes surrounding such a rigid role definition. Sports act as a mirror of the dominant culture and a link between sexist institutions.¹³⁴

Sport scholars describe this as the hegemonic masculinity of sport and note its inherent circularity. The fact that sport sustains a hegemonic masculinity makes sport important; sport's importance allows it to sustain a hegemonic masculinity.¹³⁵ For sport to sustain a hegemonic masculinity, and thus itself, it must attract adherents to the version of masculinity that is normalized by sport.¹³⁶ Historically, sporting practices in the United States were intentionally developed and popularized to have this very effect¹³⁷ and accomplished it by simultaneously valorizing attributes of masculinity reflected in sport while excluding women from sporting practices.¹³⁸ Today, women enjoy the theoretical rights to engage in certain sporting practices on the same terms as men,¹³⁹ but men's sports still retain a hierarchical

132. *Id.* at 28.

133. Willis, *supra* note 45, at 41; Bryson, *supra* note 127, at 173.

Sport's very physical nature gives it special significance because of the fundamental link between social power and physical force. Sport is a major arena in which physical force and toughness are woven into hegemonic masculinity and the resultant ideology transmitted. The celebration of "real men" as strong and tough underscores the fact that men are in positions (have the right?) to dominate.

Id.

134. DONALD F. SABO, JR. & ROSS RUNFOLA, *JOCK: SPORTS & MALE IDENTITY*, at xi (1980).

135. See sources cited *supra* note 130.

136. See Whitson, *supra* note 131, at 26-28.

137. See VARDA BURSTYN, *THE RITES OF MEN: MANHOOD, POLITICS, AND THE CULTURE OF SPORT* 56-61 (1999). The industrialization of Western culture threatened a crisis of masculinity by limiting opportunities for men to make a living at physical labor while simultaneously requiring them to leave sons to be raised by their mothers while they pursued work outside the home. *Id.* at 53 (citation omitted), 50-54, 61-64, 74; see also JAY COAKLEY, *SPORTS IN SOCIETY: ISSUES & CONTROVERSIES* 72 (2007); Michael A. Messner, *Sports and Male Domination: The Female Athlete as Contested Ideological Terrain*, in *WOMEN, SPORT, AND CULTURE*, *supra* note 45, at 65, 68-69. See generally E. ANTHONY ROTUNDO, *AMERICAN MANHOOD: TRANSFORMATIONS IN MASCULINITY FROM THE REVOLUTION TO THE MODERN ERA* (1993); Whitson, *supra* note 131, at 21-22.

138. Messner, *supra* note 137, at 68-69; Whitson, *supra* note 131, at 20-22.

139. See 34 C.F.R. § 106.41 (2005). Title IX, which governs athletic programs offered

advantage for several interrelated reasons. First, resources and other institutional support still disproportionately favor men's sports.¹⁴⁰ As a result, women's sports receive far less interest from the general public,¹⁴¹ which in turn helps justify institutional decisions to support them less.¹⁴² For example, colleges refuse equal pay to coaches of women's teams on the grounds that women's sports sell fewer tickets and bring in less advertising revenue.¹⁴³ The media also engage in the self-sustaining practice of enforcing hegemonic norms by trivializing, sexualizing, and ignoring women's athletic participation.¹⁴⁴ This contributes both to the general public's favoring of men's sports and the resulting dearth in institutional support for women's sports.¹⁴⁵ These social forces¹⁴⁶ all derive from the hegemonic masculinity of sport and, in turn, sustain it by reinforcing the dominant view that men's sports are naturally and legitimately superior.¹⁴⁷ This is what sports scholars mean when they say that sport has come "to symbolize the masculine structure of power over women."¹⁴⁸

From its position atop the sport hierarchy, men's sport has the power to define the normative masculinity.¹⁴⁹ The most effective way

by education institutions, exempts contact sports like baseball, football, basketball, rugby, and ice hockey. *Id.* A female student has no statutory right to participate on an existing male team in these sports. *Id.* Moreover, while a school may decide to offer women's teams in contact sports to fulfill its statutory obligation to provide an overall number of athletic opportunities that is proportionate to its percentage of female students, it has no obligation to ensure that there are opportunities for women to participate in the same contact sports offered to men. *Id.* See Buzuvis, *supra* note 14, at 858.

140. See Buzuvis, *supra* note 14, at 823-24, 859-62.

141. See Michael A. Messner et al., *Silence, Sports Bras, and Wrestling Porn: Women in Televised Sports News and Highlights Shows*, 27 J. SPORT & SOC. ISSUES 38, 39-42, 44-47, 49 (2003).

142. See Welch Suggs, *Uneven Progress for Women's Sports*, CHRON. OF HIGHER EDUC. (Wash., D.C.), Apr. 7, 2000, at A52; Michelle R. Weiss, Comment, *Pay Equity for Intercollegiate Coaches: Exploring the EEOC Enforcement Guidelines*, 13 MARQ. SPORTS L. REV. 149, 149 (2002). See generally B. Glenn George, *Fifty/Fifty: Ending Sex Segregation in School Sports*, 63 OHIO ST. L.J. 1107 (2002) (speaking about sports gender segregation).

143. See Suggs, *supra* note 142; Weiss, *supra* note 142, at 156, 159, 161, 167-69; George, *supra* note 142, at 1111, 1133-34.

144. See Bernstein, *supra* note 129, at 416-17, 420.

145. *Id.*; see also Michael Messner et al., *supra* note 141, at 38, 39-42, 44-47, 49.

146. Nancy Theberge, *Toward a Feminist Alternative to Sport as a Male Preserve*, in WOMEN, SPORT, AND CULTURE, *supra* note 45, at 181, 182-83.

147. *Id.* at 183; MICHAEL A. MESSNER, TAKING THE FIELD: WOMEN, MEN, AND SPORTS 66 (2002).

148. MICHAEL A. MESSNER, POWER AT PLAY: SPORTS AND THE PROBLEM OF MASCULINITY 16 (1992).

149. For a vivid, recent example, consider the boys' basketball coach from Leeds, Maine, who was fired for a halftime pep talk in which he encouraged his players "to reach into their pants to 'check their manhood'" to make the point that the game would be won by the team with the "biggest (male genitalia)." *Touchy Request Cost High School Hoops Coach His Job*, CHI. TRIB., Feb. 3, 2007, at 2.

to do this is to denigrate everything that does not measure up to the version of masculinity that is normalized by sport. "It is not by chance that men who do not measure up to hegemonic masculine criteria are likely to be redefined in feminine terms, as, for example, sissies or fairies."¹⁵⁰ It is because "the fear of being seen as a sissy dominates the cultural definition of manhood."¹⁵¹ To avoid being cast as sissies, as subordinated men in the eyes of other men,¹⁵² men and boys actively and continuously associate themselves with the normative version of masculinity that is their own creation.¹⁵³ Sociologist Michael Messner calls this "dominance bonding":

The main policing mechanisms used to enforce consent with the dominant conversation are misogyny and homophobia: boys and men who reveal themselves as vulnerable are subsequently targeted as the symbolic "women," "pussies," and "faggots" on athletic teams (and, indeed, in many other male groups). In fact, it is a key part of the group process of dominance bonding that one or more members of the male group are made into the symbolic debased and degraded feminized "other" through which the group members bond and feel that their status as men is safely ensured.¹⁵⁴

Dominance bonding thus consists of and creates the construct of femininity as a proxy for weakness, frivolity, cowardice, or anything negative. Sexist comments, such as "don't throw like a girl" and "quit being a girl," demonstrate the notion of dominance bonding.¹⁵⁵ To help anchor the relationship between femininity and inferiority, dominance

150. Bryson, *supra* note 127, at 175; see also ERIC ANDERSON, IN THE GAME: GAY ATHLETES AND THE CULT OF MASCULINITY 19-32 (2005); Kimmel, *supra* note 126, at 125. "Masculinity is the relentless repudiation of the feminine" (citing Robert Brannon). *Id.*

151. Kimmel, *supra* note 126, at 131. "Homophobia is a central organizing principle of our cultural definition of manhood." *Id.*

152. *Id.* (explaining that homophobia is not so much the fear of gay men or even the fear of being perceived as gay, but the fear of being revealed as not a real man).

153. *Id.*

154. MESSNER, *supra* note 147, at 35; see also Kimmel, *supra* note 126, at 120 ("We come to know what it means to be a man in our culture by setting our definitions in opposition to a set of 'others' — racial minorities, sexual minorities, and, above all, women.").

155. MESSNER, *supra* note 147, at 3; see also SIMONE DE BEAUVOIR, THE SECOND SEX 3 (H.M. Parshley ed. & trans., Vintage Books 1989) (1949) ("In the mouth of a man the epithet *female* has the sound of an insult."). Historically, the suggestion of a man's femininity was so stigmatic that an order or threat to wear women's clothing was an effective punishment or disciplinary measure. See, e.g., Henry R. Schoolcraft, Entry of June 8, 1827, in PERSONAL MEMOIRS OF A RESIDENCE OF THIRTY YEARS WITH THE INDIAN TRIBES ON THE AMERICAN FRONTIER 265, 267 (1851) ("It was determined, as her life was saved, though the wounds were ghastly, to degrade the man in a public assemblage of all the Indians, the next day, by investing him with a petticoat, for so unmanly an act [of stabbing his mother-in-law]."); see also JONATHAN GATHORNE-HARDY, THE RISE AND FALL OF THE BRITISH NANNY (1972) (describing Victorian era petticoat discipline).

bonding also involves valorizing the sexual conquest of women.¹⁵⁶ This not only serves to position heterosexuality as a synonym for masculinity, but ensures that queerness is interchangeable with femininity as an offense to masculinity.¹⁵⁷

Among sports, football is uniquely synonymous with hegemonic masculinity.¹⁵⁸ No lesser source than Vince Lombardi acknowledged the mutually reinforcing relationship between football and masculinity when he said, “[w]hen a football player loses his supreme confidence in his super masculinity, he is in deep trouble.”¹⁵⁹ This relationship owes to two related, constructed aspects of the game.¹⁶⁰ First, football has resisted women more than any other sport. From its inception, football was constructed as an antidote to cultural anxiety about the destruction of the gender binary that resulted when industrialization threatened to blur distinctions between men’s and women’s roles.¹⁶¹ Society was so intent on preserving football as a male enclave that “[m]ales even retained cheerleading duties for more than 50 years, because the role required leadership of other men.”¹⁶² Historian Gerald

156. MESSNER, *supra* note 147, at 35, 38-42.

157. *Id.* at 33, 38; ANDERSON, *supra* note 150, at 29.

158. Donald F. Sabo & Joe Panepinto, *Football Ritual and the Social Reproduction of Masculinity*, in *SPORT, MEN, AND THE GENDER ORDER*, *supra* note 127, at 115; Messner, *supra* note 137, at 70.

159. DAVID KOPAY & PERRY DEANE YOUNG, *THE DAVID KOPAY STORY* 146 (1977) (quoting Vince Lombardi).

160. See GERALD GEMS, *FOR PRIDE, PROFIT, AND PATRIARCHY: FOOTBALL AND THE INCORPORATION OF AMERICAN CULTURAL VALUES* 51 (2000); Felice Duffy, *Twenty-Seven Years Post Title IX: Why Gender Equity Does Not Exist*, 19 QUINNIPIAC L. REV. 67, 82 (2000).

161. Lisa Disch & Mary Jo Kane, *When a Looker Is Really a Bitch: Lisa Olson, Sport, and the Heterosexual Matrix*, in *READING SPORT*, *supra* note 32, at 126-27; see also GEMS, *supra* note 160, at 47-50 (suggesting that football’s rise in popularity was a cultural reaction to “[f]emale incursion into traditional male spheres” of politics, professionalism, labor, and even sport at the turn of the last century).

162. GEMS, *supra* note 160, at 51. Examining sportswriting from the turn of the century, Michael Oriard suggests that from football’s early days, the media constructed football as a masculine preserve. “Many adjectives were routinely attached to football in its early decades, but none more often than ‘manly.’” MICHAEL ORIARD, *READING FOOTBALL: HOW THE POPULAR PRESS CREATED AN AMERICAN SPECTACLE* 189 (1998). Contrary to the word’s connotation in other earlier contexts, the “manliness” attributed to football did not signify the opposite of childishness but rather, the opposite of femininity. *Id.* at 247. Oriard also describes how the press cast the female spectators in an appropriate, nonthreatening context by describing them as genteel spectators and suggesting that their interest in the game was the appropriately, conventionally sexual. *Id.* at 251-53. Oriard calls this “the beginnings of specific sexual stereotypes that became commonplace in the twentieth century: the football hero and the cheerleader or lovely coed, with postgame sex in the more daring versions her gift for his game-winning prowess.” *Id.* at 253. Gems offers similar analysis of the media’s construction of female football spectatorship as reinforcing of Victorian values, and also notes that women today remain perennially cast in the role of the emotional, supportive, nurturing, hero-worshipper. He also provides H.G. Bissinger’s description of the high school spirit squad of girls called Pepettes as an example. GEMS, *supra* note 160, at 52 (citing H.G. BISSINGER, *FRIDAY NIGHT LIGHTS* 4 (1990)).

Gems offers an example of football's deliberate effort to exclude "any trace of femininity" that is particularly salient in an analysis of the PLR: in 1889, Syracuse University changed its school colors from pink and blue to orange and blue after its athletes were teased by students from Hamilton College.¹⁶³ Alumni, students, and athletes "quickly decided that such colors were inconsistent with prowess and opted for orange as a replacement to the pink."¹⁶⁴ Even though women play and watch the game today, football on the whole remains, indisputably, a male enclave.¹⁶⁵ By virtue of the association of football and masculinity, the characteristics of football become associated with masculinity.¹⁶⁶

In addition to its exclusion of women, football replicates the hegemonic masculinity of sport by occupying a special position at the top of the hierarchy of sport.¹⁶⁷ As "the sin qua non of athleticism,"¹⁶⁸ football ensures that its characteristics are not only the metric for

163. See GEMS, *supra* note 160, at 54.

164. *Id.* In 1895, Davidson College changed its school colors from pink and blue to red and black. *Id.*

165. When women have played football, it has often been the result of hard-won victory over cultural resistance. See, e.g., *Mercer v. Duke Univ.*, 190 F.3d 643 (4th Cir. 1999) (holding that female kicker, once accepted onto college football team, had right under Title IX to be treated on equal terms as male players); *Clinton v. Nagy*, 411 F. Supp. 1396 (N.D. Ohio 1974) (holding municipal football team could not rationally exclude girls on grounds of safety); see also SARAH FIELDS, *FEMALE GLADIATORS: GENDER, LAW AND CONTACT SPORT IN AMERICA* 37-54 (2005) (describing the history of litigation over girls' access to football). Some forms of women's participation in football are so different from traditional football that they pose no threat to the gender order. Examples include a once-a-year high school "powder puff" flag- or touch-football game and the highly sexualized Lingerie Bowl, cable's pay-per-view alternative to the Super Bowl halftime show billed as "true fantasy football." See *The Lingerie Football League*, <http://www.lingeriebowl.com> (last visited Nov. 10, 2007).

The Women's Professional Football League established in 1999 is a notable exception, though it operates on a much smaller scale as its male counterpart, the NFL. See *Women's Professional Football League*, <http://www.womensprofootball.com> (last visited Nov. 10, 2007). The league's fourteen teams play eight games per season and use high school facilities, with little to no media coverage. *Id.*

166. See GEMS, *supra* note 160, at 52-55.

167. Cf. e.g., ANDERSON, *supra* note 150, at 31 (describing high school and university athletics as the epitome of "jock-ocracy"); DANIEL L. WANN ET AL., *SPORT FANS: THE PSYCHOLOGY AND SOCIAL IMPACT OF SPECTATORS* 204 (2001) (referring to football having taken over baseball as the national televised pastime). To be sure, some regions and subcultures prioritize other sports and some institutions have found their niche in alternatives to football. See, e.g., *Demographics of the NASCAR Fan Base*, <http://www.whitfieldoil.com/downloads/NASCARFanDemographics.pdf> (last visited Nov. 10, 2007) (citing a 2004 ESPN Sports poll which indicates that one in three adults is a NASCAR fan, adding up to seventy-five million fans). In general, however, football is uniquely emphasized and prioritized, as evidenced by its popularity of participation at the youth and high school levels and the popularity of the college and professional games among spectators. See ANDERSON, *supra* note 150, at 31; WANN ET AL., *supra* note 167, at 204.

168. NELSON, *supra* note 129, at 54; see also Messner, *supra* note 137 at 70-71.

masculinity, but the metric for athletic success, which ensures, circularly, football's unique role in defining cultural masculinity.¹⁶⁹

Football thus affords participants the opportunity to police hegemonic masculinity by systematically "othering" women and men, especially gay men.¹⁷⁰ Mariah Burton Nelson notes that coaches, who would surely be fired if they called their players the "N-word," "employ with impunity such terms as 'cunt' [and] '[f]aggot.'"¹⁷¹ She also relates the following anecdote, which illustrates the use of symbolism in the co-construction of football and hegemonic masculinity. "Mississippi State football coach Jackie Sherrill, before a game with the Texas Longhorns, paraded a bull onto the field and had his players watch its castration. Get it? To defeat the 'Longhorns,' he implied, was to 'deball' them, to emasculate them."¹⁷²

In the context of football, "homosexuality . . . is considered such a taboo the coaches and players not only feel free but obliged to joke about it. To be homosexual is to be effeminate, like a girl. 'Cocksucker' becomes the ultimate insult."¹⁷³ It is also worth noting that the locker room is the space where much of football's ritualistic policing of hegemonic masculinity occurs.¹⁷⁴

Football's effect on the construction of masculinity is not limited to the actual players in the game. Michael Messner surmises the symbolic meaning football affords male spectators: "the opportunity to identify — generically and abstractly — with all men as a superior and separate caste."¹⁷⁵ Male fans' vicarious relationship to the game produces anxiety as well as glory.¹⁷⁶ As Alan Dundes puts it, "It is almost as though the masculinity of the male alumni is at stake in a given [football] game, especially when a hated rival school is the

169. Duffy, *supra* note 160, at 73–74.

170. See, e.g., NELSON, *supra* note 129, at 87.

171. *Id.*

172. *Id.*

173. David Kopay & Perry Deane Young, *Homosexuality and Machismo Sport: A Gay Jock Speaks Out*, in *JOCK: SPORTS AND MALE IDENTITY*, *supra* note 134, at 93.

174. See MESSNER, *supra* note 148, at 34–35, 98–99; Sabo & Panepinto, *supra* note 158, at 117. Some might consider this ironic in light of the homoerotic subtext of football itself. See Alan Dundes, *Into the Endzone for a Touchdown: A Psychoanalytic Consideration of American Football*, 37 *W. FOLKLORE* 75 (1978) (observing that football's own lexicon invokes a homoerotic rape, as two groups of men try to "penetrate" each others' "end zones" in order to "score"); Kopay & Young, *supra* note 173 at 95 ("Over the years I've seen many a coach get emotionally aroused while he was diagramming a particular play into an imaginary hole on the blackboard. His face red, his voice rising, he would show the ball carrier how he wanted him to 'stick it in the hole.'").

175. Messner, *supra* note 137, at 70. "Sports and sports fandom are also sites of male bonding." Don Sabo & Sue Curry Jansen, *Prometheus Unbound: Constructions of Masculinity of Sports Media*, in *MEDIA SPORT* 202, 205 (Lawrence A. Wenner, ed., 1998).

176. See Dundes, *supra* note 174, at 75.

opponent.”¹⁷⁷ Football provides male fans the same opportunity for dominance bonding as it does for the participants themselves.¹⁷⁸ Even though a number of women are football fans, football fandom is predominantly a male preserve.¹⁷⁹ By way of evidence, consider football’s attendant practice of cheerleading, which “works to naturalize masculine and feminine ideals” by positioning women on the sidelines in a sexualized role.¹⁸⁰ Moreover, football sponsorship such as beer commercials target a male demographic by appealing to attributes of hegemonic masculinity.¹⁸¹ More directly, researchers have found that televised contact sports can convey “psychosocial meanings and cultural practices that are linked to men’s collective domination and control of women,” thus underscoring conclusions that televised sports can be a contributing factor to men’s violence against and subordination of women.¹⁸²

To come full circle, I return to the “Psych 101 theory” of the PLR. In response to my suggestion that Coach Fry had chosen pink for its emasculating effect, informants specifically invoked Fry’s belief in the “calming effect” of pink.¹⁸³ This word choice is noteworthy because of its contrast to Fry’s description of the “mood” he was aiming to achieve.¹⁸⁴ Discussing the original paint in his autobiography, Fry says, “we hoped it would put our opponents in a passive mood.”¹⁸⁵

The informants’ slippage between “passive” and “calming” is, I think, significant. Recasting Fry’s word “passive” in this gender-neutral, ostensibly scientific way obscures the consonance between the word “passive” and the “emasculating” rationale that appears in Fry’s subsequent sentence about sissies and girls’ bedrooms.¹⁸⁶ Passivity

177. *Id.*

178. See Messner, *supra* note 137, at 70; Sabo & Jansen, *supra* note 175, at 205.

179. See ORIARD, *supra* note 162, at 8 (describing the communities that exist to watch football); Sabo & Jansen, *supra* note 175, at 208. (“In prime time televisual coverage of professional sports, men may well outnumber women by a ratio of 100 to 1 or more.”).

180. See Laurel Davis, *Male Cheerleaders and the Naturalization of Gender*, in SPORT, MEN, AND THE GENDER ORDER, *supra* note 127, at 153. Davis also notes that male cheerleaders, while increasingly common in big-time college sports, do not disrupt the idea of cheerleading as a feminine preserve because their roles are appropriately masculine, such as tumbling and stunts, rather than dancing and “motions.” See *id.* at 156-57.

181. MESSNER, *supra* note 147, 76-80 (on beer commercials and the sports-media complex).

182. See Sabo & Jansen, *supra* note 175, at 207-208; WANN ET AL., *supra* note 167, at 116 (describing a study that found that the “[NFL’s Washington] Redskins’ victories at home were shortly followed by an increase in the number of women treated for assaults, stabbings, ‘accidental’ falls, and gunshot wounds”).

183. Some did use the word “passive” instead of “calming” but in a context that suggests they considered the words synonymous.

184. See FRY, *supra* note 2, at 102.

185. *Id.*

186. *Id.*

is a feminine stereotype, especially in the context of sport and its strategic deployment in the maintenance of gender hierarchy.¹⁸⁷ To be passive is to be weak and susceptible to dominance, sexual and otherwise. Catharine MacKinnon argues that the systemic alienation of women from sport — that is, from strength, physicality, and the mind/body connection from which power derives — is a strategy for the physical and sexual domination of women:

The systemic maiming of women's physicality that marks those athletic and physical pursuits that women have been forced or pressured or encouraged to do, on the one hand, connect with those we have been excluded from doing, on the other. If you ask, not why do women and men do different physical activities, but why has femininity meant physical weakness, you notice that someone who is physically weak is more easily able to be raped, available to be molested, open to sexual harassment. Feminine means violable.¹⁸⁸

Thus, because "passive" can be read to connote rapeable, submissive, or sodomized, Fry's explanation that the PLR would put opponents in a passive mood is suggestive of the homophobic and misogynist symbolism in the PLR.

Cultural studies scholarship on fan culture may offer an explanation for the informants' re-reading of the PLR in a gender-neutral way.¹⁸⁹ Many scholars dismiss the common stereotype that reduces fans' obsession and hysteria to the manipulation by the media.¹⁹⁰ Fans are not passive victims of the media's manipulations nor are their tastes determined by the cultural text.¹⁹¹ Rather, they closely and actively engage with cultural texts, often in an intense emotional and intellectual way.¹⁹² They offer new readings to texts and seek to create meaning from them in communal contexts that result in "public

187. DE BEAUVOIR, *supra* note 155, at 9 ("Hegel held that the two sexes were of necessity different, the one active and the other passive, and of course the female would be the passive one."); Duffy, *supra* note 160, at 82 ("Some characteristics of the stereotypical feminine sex role are weakness, dependency, incompetence, inadequacy, passivity, and submissiveness."); Anthony Easthope, *Cultural Studies*, in THE JOHNS HOPKINS GUIDE TO LITERARY THEORY 176, 177 (Michael Groden & Martin Kreiswirth eds., 1994) (Film "organizes the possibilities of the [viewer's] gaze into a particular structure of binary opposition, so that 'active,' 'male,' and 'sexual looking' are gathered on one side, while 'passive,' 'female,' and 'identification' are gathered on the other.").

188. MACKINNON, *supra* note 81, at 118.

189. See STOREY, *supra* note 35, at 123-31.

190. *Id.*

191. *Id.*

192. *Id.*

display and circulation of these meanings.”¹⁹³ In so doing, fans may appropriate cultural texts in subversive or resistant ways.¹⁹⁴ On the other hand, they are intense and emotional about their relationships to the texts.¹⁹⁵ When they do read them through the lenses of their pre-existing, ideologically constructed values and beliefs (*i.e.*, “dominant” readings),¹⁹⁶ this intensity and emotion may serve to amplify or entrench these beliefs.

Here informants have engaged in a form of negotiated reading that is neither entirely dominant nor entirely resistant. On one hand, informants resisted the reading of the PLR that operates within dominant, patriarchal ideology to naturalize gender differentiation and interpellate a hegemonic masculinity. By substituting a neutral scientific rationale for a problematic gendered one, by relying on a slippery slope argument that detaches the color from its football locker room context, and by collectively reinterpreting the language in the PLR’s original accompanying text to construe “passive” as “calming,” these informants have decoded from the PLR a different meaning altogether. On the other hand, informants were not only rejecting the dominant reading of the PLR, they were also rejecting efforts to expose that meaning. This raises the possibility that their reading of the PLR was a pretext, intended or at least functioning not to subvert its power as a symbol of patriarchal ideology, but to sustain it.

C. PLR as Harmful Symbolism

The third category of PLR discourse I shall examine acknowledges that pink is symbolic of femininity and, as such, operates as an emasculating insult when employed in the context of an opposing football team’s locker room; however, it diverges on the issue of whether it is harmful or problematic for a university to use symbolism in this way.

There were a number of informants who supported the PLR even as they decoded its emasculating symbolism and agreed that it imputed both femininity and queerness on the opposing team. They reconciled these simultaneous views in a number of ways. One approach

193. *Id.* at 128.

194. *Id.* (citing Henry Jenkins); Christine Scodari, *Resistance Reexamined: Gender, Fan Practices, and Science Fiction Television*, 1 *POPULAR COMM.* 111, 113 (2003).

195. See STOREY, *supra* note 35, at 128.

196. *Id.* (citing Henry Jenkins); Scodari, *supra* note 194, at 125-27 (concluding that fan-authored fiction can be resistant and counterhegemonic but that readers often create new meanings of cultural texts that conform to and “serve hegemonic ends”); see also FISKE, *supra* note 71, at 2 (“Popular culture is made by subordinated peoples in their own interests out of resources that also, contradictorily serve the economic [and, presumably, other ideological] interests of the dominant.”).

was to insist that the locker room's symbolism is limited to the private space of men and thus is incapable of offending women. For example, this informant shared my reading of the PLR's emasculating symbolism, but read the PLR as harmless gamesmanship that only affected the players in the room:

What you seem to be forgetting in your pursuit to prove that the University of Iowa's Athletic Department hates women is that Hayden Fry's intentions never had anything to do with "insulting" women or gay men. Nothing! It's about making your opponents (in this case usually large, macho-minded guys) feel uneasy in their surroundings. I'm sure it would be fairly similar to having a woman have to wait in a small town garage to get her car fixed, and having to look at posters and calendars of half naked women that are up on the walls. It's not an attack on anyone, it's just something that could make someone feel uncomfortable (I have felt uncomfortable in that very setting). In the locker room case, it's being done on purpose for a psychological advantage on the playing field.

In other words, making another player feel "uneasy" or "uncomfortable" by associating them with women does not insult women because women are not the ones being made to feel this discomfort. Interestingly, this male informant equates the harmlessness of the PLR to the harmlessness of publicly displayed "posters or calendars of half-naked women," a false comparison reflecting his ignorance of well-known feminist objections¹⁹⁷ to the commercial market of sexualized images of women.¹⁹⁸ He continues:

There's nothing in [Fry's autobiography] that declares that Fry's main reason for the pink was that it was a "sissy" color. Was it one consideration? Sure. Because you're dealing with young men's minds, and pink is generally associated with women. That is a tactical ploy, not a "women are weak" statement to the world.

197. Compare Catharine A. MacKinnon, *Pornography as Defamation and Discrimination*, 71 B.U. L. REV. 793, 802 (1991) ("[The consumption of pornography] further institutionalizes a subhuman, victimized, second class status for women by conditioning men's orgasm to sexual inequality."), with Carlin Meyer, *Sex, Sin, and Women's Liberation: Against Porn-Suppression*, 72 TEX. L. REV. 1097, 1136 (1994) ("Pornography breaks the boundaries of traditionally confined sex and sexual depiction . . . [and thus] can be explosively subversive, challenging social structures that keep women oppressed.").

198. DEBORAH RHODE, *SPEAKING OF SEX: THE DENIAL OF GENDER INEQUALITY* 134 (1997) ("[Pornography's] more indirect harm, but in many feminists' view the most pervasive one, involves pornography's effects on attitudes toward sexual violence and sexual subordination.").

Surprisingly, this informant and I have a lot in common in the way we read the PLR. We agree that pink is a “sissy” color “generally associated with women.” We both acknowledge that the PLR was originally constructed to capitalize on that view and make “large, macho-minded guys” uncomfortable with their masculinity. We even seem to agree that the statement about the other team’s masculinity capitalizes and promotes a negative view of femininity. Where we diverge is that I read the PLR’s symbolism in its public, mediated context whereas he reads it in the confines of the locker room. By this “no harm, no foul” reasoning, no communication in the locker room is capable of insulting those outside its walls. This point of divergence, though minor, was clearly of intense and emotional significance to him, as evidenced by the multiple, lengthy, angry e-mails to me and three letters to local newspapers that he penned on the issue.

I read the PLR as distinct from other football locker rooms because the University of Iowa intentionally placed it in the public discourse.¹⁹⁹ When the University publicized its decision to retain and enhance the PLR during the stadium renovation of 2005, it confirmed and sustained the PLR’s status as a cultural symbol. The University’s public acknowledgement of the PLR, and the media coverage that amplified it, became just as much a part of the PLR’s “text” as the walls, lockers, and urinals themselves. This public discourse about the PLR, as well the discourse surrounding its prototype from Hayden Fry’s era, made the PLR more than a statement between players. It produced a public symbol.

Perhaps informants like the one I just mentioned were reluctant to read the PLR as a public symbol because locker rooms in general are inherently private places that function to protect their users from the public gaze. But even in the act of constructing privacy, locker rooms can become symbolically charged.²⁰⁰ “To the players, their locker room is their castle,” said New England Patriots owner Victor Kiam, defending his players’ sexual harassment of Lisa Olson, a *Boston Herald* reporter assigned to cover the team.²⁰¹ Sport scholars suggest this mentality was at the heart of why “an unprecedentedly intense, protracted, and collective display of hostility” by the media and football fans followed Olson’s assertion that she be allowed to do her job without being subjected to sexual harassment.²⁰² The Patriots’ locker room became “contested ideological terrain”²⁰³ because it is the symbolic castle, the “last bastion of male sovereignty.”²⁰⁴ The “sovereignty”

199. See, e.g., Keeler, *supra* note 1.

200. See Disch & Kane, *supra* note 161, at 130.

201. *Id.*

202. *Id.* at 110.

203. Messner, *supra* note 137, at 65.

204. Disch & Kane, *supra* note 161, at 131.

or seclusion a locker room provides allows its inhabitants to “express racist, sexist, and homophobic attitudes not tolerated in many other parts of society”²⁰⁵ and, more generally, to conduct the rituals of dominance bonding.²⁰⁶ Lisa Olson was controversial not because she posed a threat to the players’ privacy, but because her presence in the locker room was destabilizing to the gender hierarchy.²⁰⁷ This also explains the high level of intensity and hostility in the public’s reaction.²⁰⁸ It also might explain why people felt at liberty to respond with comments steeped in the sexism and misogyny commonly heard *within* a locker room that would not have been tolerated outside of its walls.²⁰⁹ It suggests that people read a locker room as extending beyond the space it physically occupies. The immunity a physical, private locker room provides for misogyny can be extrapolated to provide immunity for misogyny in the public discourse about a locker room.²¹⁰

Like Lisa Olson’s complaint about being sexually harassed in the Patriots’ locker room, my comments on the PLR resulted in “an unprecedentedly intense, protracted, and collective display of hostility” by the media and football fans. I, too, was challenging the “last bastion of male sovereignty.”²¹¹ As a “castle,” a locker room repels both physical and ideological invasion, particularly by women.²¹² This view of the PLR’s insularity is underscored by the discourse that vilified me for attacking this sacred, private space. Through regular and sustained coverage of the reaction to my comments, both local and national media outlets perpetuated an image of me as an angry crusader. They continued to attach my name to the PLR criticism long after my initial public comment on the matter.²¹³ No one was aware that I was arbitrarily anointed by one local news reporter as the leader of an attack against the PLR. The media and public attention remained focused

205. NELSON, *supra* note 129, at 7.

206. Cf. John Amaechi, an ex-NBA player who recently publicly acknowledged his homosexuality, who described “the anti-gay epithets [that] pour forth that gay men in the locker room would somehow violate this sacred space by sexualizing it.” Liz Robbins, *Amaechi, Ex-N.B.A. Player, Says He’s Gay*, N.Y. TIMES, Feb. 8, 2007, at D3.

207. Disch & Kane, *supra* note 161, at 130-31.

208. *Id.* at 110.

209. *Id.* at 130-32.

210. Former NBA player Tim Hardaway’s perception of gay athletes as a threat to the locker room gave context to his widely reported “I hate gay people” remark in the wake of John Amaechi’s coming out. See Robbins, *supra* note 206. In the same statement, Hardaway said, “I don’t think he should be in the locker room while we are in the locker room If you have 12 other ballplayers in your locker room that are upset and can’t concentrate and always worried about him in the locker room or on the court or whatever, it’s going to be hard for your teammates to win and accept him as a teammate.” *Transcript of Tim Hardaway’s Comments on Radio*, MIAMI HERALD, Feb. 15, 2007, at D1.

211. Disch & Kane, *supra* note 161, at 131.

212. *Id.* at 130.

213. See, e.g., Broverman, *supra* note 88.

on me, notwithstanding similar public positions taken by men in the University of Iowa community.²¹⁴ In contrast, the momentum of the frenzied, pro-locker room sentiment, such as the thousands of pink-wearing football fans at Iowa's home game against Illinois,²¹⁵ was not attributed to an individual person, and in this way, was "unmarked" and normalized.

The media's marking that the PLR is harmful symbolism as uniquely my idea enabled informants to seize upon my status as an "other" as the basis for their outrage. This in turn enabled them to sidestep having to reconcile defending the PLR with its misogynist and homophobic symbolism. Many comments that addressed my gender and sexual orientation tended to reflect the very misogyny and homophobia that I argued was encoded in, and transmitted via, the symbolism of the PLR, for example: "I love the author and hope we can discuss anal penetration in the pink locker room" and "Stop by my place sometime to cook me a nice meal, see my footlong man meat, and give me a nice blowjob" and "I'd love to lay you down and cock-stab you in the ovaries" and "For Christ sake get some cock already."

Others seemed to suggest that my gender and sexual orientation were reason enough to discredit my opinions. Informants posted comments such as: "trying to be the Ann Coulter of the left"; "[you are an] attention whore"; and "[l]et me guess, Erin doesn't like boys." One media outlet even went out of its way to speculate on my sexual orientation.²¹⁶ *The Weekly Standard* referred to me as a "self-described . . . lesbian,"²¹⁷ even though no reporter interviewed me at all for the story, let alone asked me to describe my sexual orientation; furthermore, I had never described my sexual orientation in any public context. *The Weekly Standard* included this detail in a way that, by erroneously suggesting that I had volunteered the information, masked the fact

214. Mike McWilliams, *Different Hues of Thinking*, IOWA CITY PRESS-CITIZEN, Sept. 24, 2005 (quoting University of Iowa professors Marc Light and Shannon Bradshaw, both men, in opposition to the PLR); Jeff Cox, Letter, *Think on the Importance of Pink*, DAILY IOWAN, Oct. 26, 2005. The only other person frequently identified as a PLR critic was also a female law professor, Jill Gaulding, who spoke against the PLR at the same NCAA steering committee public forum. See Slezak, *supra* note 18.

215. Hamm, *supra* note 23 (showing fans hoarding pink t-shirts in anticipation of the football game).

216. See *Seeing Pink*, THE WEEKLY STANDARD, Oct. 10, 2005, at 2.

217. *Id.* The article states, "Ms. Buzuvis, a self-described 'NPR-listening,' 'hockey-playing,' 'secular, liberal lesbian' thought it best to take down her blog." *Id.* at 3. The blog to which they presumably refer had the following description on the main page: "Humble observations from an NPR-listening, left-voting, law-loving, hockey-playing, Dunkin-Donuts-coffee-missing east-coast transplant to Iowa City, Iowa." Buzwords, <http://www.buzwords.blogspot.com> (on file with author). Thus, "liberal lesbian" was the reporter's own addition.

that the reporter was relying entirely on speculation. I suggest that by doing so, the article was both the product and perpetrator of an existing cultural perception that even the most mundane and harmless aspects of normative society are under attack by militant, man-hating (read: lesbian) feminists. This is, of course, how many informants summed up the PLR controversy. I was a law professor, who had no business commenting on football,²¹⁸ and a geographic outsider as a native of Massachusetts, which was used to identify me as a political outsider and as a euphemism for my sexual orientation.²¹⁹ Therefore, it is clear that much of the PLR discourse was concerned with constructing a PLR supporter as a protector of the status quo and resister of an invasion by outside forces.

Interestingly, the invasion/resistance mentality persisted even though the media actually did report on facts that are at odds with this reading. For instance, several articles mentioned the fact that I addressed the PLR in the context of a public forum to which the entire university community had been invited to participate.²²⁰ They also accurately quoted my moderate prayer for relief: "I am not asking you to take out the urinals. I am not asking you to paint the walls. I am asking you [only] to write this up as a genuine gender equity concern."²²¹ Nevertheless, informants read my comment on the locker room as a hysterical invasion of sacred, insular, private space rather than an effort to follow procedure, as belligerence rather than discourse, and as the banning of ideas rather than a registering of concern. Informants wrote:

Instead of engaging in reasoned debate you wield your feelings, coupled with an NCAA complaint, as a sword against ideas [with

218. For example:

As an Iowa Law grad with a real lawyer's job, I would like to thank you for giving me a good reason to refuse to donate to the law school. It is this sort of crap that is driving out the few good professors we have left and dropping Iowa Law in the rankings. Your salary is a waste of taxpayer and alumni money.

and:

You are additional proof that public employees are overpaid, underworked idiots . . . You know what they call 10,000 lawyers dead at the bottom of the ocean? A good start.

and:

Your biggest problem is that you're only 29 years old and have spent the majority of your life as a student. Not as a participant in the 'real' world.

219. *E.g.*, "Go back to Boston with all of the other money-grubbing possession-oriented chowderhead liberals. We really don't want you here, as you are an affront to the intelligent people of this state."

220. See E-mail from Patricia Cain, *supra* note 10.

221. Jerousek, *supra* note 107.

which] you for whatever reason disagree. Is this discourse? More likely an attempt at authoritarian domination of your ideas and thoughts over others. Furthermore, are your aims furthered by banning, rather than convincing? The opposite is very much more likely. Are you so fragile that the mere thought of a pink locker room reduces you to a fit of hysterics?

and:

There has to be some hidden agenda you are trying to accomplish really lady.

and:

People like you are seriously hurting the fabric of our great country. Frivolous lawsuits which costs millions of dollars to litigate are forcing the costs of goods and services through the roof.

Here, informants read my position and rearticulated it as something harmful, such as an attack, a hidden agenda, or a lawsuit. This will come as no surprise to scholars of fan culture, who have examined fans' capacity to engage in negotiated readings and rereading of cultural texts.

While some informants reread my comment as a hostile invasion warranting protection, others accepted that the PLR symbolically emasculates men but insisted that its humor is harmless, such as, "You are a feminazi with no sense of humor."

The idea a joke cannot be harmful or oppressive is not a position unique to the PLR informants. In his ethnography of listeners of sports talk radio, David Nylund observed that his informants recognized misogynist comments but did not find them problematic if they were funny.²²² Nylund theorizes that "amusement is neither innate nor harmless" because "[p]leasure is learned and closely connected to power and knowledge."²²³ He suggests that the media intentionally "mobilizes pleasure around conservative ideologies that have oppressive effects on women, homosexuals, and people of color" and surmises that "the ideologies of hegemonic masculinity," are what people find pleasurable and humorous about sports talk radio.²²⁴ In other words,

222. David Nylund, *When in Rome: Heterosexism, Homophobia, and Sports Talk Radio*, 28 J. OF SPORT & SOC. ISSUES 136, 136-168 (2004). For example, Jim Rome's listeners were amused when Rome jokingly insulted Jim Everett, a football player, by pretending to accidentally call him Chris (as in Chris Evert, a female professional tennis player). *Id.* at 141.

223. *Id.* at 148.

224. *Id.*

humor is encoded with, or decoded from, misogynist symbolism to package and transmit patriarchal ideology more effectively. It is precisely because people believe that what is humorous is not harmful that this strategy works. Indeed, my informants' comments demonstrate that humor is continuously and effectively used to normalize a hierarchy of gender and interpellate a patriarchal ideology.

Informants cast the PLR as humorous-therefore-harmless either to refute or to obscure my rationale for the PLR as problematic symbolism. A joke that works because it is insulting to call a man a girl recruits adherents to the hierarchy of gender.²²⁵ Furthermore, because our culture generally ascribes positive values to major public universities, a symbol publicly created and endorsed by a university is arguably even more harmful than misogynist comments on talk radio or in any other less esteemed forum.

None of my informants, to my knowledge, were children, so I am only guessing when I suggest that children would be more likely to read the PLR as a harmful gendered insult than my adult informants did. I base this assumption on evidence of high instances of girl-baiting and gay-baiting that occurs in youth (male) sports.²²⁶ If true, this assumption underscores the harmfulness of using the PLR symbolism itself: even if adults compartmentalized what is humorous about the PLR from what is harmful, gender insults are serious and powerful weapons in children's worlds. A colleague who spoke after me at the public forum made precisely this point, and it swayed at the mind of at least one informant.

When individuals read the PLR as insulting male athletes by comparing them to female athletes, they are internalizing a hierarchical view of gender that reflects the primacy of men and the inferiority of women. The harm here is two-fold. First, the insult effectively sustains hegemony, especially when the adherent is a child and thus more likely to accept ideas as the natural or inevitable way of things. Second, it creates a self-fulfilling prophecy. Consider these statements made by informants in defense of the PLR: "Just remember, it's not about power or putting girls down, it's just to associate the visitors

225. That jokes like these "work" is evidenced by the fact that they are published *qua* jokes. Compare the "humor" of the PLR to this recently syndicated comic strip:

Cora Dithers (to Blondie and Dagwood): Julius hired a security firm.
 Julius Dithers: It's something that a business needs these days. But I'm concerned about the agent they sent me.
 Blondie: Why is that?

Julius: He has a pink belt in karate!

King Features Syndicate, *Blondie*, published in DES MOINES REG., Apr. 1, 2006, at 4B.

226. ANDERSON, *supra* note 150, at 25-30; MESSNER, *supra* note 148, at 149-172.

with being girls. And girls are not as strong, physically, as men. That's not a bad thing!" and "GIRLS . . . are effeminate, they ARE weaker."

When women and girls internalize messages like these encoded in the PLR, they become less interested in exploring the mind-body connection and less committed to developing their athletic skills.²²⁷ Circularly, society then compares their skills to boys and interprets the disparity as further evidence of the "natural" gender order.²²⁸ Insisting that the PLR is not harmful because it is a joke ignores that symbolism matters. Symbolism is not only capable of inscribing gendered values inherent in a patriarchal ideology, it is integral to this effort.²²⁹ As long as women and female athletes are symbolically equated with inferiority, powerlessness, and passivity they can never emerge from their inferior status in the gendered hierarchy of sport. Because sport is a pervasive and significant site of cultural production,²³⁰ the power relations constructed there extend beyond its context.²³¹ As Margaret Carlisle Duncan suggests, sport is not trivial; it is symbolically suggestive of power more generally, including "the empowerment of women and girls, the cessation of assaults on female subjectivity, and the end of the assumption of female inferiority and male superiority."²³²

III. READING THE LAW AND THE PLR

As a symbol of patriarchal ideology operating in the context of college football, much of the cultural space occupied by the PLR intersects with that of Title IX, the statute prohibiting gender discrimination in federally funded educational institutions.²³³ Erecting a pink locker room for the visiting football team does not directly violate Title IX, its implementing regulations, or any of the Department of Education's clarifying policies. Nevertheless, if law is culture and culture is law, we can expect not only that Title IX influenced the

227. COLETTE DOWLING, *THE FRAILTY MYTH: WOMEN APPROACHING PHYSICAL EQUALITY* 64 (2000).

228. *Id.* at 55.

229. MESSNER, *supra* note 148, at 164 ("[T]he social organization of gender is . . . constructed by symbols and ideologies.").

230. BURSTYN, *supra* note 137, at 3 ("The rituals of sport engage more people in shared experience than any other institution or cultural activity today."); COAKLEY, *supra* note 137, at 40-41; WANN ET AL., *supra* note 167, at 189 (explaining sport fandom as a socializing structure with the capacity to transmit cultural values).

231. Messner, *supra* note 137, at 197 (referring to the female athlete as "contested ideological terrain").

232. Margaret Carlisle Duncan, *The Promise of Artemis*, 4.3 THE SCHOLAR AND FEMINIST ONLINE (2006), http://www.barnard.columbia.edu/sfonline/sport/duncan_01.htm.

233. Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-88 (2006).

PLR discourse, but that the cultural attitudes toward feminism and football, as revealed by the PLR discourse, influence the continued implementation of Title IX.

A. *Title IX's Construction of the PLR*

The field of law and cultural studies recognizes law as both the product of social forces and also “a constitutive societal force shaping social relations, constructing meaning, and defining categories of behavior.”²³⁴ Since the inception of Title IX, and in particular its application to athletics, the act has engendered cultural resistance characterized as a “backlash” — an “invisible oppositional cultural tide” that emerged in response to counterhegemonic ideology that is “disruptive to the existing social order.”²³⁵ Susan Greendorfer has suggested that Title IX’s application to athletics disrupts the social order by challenging assumptions about male superiority and female inferiority.²³⁶ Because a “celebration of the differences between the sexes” plays a key role in the hierarchical relationship between men and women, the patriarchal ideology is particularly invested in sport.²³⁷ This is because, in the context of sport, biological differences between men and women have effectively been assembled into a “tangible system of social hierarchy and dominance.”²³⁸ As a result, Title IX poses a uniquely powerful threat to the stability of the social order by symbolically and legally threatening to make opportunities in sport available on equal terms, blurring and eventually erasing differences between the sexes.

It is little wonder, then, that Title IX has always been a lightning rod for pervasive, sustained cultural backlash. This backlash is most easily recognized as a series of discrete, tangible events such as political and legal challenges to the statute, its applicability to athletics,²³⁹ and instances of aggressive or violent retaliation against Title IX’s

234. Paul Schiff Berman, *Telling a Less Suspicious Story: Notes Toward a Nonskeptical Approach to Legal/Cultural Analysis*, 13 YALE J.L. & HUMAN. 95, 107 (2001).

235. Susan L. Greendorfer, *Title IX Gender Equity, Backlash and Ideology*, WOMEN IN SPORT & PHYSICAL ACTIVITY J., Spring 1999, at 69, 73.

236. *Id.* at 75.

237. *Id.*

238. *Id.*

239. *See, e.g.*, Duffy, *supra* note 160, at 77–78 (describing legislative efforts to curb Title IX’s application to athletics and football in particular); Ellen Staurowsky, *Blaming the Victim: Resistance in the Battle Over Gender Equity in Intercollegiate Athletics*, 20 J. OF SPORT & SOC. ISSUES 194, 195–99 (1996) (describing the anti-Title IX lobbying efforts of various associations including the College Football Association and the American Football Coaches Association).

beneficiaries.²⁴⁰ Sustaining this backlash²⁴¹ is a steady diet of pervasive, unsubstantiated discourse that characterizes Title IX as the cause of ruin for men's sports.²⁴² The widespread and increasingly popular belief that men are the so-called victims of an equal opportunity statute is patriarchy-sustaining in a number of ways. First, it is often accompanied by the suggestion that women are the victimizers, a belief that provides justification for acts of overt and covert misogyny.²⁴³ Second, it carries with it the implication that the so-called lost opportunities for men are more valuable than the opportunities for women that never would have existed but for Title IX.²⁴⁴ In both ways, Title IX backlash perpetuates the dominant, patriarchal ideology by suppressing and resisting counterhegemonic notions of gender equality. Moreover, I suggest, backlash interpellates new adherents to the dominant ideology by mobilizing them against a perceived threat.²⁴⁵

240. *E.g.*, MARY JO FESTLE, *PLAYING NICE: POLITICS AND APOLOGIES IN WOMEN'S SPORTS*, at xxvi-xxviii (1996) (describing how female athletes and coaches were dogged with criticism, harassment, and charges of lesbianism after the University of Texas doubled the number of female athletes as part of a settlement to end litigation over the university's noncompliance).

241. See Greendorfer, *supra* note 235, at 86; Staurowsky, *supra* note 239, at 195-96.

242. Andrew Zimbalist, *Numbers, Facts Don't Back Title IX Critics*, in *THE BOTTOM LINE: OBSERVATIONS AND ARGUMENTS ON THE SPORTS BUSINESS* 266, 266-67 (2006) (citing data from the General Accounting Office report of a net increase of 12,000 opportunities in men's intercollegiate sport between 1982 and 1999 and pointing out that greatest drop in particular sports like wrestling and gymnastics occurred between 1982 and 1992, the years during which Title IX enforcement was virtually nonexistent); see also Staurowsky, *supra* note 239, at 196-98 (discussing arguments made by groups that Title IX is harming male athletes); Welch Suggs, *Gender Quotas? Not in College Sports*, *CHRON. HIGHER EDUC.* (Wash., D.C.), July 1, 2005, at A24 (reporting that the Department of Education's most recent data show the total number of male athletes increasing "by about 2700 between 2002-3 and 2003-4, and the number of men's teams either increased or remained steady across all divisions").

243. Staurowsky, *supra* note 239, at 206 (suggesting that the practice by spokespersons for men's sports associations of blaming of gender equity advocates "who, because of their insistence that Title IX be enforced, are perceived to be irrational, irresponsible, uncaring, and powerful" is something that "feeds, in part, on longstanding suspicions harbored about women's involvement in sports"); see also *id.* at 202-03.

244. Greendorfer, *supra* note 235, at 85 ("The very suggestion that the legal mandate is unfair to men reasserts a construction of sport as male and intimates that male interests should prevail."); Staurowsky, *supra* note 239, at 198-99.

245. For a recent example of backlash interpellating adherents to the dominant ideology, consider the discourse surrounding James Madison University's decision to eliminate ten of its athletic teams. Notwithstanding fairly clear indications that JMU's streamlining decision was more financial than legal (such as the university's apparent compliance under at least one of the prongs, and the fact that women's teams were among those cut) male and female JMU student-athletes were easily mobilized by anti-Title IX organizations to protest against the statute in Washington, D.C. Alan Goldenbach, *Title IX Protest at Education Department Highlights JMU's Athletic Cuts*, *WASH. POST*, Nov. 3, 2006, at E09.

Both Title IX backlash and the symbolism encoded in the PLR, along with the discourse defending it, are directed at sustaining the masculine hegemony of sport and the dominant patriarchal ideology. In light of this common purpose, it is also worth noting the backlash climate that existed within college football at the time of the PLR's inception in the early 1980s.²⁴⁶ After the statute passed in 1972, the NCAA declared that Title IX's application to intercollegiate athletics would cause "great harm to men's sports" and "threaten[ed] their very existence."²⁴⁷ The NCAA, the College Football Association (CFA), and the American Football Coaches Association (AFCA) participated in failed legislative,²⁴⁸ regulatory, and judicial²⁴⁹ efforts to exempt or otherwise neutralize the effect of Title IX on athletics.²⁵⁰ Moreover,

246. See, e.g., Greg Hennigan, *NCAA Won't See Pink: UI May Study Locker Room Issue Itself*, IOWA CITY PRESS-CITIZEN, Oct. 18, 2005, at 1A; *Psychologically Pink: Visitors Met with Gentle Hue*, N.Y. TIMES, Dec. 16, 1991, at C2.

247. MURRAY SPERBER, COLLEGE SPORTS INC.: THE ATHLETIC DEPARTMENT VS. THE UNIVERSITY 325 (1991).

248. Deborah Brake & Elizabeth Catlin, *The Path of Most Resistance: The Long Road Toward Gender Equity in Intercollegiate Athletics*, 3 DUKE J. GENDER L. & POL'Y 51, 54-55 (1996) (describing the "strenuous lobbying" by the National Collegiate Athletics Association (NCAA) that followed Title IX's enactment in 1972); Robert C. Farrell, *Title IX or College Football?*, 32 HOUS. L. REV. 993, 1004-05 n.77 (1995) (describing the NCAA's anti-Title IX lobbying efforts); Ellen Staurowsky, *Title IX and College Sport: The Long Painful Path to Compliance and Reform*, 14 MARQ. SPORTS L. REV. 95, 101-04 (2003) (detailing some of NCAA's anti-Title IX lobbying efforts of the 1970s); *Title IX Rules Under Fire*, N.Y. TIMES, June 18, 1975, at 25 (reporting on AFCA's testimony before a House subcommittee on education, which urged a "moratorium" on Title IX's application to intercollegiate athletics); see also DAVID F. SALTER, *CRASHING THE OLD BOYS' NETWORK: THE TRAGEDIES AND TRIUMPHS OF GIRLS AND WOMEN IN SPORTS* 49 (1996) ("College football's hierarchy has attacked gender equity with the tenacity of a blitzing linebacker facing fourth down at the one yard line."); *id.* at 50-52 (describing the College Football Association's resistance to Title IX).

249. See *NCAA v. Califano*, 444 F. Supp. 425, 439 (D. Kan. 1978) (holding that the NCAA did not have standing to challenge Title IX regulations), *rev'd*, 622 F.2d 1382, 1391-92 (10th Cir. 1980) (holding that NCAA could, in fact, bring a case on behalf of member institutions). However, no federal court ever decided the merits of the NCAA's case.

250. Specifically, these failed legislative efforts included: an amendment by Senator John Tower that would have exempted intercollegiate athletics from Title IX, S. 1539, 93d Cong., § 536 (1974); a bill from Rep. James O'Hara of Michigan that would have protected revenue attributable to one team from being distributed by other teams, H.R. 8394, 94th Cong. (1975); and a bill by Senators Tower, Bartlett, Hruska, and Laxalt that would have exempted revenue-producing sports from Title IX, S. 2106, 94th Cong. (1975). Four attempts to invoke a congressional override of the Department of Health, Education, and Welfare's (HEW) 1975 regulations, which confirmed Title IX's application to intercollegiate athletics, also failed. Brake & Catlin, *supra* note 248, at 56 nn. 27-28. The only successful attempt to amend Title IX was the Javits Amendment, which instructed the Secretary of Health, Education, and Welfare to include "with respect to intercollegiate athletics, reasonable provisions considering the nature of particular sports." *Id.* at 54 (quoting Gender and Athletics Act, Pub. L. No. 93-380, § 844, 88 Stat. 612 (codified as amended at 20 U.S.C. § 1681 (2006)). In light of this Amendment, HEW's 1975 regulation and the 1979 policy interpretation were more generous to football interests than they otherwise might have been, for example, by failing to require equal funding for men's and

the Department of Health, Education, and Welfare promulgated its policy interpretation (the infamous three prongs) in 1979.²⁵¹ That this final step of Title IX's applicability to college athletics occurred around the same time Coach Fry was selecting colors for the visiting locker room further suggests a possible relationship between the two. Finally, it is also worth noting that the debate pitting gender equity against college football was not limited to policymakers inside the Beltway — the Coach would no doubt have paid attention to the national media on this issue,²⁵² or at the very least, the newspapers in his own home state.²⁵³ If Fry didn't construct the PLR as a symbol of resistance to Title IX's then-apparent threat to the hegemonic masculinity of sport, one would almost have to wonder why not.

Even if Title IX anxiety did not give rise to the original PLR itself, it most certainly helped construct the PLR-defending discourse. Despite the fact that men's athletic opportunities have increased rather than decreased since Title IX's inception,²⁵⁴ and despite well-documented, objective economic evidence that waste (not women's

women's programs. See Farrell, *supra* note 248, at 1022-23. Yet given college football's position that Title IX should not apply to athletics at all, these two regulatory steps would have no doubt disappointed the NCAA, the CFA, and the AFCA. Five years later, however, the Supreme Court held that Title IX only applied to specific programs within an educational institution that received federal funds, a decision that largely excluded athletic departments from Title IX's reach. See *Grove City Coll. v. Bell*, 465 U.S. 555, 572-76 (1984). Congress ultimately abrogated the Supreme Court's holding. See Civil Rights Restoration Act of 1987, Pub. L. No. 100-259, § 2, 102 Stat. 28 (codified as amended at 20 U.S.C. § 1687 (2006)).

251. Farrell, *supra* note 248, at 995.

252. Gordon S. White, Jr., *Colleges Mystified by Title IX Fund Rules*, N.Y. TIMES, Dec. 15, 1978, at A27 (reporting that the NCAA was disappointed that HEW's proposed policy interpretation failed to exempt football and basketball after earlier reports suggested otherwise); Ralph J. Sabock, *Football: It Pays the Bills, Son*, N.Y. TIMES, Oct. 5, 1975, at 216 (describing college football coaches' argument to Congress as contending that Title IX "will cause the death of college football because of all the financial ramifications"); Judith Lee Oliphant, Comment, *Title IX's Promise of Equality of Opportunity in Athletics: Does It Cover the Bases?* 64 KY. L.J. 432, 461-62 nn. 150-51 (1975) (citing to then-contemporaneous press coverage of football coaches' and players' opposition to proposed Title IX regulations).

253. See *Sex Discrimination and Intercollegiate Athletics*, Note, 61 IOWA L. REV. 420, 482 (1975) (citing to articles published by the *Des Moines Register* in the 1970s that describe Title IX in college football-versus-gender equity terms).

254. See U.S. GEN. ACCT. OFFICE, INTERCOLLEGIATE ATHLETICS: RECENT TRENDS IN TEAMS AND PARTICIPANTS IN NAT'L COLLEGIATE ATHLETIC ASSOC. SPORTS, PUBL'N NO. GAO-07-353, at 2, 18 (July 12, 2007) (finding that the numbers of both male and female college athletes "steadily increased from 1991-1992 to 2004-2005" and that "men's participation levels were greater than women's, both in absolute terms and relative to their respective enrollments throughout this time period"); U.S. GEN. ACCT. OFFICE, INTERCOLLEGIATE ATHLETICS: FOUR-YEAR COLLEGES' EXPERIENCES ADDING AND DISCONTINUING TEAMS, PUBL'N NO. GAO-01-297, at 8, 13 (Mar. 8, 2001) (finding that the number of male student athletes and the number of men's intercollegiate athletic teams increased from the 1980-81 school year to the 1998-99 school year); see also Zimbalist, *supra* note 242, at 267; Suggs, *supra* note 142.

sports) leads to athletic department insolvency that motivates athletic departments to cut men's sports,²⁵⁵ a vocal and growing segment of the public willingly accepts the argument that Title IX forces schools to cut men's sports (and in particular, sports like wrestling, an Iowa favorite).²⁵⁶ This dissatisfaction with Title IX may have inspired resistance to what informants read as a "politically correct" suggestion that the PLR is harmful to women and girls. It may also have explained the personal attacks on the (pro) Title IX scholar who bore that message. In fact, informants themselves provide evidence that their opposition to my reading of the PLR and to me personally was related to Title IX. One informant said, "As a matter of fact, why don't you speak up for participants in men's nonrevenue sports that have been gutted by Title IX? I'm guessing that you're not interested in those victims because of their sex."

The University of Iowa's 2005 decision to renovate and enhance the PLR's features could also be viewed as having a regulatory significance. In 2005, the Office of Civil Rights (OCR) revised the compliance policy by making the third prong (whether "interest and abilities" are satisfied) much easier for universities to attain.²⁵⁷ Under the newly clarified policy, a university can survey its female students about their "interests and abilities" in athletics. As long as the results do not reveal that the respondents are unsatisfied in significant numbers, the university is deemed to comply with the "interest and abilities" prong regardless of its failure to provide athletic opportunities in proportion to the gender breakdown of its student body.²⁵⁸ In 2005, the University of Iowa had not decided whether it would seek compliance with the interests and abilities prong using the survey approach, but the Athletic Director had publicly stated his support for this approach.²⁵⁹ Moreover, at the time the PLR renovation was being planned and executed, this approach seemed increasingly inevitable because the University did not satisfy the proportionality prong.²⁶⁰ A symbol like the PLR

255. SALTER, *supra* note 248, at 53-55; MURRAY SPERBER, BEER AND CIRCUS: HOW BIG-TIME COLLEGE SPORTS IS CRIPPLING UNDERGRADUATE EDUCATION 219-21 (2000); Zimbalist, *supra* note 242, at 267-68; Daniel R. Marburger & Nancy Hogshead-Makar, *Is Title IX Really to Blame for the Decline in Intercollegiate Men's Nonrevenue Sports?*, 14 MARQ. SPORTS L. REV. 65, 65-66 (2003); John R. Thelin, *Good Sports? Historical Perspective on the Political Economy of Intercollegiate Athletics in the Era of Title IX, 1972-1997*, 71 J. HIGHER EDUC. 391, 399-401 (2000) (describing in detail the increasing expenditures associated with football).

256. Marburger & Hogshead-Makar, *supra* note 255, at 65.

257. John J. Almond & Daniel A. Cohen, *Navigating Into the New "Safe Harbor": Model Interest Surveys as a New Tool for Title IX Compliance Programs*, 8 VAND. J. ENT. & TECH. L. 1, 13-14 (2005).

258. *Id.*

259. Brady, *supra* note 13.

260. The University of Iowa has since declared its intention to attain proportionality

that would denigrate female athletes, and thus suppress the extent to which women would report an interest in athletics on a survey,²⁶¹ would have been advantageous to the University from a compliance standpoint.²⁶²

B. PLR and the Construction of Title IX

Sport scholars have pointed out that for all of the fear-mongering on the part of men's sports, Title IX actually does very little to challenge the hegemonic masculinity of sport.²⁶³ According to Mary Boutilier and Lucinda SanGiovanni, this omission leaves a policy "vacuum" to be "filled by the dominant cultural and institutional definitions that have been shaped by men's values, men's understandings of the world, and men's experiences."²⁶⁴ If the PLR is, as I suggest, a meaningful symbol of those dominant cultural and institutional definitions, the PLR may possibly help to fill the policy vacuum with masculine values, understandings, and experiences. This possibility might manifest in two specific ways. First, the PLR serves to demonstrate and mobilize public support for football over women's sports, suggesting that fans can effectively neutralize threats to football that might be necessary to achieve proportional distribution of athletic opportunities between male and female student-athletes.²⁶⁵ Second, in light of recent regulatory changes to interest-defined compliance, cultural symbols that suppress women's interests in sports by marginalizing their participation are likely to lower the standards of compliance for schools that do not wish to attempt proportionality compliance.²⁶⁶

1. Obstacle to Proportionality Compliance

In Part II, I described the reaction to my comment about the PLR, which included attempts: to silence, vilify, and wish violence upon me; to reconstruct my brief, moderate, and even-toned comment into a

by increasing women's participation two percent per year for five years. UNIV. OF IOWA, 2004-2005 DIVISION I ATHLETICS SELF-STUDY INSTRUMENT 54 (Oct. 25, 2005), available at <http://www.uiowa.edu/~our/ncaa-cert/report/051024fullreport.pdf>.

261. See discussion *infra* subpart B (arguing that marginalization of women's athletics by symbols and language as well as overt acts, can signal a university's unequal treatment of women's athletics, which can in turn suppress women's interest in participation).

262. Buzuvis, *supra* note 14, at 858 n.217.

263. Mary A. Boutilier & Lucinda F. SanGiovanni, *Politics, Public Policy, and Title IX: Some Limitations of Liberal Feminism*, in *WOMEN, SPORT AND CULTURE*, *supra* note 45, at 107.

264. *Id.*

265. See discussion *infra* Part III.B.1.

266. See discussion *infra* Part III.B.2.

sustained, shrill, hostile, and oppressive one; to distort the content of my argument into something nonsensical; and to defend tradition with unexamined and unsupported mythologies. Though the PLR controversy was a particular, isolated incident, I suggest that it offers a barometric reading of university football culture more generally. My conclusions attributing the PLR discourse to the cultural significance of football and its role in sustaining the hegemonic masculinity of sport and the patriarchy more generally might help explain why thirty-five years after Title IX's enactment, most universities still provide disparate opportunities for female student athletes.²⁶⁷

Under the first of three alternative prongs of compliance, colleges and universities may satisfy Title IX by offering a number of athletic opportunities to female athletes that is proportional to its percentage of female students.²⁶⁸ Even with the immunity from judicial and regulatory enforcement that proportionality offers, most schools do not comply under this prong.²⁶⁹ In particular, proportionality compliance is a difficult prospect for schools with large football squads to attain, such as those in NCAA Division I. There are two related reasons for this problem.

First, contemporary D-I football teams roster well over a hundred players.²⁷⁰ No single women's sport registers numbers anywhere close.²⁷¹ As a result, schools with large football teams must add several women's teams, and/or reduce the number of opportunities for male athletes in sports other than football to attain proportionality.

Second, to remain competitive at the Division I level and to have a shot at actual profit, college football programs attempt to attract the

267. Duffy, *supra* note 160, at 116 (arguing that compromises by college football in the interest of gender equity are not forthcoming because any reallocation of resources away from football "would be extremely threatening and the anticipated . . . cultural response would be one of extreme defiance in order to maintain male power"); Rich Haglund, *Staring Down the Elephant: College Football and Title IX Compliance*, 34 J.L. & EDUC. 439, 447 (2005) ("As long as no institution or organization is willing to do something about the sacred cow that is college football, men who want to participate in varsity athletics but do not want to play football will be left out, and the sexes will be pitted against each other for the remaining opportunities.")

268. 1979 Policy Interpretation, *supra* note 11, at 71,418.

269. NAT'L COAL. FOR WOMEN & GIRLS IN EDUC., TITLE IX ATHLETICS POLICIES, ISSUES AND DATA FOR EDUC. DECISION MAKERS, at 4 (2007), available at http://www.ncwge.org/PDF/Title_IX_Coalition_Report_Final.pdf [hereinafter Title IX Athletics Policies].

270. Farrell, *supra* note 248, at 1000 ("Division I-A football teams today have an average team size of 117, with some teams as large as 150" (citations omitted) (relying on 1992-93 sources)). University of Iowa's football team has 136 participants. Department of Educ., Office of Postsecondary Educ., Equity in Athletics Data Analysis Cutting Tools Website, Institutional Data: Iowa, <http://ope.ed.gov/athletics/main.asp> [hereinafter Institutional Data].

271. Farrell, *supra* note 248, at 994; see also Institutional Data, *supra* note 270.

best players by increasing expenditures.²⁷² This practice has resulted in a veritable “arms race” of spending,²⁷³ much of it wasteful and little of it resulting in profit.²⁷⁴ Even factoring in revenue from ticket sales, fund-raising, bowl games, royalties, and NCAA revenue distribution, the high cost of running a competitive football program is not a profitable endeavor for most schools.²⁷⁵ Football-related debt (in excess of \$1 million annually at thirty-six percent of Division I-A schools)²⁷⁶ limits the resources available to universities to pursue proportionality by adding new opportunities for women. Not surprisingly, research has determined a positive correlation between the existence of football programs and the underrepresentation of female athletes.²⁷⁷

Many scholars have suggested that the answer to the “football or Title IX” problem is to downsize the football roster and scale back spending.²⁷⁸ On the roster issue, the numbers are persuasive. Division I schools can carry upwards of 150 players, with as many as eighty-five of them on scholarship.²⁷⁹ Even barring a return of “single platoon” football (in which players play offense and defense), a football team could still operate at half of its current size, as proven by the fifty-man teams in the National Football League.²⁸⁰ The number of both scholarship and walk-on players could be capped in a way that would not hurt the sport while simultaneously allowing the school to add opportunities for under-represented female athletes without pressure to eliminate a men’s team.²⁸¹ Even if universities feared the competitive disadvantage that could come from unilateral action, the NCAA

272. Title IX Athletics Policies, *supra* note 269, at 120.

273. Press Briefing Paper, Andrew Zimbalist, Fiscal Responsibility, Not Weakening Civil Rights Law, is Key to Title IX Compliance and Deterring Institutions from Discontinuing Some Men’s Sports Teams (Dec. 19, 2002), available at <http://ncwge.org/statements/TitleIXbriefing/pressbriefing4.pdf>.

274. *Id.*

275. See Title IX Athletics Policies, *supra* note 269, at 16. Iowa is in the minority of schools where football is, apparently, profitable. See Institutional Data, *supra* note 270 (stating Iowa football’s data for revenue, operating expenses, coaching salaries, and recruiting expenses).

276. Title IX Athletics Policies, *supra* note 269, at 16.

277. Deborah J. Anderson et al., *Gender Equity in Intercollegiate Athletics*, 77 J. HIGHER EDUC. 225, 244 (2006) (“All else equal, the presence of a football team is associated with a proportionality gap that is larger by about 8.5%.”). Anderson and her colleagues also report that within NCAA Divisions II and III, the percentage of schools *with football* that fail to come within five percentage points of proportionality is higher than the percentage of schools *without football* that fail to come within five percentage points of proportionality. *Id.* at 235 tbl.2. Overall, 81.9% of NCAA-affiliated colleges and universities fail to satisfy proportionality within five percentage points and the mean gap is 13.1 percentage points. *Id.*

278. Farrell, *supra* note 248, at 1056; Haglund, *supra* note 267, at 448-51.

279. Farrell, *supra* note 248, at 1000-01.

280. *Id.* at 1056.

281. *Id.* at 1055-58.

could ensure that every school in the division is playing within the same constraints.²⁸² It already regulates the number of scholarships schools may offer, and could easily bring the current cap of eighty-five down to a number more in line with those available for other sports.²⁸³

As for expenditures, college football is notorious for state-of-the-art and luxury amenities in stadiums and practice facilities, seven-figure coaches' salaries, and twenty-member coaching staffs.²⁸⁴ Along with reducing roster sizes, trimming expenditures like these from football budgets would seem to be a sensible and relatively simple solution that would free up funds to pursue proportionality compliance in positive ways, such as program expansion, instead of cutting other men's sports.²⁸⁵

Yet despite the apparent logic of these solutions, no such reform is forthcoming, not at the conference level or from the NCAA, where such reform could be instituted collectively without putting any team at a competitive disadvantage.²⁸⁶ In 1997 Felice Duffy suggested that the importance of football to the gender order is at the root of institutional and organizational resistance to such plans.²⁸⁷ I believe the PLR controversy demonstrates both the continued persistence of football's iconic status and ensures, through interpellation, its continued existence. Viewed in this way, the PLR controversy tends to suggest that without a cultural change, college football and Title IX compliance will continue to be mutually exclusive.

2. *Constructing Women's Interest*

The PLR also constructs Title IX by influencing the public's perception of women's interests and abilities in sport, which under the new Title IX enforcement policy, has a regulatory significance that it never had before.²⁸⁸

Schools that do not satisfy the first prong by showing proportionality or the second prong by showing a history and continued practice of expanding opportunities for women can satisfy the third prong by showing the full and effective accommodation of women's

282. *Id.* at 1056.

283. Duffy, *supra* note 160, at 117 (pointing out that while football may have twice as many players as other sports, it has three or four times the number of scholarships); Farrell, *supra* note 248, at 1057.

284. Farrell, *supra* note 248, at 1056-58.

285. Duffy, *supra* note 160, at 117-18; Farrell, *supra* note 248, at 1056-58; Haglund, *supra* note 267, at 449; Zimbalist, *supra* note 273.

286. Duffy, *supra* note 160, at 116.

287. *Id.* at 115-24.

288. Buzuvis, *supra* note 14, at 827.

interests and abilities.²⁸⁹ Before last year, OCR measured third prong compliance by relying on a variety of quantitative and qualitative factors (including regional participation rates, actual student requests, interviews, and questionnaires).²⁹⁰ Then in 2005, OCR published a clarification of prong three that allows universities to rely on quantitative evidence alone.²⁹¹ A university may now demonstrate compliance by proffering female students' responses to a survey as evidence of their lack of interest and ability in athletics.²⁹² OCR has developed a Model Survey that schools may use to this end.²⁹³ The Model Survey asks whether the female students are interested in any sports, and whether they perceive themselves as having the requisite ability to compete at the level of competition at which they are interested.²⁹⁴ Only if women respond with interest and abilities in sufficient numbers to field a team would a university be obligated to expand its disproportionate athletic offerings to include a new sport.²⁹⁵ If not, the disproportionate offerings are deemed to comply with Title IX under prong three.²⁹⁶

The Model Survey has been criticized on several technical grounds,²⁹⁷ but also more fundamentally for its failure to consider interest as a social construct.²⁹⁸ Instead of recognizing interest and ability as the products of opportunity, as the courts have done,²⁹⁹ the

289. 1979 Policy Interpretation, *supra* note 11; Buzuvis, *supra* note 14, at 825.

290. Buzuvis, *supra* note 14, at 827.

291. U.S. DEPT OF EDUC., OFFICE FOR CIVIL RIGHTS, ADDITIONAL CLARIFICATION OF INTERCOLLEGIATE ATHLETICS POLICY: THREE-PART TEST — PART THREE, at 5 (2005), available at <http://www.ed.gov/about/offices/list/ocr/docs/title9guidanceadditional.pdf>.

292. See generally Buzuvis, *supra* note 14 (discussing the interest survey policy).

293. U.S. DEPT OF EDUC., OFFICE OF CIVIL RIGHTS, *supra* note 291, at 15-22.

294. *Id.* at 19-20.

295. *Id.* at 20.

296. *Id.* at 3-4.

297. Buzuvis, *supra* note 14, at 839-46.

298. *Id.* at 825, 827, 872.

299. *Neal v. Bd. of Trs. of Cal. State Univ.*, 198 F.3d 763, 769 (9th Cir. 1999) ("Title IX . . . envisions . . . equal opportunity for all athletes and recognizes that, where society has conditioned women to expect less than their fair share of the athletic opportunities, women's interest in participating in sports will not rise to a par with men's overnight."); *Cohen v. Brown Univ.*, 101 F.3d 155, 179 (1st Cir. 1996) ("Interest and ability rarely develop in a vacuum; they evolve as a function of opportunity and experience."); *id.* at 178-79 (arguing that allowing colleges and universities "to provide fewer athletics participation opportunities for women than for men, based upon the premise that women are less interested in sports than are men" would "ignore the fact that Title IX was enacted in order to remedy discrimination that results from stereotyped notions of women's interests and abilities"); *Kelley v. Bd. of Trs., Univ. of Ill.*, 35 F.3d 265, 270-71 (7th Cir. 1994); *Roberts v. Colo. State Bd. of Agric.*, 998 F.2d 824, 831-32 (10th Cir. 1993) (relying on the 1993 *Cohen* decision and rejecting a relative interest theory of compliance); *Cohen v. Brown Univ.*, 991 F.2d 888, 900 (1st Cir. 1993) (rejecting *Brown University's* relative interest theory of compliance, noting that "[w]hile it might well be that more men than women at *Brown* are currently interested in sports, *Brown* points to no evidence in the

Model Survey approach to compliance erects interest and ability as the prerequisites to opportunity.

Under this new interpretation of the third prong, anything with the potential to influence women's interest and ability in athletics has direct regulatory significance, including cultural symbolism that encodes stereotypes of women's inferior athletic ability.³⁰⁰ Just as women's "preferences" for certain types of jobs develop in response to employers' signals that those jobs are open to and rewarding for women,³⁰¹ women's interest in intercollegiate athletics develops in response to universities' signals that normalize women's participation in sport.³⁰² Overt acts of discrimination against female athletes (like offering fewer athletic opportunities and scholarships to women, providing better training facilities and amenities for men, and ensuring that the door to cross-gender coaching opportunities only swings one way)³⁰³ signal that female athletes are less welcome and less supported than their male counterparts. Symbolism and language, such as referring asymmetrically to *the* basketball team and the *women's* basketball team,³⁰⁴ or allowing the media outlets that cover college athletics to ignore, sexualize, or trivialize women's sports³⁰⁵ plays an important role in public perception of female athletes. By symbolizing women's athletic inferiority, the PLR helps construct a relative lack of athletic interest among women. Under the newly clarified Title IX policy, that lack of interest can immunize a university from liability for noncompliance. So the PLR helps neutralize Title IX's potential to undermine the hegemonic masculinity of sport.

record that men are any more likely to engage in athletics than women, absent socialization and disparate opportunities").

300. Buzuvis, *supra* note 14, at 825.

301. Vicki Schultz, *Telling Stories About Women and Work: Judicial Interpretations of Sex Segregation in the Workplace in Title VII Cases Raising the Lack of Interest Argument*, 103 HARV. L. REV. 1749, 1827-32 (1990) (arguing that women's "preferences" for certain types of jobs develop in partial response to employers' signals that women are welcome in those opportunities).

302. Deborah Brake, *The Struggle for Sex Equality in Sport and the Theory Behind Title IX*, 34 U. MICH. J.L. REFORM 13, 71 (2000-01).

303. *Id.* at 75-77, 80-82, 86.

304. *Id.* at 110-11 (citation omitted); see also Christine Brennan, *A Nod of Respect Missing*, USA TODAY, Jan. 11, 2007 (stating that the asymmetry is replicated in the media, as television listings refer to "College Basketball" and "Women's College Basketball" and the ESPN ticker runs scores for NCAAB and NCAAW). This not only suggests that women's basketball is not really basketball, but that (women's) basketball is the only NCAA women's sport. The asymmetry applies to mascots as well, as in the Bears and the Lady Bears of Baylor University. Even if bears didn't naturally come in two sexes, the absence of a "Gentlemen" prefix for the men's team mascot connotes the men's team as the default and the women's team as an afterthought. See Brake, *supra* note 302, at 110-111 (discussing the University of Tennessee's men's and women's basketball teams, the Volunteers and the Lady Vols).

305. Duffy, *supra* note 160, at 121.

CONCLUSION

In this Article, I have attempted to offer the example of one public controversy to show the mutually reinforcing relationship between culture and law in the context of football culture and Title IX. Relying on direct communications or those addressing my comment on the PLR, I have analyzed the PLR as a cultural symbol and theorized its role in the interpellation of the dominant, patriarchal ideology. The PLR controversy reaffirms the sacred status of football and ensures that any attempts to convince football to compromise in the name of gender equity are preordained to fail.

The PLR also contributes to the social construction of women's interest and ability in sport, which can insulate existing disparate distribution of opportunities for female student athletes from judicial and regulatory liability and enforcement under the new Title IX enforcement policy. The conclusion I draw from the PLR is that cultural values must change before the equality guarantees of Title IX will ever be fully realized. This conclusion, though pessimistic, is in and of itself a reason to pay attention to the PLR: as long as the PLR and the controversy surrounding it remain unexamined, the cultural values that it represents are ensured to stay the same.