
Volume 14

Issue 1 A SYMPOSIUM ON FINDING A PATH TO
GENDER EQUALITY: LEGAL AND POLICY
ISSUES RAISED BY ALL-FEMALE PUBLIC
EDUCATION

Article 14

1997

LEGAL AND POLICY ISSUES RAISED BY ALL-FEMALE PUBLIC EDUCATION

CATHERINE G. KRUPNICK

Follow this and additional works at: https://digitalcommons.nyls.edu/journal_of_human_rights



Part of the [Law Commons](#)

Recommended Citation

KRUPNICK, CATHERINE G. (1997) "LEGAL AND POLICY ISSUES RAISED BY ALL-FEMALE PUBLIC EDUCATION," *NYLS Journal of Human Rights*: Vol. 14 : Iss. 1 , Article 14.

Available at: https://digitalcommons.nyls.edu/journal_of_human_rights/vol14/iss1/14

This Article is brought to you for free and open access by DigitalCommons@NYLS. It has been accepted for inclusion in NYLS Journal of Human Rights by an authorized editor of DigitalCommons@NYLS.

LEGAL AND POLICY ISSUES RAISED BY ALL-FEMALE PUBLIC EDUCATION

*Catherine G. Krupnick **

INTRODUCTION

The issue we face is ultimately about school children. Using common sense and empirical technical knowledge, we need to focus less on institutional arguments and more on young women and men. If we lose sight of this, school children will be used as a means to an end. That is wrong no matter how laudable our objectives. When ends and means are confused young people will suffer because institutions fail in their core mission, to educate individuals equitably. A surprising number of legal and policy decisions concerning school children are made without considering the immediate consequences of the decision upon the lives of school children. Ongoing controversy occasioned by the recent creation of a publicly funded single-sex school gives us the opportunity to consider just such a case.

I focus my discussion about the search for gender equality on educational benefits the Young Women's Leadership School might bring to children in New York City. I begin with questions: What does, and what should, equitable treatment mean for female students' education?

* Catherine G. Krupnick is a Visiting Professor of Law and Education at New York University School of Law, on leave from Harvard Graduate School of Education in Cambridge, Massachusetts. Dr. Krupnick is a classroom ethnographer currently working in the area of faculty development for legal education and Kindergarten through high school education in New York City schools. She also conducts research on classroom participation, its antecedents and its consequences. Dr. Krupnick lectures widely and recently appeared on *20/20*, discussing single-sex education. She has completed a case study on the Central Park West Secondary School in East Harlem, *High School II: A Film Study Guide*.

In preparing remarks for the *New York Law School Journal of Human Rights Symposium* and this issue the author benefited by discussions with many colleagues. Particular thanks go to Paulette Caldwell, Jay Heubert, Reinier Kraakman, Martha Minow, Sarah Lundberg, and Helen Scott as well as co-panelists at the *New York Law School Journal of Human Rights Symposium*.

And for males' education? Should children seeking more opportunities, or better opportunities, be allowed to enroll in single-sex schools? Assuming we want young women to concentrate on developing leadership capacities, may they attend the Young Women's Leadership School? If we believe they should be able to attend YWLS, and I do, how can we frame their rights in constitutional terms?¹ How should we frame girls' search for equitable opportunity educationally? What are the policy implications for our intentions to provide equitable schooling for both genders?

These are the questions I addressed, often too briefly, in my presentations and dialogue at the *New York Law School Journal of Human Rights* Symposium. Our time was short, and the challenges we considered were many. Nonetheless, my comments below sketch an approach I believe useful.

I. YOUNG WOMEN'S EDUCATION CONSIDERED: YWLS AND THE ADMINISTRATIVE COMPLAINT

A. Background

The Young Women's Leadership School (YWLS) opened in East Harlem in September 1996.² Designed to create an environment where high-achieving seventh grade women, many from "disadvantaged" backgrounds would be encouraged to excel in math and science,³ the

¹ New York City, fearing the existence of single-sex schools might violate civil rights laws, closed schools without bringing the matter to court. The last all-girls' public school in the city, Washington Irving High School, was recreated as a coeducational institution by Chancellor Nathan Quinones when it was ordered to admit boys in 1986.

² Valerie K. Vojdik, *Girls Schools After VMI: Do They Make the Grade?*, 4 DUKE J. GEN. L. & POL'Y 69, 97 (1997) (stating that the 50 student class for the YWLS had been filled for the 1996-97 academic year).

³ Carrie Corcoran, *Single-Sex Education After VMI: Equal Protection & East Harlem's Young Women's Leadership School*, 45 U. PA. L. REV. 987, n.21 (1997) (stating that the YWLS was designed to create an environment "where high achieving girls from disadvantaged backgrounds can be encouraged to excel in science and math, where they can move from poverty to the boardroom and academia").

School appears to be accomplishing its goals. Reading and math scores have risen dramatically,⁴ attendance and retention are high,⁵ and students have raised their academic sights.⁶ Organizers say that the school hopes to expand until it has a full junior/senior high school program in 1998.

B. YWLS -- Students and Parents

Students and their parents praise the YWLS pedagogy.⁷ Equally noteworthy, they express relief at the absence of harassment that young women suffer routinely in coeducational schools.⁸ Because YWLS

⁴ See generally *id.* at 990 (stating that the YWLS emphasizes math and science and that the school district expects the girls to perform better at these disciplines without boys in the classroom).

⁵ See generally Kristin S. Caplice, *The Case for Public Single-Sex Education*, 18 HARV. J.L. & PUB. POL'Y, 227 (1994) (stating that there are presumably many more people who would elect to attend single-sex schools if more public single-sex schools were available).

⁶ See Vojdik, *supra* note 2, at 75 (noting that in a single-sex school environment, students become academically involved and aspire to higher degrees).

⁷ See Rene Sanchez, *In East Harlem, A School Without Boys; Experiment With All-Girl Classes Tapes New Mood in Public Education*, THE WASH. POST, Sept. 22, 1996, at A1 (noting that YWLS "uses [New York City's] Standard Curriculum, but stresses math and science," with parents eagerly putting their daughters on multi-year waiting lists); see also Tamara Henry, *A New Push for Girls Only Public School, N.Y. Experiment in Leadership*, USA TODAY, Sept. 8, 1996, at 1D (quoting one student's father, Ansley Hamid, "I'm relieved there is this opportunity to get this kind of education . . .").

⁸ See AMERICAN ASS'N OF UNIV. WOMEN, AAUW REPORT: HOW SCHOOLS SHORTCHANGE GIRLS (1992) (contending that there is "compelling evidence that girls are not receiving the same quality, or even quantity, of education as their brothers"); *Hostile Hallways: The AAUW Survey on Sexual Harassment in American Schools*, 22-25 (Scholastic Inc. 1993) Augmenting its survey of sexual harassment in American schools the AAUW report gives three useful perspectives from which to analyze curricula: The content of curricular materials, or the Formal Curriculum; the ways in which these materials are taught, the Classroom as Curriculum; and the things that are not taught, the Evaded Curriculum. Many educators would add a fourth category: the Hidden Curriculum -- the messages inherent in the three perspectives just mentioned. An example of hidden formal curriculum include pervasive messages that repeating what you've been told "neatly, completely and accurately" is more important than creativity or initiative. An example of the second perspective includes suggestions that discussing how to get correct answers in math is more important than discussing common misunderstandings. Mild examples of the hidden aspects of evaded curriculum range from straightforward historical

responds to potentially unfair conditions,⁹ it has received wide support in the press. But, addressing the needs of disadvantaged young women is always an invitation to controversy. At issue is an alleged violation of the duty of government to avoid discriminating on the basis of sex. The legal form in which this controversy is cast is an administrative complaint challenging the government-supported status of the YWLS.¹⁰ If the Department of Education rules against the School, New York City Board of Education faces losses of more than \$800 million in prospective Federal funding -- unless it closes the School. So, while female students benefit from an environment in which they thrive; the New York Civil Liberties Union (and others) view the students as unfairly advantaged.

C. Inequality and Neglect

Discrimination is omnipresent in life, hard to pin down, tough to correct. Correlatively, equality issues of any kind are challenges for school personnel. Merely choosing a definition of equality stirs controversy, which is why it is a step often avoided. Default options, such as denying the reality of young women's complaints about coeducation, or denying responsibility for addressing those grievances, are commonly employed. In falling back on these options, schools apply neglect even-handedly. Of

evasions (e.g., "Presidents are great men; the U.S. only fights just wars; Roosevelt did everything possible to help Jewish refugees during the Holocaust") to the disparate messages given students about the rightness of male norms for classroom behavior, or the vocational tracking of some students (poor or minority students, for example, for outmoded jobs) while middle class students are tracked for professions. *Id.*; See also Laurie A. , *The Citadel: Last Male Bastion or New Training Ground?*, 46 CASE W. RES. L. REV. 479, 525 (1996) (stating that one of the potential benefits of women's colleges is the avoidance of discrimination and sexual harassment that are allegedly increasing in coeducational classrooms)

⁹ See Corcoran, *supra* note 3, at 991 (suggesting that coeducational schools subject females to discrimination).

¹⁰ Nat'l Coalition for Women - NYC Chapter, New York Civil Liberties Union, and New York Civil Rights Coalition v. New York City Board of Education, (Administrative Complaint filed with the U.S. Dept. of Educ. Aug. 22, 1996) (citing among those who oppose the YWLS, the New York Civil Liberties Union, the New York Civil Rights Coalition, and New York's chapter of the National Organization for Women).

course, institutional neglect affects the genders in different ways. For example, when girls are valued for being quiet in class, or when girls who have been harassed suffer silently, they tend to be "left alone" by teachers and administrators. Thus learning -- or suffering -- in silence becomes the norm for female students. By contrast, when boys who demean girls by competitive behavior (including harassment) are left alone, they learn that subordination of the opposite sex is "normal" and that they can proceed without penalty. Viewed from an opportunity perspective -- that is, from the perspective of obtaining similar benefits from schooling -- the two genders experience different and unequal results from institutional neglect of problems presented by coeducational schooling.

D. Relief From Inequality and a Request for Relief From Relief

Viewed from the perspective of providing less unequal education -- that is, granting relief from subordinating conditions -- is an accomplishment which District 4 can boast. Viewed from a legal perspective then, YWLS can claim to serve compensatory purposes. The Administrative Complaint, however, claims discrimination against boys. The complaint requests "relief." In the press, this usually has been interpreted as a request for the YWLS to close down, NYCLU Director Norman Siegel, quoted in the *Washington Times*, lists three demands: "[t]hat the school lift its prohibition against boys, that the school change its name to something 'gender-neutral' and that the Board of Education inform the community that the school is open to boys."¹¹

The request for relief includes no court action; no plaintiff could be found. No male student had either applied to, or been rejected by, the YWLS. Neither had any male student claimed to have been excluded. Michael Meyers, the Executive Director of the New York Civil Rights Coalition observed, tellingly, "What boy would want to go to a school with

¹¹ Liz Trotta, *School-Choice Ideas Gaining Ground in New York City*, WASH. TIMES (D.C.), Sept. 15, 1996, at A1.

all girls and be branded or labeled a 'sissy'?"¹² Let no lawyer's statement of contempt for young women go unrecorded.

II. YOUNG WOMEN, YOUNG MEN: THE PURSUIT OF EDUCATION AND SOME CONSEQUENCES

A. Male Domination of Many Classrooms Disables Young Women

What should equitable treatment mean for females' education? For males? Equitable treatment would mean simply that school prepares both genders equally well to assume leadership in professional and civic life. Doubtless equitable treatment is valued by teachers, generally, and most teachers probably intend to be fair to students of both sexes. But what happens in practice?

In order to understand how the best intentions fail, consider what happens in actual classrooms. Over twenty years of observation, I witnessed many more classes in which boys and girls participate unequally than those in which they participate equally. I have videotaped many of these classes¹³ and analyzed the amount of time, and in what order, each individual talked.¹⁴ Many of these tapes were used in "action research

¹² Jacques Steinberg, *Central Board Backs All-Girls School*, N.Y. TIMES, Aug. 22, 1996, at B3 ("[B]ecause the school has made no effort to attract boys...those who might consider applying...fear being labeled 'sissies'").

¹³ Catherine G. Krupnick, *Meadows College Prepares for Men*, in GENDER AND PUBLIC POLICY: CASES AND COMMENTS, 137, 137-148 (Kenneth Winston et al. eds., 1993) I analyzed videotapes of predominantly female freshman classes in a newly co-educational, formerly women's college. In this context, the teacher's sex seemed to have no effect on the relative percentage of male and female talk. Instead, the likelihood of male domination of the conversation is greatest in classes with "student centered" instruction. Classes in which student control of the conversation was largest was significantly affected by female students' solicitous behavior toward the male minority. Male students did not reciprocate. Willing to take the floor, they provided much conversation but offered few openings for females. *Id.*

¹⁴ See Sharon K. Mollman, *The Gender Gap: Separating the Sexes in Public Education*, 69 IND. L. REV. 149, 171 (1992) (describing how boys dominate the traditional co-educational classrooms); See also, Catherine G. Krupnick, *Women and Men in the Classroom: Inequality and Its Remedies in the Classroom*, ON TEACHING AND LEARNING, 18-19, 22 (J. Harvard Danforth Center May 1985)(reporting that males dominate classroom discussion at

projects," in which I collaborated with teachers who wanted to learn what was happening in their classes.

What I discovered accords with the findings of most classroom discourse studies: Classroom conversation, ordinarily, is dominated by members of one sex, male. Boys over-participate in discussion of topics they find engaging, typically math and science.¹⁵ Young women allow them to dominate. Teachers permit, even encourage, male over-participation, often because they enjoy confident, fast-paced discussion; often because they do not know how to engage young women without being penalized by male students' distractions.

Over time, girls, boys and teachers experience boys' centrality as "normal." Similarly, students and teachers get accustomed to females' marginality. Girls, in effect, pass through school with declining opportunity for public discourse and feedback. They lose their toehold on academic leadership.¹⁶ And they lose a chance to practice a crucial professional skill -- holding an audience, -- in public.

Male domination of the conversational "floor" is not just a junior/senior high school phenomenon. Researchers observing classrooms in various settings -- pre-school through professional school -- report over and over: males use more than their share of floor time, male students capture teachers' attention more often than females do,¹⁷ males get better grades in math and science advanced classes, and male students take far more than their share of school and classroom leadership positions.¹⁸

Male students' domination of the classroom mirrors trends in the

Harvard College and other classroom situations).

¹⁵ *But see* Lisa Schorr, *Sex Lies and Videotape: A re-examination of the Conventional Wisdom About Gender and Class Participation* (1992) (unpublished honors thesis, Harvard Dept. Sociology). Schorr found different results in a Massachusetts high school study of fifteen classes of various disciplines. *Id.* Males, dominated the discussion in all of the science and math classes in her study, and most of the social science classes. *Id.* Female students dominated English classes. *Id.*

¹⁶ *See* Mollman, *supra* note 14, at 171 (suggesting that girls score better grades in single-sex schools than in co-educational schools).

¹⁷ *Id.* (suggesting that teachers pay more attention to boys in classroom).

¹⁸ *Id.* (stating that girls who attend single-sex schools have expanded leadership opportunities).

culture at large, and even in the school curriculum. David and Jacqueline Sadker reported in *The Washington Post*: "Even today's improved textbooks typically describe the role or experiences of women in only 2% or 3% of their pages. Textbooks do little to give girls a sense of pride in their past or hope for their future."¹⁹ The results of gender domination, cited at this symposium by Dolores Garcia and others, results in systematically inferior education for young women.²⁰

What happens if you pull girls out of the co-educational classroom? Boys dominate their single-sex classes, just as they dominate mixed-gender classes. But girls also get to lead. They get "floor" time, feedback, coached leadership practice, and exposure to female spokespersons. In order to get a sense of what I am describing, it is useful to spend some time at the indoor entrance to the Museum of Natural History in New York. Watch what happens when a group from the Girls Club, or some similar group, approaches the huge dinosaur in the lobby. The same engagement and speculation that animates boys' reactions is evident. Last autumn, I watched several female groups: inner-city teenage girls speculating on the anatomy, evolution, comparative structures of those fantastic animals. In coed groups, by contrast, eager males exclaimed while females listened or whispered asides to each other. What does this suggest for females' education? Those who argue that co-education is "the real world" should recall how "real" it is to be unsubordinated.

Will the young women who are educated out of coeducation be warped? Unable to compete in the coed world? There is no reason to

¹⁹ David Sadker & Jacqueline Sadker, WASH. POST, Nov. 1, 1995, at A19. See generally David Sadker & Myra Sadker, FAILING AT FAIRNESS: HOW AMERICA'S SCHOOLS CHEAT GIRLS (Charles Scribner's Son 1994), n. 29(citing numerous studies and stating that "even as single-sex schools fight to survive, new studies offer a stunning message: Schools without boys seem to be good for girls." Myra and David Sadker, pioneers of on-site conversation coding, conducted a multi-year study of more than 100 classrooms, grades 4-8. They identified four types of teacher comments: praise, acceptance, remediation and criticism. Overall, males received more of each type of comment, and they found the biggest difference favoring boys appearing in the most helpful reactions: praise, criticism and remediation.

²⁰ See Mollman, *supra* note 14, at 170-171 (stating that girls' overall performance in single-sex schools are better than their performance in co-educational schools).

think so. Uninhibited enthusiasm, and fewer constraints practicing on in public do not hamper females. If developing self-confidence counts for anything in education -- and it counts for a great deal in terms of what we learn to love and to be -- shouldn't schools evolve solutions that promote skills and responsible self-confidence? Many opportunities exist beyond junior and senior high school for girls to experience the coeducational world.

Fairness is on the line. Commonplace results of inferior education for young women in the inner city are tragic, as high school graduates (or high school dropouts), females rarely regain their lost opportunities.²¹ Thus, programs designed for grades 6-12 of a young woman's education are of particular importance to her life chances. Many factors beside schooling influence the sexes' different opportunities and attainments. But a solid education for public life is necessary for those who will have to contest unfair circumstances.

Salary differentials for women and men highlight the effects of inequitable schooling. Women, on average, earn 69 cents for every dollar earned by a man. Only more advanced credentials, skills and self-assurance permit women to earn as much as men do. Since only "higher" positions can bring women financial equality, the advantages or drawbacks their schooling offers are important later on.

What about young men? The same questions pertain. Do young men do better, or less well, in coeducational classes?²² Supposing males accomplished more (on any measures we choose) in single-sex classes. Would we want to legislate *for* the better learning opportunities or find some way to legislate *against*? When perceived as needed and useful, single-sex schooling, even publicly funded, would appear to be a valuable option from a purely educational point of view.²³

²¹ Franc Flotro & Peter Kinder, *A New Approach for City Schools*, ST. LOUIS POST DISPATCH, Oct. 19, 1997, at 3B (noting that children attending inner-city schools receive an inferior education).

²² See generally, Anthony S. Bryk, Valerie E. Lee, & Peter B. Holland, *Catholic Schools and the Common Good*. (Cambridge: Harvard University Press, 1993). Bryk, Lee, and Holland find superior outcomes on most measures for single-sex over coed Catholic schools. *Id.*

²³ See generally *id.*

B. Harassment: Another Factor Subordinating Young Women

Skillful teaching can make a difference in promoting young women. Many teachers produce classes that do not advantage male students.²⁴ But adolescent school girls have many teachers; it is rare for young women to escape subordinating experiences altogether. Even beyond the classroom learning, girls have imbalanced extracurricular experiences. Hallway teasing, male-oriented curricula, and various forms of sexual harassment to erode the value of girls' best experiences.²⁵

Harassment, particularly harassment of females, is a constant issue in high schools. More frequent, apparently, in coeducational than single-sex schools, it has not yet been addressed by a standard pattern of remedies. Most often, harassment is unreported and unpunished.²⁶

Someday, pedagogies that counter male domination of coeducational schooling may be widespread. For now, school place equality remains elusive. Since male students receive more attention than female students and do more of the talking in most classrooms, they clearly end up with superior leadership preparation: Thus, some inequality now paves the way for greater inequality later. That is what diminished opportunity is all about.

²⁴ See Deborah L. Rhode, *Single-Sex Schools Can Only Be Way Stations*, NAT'L L.J., Aug. 18, 1997 at A19 (noting that co-educational classes that employ teaching strategies commonly used in all-female environments have been as successful as all-females have been in improving girls' performance in math and science).

²⁵ *Morning Edition* (National Public Radio Aug. 21, 1996) (discussing single-sex education opponents' claim that the School violates Title IX of the Federal Amendments of 1972, perpetuates "benevolent" sexism and accepts abusive behavior of boys as biologically inevitable and unchangeable).

²⁶ Steven Lee Myers, *Pentagon Is Urged to Separate Sexes*, N. Y. TIMES, Dec. 16, 1997, at A1. Unpunished harassment of females by males doubtless surface for discussion in the near future since the Pentagon has been urged to roll back the integration of the sexes in military training units. An investigatory panel, appointed by Defense Secretary William S. Cohen, made this recommendation in response to a series of publicly embarrassing sex scandals. Cohen's panel did not recommend complete separation of women and men during training, but it did recommend they be kept apart at the level of core units. Also, the panel added that the armed services must do more to protect women from harassment. Someday, we may see a panel recommending investigation of sexual harassment in the schools.

II. ARGUMENTS AGAINST AND FOR SINGLE-SEX EDUCATION

Opponents of YWLS argue single-sex education is a bad move legally. Yet the central theme of the legal argument stems from a policy perspective. The legal arguments, cited elsewhere in this presentation and symposium issue evolve principally from policy concerns rather than attention to abstract legal principles. There are three principal arguments.

A. *Single-sex Schools Might be the First Step on a Slippery Slope of Racial Deintegration*

The first concern is expressed in “slippery slope” terms: if society accedes to any reintegrating arrangement, widespread racial segregation is likely to follow.²⁷ Spokesmen, for this point of view, claim that racial integration may be harmed by the existence of a single-sex school although there is no empirical evidence for this argument. In fact, ethnic integration is just as likely to improve, (as it has in single-sex Catholic schools), as it is to disappear. But the specter of aiding resegregation creates apprehension and prospective shame.

Prospective shame, in this case, leads to inaction or worse. Analogizing lifelong racial segregation and inferior schools for black children with boys and girls separation during for few hours of the five day per week academic instruction is unconvincing. Such comparisons are apparently facilitated by referring to the Supreme Court’s Title IX remedies used in gender-integration cases, prominently *VMI*²⁸ and *The*

²⁷ Liz Trotta, *School-Choice Ideas Gaining Ground In New York City*, WASH. TIMES, Sept. 15, 1996, at A1. (Normal Siegel, the executive director of the New York Civil Liberties Union, stated that “we have a society that has rejected segregation, whether it’s in a restaurant, on a bus or even in a classroom”).

²⁸ U.S. v. Virginia, 116 S.Ct. 2264 (1996). As a remedy to the equal protection violations, the Commonwealth of Virginia decided to maintain its exclusionary practices at VMI and proposed the VWIL (Virginia Women’s Institute for Leadership), a separate program for women. After review, the Supreme Court held the proposed VWIL was “distinctly inferior to

Citadel.²⁹ But the comparisons are upside down. By excluding women, publicly supported military institutes foreclosed women's participation in unique opportunities for profession training and upward mobility.³⁰ But these situations differ from situations in which *boys do not choose to apply to YWLS* because of its "sissy" connotations. As Professor Derrick Bell argued in a *New York Times* editorial, YWLS students seek what VMI student sought -- an education which provides access to upward mobility, and such education is not provided by the coeducational schools they attend.³¹ Returning YWLS students to the schools they feel discriminate against them would rectify a policy of neglect.

B. *Single-sex Education Might Provide Inferior Preparation for Life in a Coed World*

A second argument used against YWLS is that girls have to prepare for life in a coeducational world.³² True. But since the schooling which is required of all children until age sixteen is formative and legally mandated, the state is obligated to produce a system which

the existing men's institution and will continue to be for the foreseeable future." *Id.* at 2291. Thus, VMI was required to admit women to the school. *Id.*

²⁹ *Faulkner v. Jones*, 51 F.3d 440, 440 (4th Cir. 1995) (*Citadel* was given two remedial possibilities to remedy the equal protection violations. The first was to create a similar school for girls. The second was to admit women to the *Citadel*).

³⁰ Title IX prohibits any person from being "denied the benefits of . . . any educational program or activity."; 20 U.S.C. §1681 (A)(1990). Federal agencies are expressly authorized to enforce Title IX. 20 U.S.C. §1682 (1990).

³¹ Derrick Bell, *Et Tu, A.C.L.U.?*, N. Y. TIMES, Jul. 18, 1996, at A23.

³² See Kristin Caplice, 18 HARV. J.L. PUB. POL'Y 227, 227 (Indeed, to the extent that co-education perpetuates the subordination of women, the correct analogy would be between the racially segregated institutions decried (by the NYCLU and NYCRC) and gender-integrated schools) ("Working back through Equal Protection analysis, states have legitimate and important interests in the cultivation of a well-educated citizenry, the development of confident leaders, and the maintenance of system-wide educational diversity") *Id.*

is equally beneficial to every child.³³ The argument that a disabling coeducation might be the best preparation for female students' lives in a coeducational world has yet to be made. Research has demonstrated that single-sex education often does a better job of producing successful results.³⁴

Considering Marie Curie's education provides us with an opportunity to consider the strengths and weaknesses of single-sex education for females.³⁵ Curie studied at an all-women's university preparing for admission to the Sorbonne.³⁶ Her single-sex education neither prevented her from working collaboratively with male scientists or from competing with them successfully. Graduating at the top of her class, Curie won two Nobel prizes and balanced her

³³ See, e.g., Kalman R. Hettelman, *Private Funds, Public Schools: Government Must Prevent Divide Along Economic Class Lines*, BALT. SUN, Oct., 12, 1997, at 1K (citing New York City schools Chancellor Rudy Crew's refusal of a \$46,000 donation from a parents' group to pay the salary of a school teacher whose salary had been cut off from their local public school's budget because of fears that "large-scale private fund raising [would] create[] unacceptable inequities among public schools in the same district.").

³⁴ Elizabeth Tidball, *The Baccalaureate Origins of Recent Natural Science Doctorates*, JOURNAL OF HIGHER EDUCATION (Nov.-Dec. 1986) In 1970, Tidball, a psychology professor with strong statistical skills discovered that graduates of women's colleges were more than twice as likely as other women to be honored for their accomplishments. Research by Tidball and other researchers associated with the Women's College Coalition found that graduates of single-sex colleges are six times more likely to sit on boards of Fortune 500 companies than their counterparts from similarly situated co-educational schools. These figures are stunning in light of the fact that only 2% to 3% of women graduate from exclusively female schools. Correlation, of course, is not causality, yet Tidball's results confound the argument that single-sex education fails to prepare young women for "real life." In 1986, Tidball revised the question of single-sex graduates' achievements. She found that women's colleges graduated five times the national average of women who continued their education to earn doctorates in the natural sciences. Further, she found, previously all-male institutions that had integrated were among the poorest contributors of women to natural science doctorates. *Id.*

³⁵ Zbigniew Zwolinski, *Marie Skłodowska Curie (1867-1934)* (visited Nov. 15, 1997) <<http://www.thomson.com/gale/curiem.html> (stating Marie Curie attended and taught at a clandestine "flying" university that tutored Polish women workers, and was run by male and female patriots, Polish professors in defiance of Russian rulers).

³⁶ *Id.* (stating Marie Curie graduated first in her class and later, in 1906, became the first woman lecturer and professor at the Sorbonne).

work life with a full domestic life.³⁷ She was not warped professionally or personally. Curie was an imaginative housekeeper,³⁸ and an attentive mother of two girls³⁹ who would grow up to lead productive and satisfying lives.⁴⁰ (One daughter, Irene, received the Nobel prize in Chemistry. The other, Eve, was a concert pianist and writer.)⁴¹

In Curies case, single-sex education did a superb job of preparing her for coeducational life. On the other hand, it is important to note that single-sex schooling has often been “dumbed-down.” At the time Curie attended the Sorbonne, few French women were admitted to elite universities. The contemporary French education, exclusively single-sex, de-emphasized math and science for females. Thus, young women were rarely able to pass the entrance examination. “Feminized” education, whatever that means in a given culture, is a possibility in association of single-sex schools for young women and must be considered a possible pitfall. The National Organization for Women (New York Chapter) believes that the mere existence of YWLS constituted as it is based on will perpetuate “stereotyped views of the personality of girls and stereotyped views of the personality and behavior of boys.” In other words, females’ education is so vulnerable

³⁷ *Id* (recounting Marie Curie’s collaboration with her husband, Pierre, and French scientist Henri Becquerel, as well as her later work with Dr. Claudius Regaud).

³⁸ *Id* (stating “Marie Curie: [a woman] who cooked, cleaned, discovered radium, and raised a Nobel Prize-winning daughter, but who never forgot how to make a good pirogi,” or keep household accounts).

³⁹ *Id* (recounting how Marie Curie’s oldest daughter Irene became a scientist and her younger daughter Eve became an author and musician).

⁴⁰ Zbiniew Zwolinski, *Marie Skłodowska Curie (1867-1934)* (visited Nov. 15, 1997) <<http://www.thomson.com/gale/curiem.html> (stating Irene Joliot-Curtis won the 1935 Nobel Prize for chemistry for her discovery of artificial radiation).

⁴¹ Anna Maria Gillis, *Meet Marie Curie: She Won Two Nobels and Mothered the Winner of a Third*, THE WASH. POST, Jul. 9, 1997, at H1 (noting that in 1935, Curie’s daughter Irene was awarded the Nobel prize for producing a “radioactive version of phosphorus that does not occur naturally”).

to the charge of being second-rate, that it is impossible to guarantee an education misogynists will not disdain. Misogynists, however, should not dictate public education. Fear that young women educated apart from mates will inevitably be trapped by dangerous stereotypes dismisses what women actually accomplish. Empirical research is useful in the weakness of this paternalist argument.

C. *Second Best Solution*

A third objection to single-sex education views it as a second best solution. By setting up one excellent single-sex school, the argument goes, school systems will neglect their overall obligation to work for gender equality. The neglect may take ideological forms. Or neglect occurs in diverting scarce resources to the excellent single-sex school. This is plausible, but hardly inevitable.⁴²

In order to regroup, to reconsider the argument for YWLS, we should refocus on what's missing in co-education, namely equity. Inarguably, girls face challenges for which co-education fails to prepare them. By permitting systematic under-education of young women over time, schools abet the creation of an economic underclass. But, if we allow young women to choose an alternative to

⁴² Albert O. Hirshman, *Exit, Voice and Loyalty: Responses to Decline in Firms, Organizations, and States* (Cambridge: Harvard University Press, 1970) (Hirshman's classic book arguing that policy makers and economists err when they neglect the beneficial effects of what he calls "voice," in essence, consumer complaints about the quality of services and products); See also Edwards Pauly, *The Classroom Crucible: What Really Works, What Doesn't and Why* pp. 42-43 (New York: Basic Books, 1991) (commenting moreover that voice can be combined with exit, "... once voice is recognized as a mechanism with considerable usefulness for maintaining performance, institutions can be designed in such a way that the cost of individual and collective action would be decreased . . . [by raising] the general readiness of a population to complain and [creating] such institutions and mechanisms as can communicate complaints cheaply and effectively"); "When parents request a particular classroom assignment for their child, they are combining voice (the request, and their stated reasons for it) with the possibility of exit . . . Increased parent involvement in classroom assignment decisions would cheaply and effectively add to the use of a voice in public school systems." *Id.* at 226.

routine inequity, we almost certainly allow for the fuller development of girls' potential.

Admittedly, choice is a hotly debated concept. In education, (although not in reproductive rights arguments), the word has often been ceded to conservative groups, and many educators and civil libertarians feel edgy about appearing to ally with conservatives. Ideology aside, however, New York City's District 4 (East Harlem) has a long tradition of "choice" beginning in 1973, that has resulted in the development of more than thirty small "Alternative Concept" schools, including the justly celebrated Central Part East Schools.⁴³ Overall, these schools are credited with improving academic achievement, retention and mobility for children of one of the poorest and most culturally deprived neighborhoods in New York. If a subgroup of the District's population of young women choose the newest small school, the YWLS, they are acting within a District 4 tradition.

By permitting YWLS students to choose an alternative school, we can turn our focus to where it belongs, to improving the life chances school children. Ideological sophistication as seductive as it may appear, is too roundabout a response to the request for equity raised by YWLS's students. When advocates of closing YWLS can respond to girls' justifiable request for equitable education by providing successful coeducation, YWLS may be unnecessary.

IV. CONCLUSION

Arguments against the YWLS fail to take into account the needs of female students attending New York City junior and senior high schools. Rather, policy arguments pertaining to major social concerns have swamped consideration of students' daily experiences.

⁴³ SEYMOUR FLIEGEL & JAMES MCGUIRE, *MIRACLE IN EAST HARLEM: THE FIGHT FOR CHOICE IN PUBLIC EDUCATION*, (Times Books 1993).

There are no data to support a causal effect between the establishment of single-sex education for disadvantaged girls and the re-establishment of racial segregation. Students, generally, are schooled by teaching that favors males. Students, generally, witness males' public harassment of females. Young women, particularly, are schooled in self-subordination and curtailed aspirations. Discriminatory pedagogy and insulting social conditions have predictable effects. Over the course of their schooling, girls lose their academic ambitions and self-esteem, they internalize sex-role stereotypes, they relinquish the qualities which promote reaching for the rewards boys feel are their due. Co-education appears to abet these trends. When co-education fails at fairness, the YWLS offers young women a better chance.

Since one of the designated functions of schooling in the United States is the promise of equal opportunity for all, the compensatory function served by the Young Women's Leadership School must be recognized. Summarizing the reasons suggested above, legally, *VMI* suggests that a compensatory function, even in absence of a parallel schooling for the opposite sex, may allow a single-sex school to pass equal protection scrutiny. From a policy perspective, the Young Women's Leadership School provides an opportunity that should not be wasted. From an educational perspective, young women may derive substantial compensatory benefits from their years at YWLS. These benefits will likely accrue over a lifetime for the student, her family, and her professional community. Finally, from a system-wide perspective, the New York City school system will also benefit. YWLS aids schools, generally, by offering an efficient, productive response to students' justified dissatisfaction with co-educational programs. To the extent students cease burdening the system with their individual dissatisfactions, schools can focus on other pressing problems.

The Young Women's Leadership School should be permitted to continue in its present form. Lacking any evidence to the contrary,

we must assume that young women in New York City schools will face the same obstacles to attainment of equitable professional and civic positions that women face nationwide. The benefits YWLS currently provide for young women outweighs any arguable short-terms costs in terms of constitutional purity or education. The New York City school system may be counted as a beneficiary of YWLS. The School benefits New York by offering an efficient and productive response to students who were previously at academic risk. When students transferring to YWLS prosper, they cease to express resistance, and/or dissatisfaction with, their education. Other schools lose unhappy students who have been working below potential. What's wrong with that?

Policy makers are rightly concerned about long-term effects beyond the level of the individual when students exit one school and select a single-sex alternative. Co-education itself is called into question. Following justly celebrated victories *for* co-education, *VMI* and *The Citadel*, this is sobering. Moreover, there is a persistent, if unsubstantiated, fear that *any* form of de-integration leads inevitably to the racial segregation following *Brown*. How can we gain perspective on this fear? A desire for social progress requires open-minded inquiry. Empirical data are essential to determine the extent, direction and reason coeducational schools might (or might not) change following the exit of some female students.

If YWLS is perceived as desirable, many young women may want similar programs. This can be counted a benefit, or a cost, depending on how the Board of Education reacts to embracing the School and its challenges to the status quo. First, the Board may confront demands for "equally valuable" education for boys as well as girls. Second, parents of students in co-ed schools could demand gains in test scores, educational aspirations or other results from which the YWLS offers. Third, advocates of single-ethnicity schools might demand ethnically-separate institutions. Finally, public resentment of resource-rich schools (e.g., Hunter, Stuyvesant and Bronx High

School of Science) could promote re-examination of New York's school finance practices.

While any of these challenges provides a logical opening for dialogue and productive evolution. Avoidance of senseless acrimony depends on the city's responsiveness. Education could be improved overall just because YWLS exists. Of course, the stakes will rise as YWLS begins to deliver on its promises. To the extent that single-sex schools bring girls and boys equal opportunities, educators may have to exercise special diligence in advancing the promise of our post-*Brown* era. This alone would be a major benefit to the City and the young men and women it educates. Civil Libertarians and educators concerned about effective schooling should be working together, not against each other. Whatever is decided, students experiences in school should be given serious consideration. We have yet to see signs that such consideration has been given by those who oppose the YWLS.

