

STRICT SCRUTINY, VMI, AND WOMEN'S LIVES

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The end of single-gender education would drastically diminish the opportunities of young American women and men at precisely the moment at which all of us are acknowledging the extreme importance of education and the problems with our prevailing educational practice. In fulfilling one woman's choice to attend an all-male college, we will deny all women and men the choice of ever again attending a single-gender college. (And, even if that one woman were a dozen or a hundred, the price would remain prohibitively high). No, single-gender education is not for everyone, nor even for the majority. Yet, for those for whom single-gender education works, it works supremely well, primarily by separating the tough work of education from the mating-dating preoccupations that notoriously distract adolescents. The most impressive evidence chronicles the disproportionately high proportion of women who have attended women's colleges among political and business leaders and throughout the professions. In the bad old days before the women's movement and the opening of such male strongholds as Harvard, Princeton, and Yale to women, the women so advantaged came mainly from the elite and had attended private women's colleges.

Today, most women may no longer need women's colleges to launch successful careers, but some, especially the daughters of less affluent families, do and so may their brothers. Private colleges are almost never an option for young people from families in which one or both parents never finished college and in which the family income does not exceed \$60,000. Young people from such backgrounds may have only the vaguest idea of what professional success requires or might mean. A single-gender education encourages them to take themselves and, especially, their minds seriously and

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to imagine ambition. It offers new dreams and ways in which to realize them.

If government prevails, those opportunities will disappear forever. But then, the disappearance will not so much cost elite women as it will cost the children of modest, working Americans, who have practically lost hope that the next generation might know more success than its parents. Thus, it is eminently appropriate that the battle to defend single-sex education is being fought out in the public sphere.

It is somehow fitting that a year racked by debates over affirmative action and welfare concludes with the announcement that the Supreme Court has taken up *United States v. Commonwealth of Virginia*.¹ The government seeks to force a small, all-male college, the Virginia Military Institute, to admit women on the grounds that their exclusion violates the Equal Protection Clause of the Fourteenth Amendment; and it further contends that the equal protection of gender must henceforth be treated with the same "strict scrutiny" heretofore reserved for race.

The point of contention concerns the legality of tax-supported, single-sex education. To provide equal opportunity for women denied admission to VMI, the Commonwealth is supporting the Virginia Women's Institute for Leadership, located at Mary Baldwin College. The first VWIL class has now completed its first semester and is proving the Institute more successful than even its staunchest supporters dared to hope. The obvious response should be three resounding cheers: VWIL is providing splendid training and welcome new opportunities to a talented and energetic group of women who claim to be receiving precisely what they want; the Commonwealth has met its responsibilities to women; and VMI is continuing to do what it has done so well these last one-hundred and fifty years. This record of success does not, however, satisfy the federal government, which charges that these two tax-supported, single-sex programs rest upon harmful and unacceptable stereotypes.

Stereotypes lie at the heart of the matter, for the law does not accept them as an adequate basis for classifications by sex. Stereotypes about girls and boys gave us domestic science for girls and shop for boys, dancing for girls and baseball for boys, English for girls and math and science for boys. You get the picture. Stereotypes have imprisoned women in roles that no self-respecting independent adult could take pride in, and stereotypes have denied women challenging opportunities in many fields. Indeed, not very long ago, women were excluded even from professions such as the practice of law, because they were naturally "too delicate" to engage in the rough-and-tumble of a man's world. As a result, women typically earned much

¹United States v. Commonwealth of Virginia, 116 S. Ct. 281 (1995).

less than men, even when they performed the same work. The last thirty years have radically transformed those patterns. Nationally, women outnumber men in colleges and are close to matching them in graduate and professional schools. Thirty years ago, women did earn fifty-nine cents on the male dollar; today, women who do the same work as men start out earning the same pay. And if, over time, some women earn less than men for the same work, it is overwhelmingly because they have chosen to take time out along the way for a family.

Yes, women do tend to give more time to family, especially to children, than men. And, as one feminist report after another angrily points out, girls are less likely than boys to pursue careers in math and science. We do not fully understand the reasons for the differences between women and men, even when experience and common sense tell us that there are some. During the past three decades, we have watched differences that previous generations believed immutable melt away. Apparently, the government and its allies believe that all of the differences between women and men will and should similarly melt away because they are attributable to the harmful effect of stereotypes, and they have eagerly mustered evidence that one woman may differ more from another woman than women as a group differ from men as a group. The point of this reasoning is to destroy sex — or “gender” — as a respectable category: there are no natural differences between women and men that justify different treatment for them.

The reasoning rests on the assumption that women’s most important interests as women lie in the areas in which they are very similar to men: in admission to law school, in election to political office, in corporate promotions. Ironically, these are precisely the areas in which affirmative action has decisively benefitted women. Yet, women’s dramatic progress in the areas in which they most resemble men has done little to diminish their vulnerability in the areas in which they most differ from men: vulnerability to rape, ability to bear children, disproportionate dependence upon welfare. These are the areas in which affirmative action can do little to benefit women since their playing field is never level. And, because affirmative action can do so little to equalize the ways in which women and men differ, it seems logical that women’s most important interests lie precisely in the areas in which they differ most from men.

The application of strict scrutiny to gender will only exacerbate the consequences of these differences. For, if women are to be treated identically to men, they must be assumed to rely only upon their ability to compete equally with men. What, under these conditions, will become of battered women’s shelters, rape crisis centers, and even welfare. Presumably, one could solve the welfare problem by assuming that women have an equal right with men to abandon the children they bring into the world. But battered women’s shelters will not even give out their address for

fear that the appearance of one abusive husband would jeopardize their work. Would we really benefit women by subsuming all differences between women and men under the label of stereotypes? Somehow I doubt it. Like others, I delight in a world in which women may fly to the moon, sit on the Supreme Court, or aspire to the presidency. Like others, I also know that some differences between women and men persist, however difficult they may be to define. But then, they are not differences that can easily be captured by abstract, ideological models of equality. They are differences that emerge from women's — and men's — everyday lives.

Single-sex education does not imprison women in stereotypes. It offers them a choice in how to become the strongest and most effective women they can. Or so the young women at VWIL are trying to tell us. We would do well to listen to them.