

INTEGRATING GENDER INTO LEGAL EDUCATION: THE OBSTACLES, CHALLENGES, AND POSSIBILITIES

MARCELA HUAITA ALEGRE

I. GENDER AND TEACHING LAW	279
II. CURRICULA AND SYLLABI.....	280
III. SPECIALIZED COURSES	280
A. <i>Offering the Course for Students Just Beginning or for Students Concluding Their Studies</i>	280
1. <i>Offering the Course in the First Years</i>	280
2. <i>Offering the Course Towards the End of Law School</i>	281
B. <i>Should the Course be Compulsory or Elective?</i>	282
1. <i>Compulsory Course</i>	283
2. <i>Elective Course</i>	283
IV. NEW CONTENT FOR COURSES IN THE REGULAR PROGRAM.....	284
A. <i>Interested Professors</i>	284
B. <i>Alternative Syllabi</i>	286
C. <i>Appropriate Material for the Classes</i>	287
V. DEVELOPING THEORY.....	287
VI. TEACHING MATERIALS.....	288
VII. CONCLUSION	289

I. GENDER AND TEACHING LAW

There are many ways to introduce the gender perspective into the teaching of law, such as offering specialized courses, including new contents in basic courses, developing legal theory, developing legislative proposals, and systematizing the case law.

Each of these methods presents challenges and possibilities. The following is an effort to outline those challenges and possibilities.

II. CURRICULA AND SYLLABI

As we all know, when we speak of the gender perspective, we do not refer to an area of specialized knowledge different from other areas, but rather to a different reading of the various disciplines we study. As Alda would say, speaking of a gender perspective is somewhat like putting on eyeglasses with a different lens to review texts that have already been read and to approach disciplines already studied, trying to find in them the inequalities underlying the female-male relationship. The introduction of the gender perspective into the law follows these same premises. The goal is to clarify the position of women and men in the law, which is often not made explicit in doctrine, legislation, or case law.

An initial difficulty that arises is the question of how best to introduce the gender perspective in a law school setting. There are at least two alternatives: creating a specialized course; or integrating this perspective into the general courses. The choice between these alternatives will depend on the human resources at hand, as well as the circumstances of each law school, and the professional mission of the university.

III. SPECIALIZED COURSES

Creating a specialized course may be advisable when only a small group of people is committed to work on the gender perspective. In this way, the effort will be targeted towards preparing a single course, thereby optimizing the resources available. An initial problem we must face is where this course should be situated within the overall curriculum.

A. Offering the Course for Students Just Beginning or for Students Concluding Their Studies

Here we face the following dilemma: should the course be directed to students in their first years, or instead to students who are concluding their studies? The decision must also be made as to whether the course should be compulsory or elective. Each of these alternatives will have favorable and unfavorable aspects.

1. Offering the Course in the First Years

The possibility of incorporating a course that introduces the gender perspective in the first years of the program of study makes it possible to work with students who have not yet grasped the legal system and its paradigms. As they learn about legal systems for the first time, students will examine, from the beginning, the gender

assumptions hidden in the law.

In my view, a course of this type should aim to demystify the law for the student, contextualizing the basic legal paradigms in a historical perspective, so that the student can identify the law as a product of society, and therefore as subject to change. The goal should be to train the student in a methodology that will allow a more inclusive perspective, including the perspective of women's interests. This methodology will provide the student with tools for raising questions in the various areas of the law to be studied later, about the intended subjects of legal norms, and about whether the legal formulas proposed contemplate the interests of both males and females.

To cultivate a critical spirit attuned to the gender inequalities that lurk behind the objectivity of the law, i.e., to give law students a gender lens, will be the goal of offering a course to students in the first years of law school. A course of this type will not allow the students to criticize specific legal institutions, legal formulas, or case law. The students' limited understanding about the institutions and principles related to each of the various branches of the law will limit, however, what can be attained in such a course.

Furthermore, the failure of professors in other areas of the law to reinforce the learning from the introductory course, may lead to a situation in which the student increasingly loses the gender perspective and in which the critical spirit gives way to traditional learning. To prevent this, ongoing extracurricular activities are required. Seminars, fora, discussion groups, colloquia, and workshops should be organized to strengthen the gender perspective for students in each of area of the law.

2. Offering the Course Towards the End of Law School

The inclusion of a specialized course towards the end of law school has the advantage that the participating students will have knowledge of legal institutions, permitting the course to develop an eminently critical spirit.

After introducing the students to the gender perspective and teaching them a methodology that will enable them to more easily discover the gender differences that exist in legal institutions, the professor should then confront students directly with what they have learned. The professor should seek to bring to light the manner in which the alleged objectivity of the law, left unquestioned in most courses, hides an androcentric perspective of the world that makes women invisible and fails to recognize their rights.

The challenge for the professor of such a course will be to achieve

the active participation of the students and to motivate them to display an openness to critical theories about the law. If this goal is attained, the contribution and exchange of ideas between professors and students will flow richly. This dialogue will make it possible to debate issues of interest to the group of students, as they are the ones who will set the tone for the course.

To meet this challenge, it is advisable to encourage participation by presenting readings that motivate thought, to be expounded upon in class by the students. The professor should assist the students with small research projects addressing issues proposed by the students themselves, as these are students who are already defining their professional ambitions. The class can be used to discuss situations the students have experienced, as well as current legal issues. An interactive methodology will be the most productive. In addition, an open attitude on the part of the professor will be essential to move the class in the direction of the students' key areas of interest.

As is obvious, a course that introduces the gender perspective at the end of law school presents the disadvantage that students enter the course with a very solid foundation in the traditional androcentric perspective, which must be addressed and criticized. The depth of the discussion will depend largely on the interest and knowledge of those involved, as the class will develop based on the openness and capacity of its members.

Nonetheless, the advantage of the course is that most of the students will have begun to arrive at the stage of actual legal practice. These students may be encountering the difficulties faced when seeking legal solutions to real-life situations, rather than to hypothetical cases prepared by the professor.

Another issue should be highlighted in relation to this type of class. The professor will face an additional difficulty: he or she must keep current in almost all areas of the law, for the students will determine what issues are to be discussed and researched through their own independent projects and presentations. The professor should be able to assist the students, for example, with an appropriate recommended bibliography. Although the professor clearly need not be an expert in all areas of the law, he/she should be able to analyze any of them from a gender perspective. This will require that the professor keep up-to-date with respect to new cases, legislative trends, and the most important changes in the main areas of the law.

B. Should the Course be Compulsory or Elective?

In general, the courses offered by law schools to students include

compulsory courses for the first years—including introductory courses and courses that teach the main areas of the law which all attorneys must understand—and elective courses during the later years. Elective courses allow the students to choose courses in areas already studied or in newly developing areas of the law. Indeed, the offering of elective courses in each law school will be determined, as noted above, by the university's mission in relation to the professional areas in which it seeks to place its students in the labor market.

Therefore, a second consideration to evaluate when seeking to introduce a gender perspective into the study of law is whether the course should be taken by all students, irrespective of their interest, or whether it should be optional, taken only by those students who select the course.

1. Compulsory Course

If it has been decided that the course will be offered in the first years, as discussed above, it should probably be offered as a compulsory course. Since the course will seek to give the students a "gender lens" to use in their future learning, all students should probably receive this training, for as noted above, students at the beginning of their studies are not yet in a position to choose areas of interest.

A compulsory course makes it possible for the gender perspective to be widely disseminated to all the students in the school. As a result, after only a few graduating classes, this perspective will begin to permeate the entire law school. This strategy may also lead the professors of other courses to take an interest in or reflect on this critical posture, in response to questions and comments from their own students. On the other hand, making the course compulsory means that individuals who may not be interested in the subject, or even some who are opposed or overly critical of it, will participate in the course.

2. Elective Course

An elective course would be more appropriate if offered late in law school. The students who enroll will likely be disposed to develop a more critical perspective on the law.

Insofar as it is a course of their choosing, one can assume that those who enroll have an expectation regarding what they hope to obtain from the course and are willing to work along those lines. As a result, there is a greater opportunity to explore some areas in greater depth.

This option presents the drawback that there may be a tendency for more women than men to enroll. Also, the number of persons who enroll in the course may be limited, leading to a situation in which the gender perspective does not reach a large number of students.

This elective course might also be included among the summer courses some universities offer for those students who wish to accumulate credits during their vacations.

IV. NEW CONTENT FOR COURSES IN THE REGULAR PROGRAM

We have already discussed some arguments in favor of and against the creation of a specialized course on gender and the law. We now turn to the possibility of introducing the gender perspective into each and every area of the law, including, among others, contracts, criminal law, labor law, constitutional law, and international law. The success of such a strategy will depend on a series of factors, including the following:

- interested professors
- alternative syllabi
- appropriate materials

To better develop these ideas, this Article will treat each of these points separately, although in actuality these various efforts will meet with success only if they are coordinated.

A. Interested Professors

As noted at the outset, the choice between approaching the gender perspective through a single course or through various courses will depend mainly on the circumstances of each law school and on those engaged in making this decision. For this reason, high priority should be assigned to devising a strategy for establishing alliances with fellow law faculty.

Each and every branch of the law merits analysis from the gender perspective to make explicit the various roles that correspond to women and men, as well as their rights and obligations in this new context. However, achieving this goal will depend on sensitizing colleagues who express interest in analyzing these issues. Therefore, we should pose ourselves the challenge of involving those who display a certain openness to this issue in their own areas of work and thought.

Some areas of law will probably be more susceptible to the incorporation of the gender perspective than others, depending on the tradition of each country and each university. In some cases, the

professors of constitutional law will be most willing to work with this perspective; in others, the inclusion of this perspective may be easiest in the fields of international law, family law, or criminal law.

The international course entitled "Women and Human Rights," organized by UNIFEM and the Movimiento Manuela Ramos of Peru for the last three years, has provided a useful experience in this regard. This course, while not given as part of the university program strictly speaking, seeks to incorporate the gender perspective into the academic discussion regarding human rights. To this end, from its beginning, the course has focused on bringing together outstanding legal professionals from the region who, in their day-to-day experience, engage in activities related to the protection and defense of human rights. These professionals have displayed an openness toward including key women's human rights issues in their discourse, such as: abortion, equality, non-discrimination, constitutional rights of women, and constitutional guarantees for the protection of women's human rights.

It is important to highlight this experience, as I believe that it would be possible to identify in each law school, an area in which a certain openness to a discussion from a gender perspective has been seen. For example, professors of constitutional law, especially those who have specialized in human rights, will likely be more open to an invitation to debate classic human rights issues from another perspective. At the same time, they may be open to discussion regarding new issues, such as those relating to women's human rights, which have received extensive attention at the United Nations as a result of the Vienna Conference and other important events.

Other strategies for garnering allies include convoking young professors, or open-minded professors who are not so young, to discussion groups. These professors will generally be more willing to listen and debate, and to make contributions from their areas of specialization. Professors of general legal theory, who work in areas such as legal sociology, legal anthropology, legal pluralism, philosophy of law, and law and development, among others, might also be called upon.

Raising the awareness of professors is important because it allows them to review the contents of their syllabi and the readings they recommend to their students. Special workshops, seminars, or discussion groups might be organized for this purpose. Some type of incentive might be offered for participation, such as publishing papers or organizing practical training sessions at universities abroad.

The preparation and education of persons who are in a position to

work in the academic environment should not be neglected when analyzing the need to reproduce knowledge in the legal arena. Consequently, it is fundamental that people who have shown an interest in this area be adequately trained. American University's initiative in sponsoring the participation of researchers and women's rights activists in its specialized gender and law program is particularly appropriate.

B. Alternative Syllabi

Let us assume that we have succeeded in interesting some fellow professors who would be willing to incorporate into their courses some subjects or issues that call attention to the gender bias upon which our law is constructed.

We should bear in mind that incorporating these points is not always easy, especially for professors who have prepared syllabi that they use on a regular basis year after year, possibly even in courses at different universities. We should not expect them to make such an effort alone. We might instead review their syllabi and make suggestions, including recommending reading lists to facilitate the work. This additional task is well worth the effort.

At this point, it is also necessary to obtain commitments from law schools to review their programs of study and update the courses that are offered. Offering alternative syllabi is important, but will only have an impact if work is done at the first level, i.e., sensitizing the professors, so that they may receive the proposal favorably, and not with pre-formed negative opinions.

Along these lines, ILANUD, the United Nations Latin American Institute for Crime Prevention and Treatment of Offenders, has seen the importance of preparing alternative syllabi for teaching basic courses in law schools. In the first stage of this project, the Institute developed course syllabi in family law, criminal law, and criminal procedure; and in the second stage, in constitutional law, international law, and general legal theory.

I believe that this work by ILANUD constitutes a very important contribution to law schools in Latin America. Research conducted in countries of the region such as Colombia, Costa Rica, Cuba, El Salvador, Honduras, and Peru, among others, has led to the conclusion that many syllabi do not fully detail the objectives of the course, the issues to be developed, and particularly the recommended reading materials, which would allow students to supplement the discussion brought out in class.

Some syllabi do not include a statement of objectives, while in

others the issues to be addressed are stated in very general terms. Finally, in most cases the recommended reading is not categorized by subject matter, and the publications cited are not current (most of the material is 20 or more years old). Even worse, the cites for the reading material are incomplete: the year and place of publication, issue number, page numbers, etc., are all missing, despite the fact that from the first year forward, all university students are required to set forth complete citations including all of this information. For these reasons, providing alternative syllabi for basic law school courses will provide an opportunity for professors in different areas to incorporate some, if not all, suggested topics which might be particularly important or provocative.

C. Appropriate Material for the Classes

Continuing our line of argument, we may have succeeded in interesting the professors, and in getting them to introduce some issues of special interest to the debate in their respective courses. As a result, we should ensure that both professors and students have sufficient theoretical material available to them to develop the course.

V. DEVELOPING THEORY

This is one of the points, which, in my view, poses the greatest difficulty when seeking to introduce the gender perspective in law schools.

Research is increasingly being conducted to further the analysis of women's rights. However, theoretical work in the strictly legal realm in Latin America is still very incipient and difficult to access from outside sources.

The development of a comprehensive legal theory of women's interests is just now getting under way in academic circles. To date, the NGOs that work on women's issues have been the institutions most versed in this legal perspective. Since those institutions work on problems faced by women, they are the ones to reflect on the limitations presented by the law and to make innovative proposals. We consider it necessary for these efforts to be known and taken note of in academia, rather than remaining exclusively within the confines of feminist institutions.

Possibilities for exchange with our colleagues in the United States are of special importance. It is therefore crucial to encourage the translation of publications on women and the law in order to broaden access, from Latin America, to important debates taking

place elsewhere.

The Inter-American Institute of Human Rights (IIHR) and Profamilia, as well as a few others, have made some efforts in this direction, especially in the area of human rights. Nonetheless, I believe that this effort should be encouraged in other areas of legal work. While we do not all share the same legal tradition, we do face the same problems inherent in modern life, in an increasingly homogenized world, resulting from the globalization process.

In addition, it is important to encourage the development of unique Latin American legal doctrine. ILANUD has encouraged critical writing on the different areas of the law with the goal of introducing the gender perspective through the Olympia de Gouges competition. The objective has been to create and develop legal doctrine with a gender perspective in criminal law, criminal procedure, and family law, with a view to producing a publication to be used in Latin American law schools.

UNIFEM has worked along these same lines, sponsoring the First Latin American and Caribbean Writing Competition on Women's Human Rights, organized in Peru by the Movimiento Manuela Ramos and the Office of the Human Rights Ombudsman. The competition sought to encourage analysis on the conception, reach, and/or status of human rights from a gender perspective.

The production of legal doctrinal writing from this perspective should expand to the specialized law journals. In other words, feminist writing needs to move out of the realm of the social sciences, so as to win greater recognition in legal academia.

The compilation of indices listing what has been produced thus far, and where it can be obtained, would constitute a useful contribution to our academic pursuits. Such a process of cataloguing would expand the possibilities for the production of legal theory that is developing in our countries. In addition, an urgent task is the preparation of teaching materials that compile material suitable for teaching classes.

VI. TEACHING MATERIALS

The law is a traditional discipline that needs to be reformulated in order to incorporate the gender perspective. To this end, teaching materials must be produced which will enable students to adopt a critical perspective vis-à-vis the traditional content of the law.

These materials should include:

- doctrinal texts;
- case law; and

- legislation.

The materials should present a complete range of what is being produced from a gender perspective, as well as what is being developed within other institutions that are more traditional but that also make major contributions. In this way, the student will be able to compare and contrast positions and participate in discussions that cast light on the proposals being made on both sides. The idea is to incorporate this material into legal academia, bringing a gender perspective to the various branches of the law.

These materials can be used to raise the awareness of law professors as well as for in-class work with students. Including traditional readings along with readings containing new ideas will encourage polemic discussions on certain points. Professors might be asked to write on those points, discussing and analyzing the contents of the materials, either to take issue with or to support one or another position. Discussion groups might also be organized to debate the issue.

In addition, these materials should include analyses of the diversity of legal institutions, rather than being limited to the study of the jurisprudence or statutory law of a single country. This method will facilitate study and research and make the examples universal.

In conclusion, these teaching materials should bring together materials reflecting the development of legal theory from a gender perspective, legislative proposals that contain, for example, affirmative measures for promoting women's rights, and a systematic study of the case law, whether to allow criticism of its traditional content or to highlight doctrinal changes or new interpretations of long-standing legal provisions.

Working with teaching materials will allow for a less hierarchical relationship between professor and student. In addition, more active participation from students should be expected, since they will read specific readings from the recommended texts for each class, providing the basis for an in-depth discussion based on each student's individual thoughts.

VII. CONCLUSION

In conclusion, throughout this Article I have sought to describe the obstacles to be encountered in the task of revising legal studies from a perspective inclusive of women's interests, as well as methods for their removal.

In this context, we should bear in mind that while there are many challenges, the possibility of achieving this objective will depend on

political will, based on acknowledging the current limitations present in the law, for the development of a more democratic society and greater respect for human rights. This is the starting point for bringing about real change in the legal status of women.