

INTEGRATING GENDER INTO LEGAL EDUCATION: OBSTACLES AND CHALLENGES

LEONOR VAIN

One of the primary difficulties in eradicating gender-based discrimination is its invisibility. The problem is even more complex in the legal field. This is because most legislation includes norms enshrining total equality between men and women, although only at the declaratory level (because these norms accord equal treatment to those who are not equal). In this way, societal norms distort legislative meaning and become rhetorical and inefficient. Moreover, in direct contradiction to these general principles, specific areas of the law such as family, labor, and criminal law explicitly discriminate against women. This inequality, however, is not identified as a social problem by most jurists. Neither they, nor most people, understand the serious consequences this inequality has for women.

When I was in law school, I was deeply convinced that juridical standard was neutral and that liberal principles contained in the 1856 Argentine Constitution placed men and women on equal footing. I believed that the image of Justice as blind guaranteed the impartiality of the law.

I perceived no discrimination in the way my professors or classmates treated me in law school. It was only when I began to practice law and live as an adult (marriage, children, etc.) that I started to discover discordant notes.

I started to rethink episodes that had once seemed funny to me, such as a very significant anecdote regarding rape. When I began to study law, I was the student of an eminent jurist and criminal law professor, Dr. Luis Jiménez de Asua. When he lectured to us about the crime of rape, he said that we had to be extremely cautious about women's reports because "there are more women running around with their skirts up than men with their pants down." This man was a prominent democrat who had been a minister of the Spanish

Republic.

Later in life, it was the women surrounding me in my social life and those whom I defended as an attorney who most jarred my own prejudices and helped me to change my perspective on the issue. I specialized in family law and very shortly discovered that it was the men who had the power in the family, in politics, and in business. In my attempts to understand how one went from an ideal situation in which "we were all equal" to the real world where women were subjugated and less valued, I discovered the gender issue and the fact that the law has a gender: it is male.

At that moment my commitment to feminism was born and I began to work with women's groups. When I tried to share my new vision of the law with some of the most prestigious jurists in the country, I found that they did not understand it. They adhered to a strict interpretation of declarative norms and did not perceive the uniqueness of women's issues. They argued that Argentina was one of the first countries in the world to recognize the full civil capacity of women. But that was not true. They were referring to law 11.357 of 1926 known as "Of the Civil Rights of Women" which established that a woman of age, single, divorced, or widowed, had full civil capacity. They did not see that this excluded married women, nor did they recognize the gravity of this "exception" since most women, particularly at that time, spent most of their adult lives married. This law was reformed fairly recently, in 1968, with the ratification of a law recognizing the full civil capacity of married women.

As an attorney specializing in the defense of women and in family conflicts, I also discovered women's defenselessness in cases in which they were the victims of family violence. This is a paradigmatic subject because of the way in which on the one hand it is made invisible, denied, and projected onto other social groups, but at the same time it is essentially naturalized as a form of family organization in all societies.

As a result of my increasing awareness, I developed numerous activities related to discrimination against women and the gender issue at different levels. I sought both to raise women's awareness about their inferior status and to educate them about their rights. This was a first step toward getting women to exercise their rights, which of course must be reinforced by public policies that guarantee access to their rights.

I am engaged in a wide spectrum of activities in this sphere: academia, formal and informal education, training community promoters and public officials, and designing public policy (in my

country and in others). My activities revolve around the areas of gender discrimination and battered women.

In 1983, with the reinstatement of democracy in my country, there was a qualitative change in terms of the potential to discuss these subjects and raise their profiles. Interdisciplinary groups and nongovernmental organizations emerged to work on these issues. Finally, with the founding of the Subsecretariat on Women, (*Subsecretaría de la Mujer*) concrete public policies were developed. Many discriminatory laws have been reformed since 1983.

Without a doubt, the law is a cornerstone of the structure of discrimination, but it is not solely responsible for its invisibility or naturalization. Women, as members of society, are not only the objects of discrimination, but are also used to sustain and transmit the myths and prejudices underlying it. In all legislation and social organizations, the status of women has been inferior to that of men. Of course, the way this is manifested has varied from the olden days to the present moment, but despite the changes that have occurred, many of the same situations persist, sometimes explicitly and other times implicitly. Today no one would dare to say, in the words of Aristotle, that "women are not citizens." In many areas of the world, however, women do not fully enjoy the rights of citizenship. Nor were they the subjects of rights in the human rights enshrined by the United Nations in this last century, which were drafted with the same androcentric vision as traditional laws. Only now, with the development of third generation human rights, has the gender issue been incorporated by recognizing its unique nature and the need to include specific norms addressing it.

This clearly demonstrates the difficulty of incorporating the gender issue into legal education. It is interesting to review the way in which the subject of battered women (certainly one of the most serious consequences of gender discrimination) emerged in Argentina. As I have already pointed out, after many years of dictatorship, the rise of democracy in 1983 made it possible to raise the issue of domestic violence publicly. At first, it was not accepted in any quarter and those of us who tried to explain the problem were ridiculed. But as women began to hear different voices denouncing domestic violence, they were able to relate their own experiences and seek help. They organized into different groups, usually led by women professionals in different disciplines such as lawyers, psychologists, and social workers. The government also took on the issue and established specialized centers. A number of courses were given and innumerable conferences, seminars, and congresses were held on the subject. Finally, the issue reached academia: a postgraduate

specialization in Domestic Violence was established in the School of Psychology at the University of Buenos Aires. The law school offered specialized postgraduate courses in "Family Law." Soon the gaps in the legal system's ability to act effectively were noted and a specific law was drafted. In this case, raising the profile of the issue spurred responses at all levels of society.

But with issues like these that engender high levels of resistance, it is necessary to employ myriad techniques to spark people's interest. In my experience, some of the most effective resources have been video productions, dramatizations, research projects that place students in touch with battered women's life histories, and classes structured around participatory methods. Undoubtedly, each group requires that its uniqueness be recognized and techniques must be adapted accordingly. I think the hardest part is consciousness-raising, because once the magnitude of the problem has been understood, the interest in working and studying it inevitably follows.

Incorporating the gender issue into law school curricula is no easy task. Often, as is the case with battered women, it stems from a recognized need on the part of professors and students to educate themselves about this particular subject. But the university must assume a leadership role in supporting change and growth in society through research and intellectual production.

When one begins to think about how to introduce gender-based studies into legal education, one of the first questions that arises is whether it should be a separate subject, or whether specific content on this issue should be incorporated into every discipline. This latter model seems to be the most appropriate in order to incorporate a different reading into all legal standards. But this requires that all department heads be committed to the issue. In contrast, establishing a specific course subject would allow the students themselves to bring this vision to all of their studies.

One possible solution to raising gender awareness would be to create a government agency to address this issue. The discussion here is focused on whether it is better to create a women's ministry or place an official in each ministry charged with introducing the gender perspective into all areas.

In the mid-1980s, the Superior Council, (*Consejo Superior*) of the University of Buenos Aires, one of the largest and most prestigious universities in the country, approved a resolution to create a commission to eliminate all forms of gender discrimination from its programs. This proposal was not supported by some sectors of the women's movement that felt that it would be more beneficial to

establish a postgraduate program of specialization in women's studies that would facilitate visualizing the problem and promoting curricular reform. This idea was eventually implemented. A group of highly trained and prestigious professionals have since graduated in this area of study. The commission never became operational and in the end the sexist content of subjects taught at the university was never eliminated. In fact, the two proposals were complementary, rather than mutually exclusive, but there was a definitive lack of political willingness to bring about changes and a lack of pressure from women to demand that the commission be created and fulfill its objectives.

Currently, things are not very different. Nonetheless, I am happy to be able to affirm that there is a new level of awareness surrounding the gender issue. In July 1997, the School of Law of the University of Buenos Aires, through a resolution by its governing board, *Consejo Directivo*, ratified a program that I had proposed. This occurred in response to the Washington College of Law of the American University's invitation to teach a course on "Integrating Gender into Legal Education" as part of its law school curriculum. This first step signifies explicit recognition of the problem and the need to work for change. When one obstacle is surmounted, new challenges emerge.

