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Feminist Pedagogy at a Religious School? An Assessment of BYU Law School’s Approach to Teaching

I. INTRODUCTION

My first experience with what might be called feminist pedagogy came, not surprisingly, from a woman. While serving as a missionary for the Church of Jesus Christ of Latter-day Saints, I was studying a lecture on how to become a more effective teacher when I came across a quote that made me feel very guilty: “When a teacher becomes the star of the show, does all the talking, and otherwise takes over all of the activity, it is almost certain that he is interfering with the learning of the class members.”1 Although she was quoting another woman, I was reading a talk by Virginia H. Pierce who served as a leader in the Church’s Young Women’s organization. She went on to say, “The skilled teacher does not want students who leave the class talking about how magnificent and unusual the teacher is. This teacher wants students who leave talking about how magnificent the gospel is!”2 I was stung. I loved teaching because of the attention I received and because of the positive feedback I got. Could I be interfering with the learning of my students by focusing their attention on myself instead of the subject matter at hand?

At Brigham Young University’s J. Reuben Clark Law School, both teachers and students have been invited to study the ‘‘laws of . . . man’ in the light of the ‘laws of God.’”3 But, no less than at any other law school in the country,4 Brigham Young University (BYU) struggles to decide how best to teach law.5 What is the role of the teacher/professor in

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2. Id. at 61–62.
4. AMERICAN BAR ASSOCIATION SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM: REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP, (American Bar Association 1992). The existence of a struggle to define the task of legal educators is evidenced by the existence of an American Bar Association task force charged with “narrowing the gap” between legal education and law practice.
5. Interview with James D. Gordon, III, Associate Dean, J. Reuben Clark School of Law, in 353
this process? What is the role of the student? Because of the historical animosity between feminism and religion, one might imagine that the school’s religious background would inevitably lead the J. Reuben Clark Law School away from feminist teaching methods and toward the hierarchical, conservative methods traditionally used by legal educators. However, BYU Law School’s guiding documents should lead it in the direction of the egalitarian, student-empowering classrooms sought by feminist teachers.

This paper will focus on feminist critiques of traditional legal instruction and examine BYU Law School’s teaching methods with those critiques in mind. It will try to make the case that at law schools around the country, female students tend to be underrepresented on Law Review, participate less in class, and receive lower grades than men, and that the instructional methods used by law schools are at least partly to blame. Part II examines various studies on gender in law school that indicate that women are not performing as well as men and that they have not been fully integrated into law school. Part III reviews samples of feminist techniques for empowering students. These examples do not all come from the legal instructional setting, but educators of all disciplines face the challenge of choosing teaching methods that focus on and empower their students. Part IV discusses BYU Law School’s approach to legal instruction, paying special attention to the School’s procedures for teacher training and evaluation. Finally, Part V suggests that the Law School study the experiences of women students attending BYU Law and reexamine its teaching methods to make sure that those methods are effectively integrating women as well as accomplishing the school’s goals.

Before I continue, I have an important question to answer: in discussing feminist pedagogy, what do I mean by “feminist?”, although I may not be the most qualified to define this contentious term. Feminism has been defined as “the theory of the political, economic, and social equality of the sexes.” I am a feminist in that I believe women and men are intrinsically equal. This is a rather tame version of feminism when compared to some of the ideas espoused by influential feminists. A more radical definition, for example, might be Catherine MacKinnon’s.


“[F]eminism seeks, among other things, to revalue women’s contributions by ‘demonstrating the essentiality and value of women’s . . . functions.’” For the purposes of this paper, let us assume as broad a definition of feminism as possible, one more closely aligned with the first definition, rather than MacKinnon’s.

II. THE PROBLEM

Legal education, in mid-century, in the huge majority of law schools, comprised of studying and parsing appellate decisions. A law school class consisted of an authoritarian male in the front of the classroom who led us, the poor hapless students, overwhelmingly male, through a series of questions, usually focused on one student, guiding us to the one right answer. We might be lucky enough to guess the right answer. But the professor was the only one who knew it. Thus he (it was always a he) demonstrated how, in his all-wise and all-knowing authority he guided us on the right path to the right answer through the exercise of pure reason.

Many feminists have expressed dissatisfaction with legal instruction in its present form. One major criticism is that the Socratic classroom is “an intellectual cage.” “The professor controls the dialogue, invites the inhabitants to ‘guess what I’m thinking,’ and then finds the response inevitably lacking. The result is a climate in which ‘never is heard an encouraging word and the thoughts remain cloudy all day.’” One woman, interviewed as part of a study of women law students at Yale Law School, expressed her frustration in this way: “[W]hy the Socratic method? . . . It just feeds into stereotypes of what a lawyer is. A different beginning message [in legal education] might change the stereotypes.” Even a professor at BYU Law School notes that this teaching method

13. Id. (citing Grant Gilmore, What Is a Law School?, 15 CONN. L. REV. 1, 1 (1982)).
leaves many students “wondering what the hey is going on, and why don’t the professors just tell us what the law is and stop playing ‘hide the ball’ and shrouding the law in mystery/philosophy/sociology/nihilistic relativism/astrology/voodoo/sado-masochistic Socratic kung fu?”

The Socratic method of legal instruction was instituted in the 1870s by the dean of the Harvard Law School, Christopher Columbus Langdell. There is a great deal of disagreement as to what, exactly, the Socratic method is. However, Plato outlined its essential elements as including “(1) elenchus, the step in which Socrates leads the responder to understand that he does not know what he thought he knew; (2) aporia, the acknowledgment of ignorance and perplexity; and (3) psychagogia, the construction of a new understanding.” The modern method employed by American law schools proceeds by “a teacher asking a series of questions, ideally to a single student, in an attempt to lead the student down a chain of reasoning either forward, to its conclusions, or backward, to its assumptions.” Defenders of the Socratic method cite among its virtues that “it brings students into the learning process, as they must actively engage in the dialogue.”

Although the Socratic method remains popular, legal education has not remained static and many law professors either reject the Socratic method outright or modify it considerably in favor of other methods. It is difficult to say exactly how prevalent the use of the Socratic method is at law schools throughout the country, but a recent national study indicates that the vast majority of professors who teach first-year courses utilize the Socratic method.

18. Id.
21. Williams, supra note 19, at 1575.
23. Id. at 28.
“used the Socratic method at least some of the time.” 24 Thirty percent of those who used the Socratic method did so “most of the time,” and forty-one percent used it ‘often.’” 25 Professors of upper-level courses are not so uniform in their methodology. Lecturing without Socratic questioning is the technique most often used in upper-level courses. 26 Professors of first-year courses at Harvard Law School appear somewhat less likely to use the Socratic method than their colleagues nationally. 27 Interviews with twelve professors of first-year courses at Harvard Law School revealed that five of the twelve used traditional Socratic techniques, three used a mixture of Socratic and alternative methods, and four professors completely rejected the Socratic method in favor of non-traditional methods. 28 Whether a professor uses the Socratic method, the lecture method, or an entirely different method, a student’s focus is necessary for effective, student-empowering instruction.

Although it is difficult to say exactly why, numerous empirical studies have indicated that women are not fully integrated into legal education, 29 and the teaching methods employed by law schools may be

24. Id.
25. Id. “‘Most of the time’ equals usage between eighty and one hundred percent of the time; ‘often’ means fifty to seventy-nine percent of the time; ‘sometimes’ refers to twenty to forty-nine percent of the time; and ‘rarely’ equals five to nineteen percent of the time.” Id. at 28 n.78.
26. Id. at 29. “The lecture technique is most common in upper level courses, where ninety-four percent (419 out of 445) of those responding stated that they use this method at least some of the time.” Id.
28. Id. at 124–26.
Adam Neufeld, author of a study of gender at Harvard Law School, points out that “comparing findings is difficult because of methodological differences among the . . . studies.” However, some of the “general conclusions” that can be drawn from this disparate collection of data are that: (1) women tend to participate less than men in classroom discussions; (2) women report lower academic self-confidence than men and higher levels of psychiatric distress and anxiety; and (3) women receive slightly lower grades on average than men. Studies from the law schools at Harvard, the University of Texas, and the University of Pennsylvania illustrate these trends.

Women students at Harvard Law School tend to participate less in class, report lower levels of self-confidence, and receive lower grades than their male colleagues. In 1953, thirteen women formed the first female graduating class from Harvard Law School. Although that number has grown considerably, fifty years later, a study of gender at Harvard Law revealed that women have many of the same challenges as at other law schools around the country and in some areas Harvard has been less successful than other law schools at encouraging gender equality. In 2003, forty-five percent of Harvard Law School’s student body was female compared to forty-nine percent nationwide. However, women made only thirty-nine percent of the comments in classes monitored as part of the study despite the fact that they made up forty-five percent of the students in attendance. On average, women also

32. Id. at 517–18.
33. Bowers, supra note 29; Guinier, supra note 29; Neufeld, supra note 29.
34. Neufeld, supra note 29.
35. Id. at 530.
36. Id. at 531–61.
37. Id. at 530–31 n.87.
38. Id. at 531.
reported lower self-confidence than men. Thirty-three percent of male respondents reported themselves in the top quintile of their class in terms of legal reasoning ability, compared with 15% of women. Women also received fewer honors and got slightly lower grades than men. While thirty-one percent of first-year course grades for men were A- or better, only twenty-five percent of first-year course grades for women were A- or better. Between 1997 and 2003, “male graduates were approximately 70% more likely than female graduates to receive magna cum laude honors” and 55.1% of women graduated without Latin honors compared with 46.6% of men. Thus, Harvard Law School appears to be following the national trend of lower classroom participation, self-confidence, and grades for women law students.

A study at the University of Texas Law School shows that the problem of women underperforming in law school is not confined to the Ivy League. Women law students at the University of Texas tend to receive lower grades and are underrepresented on Law Review. Between 1984 and 1996, women made up forty-one percent of the student body at the University of Texas Law School and men and women admitted to the school had similar credentials. Women had slightly higher undergraduate grade point averages than men admitted to the school, but men had slightly higher LSAT scores. However, during law school, and especially during the first year, men received higher grades than women. Between the 1984–1985 school year and the 1996–1997 school year, men received higher first year grades every year except two. In eight of the years surveyed, men had significantly higher first-year G.P.A.s. In addition, nine out of the eleven graduating classes between 1987 and 1997 showed higher law school G.P.A.s for men than women. It is impossible to explain why men or women received higher grades in any one year, but the Texas study demonstrates a clear

39. Id. at 548.
40. Id.
41. Id. at 540.
42. Id.
43. Id.
44. Bowers, supra note 29.
45. Id. at 121–22.
46. Id. at 130.
47. Id. at 132–33.
48. Id.
49. Id. at 134–38.
50. Id. at 134–35.
51. Id. at 135.
52. Id. at 136.
difference in favor of men over the twelve years studied. Only 29.5% of the members of Law Review were women between 1984 and 1996 while 41.4% of the student body was female during the same period. This corresponds to a 0.71 to one per capita ratio of women to men on Law Review. This low representation rate on Law Review was due partly to the lower grades received by the women law students.

The author of the study at the University of Texas came to three bold conclusions. First, “a high percentage of women in a class does not narrow the performance gap.” “[I]n the years when the percentage of women in the class has been highest, women’s overall performance has not been better than an average year.” This casts doubt on the theory that a “critical mass” of women will lead to improved outcomes for women. Second, “time is not narrowing the gap in male/female performance.” The University of Texas Law School study examined “average G.P.A. after first year, average G.P.A. at graduation, the top 10% after first year, Coif, Honor Graduates, Law Review, and Law Review Board” and found that none of these indicators of law school success improved over the period of the study. This led to the conclusion that educators “cannot wait for time . . . to solve the problem of low female performance in law school. Educators must intervene. . . .” Finally, “women law students are disadvantaged at the most crucial times.” First-year grades, Law Review, and Law Review Board tend to be “the most influential in shaping a student’s entire career.” Yet the gap in performance between men and women is largest

53. Id.
54. Id. at 148.
55. Id. at 147.
56. Id. at 147–48.
57. Id. at 150–53. (“Grades account for 70% of the composite score used to determine who becomes a member of law review.”). Id. at 153.
58. Id. at 159 (quoted portion is a section title, capitalized in the original).
59. Id. at 160.
60. Id.
61. Id. at 160 (quoted portion is a section title, capitalized in the original).
62. Id. at 160–61.
63. Id. at 161.
64. Id. at 161 (quoted portion is a section title, capitalized in the original).
65. Id. (citing Mark R. Brown, Gender Discrimination in the Supreme Court’s Clerkship Selection Process, 75 Or. L. REV. 359, 362–70 (1996)) (generally linking academic performance, especially law review membership, to judicial clerkships and explaining that clerking at the United States Supreme Court gives one “guaranteed entry into America’s legal elite”); Mark A. Godsey, Educational Inequalities, the Myth of the Meritocracy, and the Silencing of Minority Voices: The Need for Diversity of America’s Law Reviews, 12 HARV. BLACKLETTER L.J. 59 (1995) (noting that a
in these areas.  

The findings of the Harvard study and the University of Texas study are reinforced by a gender study at the University of Pennsylvania, but the Penn study adds a critique of the Socratic method as one of the factors leading to the alienation of women law students. As at the University of Texas, women and men entered the University of Pennsylvania Law School during the study period with “virtually equal statistics.” However, at the end of the first year, men received better grades. “[M]en [were] 1.6 times more likely to be in the top fiftieth percentile” during the first and second year and “1.5 times more likely to be in the top fiftieth percentile” during the third year. Most shockingly, though, men were “almost three times more likely than women to reach the top 10%” in the first year and twice as likely to do so during their second and third years. Between 1990 and 1992 women were “underrepresented in the Order of the Coif . . . the Law Review membership and board, and the moot court competitions and board.” Women were also “significantly more likely than male law students to report that they ‘never’ or ‘only occasionally’ ask questions or volunteer answers in class.” This data confirms the study’s conclusion that, at least at the time of the study, the law school was “stratified deeply along gender lines.”

In its “Analysis and Recommendations” section, the University of Pennsylvania study points to some of the problems presented by the Socratic method and suggests that the University explore alternative options. The study’s analysis of the Socratic method points to its negative impact on many women.

[M]any women claim that neither their initiative nor their problem-solving ability is engaged in an intimidating learning environment. The performance aspect of a large Socratic classroom disables some women from performing up to their potential. Socratic teaching, if designed to intimidate, adds more women to this category. If no comparably

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67. Guinier et al., supra note 29, at 3–4, 63.
68. Id. at 23.
69. Id.
70. Id. at 24.
71. Id. at 26.
72. Id. at 27.
73. Id. at 32.
74. Id. at 2.
75. Id. at 59–98.
significant formal learning experiences, other than large classroom Socratic teaching, are provided, first-year women in particular are most likely to be affected.\textsuperscript{76}

Thus, the authors recommend that the University explore the assumption that “the large Socratic classroom should dominate first-year instruction.”\textsuperscript{77} They do not definitively reject the Socratic model, but point to encouraging pedagogical developments such as working groups “in which each student must pull his or her own weight for the group to function” as alternatives.\textsuperscript{78} This inquiry into pedagogical techniques is important because “less hierarchical [models] . . . minimize the alienation of some students, encourage broad-based participation from those who feel disinclined to ‘perform’ when they speak but nevertheless have something to contribute, and supplement the informal, exclusionary mentoring that presently aids only some students.”\textsuperscript{79}

The empirical data from Harvard, the University of Texas, and the University of Pennsylvania indicate that women have not been fully integrated into legal education and law schools are at least partly “contributing to lower female performance.”\textsuperscript{80} The Harvard study cautions that “[g]etting rid of the Socratic method . . . alone will not end gender differences or address likely underlying causes,”\textsuperscript{81} and the University of Pennsylvania study acknowledges that it does not have “definitive answers.”\textsuperscript{82} However, the overwhelming weight of data seems to indicate that women achieve poorer outcomes during law school.\textsuperscript{83} Further research should be conducted to evaluate the impact of the Socratic method on women and to explore alternative methods of instruction.

\textsuperscript{76} Id. at 63.
\textsuperscript{77} Id. at 93.
\textsuperscript{78} Id. at 94.
\textsuperscript{79} Id.
\textsuperscript{80} Bowers, supra note 29, at 164.
\textsuperscript{81} Neufeld, supra note 29, at 572.
\textsuperscript{82} Guinier, supra note 29, at 92.
\textsuperscript{83} See supra note 29 for a number of papers documenting and analyzing this trend.
III. FEMINIST PEDAGOGY

One of the major goals of feminism is the empowerment of women, and many feminist teachers seek to empower their students in the classroom. Feminists are prepared to challenge the instructional habits of the legal establishment. The methods and theories of feminism place feminist teachers in a unique position to encourage their students to take responsibility for their own educations and to see themselves as full participants in that process. For example, feminist standpoint epistemology recognizes the unique value of the points of view that students bring to class. A single professor cannot possibly know enough to teach a room full of students if she relies solely on her own experiences and knowledge. Feminist epistemology, then, provides a powerful argument against the traditional, hierarchical model of classroom instruction that is, too often, the default choice of higher education professors. As the quote that began Section II shows, traditional lecture methods can lead to “hapless students” relying entirely on the knowledge of professors who suggest by their pedagogical techniques that they are the only valid source of knowledge in the classroom.

Focusing on students does not require BYU Law School to endorse all the positions of radical feminism. In addition to the empowerment of students, feminist pedagogy also includes themes like “social transformation, consciousness-raising, and social activism, . . . race, class, and gender as crucial categories for analyzing experience and institutions. . . . sexism and heterosexism . . . [and] exploring issues of sexuality.” Incorporating all of these issues in the sense that they are intended by feminist teachers might not be compatible with BYU’s mission. However, to the extent that teachers at BYU Law School can

85. See Gail E. Cohee et al., Introduction to THE FEMINIST TEACHER ANTHOLOGY: PEDAGOGIES AND CLASSROOM STRATEGIES 3 (Gaile E. Cohee et al. eds., 1998) (hereafter FEMINIST TEACHER ANTHOLOGY) for a collection of essays by feminist teachers concerned with “improving the lives of women.” For an example of a feminist teacher in the legal context, refer to Professor Susan Williams who argues for a modified version of the Socratic method. Williams, supra note 19.
86. Rhode, supra note 11; Williams, supra note 19, at 1574; Wiseman, supra note 10, at 965.
88. See the discussion of the University of Pennsylvania study, supra Part II.
89. Wiseman, supra note 10, at 963.
90. THE FEMINIST TEACHER ANTHOLOGY, supra note 85, at 3.
91. Brigham Young University, BYU Mission Statement, http://unicomm.byu.edu/about/mission/ (last visited on Dec. 13, 2006) (“The mission of Brigham Young University—founded, supported, and guided by The Church of Jesus Christ of Latter-day Saints—is to assist individuals in
agree with feminist teachers that a student focus leads to empowered and responsible individuals, they should work together for that common goal.

The call to empower students is found throughout feminist literature on pedagogy. Carla Golden outlines a “seven-point plan” to address what she considers to be the essential aspects of education and emphasizes the need for students to think for themselves. Eloise Knowlton’s critique of the overhead projector demonstrates her desire to see a more open classroom that can provide a setting for discussion and participatory learning. Finally, Susan H. Williams’ suggestions for a feminist Socratic method evidence the willingness of some feminists to work with existing tools to improve legal education. Of the three feminists educators discussed below, only Professor Williams addresses teaching in the legal context. The experiences of Professor Golden and Knowlton are, however, relevant to this discussion of legal education because teachers of all disciplines must choose among methods and confront the problem of focusing on and empowering their students.

Professor Golden summarizes her approach to teaching in her “seven-point plan,” which incorporates what she considers to be the essential objectives of a liberal arts education. Her plan demonstrates a commitment to placing responsibility for learning on students and confidence that they will rise to meet the challenge. Her goals are that her students will: (1) have an excitement for learning, (2) be able to write effectively, (3) be comfortable speaking, (4) learn to think for themselves, (5) learn that discipline is important, (6) examine their own lives, and (7) be socially responsible. Carla Golden’s approach to teaching shows that she takes a broad view of teaching, that she has high expectations for her students, and that she expects them to take responsibility for themselves. She tries to inspire them; she provides them with the appropriate skills of writing, speaking, and analysis; and their quest for perfection and eternal life. . . . To succeed in this mission the university must provide an environment enlightened by living prophets and sustained by those moral virtues which characterize the life and teachings of the Son of God.”).

92. This section summarizing themes in feminist pedagogy relies heavily on a collection of essays entitled THE FEMINIST TEACHER ANTHOLOGY: PEDAGOGIES AND CLASSROOM STRATEGIES. THE FEMINIST TEACHER ANTHOLOGY, supra note 85.


95. Williams, supra note 19, at 1571–75.


97. Id.
then she expects her students to apply what they learn as reflective, socially responsible people. Golden’s goals for a liberal arts education are equally applicable to the legal education at BYU Law. As will be discussed later, the J. Reuben Clark Law School wants to do more than just teach legal rules. Like Professor Golden, BYU Law School seeks to produce engaged students who will pursue lifelong learning and service.  

The realization of Professor Golden’s goals, as well as those of BYU Law School, requires engaging teaching. Despite her ambitious goals, Professor Golden’s experiences with university administrators reflect a disdain for teaching in academia that many feminists criticize. As universities devalue teaching they create an environment that discourages the difficult work required to engage students. Carla Golden began teaching psychology classes during her fourth year of graduate school. Before that year, none of Golden’s advisors ever discussed teaching techniques with her or the part teaching would play in her professional development as an academic psychologist. Golden recounts one of her first experiences of being evaluated as a teacher.

The chair of my graduate program asked me to come into his office to discuss the computerized course evaluations from the courses I was teaching. He told me that mine were the best ratings he had ever seen for a graduate student in the department and suggested that they could only mean that I was devoting too much time to my teaching and that I wasn’t putting as much energy as I should into my dissertation research. He said that in getting and keeping an academic position, my research credentials would be far more important than my positive teaching evaluations. From experience, I have now learned that he was absolutely correct.

The message that this well-meaning department chair was sending is clear: Teaching is nice, but scholarship is absolutely essential. As long as you don’t have any major disasters in your classroom you will be considered for academic positions based almost entirely on your “research credentials.” Golden “did not receive any support for

100. Id.
101. Id.
102. Id.
103. Id.
teaching during [her] graduate school years,” and conversations with her colleagues indicate that her experience is not an anomaly.\(^{104}\)

After graduate school, Golden got a position teaching at Smith College where she discovered she loved teaching and that she was good at it.\(^ {105}\) She viewed teaching as central in her professional life, but she found she was almost alone in that focus.\(^ {106}\) After a few years of teaching, Golden was surprised to learn that her colleagues’ negative attitudes toward teaching were influencing her. Golden was teaching a course on the psychology of women and on the first day of class she “wanted to impress upon the students that [she] was very serious about [her] teaching.”\(^ {107}\)

I said to them—and this is a direct quote—”I take teaching very seriously; it’s one of the most important things I do professionally.” I was aware as I spoke those words that I wasn’t being exactly truthful. Teaching was the most important thing I did professionally. . . . I was conscious of the fact that at the last moment before the words came out of my mouth I added one of the because I didn’t want to admit that I felt that teaching was the most important aspect of my work as an academic psychologist.\(^ {108}\)

Professor Golden was influenced by the “shock” displayed by her colleagues upon discovering that she enjoyed teaching “immensely.”\(^ {109}\) Luckily, she was able to preserve her passion for teaching and continued developing her skills as an instructor.\(^ {110}\)

The devaluation of teaching by academic universities\(^ {111}\) is bad for students because it discourages high-quality teaching.\(^ {112}\) The Law Professor’s Handbook states, “To teach is to educate, to impart knowledge, and, most importantly, to inspire.”\(^ {113}\) It goes on to say, “‘Good’ teaching has been conceptualized as ‘a complex process that begins and ends with students.’”\(^ {114}\) Prior to being hired, however, most
new professors have never received any training in pedagogy. It is to be expected, then, that it will take considerable effort for a teacher of law to master the skills necessary to become a proficient educator. That is not to say that every professor should value teaching as much or more than scholarship. But professors should not be discouraged from dedicating themselves to becoming excellent teachers. If law schools devalue teaching the way Professor Golden’s administrators did, professors will not have incentives to spend the time and energy necessary to become good teachers and students will suffer.

Eloise Knowlton is also an example of a feminist teacher with a student focus. Professor Knowlton seeks to empower her students by rethinking generally accepted teaching methods that dehumanize the teaching process and overemphasize the authority of the teacher. Knowlton describes “the scene of the overhead projector” as

a room, dark, or at least darkened, with a single illuminated square, a focal point toward which all gazes orient themselves. . . . The writing is enlarged, diffused, bodiless as all writing. The instructor stands to one side. In this restaging of Plato’s cave, the clear focus of attention is on the play of light and dark.

The semiotics of this scene play themselves out according to the very persuasive dichotomy of light and dark: Knowledge (or simply the aim of student desire) is literally enlightenment; they sit in gloom of ignorance. Their task is to transfer into their own dark script the diaphanous message above them (the up/down dynamic fits in nicely too).

This same critique could be directed at the more modern version of the overhead projector—PowerPoint—as well as at almost any mechanical teaching device. It is important to remember that teaching is “a process that begins and ends with students” and that it is meant to “inspire.”

III.pdf at 13).

115. SCHACHTER, supra note 16 at 3–4.
116. See Robin S. Wellford-Slocum, The Law School Student-Faculty Conference: Towards A Transformative Learning Experience, 45 S. TEX. L. REV. 255, 272 (2004) (“[O]nly by researching and writing about a topic does a law professor develop an expertise that can benefit not only the legal academy and other disciplines, but also that professor’s teaching.”).
118. Id.
119. Id. at 187.
120. Id. at 189. “[I]t is difficult to imagine any mechanical classroom medium about which similar difficulties might not be raised: the film, the slide projector, the increasingly appealed-to VCR.” Id
121. SCHACHTER, supra note 16 at 3.
Both of these objectives are undermined when the teacher is disembodied and replaced by a projector. Knowlton does not believe that these mechanical devices have no place whatsoever in teaching, but she does have some suggestions for the way they can be used to minimize their negative side effects. \(^{123}\) “Leaving on as many lights as possible ensures that the physical presence of the instructor remains a visible force. And shutting the projector off to discuss and take questions breaks up the tunnel-visorized focus, and disturbs the temporal push toward completion.”\(^{124}\) Just as Knowlton evaluates her teaching methods to judge their impact on her students, law schools should constantly assure themselves that their methods, including the technologies that they use, are sending the messages they wish to send. As new teaching technologies are developed, this is especially important.

In a specifically legal context, Susan H. Williams advocates a transformation of the Socratic method in light of feminist epistemology to empower students to become both learners and teachers. \(^{125}\) According to Professor Williams, the traditional Socratic method makes three major epistemological assumptions: First, that knowledge “flows from the teacher to the student and not in the reverse.”\(^{126}\) Second, “that knowledge is something one finds rather than creates.”\(^{127}\) And third, that “knowledge seeking [is] a fundamentally individual activity.”\(^{128}\) By contrast, Williams describes the corresponding tenets of feminist epistemology thus: knowledge is a “social practice deeply embedded in a particular culture” and “no social position can claim access to some undistorted truth.”\(^{129}\) Most importantly, “[k]nowledge is socially created, not individually discovered.”\(^{130}\)

Williams suggests that the Socratic method could be modified to reflect feminist epistemology. \(^{131}\) First, teachers would need to be open to learning from students by asking questions to which they do not know the answers, and second, students should also ask questions of each other. \(^{132}\) These two changes would “revive the ideal of Socratic dialogue, in which knowledge and challenges to knowledge flow in both

\[\text{References:}\]

122. \textit{Id.}
123. \textit{Knowlton, supra note 95, at 189.}
124. \textit{Id.}
125. \textit{Williams, supra note 19, at 1571–76.}
126. \textit{Id. at 1574.}
127. \textit{Id.}
128. \textit{Id.}
129. \textit{Id.}
130. \textit{Id.}
131. \textit{Id. at 1575.}
132. \textit{Id.}
In addition, questions should seek to engage “emotional responses” rather than just “rational analysis.” Emotional responses provide “windows through which we can glimpse a reality as seen from the perspective of a social position radically different from our own.” Our emotional responses also help us question the normative foundations of the law. Williams believes that the questioning of students is a powerful instructional method because “it causes the student to think and feel about the information in her possession in a new way and then to articulate it.” But the effective use of the Socratic method requires that the teacher acknowledge that students are a valuable source of knowledge and that emotional responses are an important part of the learning process.

Feminist teachers are not the only ones to suggest that a student focus is necessary for effective learning to take place. However, they provide powerful arguments for the necessity of a student focus and a variety of techniques that encourage student participation that have been refined through years of practice. They may also be successful, where previous educational administrators have failed, at fully integrating women into legal education.

IV. TEACHING AT THE J. REUBEN CLARK SCHOOL OF LAW

As at any school, teaching is very important to BYU Law School. But the exact type of teaching that takes place should be determined by the goals the school seeks to achieve. BYU Law School’s founding documents, as I discuss in this section, show that it is dedicated to building the character of its students in addition to teaching them the principles of law necessary to be qualified professionals. Achieving its objectives will be impossible unless it engages in student focused teaching.

The Law School’s program documentation shows that it is

133. Id.
134. Id.
135. Id.
136. Id.
137. Id.
138. Id.
139. SCHACHTER, supra note 16. Teaching is a “‘complex process beginning and ending with the student.’” Id. at 3.
140. Bartlett, supra note 87; Williams, supra note 19.
141. THE FEMINIST TEACHER ANTHOLOGY, supra note 85, at 1. (The editors of the Feminist Teacher Anthology began thinking about feminist teaching in the early 1980s and published the first issue of Feminist Teacher in 1985).
committed to developing the character of its students.\textsuperscript{142} Part of the mission of the J. Reuben Clark Law School is to teach the laws of men in the light of the laws of God.\textsuperscript{143} Two of the School’s seven goals begin with the word “teach.” The first reads, “Teach the fundamental principles of law, using a predominantly theoretical approach, with appropriate attention to the basic skills involved in lawyering.”\textsuperscript{144} The second reads, “Teach the law from a scholarly and objective point of view, with the largest latitude in the matters being considered.”\textsuperscript{145} The Program Purpose is to “provide a rigorous and intellectually challenging legal education that prepares students to function in the wide range of activities that occupy a lawyer’s professional life.”\textsuperscript{146} More specifically, however, the School’s documents show a commitment to student empowering instruction. The School has outlined six “Expected Learning Outcomes” which include objectives that students understand certain information, be able to perform certain tasks, and “have the ability and desire to engage in lifelong learning and service.”\textsuperscript{147} A range of tools are available to assess these learning outcomes, including student and peer evaluations of teaching, the bar passage rates of graduates, and alumni questionnaires.\textsuperscript{148} The School’s documents show that it is committed to empowering students to become effective learners. More than just teaching skills or measuring basic aptitude, the School expects students to “have the ability and desire to engage in lifelong learning and service.”\textsuperscript{149}

In addition to the School’s program documentation, several speeches given at the founding of the Law School show that building the character of students is part of the School’s mission.\textsuperscript{150} There are several speeches by Church authorities which have come to be considered part of the School’s Founding Documents.\textsuperscript{151} These documents demonstrate dedication to teaching students in such a way that they will become independent thinkers and learners. One of these influential speeches was given by then President of Brigham Young University, Dallin H. Oaks.\textsuperscript{152}

\begin{thebibliography}{10}
\bibitem{142} Brigham Young University, Program-level Documentation, https://learningoutcomes.byu.edu/wiki/index.php/Law_JD (last visited Mar. 13, 2007).
\bibitem{143} Id.
\bibitem{144} Id.
\bibitem{145} Id.
\bibitem{146} Id.
\bibitem{147} Id.
\bibitem{148} Id.
\bibitem{149} Id.
\bibitem{150} See J. Reuben Clark Law School, Home Page, http://www.law2.byu.edu (last visited Dec. 15, 2006) where the documents cited below are organized under the link “Founding Documents.”
\bibitem{151} Id.
\bibitem{152} Dallin H. Oaks, President, Brigham Young University, Opening Remarks at first day of
\end{thebibliography}
President Oaks later became a member of the Quorum of Twelve Apostles of the Church of Jesus Christ of Latter-day Saints. In his speech, he directs that “the graduates of [BYU Law School] should have minds sufficiently bright and consciences sufficiently sensitive to distinguish between rules grounded on morality and those grounded solely on precedent or tradition.”¹⁵³ The bright and sensitive consciences of which President Oaks spoke must be independent in order to exercise their judgment. In the same speech, President Oaks went on to say, “Properly conceived and executed, there is nothing mechanical or repetitious about [the study of law]. It teaches its students a new way to think, and that skill is serviceable beyond the limits of the practice of law.”¹⁵⁴ President Oaks believes that a legal education means learning to think clearly no matter what profession graduates choose to practice. BYU Law should empower students to be moral, clear-thinking professionals.

Marion G. Romney’s exhortation that students emulate J. Reuben Clark is another indicator that BYU Law School’s intent is to help its students build character as part of their education. President Romney, a former member of the Church’s First Presidency, gave a speech in which he encouraged students at the Law School to emulate J. Reuben Clark, after whom the school was named.¹⁵⁵ J. Reuben Clark served as Under Secretary of State during the Coolidge Administration and as U.S. Ambassador to Mexico during the Hoover Administration.¹⁵⁶ He also served as a counselor in the First Presidency of the Church of Jesus Christ of Latter-day Saints for 28 years.¹⁵⁷ Clark was said to have “the brightest mind ever to leave Utah”¹⁵⁸ and that “[e]ven those who violently disagree with his views are intrigued by his eloquence, his forthrightness, pure logic, and penetrating insight into the center and core of whatever subject he undertakes to expound.”¹⁵⁹

¹⁵³ Oaks, supra note 152, at 13.
¹⁵⁴ Id. at 15.
¹⁵⁷ Id.
¹⁵⁸ Romney, supra note 155, at 20.
¹⁵⁹ Id. at 21 (quoting Marion G. Romney, The Political Thought of President Clark, 13 BYU STUDIES 245, 254 (1973)).
But J. Reuben Clark was also a man of integrity who did what he felt was right even when it seemed unpopular. President Romney recounted a case in which Clark was asked to “help persuade the Utah Legislature to make a $100,000 appropriation for a cause which President Clark promoted, but the sum asked for he thought was excessive.” Clark was strong enough to refuse to go along with the “excessive” appropriation, and he wrote in a letter to the promoters of the project, “[I]f you still reach after the larger amount, you will at once see it will be better if I keep quiet.” President Romney cited this example to show that J. Reuben Clark was a man of strong character and summed up his mandate for the students of the Law School by quoting from a Josiah Gilbert Holland poem: “God give us men [and presumably women]. . . ./ Men who possess opinions and a will:/ Men who have honor: men who will not lie;/ Men who can stand before a demagogue/ And damn his treacherous flatteries without winking.” President Romney wanted the students of BYU Law School to be clear thinkers and moral leaders who could follow J. Reuben Clark’s example.

Associate Dean James D. Gordon, III of the J. Reuben Clark School of Law indicates that the Law School aspires to instill positive values in its students, that it is having success at doing so, but that it can do better. One of Dean Gordon’s responsibilities is the monitoring and development of high quality teaching at the Law School. According to Dean Gordon, “[t]he quality of teaching is important” to the administration of the Law School. The School tries to encourage good teaching through a number of programs. The school tries to hire able teachers by getting a copy of candidates’ student evaluations from the former schools. Candidates also give a teaching presentation prior to receiving an offer. Once they are hired, the School’s mentoring program is the primary training method for new teachers. New faculty members are assigned a faculty mentor who visits the new teacher’s classes and provides feedback and advice. New teachers are also given

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160. Id. at 20 (quoting DAVID H. YARN, YOUNG REUBEN, 114).
161. Id.
162. Id. (quoting DAVID H. YARN, YOUNG REUBEN, 114).
163. Id. at 22.
164. Gordon Interview, supra note 5.
165. Id.
166. Id.
167. Id.
168. Id.
169. Id.
170. Id.
171. Id.
the opportunity to attend a “new faculty seminar” offered by Brigham Young University’s main campus, although the program is not mandatory. Faculty members are evaluated regularly as part of annual “stewardship interviews,” during third-year and sixth-year faculty review, and during regular post-tenure review.

Dean Gordon believes that BYU Law does a good job of teaching and that the quality of teaching continues to improve. He points to empirical data to support his belief. Student evaluations of teacher effectiveness have improved. In response to a question regarding the “overall effectiveness” of their teachers, student evaluations averaged 5.69 in the year 2000 on a seven-point scale, and improved to 6.04 in 2004. The Law School also seems to be doing better than the national average at teaching values. In a national study entitled “The Law School Survey of Student Engagement” BYU Law received high marks for including ethical issues in instruction. In 2005, 21,000 law students across the country were asked, “To what extend does your school emphasize . . . [the] ethical practice of law?” First year students at BYU Law gave their school a 3.58 out of four compared to a national average of 3.03. Second year students gave BYU Law a 3.58 compared to a national average of 2.95. And third year students gave BYU Law a 3.68 compared to a national average of 3.00. This data seems to indicate that students are more satisfied with the school’s emphasis on ethical issues than are students at law schools nationwide. Dean Gordon seemed encouraged by the statistics that he showed me. He summed them up by saying, “We do care about values, professional, moral, [and] religious.”

The School’s mentoring program has been successful at helping Margaret Tarkington, the newest professor at the J. Reuben Clark School of Law, learn to teach by using the Socratic method. Professor Tarkington was hired for the 2006-2007 academic year as a visiting professor. Although she had the opportunity to attend the University’s
new faculty seminar, she did not have time, so her primary teacher training was through the mentoring of Dean James Rasband, who was assigned to her through the School’s mentoring program.\textsuperscript{184} Professor Tarkington described Dean Rasband’s guidance very positively.

The mentoring has been great. Jim Rasband is my mentor. He attended my class twice, once toward the beginning of the semester and once in November. He made notes and gave me comments and suggestions that were very helpful, particularly after his first visit. He also gave me samples of his notes that he uses for teaching, which really gave me a good idea of how to teach in the Socratic method and I have adopted his methodology and love it.\textsuperscript{185}

Although she does not sit on the Law School’s hiring committees, and so could not comment from that perspective, Professor Tarkington stated that “Teaching is very important to the Law School, but scholarship . . . is also very important, and if you do not have the scholarship part, you probably won’t get a tenure track offer.”\textsuperscript{186}

There are empirical data that suggest that BYU students are satisfied with the quality of instruction they are receiving and that they are being exposed to ethical issues in their classes.\textsuperscript{187} It also appears, at least anecdotally, that BYU Law’s mentoring program is successful at helping new faculty learn to teach.\textsuperscript{188} This information is encouraging. The School should continue to support its strong, ethical teaching and emphasize its mentoring program. At the same time, it should evaluate the experience of women at the Law School and make sure that they get the benefit of these programs.

V. CONCLUSION

This paper has examined national literature that indicates that women tend to participate less in class, are underrepresented on Law Review, and receive lower grades than male law students.\textsuperscript{189} A sample of feminist teaching techniques that focus on and seek to empower students were presented to show the challenges faced by professors in focusing on students and the way these feminist teachers have dealt with those

\textsuperscript{184} Id.
\textsuperscript{185} Id.
\textsuperscript{186} Id.
\textsuperscript{187} Gordon Interview, supra note 5.
\textsuperscript{188} Tarkington, supra note 182.
\textsuperscript{189} Supra Part II.
challenges. Finally, BYU Law School’s approach to teaching was examined and found to have as a primary objective the development of students’ character. The accomplishment of BYU Law School’s goals requires the use of high-quality, student-empowering teaching techniques.

In order to accomplish its goals, BYU Law School must make a firm commitment to high-quality student-focused teaching. The Law School has come a long way since its first class graduated in 1973. It is now the thirty-fifth ranked law school in the country according to *U.S. News and World Report*. The students who study at BYU Law School are also very talented. The median LSAT score for entering students in 2004–2005 was 164, the median G.P.A. was 3.71, and more than seventy percent of the students speak a foreign language. There have been, however, certain disturbing developments in the last couple of years. There are fewer women participating at BYU Law than one would hope. The first year class of 2004–2005 (my incoming year) included forty-two percent women. The two incoming classes since then have had thirty-five percent and thirty-four percent women respectively. In addition, only five members of the full-time faculty are female. My interviews with Dean Gordon and Professor Tarkington indicate to me that the school aspires to teach effectively but that it could do much more to assure that teaching receives proper emphasis. Teaching could be better emphasized by making the university teaching orientation mandatory for all new teachers or by creating a similar program for law school professors.

The evidence that women law students at schools all over the country are performing at lower levels than their male colleagues should give the J. Reuben Clark Law School cause to study the experience of its own female students. Some particularly alarming studies, including the University of Texas study and the Penn study discussed supra, show that women perform at lower levels than men even when they enter law school with comparable qualifications (undergraduate G.P.A. and LSAT

190. *Supra* Part III.
191. *Supra* Part IV.
193. *Id.*
194. Interview with Julie Hamilton, Executive Secretary, J. Reuben Clark School of Law, in Provo, Ut. (Dec. 14, 2006).
195. *Id.*
197. See *supra* note 29 for several references documenting and analyzing women’s poorer performance in law school.
If future studies show that women law students at BYU Law tend to perform at lower levels than men law students, then the Law School should join the national discussion on the cause of this upsetting phenomenon. If women are performing at the same level of their male counterparts, then BYU’s experience could provide valuable insight to other law schools. BYU Law should also carefully consider the Penn study’s conclusion that the Socratic method alienates women at higher rates than men and Professor Williams’ recommendations for renovating the Socratic method in light of Feminist epistemology. Rethinking the Socratic method could provide a way to more fully integrate women into legal education.

In conclusion, the J. Reuben Clark Law School’s commitment to teaching is admirable. It has become an elite school in a very short period of time by balancing scholarship and high-quality instruction. As long as it maintains this balance, and includes women in the process, it will continue to progress.

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198. See supra Part II.
199. Guinier, supra note 29, at 63.
200. Williams, supra note 19, at 1575–76.

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