

Seattle University School of Law Digital Commons

Faculty Scholarship

1-1-2005

On Academic Discrimination

Janet Ainsworth

Follow this and additional works at: <https://digitalcommons.law.seattleu.edu/faculty>



Part of the [Law and Gender Commons](#), and the [Legal Education Commons](#)

Recommended Citation

Janet Ainsworth, On Academic Discrimination, 11 *CARDOZO WOMEN'S L.J.* 497 (2005).
<https://digitalcommons.law.seattleu.edu/faculty/626>

This Article is brought to you for free and open access by Seattle University School of Law Digital Commons. It has been accepted for inclusion in Faculty Scholarship by an authorized administrator of Seattle University School of Law Digital Commons. For more information, please contact coteconor@seattleu.edu.

ON ACADEMIC DISCRIMINATION

*JANET AINSWORTH**

As I tell my first-year law students in their exam post-mortems, you can vastly improve the quality of your analysis by first fleshing out and articulating the assumptions inherent in your arguments, because flawed assumptions lead to flawed conclusions. I was reminded of this in reading the comments made by President Lawrence H. Summers explaining the paucity of women academics in the physical sciences. Summers claimed that the best explanations for the lack of women science professors are the unwillingness of women to work the hours needed to be successful in those fields, coupled with their innate lack of intellectual scientific aptitude. He expressly rejected the possibility that sex-role socialization or discrimination plays a significant role in this state of affairs. So, what assumptions do these statements depend upon, and can these assumptions be shown to be valid?

First, is it really true that men are willing to, and do, work more hours than women? Experience in legal education suggests we should be skeptical; surely the hours put in by legal writing faculty—a traditional “pink-collar” ghetto occupied disproportionately by women—often exceed those expected of tenure-track law faculty. But even more to the point, is it true that the physical sciences demand more hours of their faculty—80 hours as hypothesized by Summers—than are needed for success in say, biology, English literature, or law—all fields in which women have in recent years been highly successful within the professoriate? I am aware of no evidence that corroborates this assumption.

Without question, the rigid six-year tenure clock requiring junior faculty to demonstrate their worthiness for lifetime employment during prime child-raising years creates serious conflicts for women in their life choices. Nevertheless, this is a problem that women have faced and overcome in many other academic fields. So, is there evidence that the physical sciences impose exceptionally grueling academic schedules on its denizens? So far that evidence is conspicuous by its absence.

Summers dismisses the possibility that discrimination within the academic world operates against women in the hard sciences. He apparently assumes, however, that discrimination is a conscious process by which employers intentionally decide not to hire a qualified employee because they prefer to

* Professor Janet Ainsworth teaches at the Seattle University School of Law.

discriminate rather than to have the best possible workforce. Discrimination is seldom so overt and conscious. A few department chairs and deans who prefer working in male environments may intentionally refuse to hire or promote women faculty. But those are, one hopes, few and far between. Subtler ways in which faculty candidates are valued or devalued—whose presentation style resonates as familiar, who reminds you of your own mentors, who seems like a good fit within the department, who strikes you as brilliant—operate to reinforce the hiring of faculty who replicate the qualities it sees in itself and the exclusion of those who do not. Of course, the winnowing process begins long before faculty interviews. Application for a job is just the last step in a long process of being identified, encouraged, and mentored by others who see the applicant's potential. One of the stock stories that professors tell about themselves is that they never thought of themselves as possible professors until one of their teachers took them aside and asked them if they had ever thought about teaching as a career. So, if women students do not seem to fit the model of potential professors, they are not picked out and groomed at early stages in their academic careers by mentors, and they never learn to "play the game." All this without a single conscious thought by anyone involved that they intend to discriminate.

The remark that ignited the firestorm of protest is Summers' stated belief that innate intellectual aptitude, or rather its lack, better explains women's absence in the sciences than does socialization that discourages women from entering and remaining in the field. This assertion is apparently based on research that purports to show that men's measured intelligence stretches over a longer bell curve than women's; and that there are more male "outliers" at both the super-intelligent and under-intelligent ends of the spectrum than for women, who tend to cluster more nearly in the middle portions of the spectrum.¹

Now, it is certainly debatable whether this research is measuring anything pertinent to scientific ability or whether it is measuring it without bias. Attempts to measure something called "intelligence" are at best crude, one-dimensional, and susceptible to all manner of unintended biases. Instead of a unitary "intelligence," humans possess myriad inter-related intelligences that together allow for success within a field. But let us assume for the sake of argument that this research proves what it purports to prove: that men are over-represented among the super-intelligent. If that were true—as Summers assumes it is—that fact might constitute a natural justification for women's relative scarcity in the scientific academy. That conclusion, however, depends critically upon an unarticulated assumption—namely, that being super-intelligent is a prerequisite to academic success. Interestingly, this assumption is seldom questioned, at least by academics. After all,

¹ Of course, even if it could be shown that women as a group have some innate deficiencies in scientific reasoning compared to men as a group, it would be barely relevant as an explanation of the enormous under-representation of women in the sciences. Even the most enthusiastic proponents of innate sex differences in intellect concede that there is huge overlap between the abilities of men and women, with many women superior to most men in that respect.

if the rest of the world believes that the professoriate is the exclusive preserve of the super-bright, who are we to disagree? Once the unstated assumption is on the table, it becomes difficult to reconcile with what one knows of actual professors in the real world of academia. I am not arguing that academics do not need to be reasonably intelligent. Clearly they do, though other traits such as being articulate, well-organized, cooperative, and fluid as a writer are also quite useful if you aspire to being a successful academic. But super-bright? That is open to doubt. In fact, here is an intriguing little project for professors in any field: Compile a list of all of the colleagues in your department who, in your judgment, are *not* super-brilliant. Almost certainly the list would be a lengthy one, likely composed of most of the faculty in the department—starting with the list-writer!

If most successful academics are not super-brilliant, then research claiming to show male over-representation in the super-brilliant category is largely unpersuasive as a justification for female under-representation in the ranks of the academy. Remember, this same research establishes that there is an abundance of reasonably bright women. If academia is largely staffed from the ranks of the reasonably intelligent rather than the super-brilliant, then women's relative absence there must be a product of factors other than lack of intellect. The truth, which I think every academic knows deep down, is that the potential pool of people bright enough to be highly successful academics is in fact many times larger than the pool necessary to staff the academy.

Some have suggested that more research on sex and intelligence is called for in the wake of the Summers controversy. Summers' belief that it is nature rather than nurture that keeps women out of the sciences should be recognized as just that—a belief, not a proposition open to scientific proof. For a proposition to be of potential scientific validity, it has to be falsifiable.² In this case, it would mean conducting experiments capable of testing whether biology, rather than socialization, is the propelling force in a particular human behavior. Experiments that would do that are, however, not possible. All human beings are unavoidably embedded in the social world. Only if we can imagine raising infants in a culture-free laboratory—and, thankfully, such a monstrous experiment is unthinkable—could we conclusively demonstrate that sex-linked behavior and traits are biological rather than social or cultural. For this reason, the nature-versus-nurture debate can never be laid to rest. It is unfalsifiable and, thus, not within the realm of science. It is a belief like a belief in predestination or the superiority of jazz to rap—a matter about which much argument can be generated but not something that science can answer.

Fruitless though I think it will be, I have no illusion that this research will be abandoned. Too many people have ideological axes to grind, seeking to prove or refute innate female intellectual inferiority. But, if I had my druthers, I would

² This is Popper's famous formulation of what distinguishes scientific inquiry from other belief systems. See generally KARL R. POPPER, *THE LOGIC OF SCIENTIFIC DISCOVERY* (2d ed. 1968).

invest the money not in research, but in education, to sensitize academic mentors, faculty hiring committees, tenure committees and, yes, university presidents to the power of unstated, unexamined, and invalid assumptions that discourage and exclude women at every step in the academic pipeline that leads to the professoriate.