Feminist Voices in the Debate over Single-Sex Schooling: Finding Common Ground

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INTRODUCTION

In recent years, same-sex schooling has gained renewed appeal among educators, policymakers, and parents. This slow but steady trend, especially among publicly supported schools, has generated heated debate in academic, legal, and policy circles. Next to the funding of school athletics, single-sex education is probably the most divisive
issue in the modern-day quest for gender equality in education.¹ It has proven especially troublesome to reconcile among women's advocates.

As this controversy has unfolded in the press and in the academic literature, the most vocal and visible opposition has come from organized women's groups (although the American Civil Liberties Union also has played a key role). And so one might easily point to "feminism" as the primary enemy of single-sex schooling. That view, nevertheless, is overly simplistic and misleading. First of all, it mistakenly implies that feminism is both monolithic and static. It further suggests the negativity that some now attach to the feminist label, as well as the more radical oppositionist streams within feminism as a "movement."

This is not to ignore popular assertions that feminism itself is irrelevant or even "dead" or, in the least, has lost its compass. Certainly life-style trends and attitudes seem to point in that direction. For many young women in their twenties and thirties, secure in the power of education to unlock professional doors, the "fires of feminism" seem to have burned down at least initially to "the ashes of careerism,"² and as recent public debates suggest, ultimately to full-time motherhood by choice.³ Nevertheless, the term still retains vitality as an overarching set of principles shared by those who are committed to advancing full political and social equality for women.⁴ Despite differences in approaches that continue to evolve, those who come under this umbrella voice widespread agreement on core issues that affect women nationally and globally—equal educational opportunities, equal pay for equal work, adequate child care, access to health care and disability benefits, preservation of bodily integrity, freedom from violence. When pushed to a level of consciousness, these concerns resonate even among young women, but more strongly among women in their forties and fifties who came of age at the height of feminist activism, although there are those who reject the "feminist" designation per se.⁵

1. Except where the distinction between the two concepts is essential to the discussion, I use sex (which technically refers to biological traits) and gender (referring to socially constructed characteristics) interchangeably, as is often done in popular and scholarly literature and in judicial opinions.


4. See Estelle B. Freedman, No Turning Back: The History of Feminism and the Future of Women (2002) (arguing that reports of feminism's demise are exaggerated and that traditions from around the world have permitted it to grow and become stronger).

5. See Kate Dube, What Feminism Means to Today's Undergraduates, CHRON. OF HIGHER EDUC., June 18, 2004, at B5.
One issue on which feminists, whether broadly or narrowly defined, do not agree, however, is single-sex schooling. Here the feminist position is neither unified, nor is it clearly articulated in its full range. While organized women’s groups, who most visibly speak on behalf of women, have voiced strong legal and political opposition to the concept, numerous individuals—including dissenters within these same organizations—have supported it, most of them outside the public eye.

Noticeably absent from the debate are feminist legal scholars, many, if not most of whom supported the Supreme Court’s 1996 decision striking down the all-male admissions policy at the Virginia Military Institute. With rare exceptions, they have stood on the sidelines of public discussion regarding its implications for elementary and secondary education. That silence does not suggest that feminist thinking on this subject is unimportant. I believe that it simply reflects the complexity of the underlying issues, the compelling arguments on behalf of disadvantaged minority girls in particular, and the difficulties many experience in arriving at a coherent position on single-sex schooling in general. And although these disagreements and uncertainties within feminism might seem to be merely of intellectual interest and directed toward a narrow audience, they exemplify the deepest fears, hopes, and passions of advocates, skeptics, and opponents. More importantly, the feminist rift on this question ironically holds within it a wealth of unique understandings that are crucial to making the connection between what is legally permissible and what is pedagogically sound.

7. See e.g., Rosemary C. Salomone, Same Different, Equal: Rethinking Single-Sex Schooling (2003) (arguing that public single-sex schooling is legal and may offer academic and social benefits to some students); Denise C. Morgan, Anti-Subordination Analysis after United States v. Virginia: Evaluating the Constitutionality of K-12 Single-Sex Public Schools, 1999 U. Chi. Legal F. 381 (proposing anti-subordination theory to undergird public single-sex schools particularly for girls); Susan Estrich, Sometimes, Single-Sex Schools Educate Best, Denver Post, Sept. 24, 1996, at B07 (arguing that single-sex education should be an option to help urban students develop their full potential). But see, Nancy Levit, Separating Equals: The Educational Research and the Long-Term Consequences of Sex Segregation, 67 Geo. Wash. L. Rev. 451 (1999) (arguing that the historical and social significance of sex segregation in American education mitigates against single-sex schooling); Valiorik K. Vojdik, Girls’ Schools After VMI: Do They Make the Grade? 4 Duke J. Gender L. & Pol’y 69 (1997) (maintaining that arguments supporting single-sex schools rely on the same gender stereotypes and generalizations that historically have excluded women from public schooling and traditionally male professions); Deborah L. Rhode, Single-Sex Schools Can Only Be Way Stations, Nat’l L.J., Aug. 18, 1997, at A19 (maintaining that priority should be given to implementing more effective gender equity policies in coeducational schools rather than establishing separate schools).
In the discussion that follows, I examine this deep divide within feminist ranks with an eye toward proposing a constructive and essential role for feminist understandings as single-sex schooling inches its way toward legal acceptability and into the mainstream of educational reform. In doing so, I examine the forces that have shaped competing perspectives on women’s equality, especially disagreements over sameness and difference. In the end I look to the Court’s decision in *United States v. Virginia* \(^8\) as a road map for feminists to follow in reaching common ground on the approach, despite seemingly profound ideological differences among them.

I. Deconstructing the Debate

Single-sex education defies conventional political labels. It attracts support from social and religious conservatives, including many African-Americans, for its grounding in traditional values. It also engages the attention of political conservatives for its implicit appeal to a free market of parental choice and educational diversity. Among liberals, on the other hand, the response has been far more mixed. In fact, the debate over single-sex schooling has created some atypical alliances while breeding strong animosity among traditional allies in the civil rights and women’s movements. Some have become ardent supporters of these programs. For others, single-sex education programs evoke fear, sharp criticism, and threats of legal action. Individuals, who in the past marched together for women’s rights, now find themselves, uncomfortably and sometimes stridently, facing off against each other in the national press, in the broadcast media, and in scholarly journals. Still others have remained quietly on the sidelines, ambivalent and reluctant to align themselves with either camp.

A series of official actions with significant legal and policy implications has intermittently given the debate political salience and substance. In 1996, the Supreme Court handed down its ruling against the Virginia Military Institute.\(^9\) That decision, addressing a unique institution with a unique mission, has yet to be tested on elementary and secondary programs. In January 2002, as part of the No Child Left Behind Act, Congress authorized the use of federal funds for innovative educational programs, including single-sex schools and classes.\(^10\) Yet

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several factors, including Title IX regulations dating from the 1970s, a history of aggressive Office for Civil Rights enforcement under prior administrations, and strong opposition from civil rights groups, have made many school officials wary of using the funds for these purposes without further clarification from the Department of Education.\footnote{11}

That clarification seemed to be near at hand in May 2002, when the Department announced that it was reviewing the regulations to allow more flexibility, and presumably to bring them into compliance with the Court’s decision in \textit{Virginia} and with the Title IX statute.\footnote{12} The Department subsequently received more than 170 responses to a series of questions posed in that announcement. Women’s and civil rights organizations were the primary opponents of any changes in the regulations, while support came largely from school districts and charter school organizers.\footnote{13} Further word from Washington did not come until March, 2004, when the Department issued proposed regulations offering school districts considerable flexibility in establishing schools and

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\item Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et. seq. states that “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance;” see also Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 34 C.F.R. § 106.1 et seq. (2004).
\item Groups opposing any changes in the Title IX regulations included the National Organization for Women, the NOW Legal Defense Fund, the National Women’s Law Center, the American Association of University Women, the Women’s Research and Education Institute, the Feminist Majority Foundation, the California Women’s Law Center, the National Council of Women’s Organizations, the National Council for Women and Girls in Education, the Business and Professional Women USA, the Association for Gender Equity Leadership in Education, the Clearinghouse on Women’s Rights, the Florida Women’s Consortium, the American Civil Liberties Union, the New York Civil Liberties Union, the Leadership Conference on Civil Rights, the Citizen’s Commission on Civil Rights, the National PTA, and the National Education Association. Those supporting changes included the Young Women’s Leadership School of Chicago, the Chicago Board of Education, the Detroit Board of Education, the Brighter Choice Foundation, the Toussaint Institute, Victory Schools, the Empire Foundation for Policy Research, the New York Charter Schools Association, the Center for Education Reform, the International Boys’ Schools Coalition, the National Coalition of Girls’ Schools, the National Association for Single-Sex Public Education, the Teamsters National Black Caucus, and the United Jewish Organizations. Letters submitted to the Department of Education in response to the Notice of Intent (May 8, 2002) (on file with author).
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classes that separate students on the basis of sex. It remains to be seen how well these proposals survive the intense scrutiny of the prescribed forty-five day period for public comment before they become finalized. The very fact that a year and a half passed between the initial announcement and publication of the proposed regulations, and another seven months have elapsed since the comment period closed, speaks volumes to the complexity and political sensitivity of the critical issues presented and the sharp disagreements over how to resolve them.

At first glance, it may appear rather odd that a seemingly benign approach, especially one traditionally favored among privileged classes, should provoke such visceral reactions from across the political spectrum. These disparate responses, however, are merely symptomatic of deeper disagreements rooted in history and tradition and born of women's struggle for equal access to education. For countries such as the United States, the separation of girls and boys confronts, head-on, the canon of coeducation and lifts its longstanding veneer of gender neutrality. In doing so, it opens wide the very concept of equality as applied to sex and stirs up sharp differences over the relationship between sex on the one hand and aptitude, attitude, and achievement on the other.

A. A Confluence of Forces

The fragmented feminist response to the question of single-sex schooling is due in no small measure to the paradoxes and dilemmas inherent in the concept itself. But to fully grasp that picture, we must first consider the historical, social, and educational developments that have shaped the debate. To begin that discussion, let me take you back to the summer of 1996 when, within weeks of each other, two interrelated news stories captured the media's attention—one obviously national and the other seemingly more local to New York City.


In late June of that year, the U.S. Supreme Court handed down its long-awaited decision in the case against the Virginia Military Institute. Here, seven justices agreed that the categorical exclusion of women from the all-male institution violated the equal protection clause of the Fourteenth Amendment. They further rejected the remedy that the state of Virginia offered: a separate program, the Virginia Women's Institute for Leadership (VWIL), at the privately-supported all-female Mary Baldwin College. In a sweeping opinion on the constitutional dimensions of gender equality, Justice Ruth Bader Ginsburg, speaking for the Court, set to rest not only the claims brought on behalf of women against VMI, but also similar litigation against the Citadel in South Carolina. In fact, it was the drama surrounding the heroic efforts of Shannon Faulkner, a young woman who tried to gain entry into the Citadel's corps of cadets, that set the real-world backdrop for sorting through the complex legal and policy issues presented in the VMI litigation. The hair-raising story of the hostility and abuse cast upon her as her case wound its way through the federal courts surely must have haunted the justices as they handed down one of the Court's most textured statements on sex discrimination and women's equality.

The complexity and intensity of Justice Ginsburg's opinion and the firmness with which she spoke for her colleagues reverberated throughout the feminist world. While many women's advocates rejoiced in the immediate decision, many also feared that it might sound the death knell for all publicly supported single-sex programs or jeopardize government funding for the myriad private women's colleges. Justice Scalia, in dissent, sternly warned of that possibility although history has proven him wrong. As this discussion swirled through academic and legal circles, the New York press reported that a local school district in New York City was planning to open an all-girls' middle school in East Harlem. The seeming incongruity of these two public acts immediately touched off a debate that slowly but steadily gained national proportions.

17. U.S. Const. amend. XIV, § 1 states as follows: "No State shall . . . deny to any person within its jurisdiction the equal protection of the laws."
As the forces began lining up on either side, it soon became apparent that something unusual and somewhat incomprehensible was happening within the ranks of women's advocates. Some who had passionately denounced all-male admissions at state military academies like VMI and the Citadel were suddenly rallying to support a public single-sex school for inner-city girls in the name of affirmative action. Others, despite their avid support for affirmative action, were condemning the school with equal resolve. The fragile women's consensus seemed to be unraveling at the seams. It was clear that the question of single-sex schooling, while significant in itself, was also a flashpoint for more fundamental disagreements over gender equality as a legal standard, a moral principle, and a policy objective.

B. Competing Arguments

Few issues have caused such sharp divisions in the dwindling ranks of scholars, advocates, and public intellectuals who still proudly carry the "feminist" banner or who, at the least, believe that women have yet to win the battle for equal citizenship. For more than a decade, the National Organization for Women and the American Civil Liberties Union have swiftly moved to stop school districts dead in their tracks at the mere suggestion of separating females and males. From Detroit and Milwaukee to Philadelphia, New York, and Chicago, local chapters of these organizations have either threatened or undertaken some form of legal action with mixed success. Yet not all their members have agreed with these organizational positions or with their underlying assumptions. In fact, I would venture to guess that NOW's membership, in particular, has dwindled over this precise issue.

The same internal conflict holds true for the National Association for the Advancement of Colored People (NAACP) and the NAACP Legal Defense and Educational Fund. In the early 1990s, the leadership of both organizations officially opposed plans to establish all-male Afrocentric academies in Detroit and Milwaukee. The rationale was that these programs would reinforce the pervasive isolation of African-American males, whom school officials too readily placed in special education classes or in schools for students with disciplinary problems.22 At its annual convention in Houston in 1991, the NAACP adopted a policy

22. NAACP LEGAL DEFENSE AND EDUCATIONAL FUND, REFLECTIONS ON PROPOSALS FOR SEPARATE SCHOOLS FOR AFRICAN-AMERICAN MALE PUPILS 9 (1990).
reaffirming its "historical opposition to school segregation of any kind." Yet Detroit delegates to the convention opposed the resolution. The executive director of the Detroit branch best captured their thinking, noting how all-male schools were "a level of redress and response to discrimination." The Coalition of 100 Black Men has echoed a similar view, rallying to support the Eagle Academy for Men, an all-boys' public high school recently opened in New York City. The Coalition of 100 Black Women likewise has supported New York's Young Women's Leadership School where many of the group's members serve as mentors.

Meanwhile, African-American educators and parents nationwide have become ardent supporters of single-sex programs for at-risk students. The increasing number of inner-city programs that continue to spring up around the country are a testament to that fact. Between 2000 and 2003, fifteen public single-sex schools opened their doors, either as new ventures or as reconstituted formerly coeducational schools. In all but three of them, the student population is over 85 percent non-white. An additional ten schools were slated to open in Fall 2004 in New York, Ohio, Pennsylvania, South Carolina, and Texas.

Supporters call the opposition to single-sex education misguided and ideological. Opponents rail against the other side's naïveté. Each side claims the high road on gender and justice. Proponents argue that single-sex programs are necessary, at least under some circumstances, to promote equality of opportunity. For them, sometimes "different" means "equal." They typically offer both short- and long-term rationales focused primarily on girls: improving overall academic achievement; developing interest and competency in math, science, and technology; improving self-esteem; and increasing interest in and opening access to male-dominated careers. Many further maintain that separate programs remove the distraction of the other sex and place the intellectual above the social particularly for adolescents.

Some suggest that beneath coeducation lies a "hidden curriculum"—a subtle, but nonetheless harmful, institutionalized program of male dominance in classroom interactions, uneven teacher expectations, and attitudes that prepare students for gender-specific roles in society. Others contend that coeducation fails to adequately recognize the range of learning styles and emotional needs that both girls and boys bring to school, and the different paces at which they mature and develop skills. Single-sex programs, they argue, give girls an emotional space in which to develop leadership and intellectual abilities free from the pressure of boys. Still others maintain that single-sex programs can prove especially effective for disadvantaged minority students, including inner-city boys as well as girls. Many supporters, although certainly not all, are women who attended academically rigorous single-sex schools or colleges, which proved for them a positive, and even defining, experience. Undoubtedly, their personal familiarity with the approach eases some of the serious concerns that classifications based on sex typically evoke within the ranks of women's advocates.

Opponents, on the other hand, look to equal treatment and argue that single-sex programs undermine equality. The most absolutist among them draw on the Court's decision in the case against VMI and the "skeptical scrutiny" applied there. They further rely on Brown v. Board of Education. For them, "separate educational facilities are inherently unequal," whether the qualifying factor is race or sex. In their


view, separation is a euphemism for worse; it represents subordination and inferiority, it perpetuates harmful stereotypes, and in the case of single-sex programs, it stigmatizes girls. Others take a more moderate position. The problem is not separateness per se, but rather unequal treatment. What is offered to one sex must be offered to the other. Still others maintain that the two programs need not be identical, but rather show "substantial equity," invoking the standard that Justice Ginsburg applied in her opinion in Virginia.31 And finally, there are those who look to history and social consequences, basing their rationales either on sex or on economics. Here programs are acceptable where they serve girls but not boys, or where they address the needs of disadvantaged students but not the more privileged.

Those who align themselves on this side of the debate present passionate policy arguments to support their position. They contend that single-sex programs smack of benevolent sexism and deny young women and men the interpersonal skills they need to relate to each other now and in the future. They argue that separation does not breed the mutual understanding and respect that place women on an equal footing with men. They see single-sex education, at best, as a short-term fix that ignores the more pervasive gender inequities that continue to distort the schooling experience, especially for girls. At worst, they believe that it may reinforce persistent gender stereotypes.32

C. Historical Exclusion

On close examination, these arguments reveal concerns grounded in not-too-distant history. Opponents fear the return to a world that confronted the modern-day women's movement in the 1960s, a world

31. Virginia, 518 U.S. at 554.
where gender-segregated schools and vocational classes denied girls educational resources, limited their employment options to a finite set of low-paying jobs—hairdressing, dress-making, nursing, secretarial work—and foreclosed them from certain areas of knowledge, most notably and notoriously, science and mathematics. They painfully recall the historical exclusion of women from elite academic institutions, both at the university level and among private and public secondary schools. It is only several decades since most of these institutions became coeducational. Some, like the University of Virginia and Central High School in Philadelphia, acted under court mandate. Some fell directly under the sword of Title IX. But these and others, like Harvard, Yale, and numerous private secondary schools, also responded to a combination of social pressure and market forces. In the midst of a sexual revolution, both female and male students became less inclined to choose same-sex schooling. Meanwhile, both female and male institutions realized that they could improve the academic quality of their applicant pool by including the other fifty percent of the population.

Women's advocates remember all too well the Philadelphia litigation where it became apparent that Girls' High School was receiving significantly fewer resources than the all-boys Central High: half the number of library books, half the number of computers, and one-fifth the number of courses for the "mentally gifted;" not to mention Central's superior facility, better educated faculty, and prestigious alumni network. Nor can they easily forget how girls in Boston had to meet higher standards to fill half the number of seats at Girls' Latin High School as compared with applicants at the esteemed Boys' Latin High School. The memories of these experiences are still too vivid for some to feel any comfort with sex-based admissions for any reason. They fear the potential danger for backsliding.

D. Sex, Race, and Academic Performance

Threaded through the discussion on single-sex schooling is the well-publicized research on how coeducation has failed girls, along with

33. See Karen Graves, Girls' Schooling During the Progressive Era: From Female Scholar to Domesticated Citizen xviii (1998).
more recent studies sounding an equally troubling alarm with regard to boys. Related to these concerns is the issue of sex as it intersects with race, culture, and social class. Here we see the almost intractable problems that surround the education of minority girls and boys, especially in urban communities.

Throughout the 1980s and 1990s, findings not only from the United States, but also from other developed countries, warned that girls were underachieving, particularly in math and science." Researchers offered various causes: girls were losing their self-esteem as they approached adolescence, teachers were giving more classroom attention and validation to boys, boys were dominating the linguistic space of the classroom and denying girls an equal opportunity to participate. Together, these reports painted a painful portrait of growing up female in America.

More recent findings on boys have created a backlash against the damaging, and somewhat misleading, implications of both the "deficit" and the "girls as victims/boys as villains" positions. A wave of popular literature now suggests that boys are not faring as well, both emotionally and academically, as generally believed. There is growing recognition that coeducational schools are not the totalistic bastions of male privilege that the gender equity project has assumed. Some maintain that the structural and behavioral expectations of most coeducational schools, particularly elementary schools, actually tend to favor girls "since teachers have become 'well-sensitized to [their] voices.'" Others argue that the myth that schools shortchange girls is dangerously wrong because it diverts attention from African-American boys and their serious educational and social deficits as compared with African-American girls.

While most of these arguments are well-reasoned, politically balanced, and informative, others are filled with invective, casting blame on radical feminism for this apparent war on boys. 41

The truth is that schools are shortchanging both girls and boys, but in different ways. Girls are surpassing boys on many measures of academic success, including college attendance; meanwhile the gender gap favoring boys in math and science has narrowed. This is not to suggest, however, that girls' achievement no longer merits concern and attention. Girls continue to lag behind boys, especially on high-stakes tests like the SAT and Advanced Placement exams, as well as on entrance exams to medical and law schools. Boys outperform girls on all areas of the Advanced Placement examinations with the exception of art history and foreign languages. That is the case even in biology and English language and composition, where girls typically outperform boys in classroom work. Despite impressive gains in school performance, girls still have trouble penetrating a glass ceiling at the highest levels of academic achievement, especially in math, science, and technology.

Since 1995, for example, the proportion of girls taking the Advanced Placement computer science A exam has declined, while the gender gap in average scores has widened. At the same time, however, far more girls than boys take Advanced Placement exams in art history, foreign languages, and English language and composition. These discrepancies reflect a gender-polarized course selection that runs more pervasively throughout the curriculum. Some of these achievement disparities, admittedly, are due to the larger number of low-performing girls applying to college and, consequently, taking SAT and Advanced Placement exams. But that fact does not explain the lingering gender gap in math and science on more inclusive standardized tests such as the National Assessment of Educational Progress, which includes a cross-section of students nationwide.

Nevertheless, while there are fewer girls at the top of the achievement ladder, there are far more boys at the bottom. Boys as a group have fallen even further behind girls in reading and verbal skills. They also demonstrate a much higher incidence of learning disabilities and other disorders, including autism and attention deficit disorder, although there is growing evidence that girls may suffer similar problems

41 See, e.g., Michael Gurian, A Fine Young Man (1998); Gurian, supra note 39; Christina Hoff Sommers, The War Against Boys: How Misguided Feminism is Harming Our Young Men (2000).
that go unidentified because of their compliant classroom behavior. Girls simply know how to play school.\textsuperscript{42}

Some of the persistent sex differences in school performance may, in fact, be a function of the more resistant academic and social problems that characterize poor and disadvantaged boys. Many African-American boys, in particular, live within a subculture that fails to foster the academic identification necessary for educational achievement. They gain their self-esteem from sports and social popularity at the expense of intellectual pursuits.\textsuperscript{43} Within this population, suspension and dropout rates and the incidence of criminal activity have reached alarming proportions. More than two-thirds of African-American fourth graders are functionally illiterate, and most of them are boys. African-American students are three to five times more likely than white students to be suspended or expelled from school, and again, most of these are boys. There are now more African-American males in prison than in college.\textsuperscript{44}

Yet that is not to negate the problems facing disadvantaged minority girls. While many among them appreciate the value of education and express lofty goals, overwhelming personal and social circumstances frequently derail their plans. Teen motherhood and marginal employment, too often, become their foreseeable fate, relegating them and their children into an unending cycle of poverty.\textsuperscript{45} School district officials and charter school organizers nationwide are increasingly turning to single-sex schooling to address these troubling realities.

\textit{E. The Sameness-Difference Dilemma}

Implicit in the boy-girl debate is the belief that girls and boys interact with the educational environment in different ways. Of course, the inevitable and highly controversial question is, "Why?" Is it a matter of sex-based differences, and if so, are these differences biologically

\textsuperscript{42} Salomone, supra note 7, at 86–92 (discussing the data on gender and academic achievement); see generally, Warren W. Willingham & Nancy S. Cole, Gender and Fair Assessment (1997).


\textsuperscript{44} Salomone, supra note 7, at 109–10 (discussing academic and social problems among inner-city African-American boys).

\textsuperscript{45} Id. at 108 (discussing academic and social problems among disadvantaged minority girls).
determined (and therefore inevitable) or culturally constituted (and thus avoidable)? Or is it some combination of the two? In any case, are they changeable?

Until recent years, feminists and others strongly resisted research on sex differences, believing that the question itself was unscientific, politically motivated, and ultimately harmful to women's social equality. That position is beginning to change. Although arguments based in brain research still understandably give rise to serious concerns for their potentially dangerous misuse and misleading implications, new statistical techniques and technology have made research findings in this area generally more reliable.

There now seems to be some consensus, even among women's advocates, that individuals are shaped both by nature and nurture. The relative influence of each factor is a matter of genetics interacting with the range of experiences over the course of the individual's life. Home and school tend to reinforce whatever initial biological differences may exist by providing children, from an early age, with activities and experiences suitable to their perceived and group-defined talents. At the same time, research has proven that many of these initial differences are highly manipulable and some of them significantly so. For example, the intense attention afforded girls' performance in math over the past two decades has narrowed significantly the achievement gap favoring boys, despite previous developmental lags in visual-spatial ability among girls as a group. That striking result could be interpreted as a case of education overcoming biology. Of course, it could also be a matter of education overcoming early socialization, or a combination of the two.

The scientific literature on this topic is far too vast, the findings too tentative, and the implications for single-sex education too uncertain for purposes of this discussion. Nevertheless, the issue of sex differences gives rise to a host of significant questions. Are girls and boys different in some relevant characteristics or factors that require a different approach to their education? Should they be separated for at least a part of their schooling to accommodate possible sex-based differences in learning styles, attitudes, abilities, or developmental pace? Does even the suggestion of innate differences imply a deficit on the part of one or the other sex? Does it erroneously involve an essentialist or monolithic concept of womanhood that transcends race, culture, and social class? Can

sex separation be justified, at least partially, in relation to these factors as they separately and collectively influence academic success? As these questions continue to loop through the debate, they have generated an intricate web of contrasting arguments, directly or indirectly rooted in feminist scholarship of recent decades.

II. DIVERSE VOICES WITHIN FEMINISM

Within feminist ranks, ideological disagreements over sameness and difference and what it means for women to achieve political and social equality inevitably arise, directly or indirectly, in the discussion of single-sex education. The key voices in the sameness-difference debate have followed one of several strategies largely associated with “second wave” (post 1950s) feminism: to deny the existence of any relevant differences between women and men; to recognize and even celebrate them; or, to discard them by totally redefining the terms for addressing relations between the sexes. Within these competing approaches, the concepts of sameness, difference, dominance, and (in)essentialism together provide a theoretical framework and language for examining the question of whether single-sex programs advance or undermine equality among different populations of females as well as males.

A. Liberal Feminism

Among the most vocal critics of single-sex schooling, as typified again by the National Organization for Women, much of their thinking flows out of feminist advocacy from the 1970s. Feminists of that era struggled to stamp out the remains of a centuries-old “separate spheres” mythology, dating as far back as the ancient Greeks. Their views were based on an assimilationist model that called for fairness as equal treatment based on a male norm. Their strategy was to prove that women were the same as men on whatever the relevant criterion happened to be.

Seeking to move women into the public sphere, they defined their goals by what was valued and possessed by white, middle-class men: public respect and recognition, gratifying careers with the attendant monetary rewards and status, and freedom from the rigid social expectation of bearing and raising children. By focusing on equal rights, they could avoid the complicated and politically sensitive issue of whether differences between the two sexes were biological or cultural.
Their vision was purely egalitarian, opposing different treatment even where it benefited women. Their immediate goal was seemingly modest: to gain for each woman equal access, independence, and autonomy based in an individualistic liberal ethos, although the ultimate effect of their project could have more radically transformed society. They fought to break down barriers of all sorts. One of their primary goals was education, where they struggled to make schools gender-neutral in their inputs—in admissions, resources, expectations, climate, and curriculum—and thus in their outputs.

A key player in the development of what is generally known as "liberal feminism" was Ruth Bader Ginsburg, who would ultimately speak for a majority of the justices in *United States v. Virginia*. As founding director, in the early 1970s, of the ACLU Women’s Rights Project (WRP) (the same organization that later joined in the case against the Citadel), she carefully planned a litigation program that challenged sex stereotypes in a variety of contexts. To her mind, gender distinctions, even when designed to benefit women, merely reinforced outdated stereotypical notions that failed to recognize individual ability and often resulted in unequal opportunities. From 1971 to 1976, she and her colleagues at the WRP tenaciously and incrementally whittled away at the "separate spheres" doctrine. Using "equal treatment" as their overarching guide, through a well-planned litigation agenda they successfully moved the Supreme Court to examine more carefully distinctions based on sex.

Justice Ginsburg’s opinion in *Virginia*, two decades later, became the long-overdue capstone of those efforts. As one commentator later captured it, “This is the opinion she had hoped the [C]ourt would one day arrive at when she first started arguing cases of discrimination in the 1960s.” The language, reasoning, and spirit drew heavily from a brief she had prepared in an early unsuccessful round of litigation challenging

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48. BELL HOOKS, FEMINIST THEORY FROM MARGIN TO CENTER 809 (2d ed. 2000).
50. See Craig v. Boren, 429 U.S. 190 (1976) (invalidating a state statute prohibiting the sale of 3.2 percent beer to males under the age of twenty-one and to females under the age of eighteen); Frontiero v. Richardson, 411 U.S. 677 (1973) (invalidating a federal law affording male members of the armed forces an automatic dependency allowance for their wives but requiring servicewomen to prove that their husbands were dependent); Reed v. Reed, 404 U.S. 71 (1971) (striking down a law granting a preference for men over women in the appointment of administrators of estates).
Philadelphia's all-male Central High School in federal court. As she later recalled, "[I]t was [like] winning [that] case twenty years later."

B. Difference Feminism

As the 1970s drew to a close, the notion of gender equality as equal treatment came under increasing attack within the feminist community. Critics argued that liberal feminism could not account for real differences between the sexes and, particularly, for biological reproductive differences that demanded different or special treatment for women. More fundamentally, they noted the assimilationist approach to sex equality failed to challenge the unequal paradigm of male normativity. The standard itself was "gendered," relegating women to what Simone de Beauvoir called "the incidental, the inessential . . . the Other." A new wave of scholarship across the disciplines began to view sex differences through a different lens. Here the discussion turned to the different experiences of women and men, which have resulted in a different moral and psychological perspective. Women gain definition through relationships, we were told, and women's distinct "ways of knowing" became celebrated.

Few would dispute that the one defining work energizing the debate over sameness and difference, and bringing it to the consciousness of an international community, was Carol Gilligan's groundbreaking book *In a Different Voice.* Translated into nine languages, the book apparently resonated for women across nations and cultures. Yet it also touched off a firestorm of negative reaction, especially among some, but certainly not all, feminists. And although it was essentially a study of moral development, it set the stage for subsequent scholarship on gender differences that has had profound effects on educational policy. Ultimately, but unintentionally, it gave credence to arguments in favor of same-sex schooling.

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55. CAROL GILLIGAN, IN A DIFFERENT VOICE: PSYCHOLOGICAL THEORY AND WOMEN'S DEVELOPMENT (1982).
Drawing on the work of "relational" psychologists from the 1970s, Gilligan disputed the conventional wisdom on the disparity between women's experience and the representation of human development. She challenged prevailing psychological theories that judged women on how closely they conformed to a male norm. She asserted that women and men have different moral orientations that should be valued equally. She contended that women, or what is culturally defined as "female," are oriented toward attachment, connectedness, and caring, which inclines them toward human relationships. Men, or what is culturally defined as "male," are oriented toward separateness and abstract thinking, which predisposes them toward individual achievement and the subordination of relationships. Gilligan claimed that the "different voice" she described is neither "absolute," nor a generalization on either sex, but merely represents contrasting "modes of thought." Yet she estimated that, while the "care focus" is not characteristic of all women, it is almost exclusively a "female phenomenon," at least among the educated North Americans that she had studied.

Some feminist scholars welcomed the high moral status this argument suggested for women, freeing them from the male norm and valuing their unique qualities. They connected Gilligan's theory with the work of other contemporary psychologists, who argued that women's different life experiences, combined with academic learning, produced different forms of knowledge or ways of knowing as compared with men. A core of scholars within the legal academy soon coalesced around the difference principle to redefine gender equality. Setting aside the formal equality or equal treatment of the 1970s, they posited a conception of substantive equality based in different treatment and equal results. Instead of women accommodating to the male norm, they argued that social institutions had to change to accommodate women's lives.

58. See Mary Field Beelenky et al., Women's Ways of Knowing: The Development of Self, Voice, and Mind (1986).
Gilligan’s book created a theoretical base for her later research on adolescent girls. And it is here that her work made a definitive mark on educational policy and practice. From interviews with female students in several private, independent schools, Gilligan concluded that adolescence is “a watershed in female development, a time when girls are in danger of drowning or disappearing.”

She compared early adolescence in women’s development to early childhood for men. For her, both are a time of “compromise between voice and relationship.” As she saw it, that compromise for girls is tied to women’s subordinate role in society. Her observations and conclusions gave theoretical credence to the empirical findings of educational researchers and women’s advocates examining gender equity over the following decade. Those findings ultimately found their way into policy arguments supporting single-sex schooling.

Gilligan’s work held personal meaning for many women of her generation. Yet there were many others who saw danger lurking in the difference principle. Scholars from across the disciplines railed against the implicit gender stereotypes, which, to them, dangerously reclaimed Victorian gender ideology. By ascribing certain common traits to all women, the difference strategy could have the unintended effect of not only perpetuating such stereotypes in the larger society, but also embedding those traits within women themselves. And by failing to address the cultural, political, and social forces—including race and class—that intersect with gender in the lives of women, difference feminism suggested that gender differences were natural, immutable, and traceable to a feminine essence or “innate womanhood.”

Gilligan’s theory and the scholarly movement it spawned clearly laid bare the


"dilemma of difference:" whether we recognize differences or ignore them; either way, they carry a stigma.64

C. Dominance Theory

As the 1980s progressed, difference feminism became mired in its many implicit perils. Meanwhile, a third, less popularly embraced strand of feminist thought began to challenge the underlying premises of liberal feminism and difference feminism and, in doing so, shifted the focus from the moral to the political. For this diverse group of mainly legal scholars, the key to women’s inequality is not difference but dominance. Simply put, women are unequal to men because they lack power.65 In their view, the debate over whether or not differences are “natural” is inconsequential. Any attempt to reconcile equality and difference merely obscures the one difference that really counts: that women are politically, socially, and economically subordinate to men. Efforts to promote equality between the sexes, therefore, must incorporate an understanding that women do not exist on an equal footing with men.66 A critical question here is whether recognizing differences (regardless of their origin) as a matter of law in a particular case will more likely reduce or reinforce existing political, social, and economic disparities. The issue is not difference per se, but rather “the difference difference makes.”67

Again, within this discourse, the concept of power, suggested by some and stridently invoked by others, plays an essential role. For Catharine MacKinnon, the chief architect and most radical proponent of this view, the equal treatment of liberal feminism legitimizes entrenched patriarchal values while failing to acknowledge the connection between sex and power. At the same time, she also warns that celebrating women's difference from men is rife with hierarchical implications. To her mind, difference feminism merely celebrates the terms of women's oppression. She calls difference “inequality's post hoc excuse ... its outcome presented as its origin,” the “velvet glove on the iron fist

of domination." This is so, she says, whether differences are "affirmed" or "denied," whether women are "punished" or "protected in their name." As she sees it, Gilligan's "different voice" is the "voice of the victim." Woman's voice, she argues, is not her own, but only what male supremacy has made it out to be.

D. (In)essentialism

As advocates of these competing strains of feminism have sorted through the "woman question," others have challenged the notion of a unitary "women's experience" and questioned the implicit understanding that feminist scholarship speaks for all women. Viewed by some as presenting a subset of "third wave" feminism, these critics have underscored the multiple axes of domination under which some women have suffered. They argue that by addressing the abstract woman, feminist scholars have disregarded critical factors such as race, ethnicity, age, religion, class, handicapping conditions, and sexual orientation, all of which inevitably shape women's lives. Women and men experience privilege and subordination in different ways depending on these characteristics. In their view, feminist scholarship narrowly reflects the values and concerns of white, middle- and upper-middle-class, heterosexual, college-educated women, thus constructing its own form of privilege. They further hold that even when feminists have taken into account various forms of identity and oppression differences, they have considered them as additive and distinct, and not interrelated and interactive.

70. This is not to confuse these theorists with other critics of "second wave" feminism to whom the popular press has attached the "third wave" feminist label but whom many academicians consider "conservative post-feminists" or even "anti-feminists." Included among these are Naomi Wolf, Katie Roiphe, Camille Paglia, and Christina Hoff Sommers. See Third Wave Agenda: Being Feminist, Doing Feminism (Leslie Heywood & Jennifer Drake eds., 1997).
Women scholars of color, in particular, have condemned this pervasive inattention to the diversity of women's experiences. For them, liberal feminism, difference feminism, and dominance theory all have presented white womanhood and manhood as universal truths while relegating racial issues to footnotes, if addressed at all. As the feminist author bell hooks points out, liberal feminism was off the mark in setting women's social equality with men as its goal and failing to recognize that all men do not benefit equally from sexism. Meanwhile, dominance and subordination take on a different cast among people of color for whom racism, sexism, and classism often intersect.

African-American women, for example, have suffered subordination not only at the hands of men, but also from white female employers, as in the context of domestic work, while African-American men also have been victims of white oppression. The very fact that African-American women and men have been tied in their struggle for liberation has made African-American women disinclined to view men as the enemy. Moreover, unlike white society, which has marginalized women's contributions, African-American communities have long valued the indispensable role that African-American women historically have played in maintaining their social institutions, including churches and communal organizations.\(^\text{72}\) And unlike many white educated feminists who view the family as a source of women's disempowerment, for African-American women and other minorities, including Latinas and Asian-Americans (as well as working class whites), the family can be a "haven in a harsh and unyielding world."\(^\text{73}\)

African-American women typically and understandably project an image of independence, autonomy, resourcefulness, and self-reliance. As teenagers, they fare better on tests of self-confidence and self-esteem than white or Latina females.\(^\text{74}\) Yet in the end, these traits are not sufficiently strong to overcome countervailing social and economic forces that derail their life plans. The disconnect between appearances and reality, and its underlying causes, often go unnoticed in the conventional educational setting.

This debate over gender essentialism has served to underscore the paradox at the core of feminism. As Elizabeth Spelman has noted, "Any attempt to talk about all women in terms of something we have in

\(^{\text{Quail Calls: Multiple Consciousness as Jurisprudential Method, 14 Women's Rts. L.}}\)
\(^{\text{Rep. 297 (1992).}}\)
\(^{\text{72. Hooks, supra note 48, at 68–69.}}\)
\(^{\text{73. Joan Williams, Implementing Antiesentialism: How Gender Wars Turn into Race and Class Conflict, in Feminist Legal Theory, supra note 65, at 101, 107.}}\)
\(^{\text{74. American Association of University Women, supra note 62, at 9.}}\)
common undermines attempts to talk about differences among us, and vice versa."75 Others, including Catharine MacKinnon, have argued more definitively that antiessentialism is harmful to women.76 In the interests of political pragmatism, they maintain, the success and even the possibility of a coherent argument supporting women’s position in society requires a singleness of voice and purpose.77 Still others, like Mari Matsuda, see something positive emerging from the position of intersectionality, where comparing struggles and challenges can serve as a means of coalition building against all forms of subordination.78

E. The Value of Distinctions

As we parse these diverse feminist orientations, we should not overlook the unique contributions that each has made to advance discourse on gender equality and promote the status of women. At the beginning of the modern-day women’s movement, liberal feminism scored an impressive record in raising women’s expectations. By articulating their concerns in the language of equal treatment, advocates presented a familiar standard that appealed to fundamental notions of fairness and justice. At the same time, difference feminism has presented a vantage point for recognizing those personal and interpersonal attributes, whether of biological or social origin, that are more prevalent among women. Dominance theory, while too radical and overstated to appeal to a broad section of the female population, still reminds us that we cannot honestly discuss equality without also considering the disparities in economic, political, and social power between women and men. Meanwhile, (in)essentialism underscores certain nuances that bear directly on the question of sex equality across a broad population of women and men. In doing so, it challenges the myth of the essential woman and brings to light how the intersection of multiple identity characteristics shapes our life experiences.

At the same time, however, as we examine these conflicting theories, we also come to understand how the divisions among women’s advocates on the question of single-sex schooling reflect deep conflicts over the meaning of gender equality and how to achieve it. The obvious

75. SPELMAN, supra note 71, at 3.
77. Id.
78. Mari J. Matsuda, Beside My Sister, Facing the Enemy: Legal Theory Out of Coalition, in FEMINIST LEGAL THEORY, supra note 65, at 75.
tension among these perspectives inevitably reveals itself in both policy initiatives and court decisions, and especially in the efforts of public school districts to implement programs within constitutional limits. As opponents, particularly organized women's groups, remain ideologically transfixed in equality as sameness, proponents pragmatically weave through a maze of sex differences and inequalities based on race and social class, while struggling to avoid the dangerous pitfalls of deficiency, essentialism, and categorical stereotypes. Meanwhile, each group draws on women's historical subordination to shape a distinct remedy, either in same or different treatment. At the extremes, neither side sees much merit to the other's arguments.

In the end, what we can glean from this overview and analysis, is that education in general, and single-sex schooling in particular, need not, and should not, be wedded to any one comprehensive theory or perspective. That, in fact, was the path that Justice Ginsburg thoughtfully and effectively forged in her opinion striking down the all-male admissions policy at the Virginia Military Institute.

III. The Virginia Roadmap

Justice Ginsburg's opinion in United States v. Virginia skillfully weaves together strands of sameness, difference, and dominance theories into a measured exposition on gender equality. Although the opinion is firmly anchored in sameness, it presents carefully articulated and circumscribed accommodations to difference, set against the historical backdrop of subordination. It proceeds almost as a dialogue between the first two, as point and counterpoint, advancing on difference and then quickly qualifying it with equal treatment, while interjecting touches of dominance theory as the "Greek chorus" in the background to maintain perspective.

Here we see her cautiously but deftly navigating a winding course between competing visions of absolute equality, on the one hand, and the recognition that women should be compensated for socially imposed disabilities, or accommodated for different educational needs, on the other. Although she uses what men have as the norm and looks for equal treatment in this case, she acknowledges the inherent physical differences between the sexes, thereby leaving open the door for different treatment under other circumstances. At the same time, she

shows sensitivity to women's history of exclusion and subordination, particularly in education.

She chooses her words more carefully than one might initially comprehend. She recognizes the reality of "physical" differences (but not all differences) between the sexes, but she also cautions against its potentially harmful misapplication. She acknowledges, and not grudgingly, that unlike race, for which the law recognizes no differences, the "inherent differences' between men and women" are "cause for celebration."81 "Physical differences between men and women," she tells us, "are enduring."82 "The two sexes are not fungible."83 That language itself is indeed noteworthy from someone so strongly tied in the past to the sameness ideal and who, in her early career as a litigator, so forcefully argued for the Court to consider race and sex classifications with equal skepticism.

But at the same time, she warns that those differences cannot be used to "denigrat[e]" either men or women or to place "artificial constraints on an individual's opportunity."84 "State actors controlling gates to opportunity," she says, "may not exclude qualified individuals based on 'fixed notions' concerning the roles and abilities of males and females."85 Decisions must be made on a case-by-case basis.86 The state of Virginia was wrong in categorically excluding from a unique benefit those women who had the ability and capacity to withstand VMI's rigorous training program merely because most women did not.87 Her reference to the individual reflects her grounding in liberal feminism. Beyond physical differences, she clearly avoids any assumptions about the group characteristics or traits that difference feminism would warmly embrace.

Justice Ginsburg tells us that sex classifications "are permissible" as long as they "advance the full development of the talent and capacities of our Nation's people."88 But they cannot be used "as they once were to create or perpetuate the legal, social, and economic inferiority of

81. Virginia, 518 U.S. at 533.
82. Virginia, 518 U.S. at 533.
83. Virginia, 518 U.S. at 533 (quoting Ballard v. United States, 329 U.S. 187, 193 (1946)).
84. Virginia, 518 U.S. at 533.
85. Virginia, 518 U.S. at 541 (quoting Mississippi Univ. for Women v. Hogan, 458 U.S. 718, 725 (1982)).
86. Virginia, 518 U.S. at 533.
87. Virginia, 518 U.S. at 533.
88. Virginia, 518 U.S. at 533.
This broad language hints at single-sex schools for inner-city minority students, including boys. Yet the closing qualification also sets the outer limits and suggests a particular concern with the situation of women and the potential for discrimination against them. The implication to be drawn is that sometimes "equal" might, of necessity, mean "different."

In a tantalizing footnote, Justice Ginsburg explicitly notes that single-sex programs may, in fact, be specifically intended to overcome gender inequities—to "‘dissipate, rather than perpetuate, traditional gender classifications.'" That observation suggests that separate but equal "might sometimes be permissible for sex" as in the case of all-girls' public schools. This too seems to depart from a stand she took nearly three decades ago in a government report advocating the integration of all single-sex education-related institutions. But she also warns that state actors cannot rely on "‘overbroad generalizations'" that might "perpetuate historical patterns of discrimination." Generalizations about the 'way women are,' estimates of what is appropriate for most women, no longer justify denying opportunity to women whose talent and capacity place them outside the average description. Again, although the language here rejects the core element of difference feminism, that there are some traits more prevalent within each sex, even difference feminists would agree that the state cannot use differences to deny opportunities to those who fall outside the norm. The problem was not that Virginia had recognized a difference between women and men, but that it effectively had "turned that difference into a disadvantage."

The relevance of this discussion to elementary and secondary education requires qualification. Here the Court was dismissing generalizations about college-aged women and men who presumptively exhibit no sex-based differences beyond the most obvious and irrelevant

89. Virginia, 518 U.S. at 533–34 (citation omitted).
90. Virginia, 518 U.S. at 534 n.7 (quoting Brief for Twenty-Six Private Women’s Colleges as Amici Curiae 5).
biological traits. Girls and boys, on the other hand, are still in the process of maturing and developing. Certain differences in aptitude or ability may be real at different stages as they move from childhood through adolescence and into adulthood. That being said, even where certain generalizations may be appropriate, they still cannot be "overbroad." The key questions to be answered are: first, what differences are relevant to educational performance and success; and second, what empirical evidence is needed to determine whether the differences relied upon are based in fact, and therefore "real," or grounded in archaic stereotypes? These questions are difficult to answer but nonetheless crucial to the legitimacy of single-sex programs.

In deciding the case against VMI, the Court was operating against the historical backdrop of not just this particular institution, but of male schools in general. Those schools traditionally and categorically excluded females from a specific and highly valued opportunity that was not available elsewhere to women. Justice Ginsburg recalls how, in the past, legal and medical education similarly resisted placing women on an equal footing with men. The severely restrictive social and economic consequences that flowed from that exclusion denied women the ability to participate as equal citizens. This argument holds strains of dominance theory where, as Catharine MacKinnon has put it, the critical concern is whether the policy or practice in question "integrally contributes to the maintenance of an underclass or a deprived position because of gender status." In the Court's view, that was precisely the effect of VMI's exclusionary admissions policy, which consequently undermined equality.

But dominance theory also suggests another side to the story. What if the circumstances were different? Could the government classify young people on the basis of sex in order to include rather than exclude, that is, to offer rather than deny an opportunity to individuals, such as women or racial minorities, who have suffered exclusion in the past? The Court does not address that question. Yet the distinction would support single-sex programs for girls and minority students of both sexes.

Finally, Justice Ginsburg offers specific guidelines on what courts should consider in judging whether the education offered both sexes is "substantially equal." Drawing on Sweatt v. Painter, the case that desegregated the University of Texas School of Law back in 1950, she

96. Virginia, 518 U.S. at 543–44.
97. MacKinnon, supra note 68, at 8.
counsels that equality must be measured by both tangible and intangible factors, including curricular and extracurricular choices, the stature of the faculty, funding, prestige, library resources, and alumni support and influence.99

IV. Finding Common Ground

Of course, the devil is always in the details. And the details on single-sex schooling are indeed complex and still yet fully to be drawn. As newly re-envisioned, this approach is still a "work in progress." But before considering the fine points, feminists must first move beyond ideology and acknowledge what each brings to the table of educational reform. Only by coming to terms with the fact that no one theory or orientation provides a completely satisfactory justification or set of guideposts will both sides fully appreciate that each has something significant to offer.

Justice Ginsburg’s careful reasoning in the Virginia decision demonstrates how the various strands within feminist thinking can constructively contribute to resolving some of the disagreements and confusion among feminists as they position themselves in the debate over single-sex schooling. Difference feminism allows for valuing attributes, whether inherent or socialized, that may appear more common among females than males. But at the same time, liberal feminism, ever mindful of historical exclusion, tempers that recognition and defines its outer bounds, warning against overbroad generalizations and the dangers of promoting feelings of deficiency. As Deborah Rhode has noted, "To ignore sexual differences is to ignore human experience; to romanticize their value is to risk exaggeration."100 Meanwhile, dominance theory forces educators to look at the population served and to reflect on whether the program is likely to remedy the harm that comes from a position of subordination or second-class citizenship. In that sense, it serves to justify single-sex programs for girls and for racial minority students of both sexes.

Finally, the insights gained from (in)essentialist sensitivity to multiple identities are especially important in addressing racial and economic differences among students. The rich literature in this area pushes educators to look beyond the sameness-difference dilemma and consider ways to attend to the specific educational and social problems confronting minority girls and boys in particular. Research on school

100. Rhode, supra note 63, at 312.
performance, in fact, appears to support this more nuanced view. Findings suggest that the positive effects of single-sex schooling may fall within a hierarchy of low-status characteristics (female, racial minority, low-socio-economic status) with the greatest positive impact on African-American females from low socio-economic homes, slightly diminished impact among African-American and Latino males from low socio-economic homes, smaller effects still for white middle-class females, and virtually no differences among white males or affluent students regardless of race or sex. These tentative but promising results beg for further validation.

That being said, the moment has come for women's advocates on both sides of the single-sex schooling divide, whether avowedly feminist or not, to see the bigger picture and reassess their arguments. As critics must tone down their rhetoric and open their minds to new findings on sex-linked developmental and learning differences among children and adolescents, so too must the proponents of same-sex programs recognize the fears expressed on the other side, and acknowledge the potential, but not unavoidable, dangers of sex separation. Above all, opponents must accept that this is not a "winner takes all" battle. Nor is it a referendum on the success or failure of the feminist project. Separating students by sex on a voluntary basis, whether to remove social distractions, to enhance self-confidence, or to accommodate short-term developmental differences, need not be a surrender to the reactionary forces of separate spheres ideology, so long as programs are thoughtfully designed and administrators and teachers are adequately informed and sensitized to the issues.

This last point is especially crucial. At its best, single-sex education can be an effective tool of empowerment and self-realization for some girls and boys. The widely-recognized success of the Young Women's Leadership School in New York over the past eight years is a clear example: daily attendance above 95 percent, a 98 percent graduation rate as compared to 60 percent citywide, and a 100 percent four-year college acceptance rate in all four graduating classes. Feminists should rejoice in the profound difference the school has made in the lives of its students.

But then again, at its worst, and as history has proven, single-sex schooling can unwittingly become a tool of gender polarization and oppression, perpetuating stereotypical images that produce feelings of

101. Riordan, supra note 28, at 177.
inadequacy among girls while reinforcing exclusionary and sexist attitudes among boys. A three-year report on a misguided, unfocused, and poorly planned dual academy program in the state of California in the late 1990s gives proof to this contention. In schools serving at-risk girls and boys separately, but within the same facility, researchers found that teachers were subjecting students to harmful comparisons and sex-stereotyping, including gender-specific teaching and disciplinary methods. It goes without saying that strategies and materials appealing to different learning styles and interests, while not harmful in themselves, must be used with thought and careful attention when those differences are ascribed to sex. If not, they merely serve to reinforce, and even imbed, differences where they may not exist, preventing members of either sex from moving beyond predetermined limits, whether biological or cultural. This complexity in constructing definitions of femininity and masculinity and the way such constructions reflect the values and beliefs of the surrounding community and the larger society go to the heart of all education but especially single-sex schooling.

In view of these potentially positive and negative realities, it would be a missed opportunity if women’s advocates across the feminist spectrum failed to work constructively with emerging programs from the ground up. Rather than playing a game of “gotcha” after the fact, they should help educators become consciously aware of how to navigate the tricky divide between gender stereotyping and gender equity. It further would prove eye-opening indeed for them to enter the world of private single-sex schooling, which generally has undergone important changes in climate, curriculum, and staffing in recent decades, due in no small measure to the women’s movement. The teaching and administrative staff of these schools are more likely to include both women and men, while girls’ schools have become more consciously empowering and boys’ schools more nurturing and supportive of gender equity. Without denying the significant racial and socioeconomic differences between private and public schools, there is much to be learned from these experiences. By seeing what is offered to the most privileged, critics and skeptics can better comprehend and envision how single-sex schooling might effectively address some of the resistant problems facing disadvantaged students who have become the main focus of public school initiatives.


The time is ripe for feminists to initiate a meaningful dialogue amongst themselves and with others, and particularly with educators, to help establish realistic and socially relevant goals for these programs, explore meaningful measures of short- and long-term success beyond achievement test data (e.g., reduced pregnancy, suspension and dropout rates, and increased enrollment in nontraditional courses), and infuse institutional values and practices with core feminist understandings of gender equality. The Court's reasoning in *United States v. Virginia* is a good place to start in shaping these discussions.

**Conclusion**

As single-sex schooling continues to expand while awaiting legal affirmation, and as we move from the "whether" to the "how," educators nationwide need guidance in giving form and substance to this old idea turned new. Feminists, armed with their unique perspectives, can here play a significant role, not as shrill uncompromising critics, nor simply as vigilant watchdogs, nor even as distantly supportive cheering squads, but rather as reasoned voices, in discussion and not debate, constructively helping educators determine how best to provide an appropriate education for girls and boys, based not on group stereotypes, but on informed understandings of individual needs as they sometimes coalesce around gender. But before that can happen, feminists must agree to leave their differences behind on the ideological battlefield and move to a common ground of shared purposes. §