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Sex Discrimination in the Universities: Faculty Problems and No Solution

Leigh Bienen, Alicia Ostriker,
and J. P. Ostriker*

"We shall be left with the blind, the lame, and
the women"

—NATHAN PUSEY

I. BACKGROUND

It is an unpleasant fact that the basically decent, liberally-educated people who administer universities and colleges in the United States have, on a widespread and systematic basis, practiced discrimination against women in hiring, promoting and to a lesser extent in setting salaries. In the five years from 1968 to 1973, despite all governmental and private group pressures, the fraction of faculty women has increased by *less than one percent*,¹ although the number of women Ph.D.s produced only in the years 1960-70, who would have affected hiring from 1968-73, increased dramatically and was more than the total from all previous years since 1926.²

At the outset we propose that discrimination is bad for universities. Discrimination *means* that less qualified people are being hired, promoted and paid in preference to more qualified candidates. The prime drawback of discriminatory personnel policies in terms of economics is that it does not maximize utility. Universities practicing discrimination do not obtain faculties as talented as they could, given their resources in dollars and prestige. Moreover, the practice is illegal and it is or should be morally offensive in a society where equal opportunity and reward according to merit are considered valuable principles. The educational needs of a diverse and pluralistic society should also be a matter of serious consideration. Both morale and excellence will be furthered as bias is lessened.

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¹Figures quoted are from a 1973 American Council of Education survey, reported in CHRONICLE OF HIGHER EDUCATION, Aug. 15, 1974, at 8.

²All figures on the number and proportion of women Ph.D.s from 1945-70 are from Roby, *Institutional Barriers to Women Students in Higher Education*, Table 2.2, in ACADEMIC WOMEN ON THE MOVE at 40 (A. Rossi & A. Calderwood eds. 1973).

Unfortunately, it has not been clear to all observers how much is to be gained by a more vigorous effort to reduce sex discrimination in American colleges and universities. There are many who belittle the seriousness of contemporary discriminatory practices, and exaggerate the disadvantages and difficulties certain to attend any plan for legally remedying such practices.

Richard A. Lester's book, *Antibias Regulation of Universities: Faculty Problems and Their Solutions*,³ published last summer amid a considerable amount of publicity, is a recent and very unfortunate illustration of this problem. While claiming to support the ideal of equal employment, Lester's work ignores the weighty documentation amassed in recent years concerning discrimination at universities, and actually argues that the only real stumbling block is a deficient supply of qualified women academics. Moreover, he states that the problem of rectifying discrimination should be left essentially in the hands of those who have been in charge in the past, and that compliance with antidiscriminatory government regulations will damage American universities and result in a lowering of standards. Lester asserts that "generally speaking, university faculty and top university administrators can be expected to support appointment, advancement and compensation of individual faculty members on the basis of merit . . .,"⁴ and on this basis attacks the principle of government and enforcement sanctions. He proposes, except in the area of first appointments, elimination of affirmative action programs and the reduction of HEW's function from enforcement to information-gathering and overseeing. He advocates "removing faculty of colleges and universities from the Department of Labor's jurisdiction for contract compliance,"⁵ eliminating the one existing governmental sanction: cancellation, termination or suspension of federal contracts with noncomplying institutions. And he would make the Equal Employment Opportunity Commission, with its more limited equitable remedies, the primary federal enforcement agency. According to Lester, federal and state government agencies should not set goals, should not set guidelines, and in general should not interfere in American academic life, which rests on "the principle of selection and reward according to individual merit."⁶

³(McGraw Hill 1974) [hereinafter cited as LESTER].

⁴*Id.* at 3.

⁵*Id.* at 145.

⁶*Id.* at 3.

Lester's approach must appeal to everyone anxious to believe in the good will of his/her fellows. Unfortunately, it collapses when we remember the unpleasant facts with which we began this review.

Lester's book cannot be dismissed. It comes out under the imprint, though without the authority, of the Carnegie Commission on Higher Education. He is a well-known labor economist and identified on the title page as former Dean of the Faculty at Princeton University. His views will be widely accepted as authoritative. His book will be used as an excuse for failing to implement affirmative action programs, and it will be offered as a rationale for not having hired women in the past by hundreds of college and university officials in the country. Although Lester structures his argument around a model of hiring which he states is appropriate only for the 40-odd major universities, the book will have an effect upon many mass institutions, since he uses national statistics and models when it suits his convenience and directs much of his discussion to higher education in general.

Lester's argument has two principle threads. First, American colleges and universities are eager to hire, promote and pay appropriate salaries to qualified women if they can find them; this point is argued by assertion. Second, the supply or "pool" of women candidates for positions is relatively inferior in quality as well as in numbers to the pool of male candidates; this argued largely by innuendo. If these propositions were true, it would certainly follow that enforcement by government of increased hiring of women would reduce scholarly standards and erode the principle of academic liberty in American higher education. But in fact neither position is close to the truth, and Lester's presentation of evidence is—to put it bluntly—unfitting for a scholar of his reputation.

II. THE ACADEMIC MARKETPLACE

Much of Lester's argument rests on a rosy but idealized picture drawn of American academic life. We find, in this picture, a world of dedicated scholars devoted to "the search for, and distribution of, truth"⁷ who "share the goal of improving knowledge and training minds,"⁸ in a framework of departmental autonomy which means "a collegial form of self-government, motivated by a common desire for excellence."⁹ Decisions on hiring, promotion and pay are governed in Lester's version of the academic marketplace by an objective searching for scholarly excellence and productivity. At tenure level in particular,

personnel decisions are designed to choose "the most distinguished teacher-scholar,"¹⁰ "the very best mature scholar"¹¹ and "an outstanding performer and an effective colleague."¹² The potential professor must "achieve an outstanding record in scholarship, in teaching, and in other contributions to the university. . . . Such a record generally requires intense dedication to the task of achieving a national and international reputation."¹³ A major strength of American universities is "the drive their faculties have for improved quality."¹⁴ Pay as well as promotion is offered "according to merit of performance as teacher-scholars."¹⁵ At the close of his chapter on the operation of faculty appointment systems, Lester implies darkly that all this is threatened by "federal and state government intrusion."¹⁶

Deans of Faculty should know that even prestigious universities are not perfect meritocracies. Mediocre departments exist and tend to perpetuate themselves by hiring and promoting mediocre colleagues. Much hiring occurs through old-boy networks and through the tendency of departments to employ former students or candidates from the chairman's alma mater on the grounds that such candidates will be "effective colleagues." None of these problems is a secret; all relate directly to fair employment issues. Yet the author fails to mention that such considerations have been and continue to be important in decisions to hire or promote. As to the key matter of good will concerning fair employment practices, Lester assures the reader that "university faculty and administrators generally are sympathetic with the elimination of prejudice from faculty employment, whether based on race, sex, religion, ethnic origin or any other grounds."¹⁷ However, the only piece of evidence in the book to support this assertion is his reference to a national survey which found that in 1972-73 "about 32 per cent of the male and 42 per cent of the female faculty questioned favored preferential hiring of women."¹⁸ The author then presumes that such statements prove something about the respondents' behavior in hiring situations.

The actual evidence of discrimination, much of which was presented in the hearings before the House Special Subcommittees on Education and Labor in

⁷*Id.* at 11.

⁸*Id.* at 8.

⁹*Id.* at 8-9.

¹⁰*Id.* at 18.

¹¹*Id.* at 19.

¹²*Id.* at 21-22.

¹³*Id.* at 23-24.

¹⁴*Id.* at 28.

¹⁵*Id.* at 29.

¹⁶*Id.*

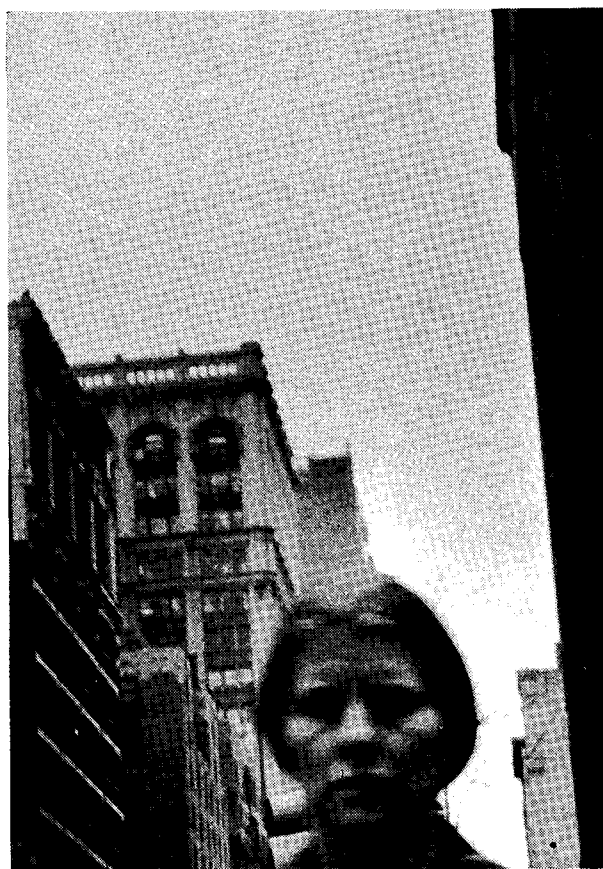
¹⁷*Id.* at 2.

¹⁸*Id.*

June 1970,¹⁹ is clear. The result has been that nationally women tend to be in the lower ranks of the lower-prestige institutions. Numerically they constitute 26 percent of two-year college faculties, 23 percent of four-year college faculties, and 15 percent of university faculties. The overall fraction of faculties that is female is 20 percent, not far from the appropriately weighted fraction of advanced degree holders. This indicates that most women who receive advanced degrees do find some type of faculty job and that they remain in academic life. They do not drop out. But their comparative distribution by rank and type and institution presents striking differences. Women are heavily concentrated in the lower ranks. They are seven times more likely to be in the low ranking instructorships than in the full professorships (6 percent of the full professors at universities are women, as opposed to 42 percent of the instructors). And they have had twice or three times as much difficulty in entering the higher prestige and higher paying universities as the community two-year institutions.²⁰ Given the essentially equal scholarly performance of men and women (see Table II, *infra*), the gross inequalities in rank distribution highlight past discriminatory hiring practices.

Not surprisingly, recent studies show that income disparities between men and women faculty members are substantial; in 1968-69 the difference in their mean salaries amounted to approximately \$2,400 or 20 percent.²¹ Most of the discrepancy was attributable to differences in rank distribution; as shown by Table I, *infra*, and so is evidence of bias only insofar as discriminatory hiring and promotion practices have relegated women to inferior ranks and lower-salaried institutions. However, an unaccounted-for residual salary gap was also found.²² In an updated version conducted for the American Council on Education, a residual income disparity amounting in 1970 to \$1,000 was found, even after allowing for differences in seniority, rank and various measures of scholarship, which could not be attributed to anything but sex bias.²³

We note that the distribution of women among various types of institutions and among ranks in these institutions is quite different from men. The elite in-



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stitutions, about which Lester is particularly concerned, show the greatest discrepancies between women and men with respect to overall numbers and rank distribution. In 1969-70 Harvard University had 350 faculty members in the ranks of associate and full professor in the Faculty of Arts and Sciences. Not one was a woman. Now, five years later, there are 13 women faculty members in those ranks at Harvard, one of whom is in a position specially reserved for her

TABLE I
WOMEN'S SHARE OF FULL-TIME FACULTY JOBS

	All Ranks	Prof.	Assoc. Prof.	Asst. Prof.	Instructors
All Institutions	22.3%	9.8%	16.3%	23.8%	39.9%
Public Institutions	22.7	10.0	15.8	23.7	39.2
Universities	17.1	6.7	12.3	20.0	44.4
Other 4-Year	23.2	12.7	17.4	24.7	44.0
2-Year	32.3	21.2	24.3	31.3	35.1
Private Institutions	21.2	9.5	17.2	24.1	42.5
Universities	14.5	5.4	12.9	19.0	41.0
Other 4-Year	23.6	12.3	19.1	25.7	41.5
2-Year	45.4	31.5	34.3	41.3	53.8

Source: National Center for Educational Statistics (1973).

¹⁹Hearings on Section 805 of H.R. 16098 Before the Subcomm. on Education of the House Comm. on Education and Labor, 91st Cong., 2d Sess., pt. 1 (1970).

²⁰All figures are derived from Table I, *infra*.

²¹Astin & Bayer, *Sex Discrimination in Academe*, in Rossi & Calderwood, *supra* note 2, at 342.

²²*Id.*

²³Reported from data collected by Michael Faia. Income differentials for men and women faculty members are compared for 1969 and 1973 in CHRONICLE OF HIGHER EDUCATION, Aug. 5, 1974, at 9.

sex.²⁴ This academic year, 1974-75, the total number of women faculty members in the ranks of associate and full professor at Princeton, Yale, Harvard and Columbia is 55 out of 1429, or 2.7 percent, a modest increase over the 1.0 percent reported in 1969-70.²⁵ Presumably the other major universities have increased their female proportion of tenured faculties at the same less-than-astonishing rate. Thus, we need not worry that the major universities have been forced to move too fast by governmental pressures, as Lester seems to fear. The National Academy of Sciences reports that unemployment of women with doctorates in science, engineering and social science is still more than four times that of their male colleagues.²⁶

Of course, these figures give only *prima facie* evidence of discrimination. Can the low position of women in academic life be explained by their own inadequacy rather than by discrimination? This seems to be Lester's position, necessitated by the fact that he is defending existing prerogatives. As a result he ignores four forms of evidence that discrimination *per se* exists. First, the personal experience of women undergraduate and graduate students, documented in testimony before Congress,²⁷ supports the conclusion that bias against women students influences grades, scholarships and fellowships. But more insidious is the atmosphere of scorn created for "women's brains"; there is testimonial evidence of active discouragement by their advisors of women who intend to pursue academic careers.²⁸ It is difficult to believe that faculty prejudice can exist at the student level and not affect hiring and promotion practices. None of this testimony is mentioned by Lester.

Second, a 1970 study of hiring decisions in departments of psychology²⁹ and a 1971 study of hiring de-

isions in departments of physical science³⁰ indicate that chairmen in these two fields do show bias against women in hiring situations. In the first study, eight descriptive paragraphs of job candidates were given chairmen for evaluation. Male candidates were offered hypothetical positions at higher ranks than female candidates, and more men than women were considered suitable for tenure-track positions, although the paragraphs describing these candidates were identical except for name and sex. In the second study, chairmen were asked to evaluate "average" job resumes identical except for sex, and "superior women" resumes. "Average" males were rated above "average" females both in general evaluation and in respondents' inclination to hire. "Superior women" were recognized as such, and about half the department chairmen expressed an inclination to hire them. However, none of the chairmen from schools ranked as above median were prepared to hire the "superior women" candidates. This finding tends to support the conclusion that high-prestige universities engage in more rather than less bias against women. Lester does not mention either of these studies, nor do they appear in his bibliography.

Third, when we compare doctorates granted to women by departments in elite institutions with positions held by women in these same departments we find that the best universities are training women in higher proportions than they are willing to hire and advance them.³¹ Harvard, Yale, Princeton and Columbia in 1962-63 granted 16 percent of their Ph.D.s to women but at present less than 2-3 percent of their tenured ranks are filled with women.³² Since high-prestige departments hire from each other as a rule, we may conclude either that they are granting Ph.D.s to unworthy students or that they are discriminating in hiring. The idea that male-female ratios in doctorates granted by individual departments should be considered in hiring guidelines by those departments is not mentioned by Lester.

Fourth, Astin and Bayer, in their classic study, *Sex Discrimination in Academe*,³³ conclude that "[s]ex is a better predictor of rank than such factors as number of years since completion of education, number of years employed . . . or number of books published.³⁴ They also conclude that "when women are statistically matched with men on the variables

²⁴Reported in a speech by President Bok, HARVARD TODAY, Fall, 1974, at 10. Figures for Harvard are official figures obtained from Harvard University.

²⁵The aggregate figure was calculated from official figures obtained directly from Harvard, Yale, Columbia and Princeton universities. Percentages were calculated on the basis of the number of women in the ranks of associate and full professor in the college or faculty of Arts and Sciences in each university.

²⁶NATIONAL ACADEMY OF SCIENCES, DOCTORAL SCIENTISTS AND ENGINEERS IN THE UNITED STATES, 1973 PROFILE (1974).

²⁷See, e.g., statements reported by Dr. Ann Sutherland Harris: "We expect women who come here to be competent, good students, but we don't expect them to be brilliant or original. . . . Any woman who has got this far has got to be a kook. . . . Somehow I can never take women in this field seriously." *Hearings on H.R. 16098, supra* note 19, at 240.

²⁸"A pretty girl like you will certainly get married. Why don't you stop with an M.A." *Id.*

²⁹L. Fidell, 25 AM. PSYCHOLOGY 1094 (1970).

³⁰Lewin & Duchan, *Women in Academia*, 173 SCI. 892 (Sept. 1971). See also *Letters*, 176 SCI. 457 *et seq.* (May 1972).

³¹See Tables I, III and IV, *infra*.

³²DEPT. OF HEALTH, EDUCATION & WELFARE, EARNED DEGREES CONFERRED, 1962-63, OE 54013-63 (1965).

³³Astin & Bayer, *supra* note 21.

³⁴*Id.* at 339.

that determine rewards, they . . . fall below men in rank and salary."³⁵ Lester does discuss the Austin-Bayer work but disputes their salary findings on the ground that qualitative differences between men and women may be the real cause of men's higher position on salary scales.³⁶ He neither mentions nor disputes their findings on rank differentials.

The evidence indicates that, given men and women with equal qualifications, men will receive preferential treatment in American institutions of higher learning, particularly in the elite institutions. The evidence shows gross discrimination in the distribution within academic ranks and among types of institutions, and some discrimination in salary for given rank and institution. Although university professors are not given to proclaiming their own prejudices, they are no more immune from prejudiced thoughts and deeds than ordinary mortals. Lester's contention that faculty appointment systems are governed by no other consideration than a devoted search for individual merit must be challenged.

III. THE SUPPLY OF QUALIFIED WOMEN

Lester's second proposition is that the supply of women scholars is presently inadequate, not only in numbers but in quality, to meet the high demands set by American institutions of higher learning. He develops this idea by inference rather than evidence; or rather he seems to assume that the relative inadequacy of women candidates is such an obvious matter that no very substantial proof is required. The only evidence presented is where he purports to show that among teaching faculties in universities women spend less time on research and have a lower scholarly output.³⁷ However, although he does note that a larger fraction of women than men work in essentially non-research fields like nursing and education, and that only 19 percent of the women as opposed to 42 percent of the men in his sample have a Ph.D. or equivalent degree, he fails to disaggregate the figures and compare men and women with the same degree and academic rank who are in the same field.³⁸ Thus he is able to conclude that women are significantly less productive than men. In fact the opposite is true as Table II, *infra*, indicates. Productivity of female Ph.D.s as measured by the mean number of articles published is

slightly greater than that of males in the physical sciences, slightly less in the social sciences and humanities and overall insignificantly different. Certainly the differences between the average female and the average male, whatever the sign of the difference, is so much smaller than the variance within each group as to make implications of female inferiority unfair to say the least.

Lester repeatedly refers to the well-known handi-

TABLE II
PRODUCTIVITY MEASURES: ARTICLE AND BOOK
PUBLICATION, BY FIELD, SEX AND MARITAL STATUS

	Percent Published at Least One Article	Mean Number of Articles	Percent Published at Least One Book	Mean Number of Books
Sciences				
Women				
Unmarried	83.3	5.8	10.1	1.1
Married	75.4	6.3	6.2	2.6
Married w/ Children	91.9	7.8	9.5	1.7
Men	88.8	6.1	10.2	1.5
Social Sciences				
Women				
Unmarried	59.3	4.0	23.1	1.8
Married	61.5	4.2	20.9	2.1
Married w/ Children	66.9	3.9	19.9	1.5
Men	55.9	4.6	30.3	1.8
Humanities				
Women				
Unmarried	47.0	2.8	22.6	1.3
Married	69.7	3.7	22.9	1.6
Married w/ Children	69.7	3.4	32.8	1.6
Men	50.0	4.3	27.7	1.6
Education				
Women				
Unmarried	51.2	3.5	23.5	1.6
Married	57.4	5.4	35.3	1.7
Married w/ Children	39.6	3.9	26.0	2.0
Men	44.2	5.1	22.2	1.8
Combined				
Women				
Unmarried	57.9	4.1	21.1	1.6
Married	66.2	5.3	20.2	1.9
Married w/ Children	63.9	4.3	21.8	1.7
Men	57.5	5.2	23.1	1.7

Source: Simon, Clark and Galway, *15 Social Problems* at 231.

³⁵*Id.*

³⁶LESTER at 55.

³⁷"It becomes increasingly difficult for a woman with heavy household responsibilities to make an outstanding record as a scholar or even to keep abreast of developments in her field." LESTER at 42.

³⁸*Id.*



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caps women encounter in pursuing careers³⁹ as if, mistaking cause for effect, these handicaps made women worse candidates for jobs. It might be more reasonable to predict that women who successfully jump the hurdles prior to the Ph.D. degree will be *superior* in academic qualifications and ambitions to men, whose way has been made relatively easy. He implies, without evidence, that family commitments reduce the reliability and performance level of women academics. First he admits the obvious, that women Ph.D.s are as qualified as men at that degree level.⁴⁰ Then he establishes the unremarkable fact that married women do more housework than men. Finally he concludes that "married women are not likely to devote as much time and effort to increasing their earnings capacity."⁴¹ Earlier he had argued, similarly without any supporting evidence, that "because on the average female faculty devote less time and energy to professional development (especially research) than men and more time to home responsibilities, a smaller percentage of women really qualify for the higher

ranks."⁴² Since Ph.D. women are as productive as men in manufacturing research books and papers (*see* Table II, *infra*), we are left with the puzzling problem concerning the distractions from which men must suffer to bring them down to the level of women who bear the burden of extra household responsibilities. Perhaps Lester should have devoted a parallel section of his book to the question of whether or not drinking beer and watching sporting events on television, both practices known to correlate with male gender, greatly or only slightly handicap the research potential of the average male faculty member.

For other evidence of the lack of supply of qualified women he rather astonishingly takes the very data which show the drone-position of women on national rank and pay scales—women being hired abundantly to do the proletarian labor of teaching low-level courses with heavy course-loads which discourage commitment to research, women hired mainly as instructors, as lab assistants, as research associates, not eligible for promotion, kept on indefinitely as good cheap labor—as if this demonstrated a low level of female capability rather than a high degree of dis-

³⁹*Id.* at 38, 40, 42 and 52.

⁴⁰*Id.* at 58.

⁴¹*Id.*

⁴²*Id.* at 42.

crimination.⁴³ Lester's argument seems to be that if women are getting low pay, and not being promoted—does this not *prove* they are less able?

If we look at existing evidence which Lester ignores, it points in the opposite direction, indicating that increased utilization of women under a strict merit system would raise the standards of American education. Studies indicate that women doctoral recipients have somewhat greater academic ability than their male counterparts,⁴⁴ and that married women receiving their Ph.D.s are more capable academically than single women.⁴⁵ Women's durability on academic jobs is slightly though not significantly greater than men's, although their rates of promotions and their salaries, and hence their incentives to stay, are lower.⁴⁶

Despite the myth of the dropout woman Ph.D., 91 percent of the women who received doctorates in 1957-58 were working, 81 percent full time; and 79 percent had not interrupted their careers in the ten years after obtaining the doctorate.⁴⁷ In contrast, only 81 percent of all male Ph.D.s are in the labor force; and only 69 percent work full time in their field of study.⁴⁸

Studies attempting to measure teaching effectiveness tend to indicate no difference between male and female teachers.⁴⁹ Despite the almost universally accepted belief that women do not produce, the evidence shows that women with Ph.D.s publish as much as male Ph.D.s.⁵⁰ Furthermore, in most fields, married women were publishing as much or more than both men and unmarried women, although their status and salaries lagged consistently behind both.⁵¹ None of these findings are mentioned by Lester, although the studies are listed in his bibliography. It must be noted further that women have achieved this degree of academic success despite the fact that in our society they have been discouraged from desiring academic

success.⁵²

Yet we should not be surprised that women presently in academic life perform as well as they do. Forty-three percent of the bachelor's degrees, 40 percent of the master's degrees and 13.7 percent of the Ph.D.s in the United States go to women.⁵³ The fraction of women Ph.D.s in representative fields is shown in Table III, *infra*. The attrition rate for women in graduate school is high indeed, but this means that those women who do not drop out, who get their degrees come hell or high water and finally enter the job market, are self-selected for commitment as well as for ability. A man can be a relatively ordinary person and still get a Ph.D. For a woman, this is far less the case. We may look forward to a time of normalization when women will not have to run twice as fast as their male colleagues in order to stay in place. But the facts of the contemporary situation make clear that American education is in no clear and present danger of decline if it incorporates more women; they will be the equals or superiors of their male colleagues.

IV. THE BASIS FOR GOVERNMENT INTERVENTION

In the fairest of all possible worlds, government intervention to eradicate previous discriminatory practices would be unnecessary. The good will of all concerned would quickly do the job. The facts of discrimination show unfortunately that we cannot depend on good will in this area. Furthermore, the federal and state governments already are heavily involved in the business of higher education, with a significant proportion of the bill paid by the taxpayer. Universities and colleges are institutions of enormous social importance; they help shape the lives of millions of young people every day.⁵⁴ Even without a finding of institutional responsibility, unquestionably a part of the socialization of college women involves acceptance of inferior roles.⁵⁵ Changing discriminatory pat-

⁴³*Id.* at 55.

⁴⁴NATIONAL ACADEMY OF SCIENCES, CAREERS OF PH.D.'S, ACADEMIC AND NONACADEMIC, A SECOND REPORT OF FOLLOW-UPS OF DOCTORAL COHORTS (1968) and Harmon, *High School Ability Patterns: A Backward Look from the Doctorate*, SCIENTIFIC MANPOWER REPORT No. 6 (1966).

⁴⁵*Id.*

⁴⁶Hearings on H.R. 16098, *supra* note 19, at pt. 2, Appendix III, at 1162 *et seq.*

⁴⁷Astin, *Career Profiles of Women Doctorates*, in Rossi & Calderwood, *supra* note 2, at 156.

⁴⁸H. ASTIN, *THE WOMAN DOCTORATE IN AMERICA* (1969).

⁴⁹Loeb & Ferber, *Women on the Faculty at the Urbana-Champaign Campus*, in Rossi & Calderwood, *supra* note 2, at 247.

⁵⁰Simon, Clark & Galway, *The Woman Ph.D.: A Recent Profile*, 15 SOCIAL PROBLEMS 227 (1967). See also Astin, *supra* note 47, at 155, Tables 7.9 and 7.10.

⁵¹Table II, *infra*.

⁵²See notes 27 and 28 *supra*.

⁵³ACADEMIC MEDIA, INC., YEARBOOK OF HIGHER EDUCATION, 1972 (1972) at 310.

⁵⁴In 1969-70 there were 2,686 institutions of higher education with a total enrollment of over 6,000,000 students. See MERTENS & BRANDT, FINANCIAL STATISTICS OF INSTITUTIONS OF HIGHER EDUCATION: CURRENT FUNDS, REVENUES, AND EXPENDITURES, 1969-1970, OE 73-11419 (1974).

⁵⁵A recent study conducted among women and men undergraduates at Cornell University showed that women undergraduates received higher grades than men, but they consistently evaluated themselves lower than the men. Also, the women correctly anticipated that they would earn an average of \$5,000 per year less than their male counterparts. The women did not anticipate not working, they simply anticipated earning less. And Cornell women still gravitated toward

TABLE III
NUMBER AND PERCENT OF PH.D.S AWARDED TO WOMEN, BY DISCIPLINE AND INSTITUTION, 1970-71

	Biology		Economics		English		Mathematics		Philosophy		Political Science		Psychology	
	#	%	#	%	#	%	#	%	#	%	#	%	#	%
U. of California, Berkeley	14	13	4	13	9	28	1	3	0	0	5	21	11	42
U. of California, Los Angeles	11	17	1	9	11	48	3	10	0	0	2	13	19	53
Yale	5	16	0	0	9	43	2	15	1	7	2	18	6	46
U. of Chicago	10	19	0	0	7	26	2	11	2	9	3	17	3	25
Northwestern	9	38	2	17	4	20	2	14	0	0	1	10	3	21
Harvard	14	24	3	9	5	14	0	0	0	0	7	18	10	39
U. of Michigan*	13	17	0	0	4	17	0	0	2	15	1	6	18	25
Duke	10	25	4	24	1	7	0	0	0	0	3	15	4	29
U. of Texas*	14	35	1	10	9	38	1	7	2	13	0	0	4	19

*U. of Michigan is the main campus at Ann Arbor only. U. of Texas is the U. of Texas at Austin, main campus only. "Biology" is "Biological Sciences Total," which includes all branches of Biology. "Mathematics" is "Mathematics, General" and does not include statistics or applied mathematics. "Psychology" is "Psychology, Total" and includes all branches of clinical and experimental psychology and general psychology. "English" includes both "English Literature" and "English, General." Figures are for the academic year 1970-71.

Source: U.S. Dept. of Health, Education and Welfare, *Earned Degrees Conferred: 1970-71*, DHEW Publication No. (OE) 73-11412 (1973).

terns at the college level will go a long way toward changing discriminatory patterns throughout the business, social and economic life of the country as a whole. Finally, it is clear that Congress has the legal right to insist on fair employment practices in institutions receiving government funds.

A detailed exposition of the development of the law regarding sex discrimination is not attempted here. The literature is enormous, and much of the development takes place outside of forums whose results are published in official reports.⁵⁶ The law is

confusing due to the fact that different governmental agencies and statutes have overlapping, and sometimes even concurrent, jurisdiction; and a variety of state and federal agencies have enforcing authority. Actions can be brought under a medley of old and new statutes. There are many choices of remedies and forums, and different forms of relief are afforded under the different laws, agencies, regulations and guidelines. Actions can be brought by individuals, groups of individuals, classes of individuals or by the state or federal government.⁵⁷ In this respect the situation

"women's fields." Farley, *Coeducation and College Women*, 9 CORNELL J. SOCIAL RELATIONS 87 (1974). See also the results of a recent American Council of Education survey finding that (a) women were more likely to have higher grades than men, and (b) a far smaller proportion of women than men went on to graduate studies, although in recent years the percentage of women going on more nearly equalled the percentage of men. New York Times, Oct. 1, 1974, at 30, col. 3.

⁵⁶In this particular area of the law a great many of the most important developments are going on outside of the courts. Recent cases and references to administrative decisions relating to sex discrimination in the universities are reported in the following looseleaf services: P-H: LAB. REL. GUIDE, PAYROLL GUIDE; BNA: DAILY LAB. REP., F.E.P., LAB. ARB. REP., LAB. REL. REP.; CCH: LAB. L. REP., especially EMPLOYMENT PRACTICES UNIT, GOV'T CONT. REP., PENSION PLAN GUIDE, COLLEGE AND U. REP., POVERTY L. REP.

Some recent court decisions are *Johnson v. U. of Pitt.*, 5 BNA F.E.P. 1182 (W.D. Pa. 1973) (first case applying Title VII of the Civil Rights Act of 1964 to an academic institution, injunction forbidding termination granted) and *Taliaferro v.*

State Council of Higher Education, 373 F. Supp. 1387 (D. Va. 1974) (limited class action not dismissed against individual state officials on claim of sex discrimination in termination of teachers in state institution).

Relevant annotation references include: 15 AM. JUR. 2d *Civil Rights* § 47 (1964), *Discrimination in Higher Education*; 7 A.L.R. FED. 707 (1971), construction of the Equal Pay Act of 1963; 12 A.L.R. FED. 15 (1972), construction of Title VII of the Civil Rights Act of 1964; 21 A.L.R. FED. 472 (1974), back pay suits under Title VII of the Civil Rights Act of 1964, as amended by the Equal Opportunity Act of 1972.

⁵⁷The various statutes, regulations and guidelines as well as the authority of different agencies are set out in a convenient chart accompanied by discussion and annotation of the then recent cases in Sandler, *Sex Discrimination, Educational Institutions and the Law: A New Issue on Campus*, 2 J. LAW & ED. 613 (1973); especially Appendices I and II. For a compilation of recent developments in the law and "progress" in the appointment of women to academic positions, see Sandler, *Backlash in Academe*, TEACHERS COLLEGE RECORD (forthcoming, Feb. 1975).

is similar to other areas of civil rights and fair employment. At any rate, the legal situation is surely no more overwhelming than the areas of environmental protection and antitrust regulation.

However, like many others Lester criticizes inconsistent, inefficient and, he asserts, often uninformed, aspects of existing governmental attempts to reduce and eliminate sex discrimination in faculty hiring and promotion. Basically, his point is that those making the enforcement decisions and recommendations are unfamiliar with university structures and practices. Probably there is some truth in this. We submit that we should not wait the decade necessary to have a fully and expertly trained cadre of government experts to implement federal and state policy. By that time, as we know from other fields, the regulated would probably have co-opted the regulators. In addition, Lester argues and implies throughout that government intervention in the affairs of universities is not warranted on the basis that it is unjustified, novel and harmful to the institutions. None of these contentions is accurate.

In 1969-70, expenditures for all four-year educational institutions increased 14 percent to \$21.6 billion per year, with public institutions accounting for only 64 percent of the total. Of that \$21.6 billion, a large proportion of which would be faculty payrolls, the greatest single source of income was governmental appropriations: 32 percent or \$6.9 billion. Eighty-two percent of this \$6.9 billion was from state funds. Student tuition and fees were the second greatest source, accounting for 21 percent or \$4.5 billion. The third largest, 9 percent or \$1.9 billion, was from sponsored research, of which 83 percent was from the federal government.⁵⁸

Although Lester makes much of the autonomy of major universities, it is obvious from the foregoing figures that these institutions depend heavily on government support to maintain many of their most important and prestigious programs. No one can seriously argue that choice of research topics and dissertation subjects, not to mention faculty hiring and pay scales, are not significantly affected by the availability of government funds for specific projects in specific areas. Anyone who holds up the model of an autonomous and independent university, making its decisions free from government interference, deliberately ignores these facts.

Moreover, his alleged governmental interference is actually merely enforcement of the law of the land, as enacted by elected representatives. The principal government sanction against the university remains the withdrawal of some federal funds, a significant and

TABLE IV
NATIONAL DISTRIBUTION OF UNIVERSITY FACULTY,
BY RANK AND SEX, 1972-73

	Percent of Sex in Given Rank		Percent of Rank for Given Sex	
	Men	Women	Men	Women
Professor	41	12	95	5
Associate Professor	26	20	88	12
Assistant Professor	22	35	78	22
Instructor and Other	11	32	62	38

Source: Lester at 43 and 44.

weighty threat to universities in present times of financial difficulty. While we can say that it is unfortunate, and most unfortunate for women, that pressure is being brought to abandon sex discrimination at a time when overall faculty employment opportunities are declining, the current financial plight of many universities should not be used as an excuse to ignore affirmative action.

V. CONCLUSION

One of Professor Lester's favorite phrases is "outstanding teacher-scholar." A former full professor at a major university, he himself belongs in this category. According to his own definition, he must be not only highly trained, but also deeply committed to knowledge and truth. We therefore note with interest, in addition to the systematic ignoring of evidence and the misuse of statistics already observed, some further relatively minor distortions and inconsistencies. Lester expresses concern that hiring pressures will lead to bidding up salaries for a few outstanding women.⁵⁹ Such concern is misplaced for two reasons: 1) women are known presently to be paid less for equivalent academic work; 2) if Lester wishes, as he claims, to increase the supply of women, as an economist he knows that high salaries will attract highly qualified applicants. As part of his argument demonstrating the inferiority of American women academics, Lester makes extended reference to a study by Norton T. Dodge of Russian women academics.⁶⁰ The relevance of this analogy is not clear. The data which Lester claims show that Russian women academics published less than their male colleagues actually show that they published more in some fields and less in

⁵⁹LESTER at 34.

⁶⁰WOMEN IN THE SOVIET ECONOMY: THEIR ROLE IN ECONOMIC, SCIENTIFIC, AND TECHNICAL DEVELOPMENT (1966), discussed in LESTER at 45-48.

⁵⁸MERTENS & BRANDT, *supra* note 54.

others. In any case, the conclusions of this study have been strongly qualified in a subsequent study co-authored by Dodge,⁶¹ which is not referred to by Lester.

Lester repeatedly expresses concern over the costs in administrative time, effort and money in implementing antidiscriminatory policies. He is not distressed by the cost in time, effort and money of educating women whose skills are then neglected by society—or the substantial costs and administrative requirements cheerfully taken on by universities in obtaining and administering federal grants. Like administrators in general, he does not complain of the necessity of following difficult bureaucratic guidelines and the waste of valuable faculty time when it is a question of obtaining those federal grants. Presumably he can see more readily the advantage of ready cash to a university than the advantage of an improved faculty which would result from nondiscriminatory hiring, promotion and pay.

Finally, and most curiously, Lester seems especially concerned about the potential damage of reverse discrimination under affirmative action plans.⁶² Yet his own suggestions for future policy include numerical quotas for hiring at the junior faculty level, as well as an affirmative action plan for increasing the supply of women candidates.⁶³ He neglects to mention that reverse discrimination at the lower ranks would still be in violation of the Civil Rights Act of 1964.⁶⁴

⁶¹N. T. DODGE & R. TSUCHIGANE, *ECONOMIC DISCRIMINATION AGAINST WOMEN IN THE UNITED STATES* (1974).

⁶²LESTER at 24, 63-66.

⁶³*Id.* at 137 *et seq.*

⁶⁴42 U.S.C. § 2000(e) *et seq.* (1970).

Perhaps illegal practices such as reverse discrimination disturb Lester only if they occur at the upper level of the elite club. Indeed, the author's single concern seems to be to maintain the tenure rank in traditional form, as closed sanctuaries of male dominion, safe from external interference.

In sum, Lester's insistence that an overly rapid advancement of women faculty threatens university standards, when he presents no evidence that this fear is realistic, and when such evidence as does exist indicates that a) theoretically, antidiscriminatory policies should improve rather than reduce standards, and b) in fact, women of superior qualifications are being passed by, appears either naive or disingenuous. We trust that this book, inadequate in scholarly as well as moral terms to the serious problem it addresses, will not be treated as authoritative.

FROM THE EDITORS

Note: At the time this article went to press the study, *Men, Women, and the Doctorate*, written by John A. Centra and sponsored by the Graduate Record Examinations Board was not available. The Educational Testing Service Study (available upon request from Educational Testing Service, Princeton, New Jersey) compares the performance and experience of 3,658 men and women doctorates in the Sciences, Social Sciences, Humanities and Education. Men and women are matched for year of degree, institution and department. The study reports in detail findings upon several aspects of academic employment, career satisfaction, marital status, productivity, promotion and income.

Joan Vermeulen

