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**The effects of feminist jurisprudence on the content and  
pedagogy in legal education**

**Detlev, Angela, Ph.D.**

**University of California, Los Angeles, 1992**

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**UNIVERSITY OF CALIFORNIA**

**Los Angeles**

**The Effects of Feminist Jurisprudence  
on the Content and Pedagogy  
in Legal Education**

**A dissertation submitted in partial satisfaction of the  
requirements for the degree Doctor of Philosophy  
in Education**

**by**

**Angela Detlev**

**1992**

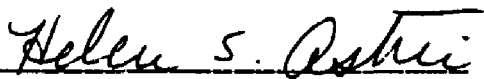
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The dissertation of Angela Detlev is approved.

  
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For my parents, Friedel and Horst, who allowed their daughter to achieve her fullest potential.

And for my daughter, Kelsey, who I hope will be equally able to achieve her fullest potential.

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## **ABSTRACT OF THE DISSERTATION**

### **The Effects of Feminist Jurisprudence on the Content and Pedagogy in Legal Education**

by

**Angela Detlev**

**Doctor of Philosophy in Education**

**University of California, Los Angeles, 1992**

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Research into the transformation of education generally includes an examination of how and what faculty teach. Discussions of the potential for change in legal education frequently focus on alternative pedagogies and feminist jurisprudence. For this study, faculty members at ten law schools were surveyed about their utilization of alternative teaching practices, knowledge of feminist jurisprudence, and integration of feminist jurisprudence into courses. CUNY, with its unique mission and model was included, along with nine "producer" law schools. Findings indicate that alternative pedagogies have been adopted to some extent, particularly in smaller classes and in second- and third-year courses. Core

courses tend to be larger and, more structured, and thus less likely to use materials from other disciplines, and to be more Socratic in format. On the other hand, alternative techniques appear with great frequency in clinical courses. Faculty are at least moderately familiar with feminist jurisprudence. Law Reviews, colleagues at home institutions, books, and conferences are significant media for learning of this scholarship. Important too, are campus 'reading groups', which apparently also introduce alternative pedagogies and promote the integration of feminist jurisprudence into courses. While more than forty percent of faculty say that feminist jurisprudence is moderately integrated into their institution's law school curriculum, the extent of the integration depends greatly on the instructor and on the "relevance" of the material to courses they teach.

## Chapter 1

### Introduction

"Classical jurisprudence posited that law was found by judges through application of logic and adherence to fixed principles. This notion has been thoroughly repudiated. We now recognize that judges often must make law and that *general knowledge* is relied upon in the process. The application of law involves three elements: reason, precedent AND choice. *Facts or theories about the state of the world commonly form the bases of choice*"....Peggy C. Davis, Harvard Law Review (emphasis added)

#### Background and Problem Statement

Women now represent the majority (54%) of the undergraduate population (Digest, 1989). They enter a university in which practically all academic disciplines are male-dominated (Bowles and Klein, 1983; Rich, 1979). "This androcentrism is manifested not only in the fact that universities and research institutions are still largely male domains, but more subtly in the choices of areas of research, in research policies, theoretical concepts and particularly in research methodology" (Mies, 1983:118). The field of law is no exception.

Law has traditionally been seen as "masculine" (Elkins, 1983, Menkel-Meadow, 1981, 1985, 1988a; Olsen; Polan, 1982; Rifkin, 1980; Karst, 1984; Spiegelman, 1988; O'Donovan, 1981). Menkel-Meadow (1981) suggests that if one lists stereotypical attributes of men and women, the male attributes would be those which are valued by and associated with the law. "Law is supposed to be rational, objective, abstract and principled,

like men; it is not supposed to be irrational, subjective, contextualized or personalized like women" (Olsen, p.4).

If the field of law is seen as being masculine, so too is the law school environment where lawyers are trained.

"Law school is a near perfect realization of a man's world. It is a world in which rules are more important than relationships; logic and reason ( a position, a stance, a strategy, an argument) more compelling than feeling and empathy; where public and private realms of life are consciously compartmentalized; where hierarchy and power define social order instead of interconnectedness and love. Legal education is a man's world and reflects the traditional array of 'masculine virtues' (Elkins, 1983:291-292)."

The Socratic teaching method, which has been associated with legal education since Christopher Columbus Langdell introduced the case study method at Harvard in 1870, is also a "masculine" pedagogy. It is frequently criticized for alienating students, especially women students (Jaff, 1986; Menkel-Meadow, 1981; 1988a).

Nevertheless, women are now entering the legal profession in ever increasing numbers as shown in Table 1. Women, who, as recently as 1963, made up only 4 percent of law school enrollment, now constitute 42 percent of the total law student population.

**TABLE 1  
WOMEN'S ENROLLMENT IN LAW SCHOOL**

Academic year	Number schools	Total JD enrolled	Total JD women enrolled	Percent women
1963-64	135	46,666	1,739	4
1968-69	138	59,498	3,554	6
1973-74	151	101,675	16,303	16
1978-79	167	116,150	35,775	30
1983-84	173	121,201	46,361	38
1988-89	174	120,694	50,932	42

data from American Bar Association, A Review of Legal Education in the U.S., Fall 1988

Twenty years of the Cooperative Institutional Research Program's (CIRP) annual freshman survey demonstrate a similar trend: "the proportion of 1985 freshman women aspiring to become lawyers represents a *fivefold* increase over the figure for 1966 (3.7 percent in 1985, versus 0.7 percent in 1966)" (Astin, Green, and Korn, 1987:19). The Fall 1989 Freshman Survey result of 5.4 percent gives strong evidence that the rise will continue (Astin, Korn, and Berz 1989).

Likewise, the number of women earning JD/LLB degrees has increased. In 1972, women only earned 7 percent of all JD/LLB degrees awarded (ABA, 1972). By 1988, the figure had climbed to 41 percent (ABA, 1988).

Women's increased participation in law schools, despite its "masculine" nature, may be attributed, in part, to general societal and demographic changes. During the preceding twenty years, post-secondary education has become

increasingly available to women. Simultaneously, the women's movement has encouraged women to enter non-traditional fields. This time period also witnessed a large expanse in the legal profession itself. Between 1970 and 1985, the total number of lawyers in the United States almost tripled (Menkel-Meadow, 1988b; 13-14). The number of law faculty members has also increased.

**TABLE 2**  
**WOMEN LAW FACULTY**

Year	Total faculty	Women faculty	Percent women
1983	4,451	712	16
1984	4,461	754	17
1985	4,881	934	19
1986	4,915	1,004	20
1987	4,973	1,080	22
1988	5,975	1,168	23

data from American Bar Association, *A Review of Legal Education in the U.S.*, Fall 1988-1983<sup>1</sup>

Table 2 demonstrates that women law professors have steadily made progress. In 1988, women faculty constituted 23 percent of full-time law faculty.<sup>2</sup> While the American

<sup>1</sup>The American Bar Association yearly publishes its *Review of Legal Education in the United States* which lists enrollment data for law schools and faculty status. Prior to Fall 1983, the *Review* did not give faculty totals.

<sup>2</sup>Even though the absolute numbers of women professors are increasing, Chused (1988), using data from Fall 1986, notes that only 15.9 percent of tenure or tenure-track positions are occupied by women. While this is an improvement for women, Chused puts forth several caveats. He found that at high prestige schools, the percentage is even lower. Moreover, the field of legal writing seems to be becoming a women's job (Chused, 1988:548). Fossum's (1980a,b) research also shows that women seem to concentrate in three areas: constitutional law, family law, and legal writing and research. They are

Association of Law Schools (AALS)<sup>3</sup> and the American Bar Association (ABA)<sup>4</sup> have urged that law schools increase their diversity, governmental action (e.g., Executive Order 11375)<sup>5</sup> has mandated that they do so. The law schools' responses to this external pressure have significant implications. To increase the diversity is extremely important, for as Zenoff and Lorio (1983:903) point out, "as long as women are a relatively small proportion of the law teaching profession, it is unlikely that they will contribute substantially to diversity of thought."

This holds true in law as well as other academic disciplines. As more women have entered the world of academe, some have developed a new scholarship which focuses on women. This new scholarship is referred to a feminist scholarship. Feminist scholarship begins with the experiences of women. "Its subject is women's lives, past or present, historically recorded or known only by inference, experienced in association with men of the dominant culture or with men who are also oppressed. Feminist theory reconsiders

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underrepresented in corporations, securities, business organization and antitrust.

<sup>3</sup>In December 1970, the AALS adopted "Equality of Opportunity" provisions designed to encourage women in the legal field (Bysiewicz, 1973).

<sup>4</sup>In August 1972, the ABA adopted a resolution "to encourage more women to enter and realize their full potential within the legal profession" (Bysiewicz, 1973:503).

<sup>5</sup>A 1967 order which prohibits sex discrimination in employment and mandates that recipients of federal contracts promote women.



historical, economic, religious, biological, artistic, and anthropological constructs and explanation" (Keohane, Rosaldo, and Gelpi, 1981:vii). Feminist scholarship struggles to ask new questions and explore new methods. A final component of feminist scholarship is that of change or transformation that it seeks to alter and reshape the androcentric focus of the world into one that is a truly human perspective.

Feminist jurisprudence is the legal arm of feminist scholarship. As more women have entered the field of law, some have developed this alternative way of viewing the law. According to Littleton (1987c:2) "feminist jurisprudence criticizes the law's omission of and bias against women's concerns." Women's experiences form the focal point of feminist jurisprudential inquiry, both methodologically and substantively (e.g., Wilshik, 1985; MacKinnon, 1983; Dalton, 1987-1988; Menkel-Meadow, 1985; 1988a; Littleton, 1987c). The ideas emanating from feminist jurisprudence come from women choosing to investigate their own interests in law and from their unique methodology for acquiring knowledge -- that of consciousness-raising (Kay and Littleton, 1988). Feminist jurisprudence offers theories and views with the aim of transforming legal relations. Kay and Littleton (1988:885) note that "feminist legal scholars and lawyers began using the fruits of this process [consciousness-raising] to build legal

theory and to inform litigation strategies. The method itself was liberating and empowering." According to Rhode (1988:40-41) "feminist perspectives are helping to reshape not only legal doctrine and legal education but also their deeper intellectual foundations...feminist academics have helped to alter the categories and consequences of legal decision making."

Feminist legal scholars have incorporated into pedagogy the method that they have brought to theory. They advocate less Socratic, more interactive teaching techniques. The feminist perspective in the law includes a more contextualized less hierarchical, approach to learning.

With more women now in the field of legal education and with many of them espousing a feminist framework, it becomes important to examine the extent to which feminist scholarship has become integrated into the curriculum. As Menkel-Meadow (1988a:85) notes, "the question remains whether feminist teaching methodologies and theories in the law school, as in the rest of the academy, will become integrated into mainstream or remain separated and oppositional."

Feminist scholarship is beginning to make its mark in many disciplines (Langland and Gove, 1981; DuBois, Kelly, Kennedy, Korsmeyer, and Robinson, 1985; Spender, 1981b).

Scholars in fields from history to psychology are attempting to include women's voices in formerly male-dominated fields. Keohane (1981), when writing of developments in her field of political science, states that women are asking questions and raising issues which could have a transforming effect upon the discipline. Writing about the field of sociology, Daniels (1975:340) notes that the "development of a feminist perspective in sociology offers an important contribution to the sociology of knowledge." Some sociologists have felt the need to rethink the structures of sociological inquiry and empirical research. So too with psychology. Peplau and Conrad (1988) point out that in psychology, feminists have successfully expanded the range of questions asked and the topics which are researched.

The key leitmotif that joins the essays of feminist scholars is the potential transformation of their disciplines that this new scholarship offers. By examining the epistemological underpinnings of a discipline, new paradigms begin to emerge. As Menkel-Meadow (1985) points out, feminist scholarship both changes the knowledge base of a field and develops new methodologies with which to expand that knowledge.

These currents of feminist scholarship are also found in legal discourse. O'Donovan notes that legal philosophy is in a

state of flux and feminism is one of the causes. "New ways of seeing, new insights into the nature of law and society--these are the feminist contributions" (1981:185).

The problem under investigation in this study, then, is what is the impact of feminist jurisprudence in the law school environment? How does this impact manifest itself--by faculty members scholarship?; by integration into law school curriculum?; by utilization of alternative pedagogies? And finally, are there environmental factors which facilitate or hinder gaining a familiarity with feminist jurisprudence?<sup>6</sup>

#### **Importance of Study and Purpose**

The need for feminist contributions in the field of law has begun to be recognized. Schneider (1988) indicates that several states, among them Arizona, California, Colorado, Connecticut, Florida, Hawaii, Illinois, Massachusetts, Maryland, Michigan, Minnesota, Nevada, New Jersey, New York, Rhode Island, Utah, and Washington have issued reports or started task forces to evaluate the status of women within the legal system. The New York Task Force Report (Report, 1986) finds that gender bias has existed within the court and the legal system. "The Report suggests that the first step toward

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<sup>6</sup>Some of the environmental factors included in this study are: campus-wide curriculum change project; campus-wide reading groups; law school reading groups; law school invited colloquia which focus on gender; law school symposia which focus on issues of gender; law school workshops which focus of issues of gender; university release time from teaching; university financial support for workshops; university seminars to explore new scholarship.

reform is a critical process of self-examination by each legal institution in the state as to its role in perpetuating gender bias, and an exploration of efforts it can make to remedy these problems" (Schneider, 1988:88). The report makes several references to the importance of law schools in shaping the attitudes of the people that work within the legal field. In particular, the New York report notes that judges and legal decision-makers are not sufficiently knowledgeable in issues of gender. "There is a clear need for law schools to encourage faculty to do more scholarly work on gender bias, not just in traditionally women's rights areas or family law, but in the law broadly" (Schneider, 1988:93). Clearly, feminist legal theory is a recognized way to address these issues.

The importance of integrating feminist scholarship into the curriculum is gaining some acceptance within the legal community as it has within other disciplines. Dalton (1987-1988:3) highlights the negative effects of keeping feminist discourse in a single course where it "will neither affect nor infect the rest of the curriculum. Like segregation in the workplace, this separation out of 'women's work' in legal theory probably contributes to its devaluation, which serves in turn as a further safeguard against the possibility that its influence might spread." She affirms that "the feminist community within the nation's law schools needs to move

on...beyond the original conception of 'Women and the Law,'...into the curriculum at large--questioning everything, inserting women everywhere" (Dalton, 1987-1988:11).

In order to address issues of curriculum integration, New York University held a *Symposium on the Law School Curriculum and the Legal Rights of Women* in 1972. The American Association of Law Schools (AALS), who sponsored the *Symposium*, "urged that the teaching of sex-based discrimination not be confined to special courses but be diffused throughout the whole curriculum" (Erickson, 1986:460). Schneider (1988) states that this early effort to integrate women into the curriculum did not make much progress, though the last few years have seen some improvement. Erickson (1986) notes that during the intervening years, more women have been hired on law school faculties. Little is known, however, of the effects of the *Symposium* and other projects, such as the Women and the Law Project,<sup>7</sup> on the traditional law school curriculum.

Feminist scholars have begun to examine sex bias in the classroom. Erickson (1986) cites several examples of sex bias

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<sup>7</sup>For four years, the Women and the Law Project at American University's Washington College of Law has convened workshops on women's rights in the law school curriculum: The 1985 Program examined courses in women and the law; the 1986 Program focused on integrating women into the first year curriculum; the 1987 Program assessed the progress of changes to the curriculum; the 1988 Program "discussed ways of bringing a feminist perspective to law school courses" (Shalleck, 1988:99).

(e.g., use of particular teaching methods, casebook materials<sup>8</sup>) as well as sexism in the law itself, prior to three landmark sex discrimination cases: Reed<sup>9</sup>, Frontiero<sup>10</sup>, and Craig<sup>11</sup>. She notes that "casebooks and law teachers rarely question the validity of these laws" (Erickson, 1986:459). However, as Erickson states, "identifying sex bias in the law school curriculum will not accomplish anything unless individual law professors seek to use the results of these projects to improve their courses" (Erickson, 1986:462-463).

Some feminist legal scholars have begun to examine sex bias in course materials. Frug (1985) analyzed a contracts casebook from a feminist perspective. She offers a model with which to analyze casebooks in general.<sup>12</sup> Tobias (1988)

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<sup>8</sup>Both Erickson (1986:458) and Ginsburg (1982:481) cite an example of a property casebook which included the following statement "For, after all, land, like women, was meant to be possessed." C. Berger, Land Ownership and Use (1968).

<sup>9</sup>Reed v. Reed, 404 U.S. 71 (1971): Husbands could not be given absolute preference to be administrator of deceased child's estate; the Equal Protection Clause of Fourteenth Amendment prohibits mandatory preference to members of either sex.

<sup>10</sup>Frontiero v. Richardson, 411 U.S. 677 (1973): Under the Due Process Clause of the Fifth Amendment, it was found unconstitutional for the military to require female members of the armed services to prove that their husbands were dependents whereas male members of the armed services did not have to prove that their wives were dependent.

<sup>11</sup>Craig v. Boren, 429 U.S. 190 (1976): Based on the Equal Protection Clause of the Fourteenth Amendment, the Supreme Court declared an Oklahoma statute which prohibited the sale of 3.2 beer to females under the age of 18 and men under the age of 21 to be unconstitutional. This case set a standard of review for gender based classifications.

<sup>12</sup>Frug's model includes: looking at editors case selections, editorial comments, and silences, looking at women 'characters' in the cases; sex of authors of legal commentary the editors have included; examining the language of the book (e.g.,

reviewed the Prosser, Wade, and Schwartz Torts casebook using such a model. Examining the book from a feminist jurisprudential stance, he found it an example of how a casebook can perpetuate gender bias rather than eliminate sexism. Erickson (1988) surveyed seven criminal law casebooks. She found that none of the books were free from sex bias. Such work is beginning to be done in other specialities within the field of law as well.

The attitudes of the individual law professor toward feminist jurisprudence is important because they can guide the choice and presentation of course materials. As stated earlier, feminist scholarship seeks not only the integration of new perspectives, but also the use of different teaching methodologies.

In this dissertation, I aim to assess the extent to which feminist jurisprudence and alternative teaching methods have entered the mainstream of the law school environment. These began as separate and oppositional currents within law schools, but have gained some measure of mainstream acceptance and legitimacy. To assess the extent of this acceptance a survey of law school faculty was conducted. The survey included questions on knowledge and use of feminist

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generic 'he'); examining the organization of the book, comments, elaborations, and questions the editors include; looking for inclusion of women's topics; exploring if editors supply historian material, mention the context of the situation in the cases.



jurisprudence in scholarly research as well as the degree to which faculty incorporate these ideas into their teaching materials and methods.

My goal is to answer questions concerning not only the growing awareness of new knowledge in a discipline, but also if that new knowledge becomes integrated into the mainstream law school curriculum. The manner in which feminist scholarship has become integrated in other academic disciplines has been explored by researchers (Langland and Gove, 1981, DuBois, Kelly, Kennedy, Korsmeyer, and Robinson, 1985; Spender, 1981b). However, no one has explored whether and how this has occurred within the law. Several conferences and symposia focussing on women and the law arrived at suggestions for integrating feminist theories into traditional law courses. This study will provide empirical evidence on the extent of that integration within the field of law. It will also provide information on the use of alternative teaching methodologies.

With its focus on legal education, this dissertation will provide valuable information on a discipline that has the potential to affect the lives of all citizens. It is important to determine whether feminist jurisprudence has influenced law faculty and has become integrated into the law school curriculum because the law school is training the nation's

future lawyers and judges. Increased awareness of gender issues among judges and legal decision-makers may have a far-reaching impact on the society. As Francis Allen (1977:448) states, "It would be difficult to identify any other university department concerned with the social disciplines that achieved a more palpable and far-reaching social impact than that of the law schools...It is not easy to name an important development in these areas...[social impact and public law]...that was not first advanced or cultivated in a law school classroom or a law review article." By examining the extent to which feminist jurisprudence and alternative teaching methodologies have become integrated or remain separate, this study will inform education planners of trends in legal education.

## **Chapter 2**

### **A Review of the Literature**

Feminist scholarship is becoming more accepted within the university. It has begun to move from being centered in women's studies programs to the beginning stages of integration into the undergraduate curriculum. The importance of integration lies in the potential curricular transformation that may result from a more inclusive knowledge base. As Anderson (1987:254) notes, "changing the curriculum has three dimensions: changing our selves, changing our work, and changing society."

These changes are strongly evident within the feminist jurisprudence movement in the field of law. The concerns of feminist jurisprudence include the entirety of legal discourse. The questions feminist jurisprudence is addressing are pertinent to how our society functions: issues of women's employment (comparable worth, equal pay, military draft), women's rights (equality debate, in particular pertaining to pregnancy, abortion, and family leave policies); and alternate modes of legal negotiation and mediation, to name but a few.

Feminist jurisprudence promotes the consideration of alternative pedagogies. However, pedagogical innovation is still rare in the law school. Feinman and Feldman (1985:907) observe that "the classroom directed by the hip [sic] liberal

law professor of the 1980s is still profoundly hierarchical, threatening, and confusing, and the law conveyed still dogmatic, narrow, and self-justifying."

Feminist jurisprudence and feminist pedagogy, then, are mechanisms for bringing about changes in legal discourse. Feminist jurisprudence is one avenue to bring women's experiences into the legal system. Judges who adjudicate cases and lawyers who litigate cases can become aware of gender bias in the courts and in our legal system through feminist jurisprudential thought, and thereby they can help eliminate the bias. Feminist pedagogy is a way to bring these changes into the classroom. Feminist pedagogy advocates transforming not only what knowledge is taught, but also how that knowledge is transmitted. The extent to which feminist jurisprudence and feminist pedagogies are integrated into the law school is important because of their potential to alter legal education. As Menkel-Meadow (1988a:81) notes "unless we can radically alter legal education, we will not be able to reconstruct our legal system."

### **Curriculum Integration**

Integration of feminist scholarship into the undergraduate curriculum is an area of interest in many colleges and universities. Several studies and curriculum integration projects (CIP) are/or have been underway at a

number of institutions (Spanier, Bloom, Boroviak, 1984; Aiken, Anderson, Dinnerstein, Lensink, MacCorquodale, 1988; Schuster and Van Dyne, 1985; Langland and Gove, 1981; DuBois, Kelly, Kennedy, Korsmeyer, Robinson, 1985; Bowles and Klein, 1983). Schuster and Van Dyne (1985:4) indicate that "the impact of scholarship about women throughout all academic disciplines and on our pedagogy has been steadily growing and may have an even more profound effect than the computer revolution on how we understand human experience, how we organize knowledge, and how we teach our students."

Feminist scholarship, research done from the viewpoint of women's experiences, has had a home in women's studies programs. Women's studies courses and programs began in the 1970s (Howe, 1979). More than twenty years of research and theorizing has brought about a literature which not only questions the content of most disciplinary knowledge, but also raises questions about the methodologies used to explore those inquiries. Fundamentally, how knowledge is being generated (Yllo, 1989). Anderson (1987:224-225) articulates this concept succinctly when she states:

"Since women have been excluded from the creation of formalized knowledge, to include women means more than just adding women into existing knowledge or making them new objects of knowledge....including women refers to the complex process of redefining knowledge by making

women's experiences a primary subject for knowledge, conceptualizing women as active agents in the creation of knowledge, including women's perspectives on knowledge, looking at gender as fundamental to the articulation of knowledge in Western thought, and seeing women's and men's experiences in relation to the sex/gender system."

Feminist inquiry into the creation of knowledge has generated epistemologies which generally fall into three groups: feminist empiricism, feminist standpoint, and feminist postmodernism (Harding, 1986; Harding, 1991; Hawkesworth, 1989). Feminist empiricism states that biases can enter at any stage of the research process--problem identification, research design, data collection, and data interpretation. It argues that a stricter adherence to methodological norms of scientific inquiry will correct the social bias of androcentrism. Feminist standpoint theory notes that knowledge is socially constructed. They hold that a women's viewpoint can be used as a resource in feminist research. By using a feminist "standpoint", the resulting research will be more accurate and theoretically richer than conventional (male-centered) research alone. Feminist postmodernism is skeptical of any universal claims of knowledge. "Rather than succumb to the authoritarian impulses of the will to reason, they [feminist postmodernists]

urge instead the development of a commitment to plurality and a play of difference" (Hawkesworth, 1989:636-537).

Harding (1986; 1991) explores these feminist epistemologies in great depth. Each theory has its strengths and weaknesses, however, what they have in common is that they all challenge the current knowledge base. By examining the origins of knowledge, the theories seek to expand that base to include the experiences of women as well as men. To include what Anderson (1987:225) refers to as a "multidimensional reconstruction of knowledge" in the disciplines, many feminists advocate integrating feminist scholarship into the curriculum.<sup>1</sup>

Several models have been developed to understand the process of curriculum integration projects. Three that are cited frequently are those developed by Tetreault (1985), McIntosh (1983), and Schuster and Van Dyne (1985).

Tetreault (1985) developed her schema by reviewing literature in the fields of anthropology, history, literature, and psychology as well as by identifying common phases of

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<sup>1</sup>Bowles and Klein (1983) explore the pros and cons of integration vs. autonomy of women's studies programs. Some scholars advocate autonomous women's studies programs in order to keep a strong environment to develop feminist work whereas other scholars are pursuing a philosophy of integrating women's scholarship. They urge integration on the belief that doing so will change both men's and women's lives. Both advocates of autonomous women's studies and advocates of the integration of women's studies work towards the transformation of academe. "The integrationists hope to achieve the transformation from within the very framework which we believe needs transforming" (Bowles and Klein, 1983:3).

thinking about women and identifying questions commonly asked about women in each discipline. Tetreault ascertained that feminist scholars found it problematic just to add women to the existing literature in a field. The "traditional content, structure, and methodology did not permit satisfactory explanations of women's experiences and were more appropriate to the male experience" (Tetreault, 1985:367). Here again, a leitmotif of much feminist scholarship asserts itself--that of developing new paradigms and expanding the very concept of what knowledge can be considered legitimate in any discipline.

Tetreault identified the following stages of curricular development:

Phase one: male scholarship--assumes the universality of the male experience. The knowledge that is researched and taught is by and about men.

Phase two: compensatory scholarship--perceives that women are missing. There is a search for the few exceptional women who embody the "male as the norm" experience. The structure and methodology of the discipline have not changed.

Phase three: bifocal scholarship--emphasizes how women and men differ. The notion arises that men and women are complementary, but equal. The idea of different spheres for men and women, public and private, enters here. However,



this is problematic because, "the public sphere has been internalized as more valuable than the private sphere, there is a tendency to slip back into thinking of women as inferior and subordinate" (Tetreault, 1985:373).

Phase four: feminist scholarship--awakens to the idea that women's experiences are the focal point. Women are no longer thought of as a monolithic group; rather questions of race, ethnicity, class, marital status, and sexual orientation are examined.

Phase five: multifocal scholarship--begins to examine how women and men complement one another. There is a search for points where women's and men's experiences intersect.

Two studies (Lather, 1984; Tetreault, 1986) have used Tetreault's model to evaluate curricular integration.

Lather (1984) used an early version of Tetreault's model to examine 85 course syllabi in the area of teacher education. These courses were concerned with issues of sex equity. She found that only eight percent were at the stage 4--feminist scholarship; while thirty-six percent were at the stage 3--bifocal scholarship. Even though Lather acknowledges that syllabi are 'one-dimensional' documents, often with a wide difference between what is written down and what is actually

taught, she finds that these syllabi do give some flavor of the power of feminist scholarship in changing the curriculum.

Tetreault's (1986) content analysis of high school history textbooks (n=12) has determined that women have been incorporated primarily at the levels of compensatory scholarship and bifocal scholarship. Throughout her analysis, Tetreault highlights ways in which the texts could have been improved to a point of multifocal or relational scholarship.

McIntosh (1983) developed a typology which has five phases. Using history as an example, McIntosh (1983:3) names the phases: 1) womanless history; 2) women in history; 3) women as a problem, anomaly, or absence in history; 4) women as history; and 5) history redefined or reconstructed to include us all. Schuster and Van Dyne (1985:16) also list stages to chart the progress of curriculum change: 1) invisibility of women; 2) search for missing women; 3) women as disadvantaged, subordinate groups; 4) women studies on own terms; 5) women as challenge to disciplines; and 6) transformed, "balanced" curriculum.

These phase theories have some similarities in that they progress from a stage of research or knowledge base where women are 'absent' to one in which women's experiences are 'balanced' with men's experiences. The rationale for these processes is the belief that if feminist scholarship remained

separate it will be "ghettoized" within the university.

Furthermore, advocates of a balanced curriculum argue that without integration into the disciplines, the challenges that feminist research poses to the research questions, the methods of analysis and the theoretical frameworks--to the very creation of knowledge--will be minimized.

Faculty play a pivotal role in curriculum integration processes (Schuster and Van Dyne, 1985; Higginbotham, 1990; Yllo, 1989; Anderson, 1987). As stated earlier, there have been many curriculum integration projects,<sup>2</sup> with a variety of formats.<sup>3</sup> However, "all of them rest on the concept of faculty development since building faculty knowledge of new interdisciplinary scholarship from feminist studies is an integral and critical part of curriculum transformation" (Anderson 1987:228).

The two main components of curriculum integration projects are what faculty teach [content] and how faculty teach [pedagogy] (Schuster and Van Dyne, 1985; Yllo, 1989). Not only is feminist scholarship concerned with the creation of new knowledge, but also with how knowledge is

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<sup>2</sup>Women's Studies Quarterly occasionally publishes a list of integration programs. The most recent listing is in volume 18, numbers 1 and 2.

<sup>3</sup>Schuster and Van Dyne (1985:92) list three models of curriculum transformation: A top-down model which begins with an administrative directive; A piggy-back model in which already existing courses are viewed as a way to begin; A bottom-up model which is started by faculty expertise and student interest.

transmitted. Feminist argue that the traditional classroom format reflects patriarchal power relations (Yllo, 1989)., Feminist pedagogy is concerned with transforming the classroom into an active "community of learners" (Shrewsbury, 1987). The interrelationship of these two, new scholarship and pedagogical change, provide a means for faculty to revitalize their research and teaching.

Curriculum integration, however, is also confronted by resistance to the changes it advocates. Resistance arises from within the university -- from the faculty, from the requirements of the discipline, and from the students. Schuster and Van Dyne (1985:102) point out that "incorporating a feminist perspective in the liberal arts curriculum is a volatile political issue, primarily because of misconceptions about what feminist scholarship is and how it relates to course design and pedagogy. " Because of misconceptions, faculty often do not take feminist scholarship seriously. Faculty perceive feminist scholarship as an ideology and question the importance of scholarship on women (see Schuster and Van Dyne, 1985:8; Aiden, Anderson, Dinnerstein, Lensink, and MacCorquodale, 1987:259). In fact, the mere mention of "feminism" can preclude receptivity to the ideas being expressed.

A second difficulty may be the structure of the discipline. Faculty members often feel that there is a certain body of material that must be covered. They do not see how the study of and about women can be incorporated into their courses without impinging on these "basics".

Student attitudes may create a third obstacle. Students may resent attention paid to women and to minority interests, feeling that they are of no value to the course. Schuster and Van Dyne (1985:107-108), Finley (1985:8), and McIntyre (1987-88:375) cite specific examples where students expressed resentment at having to think about the problems of women (Schuster and Van Dyne, 1985, Finley, 1985, McIntyre, 1987-88). Schuster and Van Dyne (1985:197-108) note that "Some [students] asked, why we were paying all this attention to women'; didn't that distort reality? Both these comments reveal the degree to which students assume that the norm is gender-neutral, that any attention paid to women and minority groups is a 'special interest,' peripheral to the real business of the course."

Resistance to integration is evident in many disciplines (Keohane, 1981; Schuster and Van Dyne, 1985; Aiken, Anderson, Dinnerstein, Lensink, and MacCorquodale, 1988). Nevertheless, the move toward integration is a strong one. Feminist scholars in disciplines ranging from biology to anthropology

write of the potential changes that this scholarship has brought to their disciplines. Feminist scholarship is also evident in the professional schools. Within the field of law, it is that reflected in feminist jurisprudence.

### **Feminist Jurisprudence**

Feminist jurisprudence had its beginnings in the 1960s, when the 'second' wave of feminism began. Friedan's *The Feminine Mystique*, and, later, *Ms Magazine* alerted the popular culture to this new movement. Women, who had begun to enter the university (both at the undergraduate and graduate levels) in greater numbers, began to scrutinize their disciplines for scholarship on and from the women's point of view. They found that such scholarship was scarce, or nonexistent. In reaction, feminists in various disciplines slowly began to develop a scholarship based on women's experiences (Daniels, 1975; Langland and Gove, 1981; Spender, 1981b).

This was also a time when women began entering law schools in greater numbers (see Table 1, page 2). Increasingly, they began to question why issues (e.g., rape, employment discrimination, reproduction) that affected them were missing from the law school curriculum. As these women graduated and became lawyers, and especially, law professors, they started to write and theorize about the law from their perspective.

Wishik (1985) associates the development of feminist jurisprudence with three strands of inquiry. First, feminist jurisprudence shares viewpoints with the 'law and social science scholarship', emphasizing connections between law and society and often referring to empirical data. Second, feminist jurisprudence has a strong link to Critical Legal Studies (CLS). These two strands of scholarship focus "upon the ways law legitimates, maintains, and serves the distribution and retention of power in society" (Wishik, 1985:66). Kay and Littleton (1988) also note that women active in both movements make use of the deconstructionist strategies developed by CLS scholars in their work.<sup>4</sup>

Third, feminist jurisprudence is closely related to the women's movement and feminist scholarship (see also, Menkel-Meadow, 1988a): "The questions posed by the women's movement and by feminist scholars and theorists about gender--its creation, meaning, and implications--are placed in the context of the law by feminist jurisprudential inquiry" (Wishik, 1985:66). As has happened in other disciplines (Langland and Gove, 1981; DuBois, Kelly, Kennedy, Korsmeyer, and Robinson, 1985; Spender, 1981b), this type of inquiry evolved into new methodologies and paradigms.

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<sup>4</sup>Kay and Littleton define deconstruction as a method of analyzing material for evidence of intellectual incoherence or political bias.

One method for acquiring knowledge that characterizes feminist inquiry is that of consciousness raising (Kay and Littleton, 1988; Bender, 1988; Lahey, 1985; MacKinnon, 1982). Consciousness raising (CR) creates knowledge by exploring the experiences of women. This method was both liberating and empowering for women: liberating because CR takes women seriously; empowering because CR combats the isolation felt by individual women and gives a *name* to women's experiences. CR becomes a method to understand the application of the 'personal as political' (MacKinnon, 1982; Wishik, 1985; Rich, 1979; Karst, 1984; Bender, 1988).<sup>5</sup>

Feminist jurisprudence, in short, is feminist method applied to law. It "includes all attempts to explain, critique, and change law on behalf of, and *from the perspective of*, women" (Littleton, 1989:751, emphasis in the original). This does not mean simply adding women to existing scholarship, for this would be merely compensatory scholarship. One of feminist jurisprudence's aims is to move toward what Tetreault has labeled a multifocal scholarship of law. A perspective of law that includes women's and men's experiences as well as the experiences of diverse races,

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<sup>5</sup>Rich (1979:215) explains this phrase as follows: "To try to understand what has been labeled the 'personal' as part of a greater political reality, has been a critical process for feminism, more critical probably for feminism than for any other movement against oppression."



ethnicities, and economic classes. An active struggle for change is necessary in order to achieve this transformation.

Wishik (1985:72-76) proposes a seven-point feminist inquiry to aid judges, lawyers, and law professors in the movement for change:

1. What have been and what are now all women's experiences of the 'life situation' addressed by the doctrine, process, or area of law under examination?
2. What assumptions, descriptions, ascertations and/or definitions of experience--male, female, or ostensibly gender neutral--does the law make in the area?
3. What is the area of mismatch, distortion, or denial created by the differences between women's life experiences and the law's assumptions or imposed structures?
4. What patriarchal interests are served by the mismatch?
5. What reforms have been proposed in this area of law or women's life situation? How will these reform proposals, if adopted, affect women both practically and ideologically?
6. In an ideal world, what would this women's life situation look like, and what relationship, if any, would the law have to this future life situation?
7. How do we get there from here?

Feminist jurisprudence has, then, both a theoretical and a practical component. "Feminist legal scholars and lawyers began using the fruits of this process to build legal theory and to inform litigation strategies" (Kay and Littleton, 1988:885).

As with any complex body of thought, feminist jurisprudence has a number of theoretical underpinnings. Although not a lawyer by training, Carol Gilligan's work has

had a tremendous impact on legal thought. Menkel-Meadow (1985:44) notes that Gilligan's work has "served as a powerful heuristic for legal studies."<sup>6</sup> In her book, *In a Different Voice: Psychological Theory and Women's Development*, Gilligan examines the moral development of men and women. She concludes that many of the measurement scales currently in use are based on male norms and therefore do not adequately reflect women's development. Gilligan, through her research, develops the idea of people listening to 'different voices'. Simply put, Gilligan found that men tend to view the world in terms of rights, hierarchy, and separation whereas women tend to see things in terms of relationships and interconnectedness.

Using Gilligan's theory as a starting point, much of feminist jurisprudential inquiry asks the question: Would legal reasoning and lawmaking change if it were viewed with a 'different voice'? Would a "weblike imagery of relationship" replace a "hierarchical ordering" (Gilligan, 1982:173)? For example, Kenneth Karst (1984) explores what difference a women's perspective might bring to constitutional law. He notes that "one way to impress women's viewpoints on constitutional law would be to look beyond the goal of assimilating women to man's world, toward the goal of

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<sup>6</sup>See, for example, works by Menkel-Meadow, 1985; 1988; Karst, 1984; West; 1988; Spiegelman, 1988.

redefining institutions 'to meet women's needs as they see them'" (Karst, 1984:485). Karst (1984:486) suggests that the "constitution was an institutional reflection of the view from the ladder; safety from aggression was to be found not in connection with others but in rules reinforcing separation and noninterference." Karst speculates that to evoke a women's viewpoint might change the way in which cases involving discrimination would be adjudicated.

The issue of male and female differences is a large one. Spurred by Gilligan's thesis, researchers in many disciplines have been waging debates.<sup>7</sup> Some psychological research has postulated that women are 'different' from men. According to DuBois (DuBois, Dunlap, Gilligan, MacKinnon, and Menkel-Meadow;1985) the argument as to the similarity or the difference between the sexes began with nineteenth-century feminism. DuBois labels the similarity position as the egalitarian-feminist argument. This position believes that men and women have basically the same character and "that the denial of women of their common humanity with men has kept them out of various privileges and resources monopolized by men" (DuBois, Dunlap, Gilligan, MacKinnon, and Menkel-

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<sup>7</sup>For critiques of Gilligan's work see: Broughton, Social Research, vol. 50, no. 3 (Autumn 1983) pp. 597-642. ; Nails, Social Research, vol. 50, no. 2 (Autumn 1983) pp. 643-664; Kerber, Greeno, Maccoby, Luria, Stack, Gilligan, Signs:Journal of Women in Culture and Society, vol. 11, no. 2 (Winter 1986) pp. 304-333.

Meadow, 1985:65). The domestic-feminist position, on the other hand, believes that "the introduction of women into political and social areas from which they had been excluded would change those areas because women would inject them with different characteristics " (DuBois, Dunlap, Gilligan, MacKinnon, Menkel-Meadow, 1985:65.).<sup>8</sup>

Joan Williams (1989), who places herself within the egalitarian-feminist viewpoint, views Gilligan's description of gender differences as "inaccurate and potentially destructive" (J. Williams, 1989:801). Williams sees Gilligan's work on difference as instrumental in the resurgence of domesticity. She cites the recent decision in the case of *EEOC v Sears, Roebuck & Co.* as a negative example of the difference debate. In this case, Sears argued that it was not discriminating against women because women, themselves, lacked an interest in commission sales. Sears brought in testimony from sociologists, various writers on women's issues, and historian

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<sup>8</sup>Two recent studies, one of Australian Members of Parliament (MPs) and one of female officials in Santa Clara County, CA, show that as the number of women increased, women did make a difference. Sawyer (1986) finds that the increased number of women in the Australian parliament had an effect. However, the effect was dependent upon "the way in which women MPs themselves view their roles and accountabilities" (Sawyer, 1986:532). Flammang (1985) finds that female officials' attitudes differ from those of men: "This study has shown that when women comprise the majority of a local government board they are likely to express a sense of connection to the women who forged ahead to them and to their female colleagues. They showed a common understanding of power, not as a force and domination, but as cooperation based on consensus and mutual respect, features of their homemaking and childraising experiences which challenge the practices of male politics as usual" (Flammang, 1985:114).

Rosalind Rosenberg "who cited Gilligan and other relational feminists to support her assertion that the EEOC's 'assumption that women and men have identical interests and aspiration regarding work is incorrect. Historically, [according to Rosenberg] men and women have had different interests, goals and aspiration regarding work'"(J. Williams, 1989:815).<sup>9</sup>

The differences debate is a dominant one within the field of feminist jurisprudence. One of its key questions is equality. This debate centers around those advocating "equal treatment" and those advocating "special treatment". Littleton (1987b:1287) suggests using the terms of symmetry and asymmetry in order to avoid getting involved in semantic arguments as well as to help focus the debate more clearly on the issue at hand--"whether and how the existence of two sexes should shape law and society." Littleton's article *Reconstructing Sexual Equality* succinctly describes all of the various models involved in the equality debate.

Under the symmetry side, she locates two models: assimilation and androgyny. The assimilation model holds that women could be just like men. Littleton points out that the

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<sup>9</sup>Clearly there is more involved in this case. It is subject to debate on both sides of the difference issue. Williams, herself, on page 818 notes the bias of Judge Nordberg. He never pressed Rosenberg, Sears' expert witness, for percentages on her claims about women, whereas Nordberg frequently required more precise data from Kessler-Harris, EEOC's expert witness. Furthermore, Judge Nordberg's bias can also be seen in the manner in which he addressed Dr. Kessler-Harris -- negatively viewing a hyphenated last name (see quote from trial transcript cited by Williams on page 818).

courts have most often accepted this model. The androgyny model is based on a belief that men and women are not really so different and that a happy medium between the different sex characteristics can be found. Littleton criticizes this model by noting that most of our institutions, work habits, and pay scales were formed with only one sex in mind--men.

Littleton outlines four models under the asymmetrical side of the debate: special rights; accommodation; acceptance; empowerment. The special rights model asserts that cultural differences between men and women are rooted in biological differences, such as reproduction. Scholars that have advocated this model are Scales (1980-1981) and Wolgast (1980). The accommodation model presents a split view: culturally defined differences should be treated as under one of the symmetric models, whereas biologically defined differences should be treated asymmetrically. This model is frequently invoked around the issue of pregnancy (e.g., Kay, 1985). The acceptance model advocates acceptance of both biological and cultural differences. Littleton, who endorses this model, notes "the focus of equality as acceptance...is not on the question of whether *women* are different, but rather on the question of how the social fact of gender asymmetry can be dealt with so as to create some symmetry in the lived-out experience of all members of the community" (Littleton,

1987b:1297). The fourth asymmetrical model, the empowerment model dismisses all discussion of differences and focuses directly on issues of subordination and domination. "If a law, practice, or policy contributes to the subordination of women or their domination by men, it violates equality. If it empowers women or contributes to the breakdown of male domination, it enhances equality" (Littleton, 1987b:1300). MacKinnon's work (1982; 1983) falls within this area.

The equal treatment or symmetry proponents (see in particular the works of Wendy Williams, 1982, 1984-1985) fear that anything else would be a return to the 'separate sphere' arguments that the court has used in the past to keep women out of the public arena.<sup>10</sup> The special treatment or asymmetry proponents note that there are some biologically and/or culturally defined areas in which women are just 'different'.

Perhaps the area where this is most evident is the issue of pregnancy (Littleton calls this the "paradigm difference between men and women" 1987b:1297). There have been

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<sup>10</sup>This ideology was invoked in the Court's *Bradwell v. Illinois* 83 U.S. 130 (1873) decision. Despite the age of the decision, Justice Bradley's opinion is quoted in several feminist jurisprudential works to illustrate how far we have come and how far we have yet to progress: "The natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life...The paramount destiny and mission of woman are to fulfill the noble and benign offices of wife and mother." However, it should be noted, even as late as 1981 in *Rostker v. Goldberg* 453 U.S. 57 (1981) the Supreme Court upheld the congressional decision not to require women to register for the draft.

numerous cases<sup>11</sup> in the court system which illuminate the problems that the issues of pregnancy and childraising hold for writers of feminist jurisprudence.<sup>12</sup>

The above review provides a brief overview of some of the theories and debates within the feminist jurisprudential movement. Rhode (1987), as well as other writers, attempts to bring together the theoretical with the practical. While acknowledging a plurality of theoretical underpinnings, Rhode advocates setting a research agenda of common commitments. "Central among them would be commitments to gender as a category of analysis and to equality between the sexes as a societal objective" (Rhode, 1987:523). She feels that in this way we can develop "more systematic strategies for social change" (Rhode, 1989:321).

In order to achieve this change, feminist jurisprudential scholars are bringing the research agenda into the law school environment itself by critically examining what and how ideas are taught. Feminists like, Frug (1985) and Erickson (1988) have begun examining casebooks in their areas and assembling materials which would make their law speciality more

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<sup>11</sup>General Electric Co. v Gilbert, 429 US 125 (1976); Geduldig v Aiello, 417 U.S. 484 (1974); California Federal Savings and Loan Association v Guerra, 105 S.Ct 683 (1987)

<sup>12</sup>See in particular works by Wendy Williams (1982) for arguments in favor of equal treatment; see Scales (1980-1981;1986) and Kay (1985) for arguments in favor of special treatment.



reflective of a feminist jurisprudence. Other writers such as Menkel-Meadow (1983; 1984) have examined the role women's voices would have in creating new paradigms in the area of negotiation and mediation. She, as well as other writers, have also examined the "feminine" method of teaching in a law school setting.

### **Alternative Pedagogy**

As feminists begun to question the content of what is knowledge, they also begin to explore how that knowledge is taught. Several authors investigate the ramifications of this question as well as how women learn (Culley and Portuges, 1985; Bunch and Pollock, 1983; Belenky, Clinchy, Goldberger, Tarule, 1986). Evidence that the traditional classroom structure is a 'chilly' one for women is detailed by Hall and Sandler (1982). They find that often women remain silent in the classroom due to the structure of the learning environment. Traditional pedagogy is hierarchical, structured, male-focused, and organized in a lecture format (Maher and Rathbone, 1986; Schniedewind, 1983; Maher, 1985, Friedman, 1985).<sup>13</sup> The student/teacher relationship is discussed in terms of object (student)/subject (teacher)

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<sup>13</sup>It should be noted, though, that lecture format is not the 'norm' in legal education. Although, as the results chapter discusses, lecture format is becoming increasingly popular in second and third year courses.

(Shrewsbury, 1987). Alternative pedagogies criticize this traditional approach as uncondusive to learning.

The work of Paulo Freire (1970) is frequently cited by advocates of alternative ways of teaching. He compares traditional educational practices to the workings of a "bank": teachers' traditional role is to "deposit" information which he/she considers to be true knowledge to the students. In this situation, the students are not called upon to know, but only to memorize, the contents of what the teacher espouses. Freire developed his radical pedagogy for teaching Latin American peasants to overcome this educational constraint and to engage in "problem-posing" learning. "In problem-posing education, men [*sic*] develop their power to perceive critically *the way they exist* in the world *with which* and *in which* they find themselves; they come to see the world not as a static reality, but as a reality in process, in transformation" (Freire, 1970:70-71, emphasis in the original).

Even though Freire never mentions women in his work, or for that matter, even addresses issues of gender, his theories are frequently cited by writers of feminist pedagogy (Shrewsbury, 1987; Maher, 1985; Thorne, 1983).<sup>14</sup> Thorne

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<sup>14</sup>Kenway and Modra (1989) point out that there is also a considerable literature critiquing Freire's work which feminist have not utilized. Kenway and Modra mention studies by B. Facundo *Issues for an Evaluation of Freire - Inspired Programs in the United States and Puerto Rico* (1984) and L. Harasim *Literacy and National Reconstruction in Guinea-Bissau: A Critique of the Freirian Literacy Campaign* (1983 unpublished Ph.D. dissertation).

(1983:6) notes that "feminist pedagogy, like the radical pedagogy Paulo Freire developed...seeks to break through silence and passivity and to empower subordinated groups." The idea of empowering those who have been silenced and actively seeking their participation in the learning process is the underlying theme of alternative teaching pedagogies and theories of education.

Astin (1985), in his book *Achieving Educational Excellence*, espouses such a theory in advocating a talent development approach to excellence in education. Based on twenty years of research conducted by the Cooperative Institutional Research Program (CIRP) of how students are affected by their institutions, Astin concludes that the current view of excellence in American higher education system is inconsistent with the purposes of higher education. Astin's talent development model emphasizes the intellectual and personal development of faculty and students. One strong component of this model is an involvement theory of learning. He endorses several strategies that "offer promise for heightening students' involvement: better use of resources, active modes of teaching, learning communities, individualized instruction, curricular innovation, increased student-faculty contact, and faculty development" (Astin, 1985:159-163).

Increased involvement is a central focus of alternative pedagogies, including feminist pedagogy. Maher (1987:186) defines feminist pedagogy as "a combination of teaching practices and curriculum content that explicitly relates students' viewpoints and experiences to the subject matter, yielding for each topic a sense of personal involvement and multiple, mutually illuminating perspective taking." Shrewsbury (1987) identifies feminist pedagogy as a theory of learning that guides classroom practices as well as provides criteria to evaluate specific course goals. She states that the ultimate goal of feminist pedagogy is to transform the academy. In order to do this, she identifies three central concepts of feminist pedagogy: empowerment, community and leadership. Shrewsbury explains that empowerment in "feminist pedagogy embodies a concept of power as energy, capacity, and potential rather than domination" (Shrewsbury, 1987:8). Shrewsbury states that a sense of community of learners is at the core of feminist pedagogy. And lastly, Shrewsbury asserts that leadership is the active part of feminist pedagogy; it is the ability and willingness to act on beliefs. "Leadership then is logically and intuitively connected to community and empowerment by providing the active mechanism for achieving the empowered community and for

that community to continue to be effective within the broader world" (Shrewsbury, 1987:12).

Friedman (1985:204) also discusses the premises of feminist pedagogy within a women's studies classroom as: "non-hierarchical classroom; validation and integration of the personal; commitment of changing students' attitudes toward women; most particularly women's images of themselves and their potential; recognition that no education is value-free and that our field operates out of a feminist paradigm (as opposed to the patriarchal paradigm of most classrooms)." However, Friedman notes that it is also important to include within the premises the idea that women as educators and as students have been socialized to trivialize women's intellect and authority. This is an important point for female professors. Often women teachers' authority is in question from the beginning, in particular from male students (e.g., McIntyre, 1987-88). Bridges and Hartmann (1975) note that it is important for women to establish their credibility. They point out that "radical women teachers are in the unenviable position of having to demonstrate their (own) intelligence while trying to encourage students to learn from one another" (Bridges and Hartmann, 1975:76).

How this actually works out in a classroom is explored in Schniedewind's (1983) article. She notes that "feminist

pedagogy demands the integration of egalitarian content and process" (Schniedewind, 1983:262). She lists five suggestions useful in attaining this integration. Her first is to develop an atmosphere of mutual respect, trust, and community in the classroom. Schniedewind provides several tactics-- interpersonal activities, I-messages, democratic processes and festive procedures as community-builders-- useful to attain this atmosphere. The second is to share leadership: the hierarchical style of the typical classroom is replaced with a participatory decision making style. Third is to evolve cooperative structures, such as group projects. Schniedewind's fourth point is to integrate cognitive and affective learning. Schniedewind states that affective learning can be integrated with cognitive materials by having students make personal connections to the material. Schniedewind's fifth point is to action. Since a strong component of feminist theory is the idea of transforming current patriarchal institutions, linking thought with action is an important part of the curriculum. An example of action is having students develop antisexist curricula or in-service programs for a classroom or agency.

Feminist pedagogy has also begun making itself felt on traditional legal pedagogy--what has been called the Socratic method. Webster's New World Dictionary of the American

Language (2nd edition) defines this as "the dialectical method of teaching or discussion used by Socrates, involving the asking of a series of easily answered questions that inevitably lead the answerer to a logical conclusion foreseen by the questioner." Jaff (1986:259-261) illustrates how this method works in a legal setting. She states that traditionally, in the Socratic method, the teacher must first "numb" the students brain in order to make the student receptive to learning. Next the teacher guides the student, through questioning, to deduce generalities from specific cases. The case method of instruction closely follows this theory of learning. Langdell, who instituted this method at Harvard, emphasized the pragmatism of the method. He, and the then-president of Harvard, Eliot, saw the case method as a vast improvement over the recitation method. The case method was to train students to 'think like lawyers.'

Feinman and Feldman (1985) point out that 'thinking like a lawyer' is the traditional focus of legal education. They note that "what has almost never been done, however, is to give specific content to the notion of 'thinking like a lawyer'"(Feinman and Feldman, 1985:991). In devising their innovative class in Contorts (a combination of Contracts and Torts), Feinman and Feldman (1985:991-995) developed a conception of what is meant to 'think like a lawyer'. Feinman

and Feldman came up with a core of legal skills: 1) ability to understand legal vocabulary (subsumed under this skill are: a) understanding legal doctrines and principles; b) reading and using judicial opinions; and c) understanding the nature of legal argumentation); 2) ability to judge contexts in which legal problems arise; 3) ability to interact with people; and 4) ability to learn independently throughout their career.

Feinman and Feldman used their "theory of lawyering" to guide their concept of legal education. In teaching their course on Contorts, Feinman and Feldman used various pedagogical innovations. They utilized small groups as well as Bloom's concept of mastery learning (Bloom, 1976). Mastery learning moves away from the idea that students must compete with one another and embraces the notion that given guidance and resources, each student can achieve at a high level. Feinman and Feldman (1985:897) note that "what is primarily missing in law school is an educational environment that provides students with the resources and the situations with which they can best learn".

Feminists, today, also criticize the Socratic method and the educational environment of the law school. They characterize the Socratic method as being hierarchical and patriarchal (Rifkin, 1985). The professor has complete control over when, how, and what legal knowledge is transmitted.



Feminist pedagogy is clearly antithetical to this. It encourages the students to take an active, rather than passive, part in the learning process. It advocates questioning both the knower and the knowledge (Gould, 1983). Those who advocate alternative teaching methodology in the law school are guided by work in feminist jurisprudence as well as other pedagogical innovations in educational theory, clinical education, law and society and Critical Legal Studies (Schneider, 1987:41).

Menkel-Meadow (1988a:80) notes that "learning the law from a feminist perspective includes a real, concretized, contextualized, and experiential dimension." She illustrates this by noting that several feminist educators teach cases that they have worked on. They bring the personal into the classroom. They teach for empowerment through conversation and sharing experiences. There is an understanding that a problem can be examined and solved from many viewpoints.

Schneider (1987) notes the impact of experiential learning, which is derived from clinical education, is having in many areas of law. She finds that teachers are experimenting with different approaches to learning such as simulation and role-playing. The task is to break down the passivity and alienation found in the traditional classroom and to replace it with one of active learning. Schneider cites examples of what she and several colleagues have done in teaching civil

procedure, such as an in-class simulation that worked well even in a class of 150 students. Such techniques are designed to elicit full participation and discussion from the students.

Much has been written about women's silence in the classroom (Elkin, 1983; Gould; 1983; Banks; 1988; Wildman; 1988; Spiegelman, 1988; Menkel-Meadow; 1988; Cain, 1988). Banks (1988) reports on a study of students' perceptions of gender bias in law school classrooms, which employed a modified version of the Hall and Sandler (1982) questionnaire developed to assess the "chilly classroom climate for women." The study found that women's silence increases rather than decreases in law school, not because women students weren't prepared, but rather due to feelings of insecurity and the attitudes of professors. Preliminary findings of the study "suggest that women are silent because the law school classroom environment, structure, and language tend to exclude women or make them feel inferior" (Banks, 1988:146).

Techniques advocated by feminist pedagogy can help ameliorate these negative tendencies. Wildman (1988) has used several of these techniques in her courses: convening the classroom as a court; asking other students to act as "co-counsel" when a student is stuck for an answer; organizing small group meetings; playing the SALT mini-workshop tapes

from the 1985 AALS meetings;<sup>15</sup> meeting as a legislative body to decide whether to adopt a certain law; role-playing pro and con on the issue at hand (Wildman, 1988:152-153). Spiegelman (1988) writes of incorporating Gilligan's theories of difference into the classroom. He tells of discussing the Heinz dilemma and Amy and Jake's responses<sup>16</sup>. He finds that "the simple step of telling the story of Amy and Jake has an amazing effect on the classroom. It empowers students by making their experience, feelings, and creativity useful in the classroom; it expands the conception of relevance,...it brings appropriate attention to negotiation and other realities that dominate the world of law, in and out of the courtroom" (Spiegelman, 1988:253).

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<sup>15</sup>In December 1985, The Society of American Law Teachers (SALT) and the Gay and Lesbian Legal Issues, Minority Groups, and Women in Legal Education Sections of the American Association of Law Schools (AALS) held a workshop on "Sexism, Racism, Classism, and Heterosexism: A Close Look at Our Biases in the Law School Classroom"

<sup>16</sup> The study that is perhaps quoted most often to illustrate this difference is the responses of Amy and Jake to the Heinz dilemma, a hypothetical of moral reasoning developed by Lawrence Kohlberg to analyze moral development. Heinz must decide whether or not to steal a drug which he cannot afford to buy in order to save the life of his wife. Amy and Jake, two eleven-year-olds, arrive at their responses through quite different reasoning. Jake's is straight and to the point: he sets up the dilemma as a 'math problem with humans' and proceeds to work out a solution based on a logic of rights. Amy's, on the other hand, is more contextual; she worries about all the people in the dilemma--Heinz, Heinz' wife, and the druggist. Her quest is to solve the problem with the least amount of pain to all concerned. "Both children thus recognize the need for agreement but see it as mediated in different ways--he impersonally through systems of logic and law, she personally through communication in relationships....Amy's judgments contain the insights central to an ethic of care, just as Jake's judgments reflect the logic of justice approach" (Gilligan, 1982:29-30).

Grading is one component of feminist and alternate pedagogy that is frequently neglected. Pickard (1983:303), trying to use a different grading mechanism (self-evaluation and grading negotiation) in order to avoid the "unlimited opportunity for professorial control and institutional power," describes the problems she faced from students resistant to her pedagogical innovations. Feinman and Feldman (1985) thought that the grading portion of their innovative course would be only minor. However, as events unfolded, the grading method became important, in particular to students and faculty not involved in the course.<sup>17</sup> This occurred because students who had been enrolled in the Contorts course received higher grades than average first year law students. Unlike the usual law schools course in which a student's grade is determined by a single final exam, Feinman and Feldman's Contorts course was graded on the basis of several assignments as well as exams.

Incorporating alternative pedagogy and feminist jurisprudential scholarship into the curriculum can be a challenging experience for a law professor. Pickard (1983) and McIntyre (1987) write of the negative as well as positive aspects of such experiments. Often male students become

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<sup>17</sup>How the course was graded, as well as the learning theory it espoused, created such controversy that when Feinman and Feldman proposed to teach Contorts again, the faculty voted the proposal down.

hostile to the inclusion of women's issues in a course; they question the authority and intellect of the female professor. Finley (1985) described an experience where a male student indicated his displeasure at having to think "about the problems of pregnant women" again. Finley responded to the student that just such comments are why she was devoting more time to women's issues. She writes "only by making students think in *mainstream courses* about these too-long ignored issues would the unfortunate discomfort at having to think about the reality of women be overcome [sic], so that the law could become more embracing of the perspectives of all of us, men and women" (Finley, 1985:8, emphasis added).

### Chapter 3

#### Methodology

Feminist jurisprudence, legal scholarship which examines law from the perspective of women, began to appear in law journal and in legal courses in the 1970s. The Women's Rights Law Reporter was first published in 1971; the Harvard Women's Law Journal was first published in 1978. The first Women and the Law courses were taught in the early seventies (Dalton, 1987-88) and the first sex discrimination casebooks were published in the 1973 and 1974<sup>1</sup>. After a decade of development, scholars engaged in feminist jurisprudence, as feminist scholarship in academe generally, now advocate an integration of it into the total law school curriculum.

Proponents of curriculum integration argue that academe is currently androcentric and that by including feminist scholarship, the knowledge base will be expanded to reflect the experiences of both women and men. If this were to occur in the field of legal education, through the incorporation of feminist jurisprudence, there is the potential to have an effect on the society at large since legal education trains the nations lawyers, judges, and lawmakers--the people who set up the

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<sup>1</sup> "The first casebooks in the field were published in 1973 and 1974: Leo Kanowitz, Sex Roles in Law and Society: Cases and Materials (1973) and Kenneth M. Davison, Ruth Bader Ginsburg and Herma Hill Kay, Text, Cases and Materials on Sex-Based Discrimination (1974)" (Dalton, 1987-1988:4, ft.5).

rules by which society functions. As Wallach (1975:99) notes "women should go to law school to become lawyers, because to be a lawyer is to have power, and significant structural change can only be accomplished, if at all, from the inside of law and through law's own mechanisms---for only lawyers (later they become judges) and legislators (mostly all are lawyers) can change law."

The purpose of this dissertation, then, was to conduct an exploratory study to gather empirical evidence about how widespread feminist jurisprudence and alternative teaching methodologies are in legal education. I wanted to ascertain if law faculty have knowledge of feminist jurisprudence as well as how, and if, they have integrated this scholarship into their courses. Furthermore, I hoped to determine if there are some environmental factors which may facilitate this integration.

### **Major Research Questions**

The major research questions this study addresses are:

1. Is feminist jurisprudence and feminist/alternative pedagogy integrated into the law school curriculum?
2. Is feminist scholarship used in all specialities within law, not just in women's rights and family law courses? In particular, are they included in first (or required) year courses: criminal law, contracts, torts, etc..

3. Are general law faculty exposed to feminist jurisprudence; if so, by which means--conferences, colleagues, literature, students, reading groups, colloquia, or faculty development projects?
4. Do faculty, once they gain knowledge of feminist scholarship, incorporate it into their scholarly work?

### **Sample**

A sample of ten law schools was selected from those found by Fossum (1980a,b) to be "producer" schools (institutions from which the majority of law faculty graduated) and by Cartter (1977) as "top-rated" law schools (see Appendix A for list of schools). The rationale for sampling from these schools is that they are the most visible ones in the field of law in terms of reputation and the high number of students that they train. Moreover, these schools are the producers of academic lawyers. Fossum (1980a:520) states that "74 percent of law teachers were either the primary (J.D. degree) or secondary (LL.M. degree) products of these..law schools."<sup>2</sup> She finds that 90 percent of tenure and tenure-track faculty at...producer law schools received their training at those same institutions. In addition, research on law professors frequently divides faculty according to their positions at "top" schools versus all others.

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<sup>2</sup> The J.D.--Doctor of Laws-- is a professional law degree; the LL.M.--Master of Laws-- is a graduate law degree.



From these 23 schools, plus the City University of New York at Queens (CUNY) for its unique original mission, a "purposeful" sample of ten institutions were chosen. Seven schools were selected because they are characterized by some unique factors. Three schools were selected by a random sampling procedure. A total of 461 faculty members were identify for receipt of the study. The ten schools are:

**Institution Reason Chosen**

<u>Columbia:</u>	a conservative school; in the East; a female dean
<u>Harvard:</u>	in the East; influenced various movements within legal profession; status
<u>UCLA:</u>	in the West; female dean; feminist reputation
<u>Chicago:</u>	Midwest; strong Law and Economics center; a small number of women faculty; least diverse faculty
<u>Minnesota:</u>	Midwest; prior association with major feminist scholar
<u>North Carolina:</u>	South; female dean; self-consciously feminist
<u>CUNY:</u>	Established itself as innovative with regard to teaching; politically progressive; designed to empower students

**Random**

Stanford

Iowa

Virginia

This sample of schools also reflects a geographic distribution:

**South:** University of Virginia, University of North Carolina

**West:** UCLA, Stanford

**East:** Harvard, CUNY, Columbia

**Midwest:** Minnesota, Iowa, Chicago

Names of the faculty at these institutions were obtained from the AALS Directory (Fall 1989) and by writing each institution and asking for a list of their faculty. If there was a discrepancy between the two list, it was decided to follow the law school's brochure since it was published more recently than the AALS Directory. In order to be as inclusive as possible, all faculty who had a professorial rank title were included. If the title and description made it clear that the faculty member primarily was in an administrative role, he or she was not included in the survey.

Of the 461 surveys mailed, 178 completed surveys were returned for a response rate of 39 percent. An additional 46 people sent letters explaining why they were unable to respond to the survey. Of these, 17 were either currently or no longer in-residence at the institution or were principally serving in administrative roles. Therefore deducting these people brings the total response rate up to 40 percent. The remaining 29

the total response rate up to 40 percent. The remaining 29 letters were from faculty who either did not have time to respond to the survey or did not wish to participate in the survey.

Thirteen of the 178 respondents did not have tenure nor were they on tenure track. Twelve of the thirteen taught either clinic or legal research and writing. Since these areas are considered to have an "outsider" status and previous research (Ries, 1990) showed that outsider status may play an important role in curricular innovation, it was decided to keep these cases in the sample.

**TABLE 3  
SCHOOLS AND RESPONSE RATES**

<b>SCHOOL</b>	<b>TOTAL FACULTY (N=461)</b>	<b>TOTAL RESPONSES (N=178)</b>	<b>RESPONSE RATE (Percent)</b>
Chicago	32	11	34
Columbia	56	19	34
CUNY	32	14	43
Harvard	67	15	22
Iowa	43	19	44
Minnesota	39	19	49
Stanford	43	14	33
UCLA	56	28	50
UNC	37	19	51
Virginia	56	20	36

Table 3 illustrates the response rate by school. UCLA, UNC, and Minnesota had the highest response rates at around 50 percent. The lowest response rate, by far, was Harvard.

Chicago, Columbia and Virginia also had fairly low response rates.

### **Data Collection Procedures**

Data were collected by mail through a survey questionnaire during the Winter 1991. The names and institutional address of the faculty members were taken from the AALS Directory of Law Teachers, Fall 1990. A 15-page questionnaire along with a personalized introductory letter and a return-addressed, stamped envelope was sent to each professor (see Appendix B and C for text of introductory letter and questionnaire). The introductory letter explained the purpose of the study and guaranteed confidentiality of information provided. In order to improve the response rate, a post card was sent one week later to remind faculty of the survey (see Appendix B for text of card). Three weeks after the initial mailing, a reminding letter, together with a second copy of the questionnaire and a self-addressed stamped envelope was sent to those who had not yet responded (see Appendix B for text).

### **Instrumentation**

The survey questionnaire consisted of questions concerning demographics, educational background, use of alternative teaching techniques, and knowledge of feminist jurisprudence. The questions were developed on the basis of

the review of the literature, in consultation with members of the dissertation committee and a number of law professors at institutions not used in the study. Further refinement, and tests of reliability and validity, resulted through the pilot study conducted during early Fall 1990 at one law school.

### **Dependent Variables**

There are four dependent variables in this study. The first is the extent to which law faculty use alternative pedagogies in their classroom. The second is law faculty's knowledge of feminist jurisprudence. Third is faculty's perception of integration of feminist jurisprudence into the law school. And finally, the faculty members' own incorporation of feminist jurisprudence into their law courses.

These four dependent variables were developed from items in the survey. The survey includes several questions in each of these areas. Creation of indices using more than one item allows for greater variability of response.

### **Alternative Pedagogies:**

In order to assure that respondents have a clear idea of what was being asked, a paragraph describing alternative pedagogy was included in the questionnaire (see Appendix C).

Law faculty use of alternative pedagogies was measured by creating an index from five items on the survey. Each

**question specifically asks if the respondent utilizes a technique associated with alternative pedagogy.**

**The literature states that alternative pedagogies are less hierarchical and more conducive to active student participation. Some authors describe teaching techniques which they have employed in order to get students to take a more active role as well as to build "a community of learners" in the classroom (Wildman, 1988; Schneider, 1987; Schniedewind, 1983). These techniques were compiled and listed in one of the survey questions. Alternative pedagogies and feminist jurisprudence also allow a more interdisciplinary approach to learning. Therefore, questions were included which attempt to ascertain if the instructor uses materials from other disciplines as well as materials which incorporate a feminist jurisprudential stance.**

**The items on which the index was based read as follows:**

1. Below is a list of various alternative teaching techniques that have been employed by law professors. Please indicate if you often, sometimes, or never employ any of these teaching techniques.

	(3) Often	(2) Sometimes	(1) Not at all
a. role playing	-----	-----	-----
b. in-class simulation	-----	-----	-----
c. convening classroom as a court	-----	-----	-----
d. organizing small group meetings	-----	-----	-----
e. meeting as a legislative body to decide a law	-----	-----	-----
f. playing tapes of AALS or SALT meetings to stimulate discussion	-----	-----	-----
g. group projects	-----	-----	-----
h. shared leadership	-----	-----	-----
i. oral presentations	-----	-----	-----
j. individual, out-of-class meetings	-----	-----	-----
k. presentations by experts/practitioners	-----	-----	-----
l. playing videotapes	-----	-----	-----
m. interpersonal activities which promote community	-----	-----	-----

2. Do you bring cases that you or your colleagues have worked on into your classroom teaching? (2=yes; 1=no)

(These questions were asked twice for each of two different courses:)

1. Would you characterize your classroom as non-hierarchical (the classroom is perceived as a 'community of learners' and uses a participatory decision making style)? (4=extensively; 3=moderately; 2=marginally; 1=not at all)

2. Do you encourage active student participation in the classroom? (4=extensively; 3=moderately; 2=marginally; 1=not at all)

3. Do you routinely include materials from other disciplines on your syllabus? (2=yes; 1=no)

4. Do you incorporate work associated with feminist jurisprudence in your classroom teaching materials? (5=always; 4=often; 3=sometimes; 2=seldom; 1=never)

All six questions were summed to create an overall alternative pedagogy usage index with a range of values from 23 to 74.

Knowledge of Feminist Jurisprudence:

Before answering questions pertaining to feminist jurisprudence, the survey included a paragraph defining feminist jurisprudence (see Appendix C). As with the alternative pedagogy section, this was done so that respondents have a common definition in mind while answering the questions.

Law faculty knowledge of feminist jurisprudence was measured by creating an index from six items on the survey. The items measuring this variable were constructed in order to to ascertain if respondents have heard about the term feminist jurisprudence and are familiar enough with the literature to use it in their work.

The items creating this variable are:

1. How familiar are you with feminist jurisprudential literature as compared to your colleagues at this institution? (4=extensively; 3=moderately; 2=marginally; 1=not at all)
2. During the past year, have you read any law review articles written from a feminist jurisprudential perspective? (2=yes; 1=no)
3. Do you consider your own work to be feminist? (4=extensively; 3=moderately; 2=marginally; 1=not at all)
4. Do you cite feminist legal scholars in your own scholarly work? (2=yes; 1=no)



5. Do you find feminist jurisprudence to be of any help or usefulness to your scholarly work? (2=yes; 1=no)

6. When discussing legal issues with your colleagues at this institution, do you refer to feminist legal scholars as authorities? (5=always; 4=often; 3=sometimes; 2=seldom; 1=never)

Responses from these six items were summed to create a faculty knowledge index with a range of values from 6 to 19.

#### Integration of Feminist Jurisprudence:

Law faculty perception of the integration of feminist jurisprudence into the law school curriculum was measured by creating an index from two questions on the survey.

The first questions asked respondents to rate the degree of integration in 'core' courses. Since first year law students generally take the same or similar 'core' courses, determining the degree of integration in these courses is an important indicator. According to Powers (1986) the following courses were required by 88 percent or more of all law schools (n=174): Contracts (100%); torts (100%); Property (98.9%); Criminal Law (98.9%); Civil Procedure (98.3%); Constitutional Law (88.5%); and Legal Research & Writing (87.9%).

The items constructing this variable are:

1. To what extent would you say that feminist content is being integrated into the following "core" courses, at your institution:

**Contracts**

5=extensively; 4=moderately;3=marginally;2=not at all; 1=don't know

**Torts**

5=extensively; 4=moderately;3=marginally;2=not at all; 1=don't know

**Property**

5=extensively; 4=moderately;3=marginally;2=not at all; 1=don't know

**Civil Procedure**

5=extensively; 4=moderately;3=marginally;2=not at all; 1=don't know

**Criminal Law**

5=extensively; 4=moderately;3=marginally;2=not at all; 1=don't know

**Constitutional Law**

5=extensively; 4=moderately;3=marginally;2=not at all; 1=don't know

**Legal Writing**

5=extensively; 4=moderately;3=marginally;2=not at all; 1=don't know

2. To what extent has feminist jurisprudence been integrated into the law school curriculum at your institution? (5=extensively; 4=moderately;3=marginally;2=not at all; 1=don't know)

Responses from these two items was summed up to create a faculty awareness index with a range of values from 8-40.

**Incorporation of Feminist Jurisprudence into Faculty Member's Courses:**

Incorporation of feminist jurisprudence by faculty members into their own law courses was measured by creating an index from one question on the survey which directly asks if respondents incorporate work associated with feminist jurisprudence into their courses.

The item for this variable is:

1. Do you incorporate work associated with feminist jurisprudence in your classroom teaching materials? (5=always; 4=often; 3=sometimes; 2=seldom; 1=never) [This question was asked twice for each of two different courses]

Responses from this question was summed to create a faculty use index with a range of values from 2-10.

## **Independent Variables**

The survey provided the information for the creation of the majority of the independent variables. The independent variables in this study are:

Personal background variables. These variables include sex, age, race, political views, years at current institution, rank, and tenure status.

There may be some relationship between these variables and the dependent variables. For example, there are more women who do feminist jurisprudence than men. Also, there may be a generational difference for both men and women and their knowledge of and use of feminist jurisprudence and alternative teaching methodologies. Some interaction effects may be at work between these variables and the dependent variables. Therefore, the relationships among the variables was examined and controlled prior to assessing environmental factors of the law school.

Educational Background. Background information was determined from questions on the survey, which ask for undergraduate institution and major; law school attendance and participation on law review; advanced education; as well as possible clerkships and law firm experience. Selectivity of educational institutions was measure by Astin's (Astin and Henson,1977) selectivity index.

The rationale for including educational background variables is to ascertain the possible effects of early socialization on the dependent variables. Fossum (1980a,b) notes that the majority of law professors graduated from a select number of schools; excelled in their studies while law students; participated on law review; and had clerked for a judge or engaged in private law practice before assuming a tenure-track law faculty position. Fossum (1980a:519) states "...the influence of law teachers' law school of origin on their careers was such that the status of the law school from which they received the J.D. degree affected both the nature of their early career experiences and the eliteness of the law school where they attained their first tenure track teaching positions."

Furthermore, Fossum (1980a,b) indicates that there is little diversity among faculty at the producer schools (90 percent received their J.D. degrees from this same group of schools). Since my sample will consists of these same producer schools, I am able to determine whether it is still the case that the majority of faculty at producer schools received their legal training at these same schools.

Attendance at symposia, meetings, or workshops on curricular change held by the American Association of Law Schools and The Society of American Law Teachers or other organizations. Data for this variable were ascertained by one question on the survey.

Attendance at meetings discussing curriculum change shows, at least, exposure to new knowledge. A faculty member needs to be aware of the changes going on in a discipline before he/she can make any moves towards integration. Attendance at such a meeting is one measure of such awareness.

Knowledge of alternative casebooks in speciality. This variable was measured via the faculty survey. As with the previous one, this variable shows whether or not the faculty member was, at a minimum, aware of alternate choices. Many professors may not know that new course materials are being generated.

Type of course--1st year: required: elective: clinical. Data for this variable was ascertained from the faculty survey.

Many authors (Dalton; 1987-88; Frug, 1985; Erickson, 1988; McIntyre, 1987-88) note the importance of integrating feminist jurisprudence into the whole curriculum, not just specialized courses. This variable will show if more

integration is exhibited in the elective courses, 'core' courses, or clinical courses.

Opinions/Beliefs regarding pedagogical innovations and feminist jurisprudence. The survey includes several questions which ask faculty to reveal their opinions and attitudes toward the two main topics of this dissertation. Faculty values regarding alternative teaching techniques and feminist jurisprudence may be important factors to revealing their receptivity to changes within the law school.

Participation in various education-related activities. These variables include such items as: team teaching, teaching in another discipline, designing a new course, and taking an educational class. Data was taken from the faculty survey.

The importance of measuring such activities lies in their potential to expose faculty to new knowledge and new ways of teaching.

Features of the law school environment. These variables include such items as special colloquia, symposia, or reading groups which exist at a law school. Data was taken from the faculty survey.

Special reading groups which focus on issues of race and gender as well as invited colloquia or symposia at the law school are additional mechanisms for exposing law faculty to the ideas of feminist jurisprudence.

Number of women on faculty. Data for this variable was derived from the ABA's Annual Review of Legal Education as well as from school catalogues. This variable is important to include because social science research has suggested that women in token numbers will conform to the norms of the majority rather than follow paths of difference. In particular, Kanter's (1977a, b) theory of tokenism has been widely researched in social science disciplines. Spangler, Gordon and Pipkin (1978) empirically tested Kanter's hypothesis using law school students. They compared women law students at schools with different sex ratios. Spangler, et.al. (1978:168), found that "the dynamics of tokenism are operating in law schools and that, as Kanter argues, they operate to the detriment of women where they have low proportional representation in the student population." Menkel-Meadow (1985;1987) warns that problems of tokenism may exist within the law faculty. She notes that "achieving a critical mass of previously excluded people may be essential to promoting... transformative practices..."(Menkel-Meadow, 1987:44).

However, as McConnell (1991) in her article on CUNY and its House system shows, even a critical mass of women can still result in a particular teaching 'ghetto' for women. McConnell found that women and minority faculty were

disproportionately assigned to be first year House counselors. However, it should be noted that the institution recognized the problem and has recently implemented changes to end the gender- and race-based concentration of House Counselor assignments (McConnell, 1991:114). The fact that CUNY does have a high proportion of women and minority faculty may have been a factor in the institution recognizing the problem and trying to deal with it.

Number of women law students at institution. These data were ascertained from the ABA's Annual Review of Legal Education as well as a question on the survey which asks faculty to estimate the proportion of men and women in their courses.

This variable was examined for two reasons. First, it is another dimension of the tokenism argument. Second, issues of concern to women might be brought to the attention of the instructor by women students in her/his courses.

Articles on feminist jurisprudence topics published within the last five years by the major law review of the schools surveyed in this study. All institutions except for CUNY published a law journal. In order to ascertain if a law review of one of the survey institutions publishes articles with a



feminist jurisprudential focus, I examined titles for key words,<sup>3</sup> note authors,<sup>4</sup> and checked footnoted citations.

The law review is the primary medium for legal discourse. The number of law reviews have risen dramatically during the last sixty years. Cane (1981) cites that the number of reviews have increased from 33 in 1928 to 182 by 1979. Part of the reason for the expansion is the importance law schools attach to the review experience for students.<sup>5</sup> Law reviews, unlike scholarly journals in most other disciplines, are student edited.

Maggs (1930) lists eight contributions of law reviews to the development of law. First, law reviews are advantageous to the law professor. For the faculty member, law reviews are a vehicle to disseminate their thoughts, a way to acquire new

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<sup>3</sup> Key words were culled from reading the feminist jurisprudential literature. They are as follows: abortion, comparable worth, discrimination, equality, feminist, maternity, patriarchy, pornography, rape, sexual, gender, sister, transformation, women.

<sup>4</sup> Key authors were culled from my reading of the feminist jurisprudential literature as well as an informal survey of feminist jurisprudential authors. Key authors I will look for are: Becker, Mary; Coker, Ruth; Cornell, Dru; Crenshaw, Kimberle; Dalton, Clare; Frug, Mary Joe; Kay, Herma Hill; Leahy, Kathy; Littleton, Christine; MacKinnon, Catharine; Matsuda, Mari; McIntyre, Shella; Menkel-Meadow, Carrie; Minnow, Martha; Olsen, Francis; Rhode, Deborah; Scales, Anne; Schneider, Elizabeth; West, Robin; Wildman, Stephanie; Williams, Wendy; Wishik, Heather.

<sup>5</sup> Although most law schools and authors place a high value on the law review experience, there is some authors who dispute the value of the 'law review experience'. See for example, Cane, "The Role of Law Review in Legal Education" and Rosenkranz, "Law Review's Empire". Both articles are critical of the experience and question its value in legal education.

knowledge, and a method to become better instructors. Second, the experience benefits the contributing law student. Third, even non-contributing law students benefit through the improvement in quality of instructor and instruction. Fourth, the law schools themselves benefit by publishing a review of high quality. Fifth, practicing lawyers benefit from law reviews by allowing them to remain conversant with legal problems. Sixth, judges often cite law review articles in their decisions. Seventh, non-lawyers, too, benefit from law reviews publicizing the issues that are current in the field of law. And lastly, law reviews improve the law itself through legislative and judicial suggestions.

### **Hypotheses**

1. Faculty at institutions with a greater feminist presence (defined by number of faculty who are known feminist authors; number of faculty listed as teaching 'Women in the Law' courses; publishing a feminist legal review; proportion of women faculty members) will have more knowledge of feminist jurisprudence and perceive a greater integration of feminist jurisprudence in the curriculum.
2. CUNY, with its unique original mission, will differ from the other institutions surveyed. Faculty at CUNY will use more alternative teaching techniques, will be more familiar with

feminist jurisprudence and will show greater incorporation of it in their courses.

3. Faculty who have knowledge of feminist jurisprudence will make greater use of alternative teaching methodologies in their courses.

### **Analysis**

Since faculty knowledge of new scholarship and its integration into the law school curriculum as well as the use of alternative pedagogies at major law schools are the primary focus of this dissertation, it is important to paint a picture of just who are the faculty who teach at those institutions. Thus, descriptive statistics of the educational and personal backgrounds of the faculty who answered the survey are provided first.

Analysis of variance (ANOVA) procedures are used to examine the data for institutional differences. When a significant difference is found, a multiple comparison procedure was utilized in order to compare the means of all institutions and to ascertain where the significant differences lie.

T-tests and Wilcoxon Sum Rank Test scores<sup>6</sup> are used to look for gender and clinic/non-clinic differences. Though most

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<sup>6</sup> The Wilcoxon Rank Sum test was utilized for nonparametric variables. In this analysis, the decision to use the Wilcoxon instead of the t-test occurred when a variable under consideration had a "yes/no" response.

law schools have a clinic program, they are somewhat "outside" the mainstream of the curriculum. Frequently law schools have two tenure-track systems--one for clinical professors and one for 'regular' academic professors. Or, as is often the case, clinical faculty are hired on yearly contracts which are considered 'permanently' renewable. There is, though, an interplay between the tracks and faculty on the 'academic' track can teach in the clinic programs. Since clinic programs are important components of legal education and their faculty have such differential status, clinical faculty's responses were examined.

Regression analyses were conducted in order to determine which environmental variables predict greater faculty knowledge of feminist jurisprudence; integration of feminist jurisprudence; and employment of alternative teaching methodologies (see Appendix D for variables in regressions and scoring of variables). Since this is an exploratory study, regression analysis was done in a two-step procedure. First, a stepwise regression procedure was used to look for an optimum subset of independent variables. Then, these variables were entered into a regression analysis procedure in order to examine the contribution of each independent variable in explaining the variance in the dependent variable.

These variables were entered in a block fashion: The first block consisted of personal and educational variables. The next block consisted of belief and activity variables: faculty opinions of alternative pedagogies and feminist jurisprudence; participation in various activities such as reading groups and team teaching; attendance at workshops which focus on curricular change; knowledge of alternative casebooks. The last block was environmental variables: number of women on faculty; number of women students at institution; features of law school environment; number of feminist jurisprudential articles published by the primary law review of the institution.

This particular model was chosen because personal and educational characteristics may explain a great deal of the variance. In this way, the input variable was controlled and I was able to interpret the relationship between the environmental factors and the dependent variable more reliably.

The assumptions underlying multiple regression analysis were tested before proceeding with the analysis. Normality was tested by examining a histogram of the standardized residuals. Linearity was verified by a scatterplot of the predicted outcome vs. the residuals. Homoscedasticity was examined by scatterplots of the residuals and each independent

variable. There seemed to be no gross violations of the assumptions and it was decided to proceed with the analysis.

There are several open-ended questions on the survey. These questions attempt to get at the utilization of alternative pedagogies and knowledge of feminist jurisprudence in greater depth. The questions are usually attached to quantified questions and ask the respondent for further clarification. They were examined for further clarification and explanation that the "forced" quantified questions couldn't ascertain. Questions guiding my examination were: Are there patterns of responses? Do faculty respond similarly to the questions? Do they have the same understanding of the terminology? Do they offer insights that might otherwise have escaped the quantitative analysis?

## **Chapter 4**

### **Results**

This chapter presents the results of the analysis. Part 1 provides a descriptive profile of faculty in the sample: demographic information, educational background, and current teaching activities. Part 2 presents the results of pedagogical practices: institutional differences and differences between genders and clinical/nonclinical status. Part 3 provides information about faculty's knowledge of feminist jurisprudence; again, differences among the ten institutions surveyed as well as between subgroups are discussed. The last section shows the result of the analysis regarding the integration of feminist jurisprudence into the law school curriculum. Regression analyses of the three dependent variables, utilization of alternative pedagogies, knowledge of feminist jurisprudence, and integration of feminist jurisprudence into the curriculum, will be given at the end of each relevant section.

#### **Descriptive Statistics**

##### **Sample Characteristics**

Table 4 summarizes the demographic characteristics of the respondents. Of the 178 respondents, seventy-six percent were men; twenty-four percent were women. Coincidentally,

**TABLE 4**  
**Description of Sample**  
(in percentages)

<b>Variable</b>	<b>Total</b>	<b>Chicago</b>	<b>Columbia</b>	<b>CUNY</b>	<b>Harvard</b>	<b>Iowa</b>	<b>Minnesota</b>	<b>Stanford</b>	<b>UCLA</b>	<b>UNC</b>	<b>Virginia</b>
<b><u>Sex</u></b>											
Male	76	82	78	50	80	84	74	86	75	74	80
Female	24	18	22	50	20	16	26	14	25	26	20
(N)	(177)	(11)	(18)	(14)	(15)	(19)	(19)	(14)	(28)	(19)	(20)
<b><u>Age</u></b>											
Mean	47	41	49	44	51	44	51	51	50	45	46
(N)	(174)	(11)	(18)	(13)	(15)	(19)	(19)	(14)	(26)	(19)	(20)
<b><u>Political Views</u></b>											
Far Right	1	0	0	0	0	0	0	0	4	0	0
Conserv.	4	20	0	0	0	0	5	14	0	5	0
Middle	28	20	47	8	29	28	21	14	26	37	37
Liberal	49	60	35	25	50	57	58	43	48	53	58
Far Left	20	0	18	67	21	17	16	29	22	5	5
(N)	(169)	(10)	(17)	(12)	(14)	(18)	(19)	(14)	(27)	(19)	(19)

Note: Numbers differ because of missing information.



this ratio corresponds exactly with that of the total full-time law faculty at all schools approved by the American Bar Association (Review, 1989:66). As can be seen from the table, this ratio (76 to 24) was similar for all institutions surveyed with exception of CUNY, for which the response rate was 50/50. This can be partially explained by the fact that CUNY has a higher overall percentage of women on its faculty. Forty-seven percent of CUNY's faculty members are women, whereas at the remaining institutions, the proportion ranges from nine percent (Chicago and Harvard) to twenty-three percent (Minnesota and UCLA).

The mean age of the respondents was 47. Eleven percent of respondents were minorities. The national average of minority faculty at schools accredited by the American Bar Association is 9 percent (Review, 1989:66). The ethnic breakdown in this sample is as follows: white - 89%; Black - 9%; Mexican - 1%; Latino - 0.5%; Asian - 0.5%. Since there are so few full time minority faculty members in law schools, a breakdown of ethnicity by school has not been made in order to maintain the confidentiality of respondents.

Table 4 also presents the political views of the sample. The majority of respondents (69%) considered themselves to be either liberal or far left. Although there are no current surveys of the political leanings of law school faculty, this

distribution may indicate that the topics under investigation here elicit responses more readily from those holding liberal political views.

Ninety-two percent of respondents from CUNY considered themselves to be either liberal or far left. In fact sixty-seven percent considered themselves to be far left. An analysis of variance (ANOVA) shows that the mean value of political view is significantly different among the institutions at the .05 level. A SAS multiple comparison procedure utilizing repeated t-tests reveals that the mean value for CUNY's political view statistic is significantly different from all the other institutions at the .05 level. No other between-group comparison is significant.

Seventy-seven percent of respondents received their undergraduate educations at institutions with high (64%) or very high (13%) selectivity based on Astin's selectivity measure (Astin and Henson, 1977). Fifty-five percent attended institutions that were in the Northeast, whereas seventeen percent attended institutions that were in the Midwest. Almost a quarter of the respondents attended either Harvard (9%), Princeton (7%) or Yale (6%) for their undergraduate education. Sixty-three percent of respondents majored in either political science (33%), history (18%) or economics (12%). Fifty percent of the respondents graduated from their

undergraduate institutions between 1960 and 1974 [with the two peak years being 1967 (6%) and 1974 (6%)].

The majority of respondents graduated from law school in the 1970s (41%) and 1980s (21%). Eighty-seven percent of the respondents received their J.D. degree from one of the 23 high producer institutions.<sup>1</sup> When LL.M. or S.J.D. degrees are included, the proportion increases to 91 percent. This rate has remained essentially unchanged in the more than ten years since Fossum's (1980a:528) study, in which she found that 90 percent of tenure and tenure-track faculty at producer schools also received their training at producer schools.

Sixty-four percent of respondents indicated that they participated on the law review. Of those who participated, 79 percent "graded-on" to law review, whereas 24 percent got on law review through write-on competition.<sup>2</sup> A breakdown of law review participation by school is as follows:

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<sup>1</sup> Harvard and Yale are by far the main institutions, graduating 21 percent and 18 percent of respondents, respectively, followed by Chicago (6 percent), Columbia (5 percent), and University of Pennsylvania (5 percent). These five schools account for 55 percent of the respondents' law school institutions!

<sup>2</sup> Three respondents indicated that they qualified for law review by both means.

**Table 5**  
**Percent of Respondents Who Attended Producers**  
**Schools, Participated In Law Review, by Institution**

School	Attended Producers Institutions	Participated on Law Review
Chicago	88% (N=9)	60% (N=10)
Columbia	94% (N=17)	53% (N=17)
CUNY	50% (N=14)	36% (N=14)
Harvard	87% (N=15)	87% (N=15)
Iowa	83% (N=18)	61% (N=18)
Minn	89% (N=18)	61% (N=18)
Stanford	100% (N=14)	64% (N=14)
UCLA	96% (N=27)	86% (N=28)
UNC	84% (N=19)	58% (N=19)
Virginia	80% (N=20)	55% (N=20)

As can be seen from Table 5, CUNY seems to deviate in both the categories of attending a producer school and participation on law review. A Kruskal-Wallis Test showed this difference to be significant ( $p=.01$ ) for attendance at a producer school, but not for participation on law review.

Forty respondents had received post-secondary degrees other than, or in addition to, law: 24 had earned masters and 16 had earned doctorates. The majority earned these degrees in the social sciences (11), in history (9) and in education (4).

Table 6 displays the percentage of respondents who served clerkships: forty-two percent did. Again CUNY is the only institution which deviates from this overall statistics. A Kruskal-Wallis Test to determine differences among schools

produces a p-value of .057, demonstrating no significant difference.

Table 6 also indicates the percentage of respondents who had prior experiences at a law firm. Seventy-nine percent of the sample had some experience at a law firm. Forty-six percent served between 1 and 3 years (1 year - 13%; 2 years - 17%; 3 years - 16%). Thirty-two percent of the sample served both a clerkship and worked at a law firm before teaching. Twelve percent of the respondents did neither.

Seventy-nine percent of respondents stated that they had practiced law prior to entering teaching; the breakdown by type of practice is as follows: 71 percent worked at a private law firm, 32 percent in government, 25 percent in public interest law and 3 percent were in solo practice<sup>3</sup>. Respondents who worked in private law firms mainly engaged in general practice (23%) and business law (26%). The most frequently practiced field of public interest law was civil rights or "other"<sup>4</sup> public interest (11 and 12 percent respectively). Interestingly, more women than men engaged in solo practice prior to teaching. However, it should be pointed

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<sup>3</sup> The total exceeds 100% because several respondents worked in more than one type of practice.

<sup>4</sup> The public interest sub-category "other" included responses as: health law; disabilities (mental and physical) law; public defender; family law; law school clinic; children's rights; general; anti-war; feminist; international trade. Public defender was marked by nine respondents.

**Table 6**  
**Percentage of Respondents Who Served Clerkships and/or Worked in a Law Practice**  
(in percentages)

<b>Variable</b>	<b>Total</b>	<b>Chicago</b>	<b>Columbia</b>	<b>CUNY</b>	<b>Harvard</b>	<b>Iowa</b>	<b>Minnesota</b>	<b>Stanford</b>	<b>UCLA</b>	<b>UNC</b>	<b>Virginia</b>
<b><u>Clerk</u></b>	<b>42</b>	<b>55</b>	<b>22</b>	<b>7</b>	<b>53</b>	<b>50</b>	<b>50</b>	<b>50</b>	<b>57</b>	<b>31</b>	<b>35</b>
<b>(N)</b>	<b>(175)</b>	<b>(11)</b>	<b>(18)</b>	<b>(14)</b>	<b>(15)</b>	<b>(18)</b>	<b>(18)</b>	<b>(14)</b>	<b>(28)</b>	<b>(19)</b>	<b>(20)</b>
<b><u>Law Firm</u></b>	<b>79</b>	<b>73</b>	<b>67</b>	<b>71</b>	<b>73</b>	<b>84</b>	<b>90</b>	<b>86</b>	<b>79</b>	<b>84</b>	<b>75</b>
<b>(N)</b>	<b>(177)</b>	<b>(11)</b>	<b>(18)</b>	<b>(14)</b>	<b>(15)</b>	<b>(19)</b>	<b>(19)</b>	<b>(14)</b>	<b>(28)</b>	<b>(19)</b>	<b>(20)</b>

out that only four persons had a solo practice (3 women and 1 man). Therefore, the significance of this finding rests in its suggestions for future study.

The current study's data on clerking and law firm experience again re-confirm Fossum's (1980a:510-513) study which found that faculty had engaged in other activities prior to teaching. Fossum found that 17 percent had clerked; whereas 67 percent had engaged in law practice. The current study's figures are a bit higher, but that is probably accounted for by the fact that mainly producer schools were surveyed. Fossum found that the median time in these positions prior to teaching was five years. The median time for law firm experience in this study found the same result: five years.

Table 7 shows the current status of faculty by years at institution, rank, and tenure. Twenty-five percent of respondents have been at their institutions for four to seven years; twenty-seven percent have been at their institutions for eight to fourteen years. The majority (72 percent) of respondents are full professors. As would be expected, the majority (75 percent) also have tenure.

Examining crosstabulations between gender and tenure, and gender and rank, reveals some interesting differences: 82 percent of the men in the survey (N=135) have tenure whereas

**Table 7**  
**Years at Current Institution, Rank, and Tenure, by Institution**

<b>Variable</b>	<b>Total</b>	<b>Chicago</b>	<b>Columbia</b>	<b>CUNY</b>	<b>Harvard</b>	<b>Iowa</b>	<b>Minnesota</b>	<b>Stanford</b>	<b>UCLA</b>	<b>UNC</b>	<b>Virginia</b>
<b><u>years at inst.</u></b>											
0-3	25	3	5	5	1	1	0	0	5	1	4
4-7	45	3	4	6	3	7	4	2	3	5	8
8-14	48	3	5	3	5	7	6	5	5	8	1
15-21	26	1	0	0	2	2	5	3	7	4	2
22-28	20	1	2	0	1	1	1	2	6	1	5
29+	13	0	2	0	3	1	3	2	2	0	0
(N)	(177)	(11)	(18)	(14)	(15)	(19)	(19)	(14)	(28)	(19)	(20)
<b><u>Rank</u></b>											
other	1	0	0	0	0	0	5	0	4	0	0
lecturer	0	0	0	0	0	0	0	0	0	0	0
clinical	5	0	11	0	0	5	21	0	0	11	0
asst prof	9	18	0	21	13	0	0	0	14	5	15
assoc prof	14	0	17	71	0	16	5	14	0	5	20
prof	72	82	72	7	87	79	68	86	82	78	65
(N)	(177)	(11)	(18)	(14)	(15)	(19)	(19)	(14)	(28)	(19)	(20)
<b><u>Tenure</u></b>											
(N)	75	82	72	29	87	74	79	93	82	84	65
(N)	(177)	(11)	(18)	(14)	(15)	(19)	(19)	(14)	(28)	(19)	(20)

Note: Figures for years at institution category are in years; figures for rank and tenure are in percents.



52 percent of the women (n=42) do so. An examination of rank and years at current institution may clarify this difference.

**RANK:**

	<u>Men</u>	<u>Women</u>
Clinical	3%	12%
Asst. Prof	7%	14%
Assoc. Prof	10%	26%
Prof	80%	45%

**YEARS AT INSTITUTION:**

	<u>Men</u>	<u>Women</u>
0-3	11%	24%
4-7	22%	36%
8-14	25%	33%
15-21	17%	7%
22-28	15%	
29+	10%	

Part of the reason that fewer women have tenure than men is the fact that they have been at their institutions for a shorter period of time and hold lower ranks. Clearly these factors are related. It remains to be seen if these numbers will change as more women enter the field of law and the teaching of law. In the schools I surveyed, the female student population ranged from 38 percent (Virginia) to 58 percent (CUNY) of the total student population. Researchers have noted this increase in women law students; and yet, at graduation, women seem to be concentrated in fewer areas of law and their numbers in legal education still lag behind the

national average in approximately one-fifth of law schools (Chused, 1988:548).

CUNY's faculty have held their jobs for a shorter time, have lower professorial titles, and have fewer tenured faculty than that of other institutions. CUNY is the newest of the law schools surveyed, first opening its doors in September, 1983. Furthermore, most institutions have a seven year tenure-track system, so most of CUNY's faculty have not been around long enough to have gone through their tenure review. In fact, of the 71 percent of CUNY's faculty who do not have tenure, 90 percent are on tenure-track.

Respondents' legal teaching specialties and research interests ranged widely. From their written responses, a list of 113 areas was generated.<sup>5</sup> Many entries are very specialized so a complete list of the specialties will not be listed in order to assure the confidentiality of respondents. However, some areas did receive higher representation: constitutional law (5.3 percent); civil procedure (5.1 percent); torts (4.4 percent); and criminal law (4.3 percent). These areas represent "core" areas within the field of law, so it is not surprising that they would be listed by more respondents. Table 8 identifies the teaching specialties and research

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<sup>5</sup> The questionnaire had an open space for teaching specialties and research interests. Most respondents listed more than one area under each section. Up to a maximum of four teaching specialties and three research interests were coded for each respondent.

interests most often named. . Legal research interests were, naturally, more particularized than teaching areas. Nevertheless, some interests were mentioned by more than one respondent. All of these topics were taught by more respondents than listed them as research interests, with the exception of Feminist Legal Theory.

Constitutional law and civil procedure were represented by at least one respondent at each institution. Criminal law, torts, and property were represented at nine of the ten institutions.

**Table 8**  
**Teaching Specialities and Research Interests\***

Area	Teaching		Interests	
	N	%	N	%
Administrative Law	12	2.8%	6	2.3%
Civil Procedure	22	5.1%		
Clinic	16	3.7%		
Constitutional Law	23	5.3%	12	4.6%
Contracts	15	3.5%	6	2.3%
Corporations	13	3.0%		
Criminal Law	18	4.2%		
Evidence	12	2.8%	5	1.9%
Family Law	12	2.8%		
Feminist Legal Theory	4	0.9%	5	1.9%
International Law	12	2.8%	7	2.7%
Property	16	3.7%		
Taxation	11	2.6%	5	1.9%
Torts	19	4.4%	6	2.3%

\*Note: Up to a maximum of four teaching specialities and three research interests were coded for each respondent. This resulted in 431 responses for teaching specialities and 261 responses for research interests

Table 9 displays law specialities divided by gender. The top areas for men are constitutional law (6.4%), criminal law (5.2%) and torts (4.6%); while for women the top areas are civil procedure (7.8%), clinic (7.8%); and family law (5.9%). The fact that women in this survey seem to concentrate in clinic and family law is consistent with previous research by Fossum (1980b) and Chused (1989).

**TABLE 9**  
**Most Frequent Law Specialities, by Gender**

Area	Men		Women	
	N	%	N	%
Administrative Law	12	3.6	0	0.0
Civil Procedure	14	4.3	8	7.8
Clinic	8	2.4	8	7.8
Constitutional Law	21	6.4	2	2.0
Contracts	12	3.6	3	2.9
Corporations	11	3.3	2	2.0
Criminal Law	17	5.2	1	1.0
Evidence	9	2.7	3	2.9
Family Law	6	1.8	6	5.9
Feminist Legal Theory	0	0.0	4	3.9
International Law	10	3.0	2	2.0
Property	13	4.0	3	2.9
Taxation	9	2.7	2	2.0
Torts	15	4.6	4	3.9

\*Note: Up to a maximum of four teaching specialities were coded for each respondent. Dividing the law specialities data by gender resulted in 329 responses for men and 102 responses for women.

## Alternative Pedagogy

### Use of Alternative Techniques

A review of the literature of alternative pedagogies<sup>6</sup> resulted in producing a list of techniques that faculty were asked to indicate if they used the techniques often, sometimes, or not at all.

Figure 1

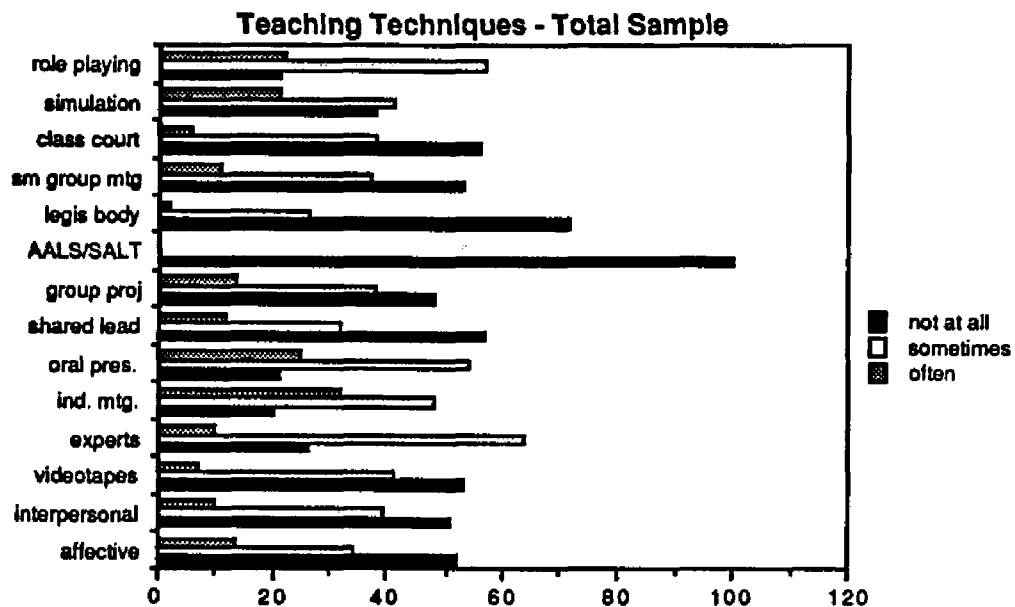


Figure 1 displays the results of faculty responses (See Appendix E for additional figures of each technique by institution). The techniques which were used most frequently

<sup>6</sup> See Chapter 2, A Review of the Literature for details of the techniques. In particular articles by Schniedewind, 1983, Menkel-Meadow, 1988a, Schneider, 1987, and Wildman, 1988.

were: individual meetings with students; oral presentation; role playing; and simulations.

Individual meetings with students may not seem an innovative technique at first glance. However, personal contact with students figures prominently in the alternative pedagogical literature. Auerbach's (1984) examination of graduate student surveys found that student-faculty relations in the law school were poor. He found that 84 percent of law students in 1975 felt that professors were not interested in their academic progress. In no other discipline were student/faculty relations viewed this impersonally. Therefore, more instances of individual meetings could be interpreted as a sign of student-faculty relations improving in the law school.

Use of oral presentation, role playing and in-class simulations are all techniques designed to elicit greater student participation in the classroom. Role playing and simulations may be particularly useful in a field where the majority of students become legal practitioners rather than legal scholars.

Techniques employed least often were: Playing AALS/SALT tapes; convening class as a legislative body; sharing leadership; and meeting the class as a court. Not one respondent had ever played a tape of an AALS/SALT meeting to

stimulate class discussion. Convening the class as a legislative body and meeting the class as a court are practitioner, or clinically oriented approaches and most faculty members conduct their courses in a more theoretical manner. Shared leadership is also a concept that faculty (and some students) find difficult to implement.

When asked in which types of courses they utilized the alternate techniques, faculty tended to respond "in seminars and smaller classes", or "depending on material and course". One intriguing comment from a clinic faculty member stated:

"I only teach clinical seminars and simulation clinic classes. In a sense alternative pedagogy is the whole agenda for our simulation courses. There is very little traditional classroom teaching involved" *{female, tenure-track assistant professor}*

In order to test the implicit claim of this statement, the responses of clinical faculty were compared to the rest of the sample. Table 10 provides a crosstabulation of each teaching technique with clinical and non-clinical faculty. As can be seen, several techniques show large group differences. The Wilcoxon Rank Sum Test for comparing two independent groups proved that, in fact, many of these were significant ( $p < .05$ ).<sup>7</sup>

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<sup>7</sup> Role playing ( $p = .0001$ ); simulation ( $p = .0001$ ); class court ( $p = .0008$ ); small group meeting ( $p = .0001$ ); group projects ( $p = .0001$ ); shared leadership ( $p = .0012$ ); oral presentations ( $p = .0026$ ); individual meetings ( $p = .0002$ );

**Table 10**  
**Alternative Teaching Techniques, by Clinical Faculty**  
**and Gender (in percentages)**

Technique	Non-Clinical	Clinical	Male	Female
<u>Role Playing</u>	(N=156)	(N=19)	(N=132)	(N=42)
not-at-all	23	0	23	14
sometimes	60	32	58	57
often	17	68	20	29
<u>In-class Simulation</u>				
not-at-all	42	0	38	38
sometimes	44	21	45	31
often	14	79	18	31
<u>Classroom as Court</u>				
not-at-all	60	21	58	51
sometimes	34	63	37	39
often	5	16	5	10
<u>Group Meeting</u>				
not-at-all	56	21	56	43
sometimes	38	26	37	36
often	5	53	7	21
<u>Meet as Legislative Body</u>				
not-at-all	70	79	72	73
sometimes	26	21	25	27
often	3	0	3	0
<u>Tapes of AALS</u>				
not-at-all	100	100	100	100
sometimes				
often				
<u>Group Projects</u>				
not-at-all	52	16	51	39
sometimes	38	37	36	41
often	10	47	12	20

videotapes (p=.0001); use of affective learning as well as cognitive learning (p=.0001).



Table 10, continued  
Variable

	Non- Clinical	Clinical	Male	Female
<u>Shared Leadership</u>				
not-at-all	61	26	62	43
sometimes	30	42	29	38
often	9	32	9	20
<u>Oral Presentation</u>				
not-at-all	23	5	24	12
sometimes	56	42	55	50
often	21	53	20	38
<u>Individual Meetings</u>				
not-at-all	21	5	21	14
sometimes	52	21	49	45
often	27	74	30	41
<u>Presentation by Experts</u>				
not-at-all	28	16	28	24
sometimes	63	68	64	62
often	9	16	8	14
<u>Videotapes</u>				
not-at-all	58	11	55	48
sometimes	38	63	39	43
often	5	26	6	10
<u>Use Interpersonal Activities</u>				
not-at-all	52	39	56	33
sometimes	40	28	35	52
often	7	33	9	15
<u>Affective Learning</u>				
not-at-all	57	12	58	31
sometimes	34	35	31	41
often	9	53	11	28

Given the large number of significant differences, it seems correct to say that the structure and practitioner focus of clinic classes entail alternative teaching techniques, in contrast with other law courses.

The same analysis was performed to look at gender differences. Again, table 10 displays the crosstabulations for the various teaching techniques as practiced by men and women. There were significant differences between the sexes in the use of four techniques: shared leadership ( $p=.02$ ); oral presentations ( $p=.01$ ); use of interpersonal activities ( $p=.02$ ); and use of affective learning ( $p=.003$ ). Significantly more women than men practice these techniques. Three of these four techniques were also significant for clinical faculty. Recall from Table 9 that a higher percentage of women than men taught in the clinical area which appears to lend itself to pedagogical alternatives. However, this, alone, does not explain the gender differences. Only 7.8 percent of women respondents taught in the clinical area. The majority taught in mainstream legal specialities. So the fact that women were significantly more likely to use the above four techniques is not the result of the type of course they are teaching.

It is interesting to note that these techniques, shared leadership, oral presentation, use of interpersonal activities, and use of affective learning, coincide with three central concepts of feminist pedagogy that Shrewsbury (1987) identified: empowerment, community and leadership. Women faculty make use of teaching techniques designed to promote a "community of learners" and empower the students by valuing

affective as well as cognitive responses. Furthermore, women faculty seem to be more willing to share leadership and use non-hierarchical approaches to teaching.

As the above discussion of clinical and gender differences in the use of alternative pedagogies shows, there are some similarities between the two areas, but clinical education is more conspicuously linked to the utilization of alternative pedagogies. It may be, as Goldfarb (1991:1667-1668) notes, that "clinical education has a predominantly pedagogical identity, generating considerable attention to the learning process....Feminist, on the other hand, though concerned with the learning process, generally do not identify with pedagogy in the same way as clinical educators."

Institutional differences in the use of the alternative teaching techniques was also examined. An analysis of variance (ANOVA) procedure found significant differences for six methods: simulation ( $p=.002$ ); convening class as court ( $p=.002$ ); small group meetings ( $p=.003$ ); group projects ( $p=.0001$ ); shared leadership ( $p=.0001$ ); use of interpersonal techniques ( $p=.003$ ); and use of affective learning ( $p=.03$ ). A between group comparison procedure pinpoints where these significant differences lie--primarily between CUNY and the other institutions. CUNY faculty tend to use alternative teaching techniques more than faculty at other institutions.

CUNY differed from all other institutions in three techniques: simulation; small group meetings; and group projects. Shared Leadership, use of interpersonal techniques to create a community of learners, and utilization of affective as well as cognitive learning also showed significant differences between CUNY and the majority of the other institutions.

**Figure 2**

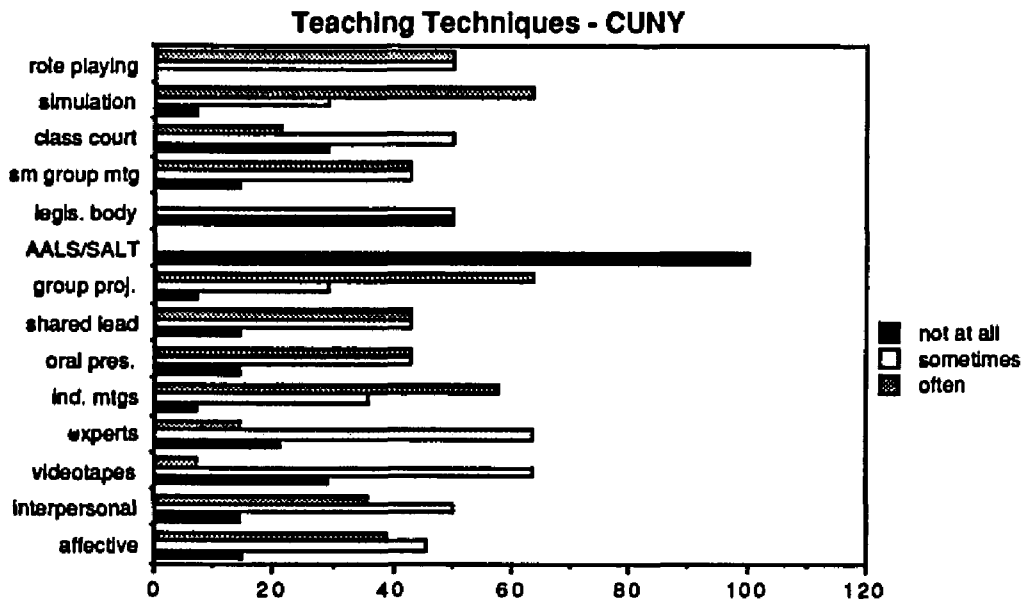


Figure 2 shows the responses of the CUNY faculty to the use of the alternative techniques (See Appendix E for figures of other institutions). The significant differences between CUNY and the remaining institutions seems to be a result of its

**Table 11**  
**CUNY Faculty Usage of Alternative Teaching**  
**Techniques, By Gender (in percentages)**

Technique	Male	Female
<u>Role Playing</u>		
not-at-all	0	0
sometimes	57	43
often	43	57
<u>In-class simulation</u>		
not-at-all	0	14
sometimes	43	14
often	57	71
<u>Classroom as Court</u>		
not-at-all	43	14
sometimes	57	43
often	0	43
<u>Group Meeting</u>		
not-at-all	14	14
sometimes	43	43
often	43	43
<u>Meet as Legislative</u>		
<u>Body</u>		
not-at-all	57	43
sometimes	43	57
often	0	0
<u>Tapes of AALS</u>		
not-at-all	100	100
sometimes		
often		
<u>Group Projects</u>		
not-at-all	0	14
sometimes	43	14
often	57	71
<u>Shared Leadership</u>		
not-at-all	14	14
sometimes	43	43
often	43	43

Table 11, continued

Variable	Male	Female
<u>Oral Presentation</u>		
not-at-all	14	14
sometimes	43	43
often	43	43
<u>Individual Meetings</u>		
not-at-all	0	14
sometimes	57	14
often	43	71
<u>Presentation by Experts</u>		
not-at-all	29	14
sometimes	57	71
often	14	14
<u>Videotapes</u>		
not-at-all	29	29
sometimes	71	57
often	0	14
<u>Use Interpersonal Activities</u>		
not-at-all	14	14
sometimes	57	43
often	29	43
<u>Affective Learning</u>		
not-at-all	14	17
sometimes	57	33
often	29	50

unique mission and structure rather than the fact that more women and minorities are members of the CUNY faculty. The men and women of the CUNY faculty responded similarly on all items. T-tests between the men's and women's responses found no significant differences.

The CUNY curriculum was designed to incorporate simulations, group projects, and small group meeting via the

HOUSE system in which all students are involved during their first two years (McConnell, 1991; Halpern, 1986; Farago, 1986; Kleinberg and Marcus, 1987). This system, according to McConnell (1991) developed out of a commitment to small group learning and CUNY's new vision of what it means to be a lawyer. This new vision encompasses diversity, attention to practitioners, and an understanding of the 'human' dimension of lawyering. According to Halpern, the founding Dean of CUNY, one the the basic premises of their new curriculum was that "legal education should place greater emphasis on law (and lawyering) as a process of human interaction, on the ability to see implicit premises and links with moral, social, and political theory" (Halpern, 1986:557).

Each first and second year student is assigned to a 'House' of approximately twenty students. Each 'House' is lead by a professor. The 'House' activities and courses are integrated. The "goal of the House system was to provide a nurturant, safe context within which students could take the risks that would help them develop the skills, values, and sensitivity essential to 'new' lawyers" (McConnell, 1991:89-90).

Clearly, the evidence shows that CUNY faculty utilize alternative teaching techniques more than the faculty at other institutions surveyed. Furthermore, 71 percent of CUNY

faculty members believe that alternative teaching techniques in the law school are good and that they use these alternative techniques themselves. However, this high percentage proved not to be significantly different from the other institutions surveyed.

**Table 12**  
**Faculty Opinions on the Use of Alternative Teaching Techniques (in percentages)**

Schools	Oppose	Oppose Some	Good for other faculty	Good and Use	Other*
Total (N=158)	0	6	15	46	33
Chicago (N=11)	0	9	27	18	46
Columbia (N=15)	0	7	7	53	33
CUNY (N=14)	0	7	7	71	14
Harvard (N=14)	0	0	21	50	29
Iowa (N=16)	0	13	6	56	25
Minn (N=17)	0	0	6	47	47
Stanford (N=14)	0	7	29	29	36
UCLA (N=27)	0	4	19	52	26
UNC (N=20)	0	0	12	47	41
Virginia (N=13)	0	15	23	23	39

\*Responses from other category fell into three main areas: 1) utilization depends upon subject and teacher; 2) indifference; and 3) like alternative techniques and use them.

Table 12 displays the opinion faculty members have of the listed alternative teaching techniques. The question offered respondents five choices: oppose alternative



techniques in Law Schools; oppose some techniques; believe alternative techniques are good for other professors; believe techniques are good idea and plan to use; other. Two categories, oppose some techniques and other, provided space for respondents to give additional information. No one indicated outright opposition to all methods. However, a few did indicate dislike for some techniques, in particular of the emotional aspects of some of them:

"I oppose any technique that shifts emphasis away from intellectual exploration and toward psychological exploration" *{female, tenured professor}*

"I object to those techniques that require students to reveal their emotional responses, or that force them to express points of view they believe might hold them up to ridicule or contempt." (emphasis in original) *{male, tenured professor}*

Of the respondents who chose the "other" category, three main themes emerged: 1) utilization depends upon subject and teacher; 2) indifference; and 3) like alternative pedagogies and use them. The first category was most prevalent. These faculty members seem to have a strong belief in the ethos of faculty academic freedom:

"I believe in almost total discretion for the individual teacher. If a colleague chooses either to use such techniques or not, I respect that judgment" *{male, tenured professor}*

"It depends on the topic and the teacher. No technique is per se to be rejected" *{male, tenured professor}*

"I neither favor nor oppose most--it depends on the subject matter, the instructor, class size, etc." *{female, tenured professor}*

"Each professor should do what works for him in the particular circumstances" *{male, tenured professor}*

Others stated their indifference to the techniques:

"Most are simple BS. But if others want to use them, I won't stop them." *{male, tenured professor}*

"Know nothing of them for the most part, see no need to use them" *{male, tenured professor}*

The third category, like the techniques and use them, was also common:

"I approve of experimenting with a wide range of experimental techniques" *{male, tenured professor}*

"I believe these techniques are excellent both as ideas and in practice." *{male, tenure-track associate professor}*

Eighty three percent of clinical professors, whose classes naturally employ these methods, endorsed the techniques, while 41 percent of non-clinicians approved of them. A chi-square test proved this difference significant ( $p=.001$ ).

A crosstabulation of gender and the various opinion categories found no significant chi-square results. Nevertheless, it is interesting to note that a higher proportion of women (59%) than men (42%) believe that alternative teaching techniques are good and they plan to use such techniques.

Usage of a Socratic teaching style is often portrayed as the opposite of an alternative teaching style. Table 13 shows the results of respondents' self evaluation of themselves as a traditional Socratic teacher. With 82 percent of Chicago faculty and 81 percent of Harvard faculty considering themselves moderately to extensively Socratic, it appears that faculty from these institutions view themselves more Socratically than faculty from the other institutions surveyed. Statistical analysis confirms this view. An ANOVA found that there was a significant difference between the institutions ( $p=.05$ ). Between group comparisons found significant differences between Chicago faculty and five other institutions: Columbia, CUNY, Stanford, UCLA, and Virginia. Harvard faculty were also found significantly different from faculty at CUNY, UCLA, and Virginia.

**TABLE 13**  
**Faculty Member's Self Rating as Socratic Teacher**  
(in percentages)

<b>Variable</b>	<b>Total</b>	<b>Chicago</b>	<b>Columbia</b>	<b>CUNY</b>	<b>Harvard</b>	<b>Iowa</b>	<b>Minnesota</b>	<b>Stanford</b>	<b>UCLA</b>	<b>UNC</b>	<b>Virginia</b>
<b><u>Socratic</u></b>											
<b><u>Teacher</u></b>											
not-at-all	13	0	24	39	7	0	17	15	18	10	5
marginal	33	18	29	15	13	44	28	54	29	21	68
moderate	44	55	41	31	68	50	39	31	43	58	26
extensive	10	27	6	15	13	6	17	0	11	11	0
(N)	(171)	(11)	(17)	(13)	(15)	(18)	(18)	(13)	(28)	(19)	(19)

Although, there were no apparent gender differences in this variable, Table 14 indicates that slightly more women than men consider themselves to be non-Socratic. However, there were significant differences when one considers clinic status ( $p=.0001$ ). Looking at table 14 shows that clinicians overwhelmingly consider themselves outside the traditional Socratic model.

**Table 14**  
**Consideration of Self as Socratic Teacher**  
**Gender Differences / Clinician - Non-Clinician Status**  
**(in percentages)**

Variable	N	not-at-all	marginal	moderate	extensive
<u>Sex</u>					
female	39	21	26	46	8
male	132	11	35	43	11
<u>Clinic</u>					
clinician	17	41	59	0	0
non-clinic	154	10	30	49	11

Written responses to the Socratic questions provided some interesting insights. First, despite the continual reference to Socratic teaching in the literature, misconceptions of the explicit character of Socratic teaching abound. A few professors pre-pended or appended their responses with such statements as:

"Some lecturing, and even when I am asking questions, I am not sure if they are 'Socratic', since I am not sure what that means." *{male, tenured professor}*

"No one really knows what Socratic teaching is..." *{male, tenured professor}*

"It varies by course and by what you mean by the term Socratic method" *{male, tenured professor}*

Despite the uncertainty of exactly what Socratic teaching is, the image that is associated with Socratic teaching is a negative one.<sup>8</sup> Therefore, faculty who stated that they used Socratic method usually indicated that they used a modified, gentle Socratic method. In fact, using a modified Socratic method was the second most frequent response in this category (the first was an increase use of lecture format). The respondents didn't want to be labeled Socratic because it carried too negative a connotation. Nevertheless, they seem to find the use of question and answers or the use of problems helpful.

"My classes often are question and answer classes. Frequently I both ask and answer. Most frequently, however, classes are directed to placing students into roles and weaving multiple perspectives on materials. I believe that this model is 'Socratic' in the sense of helping students to learn for themselves. But, it is not 'Kingsfieldian'. We try to share a scholarly mission."  
*{male, tenured professor}*

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<sup>8</sup> The image most people associate with Socratic teaching is of the fictional teacher, Professor Kingsfield, in Scot Turow's The Paper Chase. This image is so ingrained, that even several journal articles on the subject of teaching in law schools refer to "Kingsfield".(see Hantzis, 1988).

"I am extensively Socratic, but very gentle, and do not hammer at one student for more than a question or two." (emphasis in original) *{female, tenure-track assistant professor}*

"Again, depends what 'Socratic' means: we do question/answer/discussion. But I try to be non-hierarchical, and no 'hide the ball', there's an answer stuff. And all materials, in all classes include theory, stories, social science studies, etc. I would call it 'Socratic' but not in case analysis, teacher as boss law school tradition." *{female, tenured professor}*

"I believe in one premise of Socratic teaching--that learning is an INTERACTIVE process--I do not believe that singling out students for this 'privilege' is appropriate. Intimidation hinders learning. The Socratic method leaves women out disproportionately." (emphasis in original) *{female, tenure-track assistant professor}*

"Although I use a question and answer format; it is anything but Socratic. It is non-intimidating and cooperative--as though Professor and student are on a shared journey; Moreover, I give answers as well as questions." *{male, tenured professor}*

One interesting point that developed from answers to this question was that professors tended to use Socratic method more in the first year courses than in the second and third year courses:

"Depends on class and purpose. None is completely Socratic. 1st year is different from other because upper class students need and demand deeper exploration and differences in methods is to keep them engaged." *{male, tenured professor}*

"In larger classes, especially 1st year, I am exclusively Socratic. In smaller upper level electives, I lecture and/or conduct group discussions." *{male, tenured professor}*

Even one professor, who declined to answer my survey, wrote:

"Socratic teaching has practically vanished in 2L and 3L courses. The students want only lecture and resist everything else particularly in large courses. Even in the Spring semester of the first year, it is hard to get participation. I am one of the last Socratic teachers here and even I am forced to lecture too much. All your alternative methods (most) require student participation. HA! Socratic teachers often have very small enrollments in their electives. Most of the winners of the best teacher award (by student vote) are lecturers." *{male, tenured professor}*

Not only did this faculty member bring up the fact that there is a difference between first years law school and the remaining two years, he also intimates a thread that runs through faculty's perception as reflected in the responses to several questions. Namely, that students often don't want to take responsibility for their learning. They have come through an educational system that does not promote active student learning and as a consequence students do not want courses that are interactive:

"Curricular developments (particular way in which teaching credit is allocated) make this [use of



alternative teaching techniques] difficult. Also, students tend not to sign up for these courses." *{male, tenured professor}*

"My Socratic Questions are more learning or directive since students are less and less prepared to deal with them" *{male, tenured professor}*

"I've become somewhat more traditional in order to improve student evaluations" *{male, tenure-track associate professor}*

"The innovative techniques you identify probably have little potential to change things...A fundamental change could be made by some approaches, but only by requiring much more work from students and faculty. That will not happen, due to resistance from both sides." *{male, tenured professor}*

"The alternative methods work best in small classes--it seems as though the students['] expectations in large first year classes makes it hard to alter the expected routine." *{female, tenure-track associate professor}*

"...[I] have observed that (because of socialization, I suppose in 16 years of traditional education) students are less willing to take responsibility for their own learning than I had hoped." *{female, tenure-track assistant professor}*

"I have realized how woefully unprepared (academically) most students are" *{female, tenured professor}*

"Made me realize it is difficult to depart from conventional modes of teaching." *{male, tenured professor}*

The feeling that students may not want alternative teaching techniques is one that a number of respondents expressed. This would be an interesting topic to explore in future surveys of students: The extent to which students are ready to participate in active learning or whether students expect, and perhaps even prefer, a passive learning environment. Future surveys of faculty might also include items concerning their perception of students' willingness and/or ability to deviate from "conventional models of teaching".

Nevertheless, despite this skeptical undercurrent, forty-eight percent of respondents felt that alternative pedagogies have some potential in reshaping legal education. Table 15 highlights the distribution among institutions. CUNY (50%) and UNC (47%) have the highest percentage of faculty believing that alternative pedagogies can extensively reshape legal education. An ANOVA found that there was a significant difference ( $p=.003$ ) among the institutions. Between group comparisons found that the difference was between CUNY and all of the institutions except for Minnesota. This evidence is in line with the previous discussion where CUNY faculty make more use of alternative methodologies than faculty at other institutions.

**Table 15**  
**Faculty Belief: Alternative Teaching Techniques Have Potential to Reshape Legal Education**  
(in percentages)

<b>Variable</b>	<b>Total</b>	<b>Chicago</b>	<b>Columbia</b>	<b>CUNY</b>	<b>Harvard</b>	<b>Iowa</b>	<b>Minnesota</b>	<b>Stanford</b>	<b>UCLA</b>	<b>UNC</b>	<b>Virginia</b>
<u>Reshape</u>											
not-at-all	7	9	23	0	8	11	7	0	12	0	0
marginal	44	55	46	14	25	67	20	46	42	0	72
moderate	34	18	15	36	50	17	53	46	42	53	14
extensive	14	18	15	50	17	6	20	8	4	47	14
(N)	(151)	(11)	(13)	(14)	(12)	(18)	(15)	(13)	(24)	(17)	(14)

Using the Wilcoxon test it was found that there are significant differences between faculty in the clinical series vs regular tenured track faculty ( $p=.0003$ ) and between women and men ( $p=.0001$ ). Table 16 shows that 27 percent of women compared to only 10 percent of men believed that alternative techniques will extensively reshape legal education. Similarly, 39 percent of the clinicians, as opposed to 11 percent of non-clinicians, believed that innovative teaching techniques have the potential to alter legal education.

**Table 16**  
**Belief Innovative Techniques Have Potential to Reshape Legal Education, by Clinical Status and by Gender (in percentages)**

Variable	N	not-at-all	marginal	moderate	extensive
<u>Sex</u>					
female	37	3	22	49	27
male	114	9	52	30	10
<u>Clinic Status</u>					
clinician	18	0	17	44	39
non-clinic	133	8	48	33	11

In addition to giving a ranking to their belief that alternative pedagogies can reshape legal education, respondents were given the opportunity to provide free responses. Naturally, some faculty commented negatively on the very idea of reshaping legal education:

*"Who said it needs reshaping?" {male, tenured professor}*

**"I don't believe different 'pedagogies' should, or will, radically alter our educational output." {male, tenured professor}**

**"It could be moved towards a medical school model (more clinical) or a graduate school model (more scholarly), but I doubt either will happen to any great extent. But I don't think the demand for major change is really there, and the current method is very cost effective (cheap)" {female, tenured professor}**

However, the majority of the responses were positive. These answers fell into three main categories: 1) increase the importance of clinic; 2) institutional changes are necessary before change can occur; 3) new vision.

More extensive clinical education seems to be a route to greater implementation of alternative teaching techniques. On the other hand, while a tension exists between clinic and theory, a number of respondents felt that a greater incorporation of clinic and clinic techniques in the law school would have an overall positive effect. In fact, many of them hold that this will be necessary in order to produce better trained lawyers and practitioners.

**"Through recognition that it is a training ground for practitioners primarily--not secondarily. This means greater emphasis on simulation; practical-placements; clinics; lawyer skills; less elitism; less clinging to meaningless traditions" {female, tenure-track associate professor}**

**"Universally required clinical education; more advanced requirements in research; more high-level interdisciplinary theory; more attention to planning and problem solving" {male, tenured professor}**

**"It is imperative to try to integrate theory and practice. These techniques make this integration possible" {female, clinical professor}**

**"It [legal education] can be reshaped to train as well as educate lawyers. We can teach lawyering as well as the law" {male, clinical professor}**

**"Use of clinical methods will result in recognition by law schools that they have an ethical duty to society to produce competent lawyers who can practice and apply the law." {male, clinical professor}**

Many faculty felt that law schools will have to undergo some structural changes before having the teaching techniques be the tool to reshaping legal education. The structural change most frequently mentioned was class size. Clearly, faculty believe that alternative teaching techniques are more effective in smaller size classes. Other changes mentioned were the increase of clinical education and the redefinition of the importance of research.

**"Only by greatly lowering student-faculty ratios, and perhaps relatively de-emphasizing scholarship, could much be changed" {male, tenured professor}**

**"[You need to] a) change the economics such that large classes are not the norm; b) realign the relative importance given to writing and teaching; c) replace**

teaching of doctrine with more emphasis on theory and practice" *{male, tenured professor}*

"[Legal education can be reshaped] by reducing teacher/student ratios (won't happen) so [that alternative teaching] techniques [can] realistically [be] one on one; broaden 'law' to include other disciplines (political theory, critical thought, moral philosophy, etc.); reduce number of course, increase independent writing; group projects rather than exams--no grades" *{female tenured professor}*

"Universally required clinical education; more advanced requirements in research; more high-level interdisciplinary theory; more attention to planning and problem solving"*{male, tenured professor}*

Some faculty used this question to paint a vision of what legal education could be:

"Alternative pedagogy can provide much more of a focus on the ability to use traditional legal information in the lawyering setting. Hopefully it can also help lawyers become more reflective--better problems solvers and more aware of professional responsibility issues" *{female, tenure-track assistant professor}*

"New voices will emerge and speak; students will develop the ability to be critical of/about legal rules and premises" *{female, tenure-track assistant professor}*

"New teachers, from different backgrounds with different life experiences and values will reshape it." (emphasis in original) *{male, tenured professor}*

"Encourage students to begin how to teach themselves, take responsibility for their own learning." *{male, tenured professor}*

**"By the willingness of individuals to give up some of their classroom autonomy--to meet with other teachers and argue on a core of knowledge" *{female, tenured professor}***

**"If enough people did it [use alternative teaching techniques] education would be less passive and focused on other subjects but things have stayed remarkably the same even after 20 years of proposed reforms" *{female, tenured professor}***

This last comment poses an interesting question: have things changed? This is partially examined by two questions in the survey. One question asked if respondents had altered their teaching style since beginning their faculty career and the second question asked respondents if pedagogical innovations had altered their attitudes towards teaching and their relationship with students.

When queried about their teaching style, the most common response was that they had not altered their teaching style since beginning their career. However, it should be noted that this response could mean that the faculty member may always have used alternative techniques (this, in fact, was the case for some respondents; see the discussion of the extent to which pedagogical innovations altered faculty attitudes below). Faculty members who had changed their teaching style did so for one of two reasons: 1) increased confidence



and flexibility; and 2) decreased reliance on authority, and Socratic methods.

Many faculty members claimed to have evolved as teachers. This may, in part, be a maturation effect. It seems that faculty members as they become more comfortable with teaching and more familiar with their subject matter, they become more aware of the learning atmosphere of the classroom and as a consequence, more willing to experiment with teaching techniques:

"...made changes to teach better--as I learned more about teaching and gained confidence I was willing to change."  
*{female, tenured professor}*

"Yes--with confidence growing, I have built more and more active learning techniques into my large classroom in-class teaching and have begun to explore ways to enhance active learning for class preparation--also, I have moved to a mastery model of learning" *{female, tenure-track assistant professor}*

"I have learned to teach by experience. The more I experience, the more I change" *{female tenure-track associate professor}*

"yes, as I've become more comfortable with teaching and with subject matter of courses, I've done more experimentation with alternative teaching techniques."  
*{female, tenured associate professor}*

"Yes, traditional methods are the most comfortable for beginning teachers. I like to experiment to keep fresh."  
*{female, tenured professor}*

**"yes, I'm probably more flexible in class because I know the material better. I can weave it into a less structured discussion." {male, tenured professor}**

The second category, decreased reliance on authority, is somewhat related to the first, but the focus on self-development/ awareness didn't seem to be in the answers. It is interesting to note that the above quotes are principally from women while the following quotes are mainly from men. It may be a gender difference that women are more concerned with self-awareness issues than men.

**"yes--much less relentless in questioning, more humor, more patience in listening to responses." {female, tenured professor}**

**"I am far less harsh than I was and far less sarcastic. I changed because I concluded that the less harsh method was more effective teaching." {male, tenured professor}**

**"Yes, less Socratic as time goes on, moving toward alternative[s] in Question 1 [list of alternative teaching techniques]". {male, tenure-track assistant professor}**

**"less demanding; less Socratic" {male, tenured professor}**

**"Yes, I now summarize more and depend less on Socratic method" {male, tenured professor}**

Table 17 shows the results when queried if pedagogical innovations had altered respondents' attitudes towards teaching and their relationships with students. The numbers

**Table 17**  
**Extent to which Pedagogical Innovations Altered Faculty Members' Attitudes**  
**Toward Teaching**  
(in percentages)

<b>Variable</b>	<b>Total</b>	<b>Chicago</b>	<b>Columbia</b>	<b>CUNY</b>	<b>Harvard</b>	<b>Iowa</b>	<b>Minnesota</b>	<b>Stanford</b>	<b>UCLA</b>	<b>UNC</b>	<b>Virginia</b>
<b><u>Altered Attitude</u></b>											
not-at-all	34	67	31	23	17	41	44	18	43	18	41
marginal	32	22	38	31	33	18	25	46	43	35	29
moderate	25	0	23	15	25	35	31	36	5	41	29
extensive	9	11	8	31	25	6	0	0	10	6	0
(N)	(146)	(9)	(13)	(13)	(12)	(17)	(16)	(11)	(21)	(17)	(17)

**gave few insights. There were no significant differences between institutions, nor between genders or clinic status.**

**However, the qualitative responses did provide useful information. In the main, responses were of two types: 1) "I have always taught this way"; and 2) "I use these techniques to better understand students and to be responsive to students".**

**Some faculty stated that they always have taught using alternative techniques giving statements like "Teaching in this way has confirmed attitudes I already had". Other, turned to the techniques as a reaction to their own experiences as students:**

**"I entered teaching primarily in response to the lack of personal contact and typical Socratic monologues I experienced in law school" *{male, tenured professor}***

**"Law teaching as I experienced it was a very hierarchical sometimes brutal endeavor. I like a more collegial atmosphere" *{male, tenured professor}***

**Other respondents came to employ alternative techniques after realizing that they might facilitate greater understanding and learning among students and faculty:**

**"I started in teaching believing that students and teachers had much to teach each other. I have learned a lot from students by using these methodologies" *{female, tenure-track associate professor}***

**"Students who 'perform' well in Socratic dialogue and those who shine under other methods are not the same**

students. Alternative pedagogies increase my respect for non-traditional students" *{female, tenured professor}*

"I'm probably less critical of student's abilities and work ethic. I tend to see the students more able than I use to see them" *{male, tenured professor}*

Several clinical professors pointed out again the strong connection between alternative teaching techniques and clinical teaching in general:

"I am not sure my views have altered since clinical teaching inherently makes use of these techniques" *{female, clinical professor}*

"I am primarily a clinician and my expectations have always been that these methods would be effective and should be used." *{male, clinical professor}*

To further explore what differentiates faculty with respect to the utilization of alternative pedagogies, regression analysis was performed. Table 18 displays the regression analysis of faculty member's use of alternative teaching techniques. A stepwise regression procedure resulted in eight independent variables entering the equation. In the final regression analysis, four variables were significant predictors of utilization of alternative teaching techniques: participating in team teaching, attendance at a conference or workshop whose focus was pedagogical or curricular change, participating in a reading group, and belief in 'feminist pedagogy'. Since these variables are not necessarily

temporally antecedent of utilization of alternative pedagogies, the reader should keep in mind that causation in these cases could actually be working in reverse.

**Table 18**  
**Regression Analysis of Utilization of Alternative**  
**Pedagogies**  
**(N=80)\*\*\***

Variables	r	Beta	T
Attendance at meetings of curricular or pedagogical change	.24#	.23	2.30*
Belief that alternate pedagogies can reshape legal education	.36**	.14	1.50
Participate in team teaching	.34**	.35	3.84**
Changed attitude toward teaching	.38**	.15	1.56
Rank - clinical	.13	.17	1.77
Participate in reading group	.18*	.19	2.15*
Belief that alternative techniques are good	.28**	.04	.36
Belief in feminist pedagogy	.31**	.20	2.30*

F=8.04 df=8,71 p<.001 Rsq=.48

Significance: \*p<.05; #p<.01; \*\*p<.001

\*\*\*Note: A listwise deletion procedure for missing data was used for the regression analysis, thereby resulting in the lower N.

Examining the betas shows that participation in team teaching is the strongest predictor. Team teaching is rarely used in most law school and is considered to be an alternative teaching method. As noted earlier, team teaching is frequently employed at CUNY. This may, in part, explain why CUNY faculty seem to have a higher integration of alternative pedagogies. It may be that when two instructors are teaching a course, they are more willing to try alternative techniques which require

'time-consuming' preparation and grading since the work is divided between two people.

The next strongest predictor is having attended a conference or meeting whose goal involved pedagogical or curricular change. It may be that attending a conference which focuses on the utilization of alternative teaching techniques provides new ideas and motivates faculty to experiment with these ideas in their own courses. Or, it could be that faculty who already are involved in using alternative pedagogies are motivated to attend conferences or meetings whose goal involves pedagogical or curricular change in order to exchange ideas with colleagues at other institutions and/or use these meetings as a type of support network.

Participation in reading groups is another interesting predictor. On the survey, faculty were presented with a list of campus and/or departmental activities in which they might participate. The fact that participation in a reading group entered the regression analysis is an interesting environmental factors. It may be that the exchange of knowledge that results in a reading group 'sparks' ideas in faculty members and they are willing to try new techniques.

Belief in a feminist pedagogy is also a strong predictor in utilization of alternative teaching techniques. This is not surprising since many alternative techniques are part of

'feminist' pedagogy. Perhaps its importance as a predictor lies in the point that faculty who believe that there is a distinct feminist pedagogy also act out on their beliefs and utilize these techniques in their classrooms.



**TABLE 19**  
**Correlation Table of Regression Variables for Use of Alternative Pedagogies**

Variable	Attended Conference	Believe alt. pedagogies can reshape legal ed	Participated in team teaching	Changed attitude toward teaching	Rank - Clinical	Participated in reading group	Believe alt. techniques are good	Belief in feminist pedagogy
Attended Conference	1.00	.23#	.12	.20*	.14	.05	.22#	.11
Believe alternative pedagogies can reshape legal education		1.00	.06	.23#	.20*	-.02	.36**	.20*
Participated in team teaching			1.00	.00	.24#	.04	.17*	.10
Changed attitude toward teaching				1.00	-.12	.04	.33**	.10
Rank - clinic					1.00	-.11	.19*	.11
Participated in reading group						1.00	.07	.02
Believe alter. teaching techniques are good							1.00	.06
Belief in feminist pedagogy								1.00

Significance indicated by: \*p<.05; #p<.01; \*\*p<.001

## **Feminist Jurisprudence**

A major objective of this study was to ascertain the pervasiveness of knowledge about feminist jurisprudence. Table 20 shows respondents' self-rating of their knowledge of feminist jurisprudential literature. Overall, 69 percent claimed at least moderate familiarity with the literature. Only 2 percent stated that they were not at all familiar with feminist jurisprudence. It is surprising to note that 11 percent of the Minnesotean faculty know nothing of the literature, considering the school's past association with a prominent feminist.

An analysis of variance (ANOVA) found no significant institutional difference for degree of faculty knowledge of feminist jurisprudence. However, there is a significant gender difference ( $p=.001$ ): twice as many women (33%) as men (15%) rated themselves extensively familiar with feminist jurisprudence literature; no woman stated that she was not familiar with such scholarship.

Examining the medium through which faculty became familiar with feminist jurisprudential scholarship reveals some interesting points. Two media, other colleagues (current institution) ( $p=.007$ ) and students ( $p=.0001$ ), differentiated among institutions. Table 20 lists the institutional variation. Examining the row for becoming familiar with feminist

**Table 20**  
**Familiarity with Feminist Jurisprudence and Through which Medium, by**  
**Institution**  
(in percentages)

<b>Variable</b>	<b>Total</b>	<b>Chicago</b>	<b>Columbia</b>	<b>CUNY</b>	<b>Harvard</b>	<b>Iowa</b>	<b>Minnesota</b>	<b>Stanford</b>	<b>UCLA</b>	<b>UNC</b>	<b>Virginia</b>
<b><u>Familiar with FJ</u></b>											
not-at-all	2	--	--	8	--	--	11	--	--	--	--
marginal	29	46	23	23	8	47	32	29	29	26	28
moderate	50	36	65	61	61	26	47	50	53	53	44
extensive	19	18	12	8	31	26	10	21	18	21	28
(N)	(171)	(11)	(17)	(13)	(13)	(19)	(19)	(14)	(28)	(19)	(18)
<b><u>Medium</u></b>											
Conference	44	27	35	57	57	37	32	43	50	58	40
Colleague - current inst.	66	55	65	93	86	63	68	79	75	32	50
Colleague - other inst.	40	27	41	50	57	53	21	57	36	42	25
Law Review	86	100	88	71	86	90	84	86	89	95	75
Book	47	36	41	50	64	53	32	57	57	42	40
Student	28	36	24	36	71	16	--	64	18	11	35
Reading Group	23	18	29	21	36	11	5	29	43	16	20
Other	7	9	--	--	7	11	5	14	8	--	15

jurisprudence through colleagues at current institution shows a large variation between UNC and the other institutions. As would be expected, multiple t-test procedures found significant between group differences with UNC and all institutions except for Chicago and Virginia whose percentages were also fairly low. At the other extreme, CUNY (93%) and Harvard (86%) found learning about feminist jurisprudence through colleagues a very useful medium. I suspect that the CUNY's structure as well as the increased use of team teaching fosters greater interaction about scholarship among the faculty. Learning about feminist jurisprudence from colleagues at their institution and from law students was ranked very high by Harvard faculty. I would hypothesize that even though Harvard doesn't have many women faculty members, it does have prominent feminists and a women's law journal, both of which may help to explain why these two methods of learning about feminist jurisprudence are significant for Harvard. None of the respondents from Minnesota found law students as a source of this new scholarship.

Women differed significantly from men in that they are significantly more likely to have become familiar through conferences ( $p=.02$ ) and through reading groups ( $p=.02$ ). Sixty percent of women compared to 39 percent of the men found

conferences a useful means of hearing about this knowledge. It could be that when women faculty attend conferences, they may be more likely than men to seek out talks with feminist jurisprudential content thereby becoming better acquainted with the literature.

Thirty-eight percent of women compared to 19 percent of men found reading groups to be an effective way to become familiar with feminist scholarship. Furthermore, more women (44%) than men (32%) have participated in reading groups. Crosstabulating participation in a reading group and familiarity with feminist jurisprudential literature via reading group, while controlling for sex further clarifies this point: 72 percent of women who had participated in reading groups also found reading groups a viable mechanism for learning about feminist jurisprudence. For men who had participated, only 29 percent found this to be so.

Table 21 shows that a total of 91 percent of respondents have read at least one article with a feminist jurisprudential focus during the past year. Most schools show large percentages, with 100 percent of Harvard's and Virginia's faculty having read an article in the field. Minnesota, with only 68 percent, had the least number of respondents who had read an article dealing with this scholarship. An ANOVA found that there were significant ( $p=.01$ ) institutional differences in

**Table 21**  
**Read an Article Written From a Feminist Jurisprudential Perspective**  
(in percentages)

<u>Variable</u>	Total	Chicago	Columbia	CUNY	Harvard	Iowa	Minnesota	Stanford	UCLA	UNC	Virginia
<u>Read article</u>	91	91	94	79	100	95	68	93	96	95	100
(N)	(175)	(11)	(17)	(14)	(14)	(19)	(19)	(14)	(28)	(19)	(20)
<u>Why Read</u>											
<u>Article</u>											
Speciality	55	60	50	64	57	56	54	69	37	61	60
Tenure	20	--	19	--	36	17	--	15	59	--	15
Merit	9	--	--	--	21	6	--	8	30	--	5
Applicant	30	40	69	9	43	28	8	62	33	6	10
General Interest	83	90	81	82	79	72	92	62	93	89	80
<u>How Heard of Article</u>											
Colleague - current inst.	30	30	19	46	36	33	39	54	15	33	20
Colleague - other inst.	16	--	25	9	14	28	8	23	4	22	20
Article	28	40	13	27	29	33	15	39	30	17	35
Law Review	27	20	19	27	36	39	8	39	26	22	30
Conference	20	10	13	27	14	39	8	31	11	17	25
Book	17	--	19	9	14	28	8	31	22	6	20
Table of Contents	20	30	6	--	21	17	15	39	19	22	30

this category. As would be expected, multiple t-tests for between group differences found that Minnesota was significantly differently from all the institutions. CUNY was found to be significantly different from Harvard, UCLA, and Virginia.

There were no significant gender differences in this variable. Almost equal percentages of men and women, 91 percent and 93 percent respectively, had read an article with a feminist jurisprudential focus during the past year.

In order to ascertain why respondents read an article with this perspective, they were asked if it was in their speciality, part of a tenure review, part of a merit review, part of an applicant's dossier, or of general interest. Institutional differences were found to be significant in three categories: tenure review ( $p=.0001$ ); merit/promotion review ( $p=.004$ ); and applicant dossier for faculty position ( $p=.0001$ ). Of the five categories, these three are more institutionally determined than individually determined. UCLA had the highest percentage of respondents who read an article dealing with feminist scholarship for tenure review (59%) and for merit review (30%).<sup>9</sup> Multiple t-test procedures found that, indeed, UCLA differed significantly from other institutions in these areas. The other institution which differed from the others in

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<sup>9</sup>It is interesting to note that UCLA has a reputation of having a "feminist" faculty. It would seem that this data lends credence to this.

these two categories was Harvard. Clearly this reflects the point that these institutions have faculty members whose scholarship is in this area. For the third area, applicant dossier for faculty position, Columbia and Stanford were found to be significantly different from all institutions except for each other and Harvard. I would hypothesize that these schools recently advertised for faculty positions and received applications from candidates whose work lies in this area. It would appear that more recent applicants' work must focus on feminist jurisprudence than it did in the past, given the growth in this scholarly area.

Women and men differed significantly in the likelihood of reading such an article out of general interest ( $p=.02$ ). Ninety-five percent of women had read an article in this area because of general interest, whereas 79 percent of men said so.

If the article was in their speciality, respondents were asked to elaborate how they had heard of the article. The genders differed significantly in only one category: article was recommended by colleague at another institution ( $p=.01$ ). Twenty-eight percent of women stated that an article had been recommended by a colleague whereas only 12 percent of men indicated this to be the case. This may be somewhat related to the earlier finding that more women than men indicated that attending conferences was a useful medium for learning about



**Table 22**  
**Consider Own Work Feminist; Cite Feminist Legal Scholars in Scholarly Work; and**  
**Find Feminist Jurisprudence Helpful, by Institution**  
(in percentages)

<b>Variable</b>	<b>Total</b>	<b>Chicago</b>	<b>Columbia</b>	<b>CUNY</b>	<b>Harvard</b>	<b>Iowa</b>	<b>Minnesota</b>	<b>Stanford</b>	<b>UCLA</b>	<b>UNC</b>	<b>Virginia</b>
<b><u>Own Work</u></b>											
<b><u>Feminist</u></b>											
not-at-all	52	82	56	31	39	56	47	38	54	56	56
marginal	22	18	6	31	15	22	26	46	18	22	25
moderate	19	--	25	31	31	17	21	8	21	22	13
extensive	7	--	13	8	15	5	5	8	7	--	6
(N)	(165)	(11)	(16)	(13)	(13)	(18)	(19)	(13)	(28)	(18)	(16)
<b><u>Cite FJ</u></b>											
<b><u>Scholars</u></b>											
never	36	27	25	36	33	39	41	36	31	53	33
seldom	18	27	38	--	8	28	29	--	19	12	13
sometime	27	27	25	46	25	17	18	43	31	17	17
often	10	18	--	9	8	11	6	14	4	12	17
always	9	--	12	9	25	5	6	7	15	6	20
(N)	(157)	(11)	(16)	(11)	(12)	(18)	(17)	(14)	(26)	(17)	(15)
<b><u>FJ Helpful</u></b>	61	50	56	67	77	59	63	50	59	65	69
(N)	(161)	(10)	(16)	(12)	(13)	(17)	(19)	(14)	(27)	(17)	(16)

feminist jurisprudence. The collegial interchange that occurs at conferences may be an important means by which women exchange knowledge.

Beyond faculty familiarity with the feminist jurisprudential literature, it was important to determine if faculty use this scholarship in their work. Respondents first were asked the extent to which their own work is feminist: 26 percent felt that their work was moderately to extensively "feminist". Only a narrow majority, 52 percent, considered their scholarship to lack feminist content. Table 22 gives the percentages by institution. As can be seen there is some variation. However, an analysis of variance found no significant inter-institutional differences.

When the sample was divided by gender a significant difference emerged (t-test,  $p=.0001$ ). Of the women respondents, 26 percent stated that their work was extensively feminist, whereas only 1 percent of the men responded that theirs was extensively feminist. The reader is cautioned here that this high percentage of women rating their own work as extensively feminist may represent a possible bias in the data. Table 23 shows the breakdown by category:

**Table 23**  
**Consider Own Work Feminist, by Gender**  
(in percentages)

Variable	not-at-all	marginally	moderately	extensively
Men	60	25	14	1
Women	23	15	36	26

Not surprisingly, t-tests revealed that there are also significant gender difference in citing feminist legal scholars in their academic work ( $p=.01$ ). Table 24 displays the breakdown by category. The largest variation occurs in the category "always".

**Table 24**  
**Cite Feminist Legal Scholars in Own Scholarly Work,**  
**by Gender (in percentages)**

Variable	never	seldom	sometime	often	always
Men	39	19	28	10	4
Women	25	17	22	11	25

There were no significant institutional differences in the respondents' citation of feminist legal scholars. Respondents were also asked to list the scholars whom they cite. Seventy-one scholars were noted. The scholars cited most frequently were Catharine MacKinnon (24), Robin West (14), Martha Minow (11) and Carol Gilligan(8)<sup>10</sup>. In no way should this list be taken as definitive. Some respondents whose own work was feminist commented that they cited too

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<sup>10</sup>Even though Carol Gilligan is not a "legal" scholar, her work has had a great impact among feminist legal scholars and scholars who examine legal education.

many scholars to actually list them. Other remarks concerned the relevance of feminist legal scholarship to particular areas of interest.

"My scholarly work is in contracts. I don't deny the relevance of feminist jurisprudence to some issues, but find it marginal" *{male, tenured professor}*

"This literature's interest hasn't intersected my research topics" *{male, tenure-track assistant professor}*

"Cite the female scholars when their works are relevant; I do not distinguish them or some of them as feminist." *{male, tenured professor}*

Respondents judgement of the utility of feminist jurisprudence was also examined. Table 22 lists these results as well. Despite comments such as those cited above, 61 percent of respondents found this new scholarship helpful on their work. Neither institutional nor gender differences were significant for this variable, although more women (71%) than men (59%) found feminist jurisprudence helpful. This question prompted some respondents to elaborate with open ended comment: Those who found the work to have no use reiterated the matter of relevance:

"In neither corporations nor international law has there been any important work with a feminist perspective" *{male, tenured professor}*

"Most is irrelevant to my Native American law and Federal Courts work and what exists tends to be too western and colonialist in its approach for my taste!  
{male, tenured professor}

"Marginal at best--to the extent it stresses relational interests--but this type of scholarship existed long before the current feminist movement" {male, tenured professor}

Respondents who found feminist jurisprudence helpful often indicated that it was because new perspectives helped them look at concepts in a fresh way. They felt that feminist jurisprudence was helpful in broadening their thinking and in providing useful frameworks and methodologies for examining legal issues:

"I've learned about how traditional law school environment (and society in general) may be perceived and how our thinking behavior may diminish education of others. I consider myself to act in ways that are consistent with feminist perspectives--non-hierarchical, caring, interesting in multi-textured approaches." {male, tenured professor}

"The work on sex based problems in many criminal law books is an important contribution to helping me understand certain classical approaches to criminal law." {male, tenured professor}

"Allows me to see how some other view similar things/events in the law." {male, tenured professor}

"It's interesting and challenging even (at least the best of it) when stubborn and wrong." {male, tenured professor}

"Offers insights into legal doctrine and processes and needs for legal reform." *{female, tenured professor}*

"It's probably the main sources of really fresh and interesting thinking on law that's happening these days." *{male, tenured professor}*

"I believe the scholarship has alerted us to forms of suffering that one legal system typically treated as harmless or beneficial; to a lesser extent, it has also alerted us to alternative methodological vantage points." *{male, tenured professor}*

"Every diverse perspective on social and legal problems provides new insight into basic assumptions and alternative resolutions. Feminist jurisprudence is particularly useful in that regard." *{male, tenured professor}*

"I find it essential. It opens the perspective on law practice and legal ethics. It may eventually save the profession from its past." *{male, clinical professor}*

"It opens new ways of thinking and ways to analyze problems" *{female, tenured professor}*

"Changes perspectives on everything" *{female, tenured professor}*

"Tends to focus on the problem from a different perspective, helps one evaluate, shape my own" *{male, tenured professor}*

"It powerfully suggests to me that we do not exhaust the ways of analyzing legal problems in wholly linear ways. Need much more space" *{male, tenured professor}*

Respondents were also asked to evaluate the influence of feminist jurisprudence on colleagues at their institution. Table 25 gives the percentage breakdown by institution. Interestingly, an ANOVA found significant ( $p=.0001$ ) institutional differences to this question. A multiple t-test procedure found that significant between group differences existed between CUNY, UCLA, and Iowa and the remaining institutions. Faculty at these three schools perceived the work of their colleagues to be extensively influenced by feminist jurisprudential scholarship.

An ANOVA of responses to a question asking if colleagues refer to feminist jurisprudential scholars as authorities (see Table 26) again found significant institutional differences ( $p=.0001$ ). The same three schools, CUNY, UCLA, and Iowa as well as Stanford, were found to differ significantly from the other institutions. All four schools indicate that colleagues refer to feminist jurisprudential scholars as authorities.

Neither question, faculty evaluating the influence of feminist jurisprudence on their colleagues nor faculty noting if their colleagues cite feminist jurisprudential scholars as authorities, demonstrated significant differences between women and men. However, there were significant gender differences with respect to the respondents, themselves, referring to feminist jurisprudential scholars as authorities

**Table 25**  
**Feminist Jurisprudence Affected Work of Colleagues, by Institution**  
(in percentages)

<b>Variable</b>	<b>Total</b>	<b>Chicago</b>	<b>Columbia</b>	<b>CUNY</b>	<b>Harvard</b>	<b>Iowa</b>	<b>Minnesota</b>	<b>Stanford</b>	<b>UCLA</b>	<b>UNC</b>	<b>Virginia</b>
<b><u>FJ Affect</u></b>											
<b><u>work of</u></b>											
<b><u>Colleagues</u></b>											
not-at-all	4	--	--	--	--	--	5	--	3	13	11
marginal	38	33	64	7	54	32	47	39	11	60	56
moderate	49	67	36	64	39	52	42	61	68	27	33
extensive	9	--	--	29	7	16	5	--	18	--	--
(N)	(162)	(9)	(14)	(14)	(13)	(19)	(19)	(13)	(28)	(15)	(18)



**Table 26**  
**Reference to Feminist Jurisprudential Scholars as Authorities**  
**Self and Colleagues, By Institution**  
(in percentages)

<b>Variable</b>	<b>Total</b>	<b>Chicago</b>	<b>Columbia</b>	<b>CUNY</b>	<b>Harvard</b>	<b>Iowa</b>	<b>Minnesota</b>	<b>Stanford</b>	<b>UCLA</b>	<b>UNC</b>	<b>Virginia</b>
<b><u>Self Refer</u></b>											
<b><u>to FJ</u></b>											
<b><u>Scholars</u></b>											
never	17	9	23	15	25	16	17	21	11	21	18
seldom	22	27	18	8	17	32	57	14	7	21	24
sometime	38	46	42	46	25	32	17	29	52	37	47
often	18	18	17	23	25	10	11	29	22	16	11
always	5	--	--	8	8	10	--	7	8	5	--
(N)	(167)	(11)	(17)	(13)	(12)	(19)	(18)	(14)	(27)	(19)	(17)
<b><u>Colleagues</u></b>											
<b><u>refer to FJ</u></b>											
<b><u>Scholars</u></b>											
never	1	--	--	7	--	--	--	--	--	--	--
seldom	20	9	44	--	33	6	33	8	7	35	29
sometime	56	82	44	50	50	61	67	61	37	65	65
often	22	9	12	36	17	28	--	31	56	--	6
always	1	--	--	7	--	5	--	--	--	--	--
(N)	(163)	(11)	(16)	(14)	(12)	(18)	(18)	(13)	(27)	(17)	(17)

(t-test,  $p=.004$ ), with 20 percent of women and no men 'always' doing so. This result is consistent with the previous findings that more female than male respondents considered their work to be feminist and cited feminist scholars in their scholarship.

**Table 27**  
**Feminist Jurisprudential's Potential to Reshape Legal Doctrine in Speciality**  
 (in percentages)

Institution	Don't Know	Not-at-all	Marginal	Moderate	Extensive
TOTAL (N=165)	15	18	27	23	18
Chicago (N=10)	10	20	50	10	10
Columbia (N=15)	20	27	13	20	20
CUNY (N=14)	14	14	7	7	57
Harvard (N=11)	18	18	0	36	27
Iowa (N=19)	5	16	53	10	16
Minnesota (N=19)	16	10	26	37	10
Stanford (N=13)	8	15	23	46	8
UCLA (N=28)	18	18	29	29	7
UNC (N=17)	23	12	29	6	29
Virginia (N=19)	11	26	26	26	11

Advocates of feminist jurisprudence, as with other legal movements, claim that it has the potential to reshape legal doctrine. When asked to what extent this is true for their speciality, 41 percent of respondents felt that feminist jurisprudence has had a moderate to extensive effect in their

speciality. As table 27 shows, there is some institutional variation, however an ANOVA found no significant institutional differences. There were also no significant gender differences, although more women (28%) than men (15%) felt that feminist jurisprudence has extensively effected their speciality.

Table 28 shows the results of the regression analysis to examine predictors of faculty's knowledge of feminist jurisprudence.

**Table 28**  
**Regression Analysis of Knowledge of Feminist**  
**Jurisprudence**  
**(N=115)**

Variables	r	Beta	T
Political views	.38**	.27	3.30#
Participation in reading group	.41**	.26	3.22#
Attendance at AALS/SALT sponsored workshops to integrate women into curriculum	.33**	.20	2.34*
Environment: law school has reading group which focuses on gender issues	.24#	.13	1.67
Know of projects to incorporate women into casebooks	.30**	.23	2.81#
Worked for government	.08	.18	2.25*
Tenure	-.01	.02	.26
Environment: law school held symposia focusing on gender issues	-.01	-.05	-.62

F=7.97 df=8,106 p<.001 Rsq=.38  
Significance: \*p<.05; #p<.01; \*\*p<.001

The stepwise regression procedure found eight independent variables. Five variables were significant in the final regression analysis: political views; participation in

**TABLE 29**  
**Correlation Table of Regression Variables for Knowledge of Feminist Jurisprudence**

<b>Variable</b>	<b>Political Views</b>	<b>Participate in reading group</b>	<b>Attendance at AALS/SALT workshops to integrate women into curriculum</b>	<b>Environment: law school has reading group which focuses on gender issues</b>	<b>Knowledge of projects to incorporate women into casebooks</b>	<b>Worked for government</b>	<b>Tenure</b>	<b>Environment: law school held symposia focusing on gender issues</b>
Political views	1.00	.11	.21#	.04	.01	-.04	-.25#	-.12
Participate in reading group		1.00	.12	.23#	.21*	-.05	.03	.07
Attendance at AALS/SALT sponsored workshop designed to integrate women into curriculum			1.00	-.01	.20*	.02	-.16*	.01
Environment: law school has reading group focus on gender issues				1.00	.06	-.08	.06	.12

Table 29, continued

Variable	Political Views	Participate in reading group	Attendance at AALS/SALT workshops to integrate women into curriculum	Environment: law school has reading group which focuses on gender issues	Knowledge of projects to incorporate women into casebooks	Worked for government	Tenure	Environment: law school held symposia focusing on gender issues
Knowledge of projects to incorporate women into casebooks					1.00	-.03	.07	.07
Worked for government						1.00	.025	.13
Tenure							1.00	.20#
Environment: law school held symposia focusing on gender								1.00

Significance: \*p<.05; #p<.01; \*\*p<.001

reading group; attendance at Association of American Law Schools/Society of American Law Teachers (AALS/SALT) sponsored workshop designed to integrate women into the curriculum; knowledge of projects to incorporate women into casebooks; and prior work for the government.

Liberal political views and prior work for the government were the only 'personal' variable to enter the regression. It is interesting that political views entered the regression. It would seem that as faculty members rate their political views more liberal, they are more likely to have knowledge of feminist jurisprudence. Prior governmental work experience also proved to be a positive and significant predictor. It seems that people who have worked for the government gain exposure to a broader range of information and thereby acquaintance with many areas of new scholarship. This knowledge base may have led many of these people to seek government positions or may have developed because of the posts.

An interesting cluster of knowledge and activity variables were also significant predictors for knowledge of feminist jurisprudence. A note of caution is in order, though, for causation could be working in the opposite direction. Namely, faculty who already have greater knowledge of feminist jurisprudence may be more included to participate in

the activity variables which entered the regression.

Participation in reading groups is an important predictor not only for learning about alternative pedagogies, but also for having knowledge of feminist jurisprudence. Campus-wide or departmental reading groups seem to be a vital channel for faculty to gain familiarity with new ideas. Perhaps it gives faculty a chance to read and discuss scholarship outside of their speciality and thereby enables them to broaden their knowledge base.

Attendance at AALS/SALT sponsored workshops designed to integrate women into the curriculum and knowledge of projects to incorporate women into casebooks both are important mechanism to gather information in legal education. The Association of American Law Schools (AALS) is a major organization in legal education. They not only publish a yearly Directory of Law Teachers, but also have annual meetings with workshops and symposia. This may be an important avenue for legal educators to learn of developments in new scholarship such as feminist jurisprudence. Casebooks are widely utilized in legal education. Knowledge of the existence of projects to incorporate women into casebooks may lead faculty to examine such casebooks for possible use in their courses and thereby gain a level of familiarity with feminist jurisprudential scholarship.

## **Integration of Feminist Scholarship into Curriculum**

Not only was the goal of this study to determine the extent to which feminist jurisprudence has had an effect on scholars at law schools, but also if the scholarship has been integrated into the curriculum. When asked directly the extent to which feminist jurisprudence has been integrated into the curriculum at their institution, 14 percent answered that they did not know the extent of integration at their institution. On the other hand, 44 percent felt that it was moderately integrated. Table 30 displays the faculty responses, by institution. An ANOVA found that there were significant differences between institutions. As might be expected from examining table 30, additional t-test found that there were significant differences between two grouping of institutions: Columbia, UNC, and Virginia, on the one hand, and Chicago, CUNY, Iowa, Stanford, and UCLA, on the other hand. Faculty at Columbia, UNC, and Virginia felt that feminist jurisprudence was not highly integrated into their law school curriculum. The schools with the largest perceived integration was CUNY, Stanford and UCLA. It should be noted, though, that an overwhelming majority of respondents (70 percent) felt that curriculum integration at their institution was extensively dependent on who was teaching the course. Even at those institutions where faculty perceived a high curriculum



**TABLE 30**  
**Extent Feminist Jurisprudence is Integrated into Curriculum, by Institution**  
 (in percentages)

<b>Variable</b>	<b>Chicago</b>	<b>Columbia</b>	<b>CUNY</b>	<b>Harvard</b>	<b>Iowa</b>	<b>Minnesota</b>	<b>Stanford</b>	<b>UCLA</b>	<b>UNC</b>	<b>Virginia</b>
<b><u>Extent FJ Integrated</u></b>										
don't know	0	17	7	21	5	17	7	11	32	20
not-at-all	0	5	0	0	0	0	0	0	0	5
marginal	40	56	21	36	37	50	14	22	58	50
moderate	60	22	57	43	58	33	79	63	10	25
extensive	0	0	14	0	0	0	0	4	0	0
(N)	(10)	(18)	(14)	(14)	(19)	(18)	(14)	(27)	(19)	(20)
<b><u>Integration Dependent on Who Teaches</u></b>										
don't know	0	18	0	7	10	5	7	4	28	17
not-at-all	0	0	0	0	5	0	0	0	0	0
marginal	11	6	0	0	0	5	7	0	5	6
moderate	22	12	36	21	5	10	7	8	11	33
extensive	67	65	64	71	79	79	79	88	56	44
(N)	(9)	(17)	(14)	(14)	(19)	(19)	(14)	(26)	(18)	(18)

integration, faculty believed that this was largely 'professor dependent'.

How feminist jurisprudence is integrated into the curriculum is also an important issue. The literature notes that just discussing this new scholarship in one or two classes does not really mean integration. Yet, when asked which mechanism they employ to integrate feminist scholarship into their courses, 14 percent stated that they do so in 1-2 classes. One third indicated that they discuss aspects of feminist scholarship in most class sessions. However, the majority responded that they integrate feminist scholarship where relevant. Typical responses were:

"When issues arise to which, to my knowledge, feminist scholarship has contributed" (*male, tenured professor*)

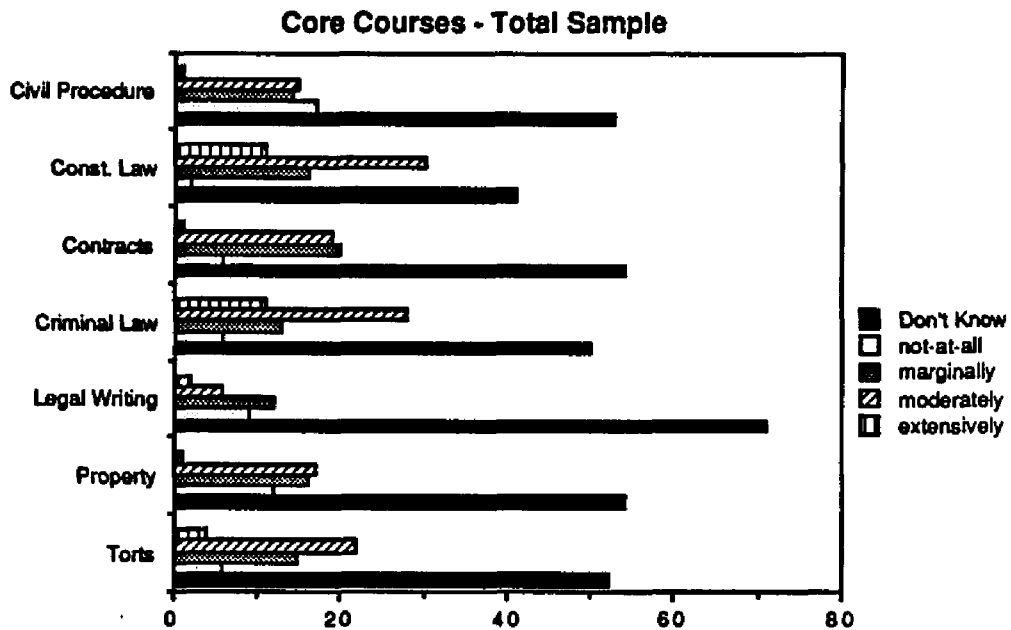
"Raise feminist issues whenever I feel they are useful (say 15-20%) of classes; devote 2-3 classes in Evidence and Criminal Law to issues in which feminist thinking is at core of issues being discussed (*male, tenured professor*)

"Devote 1-2 classes to discussion of feminist scholarship and discuss in some other sessions" (*male, tenure-track assistant professor*)

"Integrate it at points where I consider it appropriate and where there are good sources" (*male, tenured professor*)

Even though the above quotes are all from male faculty, a t-test found no significant gender differences in the mechanism faculty use to integrate new scholarship.

**Figure 3**



Respondents were asked to rate the degree of integration of feminist jurisprudence in seven core law school courses. Figure 3 displays the results for the whole sample (see Appendix E for figures of each core course, by institution). The courses which respondents felt were most extensively integrated were constitutional law, criminal law and torts. The fact that constitutional law was perceived of as the most integrated (11%) is not surprising since this is the area where discrimination law is found and feminist frequently write in

this area of law. Criminal Law (4%) is high because of the impact that feminist scholars have had in how issues of rape are viewed by the law. Torts (4%) is also an area where feminist scholars have done a lot of work dealing not only with the use of torts as legal recourse for discriminatory acts but also with integrating tort law into feminist jurisprudence.

It is interesting to note that the most frequent response in all areas is "don't know". The area in which respondents were most unfamiliar was legal writing (71%). Even though legal writing is a required course, it is frequently taught by librarians or persons who have non-tenured faculty status. It is an area that most tenure and tenure-track faculty will not know of or be concerned with since legal writing is more 'practical' oriented than 'theoretical'.

Table 31 gives the breakdown by institution. An analysis of variance procedure found that there were significant institutional differences in six of the seven courses: civil procedure ( $p=.0006$ ); constitutional law ( $p=.0005$ ); contracts ( $p=.0003$ ); criminal law ( $p=.002$ ); legal writing ( $p=.0001$ ); and torts ( $p=.0001$ ). Further testing was again done to help pinpoint where the significant differences lie.

For civil procedure the significant differences were between: 1) CUNY and Minnesota, UNC, Virginia; 2) Stanford and Minnesota, UNC, Virginia; 3) UCLA and Minnesota, UNC,

**Table 31**  
**Integration of Feminist Jurisprudence in Core Law School Courses**  
(in percentages)

<b>Variable</b>	<b>Chicago</b>	<b>Columbia</b>	<b>CUNY</b>	<b>Harvard</b>	<b>Iowa</b>	<b>Minnesota</b>	<b>Stanford</b>	<b>UCLA</b>	<b>UNC</b>	<b>Virginia</b>
<b><u>Civil</u></b>										
<b><u>Procedure</u></b>										
don't know	40	50	21	64	28	78	43	46	79	67
not-at-all	20	8	29	0	44	6	7	12	16	22
marginal	30	25	0	0	22	17	14	17	5	11
moderate	10	17	36	36	6	0	36	25	0	0
extensive	0	0	14	0	0	0	0	0	0	0
<b><u>Constitutional</u></b>										
<b><u>Law</u></b>										
don't know	20	42	14	45	17	44	50	42	79	44
not-at-all	0	8	0	0	11	0	0	0	0	0
marginal	10	33	7	9	28	33	7	4	11	17
moderate	60	17	29	45	33	17	43	27	11	28
extensive	10	0	50	0	11	6	0	17	0	11
<b><u>Contracts</u></b>										
don't know	30	45	29	64	22	83	57	46	84	61
not-at-all	0	0	7	9	33	0	0	0	0	11
marginal	30	27	7	18	33	17	14	25	16	17
moderate	30	27	50	9	11	0	29	29	0	11
extensive	10	0	7	0	0	0	0	0	0	0

Table 31, continued

Variable	Chicago	Columbia	CUNY	Harvard	Iowa	Minnesota	Stanford	UCLA	UNC	Virginia
<b><u>Criminal Law</u></b>										
don't know	20	58	14	64	33	67	64	46	74	50
not-at-all	0	17	7	0	22	0	0	0	5	6
marginal	40	8	7	9	17	22	0	4	11	17
moderate	40	17	50	27	28	11	29	42	11	28
extensive	0	0	21	0	0	0	7	8	0	0
<b><u>Legal Writing</u></b>										
don't know	70	73	29	82	39	89	71	79	89	78
not-at-all	0	0	7	0	33	6	7	12	5	6
marginal	20	9	39	9	22	6	14	8	5	6
moderate	10	18	21	9	6	0	7	0	0	6
extensive	0	0	14	0	0	0	0	0	0	6
<b><u>Property</u></b>										
don't know	40	58	29	73	22	61	71	46	79	67
not-at-all	20	25	29	0	33	0	0	4	0	17
marginal	40	8	7	9	17	17	14	25	16	6
moderate	0	8	36	18	22	22	14	25	5	11
extensive	0	0	0	0	6	0	0	0	0	0
<b><u>Torts</u></b>										
don't know	30	64	14	73	0	72	57	54	84	61
not-at-all	20	0	7	9	11	6	7	0	0	11
marginal	40	18	0	0	22	22	14	17	16	6
moderate	10	18	50	18	50	0	21	29	0	22
extensive	0	0	29	0	17	0	0	0	0	0

Virginia. Examining the numbers on Table 31 shows that CUNY, Stanford and UCLA are the institutions where one quarter to one half of the faculty felt that civil procedure was moderately to extensively integrated. Minnesota, UNC, and Virginia were on the other end of the spectrum...no one at those institutions felt that feminist jurisprudence was highly integrated into civil procedure courses.

For constitutional law there were significant differences between: 1) CUNY and all institutions except for Chicago and Iowa; 2) UNC and CUNY, Chicago, Iowa, UCLA, Virginia. Table 31 highlights the direction of these differences. CUNY respondents felt that constitutional law at their institution was highly integrated: 50 percent stated that it was extensively so. No respondent from UNC, on the other hand, felt that feminist jurisprudence was integrated into constitutional law at their institution. Furthermore, 79 percent of UNC respondents marked 'don't know'.

For contracts there were significant differences between: 1) CUNY and Harvard, Minnesota, UNC, Virginia; 2) Chicago and Harvard, Minnesota, UNC, Virginia; 3) UCLA and Minnesota, UNC; 4) Columbia and Minnesota, UNC; 5) Iowa and Minnesota, UNC. Table 31 shows that Minnesota and UNC highest rating in this category is marginal (17% and 16% respectively). CUNY (57%) and Chicago (40%) faculty, on the

other hand, believed that feminist jurisprudence was moderately to extensive integrated at their institutions.

For criminal law there were significant differences between: 1) CUNY and all institutions except for Chicago; 2) Chicago and Columbia, Minnesota, UNC; 3) UCLA and Minnesota, UNC. Table 31 indicates that 71 percent of CUNY faculty compared to 11% of faculty at Minnesota and UNC felt that feminist jurisprudence was moderately to extensively integrated at their institutions.

For legal writing there were significant differences between: 1) CUNY and all other institutions; 2) Iowa and Minnesota, UCLA, UNC. CUNY faculty were most knowledgeable about the integration of feminist jurisprudence in the area of legal writing. Recall that legal writing had the highest overall percentage of respondents indicating 'don't know'. CUNY faculty's knowledge of this area most likely stems from their pedagogical structure. Professors are more involved with the total process of legal education, not just their speciality. Minnesota and UNC, again, were the two institutions who had the highest percentage of faculty indicating 'don't know' (89%).

For torts there were significant differences between: 1) Iowa and all institutions except CUNY; 2) CUNY and all institutions except for Iowa. Table 31 shows clearly why-- faculty at CUNY (29%) and Iowa (17%) believe that feminist



jurisprudence is extensively integrated into torts courses. Faculty at no other institution felt that torts was extensively integrated.

Taken together, the above analysis seems to indicate that faculty at CUNY feel that feminist jurisprudence is moderately to extensive integrated into the majority of the 'core' courses at their institutions. This may in part be a direct result of how the school was established. Faculty at CUNY chose the 'don't know' category less than any other institution. This may also be a direct result of the structure of the school and the fact that CUNY has the highest percentage of women on its faculty. Faculty at CUNY do a lot of team teaching as well as run 'simulations' which may cover other legal areas than their own speciality. Therefore, they are more knowledgeable of the work being done in, at least, the core areas of legal education.

Minnesota and UNC law schools seems to have the least integration. Faculty at Minnesota as well as UNC either a) don't know if a particular area has integrated feminist jurisprudential scholarship or b) rate it as only marginally so.

These data were also examined for gender differences. T-tests found significant gender differences in four areas: civil procedure ( $p=.006$ ), constitutional law ( $p=.02$ ), contracts ( $p=.04$ ), and criminal law ( $p=.02$ ).

**Table 32**  
**Integration of Core Courses, by Gender**  
(in percentages)

Variable	Men	Women
<u>Civil Procedure</u>		
don't know	57	35
not-at-all	17	18
marginal	12	21
moderate	14	21
extensive	0	6
<u>Constitutional Law</u>		
don't know	44	29
not-at-all	2	3
marginal	19	6
moderate	27	41
extensive	8	21
<u>Contracts</u>		
not-at-all	5	12
marginal	19	26
moderate	17	24
extensive	1	3
<u>Criminal Law</u>		
don't know	55	32
not-at-all	6	6
marginal	10	24
moderate	28	26
extensive	2	12
<u>Legal Writing</u>		
don't know	74	59
not-at-all	8	12
marginal	10	21
moderate	6	6
extensive	2	3

**Table 32, continued**

<b>Variable</b>	<b>Men</b>	<b>Women</b>
<b><u>Property</u></b>		
don't know	58	41
not-at-all	11	15
marginal	16	15
moderate	14	29
extensive	1	0
<b><u>Torts</u></b>		
don't know	54	44
not-at-all	6	6
marginal	17	9
moderate	20	29
extensive	2	12

As can be seen from table 32, in all seven core courses, women checked the 'don't know' category less often than men. In four areas, civil procedure, constitutional law, contracts, and criminal law, these differences proved significant. Women tended to find all areas more integrated than men. In particular, 62 percent of women faculty felt that feminist jurisprudence was moderately to extensively integrated in constitutional law courses.

This result is partially related to earlier findings in this study. Recall that more women than men rated themselves extensively familiar with feminist jurisprudence scholarship. Furthermore, significantly more women than men indicated that they were familiar with feminist jurisprudence through conferences and reading groups. In fact when asked if they had attended workshops offered by the Association of American

Law Schools (AALS) and/or the Society of American Law Teachers (SALT) to integrate women into the curriculum, significantly (Wilcoxon,  $p=.0001$ ) more women than men indicated that they had participated (53% vs 21%). It appears that women are well versed in this area of scholarship. Through their attendance at conferences and workshops, women have developed a better sense of feminist jurisprudence's integration into the core courses of a law school.

Table 33 shows the results of the regression analysis for predicting the integration of feminist jurisprudence into the curriculum. Seven independent variables entered the stepwise regression. In the final regression analysis, four variables were still significant: professorial rank, law school held workshops which focused on gender issues, belief that feminist jurisprudence can reshape legal education and the percent of women on the law faculty.

The fact that the percent of women on a law school faculty is such a strong predictor of integration of feminist jurisprudence into the curriculum is extremely interesting. If an institution has more women faculty members, then it is more likely to have its core courses integrated with feminist jurisprudence. That this variable entered the regression also supports Kanter's (1977a,b) theory of tokenism. Namely,

women in token number will conform to the norms of the majority, whereas when the number of women on the faculty increases, then the greater will be the interest and integration of feminist issues. With more women graduating from law schools and attempting to enter the teaching profession, it

**Table 33**  
**Regression analysis of Integration of Feminist**  
**Jurisprudence into Curriculum**  
(N=156)

Variable	r	Beta	T
Rank - professorial	.24#	.25	3.53**
Attendance at AALS/SALT workshops to integrate women into curriculum	.23#	.07	.98
Environment: law school held workshop focus on gender	.22#	.16	2.28*
Belief that feminist jurisprudence can reshape legal education	.24#	.22	2.83#
Percent of women faculty members***	.32**	.45	2.13*
Percent of women students***	.31**	-.17	-.80
Participate in reading groups	.15*	.08	1.17

F=8.44 df=7,148 p<.001 Rsq=.29

Significance: \*p<.05; #p<.01 \*\*p<.001

\*\*\*Note: the variance for these variables is constant for all respondents at a given institution

would be interesting to see if, indeed, the core courses become further integrated with feminist scholarship.

The next highest predictor was a faculty having a professorial rank (assistant, associate or full) rather than a clinical rank. A professorial rank has more of a research component to it than does a clinical rank. It may be that in the course of researching for their scholarly publications, faculty

**Table 34**  
**Correlation Table of Regression Variables of Integration of Feminist**  
**Jurisprudence into Curriculum**

<b>Variable</b>	<b>Rank-professorial</b>	<b>Attended AALS/SALT workshops to integrate women into curriculum</b>	<b>Environment: law school held workshop which focused on gender issues</b>	<b>Belief FJ can reshape legal education</b>	<b>Percent women faculty at law school</b>	<b>Percent of women students in law school</b>	<b>Participate in reading group</b>
<b>Rank - professorial</b>	1.00	-.01	.10	-.03	-.02	.01	.09
<b>Attended AALS/SALT workshops to integrate women into curriculum</b>		1.00	.06	.33**	.17*	.17*	.12
<b>Environment: law school held workshops which focused on gender issues</b>			1.00	-.02	.08	.12	.06
<b>Belief FJ can reshape legal education</b>				1.00	.12	.14	.14

Table 34, continued

Variable	Rank-professorial	Attendance at AALS/SALT workshops to integrate women into curriculum	Environment: law school held workshop which focused on gender issues	Belief FJ can reshape legal education	Percent women faculty at law school	Percent of women students in law school	Participate in reading group
Percent women faculty at law school					1.00	.93**	-.10
Percent women students in law school						1.00	-.13
Participate in reading group							1.00

Significance: \*p<.05; #p<.01; \*\*p<.001

come across work that has been done in the area of feminist jurisprudence. Once having gained a familiarity with feminist jurisprudence, they may be more willing to integrate such work into their courses.

Examining the betas show that a faculty member's belief that feminist jurisprudence can reshape legal education is also a strong predictor of core courses having integrated feminist jurisprudential scholarship. Clark (1983:75) has argued "...that beliefs interpret outside trends...and...mediate between other parts of society and the higher education system itself." The entrance of this variable into the regression demonstrates the facilitating nature of certain faculty beliefs.

If a law school holds workshops designed to familiarize the faculty with gender issues, it may help faculty gain a familiarity with this area of scholarship. Once faculty know of research developments in this area, perhaps they would be more likely to attempt to integrate feminist jurisprudence into their courses.

In order to more fully understand the extent of integration of feminist jurisprudence and alternative teaching pedagogies by individual faculty members, respondents were asked to answer a series of five questions about two of the courses which they normally teach. Respondents were



requested to include one first year and/or required course and one elective course (see appendix C for questions).

Thirty-two percent of the courses were "core" courses which are normally first year or required.<sup>11</sup> All the courses, whether core or not, had an average of 31-45 percent women in the class. This is consistent with enrollment data from the institutions surveyed.<sup>12</sup> The mean enrollment in all courses was 60 students. As expected, core courses had a higher mean - 89 students. Overall, in 60 percent of the courses students were evaluated by final exam only. In the core courses grading by final exam only was even higher: civil procedure - 84%; constitutional law - 75%; contracts - 71%; criminal law - 69%; property - 69%; torts - 95%. Slightly more women faculty members taught core classes than men faculty members (27% to 23%).

Only 23 percent of faculty perceived their classrooms as having a non-hierarchical structure.<sup>13</sup> When comparing core vs non-core courses, faculty were less likely to rate core

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<sup>11</sup> Six courses were classified as 'core' courses. Numbers in parentheses indicate the percentage of respondents who stated that the course is 1st year and/or required. Core courses are: civil procedure (100% 1st year; 68% required); constitutional law (81% 1st year; 69% required); contracts (100% 1st year, 88% required); criminal law (100% 1st year, 81% required); property (100% 1st year, 69% required); torts (95% 1st year, 74% required).

<sup>12</sup> The percentage of enrolled women students at the institutions surveyed ranged from 38% to 58%.

<sup>13</sup> See literature review chapter for discussion of classroom as a "community of learner" and uses of participatory decision making.

courses as non-hierarchical (85% to 15%). T-test found this to be a significant difference ( $p=.002$ ). Crosstabulations of core courses and having a non-hierarchical structure, while controlling for sex, found only a slightly higher percentage of women having a non-hierarchical structure (27% vs. 21%).

A comparison of clinical courses with all other courses also found significant differences for this variable. Clinical classes were significantly more likely to have a non-hierarchical structure than non-clinic courses ( $p=.01$ ).

Eighty-two percent of faculty responded that they extensively encourage active student participation in the classroom. Such a high percentage is due, in part, to the perceived 'correctness' of the answer--faculty are supposed to encourage student participation. After furnishing a quantitative answer, respondents were given additional space to provide further information on their techniques for student involvement. For the most part, respondents utilized the usual means for class participation: calling on students, asking questions and comments, discussion. Often respondents noted that they attempted to create an atmosphere in the classroom which made it non-threatening to speak up. A few listed the added incentive of grading class participation. Some faculty cited innovative approaches. Several Stanford faculty make

use of a 'panel' system<sup>14</sup>. As a whole, CUNY seemed to have the most innovative responses. The faculty there seem to have thought about the issues of student participation and related issues. Some innovative responses were:

"Group learning. Teaching responsibility directly placed on students to direct class" *{male, tenured professor}*

"Role plays, student generated topics; extra classes, simulate a T.V. talk show" *{female, tenured professor}*

"All students must team teach a class with the instructor. Students must present summary to field placement experiences. Students design areas of interest to be discussed during semester." *{male, tenure-track associate professor}*

"By allowing students to set agenda; by allowing them to question me and each other in same way I talk to them; by taking them and their suggestions seriously (this is what I mean by Socratic), their questions and answers set the agenda. By respecting and seeing relevance in their past/backgrounds, etc." *{female, tenured professor}*

"1) long pause for answers/questions; 2) ask students to write answers to questions first; 3) give detailed assignments with questions and/or reading guide to facilitate adequate preparation; 4) role plays; 5) small group work within large groups; 6) different assignments for different sections of the class--student can display knowledge to each other; 7) simulations, etc." *{female, tenure-track assistant professor}*

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<sup>14</sup> Students in a class are divided up into panels. They know that their panel may be called upon to provide input in the discussion of the issues in the classroom.

Sixty percent of faculty stated that they used materials from other disciplines in their courses. The academic area most often utilized was economics (20%).<sup>15</sup> However, faculty were significantly less likely to use materials from other disciplines in core courses than in non-core courses ( $p=.005$ ).

Furthermore, faculty were less likely to include works associated with feminist jurisprudence in their teaching materials. When queried, 42 percent stated that they never include such scholarship in their classroom teaching materials. Among the core courses, there was some variation on the percent of faculty who never used feminist jurisprudence in their teaching materials: civil procedure - 48%; constitutional law - 31%; contracts - 24%; criminal law - 7%; property - 33%; torts - 39%. One possible explanation for criminal law's higher percentage of faculty using feminist jurisprudential materials may be the inclusion of rape materials.

When asked if they would be interested in incorporating scholarship from feminist jurisprudence or materials from other disciplines, a mere 21 percent stated that they would be extensively interested in using such materials. Asked what deterred them from doing so, the following breakdown of categories resulted: lack of casebook - 10%; lack of good

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<sup>15</sup> Other disciplines frequently utilized were: History (13%); Sociology (12%); Political Science (11%); Psychology (9%); and Philosophy (9%).

materials - 20%; too much basic material to cover already - 37%; lack of student interest - 5%; other - 40%<sup>16</sup>

**Table 35**  
**Regression Analysis of Faculty Members' Incorporation**  
**of Feminist Jurisprudence into Their Courses**  
**(N=117)**

Variable	r	Beta	T
Belief that FJ can reshape legal education	.58**	.43	5.58**
Participate in reading group	.36**	.14	2.11*
Rank - professorial	.02	.08	1.30
Major in social sciences	-.06	-.18	-2.26*
Attending meeting/conference that deals with curricular or pedagogical change	.14	.10	1.49
Belief that FJ affected work of colleagues	.18*	.21	3.38#
Knowledge of project to incorporate women into casebooks	.30**	.21	3.17#
Major in arts	.07	-.06	-.69
Percent of women faculty members at law school	.06	-.10	-1.43
Familiarity with feminist jurisprudential literature	.51**	.12	1.60
Participate in designing a new course	.19*	-.10	-1.63
Participate in teaching in another discipline	.32**	.14	2.07*
Political views	.39**	.15	1.93

F=14.43 df=13,103 p<.001 Rsq=.64  
Significance: \*p<.05; #p<.01; \*\*p<.001

A regression analysis was also done in order to examine possible predictors of a faculty members own integration of

<sup>16</sup> Respondents were requested to check as many as applicable, therefore totals exceed 100%. The 'other' category divided faculty into three main categories: 1) they already incorporated materials; i.e., "nothing deters me"; 2) they felt that the materials were not relevant to their subject matter and/or they had a negative view of feminism; 3) they lacked the time to research the materials.

feminist jurisprudence into their courses. In a stepwise regression procedure thirteen independent variables entered. Table 35 shows the results of the regression analysis.

In the regression model, there are six significant independent variables: Belief that feminist jurisprudence can reshape legal education; participation in a reading group; majoring in social sciences; belief that feminist jurisprudence has affected work of colleagues; knowledge of project to incorporate women into casebooks; and participation in teaching in another discipline. Again, the reader should keep in mind that the causal direction of these variables may be in the reverse order, that is, they are not necessarily antecedent to faculty members' incorporation of feminist jurisprudence into their courses.

An examination of the betas quickly shows that having a belief that feminist jurisprudence can reshape legal education is the largest predictors of a faculty member integrating this new scholarship into their courses. This same belief was an important facilitator for an institution having feminist jurisprudence integrated into its curriculum. Believing that feminist jurisprudence can reshape legal education propels one to gain further knowledge of the subject and then may facilitate the actual incorporation of that knowledge into their classrooms.

**TABLE 36**  
**Correlation Table of Regression Variables for Intergration of Feminist Jurisprudence into Own Courses**

Variable	Belief FJ can reshape legal ed	Participate in reading group	Rank - profes-sorial	Majored in social science	Attend mtg/conf. on curricular/peda change	Belief FJ affects work of colleague	Knowledge of project to incorp. women into casebook	Majored in arts	Percent of women faculty at law school	Familiar with FJ lit.	Participate in design of new course	Participate in teaching in another discipline	Political views
Belief FJ can reshape legal educ.	1.00	.14	-.03	.04	.20*	.13	.14	.04	.12	.47**	.24#	.21#	.39**
Participate in reading group		1.00	.09	.02	.05	.01	.21*	-.03	-.10	.33**	.23#	.25#	.12
Rank-professor			1.00	-.07	-.18*	.07	.12	.07	-.02	.08	-.03	.10	-.09
Majored in social science				1.00	.08	.03	.04	-.69**	.04	.01	-.02	.11	.05
Attending mtg. or confer. on curr/peda. change					1.00	-.03	.12	-.00	.09	.09	.09	.12	.27**
Belief FJ affects work of colleague						1.00	-.08	.04	.29	-.08	-.09	.02	.07
Knowledge of project to incorporate women into casebook							1.00	-.06	-.09	.28**	.15*	.20*	.01
Majored in arts								1.00	-.05	.08	.06	-.09	.01

Table 36, continued

Variable	Belief FJ can reshape legal ed	Participate in reading group	Rank - profes- sorial	Majored in social science	Attend mtg/conf. on curricular /peda change	Belief FJ affects work of colleague	Knowledge of project to incorp. women into casebook	Majored in arts	Percent of women faculty at law school	Familiar with FJ lit.	Participate in design of new course	Participate in teaching in another discipline	Political views
Percent women faculty at law school								1.00	-.11	.06	.03	.25#	
Familiar with FJ lit.									1.00	.27**	.24#	.35**	
Participate in design of new course										1.00	.29**	.28**	
Participate in teaching in another discipl.											1.00	.12	
Political views												1.00	

Significance: \*p<.05; #p<.01; \*\*p<.001



This variable may also be somewhat related to a faculty member's belief that feminist jurisprudence has affected the work of colleagues. Scholarship that is perceived by others in a discipline to be important may be a facilitating factor in faculty beginning to examine the new scholarship and possibly utilizing it in their classrooms.

Interesting, two 'participation' variables entered the regression: participation in a reading group and participation in teaching in other disciplines. Clearly both variables have the potential to acquaint someone with new knowledge and offer an opportunity to discuss new scholarship with a wider range of colleagues. This interchange of ideas may be highly conducive to familiarizing oneself with new scholarship, and then, in turn, integrating it into one's courses.

Knowledge of projects to incorporate feminist jurisprudence into casebooks also proved to be a significant predictor for faculty integrating feminist jurisprudence into their courses. Since several respondent to the survey indicated that a lack of time to become informed about this area of scholarship was a hindrance to incorporating it into their courses, being familiar with these casebook projects may ease the time commitment involved in gaining an understanding of feminist literature in a particular speciality of law.

The fact that majoring in the social sciences as an undergraduate entered the regression negatively is somewhat puzzling. Closer examination of the majors that comprise this variable may yield a possible explanation. The majors in this variable are: anthropology, economics, ethnic studies, geography, political science (government; international relations), psychology, social work, sociology, women's studies, and other. However, as pointed out in chapter 4, forty-five percent of the respondent majored in either political science or economics. Neither of these disciplines included much feminist scholarship in the sixties or early seventies, when the majority of respondents graduated from their undergraduate institutions.

## **Chapter 5**

### **Summary of Findings, Conclusions and Implications**

This chapter reviews and discusses the major findings of the study. Guiding the discussion will be the research questions and hypothesis posed in chapter three. Implications and recommendation for institutional policy as well as for future research will be presented.

This study set out to explore the use of alternative pedagogy and the integration of feminist jurisprudence in law school courses. Both of these areas are frequently utilized when theorizing about change or transformation for education, in general, and for legal education, in particular. When researchers examine how education has changed, or can be transformed, they examine how faculty teach and what faculty teach. For example, when CUNY was set up as a law school, leading legal educators specifically examined these two areas and came up with a different model than is currently the norm.

Charles Halpern, CUNY's founding Dean, was given the task to develop a new curriculum which focused on clinical methods and emphasized public interest and public service law. To "integrate the study of lawyering skills with the study of legal doctrine" (Halpern, 1986:552), Halpern and his colleagues embraced new pedagogies which stressed simulation techniques and faculty collaboration in teaching.

The curriculum itself, what the faculty taught using these new pedagogies, was guided by the central theme that "legal education should place greater emphasis on law (and lawyering) as a process of human interaction, on the ability to see implicit premises and links with moral, social, and political theory" (Halpern, 1986:557).<sup>1</sup>

The purpose of this study was to conduct an exploratory study to gather empirical evidence about how widespread alternative teaching methodologies and feminist jurisprudence are in legal education. Examining the use of various innovative teaching techniques as well as faculty's beliefs about teaching were ways of assessing "how" faculty teach; examining the integration of feminist jurisprudence in legal education was intended to focus on "what" faculty teach. Feminist jurisprudence, as one of several movements in legal education, was chosen because of the great increase in the number of women in legal education as well as a developing body of literature which discusses the potential of this new scholarship to reshape legal education.

In order to explore these areas, faculty members at ten law schools were surveyed. CUNY, for its unique original mission and model was included, as well as nine other law schools known as "producer" schools (Fossum, 1980a,b). This

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<sup>1</sup> For further information on CUNY's formation and HOUSE system, see Halpern, 1986; Farago, 1986; Chase, 1987; Merton, 1987; McConnell, 1991).

study reconfirmed several of Fossum's findings about law school faculty.

First, Fossum found that 90 percent of tenure and tenure-track faculty at producer institutions received their legal training at these same institutions. This study reconfirmed this statistic...finding that this high percent has remained virtually unchanged in the more than ten years since the study. Now, as then, the implications for such a small portion of legal institutions commanding such a huge percentage of faculty training is an important factor to consider when considering curricular changes in legal education.

Second, Fossum found that women law faculty members were concentrated in three teaching specialities: constitutional law, family law, and clinic. This study resulted in a similar finding: women tended to specialize in civil procedure, clinic, and family law. Again, it is interesting that despite increases in the number of women faculty members and students (see tables 1 and 2), women still tend to be concentrated in the same areas.

Fossum's study was unique in that it is one of the first studies to examine law faculty and their backgrounds and what they teach. This study re-examined some of the same questions and went on to explore new areas. Faculty members

in the present study were questioned about utilization of alternative teaching practices, knowledge of feminist jurisprudence, and integration of feminist jurisprudence into their courses.

## **Discussion of Findings**

### **Alternative Pedagogies:**

One of the guiding research questions in this study was to determine the utilization of alternative teaching methodologies in the law school.

Alternative pedagogies are partially integrated into the law school. The specific techniques which are utilized most frequently by law faculty are: individual meetings with students, oral presentations, role playing, and simulations. Each of these techniques are mechanism for encouraging the students active, rather than passive, participation in the class. The majority of faculty also indicated that they were more likely to utilize these techniques in small class or seminars. This finding is consistent with the finding that faculty members are more likely to experiment with alternative techniques in second and third year courses, which tend to be smaller. Results suggest that there is a difference between first year or core courses and second/third year or elective courses. Core courses tend to be larger, more structured, less

likely to use materials from other disciplines, and more Socratic in format.

Another major finding of difference was manifested between clinical faculty and 'regular' faculty. Clinical faculty make far greater use of alternative teaching techniques. As a group, they differed significantly from non-clinical faculty in every technique except two ["meeting as legislative body" and "playing tapes from Association of American Law Schools (AALS)"]. Furthermore, clinical faculty were significantly more likely to indicate high levels of approval of alternative teaching techniques than were the non-clinical faculty (83% to 41%). Clinical faculty overwhelmingly considered themselves outside of the traditional Socratic model. And finally, clinical faculty were significantly more likely to believe that innovative teaching techniques have the potential altering legal education (39% to 11%).

This finding, that clinical faculty are more likely to employ and believe in alternative teaching techniques is interesting in light of the fact that their status in law schools is somewhat like that of an "outsider". Frequently, clinical faculty are on separate academic "tracks" in law schools. The fact of clinicians' outsider status as well as the nature of their courses being "practitioner" oriented may be important facilitators in their utilization of alternative teaching

techniques. The implications may well be to bring clinic and clinic techniques into the mainstream of legal education. A few respondent in this study noted greater incorporation of clinic programs in law schools would have an overall positive effect on legal education.

In addition the major differences in the usage of alternative teaching techniques in core courses and by clinical faculty, some interesting gender differences were also observed. Women were found to utilize four types of techniques more frequently than men: shared leadership; oral presentation; use of interpersonal activities; and use of affective as well as cognitive learning. As stated earlier, these techniques coincide with three central concepts of feminist pedagogy identified by Shrewsbury (1987); namely, empowerment, community and leadership. Women were also significantly more likely than men to believe that alternative techniques will extensively reshape legal education (27% to 10%). And finally, when queried about their teaching style, more women than men evinced that they altered their teaching style as their confidence and flexibility increased. Women faculty members' written responses seems to manifest a certain amount of introspection and focus on self-development

As for institutional differences, CUNY faculty were significantly different from all other institutions in the



utilization of three techniques: simulation, small group meetings, and group projects. They also differed from the majority of faculty in the other institutions in three additional areas: shared leadership, use of interpersonal techniques to create a community of learners, and utilization of affective as well as cognitive learning. CUNY faculty members also significantly differed from others in their belief that alternative pedagogies can extensively reshape legal education.

These data confirm the second hypothesis that CUNY faculty will be different from the other institutions in their use of alternative teaching techniques. The reasons for this finding may be due in part to differences in structure and mission of CUNY as well as to the type of faculty recruited by the school. Recall that CUNY faculty differed significantly from other faculty in their political views (more of them describe themselves as liberal) and they were less likely to attend one of the producer schools. Furthermore, as the 'newest' of the surveyed law schools, CUNY had the largest portion of untenured faculty. These characteristics may be important factors in the utilization of alternative teaching methodologies.

Another positive factor in the utilization of alternative teaching pedagogies is "team teaching". Regression analysis

identified team teaching as a strong predictor in the use of alternative techniques. CUNY faculty, in fact, employ team teaching significantly more than faculty at any other institution surveyed (see Appendix table E-1). Team teachings' importance as a factor in the use of alternative teaching may lie in the fact that two faculty are dividing up the workload. Respondents often stated that they were more likely to use alternative teaching techniques in smaller courses because of the time consuming demands: in preparing and in grading when they used such techniques. In fact, several respondents noted that the time commitment involved in using alternative pedagogies was an inhibiting factor. With team teaching, the work is divided up and this may be a significant contributor to experimenting with different teaching techniques.

### Feminist Jurisprudence

How familiar are law faculty members with feminist jurisprudential literature? Data attest that faculty are at least moderately familiar with this new scholarship. Overall, 69 percent of faculty claimed moderate familiarity with feminist jurisprudential scholarship. Furthermore, 91 percent of respondents indicated that they had read at least one article with a feminist jurisprudential focus within the past year.

One of the guiding research questions that framed this study was to ascertain the means by which faculty became

familiar with "new" knowledge. Reading a law review article was the most common means of gaining knowledge of feminist jurisprudence (86% of respondents - see table 20). This reconfirms one of the contributions of law reviews cited by Maggs (1930)--namely, it provides a vehicle for faculty members to acquire new knowledge. Gaining familiarity with feminist jurisprudence through interchanges with colleagues at their current institution was also a common mechanism with 66 percent of respondents indicating so. Books and conferences (47 percent and 44 percent respectively) also proved to be prominent means by which learning about new knowledge took place.

When asked *why* they read an article with feminist jurisprudential focus, 83 percent of faculty indicated that they did so for general interest (see table 21). Fifty-five percent revealed that they read an article with a feminist jurisprudential focus because it was in their speciality. The fact that these percentages are so high suggests that feminist jurisprudence is making some inroad into many areas of legal inquiry. These data are further supported by the statistic that 61 percent of respondents found feminist jurisprudence helpful. Primarily, faculty found that feminist jurisprudence provided them with new perspectives--new ways of looking at legal questions. Eighteen percent of respondent felt that new

frameworks provided by feminist jurisprudential scholarship were very likely to reshape legal doctrine in their speciality.

Overall, it appears that law faculty have some knowledge of feminist jurisprudence and find it to be of some value. Law Reviews, colleagues, books, and conferences emerged as important means to facilitate dissemination of this scholarship. There were some interesting institutional and gender differences that emerged from the data.

It was interesting to note that faculty at Minnesota were the least familiar with feminist jurisprudence. Eleven percent of the faculty indicated that they were not at all familiar with the literature. This was higher than any other institution surveyed. Furthermore, they were significantly less likely to have read an article with a feminist jurisprudential focus during the last year. Given the fact that feminist legal scholar MacKinnon was once at the University of Minnesota and that she is one of the most frequently cited feminist jurisprudential scholar, this finding was somewhat surprising.

Data from the survey lend credence to the perception of UCLA's feminist reputation. UCLA's faculty differed significantly from other institutions in that they had read an article with feminist jurisprudential focus as a result of their participation in tenure and merit/promotion reviews. Furthermore, when queried if feminist jurisprudence affected

the work of their colleagues, 86% of UCLA's faculty responded that it did so. This statistic differed significantly from all institutions except CUNY and Iowa. In addition, faculty at UCLA felt that their colleagues referred to feminist scholars as authorities. Again, this statistic was significantly different from faculty at other institutions except CUNY, Iowa, and Stanford.

CUNY also seems to be a place where there is an interchange of knowledge about feminist jurisprudential literature. Ninety-three percent of CUNY faculty indicated that they gained familiarity with this scholarship through colleagues. Furthermore, CUNY faculty indicated that the work of their colleagues was affected by feminist jurisprudence significantly. They also were more likely to refer to feminist scholars as authorities.

Like CUNY's, Harvard's faculty also found the exchange of knowledge among colleagues to be a significant avenue of gaining information about feminist jurisprudence. Harvard's faculty differed from all other institution in that they found their students to be an important source for gaining familiarity with feminist jurisprudence. In addition, Harvard's faculty, as was true for UCLA's, differed significantly from other institutions in that reading articles with a feminist

jurisprudential focus was the result of tenure and merit reviews.

From the findings at these three institutions (UCLA, Harvard and CUNY), it would appear that law schools that have faculty who are doing feminist jurisprudential research and where there is an exchange of information among colleagues are places that facilitate the familiarity of feminist jurisprudential scholarship.

This data lends support to the first hypothesis that institutions with a greater feminist presence will have more knowledge of feminist jurisprudence and perceive a greater integration of feminist jurisprudence in their curriculum. Feminist presence was defined by the number of faculty who are known feminist authors; number of faculty listed as teaching Women in the Law courses (AALS Directory); publishing a women's law review and proportion of women faculty members. UCLA scores highest: it has the highest number of known feminist authors and number of faculty listed as teaching "Women and the Law"; it publishes a feminist law review in addition to its primary review; and its proportion of women faculty (23%) was on the higher end of the institutions surveyed. CUNY's score was also high: it has feminists on the faculty and one members listed as teaching "Women and the Law". Furthermore, with 47 percent of its faculty women,

CUNY has the highest percentage of women on its faculty. These two institutions, which have the highest rate of feminist presence, are the institutions whose faculty are familiar with feminist jurisprudential scholarship and who have the highest perceived integration of feminist jurisprudence in their curriculum (see next section for discussion of integration).

Gender differences did emerge from the data. Twice as many women (33%) as men (15%) rated themselves extensively familiar with feminist jurisprudential scholarship. Conferences and reading groups were significant means by which women gained familiarity with this research. While about equal percentages of men and women had read an article with a feminist jurisprudential focus during the past year, significant more women than men had read such an article because of general interest. Significant gender differences were also found in a number of other variables: more women than men considered their own work to be feminist (26% vs. 1%), and cited feminist researchers in their scholarly work (25% vs. 4%), also more women than men referred to feminist jurisprudential scholars as authorities (20% vs. 0%). Moreover, more women found feminist jurisprudence to be helpful to their work and felt that it had extensive potential to reshape

legal education. These last differences however were not statistically significant.

Data from the study did not support the third hypothesis that faculty who have knowledge of feminist jurisprudence will make greater use of alternative teaching methodologies in their courses. Even though there was a moderately strong correlation between the two ( $r=.46$ ), a plot of the two variables did not show a clear linear progression.

#### Integration of Feminist Jurisprudence into the Curriculum

When respondents were asked about the extent to which feminist jurisprudence was integrated into their law school curriculum, 44 percent of faculty indicated that it was moderately integrated. There were some significant institutional differences however: faculty at Columbia, UNC, and Virginia felt that feminist jurisprudence was not highly integrated into their law school curriculum, while faculty at CUNY and UCLA perceived the greatest amount of such integration. It should be noted though that faculty at all institutions strongly believed that integration was dependent on which instructor was teaching the course. This is consistent with data derived from the alternative teaching section of the study. Written responses about the use of alternative pedagogies revealed a strong belief in the ethos of academic freedom. Respondents indicated that the use of



these techniques was dependent on a variety of factors, such as who was teaching the course, for which course, and how the techniques were used. Even though a faculty member may disagree with what a colleague was doing in a classroom, they believed in that colleagues' right to teach in any manner they wished. This was summed up clearly by one professor's comments: "I believe in almost total discretion for the individual teacher. If a colleague chooses either to use such techniques or not, I respect that judgment." *{male, tenured professor}*

In addition, integration of feminist jurisprudence seems to be done only where respondents deemed the material was "relevant". When asked which mechanisms they employed to integrate feminist scholarship into their courses, the most frequent written response was "discuss when relevant." *{male, tenure-track associate professor}* However, Higginbotham (1990), Tetreault (1986), McIntosh (1983), indicate that integrating new scholarship in only 1-2 class sessions or only at times they deemed "relevant" does not constitute true "integration". In fact, it may lead students to perceive the material as irrelevant or peripheral to the course.

A high proportion of respondents do not see the need to integrate feminist jurisprudence into their courses. Forty-two percent stated that they never include such scholarship in

their classroom teaching materials. Furthermore, only 21 percent stated that they would be extensively interested in using such materials. Reasons for not including feminist scholarship in their courses coincides with the obstacles listed Schuster and Van Dyne (1985): namely, 1) misconceptions of what feminist scholarship is; 2) belief that there is too much basic material to cover; and 3) perception of the lack of student interest. Additionally, several respondents noted a lack of time to become acquainted with the literature.

Core courses appear to be less integrated than electives. Data from the study suggest that core courses are more hierarchical in structure, include less material from other disciplines, and are less likely to contain feminist jurisprudential scholarship. Nevertheless, there appears to be some variation of integration depending on the type of core course. Constitutional law was perceived as showing the most integration. This is not surprising since constitutional law is the speciality within which discrimination law is located and a topic in which feminist scholars have written about.

Analysis of the integration of feminist jurisprudence into core courses found some institutional variation as well. Faculty at CUNY felt that integration was evident in the majority of core courses. CUNY faculty chose the 'don't know' category less than faculty at any of the other institutions It

appears that the way the school is structured, with team teaching and simulations which cover other legal areas, enables faculty to interact and thus promotes their content knowledge of other than their own specialities.

Faculty at Minnesota and UNC felt that feminist jurisprudence was not integrated into their core courses. They indicated that they either 1) didn't know if feminist jurisprudence was integrated into a particular course, or 2) they rated such courses as only marginally integrated.

In general, it appears that women have more knowledge of the integration of feminist jurisprudence into core courses than men do. For all seven core courses cited in the study (civil procedure, constitutional law, contracts, criminal law, legal writing, property, torts), women checked the 'don't know' category less often than men. Women tended to find all areas more integrated than men. This finding may be a function of women's greater knowledge of feminist jurisprudential scholarship.

## **Conclusions and Recommendations**

### **Implications**

The findings in this study have several implications. First, CUNY's faculty utilization of alternative teaching techniques and integration of feminist jurisprudence into their

curriculum may serve as a model for other institutions considering reform. Second, since legal education produces more practitioners than scholars, bringing clinical education, which makes more frequent use of alternative pedagogies, into the mainstream of legal education may be the best way to bring about change. Third, although increased awareness of gender issues among judges and legal decision-makers can have far-reaching impact on society, such knowledge is absent from the general law school education: feminist jurisprudence is still segregated into Gender and Discrimination courses.

CUNY was designed as an innovative model for legal education (McConnell, 1991; Halpern, 1986; Farago, 1986). Data from this survey indicates that in a number of ways the institution has succeeded in doing so. CUNY's faculty endorses and uses alternative pedagogies more than faculty at other institutions and clinical courses are a critical component in the curriculum. Furthermore, CUNY's faculty perceive a greater integration of feminist jurisprudence into the core curriculum.

It should be noted, though, that CUNY is not without some problems. It has been criticized for having a low percentage of its students that pass the bar examination. In addition, McConnell (1991) has pointed out that even though CUNY's faculty is highly sensitized to discrimination issues, disproportionately high numbers of women and minorities were

assigned to be HOUSE counselors<sup>2</sup>. Nevertheless, data from this study and articles written about CUNY (McConnell, 1991; Alive and Well, 1989; Time to Succeed, 1988) suggest that faculty members are aware of the problems and are willing to alter as they attempt to forge a new model for legal education. As McConnell stated "the CUNY experience should teach us that the creation of a non-traditional pedagogy is extraordinarily complex" (1991:123).

The role of clinical education courses in legal education has some interesting implication for curricular reform. As one respondent to this survey suggested, clinical education should be universally required. Not only is clinical education an area which utilizes different methodologies, its practitioner focus may provide some essential skills for later legal practice.

A recent article by Goldfarb (1991) found similarities between feminist methods and clinical education. She believes that if law schools were to embrace these two movements, they would transform legal education. She states:

By exposing students to law as it operates through people, processes, and institutions, and by promoting practices of critical reflection, law schools can do

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<sup>2</sup> Each first and second year student is assigned to a "House" of approximately twenty students. Each "House" is lead by a professor. The "House" activities and courses are integrated. Because of its intensity of student contact hours, "House" professors find a great deal of their time consumed with these activities. See in particular articles by Halpern, 1986; Kleinberg and Barnes, 1987; McConnell, 1991)

something about lawyer's competence and perhaps even more about lawyer's character. By supporting and taking seriously both clinical and feminist methods,...law schools would cultivate habits of attention to matters of ethical consequence and improve the moral training of lawyers (Goldfarb, 1991:1691-1692).

Indeed, Goldfarb believes that feminist jurisprudence and clinical courses would sensitize future lawyers. Bringing women's experiences into the legal system will provide judges who adjudicate and lawyers who litigate with an awareness of gender bias.

### Recommendations

Based on the findings of this study, there are several recommendations which might assist law schools in their efforts to incorporate alternative pedagogies and to integrate feminist scholarship into their curriculum.

1. When queried about the possibilities of alternative teaching methodologies bringing about change in legal education, several respondents indicated that transformation would not be possible without some structural modification. The most frequently mentioned necessity was a reduction of class size. Large class size seems to be an inhibitor of pedagogical innovation. A possible solution to the class size problem is cooperative learning. In cooperative learning a large class is divided into small learning groups and the students, in essence, become teachers to each other. This

method breaks down the hierarchical relationship between teacher and students and is highly consistent with alternative pedagogies (Johnson, Johnson, and Smith: 1991).

Another structural modification mentioned was the need for a shift in emphasis from research and publications to teaching. This is a topic of current discussion in many colleges and universities and other disciplines as well.

2. Data suggest that team teaching is an important element of pedagogical innovation. It appears that when faculty share in the teaching load they also have opportunities to exchange teaching ideas and experiences as well as experiment with different modes of teaching. Institutions should facilitate faculty efforts to team teaching and assure that each member of the team receive appropriate teaching credit.

3. Results from this study reveal that campus 'reading groups' may facilitate exposure to "new" knowledge.

Regression analysis showed that this was a significant predictor not only for utilization of alternative pedagogies, but also for gaining knowledge of feminist jurisprudence and for integrating feminist jurisprudence into their courses.

Furthermore, women indicate that reading groups are a significant mechanism to learn about feminist jurisprudential scholarship. Institutions that are interested in fostering curriculum integration efforts may be well advised to consider

the development of campus-wide/departmental reading groups which can focus on the "new" scholarship.

### Future Research

This study was an exploratory one. The obtained results provide empirical evidence about the usage of alternative teaching methodologies in legal education as well as the extent to which feminist jurisprudence is being integrated into the curriculum and in the factors that facilitate such practices. The analyses also suggest several directions for future research.

1. A case study of CUNY law school could provide further information on the CUNY model. Such a case study calls for surveys and interviews with students, faculty, and administrators, both past and present. This would provide information on the effects of the CUNY experiment on all the parties involved. It would highlight some of the problems CUNY has faced and how it has dealt with those problems. An assessment of CUNY's effectiveness may be ascertained with such a case study. And finally, a case study might answer how, and if, certain aspects of CUNY's structure can be considered by other institutions seeking change.
2. An intriguing point that came out from some the faculty's written responses was the reluctance on the part of students to want to take responsibility for their own learning.



This reluctance on the part of students may be an outgrowth of years of participating in a hierarchical approach to teaching and learning; namely, the student listens and the teacher talks. The process of how to re-orient students' attitudes towards learning needs to be analyzed. Examining this phenomenon by studying both students and faculty may suggest some of the inhibitors to employing alternative pedagogies into the law curriculum.

3. Continued examination of how faculty become knowledgeable of the new scholarship would be of interest. This study determined that law faculty gained familiarity with feminist jurisprudential literature primarily through four media: journals, colleagues, books, conferences. Does this hold true for other disciplines as well?

4. Research concerning the impact of different pedagogies and curricular innovations in legal education on law students would be very important. Longitudinal studies may provide particularly useful information on what happens to law students encountering different pedagogies.

#### Concluding Remarks

Even though this study was exploratory in nature and only a small number of institutions were surveyed, the results have provided a wealth of information on the utilization of alternative pedagogies and knowledge of feminist

**jurisprudence in law schools today. The findings may help guide educators who consider pedagogical or curricular change.**

## APPENDICES

## APPENDIX A

**Fossum lists the producer schools as :**

**Columbia University  
Cornell University  
Duke University  
George Washington University  
Georgetown University  
Harvard University  
New York University  
Northwestern University  
Stanford University  
University of California, Berkeley  
University of Chicago  
University of Illinois  
University of Iowa  
University of Michigan  
University of Minnesota  
University of Pennsylvania  
University of Texas  
University of Virginia  
University of Wisconsin  
Yale University**

**Auerbach cites a Cartter Report which lists the top twenty schools as:**

**Columbia University  
Cornell University  
Duke University  
Harvard University  
New York University  
Northwestern University  
Stanford University  
University of California, Berkeley  
University of California, Los Angeles  
University of Chicago,  
University of Illinois  
University of Michigan**

University of Minnesota  
University of North Carolina  
University of Pennsylvania  
University of Southern California  
University of Texas at Austin  
University of Virginia  
University of Wisconsin  
Yale University

Combining these two groups of institutions generates the following list of twenty-three institutions (number of full-time faculty listed in parenthesis):

Columbia University (46)  
Cornell University (29)  
Duke University (22)  
George Washington University (54)  
Georgetown University (68)  
Harvard University (55)  
New York University (71)  
Northwestern University (37)  
Stanford University (35)  
University of California, Berkeley (35)  
University of California, Los Angeles (52)  
University of Chicago (22)  
University of Illinois (23)  
University of Iowa (40)  
University of Michigan (53)  
University of Minnesota (40)  
University of North Carolina (33)  
University of Pennsylvania (34)  
University of Southern California (29)  
University of Texas (56)  
University of Virginia (41)  
University of Wisconsin (41)  
Yale University (43)

## APPENDIX B

## **Text of Letter**

**«DATA Chicago»**

**January 22, 1991**

**«name»  
«college»  
«law» «IF building»  
«building» «ENDIF» «IF address»  
«address» «ENDIF»  
«city», «state» «zip»**

**Dear «name2»:**

I am a doctoral student of Higher Education studying under the direction of Dr. Helen Astin at the UCLA Graduate School of Education.

My dissertation is an investigation of the extent to which alternative pedagogies and legal theories become integrated into the mainstream of the law school curriculum. These usually begin as marginal currents within the law school, but, according to some scholars, may gain some measure of acceptance and legitimacy. I hope not only to answer important questions concerning the use of various teaching methods and the development of new scholarship, but also to identify the environmental factors which most influence their integration into the law school curriculum. Researchers have looked at how alternative pedagogies and scholarship penetrated other disciplines. I hope to provide empirical evidence as to the degree of incorporation in the field of law. Faculty, through their teaching and research, provide a critical link to integration of new knowledge.

I have chosen to survey the faculty at ten law schools, including «university» Law School, from a list of twenty four influential institutions. I would greatly appreciate your taking



the time to answer my questionnaire which will require approximately 40 minutes to complete.

Several questions request clarification of responses. This is critical to attain results with depth and explanatory power. Furthermore, in addition to general pedagogical questions, I ask a series of five short questions for **TWO** courses which you regularly teach. Thus, the questionnaire may seem longer than it is. Your criticism and suggestions will be extremely valuable. If you would like to discuss the study or questionnaire, please feel free to call me at (315) 478-6907.

The information you provide will be strictly confidential. If you would like a copy of the results of my study, please let me know. I will be happy to share the information with you.

Since postal rates are scheduled to increase in February, I would appreciate it if you would return the completed questionnaire in the enclosed, self-addressed, stamped envelope on or before February 28.

Thank you for taking the time out of your busy schedule to aid me in my work. Your help with this research will increase the effectiveness, quality, and applicability of my dissertation.

Sincerely,

Angela Detlev, M.A.  
Doctoral Candidate

**Text of postcard:**

«DATA pcname»Professor «name»:

A week ago, you received a survey concerning alternative pedagogies and new scholarship in the law school. If you have completed and returned it already, thank you very much; if you have not had the opportunity to respond yet, I would appreciate your taking the time to do so.

Thank you for your kind consideration in aiding me with my research effort.

Angela Detlev

## **Text of Follow-up Letter**

«DATA 2b»

February 12, 1991

«name»  
«college»  
«law» «IF building»  
«building» «ENDIF» «IF address»  
«address» «ENDIF»  
«city», «state» «zip»

Dear «name2»:

Three weeks ago I sent you a survey concerning the use of alternative pedagogies and new scholarship in the law school. If you have already completed and returned it, thank you very much. In case you have not, I am enclosing another copy of the form. I would greatly appreciate your taking the time to respond.

The information you provide will be strictly confidential. The questionnaires returned so far have been enlightening. A high response rate will enhance the quality and applicability of my dissertation, so please return the questionnaire in the enclosed, self-addressed, stamped envelope as soon as possible.

Thank you for taking the time out of your busy schedule to aid me in my work.

Sincerely,

Angela Detlev, M.A.  
Doctoral Candidate

## APPENDIX C

## Questionnaire

Name (optional) \_\_\_\_\_

1. Current Institution: \_\_\_\_\_

2. Number of years at current institution:

\_\_\_\_\_ 0-3                  \_\_\_\_\_ 8-14                  \_\_\_\_\_ 22-28  
\_\_\_\_\_ 4-7                  \_\_\_\_\_ 15-21                  \_\_\_\_\_ 29+

3. Total number of years you have been on a law faculty \_\_\_\_\_

4. Law Specialities:

5. Current Research Interests:

6. What is your present academic rank?

\_\_\_\_\_ Professor  
\_\_\_\_\_ Associate Professor  
\_\_\_\_\_ Assistant Professor  
\_\_\_\_\_ Lecturer  
\_\_\_\_\_ Clinical Rank  
\_\_\_\_\_ Other

7. Do you have tenure?

\_\_\_\_\_ yes          \_\_\_\_\_ no  
If no, are you on a tenure track?  
\_\_\_\_\_ yes          \_\_\_\_\_ no

8. Sex

\_\_\_\_\_ male          \_\_\_\_\_ female

9. Year of Birth: \_\_\_\_\_

10. Racial/ethnic group  
 \_\_\_\_\_ White/Caucasian  
 \_\_\_\_\_ Black/Afro-American  
 \_\_\_\_\_ Mexican-American/Chicano  
 \_\_\_\_\_ Puerto Rican-American  
 \_\_\_\_\_ Latino/Latina  
 \_\_\_\_\_ American Indian/Native Alaskan  
 \_\_\_\_\_ Asian-American  
 \_\_\_\_\_ Other
11. How would you characterize your political views?  
 \_\_\_\_\_ Far Left  
 \_\_\_\_\_ Liberal  
 \_\_\_\_\_ Moderate  
 \_\_\_\_\_ Conservative  
 \_\_\_\_\_ Far Right
12. Undergraduate Institution (baccalaureate degree)  
 \_\_\_\_\_  
 Major \_\_\_\_\_  
 Year Graduated \_\_\_\_\_
13. Law School (J.D. or LL.B.) \_\_\_\_\_  
 Year \_\_\_\_\_  
 Participate in Law Review \_\_\_\_\_ yes \_\_\_\_\_ no  
 how were you selected for law review:  
 \_\_\_\_\_ grades \_\_\_\_\_ write-on competition
14. Do you have an advanced degree such as LLM (masters of law) or S.J.D. (Doctor of the Science of Jurisprudence)? If so, please answer:  
 LL.M.: Institution \_\_\_\_\_  
 year awarded \_\_\_\_\_  
 S.J.D.: Institution \_\_\_\_\_  
 year awarded \_\_\_\_\_  
 other (ex., M.A.; Ph.D.) \_\_\_\_\_; Discipline \_\_\_\_\_  
 Institution \_\_\_\_\_  
 year awarded \_\_\_\_\_
15. Did you serve a clerkship?  
 \_\_\_\_\_ yes \_\_\_\_\_ no

16. Have you ever engaged in full time legal practice?

yes  no

If yes:

Number of years in full-time legal practice? \_\_\_\_\_

Type of practice:

government

public interest firm or organization

civil rights

legal aid

housing

other: \_\_\_\_\_

solo practice

private law firm

general civil practice

business litigation

corporate

securities

entertainment

tax

family law

labor

other: \_\_\_\_\_

**The following section explores the teaching environment of the law school.**

Periodically, legal scholars and practitioners question the exclusive use of the Socratic method (closely following the case method approach; guiding students, primarily through questions, to deduce generalities from specific cases) within legal education. Various groups have called for the use of alternative pedagogies. Alternative pedagogies utilize both changes in curriculum content and teaching practices in order to build a 'community of learners' through active involvement of both teacher and student. Ideally, all participants would develop leadership skills and the ability and the willingness to act on their beliefs.

1. Below is a list of various alternative teaching techniques that have been employed by law professors. Please indicate if you often, sometimes, or never employ any of these teaching techniques.

	<u>Often</u>	<u>Sometimes</u>	<u>Not at all</u>
a. role playing	-----	-----	-----
b. In-class simulation	-----	-----	-----
c. convening classroom as a court	-----	-----	-----
d. organizing small group meetings	-----	-----	-----
e. meeting as a legislative body to decide a law	-----	-----	-----
f. playing tapes of AALS or SALT meetings to stimulate discussion	-----	-----	-----
g. group projects	-----	-----	-----
h. shared leadership	-----	-----	-----
i. oral presentations	-----	-----	-----
j. individual, out-of-class meetings	-----	-----	-----
k. presentations by experts/practitioners	-----	-----	-----
l. playing videotapes	-----	-----	-----
m. interpersonal activities which promote community	-----	-----	-----
n. use of affective as well as cognitive learning	-----	-----	-----

2. If you utilize any of the techniques listed in question number one (1), do you do so in all or only some types of classes (e.g., in a small seminar vs. a large class; 1st year or required courses vs elective courses)? Please explain:

3. To what extent have these types of pedagogical innovations altered your attitudes towards teaching and relationships with students?  
 \_\_\_ extensively \_\_\_ moderately \_\_\_ marginally \_\_\_ not at all  
 Please list the changes:



4. What is your opinion on the use of alternative teaching techniques in the Law School:

\_\_\_\_\_ I oppose all alternative techniques, on principle (They don't belong in Law Schools)

\_\_\_\_\_ I oppose some of the techniques, but not all (List those you find inappropriate for law schools):

\_\_\_\_\_ I believe these techniques are good teaching techniques for other professors, but not for myself.

\_\_\_\_\_ I believe these techniques are a good idea and plan to use them in future courses.

\_\_\_\_\_ other, please explain:

5. Do you regard yourself as a traditional Socratic teacher?

\_\_\_ extensively \_\_\_ moderately \_\_\_ marginally \_\_\_ not at all

To what extent do you deviate from the Socratic model?

\_\_\_ extensively \_\_\_ moderately \_\_\_ marginally \_\_\_ not at all

Please explain:

6. Have you altered your teaching style since beginning your faculty career? Please indicate what changes you made and why?

7. Advocates of alternative pedagogies claim that innovative techniques have the potential to reshape legal education. To what extent do you believe this is true?

\_\_\_ extensively \_\_\_ moderately \_\_\_ marginally \_\_\_ not at all

How can legal education be reshaped?:

8. Do you bring cases that you or your colleagues have worked on into your classroom teaching?

\_\_\_\_\_ yes \_\_\_\_\_ no  
 If so, how have you done it?

9. During the past two years, have you engaged in any of the following activities?

	Yes	No
team taught a course	-----	-----
taught a course in another discipline	-----	-----
participated in campus-wide curriculum change project	-----	-----
designed a new course	-----	-----
participated in campus-wide study or reading groups	-----	-----
taken educational classes	-----	-----
altered teaching style	-----	-----

10. For TWO courses which you regularly teach please answer the following questions. If possible, please include one that is a 1st year or required course and one that is an elective or seminar course.

**A. Course ONE**

Title: \_\_\_\_\_  
 1st year \_\_\_\_\_; required \_\_\_\_\_; elective: \_\_\_\_\_ Approximate

student enrollment: \_\_\_\_\_

What is the proportion of women students enrolled in your course?

\_\_\_\_\_ 0-15%      \_\_\_\_\_ 31-45%      \_\_\_\_\_ 61-75%  
 \_\_\_\_\_ 16-30%      \_\_\_\_\_ 46-60%      \_\_\_\_\_ 76-100%

How are students evaluated?

- \_\_\_\_\_ final examination only  
 \_\_\_\_\_ midterm and final  
 \_\_\_\_\_ combination of assignments, please list types:

1. Would you characterize your classroom as non-hierarchical (the classroom is perceived as a 'community of learners' and uses a participatory decision making style)?  
 \_\_\_ extensively \_\_\_ moderately \_\_\_ marginally \_\_\_ not at all

2. Do you encourage active student participation in the classroom?  
\_\_\_\_\_ extensively \_\_\_\_\_ moderately \_\_\_\_\_ marginally \_\_\_\_\_ not at all  
Please list your means of encouragement:

3. Do you routinely include materials from other disciplines on your syllabus?

\_\_\_\_\_ yes \_\_\_\_\_ no

If yes, which

disciplines: \_\_\_\_\_

4. Do you incorporate work associated with feminist jurisprudence in your classroom teaching materials?

\_\_\_\_\_ always \_\_\_\_\_ often \_\_\_\_\_ sometimes \_\_\_\_\_ seldom \_\_\_\_\_ never

Please list some of the scholars you include:

5. To what extent would you be interested in incorporating different materials (e.g., from other disciplines and/or works by feminist legal scholars) in your classes?

\_\_\_\_\_ extensively \_\_\_\_\_ moderately \_\_\_\_\_ marginally \_\_\_\_\_ not at all

What deters you from doing so (Indicate as many as applicable)?

\_\_\_\_\_ lack of casebook

\_\_\_\_\_ lack of good materials (e.g., articles, books)

\_\_\_\_\_ too much 'basic' material to cover already

\_\_\_\_\_ lack of student interest

\_\_\_\_\_ other, please list:

**B. Course TWO Title:**

\_\_\_\_\_ 1st year \_\_\_\_\_; required \_\_\_\_\_; elective: \_\_\_\_\_ Approximate student enrollment: \_\_\_\_\_

What is the proportion of women students enrolled in your course?

\_\_\_\_\_ 0-15%          \_\_\_\_\_ 31-45%          \_\_\_\_\_ 61-75%  
\_\_\_\_\_ 16-30%          \_\_\_\_\_ 46-60%          \_\_\_\_\_ 76-100%

How are students evaluated?

\_\_\_\_\_ final examination only

\_\_\_\_\_ midterm and final

\_\_\_\_\_ combination of assignments, please list types:

1. Would you characterize your classroom as non-hierarchical (the classroom is perceived as a 'community of learners' and uses a participatory decision making style)?  
\_\_\_\_\_ extensively \_\_\_\_\_ moderately \_\_\_\_\_ marginally \_\_\_\_\_ not at all
2. Do you encourage active student participation in the classroom?  
\_\_\_\_\_ extensively \_\_\_\_\_ moderately \_\_\_\_\_ marginally \_\_\_\_\_ not at all  
Please list your means of encouragement:

3. Do you routinely include materials from other disciplines on your syllabus?

\_\_\_\_\_ yes          \_\_\_\_\_ no

If yes, which

disciplines: \_\_\_\_\_

4. Do you incorporate work associated with feminist jurisprudence in your classroom teaching materials?

\_\_\_\_\_ always          \_\_\_\_\_ often          \_\_\_\_\_ sometimes          \_\_\_\_\_ seldom          \_\_\_\_\_ never

Please list some of the scholars you include:

5. To what extent would you be interested in incorporating different materials (e.g., from other disciplines and/or works by feminist legal scholars) in your classes?

extensively  moderately  marginally  not at all

What deters you from doing so (indicate as many as applicable)?

- lack of casebook  
 lack of good materials (e.g., articles, books)  
 too much 'basic' material to cover already  
 lack of student interest  
 other, please list: \_\_\_\_\_

*New scholarship and movements, such as critical legal studies, law and economics, and feminist jurisprudence, have begun to have an impact on the study of law. The next section focuses on one such movement.*

### **The following section examines the integration of feminist jurisprudence within the law school curriculum**

As more women have entered the field of law, some have developed scholarship that presents alternative ways of viewing the law which they have referred to as feminist jurisprudence. Feminist legal scholars and lawyers are attempting to use this new scholarship to build legal theory and to enlighten litigation strategies. Although not a monolithic canon, feminist jurisprudence, at a minimum, examines the law from the perspective of women. It offers theories and views with the aim of transforming legal relations.

1. How familiar are you with feminist jurisprudential literature as compared to your colleagues at this institution?

extensively  moderately  marginally  not at all

Please indicate through which medium (check all that apply).

- conferences  
 colleagues (at current institution)  
 colleagues (at other institutions)  
 law review/journals  
 books  
 law students  
 reading groups  
 other: \_\_\_\_\_

2. During the past year, have you read any law review articles written from a feminist jurisprudential perspective?

yes  no

If yes, was it, or were they (check all that apply):

- in your area of speciality  
 part of a tenure review case  
 part of a merit/promotion review case  
 part of an applicant's dossier for a faculty position  
 general interest

If one or more articles were in your speciality, were they:  
(check as many as appropriate)

- recommended by a colleague (current institution)  
 recommended by a colleague (other institution)  
 cited in article  
 cited in a law review  
 mentioned at a conference  
 cited in books  
 cited in a "table of contents" list

4. Do you consider your own work to be feminist?  
 extensively  moderately  marginally  not at all

5. Do you cite feminist legal scholars in your own scholarly work?  
 always  often  sometimes  seldom  never  
If so, please name some of the feminist legal scholars whom you cite:

6. Do you find feminist jurisprudence to be of any help or usefulness to your scholarly work?

yes  no

Please explain:

7. As far as you are aware, has feminist jurisprudence affected the work of your colleagues at this institution?

extensively  moderately  marginally  not at all

8. Advocates of feminist jurisprudence claim that it has the potential to reshape legal doctrine. To what extent do you believe this is true for your speciality?

Speciality \_\_\_\_\_

extensively  moderately  marginally

not at all  don't know

If you recognize any current impact, please describe:

9. When discussing legal issues with your colleagues at this institution, do you refer to feminist legal scholars as authorities?  
 always  often  sometimes  seldom  never
10. Do your colleagues at this institution refer to feminist legal scholars as authorities?  
 always  often  sometimes  seldom  never
11. To your knowledge, does your Law School have any of the following: (check all that apply):  
 reading groups which focuses on issues of gender  
 invited colloquia which focus on gender issues  
 symposia focusing on issues of gender  
 workshops focusing on issues of gender

**If your Law School has had any of the above activities, have you attended them?**

reading groups	<input type="checkbox"/> yes	<input type="checkbox"/> no
colloquia	<input type="checkbox"/> yes	<input type="checkbox"/> no
symposia	<input type="checkbox"/> yes	<input type="checkbox"/> no
workshop	<input type="checkbox"/> yes	<input type="checkbox"/> no

12. Would you say that the degree of integration of feminist jurisprudence into "core" courses depends on who is teaching the course at your institution?  
 extensively  moderately  marginally  
 not at all  don't know
13. To what extent has feminist jurisprudence been integrated into the law school curriculum at your institution?  
 extensively  moderately  marginally  
 not at all  don't know
14. If you have integrated feminist scholarship into your courses, which mechanisms do you employ?  
 devote 1-2 classes to discussion of feminist scholarship  
 discuss aspects of feminist scholarship in most class sessions  
 other, please explain:

15. To what extent would you say that feminist content is being integrated into the following "core" courses, at your institution:

**Contracts**

extensively                       moderately                       marginally  
 not at all                               don't know

**Torts**

extensively                       moderately                       marginally  
 not at all                               don't know

**Property**

extensively                       moderately                       marginally  
 not at all                               don't know

**Civil Procedure**

extensively                       moderately                       marginally  
 not at all                               don't know

**Criminal Law**

extensively                       moderately                       marginally  
 not at all                               don't know

**Constitutional Law**

extensively                       moderately                       marginally  
 not at all                               don't know

**Legal Writing**

extensively                       moderately                       marginally  
 not at all                               don't know

16. Given the critical role faculty can played in curricular change, does your law school use any of the following faculty development devices to aid in the integration of feminist jurisprudence? (check all that apply)

- release time from teaching
- financial support for workshop(s) at your University
- financial support to attend workshops at other institutions
- provide seminars to explore new scholarship

If so, have you used any of these devices? Which ones?

- release time     yes    no
- workshops at own institution                       yes    no
- workshops at other institutions                       yes    no
- seminars to explore scholarship                       yes    no

17. There are several projects underway to incorporate women into casebooks. Are you familiar with a project in your speciality?

yes     no

If yes, would you consider using such a casebook?

yes     no

18. The American Association of Law Schools (AALS) and The Society of American Law Teachers (SALT) have both sponsored symposia, meetings, and workshops designed to integrate women into the curriculum. Have you ever attended one of these gatherings?

yes     no



19. Have you attended any other conferences or meetings whose goal involved pedagogical or curricular change?

\_\_\_\_\_ yes \_\_\_\_\_ no

If yes, what was the name of the conferences/meetings.

20. Are you involved in clinical training of law students?

\_\_\_\_\_ yes \_\_\_\_\_ no

If so, in what ways, if any, does feminism affect your teaching of lawyering? What are some of the teaching techniques you employ?

21. Do you believe there is a distinct "feminist pedagogy"?

\_\_\_\_\_ yes \_\_\_\_\_ no

Please explain (how would you describe a feminist method):

22. Would you characterize the current climate for women faculty in your school as supportive?

\_\_\_ extensively \_\_\_ moderately \_\_\_ marginally \_\_\_ not at all

**Any comments you would like to make about the survey?**

check here if you would like a summary of results \_\_\_\_\_

**THANK YOU FOR YOUR TIME**

## APPENDIX D

## **Regression Analysis of Utilization of Alternative Pedagogies**

### **Personal and Educational Variables:**

Total of 18 variables. These variables constitute background characteristics of faculty. They are included in the analysis to function as control variables. Sex, race, age, and political views are personal variables. They are important in order to control for gender, racial, and generational differences. Years at current institution, rank-professorial, rank-clinical, and tenure are personal characteristics which may effect one's attitude toward the dependent variable under investigation. Rank was divided into two codes because of the important differences between the two groups. Undergraduate major in arts (includes: art, english, history, journalism, language and literature, music, philosophy, speech, theater, theology, and other arts), undergraduate major in social sciences (includes: anthropology, economics, ethnic studies, geography, political science, psychology, social work, sociology, women's studies, other social science), earning a law degree at producer school, participation in law review, work as clerk for a judge, work for law firm, work for government, work for public interest law, or work for private law firm are included in order to ascertain the possible effects of early socialization on the dependent variables. Only two undergraduate major areas were included because 90% of respondents majored in one of these two. (For more information on independent variables used in this study, refer to chapter 3)

#### **Sex:**

1=male; 2=female

#### **Age:**

actual age was coded 30-78

#### **White:**

1=no; 2=yes

#### **Black:**

1=no; 2=yes

**Polview: Political Views**

1=far right; 2=conservative; 3=moderate; 4=liberal; 5=far left

**Yrcur: Years at current institution**

1=0-3; 2=4-7; 3=8-14; 4=15-21; 5=22-28; 6=29+

**Rank - professorial (includes: assistant, associate and full):**

1=no; 2=yes

**Rank - clinical**

1=no; 2=yes

**Tenure:**

1=no; 2=yes

**Arts: Major in the Arts**

1=no; 2=yes

**SS: Major in the Social Sciences**

1=no; 2=yes

**Lawprod: Earning a law degree at a "producer" law school**

1=no; 2=yes

**Lawrev: Participation on Law Review while in law school**

1=no; 2=yes

**Clerk: Worked as a law clerk for a judge after law school**

1=no; 2=yes

**Lawfirm: worked at a law firm after law school**

1=no; 2=yes

**Govt: Worked for government**

1=no; 2=yes

**PI: worked for public interest law firm**

1=no; 2=yes

Pri: worked for private law firm  
1=no; 2=yes

**Belief/Activity Variables:**

Total of 15 variables. Three 'belief' variables were included in the analysis -- Belief that alternative teaching techniques are good; belief that alternative pedagogies can reshape legal education; and belief in a feminist pedagogy. These variables were included as a mechanism to tap into faculty values. Faculty values may be important factors to revealing their receptivity to changes within the law school. Two self-ratings of faculty member's teaching style were included (Chgatt; Soctech). How faculty view their teaching style may be a factor in facilitating or inhabiting their willingness to experiment with new modes of teaching. Seven participation variables were included. Respondents were presented with a list of seven activities and asked if they participated in them. The activities were chosen based on the literature and their potential to expose faculty to new knowledge and new ways of teaching. They constitute some of the environmental variables in the study. One variable (project1) specifically asked if faculty member's have knowledge of projects to incorporate women into new casebooks. This was included as a measure of faculty awareness of changes. One cannot change or incorporate new materials if one does not know of its existence. Two variables (AALS; conmtg) ask if faculty have attended meetings with deal with pedagogical or curricular change. Again, a faculty member needs to be aware of changes going on in a discipline before he/she can make any moves towards innovation.

Belief: Belief that alternative teaching techniques are good and plan to use them  
1=no; 2=yes

**Reshape:** Believe that alternative pedagogies can reshape legal education

1=not at all; 2=marginally; 3=moderately; 4=extensively

**Femped:** Belief in feminist pedagogy

1=no; 2=yes

**Chgatt:** Changed attitude toward teaching

1=not at all; 2=marginally; 3=moderately; 4=extensively

**Soctech:** Consider self Socratic teacher

1=not at all; 2=marginally; 3=moderately; 4=extensively

**Team:** participation in team teaching (within past two years)

1=no; 2=yes

**Antdisc:** Participation in teaching in another discipline (within past two years)

1=no; 2=yes

**Currchg:** Participation in curriculum change project (within past two years)

1=no; 2=yes

**Newcour:** Participation in designing new course (within past two years)

1=no; 2=yes

**Read:** Participation in a campus-wide reading group (within past two years)

1=no; 2=yes

**Edclass:** Participation in taking an educational class (within past two years)

1=no; 2=yes

**Altstyle:** Participation in altering teaching style (within past two years)

1=no; 2=yes

**Project1: knowledge of projects to incorporate women into casebooks**

**1=no; 2=yes**

**AALS: Attendance at AALS/SALT meetings and workshops designed to integrate women into the curriculum**

**1=no; 2=yes**

**Conmtg: Attendance at other conferences of meetings whose goal invovled pedagogical or curricular change**

**1=no; 2=yes**

**Environmental Variables:**

**Total of 11 variables. Eight variables (env1-4; device1-4) attempt to ascertain aspects of the environment of the law school or institution which may be factors in promoting change. Other institutional environmental factors included here were percentage of women faculty members and percentage of women students. These are important variables to include because social science research has suggested that women in token numbers will conform to the norms of the majority rather than follow paths of difference. Whether women faculty have a supportive climate at an institution was included because of previous research by (Sandler and Hall, 1986).**

**Env1: Environment - law school has reading group which focuses on gender**

**1=no; 2=yes**

**Env2: Environment - law school has had colloquia which focus on gender**

**1=no; 2=yes**

**Env3: Environment: law school has sponsored symposia which focus on gender**

**1=no; 2=yes**



**Env4: Environment: law school has organized workshops which focus on gender**  
1=no; 2=yes

**Device1: Institutions has policy of release time from teaching for faculty development**  
1=no; 2=yes

**Device2: institution offers financial support for faculty to attend workshops at current institution - form of faculty development**  
1=no; 2=yes

**Device3: institution offers financial support to attend workshops at other institutions - form of faculty development**  
1=no; 2=yes

**Device4: institution offers seminars to explore new scholarship - form of faculty development**  
1=no; 2=yes

**Climwo: Law school has a supportive climate for women**  
1=not at all; 2=marginally; 3=moderately; 4=extensively

**Wofaper: Percentage of women faculty members at law school actual percentages ranged from: 9 percent to 47 percent**

**Wostper: Percentage of women students in law school actual percentage ranged from: 38 percent to 58 percent**

## **Regression Analysis of Knowledge of Feminist Jurisprudence**

### **Personal and Educational Variables:**

Total of 18 variables. These variables constitute background characteristics of faculty. They are included in the analysis to function as control variables. Sex, race, age, and political views are personal variables. They are important in order to control for gender, racial, and generational differences. Years at current institution, rank-professorial, rank-clinical, and tenure are personal characteristics which may effect one's attitude toward the dependent variable under investigation. Rank was divided into two codes because of the important differences between the two groups. Undergraduate major in arts (includes: art, english, history, journalism, language and literature, music, philosophy, speech, theater, theology, and other arts), undergraduate major in social sciences (includes: anthropology, economics, ethnic studies, geography, political science, psychology, social work, sociology, women's studies, other social science), earning a law degree at producer school, participation in law review, work as clerk for a judge, work for law firm, work for government, work for public interest law, or work for private law firm are included in order to ascertain the possible effects of early socialization on the dependent variables. Only two undergraduate major areas were included because 90% of respondents majored in one of these two. (For more information on independent variables used in this study, refer to chapter 3)

### **Sex:**

1=male; 2=female

### **Age:**

actual age was coded 30-78

### **White:**

1=no; 2=yes

**Black:**

**1=no; 2=yes**

**Polview: Political Views**

**1=far right; 2=conservative; 3=moderate; 4=liberal; 5=far left**

**Yrcur: Years at current institution**

**1=0-3; 2=4-7; 3=8-14; 4=15-21; 5=22-28; 6=29+**

**Rank - professorial (includes: assistant, associate and full):**

**1=no; 2=yes**

**Rank - clinical**

**1=no; 2=yes**

**Tenure:**

**1=no; 2=yes**

**Arts: Major in the Arts**

**1=no; 2=yes**

**SS: Major in the Social Sciences**

**1=no; 2=yes**

**Lawprod: Attendance at a "producer" law school**

**1=no; 2=yes**

**Lawrev: Participation on Law Review while in law school**

**1=no; 2=yes**

**Clerk: Worked as a law clerk for a judge after law school**

**1=no; 2=yes**

**Lawfirm: worked at a law firm after law school**

**1=no; 2=yes**

**Govt: Worked for government**

**1=no; 2=yes**

PI: worked for public interest law firm  
1=no; 2=yes

Pri: worked for private law firm  
1=no; 2=yes

Belief/Activity Variables:

Total of 10 variables. Seven participation variables were included. Respondent were presented with a list of seven activities and asked if they participated in them. The activities were chosen based on the literature and their potential to expose faculty to new knowledge and new ways of teaching. They constitute some of the environmental variables in the study. One variable (project1) specifically asked if faculty member's have knowledge of projects to incorporate women into casebooks use in many areas of law. This was included as a measure of faculty awareness of changes. One cannot change or incorporate new materials if one does not know of its existence. Two variables (AALS; conmtg) ask if faculty have attended meetings with deal with pedagogical or curricular change. Again, a faculty member needs to be aware of changes going on in a discipline before he/she can make any moves towards innovation.

Team: participation in team teaching (within past two years)  
1=no; 2=yes

Antdisc: Participation in teaching in another discipline  
(within past two years)  
1=no; 2=yes

Currchg: Participation in curriculum change project (within  
past two years)  
1=no; 2=yes

Newcour: Participation in designing new course (within past  
two years)  
1=no; 2=yes

**Read:** Participation in a campus-wide reading group (within past two years)  
1=no; 2=yes

**Edclass:** Participation in taking an educational class (within past two years)  
1=no; 2=yes

**Altstyle:** Participation in altering teaching style (within past two years)  
1=no; 2=yes

**Project1:** knowledge of projects to incorporate women into casebooks  
1=no; 2=yes

**AALS:** Attendance at AALS/SALT meetings and workshops designed to integrate women into the curriculum  
1=no; 2=yes

**Conmtg:** Attendance at other conferences of meetings whose goal involved pedagogical or curricular change  
1=no; 2=yes

**Environmental Variables:**

Total of 12 variables. Eight variables (env1-4; device1-4) attempt to ascertain aspects of the environment of the law school or institution which may be factors in promoting change. Other institutional environmental factors included here were percentage of women faculty members and percentage of women students. These are important variables to include because social science research has suggested that women in token numbers will conform to the norms of the majority rather than follow paths of difference. Whether women faculty have a supportive climate at an institution was included because of previous research by (Sandler and Hall, 1986). The percentage of articles with a feminist

jurisprudential focus published by the law review of the institution was included because of the importance of law reviews for disseminating information. If an institution has a higher percentage of articles, then it may be an indicator of the integration of this scholarship at that institution. {This last variable was not included in the first regression since is primarily a measure of feminist jurisprudence not of usage of alternative pedagogies}

Env1: Environment - law school has reading group which focuses on gender  
1=no; 2=yes

Env2: Environment - law school has had colloquia which focus on gender  
1=no; 2=yes

Env3: Environment: law school has sponsored symposia which focus on gender  
1=no; 2=yes

Env4: Environment: law school has organized workshops which focus on gender  
1=no; 2=yes

Device1: Institutions has policy of release time from teaching for faculty development  
1=no; 2=yes

Device2: institution offers financial support for faculty to attend workshops at current institution - form of faculty development  
1=no; 2=yes

Device3: institution offers financial support to attend workshops at other institutions - form of faculty development  
1=no; 2=yes

**Device4:** institution offers seminars to explore new scholarship - form of faculty development  
1=no; 2=yes

**Climwo:** Law school has a supportive climate for women  
1=not at all; 2=marginally; 3=moderately; 4=extensively

**Wofaper:** Percentage of women faculty members at law school  
actual percentages ranged from: 9 percent to 47 percent

**Wostper:** Percentage of women students in law school  
actual percentage ranged from: 38 percent to 58 percent

**Lrperc:** Percentage of articles in the school's law review which had a feminist jurisprudential focus (five year period)  
Actual percentage ranged from 1 percent to 10 percent

## **Regression Analysis of Integration of Feminist Jurisprudence Into Curriculum**

### **Personal and Educational Variables:**

Total of 18 variables. These variables constitute background characteristics of faculty. They are included in the analysis to function as control variables. Sex, race, age, and political views are personal variables. They are important in order to control for gender, racial, and generational differences. Years at current institution, rank-professorial, rank-clinical, and tenure are personal characteristics which may effect one's attitude toward the dependent variable under investigation. Rank was divided into two codes because of the important differences between the two groups. Undergraduate major in arts (includes: art, english, history, journalism, language and literature, music, philosophy, speech, theater, theology, and other arts), undergraduate major in social sciences (includes: anthropology, economics, ethnic studies, geography, political science, psychology, social work, sociology, women's studies, other social science), earning a law degree at producer school, participation in law review, work as clerk for a judge, work for law firm, work for government, work for public interest law, or work for private law firm are included in order to ascertain the possible effects of early socialization on the dependent variables. Only two undergraduate major areas were included because 90% of respondents majored in one of these two. (For more information on independent variables used in this study, refer to chapter 3)

#### **Sex:**

1=male; 2=female

#### **Age:**

actual age was coded 30-78

#### **White:**

1=no; 2=yes

#### **Black:**



1=no; 2=yes

**Polview: Political Views**

1=far right; 2=conservative; 3=moderate; 4=liberal; 5=far left

**Yrcur: Years at current institution**

1=0-3; 2=4-7; 3=8-14; 4=15-21; 5=22-28; 6=29+

**Rank - professorial (includes: assistant, associate and full):**

1=no; 2=yes

**Rank - clinical**

1=no; 2=yes

**Tenure:**

1=no; 2=yes

**Arts: Major in the Arts**

1=no; 2=yes

**SS: Major in the Social Sciences**

1=no; 2=yes

**Lawprod: Attendance at a "producer" law school**

1=no; 2=yes

**Lawrev: Participation on Law Review while in law school**

1=no; 2=yes

**Clerk: Worked as a law clerk for a judge after law school**

1=no; 2=yes

**Lawfirm: worked at a law firm after law school**

1=no; 2=yes

**Govt: Worked for government**

1=no; 2=yes

**PI: worked for public interest law firm**

1=no; 2=yes

Pri: worked for private law firm

1=no; 2=yes

Belief/Activity Variables:

Total of 14 variables. Two variables (Fjlit; Readfj) asking if faculty were familiar with feminist jurisprudential scholarship and if they had read an article with a feminist focus were included. In order to integrate feminist jurisprudence into the curriculum, it is necessary for faculty to have some familiarity with the scholarship. Therefore, these variables were included to see, if in fact, familiarity with feminist jurisprudential literature is a factor in incorporating this scholarship into their courses. Two variables, belief that feminist jurisprudence can reshape legal education in their speciality and belief that feminist jurisprudence has affected work of colleagues, were used in order to assess faculty beliefs of feminist jurisprudence. They were included here as a mechanism to tap into faculty values and awareness of colleagues' work. Faculty values may be important factors to revealing their receptivity to changes within the law school. Seven participation variables were included. Respondent were presented with a list of seven activities and asked if they participated in them. The activities were chosen based on the literature and their potential to expose faculty to new knowledge and new ways of teaching. They constitute some of the environmental variables in the study. One variable (project1) specifically asked if faculty member's have knowledge of projects to incorporate women into casebooks use in many areas of law. This was included as a measure of faculty awareness of changes. One cannot change or incorporate new materials if one does not know of its existence. Two variables (AALS; conmtg) ask if faculty have attended meetings with deal with pedagogical or curricular change. Again, a faculty member needs to be aware of changes going on in a discipline before he/she can make any moves towards innovation.

**Fjlit:** Familiarity with Feminist Jurisprudential literature compared to colleagues at institution  
1=not at all; 2=marginally; 3=moderately; 4=extensively

**Readfj:** Read a law review article written from a feminist jurisprudential perspective during past year  
1=no; 2=yes

**Fjaffect:** Belief that Feminist jurisprudence has affected work of colleagues at their institution  
1=not at all; 2=marginally; 3=moderately; 4=extensively

**Fjreshap:** Belief that Feminist Jurisprudence can reshape legal education  
1=don't know; 2=not at all; 3=marginally; 4=moderately; 5=extensively

**Team:** participation in team teaching (within past two years)  
1=no; 2=yes

**Antdisc:** Participation in teaching in another discipline (within past two years)  
1=no; 2=yes

**Currchg:** Participation in curriculum change project (within past two years)  
1=no; 2=yes

**Newcour:** Participation in designing new course (within past two years)  
1=no; 2=yes

**Read:** Participation in a campus-wide reading group (within past two years)  
1=no; 2=yes

**Edclass:** Participation in taking an educational class (within past two years)

**1=no; 2=yes**

**Altstyle: Participation in altering teaching style (within past two years)**

**1=no; 2=yes**

**Project1: knowledge of projects to incorporate women into casebooks**

**1=no; 2=yes**

**AALS: Attendance at AALS/SALT meetings and workshops designed to integrate women into the curriculum**

**1=no; 2=yes**

**Conmtg: Attendance at other conferences of meetings whose goal involved pedagogical or curricular change**

**1=no; 2=yes**

**Environmental Variables:**

**Total of 12 variables. Eight variables (env1-4; device1-4) attempt to ascertain aspects of the environment of the law school or institution which may be factors in promoting change. Other institutional environmental factors included here were percentage of women faculty members and percentage of women students. These are important variables to include because social science research has suggested that women in token numbers will conform to the norms of the majority rather than follow paths of difference. Whether women faculty have a supportive climate at an institution was included because of previous research by (Sandler and Hall, 1986). The percentage of articles with a feminist jurisprudential focus published by the law review of the institution was included because of the importance of law reviews for disseminating information. If an institution has a higher percentage of articles, then it may be an indicator of the integration of this scholarship at that institution.**

**Env1: Environment - law school has reading group which focuses on gender  
1=no; 2=yes**

**Env2: Environment - law school has had colloquia which focus on gender  
1=no; 2=yes**

**Env3: Environment: law school has sponsored symposia which focus on gender  
1=no; 2=yes**

**Env4: Environment: law school has organized workshops which focus on gender  
1=no; 2=yes**

**Device1: Institution has policy of release time from teaching for faculty development  
1=no; 2=yes**

**Device2: institution offers financial support for faculty to attend workshops at current institution - form of faculty development  
1=no; 2=yes**

**Device3: institution offers financial support to attend workshops at other institutions - form of faculty development  
1=no; 2=yes**

**Device4: institution offers seminars to explore new scholarship - form of faculty development  
1=no; 2=yes**

**Climwo: Law school has a supportive climate for women  
1=not at all; 2=marginally; 3=moderately; 4=extensively**

**Wofaper: Percentage of women faculty members at law school  
actual percentages ranged from: 9 percent to 47 percent**

**Wostper:** Percentage of women students in law school  
actual percentage ranged from: 38 percent to 58 percent

**Lrperc:** Percentage of articles in the school's law review  
which had a feminist jurisprudential focus (five year period)  
Actual percentage ranged from 1 percent to 10 percent

## **Regression Analysis of Faculty Members' Incorporation of Feminist Jurisprudence Into Their Courses**

### **Personal and Educational Variables:**

Total of 18 variables. These variables constitute background characteristics of faculty. They are included in the analysis to function as control variables. Sex, race, age, and political views are personal variables. They are important in order to control for gender, racial, and generational differences. Years at current institution, rank-professorial, rank-clinical, and tenure are personal characteristics which may effect one's attitude toward the dependent variable under investigation. Rank was divided into two codes because of the important differences between the two groups. Undergraduate major in arts (includes: art, english, history, journalism, language and literature, music, philosophy, speech, theater, theology, and other arts), undergraduate major in social sciences (includes: anthropology, economics, ethnic studies, geography, political science, psychology, social work, sociology, women's studies, other social science), earning a law degree at producer school, participation in law review, work as clerk for a judge, work for law firm, work for government, work for public interest law, or work for private law firm are included in order to ascertain the possible effects of early socialization on the dependent variables. Only two undergraduate major areas were included because 90% of respondents majored in one of these two. (For more information on independent variables used in this study, refer to chapter 3)

**Sex:**

**1=male; 2=female**

**Age:**

**actual age was coded 30-78**

**White:**

**1=no; 2=yes**

**Black:**

**1=no; 2=yes**

**Polview: Political Views**

**1=far right; 2=conservative; 3=moderate; 4=liberal; 5=far left**

**Yrcur: Years at current institution**

**1=0-3; 2=4-7; 3=8-14; 4=15-21; 5=22-28; 6=29+**

**Rank - professorial (includes: assistant, associate and full):**

**1=no; 2=yes**

**Rank - clinical**

**1=no; 2=yes**

**Tenure:**

**1=no; 2=yes**

**Arts: Major in the Arts**

**1=no; 2=yes**

**SS: Major in the Social Sciences**

**1=no; 2=yes**

**Lawprod: Attendance at a "producer" law school**

**1=no; 2=yes**

**Lawrev: Participation on Law Review while in law school**

**1=no; 2=yes**

**Clerk: Worked as a law clerk for a judge after law school**

**1=no; 2=yes**

**Lawfirm: worked at a law firm after law school**

**1=no; 2=yes**

**Govt: Worked for government**

**1=no; 2=yes**

**PI: worked for public interest law firm**



1=no; 2=yes

Pri: worked for private law firm

1=no; 2=yes

Belief/Activity Variables:

Total of 14 variables. Two variables (Fjlit; Readfj) asking if faculty were familiar with feminist jurisprudential scholarship and if they had read an article with a feminist focus were included. In order to integrate feminist jurisprudence into the curriculum, it is necessary for faculty to have some familiarity with the scholarship. Therefore, these variables were included to see, if in fact, familiarity with feminist jurisprudential literature is a factor in incorporating this scholarship into their courses. Two variables, belief that feminist jurisprudence can reshape legal education in their speciality and belief that feminist jurisprudence has affected work of colleagues, were used in order to assess faculty beliefs of feminist jurisprudence. They were included here as a mechanism to tap into faculty values and awareness of colleagues' work. Faculty values may be important factors to revealing their receptivity to changes within the law school. Seven participation variables were included. Respondent were presented with a list of seven activities and asked if they participated in them. The activities were chosen based on the literature and their potential to expose faculty to new knowledge and new ways of teaching. They constitute some of the environmental variables in the study. One variable (project1) specifically asked if faculty member's have knowledge of projects to incorporate women into casebooks use in many areas of law. This was included as a measure of faculty awareness of changes. One cannot change or incorporate new materials if one does not know of its existence. Two variables (AALS; conmtg) ask if faculty have attended meetings with deal with pedagogical or curricular change. Again, a faculty member needs to be aware of changes going on in a discipline before he/she can make any moves towards innovation.

**Fjlit:** Familiarity with Feminist Jurisprudential literature compared to colleagues at institution  
1=not at all; 2=marginally; 3=moderately; 4=extensively

**Readfj:** Read a law review article written from a feminist jurisprudential perspective during past year  
1=no; 2=yes

**Fjffect:** Belief that Feminist jurisprudence has affected work of colleagues at their institution  
1=not at all; 2=marginally; 3=moderately; 4=extensively

**Fjreshap:** Belief that Feminist Jurisprudence can reshape legal education  
1=don't know; 2=not at all; 3=marginally; 4=moderately; 5=extensively

**Team:** participation in team teaching (within past two years)  
1=no; 2=yes

**Antdisc:** Participation in teaching in another discipline (within past two years)  
1=no; 2=yes

**Currchg:** Participation in curriculum change project (within past two years)  
1=no; 2=yes

**Newcour:** Participation in designing new course (within past two years)  
1=no; 2=yes

**Read:** Participation in a campus-wide reading group (within past two years)  
1=no; 2=yes

**Edclass:** Participation in taking an educational class (within past two years)

1=no; 2=yes

**Altstyle:** Participation in altering teaching style (within past two years)

1=no; 2=yes

**Project1:** knowledge of projects to incorporate women into casebooks

1=no; 2=yes

**AALS:** Attendance at AALS/SALT meetings and workshops designed to integrate women into the curriculum

1=no; 2=yes

**Conmtg:** Attendance at other conferences of meetings whose goal involved pedagogical or curricular change

1=no; 2=yes

**Environmental Variables:**

Total of 12 variables. Eight variables (env1-4; device1-4) attempt to ascertain aspects of the environment of the law school or institution which may be factors in promoting change. Other institutional environmental factors included here were percentage of women faculty members and percentage of women students. These are important variables to include because social science research has suggested that women in token numbers will conform to the norms of the majority rather than follow paths of difference. Whether women faculty have a supportive climate at an institution was included because of previous research by (Sandler and Hall, 1986). The percentage of articles with a feminist jurisprudential focus published by the law review of the institution was included because of the importance of law reviews for disseminating information. If an institution has a higher percentage of articles, then it may be an indicator of the integration of this scholarship at that institution.

**Env1: Environment - law school has reading group which focuses on gender  
1=no; 2=yes**

**Env2: Environment - law school has had colloquia which focus on gender  
1=no; 2=yes**

**Env3: Environment: law school has sponsored symposia which focus on gender  
1=no; 2=yes**

**Env4: Environment: law school has organized workshops which focus on gender  
1=no; 2=yes**

**Device1: Institution has policy of release time from teaching for faculty development  
1=no; 2=yes**

**Device2: institution offers financial support for faculty to attend workshops at current institution - form of faculty development  
1=no; 2=yes**

**Device3: institution offers financial support to attend workshops at other institutions - form of faculty development  
1=no; 2=yes**

**Device4: institution offers seminars to explore new scholarship - form of faculty development  
1=no; 2=yes**

**Climwo: Law school has a supportive climate for women  
1=not at all; 2=marginally; 3=moderately; 4=extensively**

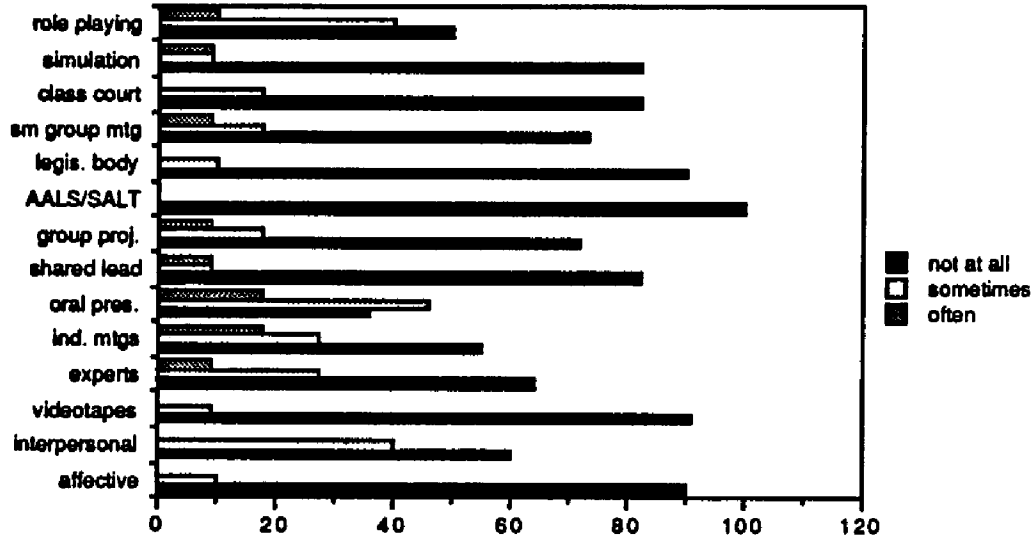
**Wofaper: Percentage of women faculty members at law school actual percentages ranged from: 9 percent to 47 percent**

**Wostper: Percentage of women students in law school  
actual percentage ranged from: 38 percent to 58 percent**

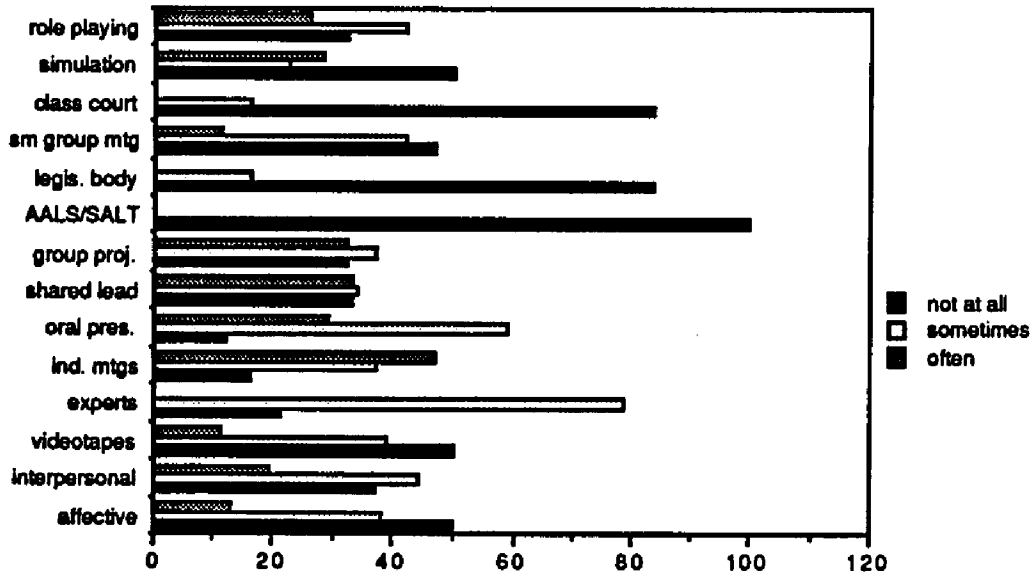
**Lrperc: Percentage of articles in the school's law review  
which had a feminist jurisprudential focus (five year period)  
Actual percentage ranged from 1 percent to 10 percent**

## APPENDIX E

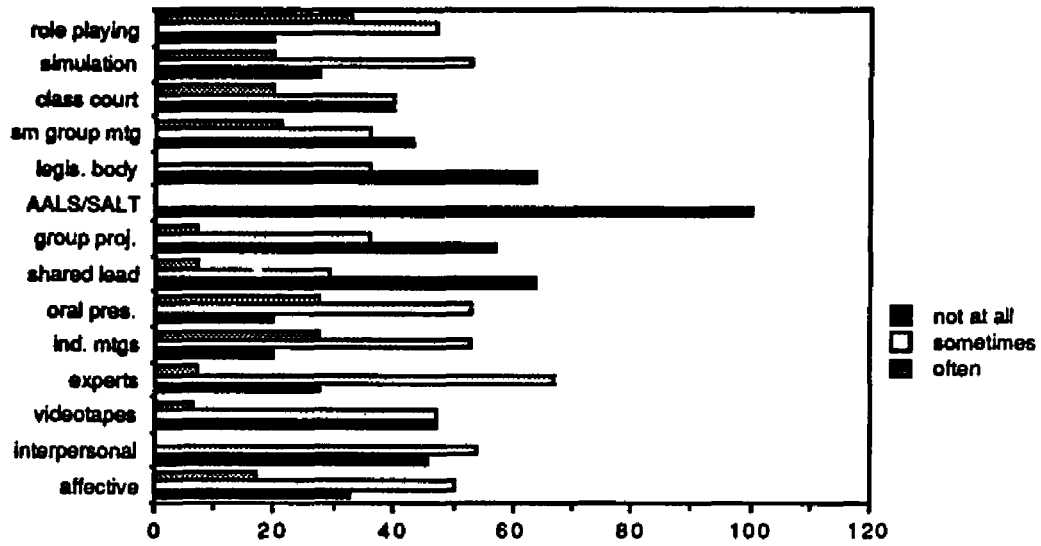
**Figure E-1**  
**Teaching Techniques - Chicago**



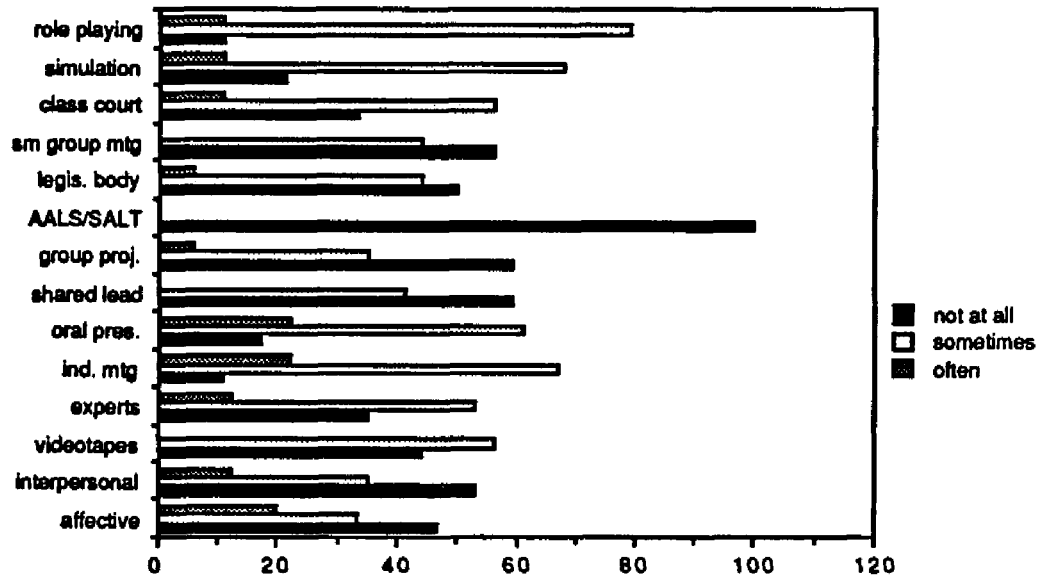
**Figure E-2**  
**Teaching Techniques - Columbia**



**Figure E-3**  
**Teaching Techniques - Harvard**

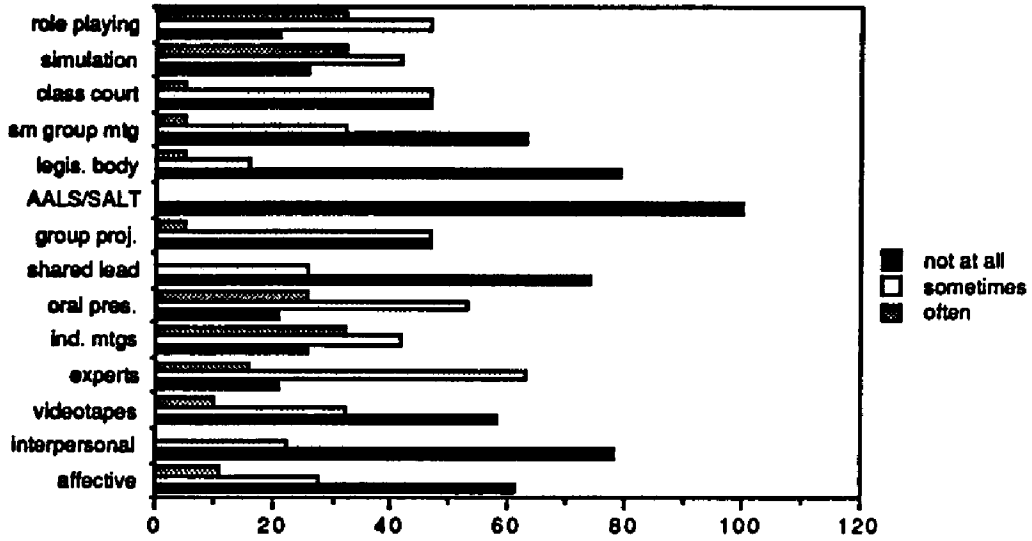


**Figure E-4**  
**Teaching Techniques - Iowa**

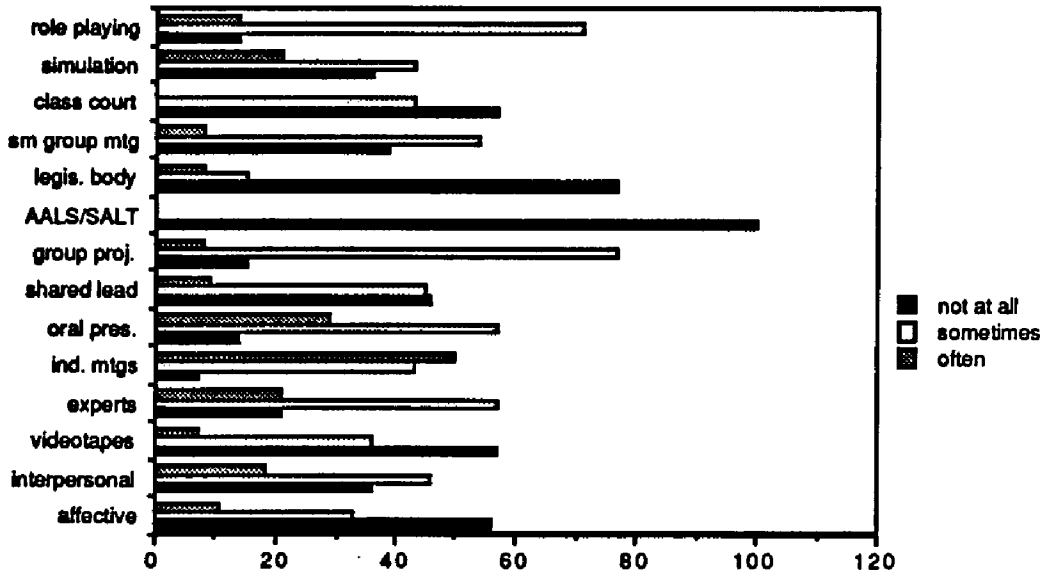




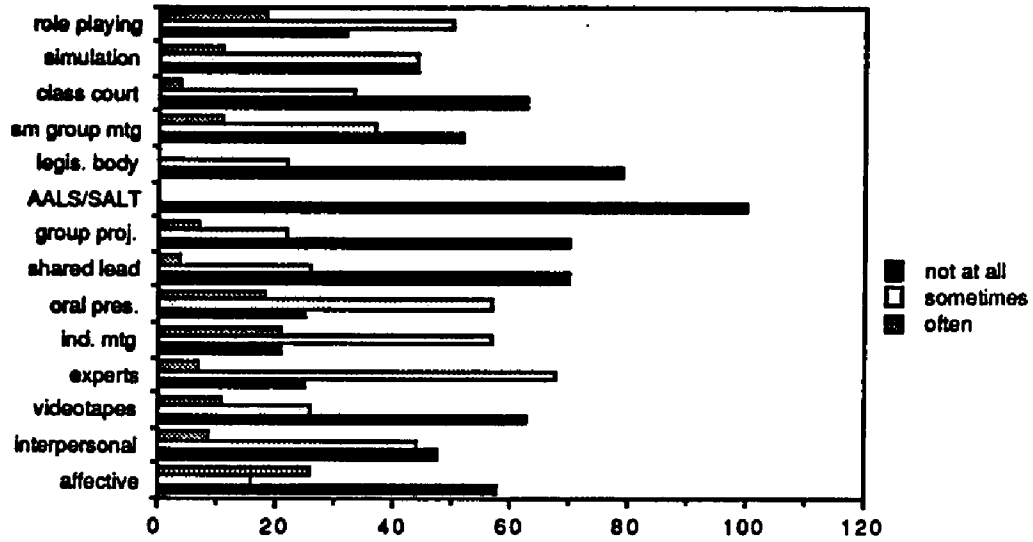
**Figure E-5**  
**Teaching Techniques - Minnesota**



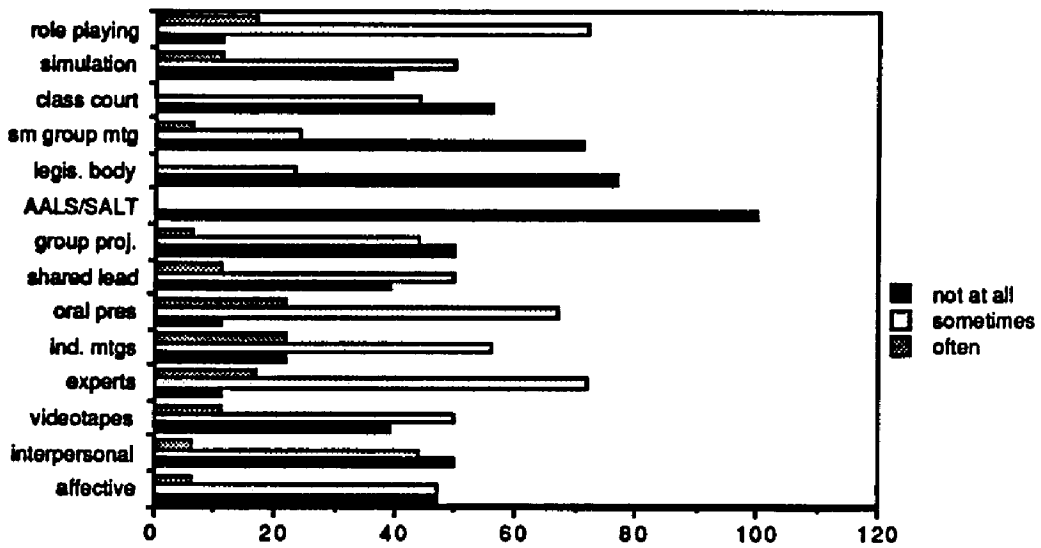
**Figure E-6**  
**Teaching Techniques - Stanford**



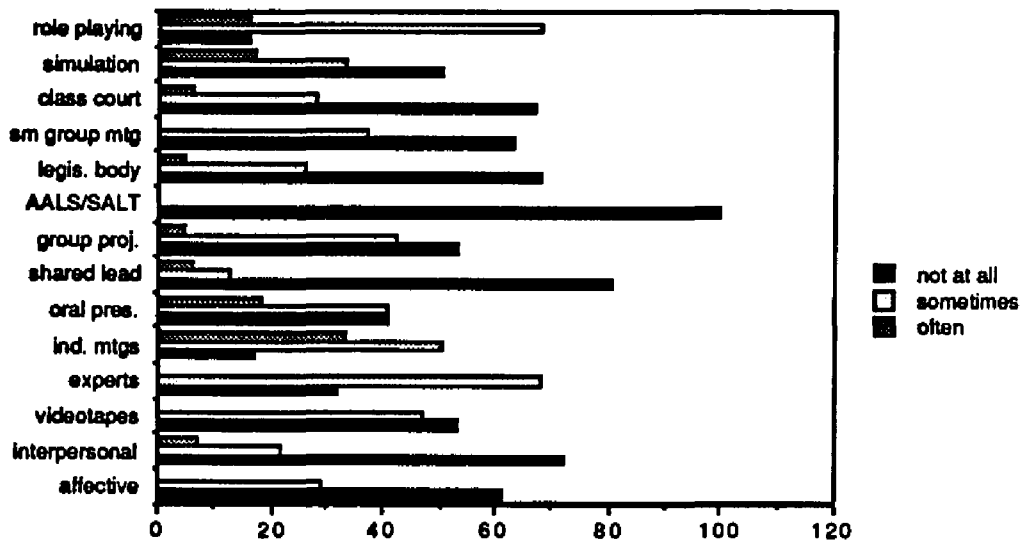
**Figure E-7**  
**Teaching Techniques - UCLA**



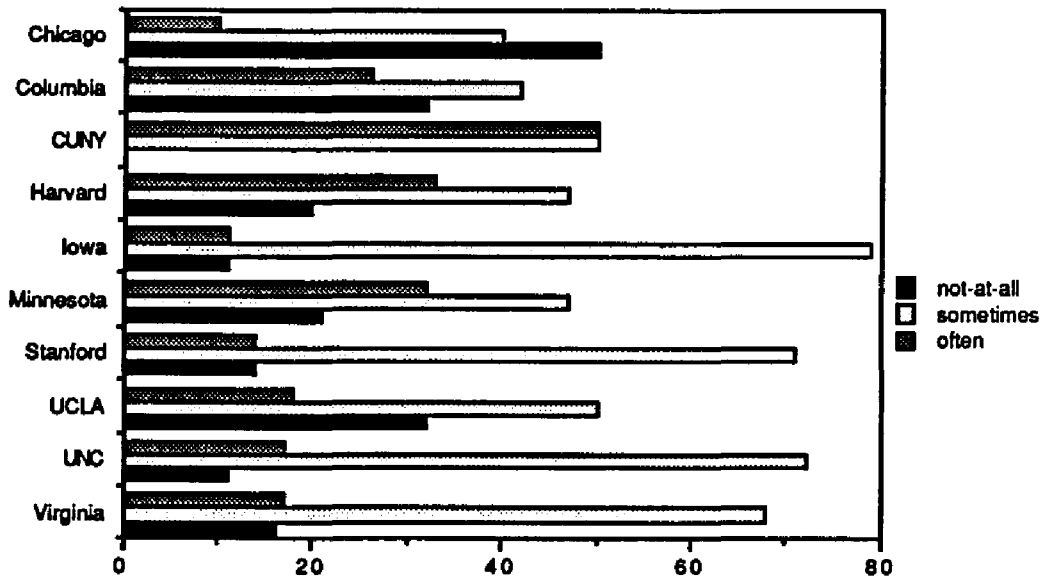
**Figure E-8**  
**Teaching Techniques - UNC**



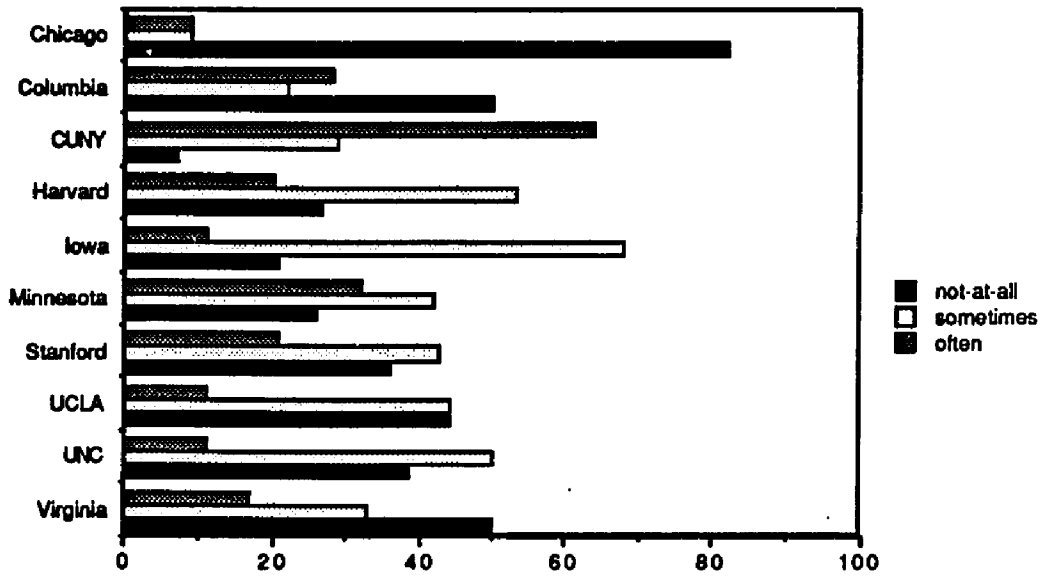
**Figure E-9**  
**Teaching Techniques - Virginia**



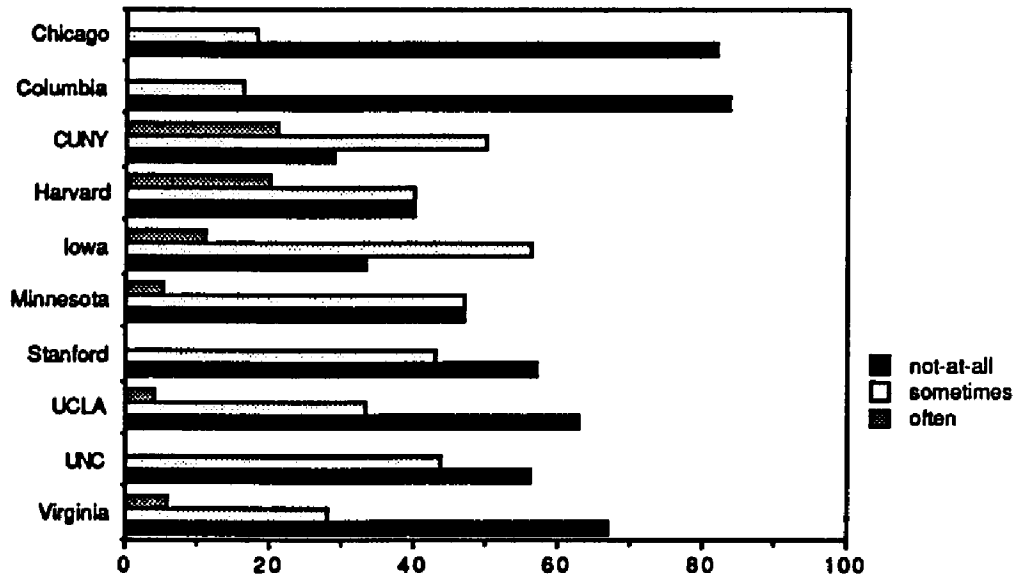
**Figure E-10**  
**Role Playing**



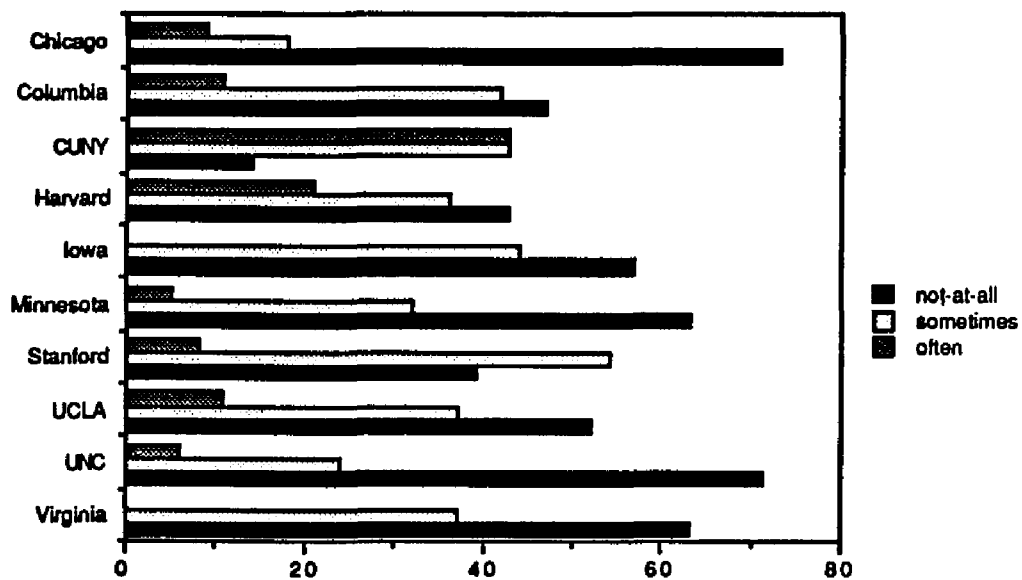
**Figure E-11**  
**In-Class Simulation**



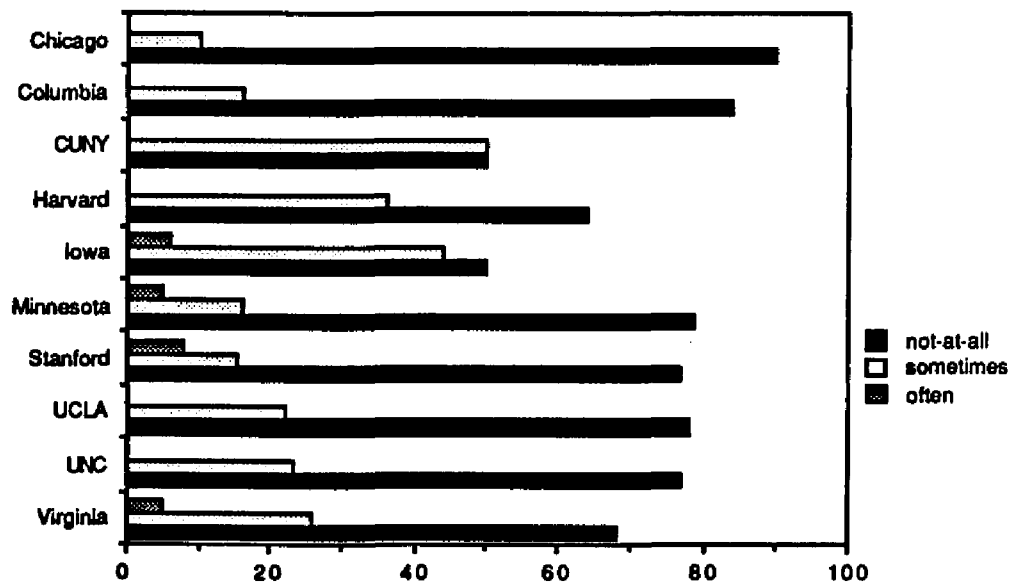
**Figure E-12**  
**Classroom as a Court**



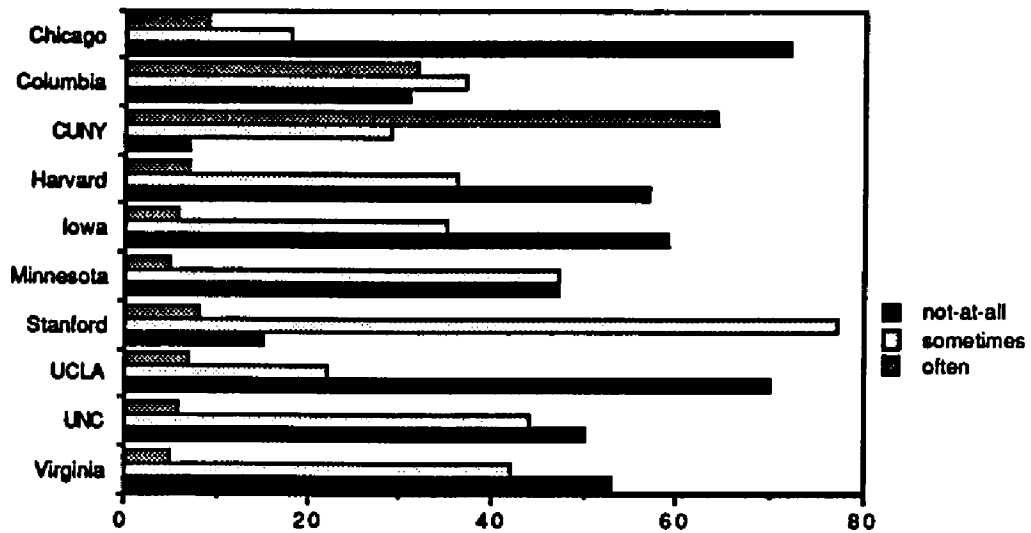
**Figure E-13**  
**Small Group Meetings**



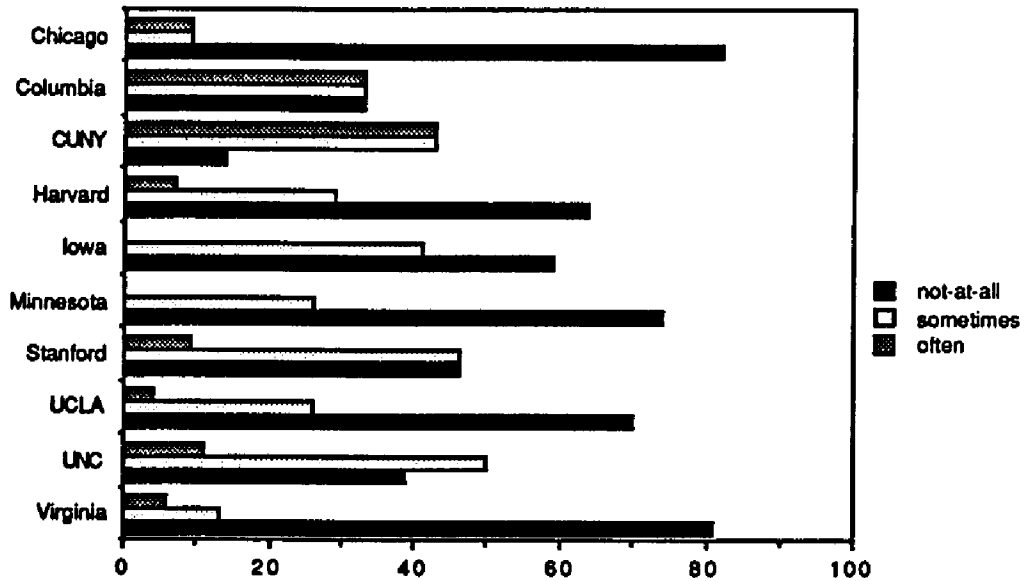
**Figure E-14**  
**Legislative body to decide law**



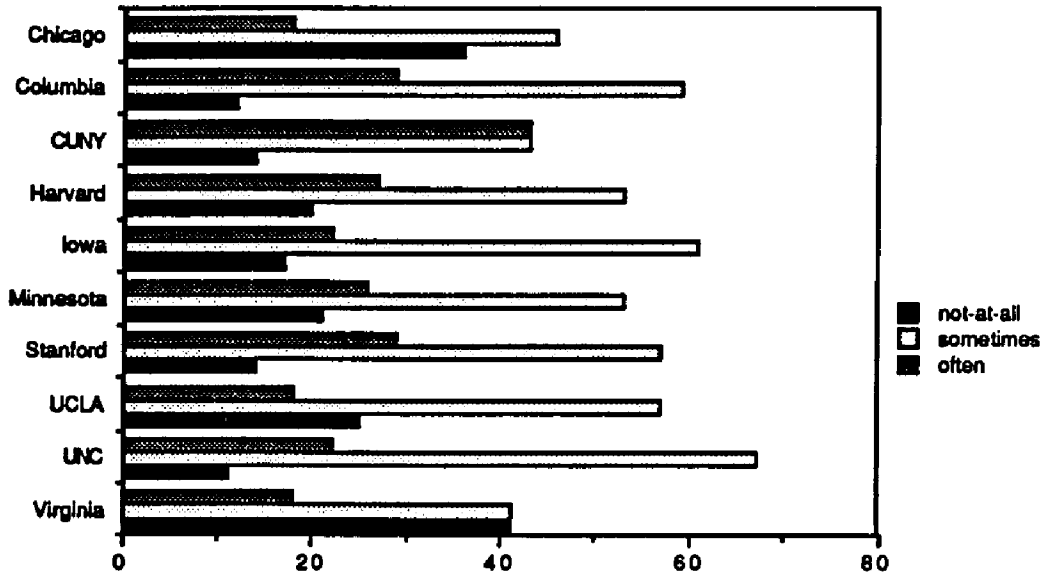
**Figure E-15**  
**Group Projects**



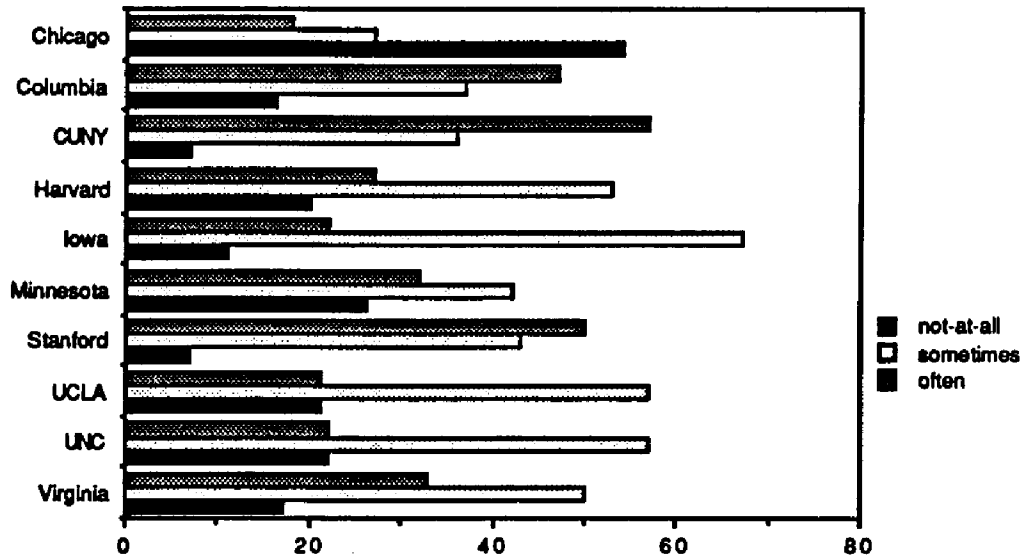
**Figure E-16**  
**Shared Leadership**



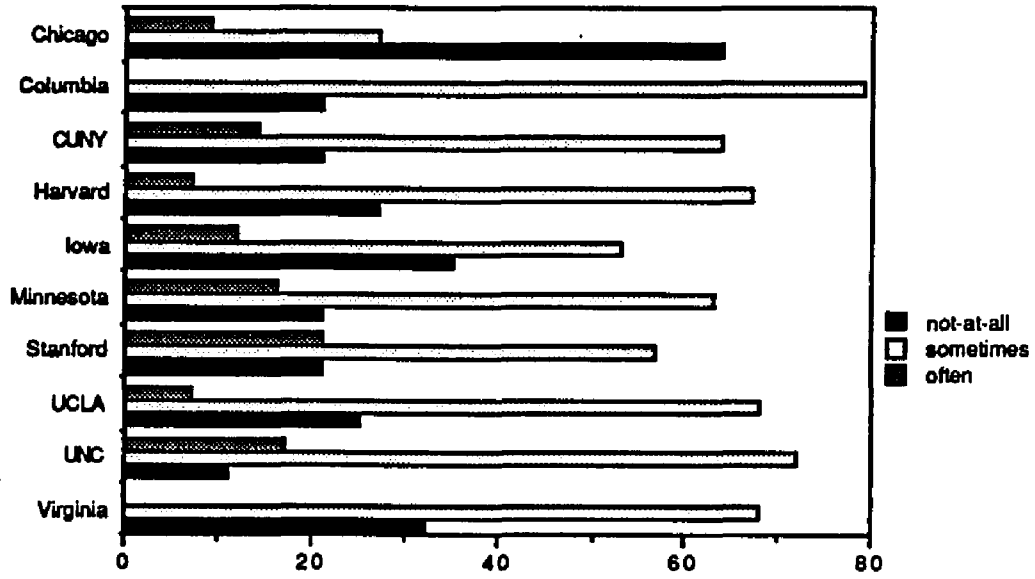
**Figure E-17**  
**Oral Presentation**



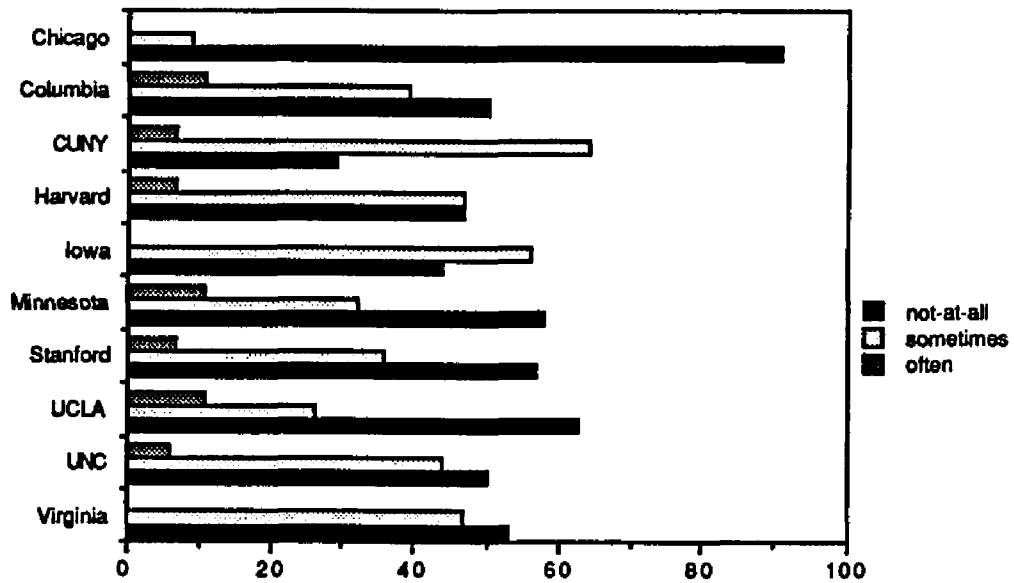
**Figure E-18**  
**Individual Meetings**



**Figure E-19**  
**Presentations by Experts**

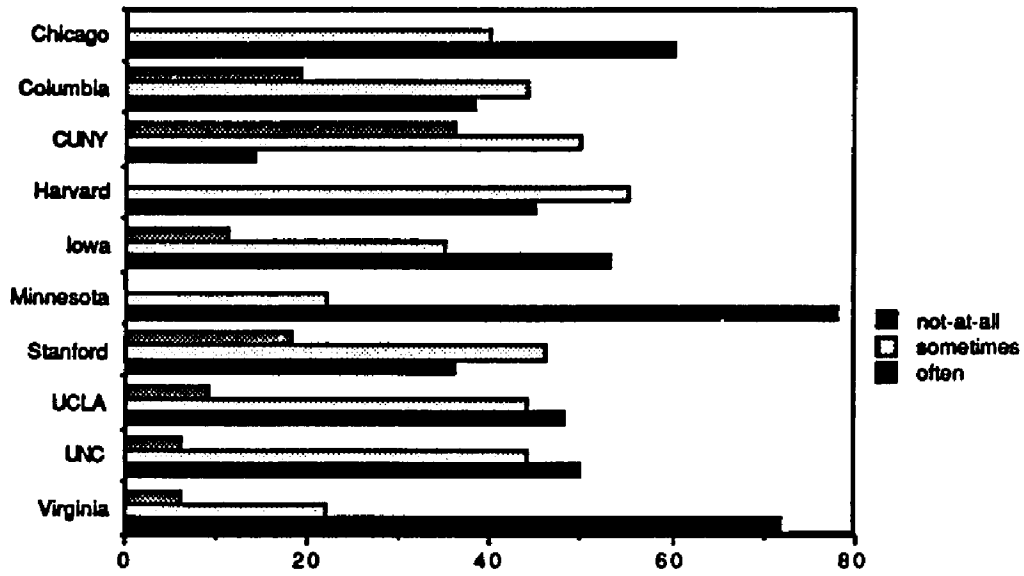


**Figure E-20**  
**Videotapes**

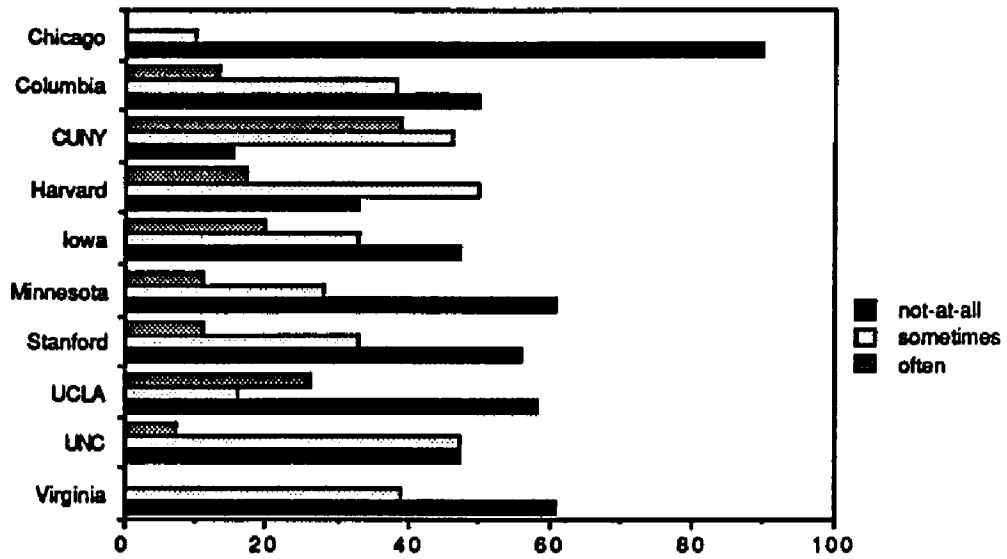




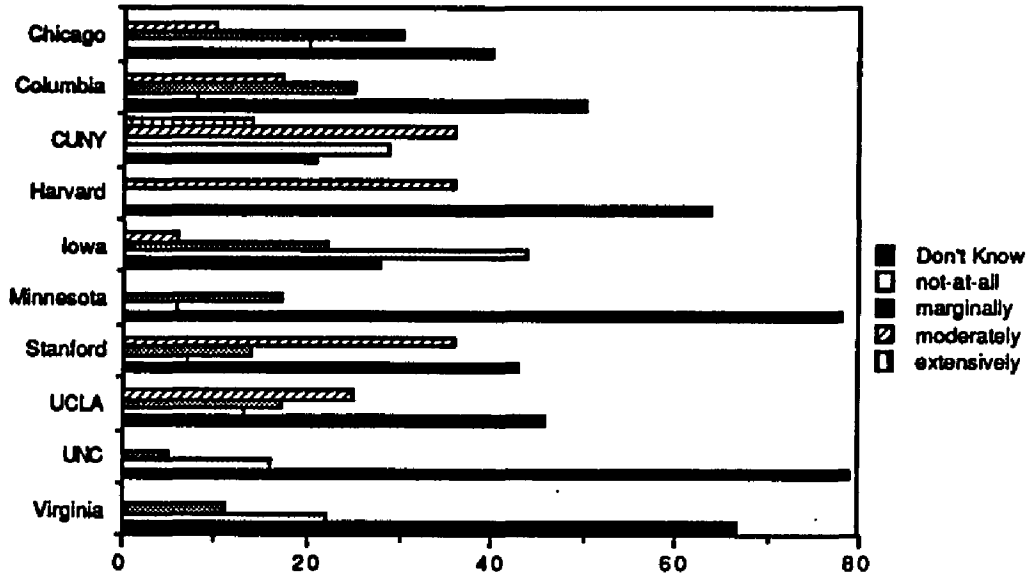
**Figure E-21**  
**Interpersonal Activities**



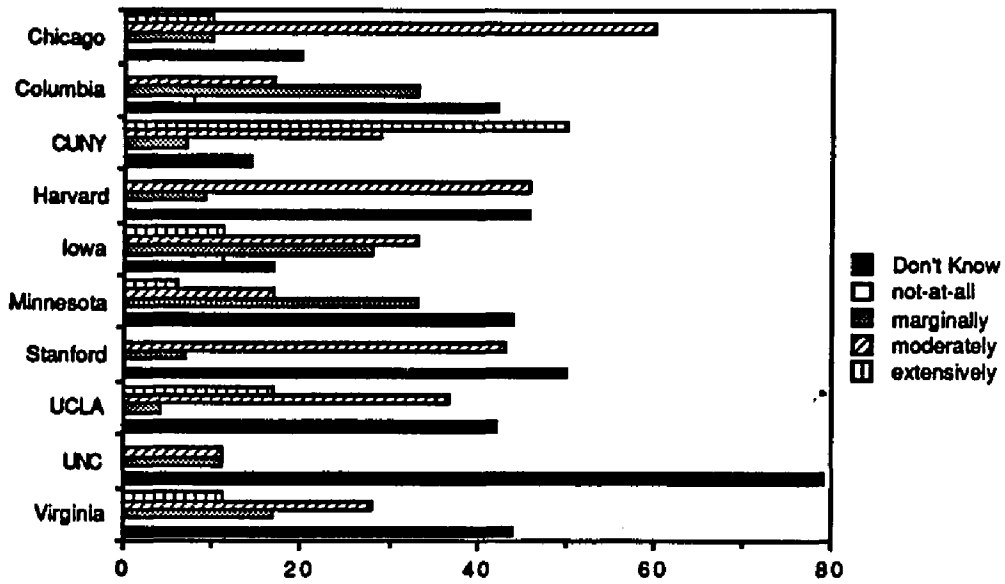
**Figure E-22**  
**Use of Affective Learning**



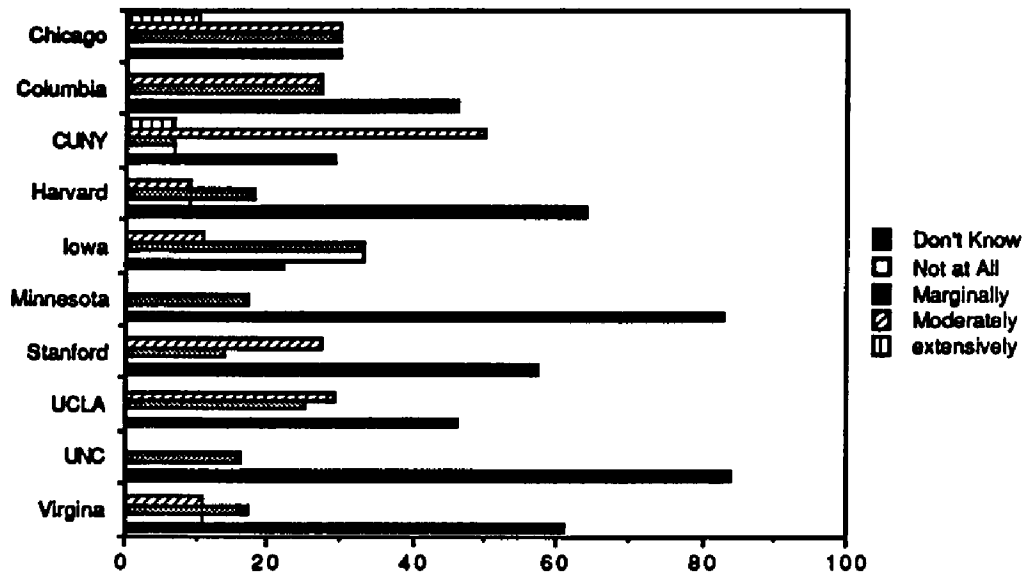
**Figure E-23**  
**Core Course - CIVIL PROCEDURE**



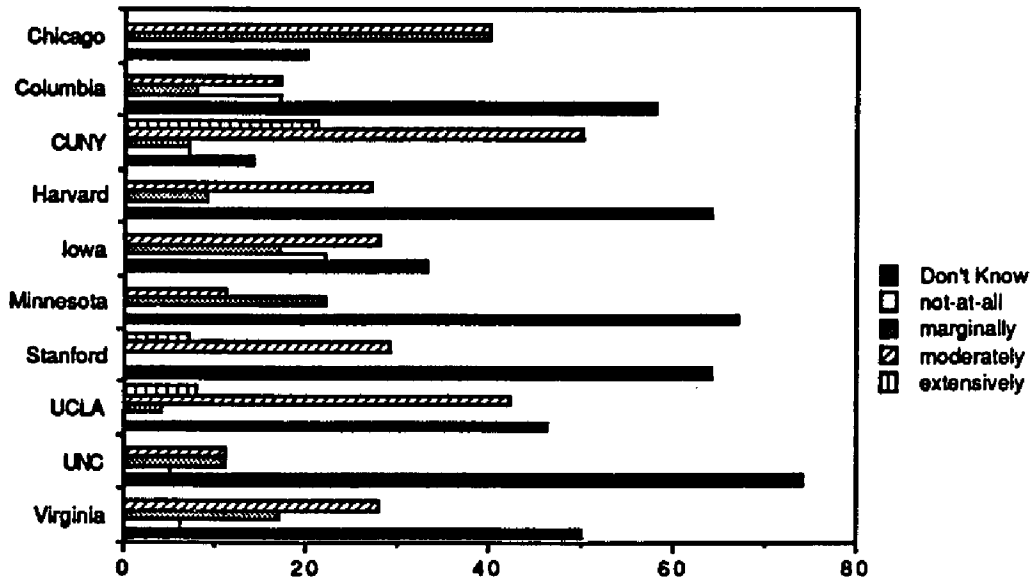
**Figure E-24**  
**Core Course - CONSTITUTIONAL LAW**



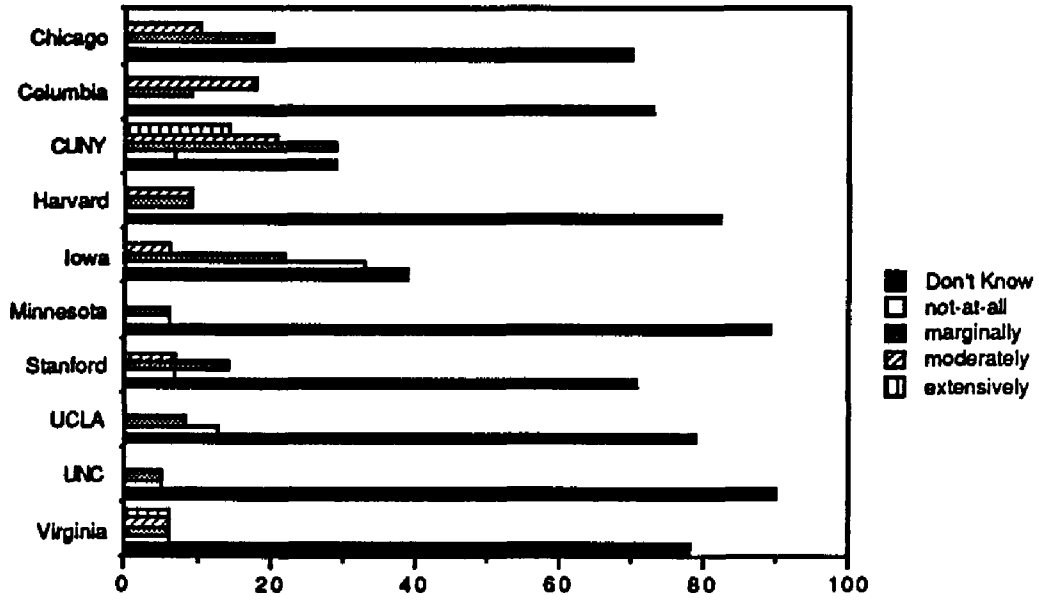
**Figure E-25**  
**Core Course - CONTRACTS**



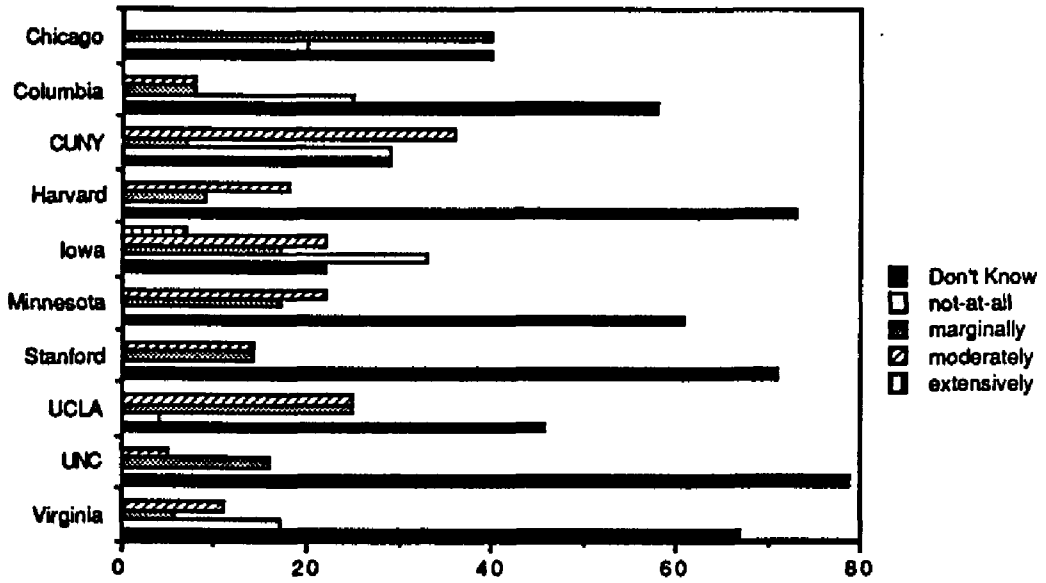
**Figure E-26**  
**Core Course - CRIMINAL LAW**



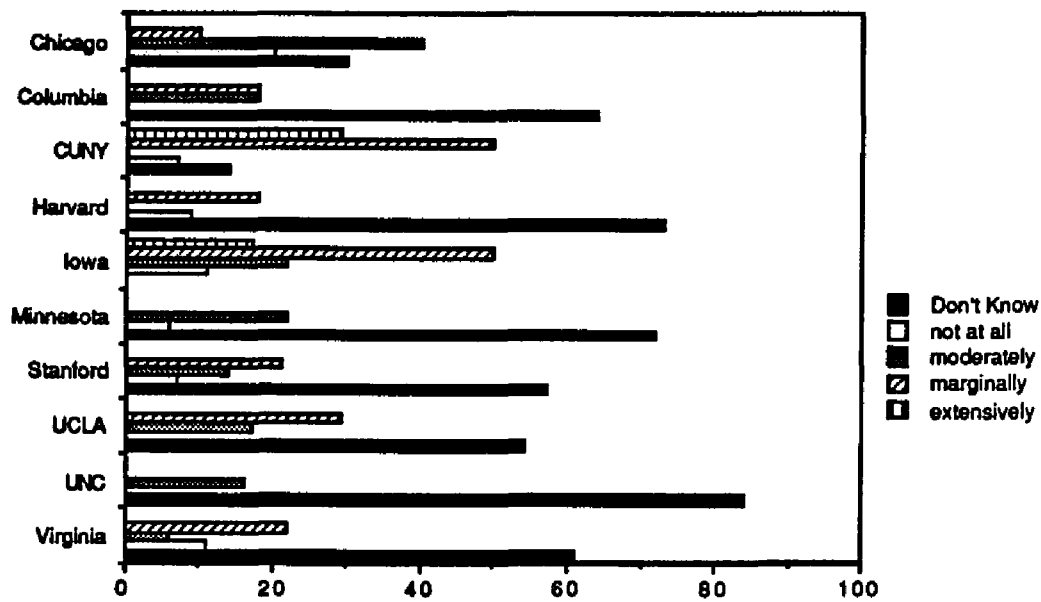
**Figure E-27**  
**Core Course - LEGAL WRITING**



**Figure E-28**  
**Core Course - PROPERTY**



**Figure E-29**  
**Core Course - TORTS**



**TABLE E-1**  
**Percentage of Faculty who Engaged In Various Campus or Departmental Activities**  
(in percentages)

Institution	Team Teaching	Taught course in another discipline	participated in campus-wide curriculum change project	designed a new course	participated in campus-wide study or reading group	taken a class for educational purposes	altered teaching style
All Institutions	45	27	12	49	36	9	29
Chicago	36	9	0	27	18	0	18
Columbia	58	21	16	58	37	5	21
CUNY	93	29	29	71	14	28	43
Harvard	43	21	7	64	43	14	29
Iowa	41	41	31	61	53	31	47
Minnesota	32	21	11	28	26	11	37
Stanford	50	36	8	43	54	0	25
UCLA	22	30	7	42	52	0	19
UNC	32	16	0	37	16	0	32
Virginia	65	37	16	63	32	5	26

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