

Man Up or Go Home: Exploring Perceptions of Women in Leadership

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MAN UP OR GO HOME: EXPLORING PERCEPTIONS OF WOMEN IN LEADERSHIP

BY: ABIGAIL PERDUE*

*If you are aggressive, you are a bitch.
If you are emotional, you are PMSing.
If you are soft, you are too feminine.
Whatever way someone finds you . . .
it is because you are female.*

–Yunha Kim, *What I Learned in My First Year as a Female Startup CEO*

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I. INTRODUCTION

Throughout history, women in positions of authority have often been perceived as violating well-established gender norms. Perhaps as a result, female leadership has often been viewed as a threat to male power and privilege and thus provoked resistance.¹ Female leaders challenge longstanding sex stereotypes and patriarchal structures, subverting the identities of androcentric institutions and the people who comprise them. In so doing, they redefine notions of what it means to be a leader as well as what it means to be a woman. Cisgender male subordinates in particular may feel that their masculinity is under assault when they are placed under female supervision. This power struggle can be readily observed at the Virginia Military Institute (VMI), which enrolled women for the first time in 1997 after the United States Supreme Court declared VMI’s all-male admissions policy unconstitutional.² To explore the impact of coeducation at VMI, I collaborated with a sociologist and psychologist to anonymously survey VMI’s student body. This Article relies upon the empirical data we collected to explore perceptions of women in leadership at VMI. Our findings reveal that like many female politicians, CEOs, and other women working in male-dominated spheres, female cadets at VMI are often

1. As used herein, the terms “maleness,” “male-centeredness,” and “male power” refer to the power and privilege historically held by affluent, white, heterosexual, cisgender men without disabilities who do not possess subordinate identities that significantly reduce their power and privilege. *See generally* SANDRA LIPSITZ BEM, *THE LENSES OF GENDER: TRANSFORMING THE DEBATE ON SEXUAL INEQUALITY* 3 (1993); *see also* Bethany M. Coston & Michael Kimmel, *Seeing Privilege Where It Isn’t: Marginalized Masculinities and the Intersectionality of Privilege*, 68 J. SOC. ISSUES 97, 97–111 (2012). The Author acknowledges that the male experience and female experience cannot be essentialized given that the intersection of various aspects of identity from socioeconomic status to national origin make each person unique.

2. *United States v. Virginia*, 518 U.S. 515 (1996).

perceived as unworthy intruders ill-suited for leadership who attain rank primarily because of their sex, not their merit.³ The prevalence of these attitudes among VMI cadets likely exacerbates tension between the sexes at VMI and undermines institutional efforts to foster leadership, solidarity, and mutual respect.

Because perception is often a product of culture, it is impossible to fully understand cadet attitudes toward women in leadership without first exploring the unique context in which these perceptions arise. As such, Part One of the Article recounts the history and traditions of VMI as well as the landmark litigation that prompted it to admit women. Part Two outlines our survey's methodology and summarizes the results relating to perceptions of female leaders. Finally, Part Three explores potential explanations of and implications for our findings.

II. BACKGROUND

A. *History of VMI*

Much like Silicon Valley and Wall Street, VMI is arguably a microclimate that fosters hypermasculinity and sex stereotypes. According to Professor Laura Brodie, "VMI is a very Southern school in a very Southern town."⁴ Established in 1836 by an act of the Virginia State Legislature,⁵ VMI was the nation's first state-sponsored military school.⁶ Its noble mission was:

to produce educated and honorable men, prepared for the varied work of civil life, imbued with love of learning, confident in the functions and attitudes of leadership, possessing a high sense of public service, advocates of the American democracy and free enterprise system, and ready as citizen soldiers to defend their country in time of national peril.⁷

Still today, VMI accomplishes this mission through a singular adversative approach characterized by physical rigor, mental stress, and

3. *See infra* Appendix.

4. LAURA FAIRCHILD BRODIE, *BREAKING OUT: VMI AND THE COMING OF WOMEN* 10 (2000).

5. *Id.*

6. *Id.* at 13.

7. *Id.* at 22. VMI's current institutional mission remains the same except that it applies to men and women. *Why We Do What We Do*, VA. MIL. INST., <http://www.vmi.edu/about/administration/superintendents-office/vision-2039/> [<https://perma.cc/FL32-DMD2>] (last visited Jun. 12, 2017).

the absence of privacy.⁸ While proponents of this singular pedagogy staunchly defend it, it has elsewhere been described as “demeaning and degrading,” “sadistic,” and “antiquated.”⁹ Defining features of the VMI experience include a strictly enforced Honor Code, class system, and a “dyke system” that assigns a senior, or “first classman,” mentor to each freshman, or “fourth classman.”¹⁰ VMI contends that its distinctive educational approach emphasizes overcoming adversity, thriving under pressure, and developing strength of character.¹¹ VMI further aims to promote egalitarianism and homogeneity as manifested in its uniforms, haircuts, and even its architecture, which mimics a prison and creates a near absolute lack of privacy.¹²

Like everything else at VMI, daily life is spartan and structured.¹³ Four

8. BRODIE, *supra* note 4, at 15.

9. In a 1997 letter published in a Lexington newspaper, Colonel Lee Lewane, a VMI graduate and Lexington resident, criticized VMI’s adversative pedagogy as follows:

The demeaning and degrading verbal treatment of new cadets and, worse yet, physical humiliation that is sadistic in nature, is disgusting and antiquated. It must be immediately replaced with a style of cadet leadership that is inspiring, yet no less demanding. A mixture of velvet and steel. Gen. Creighton Abrams, former Army Chief of Staff once remarked “Build on what a man is, don’t tear him down.” Those who subscribe to a philosophy that a person should be shorn of his dignity and personality and then built back up again midst shouts and screams is an affront to parents. By and large, mothers and fathers who send their sons and daughters to VMI have discharged their parental responsibilities of inculcating in them such sterling qualities of integrity, loyalty, commitment and recognition between right and wrong.

Id. at 40–41. Gordon Davies, former head of the State Council of Higher Education for Virginia, also disapproved of VMI’s adversative system. PHILIPPA STRUM, *WOMEN IN THE BARRACKS: THE VMI CASE AND EQUAL RIGHTS 89* (2002); *see also* Peter Finn, *Former Rats Remember Torturous Times at VMI*, WASH. POST (Aug. 20, 1997),

<http://www.washingtonpost.com/wp-srv/local/longterm/library/vmi/vmi20.htm>

[<https://perma.cc/4ZKH-QKRL>] (One VMI graduate recounted, “I remember the shock of those first few days . . . It’s like being a hostage.”); *id.* (Another observed, “It is an intense and formidable process.”).

10. *United States v. Virginia*, 518 U.S. 515, 522 (1996). Use of the term “dyke” originates from the phrase to “dyke out” (a mispronunciation of “to get all decked out”), which referred to putting on the white cross belts of a cadet’s dress uniform; doing so required assistance from another cadet. VA. MIL. INST., 2016–2017 NEW CADET HANDBOOK 17 (2016). In VMI’s mentorship system, “dyke” refers to the first classman mentor assigned to offer advice and support to a “rat” or first-year cadet. *Id.*

11. Transcript of Oral Argument at 4, *United States v. Virginia*, 518 U.S. 515 (1996) (Nos. 94-1941, 94-2107).

12. *See* BRODIE, *supra* note 4, at 6; *see also* STRUM, *supra* note 9, at 44.

13. *See* STRUM, *supra* note 9, at 44.

cadets share a room that is less than 300 square feet in size and equipped with one sink.¹⁴ Each cadet has a bed, a wall locker, and a clothes rack.¹⁵ There are no telephones, televisions, air-conditioning, or even pictures on the wall.¹⁶ Cadets rise early, performing chores for their dykes and completing sit-ups, pull-ups, and a short run—all *before* breakfast.¹⁷

Aside from the sparse accommodations, another distinction that sets VMI apart is its Honor Court and Honor Code, which date back to 1839.¹⁸ VMI's Honor Code makes clear that "[a] cadet does not lie, cheat, steal, nor tolerate those who do."¹⁹ The Honor Court of Cadets is elected from the upper two classes and enforces the Honor Code.²⁰ Individuals who violate the Honor Code are subject to a "drumout" in which snare and bass drums are beaten as the dishonored former cadet is physically expelled from the school.²¹ The Honor Court President announces that the dismissed cadet "has placed personal gain above personal honor and has left the Institute in shame. His [or her] name will never be mentioned in the four walls of [the] Barracks again."²² The cadets turn their backs on the exiled student and return to bed.²³ The expelled student's name can never again be uttered in Barracks.²⁴ VMI's strong emphasis on honor creates a unique environment where doors are rarely locked, and cadets may leave valuables unattended without fear of theft.²⁵

Another singular feature of the VMI experience is the class system, a plan of self-governance in which cadets exercise authority and enjoy privileges based on class rank.²⁶ "Each class has specific responsibilities. The first class, or seniors, are responsible for providing overall leadership, writing the standard operating procedures for the rat line for the following

14. *Id.*

15. *Id.*

16. *Id.*

17. *Id.* at 45; *The Ratline – First Year Experience*, VA. MIL. INST., <http://www.vmi.edu/cadet-life/first-year/the-ratline/> [https://perma.cc/ASP9-2DHZ] (last visited Jun. 12, 2017).

18. *VMI Honor System History*, VA. MIL. INST., <http://www.vmi.edu/archives/vmi-archives-faqs/vmi-honor-system-history/> [https://perma.cc/KZ34-E5KV] (last visited Jun. 12, 2017).

19. STRUM, *supra* note 9, at 40.

20. *Id.*

21. BRODIE, *supra* note 4, at 37–38.

22. *Id.* at 38.

23. *Id.*

24. *Id.*

25. *Id.* at 39.

26. *Id.* at 42.

year, [and] supervising the rat breakout . . .”²⁷ Third classmen discipline rats.²⁸ In upholding VMI’s single-sex admissions policy, the District Court would later conclude, “[t]he degree and harshness of the regulations imposed through the class system is possible only through a peer system.”²⁹

The Dyke System further sets VMI apart. Each rat is assigned a first classman mentor called a “dyke.”³⁰ Through the system, “senior cadets establish a familial, mentoring relationship with rats who perform menial chores” for them.³¹ During the subsequent VMI litigation, the District Court observed that the Dyke System facilitates a sense of loyalty among brother rats, “creates a cross-class bonding[,] and provides a model for leadership and support.”³²

Perhaps the most salient feature of the VMI experience is the infamous Ratline, a seven-month system of intense hazing that aims to break down each student’s individuality and rebuild him or her into a VMI cadet.³³ The fourth classmen who must endure the Ratline “are called ‘rats’ because the rat is ‘probably the lowest animal on earth.’”³⁴ Hallmarks of the Ratline include “indoctrination, egalitarian treatment, rituals . . . minute regulation of individual behavior, frequent punishments, and use of privileges to support desired behaviors.”³⁵ Typically, 4% of cadets leave during the first week of the Ratline, and 25% withdraw by the end of their first year at VMI, which is more than twice the attrition rate of federal service academies.³⁶ Although the Ratline has been criticized, many current students and alumni claim that they forge lifelong, ironclad bonds in the Ratline’s hellish environment, generating an indissoluble sense of solidarity akin to that of a fraternity or close family.³⁷ As Colonel N. Michael Bissell, former

27. *United States v. Virginia*, 766 F. Supp. 1407, 1422-23 (W.D. Va. 1991), *vacated*, 976 F.2d 890 (4th Cir. 1992), *aff’d*, 518 U.S. 515 (1996).

28. *Id.* at 1423.

29. *Id.*

30. *Id.*

31. BRODIE, *supra* note 4, at 42.

32. *Virginia*, 766 F. Supp. at 1423, *vacated*, 976 F.2d 890, *aff’d*, 518 U.S. 515.

33. BRODIE, *supra* note 4, at 6.

34. *Virginia*, 766 F. Supp. at 1422, *vacated*, 976 F.2d 890, *aff’d*, 518 U.S. 515.

35. *Id.* at 1422; *see also* Michael Kimmel, *Saving the Males: The Sociological Implications of the Virginia Military Institute and the Citadel*, 14 GENDER & SOC’Y 494, 498 (2000) (“The brutality of the adversative system implants a deeply felt bonding among the men; solidarity among cadets is intense and loyalty of alumni is fierce.”).

36. STRUM, *supra* note 9, at 48.

37. BRODIE, *supra* note 4, at 40–41; *see also* Finn, *supra* note 9 (Alumnus Sam Witt (‘58)

Commandant of Cadets at VMI, observed:

I like to think VMI literally dissects the young student that comes in there, kind of pulls him apart, and through the stress, everything that goes on in that environment, would teach him to know everything about himself. He truly knows how far he can go with his anger, he knows how much he can take under stress, he knows how much he can take when he is totally tired, he knows just exactly what he can do when he is physically exhausted, he fully understands himself and his limits and capabilities. Something I think is the mainstay of leadership. I think every VMI man that leaves there knows a great deal about his human capacity to do things under all kinds of duress and stress.³⁸

Although VMI never aimed to serve as a direct pipeline to the military, VMI employs military training to instill values that it believes equally essential to effective leadership in both military and civilian life.³⁹ According to expert Colonel John Walter Ripley, VMI's adversative pedagogy, particularly the Ratline, Dyke System, and Class System, aims to cultivate the qualities salient to combat leadership: namely, self control, self discipline, and the belief that you must subordinate your own personal desires and well-being to the good of the whole unit.⁴⁰ Indeed, *The Rat Bible*,⁴¹ which every rat must memorize and carry at all times,⁴² encourages rats to abandon individualism; it further states, "Do not quit. Do not falter. Each time you are set back charge forward even harder."⁴³ Perhaps unsurprisingly, one trial expert opined that VMI takes "average" students and through character development, produces individuals with above average dedication, self-motivation, and character.⁴⁴ As a result, VMI graduates are well prepared to both overcome adversity and to help others overcome it.⁴⁵

observed, "They stretch you and stretch you . . . You learn something about yourself. And you form these bonds that last a lifetime, which is about the only justification for the admitted silliness of it all.").

38. *Virginia*, 766 F. Supp. at 1421–22, *vacated*, 976 F.2d 890, *aff'd*, 518 U.S. 515.

39. *Id.* at 1427.

40. *Id.*

41. STRUM, *supra* note 9, at 39.

42. *Id.*

43. *Id.* at 42.

44. *Virginia*, 766 F. Supp. at 1426–27.

45. *Id.* at 1427.

Perhaps for this reason, VMI has produced countless leaders who were “prepared for the varied work of civil life” and “ready. . . to defend their country in time of peril.”⁴⁶ Chief among them are Five-Star Army General George S. Patton, soldier and statesman George Marshall,⁴⁷ former U.S. Attorney General Tom Clark, sculptor Moses Ezekiel, actor Dabney Coleman, and producer Mel Brooks.⁴⁸ Indeed, since 1842, at least 13,954 VMI alumni have served in the armed forces during wartime.⁴⁹ Of these, at least 10,233 were commissioned officers, and 128 were flag officers.⁵⁰ These graduates seemingly exemplify the quote that still remains on VMI’s Jackson Arch—“You May Be Whatever You Resolve to Be.”⁵¹

In recognition of the bonds forged and values instilled at VMI, grateful alumni are incredibly supportive, both financially and otherwise. Consequently, VMI enjoys one of the largest endowments per capita of any public college in America.⁵² Along with wealth, VMI alumni also yield significant societal and political influence, particularly in Virginia.⁵³ According to the *Washington Post*, VMI alumni in Virginia hold a

46. *Why We Do What We Do*, VA. MIL. INST., <http://www.vmi.edu/about/administration/superintendents-office/vision-2039/> [<https://perma.cc/647L-W7QA>] (last visited Jun. 12, 2017).

47. Marshall was a five-star Army general who served as Chief of Staff of the U.S. Army, Secretary of State, Secretary of Defense, Special Representative of the President to China, and President of the American Red Cross. In 1946, he received the Congressional Gold Medal and won the Nobel Peace Prize in 1953. Yet the accomplishment for which he is perhaps most well-known is authoring the Marshall Plan. *George C. Marshall Jr.*, BIOGRAPHY, <http://www.biography.com/people/george-c-marshall-jr-9400110> [<https://perma.cc/V6PU-EQEY>] (last visited Jun. 12, 2017).

48. *Famous Virginia Military Institute Alumni*, RANKER, http://www.ranker.com/list/famous-virginia-military-institute-alumni-and-students/reference?var=2&utm_exp=16418821-179.pGCXY4nOQBOxMAZDH8jsWw.1&utm_referrer=https%3A%2F%2Fwww.google.com%2F [<https://perma.cc/HD47-8RGD>] (last visited Jun. 12, 2017).

49. *Virginia*, 766 F. Supp. at 1427, *vacated*, 976 F.2d 890 (4th Cir. 1992), *aff’d*, 518 U.S. 515 (1996).

50. *Id.* at 1427.

51. BRODIE, *supra* note 4, at 7.

52. *Id.* at 31. The day after graduation the first class organized themselves into the Alumni Military Association, which became the Society of the Alumni a decade later and the VMI Alumni Association in 1919. STRUM, *supra* note 9, at 15. Although the first annual appropriation for VMI was only \$6,000, as of 1990 and 1991, VMI enjoyed a budget of \$25.9 million, including \$9 million from the state. *Id.* at 14, 34. It also boasted an \$86.7 million endowment, which translates to \$66,000 per each of the 1,300 cadets then studying at VMI, at the time the highest amount of any public college in America. *Id.* As of the date of the litigation, Virginia contributed \$9 million annually to VMI, which comprised roughly 35% of VMI’s operating budget. *Id.*

53. STRUM, *supra* note 9, at 89.

“disproportionately large number of influential positions” and boast, *inter alia*, two congressmen, two state senators, the former speaker of the House of Delegates, the managing partners of the state’s two biggest law firms, and numerous industrialists and investors, all of whom are fiercely loyal to VMI.⁵⁴ It was no surprise then that VMI alumni mobilized to defend their beloved alma mater when its all-male admissions policy eventually came under attack.

B. *U.S. v. Virginia*

Although it was well known that VMI was a single-sex institution, 347 women inquired about admission to VMI between 1988 and 1990.⁵⁵ VMI responded to none.⁵⁶ That all changed when VMI denied admission to an anonymous female high school student⁵⁷ who consequently filed a complaint with the Attorney General.⁵⁸ In response, the United States Department of Justice sued the Commonwealth of Virginia, alleging that VMI’s all-male admissions policy violated the Equal Protection Clause of the Fourteenth Amendment.⁵⁹ VMI countered that admitting women would destroy the VMI experience women sought to enjoy and that single-sex education brought diversity to Virginia’s public university system.⁶⁰

VMI won the first battle but ultimately lost the war.⁶¹ The District Court

54. *Id.* Indeed, political theorists wondered why the Bush administration permitted the Department of Justice to pursue the litigation given the power and influence of VMI’s alumni in Virginia politics and Bush’s need for Virginia’s electoral votes in his bid for reelection in 1992. *Id.* at 90.

55. *Virginia*, 766 F. Supp. at 1436, *vacated*, 976 F.2d 890, *aff’d*, 518 U.S. 515. Because VMI had never attempted to recruit women and VMI’s well-known single-sex admissions policy had likely preempted most women from applying, there was little or no hard evidence, aside from the inquiries, regarding women’s interest in attending VMI. *Id.*

56. *Virginia*, 518 U.S. at 523. VMI originally sent letters to female applicants informing them that VMI was single-sex but had adopted a no-response policy in the two years prior to the litigation. *Virginia*, 766 F. Supp. at 1436.

57. *Virginia*, 518 U.S. at 523; BRODIE, *supra* note 4, at 11; STRUM, *supra* note 9, at 86; *see also* Juliette Kayyem, *The Search for Citizen-Soldiers: Female Cadets and the Campaign against the Virginia Military Institute—United States v. Commonwealth of Virginia*, 852 F. Supp. 471 (W.D. Va. 1994), 30 HARV. C.R.-C.L. L. REV. 247, 264 (1995) (noting that “[t]he young woman whose letter sparked the United States’ interest in VMI dropped out of the picture fairly quickly,” and “her identity was never disclosed in any of the court opinions”).

58. *Virginia*, 518 U.S. at 523.

59. *Id.*

60. *Id.* at 540.

61. *See generally* Valorie K. Vojdik, *At War: Narrative Tactics in the Citadel and VMI Litigation*, 19 HARV. WOMEN’S L.J. 1 (1996).

upheld VMI's admissions policy, but a three-judge panel of the United States Court of Appeals for the Fourth Circuit ("Fourth Circuit") vacated that judgment.⁶² Because the Fourth Circuit accepted the District Court's finding that coeducation would "materially affect[]" aspects of the VMI experience,⁶³ the Fourth Circuit offered VMI three options: admit women, forfeit public funding, or establish a comparable, parallel women's program.⁶⁴

VMI chose the latter. In September of 1993, the VMI Foundation established the Virginia Women's Institute for Leadership (VWIL) at Mary Baldwin College, a four-year women's college thirty miles north of VMI's campus in Lexington, Virginia.⁶⁵ Demonstrating the vastness of VMI's endowment, on September 25, the VMI Board and VMI Foundation voted to provide VWIL with an operating endowment of approximately \$5.5 million, a scholarship endowment of \$500,000, and a building renovation fund of \$500,000.⁶⁶

VWIL became operational in September of 1994.⁶⁷ VWIL cadets took nine hours in arts, humanities and social sciences, six hours of writing, three hours in calculus and statistics, eleven hours of sciences, six hours of international education, four hours of leadership, and three hours of leadership internships.⁶⁸ VWIL involved a student-run, one-week wilderness program, Honor System, community service projects, leadership programming, and a confidence-building program, which required students to complete obstacle courses.⁶⁹ "Though acknowledging that studies showed that women tended to follow 'interactive' leadership models and men 'hierarchical' models, the VWIL plan specifically rejected 'the view that the models can only be gender specific.'"⁷⁰

In addition to the features noted above, VWIL also differed from VMI in several other ways⁷¹—distinctions that ultimately proved fatal. First,

62. *Virginia*, 518 U.S. at 524.

63. *Id.* at 525.

64. *Id.* at 525–26. Although this decision was appealed, the Supreme Court denied certiorari in May 1993. *Virginia Military Institute v. United States*, 508 U.S. 946 (1993).

65. Notably, the President of Mary Baldwin College had been a member of VMI's early Mission Study Committee regarding coeducation. BRODIE, *supra* note 4, at 20.

66. STRUM, *supra* note 9, at 202; BRODIE, *supra* note 4, at 20.

67. STRUM, *supra* note 9, at 203.

68. *Id.*

69. *Id.* at 204.

70. *Id.* at 205.

71. *Id.*

VWIL did not employ the adversative system or have a Ratline.⁷² Nor did VWIL cadets live in separate barracks or eat together.⁷³ Cadets wore uniforms only three days per week and attended ROTC classes at VMI.⁷⁴ VWIL did not issue arms to students.⁷⁵ VMI had an NCAA competition level track and field facility, and baseball, soccer, and lacrosse fields.⁷⁶ The minimum physical fitness requirement at VMI consisted of 60 sit-ups and 5 pull-ups in two minutes and a 1.5-mile run in 12 minutes.⁷⁷ By comparison, VWIL modeled its physical fitness standards upon the military standard for women, requiring 28 pushups in two minutes, 60 full body sit-ups in two minutes, a flexed arm hang of at least 15 seconds, and a 1.5-mile run in 14 minutes 24 seconds.⁷⁸ Notably, however, at the end of year one of VWIL, female VWIL cadet Trimble Bailey was named by VMI's Air Force ROTC Department as the top first-year cadet, outperforming 127 male VMI classmates.⁷⁹

Despite these differences, the District Court approved VWIL, stating that “controlling legal principles . . . do not require the Commonwealth to provide a mirror image VMI for women.”⁸⁰ In so doing, the District Court noted, “[i]f VMI marches to the beat of a drum . . . then Mary Baldwin marches to the melody of a fife, and when the march is over, both will have arrived at the same destination.”⁸¹ In January of 1995, a divided Fourth Circuit affirmed.⁸² Judge James Dickson Phillips, Jr.—a former law school professor, U.S. Army First Lieutenant, and Purple Heart recipient⁸³—dissented, arguing that VWIL fell too “far short” of VMI to be deemed sufficiently comparable.⁸⁴ In a split opinion, the Fourth Circuit subsequently denied a rehearing en banc.⁸⁵

72. BRODIE, *supra* note 4, at 20.

73. *Id.*; STRUM, *supra* note 9, at 205.

74. BRODIE, *supra* note 4, at 20.

75. STRUM, *supra* note 9, at 205.

76. *Id.*

77. *Id.* at 206.

78. *Id.*

79. BRODIE, *supra* note 4, at 21.

80. *United States v. Virginia*, 518 U.S. 515, 528 (1996).

81. BRODIE, *supra* note 4, at 21.

82. *Id.*

83. Federal Judicial Center, Biographical Directory of Federal Judges.

84. *Virginia*, 518 U.S. at 530.

85. *United States v. Virginia*, 44 F.3d 1229 (4th Cir. 1995), *rev'd sub nom.*, 518 U.S. 515, 52 F.3d 90 (4th Cir. 1995).

The United States petitioned the U.S. Supreme Court for certiorari on May 26, 1995,⁸⁶ and the Supreme Court granted that petition on October 5, 1995.⁸⁷ The Supreme Court heard oral argument on January 17, 1996.⁸⁸ Arguing on behalf of the United States, attorney Paul Bender conceded, “most women can’t do this. The question in this case is whether, because most women can’t do it . . . the State is constitutionally entitled to exclude all women.”⁸⁹ He further noted, “[i]t has to do with whether men will perceive that women can take the heat.”⁹⁰ Bender described VMI as a “place to teach manly values that only men can learn, to show that men can suffer adversity and succeed” and characterized VWIL as an institution “designed to teach to women womanly values, feminine values.”⁹¹ Bender said that VWIL was inadequate because it did not employ VMI’s adversative method and lacked “the value of having the VMI degree as a mark of your ability to survive the program as a member of the . . . brotherhood of VMI graduates.”⁹² According to Bender, “the opportunity that women are not given in Virginia is to show that they can do it on a level with men.”⁹³ Bender analogized to legal education, contending that it would have been impermissible to establish all-female law schools that did not utilize the Socratic Method even though that method, like VMI’s adversative approach, had been developed in an all-male environment before women could enter the legal profession.⁹⁴

Arguing on behalf of Virginia, attorney Ted Olson countered that if VMI

86. Petition for Writ of Certiorari, *United States v. Virginia*, 516 U.S. 910 (1995) (No. 94-1941), 1995 WL 17013870.

87. Grant of Petition for Writs of Certiorari, *United States v. Virginia*, 516 U.S. 910 (1995) (Nos. 94-1941, 94-2107).

88. See Transcript of Oral Argument, *United States v. Virginia*, 518 U.S. 515 (1996) (Nos. 94-1941, 94-2107). Although the Government never explicitly argued that single-sex education is a per se violation of the Fourteenth Amendment, two amicus briefs were filed in support of VMI, including one from three women’s colleges—Mary Baldwin, Southern Virginia College for Women, and St. Mary’s College of North Carolina. STRUM, *supra* note 9, at 198. Another set of women’s colleges—Wells, Hollins, Sweet Briar, and Randolph-Macon—filed a second amicus brief, arguing “that the suspicion thrown on single-sex programs by the appeals court could result in legal challenges to battered women’s shelters and single-sex prisons.” *Id.*

89. Transcript of Oral Argument at 7, *United States v. Virginia*, 518 U.S. 515 (1996) (Nos. 94-1941, 94-2107).

90. *Id.* at 8.

91. *Id.* at 10.

92. *Id.* at 17.

93. *Id.* at 20–21.

94. *Id.* at 22–23.

was unconstitutional, VWIL would be as well.⁹⁵ Olson argued that VWIL was designed by experts focused on how to best educate young people.⁹⁶ He opined, “[t]he VMI program is designed to create leaders and adults who can operate in the civilian or in the military world, who have a sense of responsibility, the same goals, in other words, that the VWIL program is set up to do.”⁹⁷

VMI’s arguments proved unavailing. On June 26, 1996, a 7–1 majority of the Supreme Court held that VMI’s refusal to admit women violated the Equal Protection Clause.⁹⁸ Writing for the Majority, Justice Ruth Bader Ginsburg—a longtime advocate for equal rights⁹⁹—concluded that VMI had not been established as an all-male school in order to increase diversity in Virginia’s educational system.¹⁰⁰ She emphasized that “[i]nherent differences’ between men and women . . . remain cause for celebration, but not for denigration of the members of either sex or for artificial constraints on an individual’s opportunity.”¹⁰¹ Nor may “[s]tate

95. *Id.* at 35. Olson also argued that if VMI became a private college, admission would only be available to the wealthy, but studies showed that those individuals not within the upper level of income benefit the most from single-sex education. *Id.* at 35–36.

96. *Id.* at 41–42.

97. *Id.* at 49.

98. *See* United States v. Virginia, 518 U.S. 515 (1996). Justice Clarence Thomas recused himself. *See* Joan Biskupic, *Supreme Court Invalidates Exclusion of Women by VMI*, WASH. POST, June 17, 1996, at A1.

99. STRUM, *supra* note 9, at 56–57.

100. *Virginia*, 518 U.S. at 535–36.

101. *Id.* at 533; *see also id.* at 541 (concluding that the District Court’s findings on gender-based developmental differences are generalizations and “fixed notions concerning the roles and abilities of males and females” (quoting *Miss. Univ. for Women v. Hogan*, 458 U.S. 718, 725 (1982))). Professor Dianne Avery criticizes the District Court’s factual findings as follows:

Packaged as facts, many of these conclusions are nothing more than simplistic or reductionist summaries of complex and sometimes controversial research and scholarship findings that are stripped of their underlying assumptions, caveats and qualifications. Moreover, many of the adjudicative facts about VMI are shaped by Judge Kiser’s apparent acceptance of the Institute’s mythic image of itself. But the trial record presented only a small and incomplete sampling of the historical and cultural narratives that can be—or have been—told about VMI.

Dianne Avery, *Institutional Myths, Historical Narratives and Social Science Evidence: Reading the “Record” in the Virginia Military Institute Case*, 5 S. CAL. REV. L. & WOMEN’S STUD. 189, 270 (1996); *see also* Abigail Perdue, *Everafter: The Stories Told about U.S. v. Virginia*, THE SECOND DRAFT, Fall 2015, at 14, 15. In addition, Department of Justice expert, Professor Carol Jacklin, testified that there were no sex differences in how people learn. Regarding other psychological traits, there were some sex differences observed, but they were minimal compared to the “‘very large individual differences’” among men as a group and women as a group. Avery, *supra*, at 301.

actors . . . exclude qualified individuals based on ‘fixed notions concerning the roles and abilities of males and females.’”¹⁰² She stressed that “some women can meet the physical standards now imposed on men,”¹⁰³ VMI’s adversative educational style “could be used to educate women,”¹⁰⁴ and “that some women may prefer it to the methodology a women’s college might pursue.”¹⁰⁵ As she explained, “[i]t is on behalf of these women that the United States has instituted this suit, and it is for them that a remedy must be crafted, a remedy that will end their exclusion from a state-supplied educational opportunity for which they are fit.”¹⁰⁶ She further observed, “[t]he notion that [the] admission of women would downgrade VMI’s stature, destroy the adversative system and, with it, even the school, is a judgment hardly proved, a prediction hardly different from other ‘self-fulfilling prophec[ies]’ once routinely used to deny rights or opportunities.”¹⁰⁷ For these reasons, a majority of the Supreme Court determined that VMI’s single-sex admissions policy was unconstitutional.¹⁰⁸ In a scathing dissent, Justice Antonin Scalia criticized the majority opinion as “politics-smuggled-into-law” and observed that being all male was essential to the VMI experience.¹⁰⁹ Somewhat ironically, as a result of *United States v. Virginia*, women now had two options for military education and leadership training: all-female VWIL and coeducational VMI.¹¹⁰

Cadet reactions to the decision “ranged from anger, to apathy, to determined professionalism.”¹¹¹ For the most part, however, the VMI community mobilized to make the mission of coeducation as successful as possible: “hundreds of people on VMI’s Post—from cadets, to faculty, to

102. *Virginia*, 518 U.S. at 541 (quoting *Hogan*, 458 U.S. at 725).

103. *Id.* at 525 (quoting *United States v. Virginia*, 976 F.2d 890, 896 (4th Cir. 1992)).

104. *Id.* at 540 (quoting *United States v. Virginia*, 852 F. Supp. 471, 481 (W.D. Va. 1994)); see also *id.* at 541 (emphasizing that VMI’s mission of producing citizen-soldiers is not inherently unsuitable for women).

105. *Id.* at 540; see also *id.* at 542 (“Education, to be sure, is not a ‘one size fits all’ business.”).

106. *Id.* at 550–51 (footnote omitted).

107. *Id.* at 542–43 (internal citation omitted); see also *id.* at 550 (“[G]eneralizations about ‘the way women are,’ estimates of what is appropriate for *most women*, no longer justify denying opportunity to women whose talent and capacity place them outside the average description.”).

108. *Id.* at 545–46.

109. *Id.* at 566, 569 (Scalia, J., dissenting).

110. Mary Anne Case, *Two Cheers for Cheerleading: The Noisy Integration of VMI and the Quiet Success of Virginia Women in Leadership*, 1999 U. CHI. LEGAL F. 347 (1999).

111. BRODIE, *supra* note 4, at 99.

laundry workers—all came together to prepare for the arrival of women.”¹¹² According to Lieutenant General Winfield S. Scott, former Superintendent of the Air Force Academy, “no other military college had done so much to prepare for the arrival of women.”¹¹³

In any event, the epic legal battle of the sexes that had been waging in federal courts for years had finally come to an end. On August 18, 1997, the first female cadets arrived.¹¹⁴ In a welcome address to the first coeducational class in VMI history, VMI Superintendent Josiah Bunting made clear, “[w]e do not care if you are poor or rich, black or white, female or male, Taiwanese or Virginian. We care about your heart and your determination. We care about your integrity.”¹¹⁵

That is not to say that assimilation occurred without incident. Resistant students purportedly scribbled “2000 LCWB” (“Last Class with Balls”) on desks.¹¹⁶ Some members of the Class of 2000 even had LCWB inscribed on their rings and changed the zero in 2000 to the male symbol ♂.¹¹⁷ Two African-American female rats reportedly noticed the most hostility, which they perceived as most prevalent among VMI “legacies,” (18% of the student body at the time) whose fathers and grandfathers had attended an all-male and for some, all-white, VMI.¹¹⁸ A male rat published a cartoon in *The Cadet*, a student newspaper, showing Breakout Hill, the location of the Ratline graduation ritual, with signs directing men to the right and women to the left; on the women’s side, a ladder extended up the hill, with a VMI administrator waiting at the top, saying “By far the hardest Rat-Line.”¹¹⁹

III. METHODOLOGY AND RESULTS

Although many scholars explored the immediate aftermath of *U.S. v. Virginia*,¹²⁰ what was the lasting impact of the decision on VMI and its student body? To explore this question, I collaborated with a sociologist and psychologist to anonymously survey VMI’s student body. Part Two of

112. *Id.* at xiv.

113. *Id.*

114. *Id.* at 197.

115. *Id.* at 217. That was the sole mention of coeducation in General Bunting’s opening remarks. *Id.*

116. *Id.* at 254.

117. *Id.* at 343–44.

118. *Id.* at 254.

119. *Id.* at 320.

120. See generally *id.*; STRUM, *supra* note 9.

the Article explains our survey methodology and summarizes the survey results pertaining to how VMI cadets define leadership and perceive female cadets in positions of power.

A. Methodology

Although initial resistance to coeducation was predictable, my co-researchers and I wondered what attitudes toward female cadets persisted at VMI more than a decade after the first women had matriculated. To explore this question and the countless others subsumed within it, we used SurveyMonkey, a reputable web-based survey solution, to administer an anonymous online questionnaire to VMI's entire student population.¹²¹ We then used Statistical Package for the Social Sciences (SPSS) to analyze the data. Three hundred sixty-four students responded, including 311 men (85.44%) and 53 (14.56%) women.¹²²

Like all empirical studies, our survey is subject to certain methodological limitations. First, our findings reveal only correlation, not causation. Yet they are probative nonetheless. The sample size and methodological limitations of our results do not permit sweeping conclusions regarding attitudes toward female cadets. Instead, such conclusions must be narrowly drawn. This is particularly true since the individual who chooses to attend VMI may not be representative of the prototypical man or woman in society at large. This, in turn, may contribute to another issue—self-selection bias, which may occur when individuals volunteer to participate in a group from which the survey is taken.¹²³ Relatedly, participation bias may occur due to the characteristics of the students who choose to participate, here, individuals who choose not only to attend VMI but also to participate in a survey about the impact of coeducation there.¹²⁴ Although participants were guaranteed anonymity,

121. Approximately 1,300 students attended VMI at the time of the litigation. *United States v. Virginia*, 518 U.S. 515, 521 (1996).

122. VMI Common Data Set, VIRGINIA MILITARY INSTITUTE, <http://www.vmi.edu/content.aspx?id=8047> [<http://perma.cc/9YJC-VYQK>] (last visited Jun. 12, 2017). This marked sex disparity is unsurprising given that in the fall of 2010, VMI's student body consisted of 1,425 males and 144 females. *See id.*

123. *Self-selection Bias*, PSYCHOL. GLOSSARY, <http://methods.sagepub.com/reference/encyclopedia-of-survey-research-methods/n526.xml> [<https://perma.cc/6FVM-EQ7L>] (last visited Jun. 12, 2017).

124. *Participant Bias*, PSYCHOL. GLOSSARY, <http://www.alleydog.com/glossary/definition.php?term=Participant%20Bias> [<https://perma.cc/8ARQ-Y4DP>] (last visited Jun. 12, 2017).

that may not entirely alleviate the potential impact of response bias, which relates to a possible tendency of respondents to give inaccurate or untruthful answers.¹²⁵ Despite these limitations, however, it is plausible, perhaps even probable, that the same or similar attitudes expressed by our respondents persist in other male-dominated spheres. Thus, the insights gained from our study may have implications for those hypermasculine environments as well.

Response rates per class were fairly proportional. One hundred first classmen or seniors, including 85 men and 15 women; 83 second classmen or juniors, including 72 men and 11 women; 87 third classmen or sophomores, including 73 men and 14 women; and 94 fourth classmen or freshmen, including 81 men and 13 women participated in our survey.¹²⁶ Most respondents—236 students—planned to enter the military.¹²⁷

B. Results

Placing women into positions of authority at VMI initially proved problematic and may still be so today. During the first year of assimilation, there were no female students in Cadre leadership.¹²⁸ That changed in the spring of 1999 when the first two women became members of Cadre.¹²⁹ In response, a cadet newspaper published an article questioning their qualifications.¹³⁰ Third class women also met resistance when trying to discipline male rats; some male dykes allegedly told their male rats to ignore female upperclassmen, and this disrespect was not confined to peers.¹³¹ Indeed, when a female faculty member attempted to discipline male cadets, male students allegedly came out onto their stoops and loudly called her a “bitch” and “whore.”¹³²

125. *Response Bias*, PSYCHOL. GLOSSARY,

<http://www.alleydog.com/glossary/definition.php?term=Response+Bias> [<https://perma.cc/L9EP-GBQC>] (last visited Jun. 12, 2017).

126. At VMI, freshmen are referred to as “rats” until completing “Breakout” and are deemed “fourth classmen” thereafter. *United States v. Virginia*, 766 F. Supp. 1407, 1422–23 (W.D. Va. 1991) *vacated*, 976 F.2d 890 (4th Cir. 1992), *aff’d*, 518 U.S. 515. Sophomores are “third classmen,” juniors are “second classmen,” and seniors are “first classmen.” *Id.*

127. VMI Common Data Set, VIRGINIA MILITARY INSTITUTE, <http://www.vmi.edu/content.aspx?id=8047> [<http://perma.cc/9YJC-VYQK>] (last visited Jun. 12, 2017).

128. See BRODIE, *supra* note 4, at 348–49.

129. *Id.*

130. *Id.* at 349.

131. *Id.* at 348.

132. *Id.* at 174–75.

However, given the importance of leadership at VMI and in the military, it is important to know whether there is a difference in the extent to which cadets accept women versus men in positions of leadership. If female cadets are to be fully accepted at VMI, then it is vital that students accept them as both peers and leaders.

To explore cadet perceptions of leadership, we first examined which two characteristics cadets believe are most essential to effective leadership. Next, we assessed whether cadets more typically associate these characteristics with men or women. Finally, we surveyed perceptions toward men and women in positions of leadership. Our results indicate that most cadets believe that male cadets display superior leadership ability at VMI, and when the vast majority (72.51%) of respondents see a woman “selected for a high position or award,” they assume she was chosen primarily because of her sex.¹³³

Perceptions of leadership hinge upon how cadets define that term; in other words, what qualities are integral to effective leadership? To determine this, we asked students to “list in order of importance the two most significant characteristics essential to being a good leader.” Although the textual responses we received vary too widely for coding, common responses include “honor,” “integrity,” “competence,” “respect,” “courage,” “empathy,” “honesty,” “selflessness,” “confidence,” “intelligence,” and “discipline.”¹³⁴ We next asked respondents to explain whether they associate their response more closely with women or men. Standing alone,

133. See *infra* Appendix.

134. By comparison, a 2015 Pew Report indicated that “good” leaders are compassionate, organized, honest, innovative, intelligent, ambitious, and decisive. In that study, 29% of respondents associated honesty more with women than men, while 3% say honesty applies more to men than women. 67% stated that men and women possess honesty in equal measure. 65% of respondents indicated that women were more compassionate than men, while 48% said women were also more organized than men. 27% of respondents opined that men are more decisive than women; only 9% thought women were more decisive. 21% stated that men are more ambitious than women, while 9% said women are more ambitious than men. *Chapter 2: What Makes a Good Leader, and Does Gender Matter?*, PEW RES. CTR. (Jan. 14, 2015), <http://www.pewsocialtrends.org/2015/01/14/chapter-2-what-makes-a-good-leader-and-does-gender-matter/> [<https://perma.cc/T3WD-TE36>] [hereinafter *What Makes a Good Leader*]. “Fully 37% of all adults say men are better at dealing with national security and defense; only 5% say women do a better job in this area.” Women appeared more likely than men to say that female political leaders are better at dealing with social issues such as education and health care and somewhat more likely to say that female leaders are better at handling economic conditions. Very few women (5%) say that female leaders do a better job than their male counterparts in dealing with national security, and 59% of women believe men and women handle national security equally well. *Id.*

none of the most common characteristics are facially gendered. In light of this, our results are particularly illuminating.

After noting the two most significant characteristics essential to good leadership, 50.5% of respondents (163) indicated that the most important leadership characteristic was more often associated with men.¹³⁵ 45.8% (148) felt that it was associated equally with both sexes.¹³⁶ Only 3.7% (12) indicated that it was more often associated with women.¹³⁷ With respect to the second most important leadership characteristic, 49.2% (158) believed it was more often associated with men.¹³⁸ 44.5% (143) felt it was associated equally with both sexes.¹³⁹ 6.2% (20) believed it was more often associated with women.¹⁴⁰

Further breaking down the data by sex, 54.18% (149) of men and 29.17% (14) of women stated that the most important leadership characteristic they had identified was more often “associated” with men.¹⁴¹ 2.55% (7) of men and 10.42% (5) of women said the characteristic was more often “associated” with women.¹⁴² 43.27% (119) of men and 60.42% (29) of women said that the trait was associated with “both sexes equally.”¹⁴³ Forty-one students skipped the question,¹⁴⁴ perhaps in part because defining the qualities inherent in effective leadership required a textual response, which was more time-consuming.¹⁴⁵

Likewise, 54.58% (149) of men and 18.75% (9) of women stated that the second most important leadership characteristic they had identified was more often “associated” with men.¹⁴⁶ 3.66% (10) of men and 20.83% (10) of women said the characteristic was more often “associated” with

135. *See infra* Appendix.

136. *Id.*

137. *Id.*

138. *Id.*

139. *Id.*

140. *Id.*

141. *Id.*

142. *Id.*

143. *Id.*

144. *See id.*

145. By comparison, in the 2015 Pew Report, among those who say honesty is an essential quality for a leader, 68% say that both sexes possess this trait in equal measure. 87% opine that intelligence is also found equally, and among those who say decisiveness is a trait salient to leadership, 61% believe the sexes display the trait equally. *What Makes a Good Leader*, *supra* note 134.

146. *See infra* Appendix.

women.¹⁴⁷ 41.76% (114) of men and 60.42% (29) of women said that the trait was associated with “both sexes equally.”¹⁴⁸ Forty-three students skipped the question.¹⁴⁹ Thus, a sizeable minority of male cadets and a majority of female cadets believe that men and women possess characteristics salient to effective leadership in equal measure.

Despite this, however, most cadets still believe that men “typically display[] superior leadership ability at VMI.”¹⁵⁰ Indeed, not a single male cadet stated that women typically display superior leadership ability at VMI, and surprisingly, only five women, or 10%, indicated that women display superior leadership ability at VMI.¹⁵¹ By comparison, the vast majority of men—80.33% (241)—and nearly a third of women—30% (15)—believe that men typically display superior leadership ability at VMI.¹⁵² Roughly a quarter of respondents, including 19.67% of men (59) and 60% of women (30), believed that men and women displayed superior leadership ability in equal measure.¹⁵³ Fourteen students skipped this question.¹⁵⁴ The markedly different responses can perhaps be attributed to the fact that our first question simply referred to the qualities inherent in being a “good leader,” while the question regarding leadership ability focused responses on displays of leadership *at VMI*, not in society at large. This may suggest that male cadets are more favorable to and accepting of female leadership outside VMI, such as in the civilian sector, than within their home institution where it will directly impact them.

Given VMI’s strong emphasis on physical prowess, this attribute may also engender respect, loyalty, and admiration from subordinates. However, when asked which sex “typically displays superior physical prowess at VMI,” 97.67% (294) of male respondents said that men do.¹⁵⁵ 2.33% (7) of men said that men and women equally display superior

147. *Id.*

148. *Id.*

149. *Id.*

150. *See id.*

151. By comparison, according to a 2015 Pew Report, “[m]en are slightly more likely than women to say that men make better political leaders (17% vs. 12%), and women are more likely than men to say women make better leaders (11% vs. 7%).” *What Makes a Good Leader*, *supra* note 134.

152. *See infra* Appendix.

153. *Id.*

154. *See id.*

155. *Id.* at 178–79.

physical prowess at VMI.¹⁵⁶ No male stated that women exhibit superior physical prowess.¹⁵⁷ By comparison, 2% (1) of women believed that women typically display superior physical prowess at VMI.¹⁵⁸ 90% (45) of female respondents believed that men typically display superior physical prowess, and 8% (4) of women believed that the sexes display it in equal measure at VMI.¹⁵⁹ Thirteen students skipped this question.¹⁶⁰ The heavy emphasis VMI places upon physical strength may increase the likelihood that VMI cadets come to perceive physical prowess as synonymous with the kind of strength salient to good leadership. Thus, to the extent that being perceived as possessing superior physical prowess earns a cadet and leader respect, women are less likely to be seen as strong leaders. This may further extend to displays of strength that engender respect in combat or “in the varied work of civilian life.”¹⁶¹

Like strength and valor, intelligence is another attribute critical to effective leadership. Accordingly, we asked respondents to share their perceptions regarding which “sex typically displays superior academic performance at VMI.”¹⁶² 10.30% (31) of male respondents stated that women showed superior academic performance at VMI.¹⁶³ 28.57% (86) of male respondents said that men typically display superior academic performance at VMI.¹⁶⁴ A majority—61.13% (184)—of male respondents said that men and women equally display superior academic performance at VMI.¹⁶⁵ With regard to female respondents, 38% (19) of women believed that women typically display superior academic performance at VMI.¹⁶⁶ Six percent (3) of female respondents believed that men typically display superior academic performance at VMI, and 56% (28) of women believed that the sexes equally displayed superior academic performance at VMI.¹⁶⁷ Thirteen students skipped this question.¹⁶⁸ Thus, to the extent

156. *Id.*

157. *Id.*

158. *Id.*

159. *Id.*

160. *Id.*

161. VA. MIL. INST., *supra* note 10, at 5.

162. *See infra* Appendix.

163. *Id.*

164. *Id.*

165. *Id.*

166. *Id.*

167. *Id.*

168. *See id.* By comparison, in a 2015 Pew Center report, 55% of respondents believed

academic performance is a proxy for intelligence and intelligence is viewed as salient to effective leadership, cadets may be likelier to believe that men and women are equally likely to be good leaders. Yet given VMI's unique adversative pedagogy, one could speculate that academic prowess and relatedly, intelligence, may be less valued in VMI's hypermasculine environment and physically demanding Ratline as compared to a non-adversative, non-military educational setting that does not employ an adversative approach like VMI's neighboring university, Washington and Lee.

After assessing how students define leadership and examining their perceptions of which sex more typically displays superior leadership ability, we next explored cadet perceptions of female cadets who attain rank or receive awards. Given that most respondents believe that men usually display superior leadership ability and physical prowess at VMI, it is somewhat unsurprising that the vast majority of respondents—72.51%—assume that female cadets selected for a high position or award are chosen not because of merit but instead to, *inter alia*, create an appearance of sex equality, avoid further sex discrimination lawsuits, attract female applicants, and retain current female students.¹⁶⁹ Only 22.18% (65) of male respondents as compared to 59.18% (29) of female respondents agreed with the statement, “[w]hen I see that a female cadet is selected for a high position or award, I think . . . she must have deserved it.”¹⁷⁰ By comparison, 77.82% (228) of male respondents and 40.82% (20) of female respondents stated, “when I see a female cadet is selected for a high position or award, I think . . . she was chosen primarily because she was female.”¹⁷¹ Twenty-two students skipped the question.¹⁷² Notably, the majority of male respondents but also a sizeable minority—40.82%—of female respondents agreed that females in high positions are usually

there was no difference in whether men or women were better at working out compromises, 62% saw no difference in which sex was more honest and ethical, and 63% saw no difference in which sex is likelier to stand up for his or her beliefs. With regard to business leadership, 73% believed there was no difference between the sexes in negotiating profitable deals, 58% saw no difference in willingness to take risk, 66% thought men and women mentored equally well, and 64% believed men and women would be equally honest and ethical. *Women and Leadership*, PEW RES. CTR (Jan. 14, 2015), <http://www.pewsocialtrends.org/2015/01/14/women-and-leadership/> [<https://perma.cc/7HVL-YUAL>] [hereinafter *Women and Leadership*].

169. See *infra* Appendix.

170. *Id.*

171. *Id.*

172. *Id.*

selected primarily due to sex.¹⁷³ Yet nearly a quarter of male respondents—22.18%—and only a slight majority of female respondents—59.18%—believe that female cadets are selected for high positions or awards primarily due to merit.¹⁷⁴ These findings may suggest that, many female cadets who attain rank or receive awards, particularly those who refuse or fail to conform to gendered notions of leadership, may be stamped with a “badge of inferiority,” which could potentially undermine their authority from the outset.¹⁷⁵ As one respondent explained, “[i]f a woman has rank or a leadership position, unless she is known throughout the corps as an achiever, it is assumed that rank or position was given to her, that she did not merit it.” Another observed, “some of the female Cadet Captains . . . [are] not academically savvy . . . it blows my mind how [one woman] got put in charge of academics for the entire corps . . . other than the fact that she’s a girl.” A cadet who believes his or her supervisor is undeserving of and ill-suited for the position of authority may be less likely to afford her the respect to which she is entitled, undermining their relationship and perhaps adversely impacting her performance and perception as a leader.

Respondents’ widespread assumptions that many female leaders attain rank primarily due to sex may illuminate why some cadets feel uncomfortable with a female supervisor. Indeed, 20.81% (62) of male respondents and 95.92% (47) of female respondents “strongly agree[d]” with the following statement: “I don’t mind having a keydet¹⁷⁶ of the opposite sex in a leadership position supervising me.”¹⁷⁷ 35.57% (106)

173. *Id.*

174. *Id.*

About two-thirds of Americans, including majorities of men and women alike, say it is easier for men than women to get elected to high political offices and to get top executive positions in business, but women are more likely to express this view. About three-quarters of women say men have a better shot at these roles, compared with about six-in-ten men, a pattern that is repeated across generations.

Chapter 3: *Obstacles to Female Leadership*, PEW RES. CTR. (Jan. 14, 2015), <http://www.pewsocialtrends.org/2015/01/14/chapter-3-obstacles-to-female-leadership/> [<https://perma.cc/3M3R-GZU8>] [hereinafter *Obstacles to Female Leadership*].

175. In *Grutter v. Bollinger*, Justice Thomas asserted that affirmative action “programs stamp minorities with a badge of inferiority and may cause them to develop dependencies or to adopt an attitude that they are ‘entitled’ to preferences.” *Grutter v. Bollinger*, 539 U.S. 306, 373 (2003) (Thomas, J., concurring in part, dissenting in part).

176. A *keydet* is a positive nickname for VMI cadets, which refers to a school mascot of sorts, much like UVA Cavaliers sometimes self-identify as “Wahoos.”

177. See *infra* Appendix.

male respondents and 4.08% (2) female respondents “somewhat agree[d].”¹⁷⁸ 19.46% (58) of men and *no* women “somewhat disagree[d].”¹⁷⁹ 24.16% (72) of men and *no* women “strongly disagree[d].”¹⁸⁰ Seventeen students skipped the question.¹⁸¹ In other words, 100% of the female respondents are comfortable with a male supervisor.¹⁸² 56.4% of men felt similarly about a female supervisor, but 43.6% of the men would *not* want a female in a position of authority over them.¹⁸³

In conclusion, cadets define leadership in various ways but place a premium on traits like honor, integrity, and respect. Although these traits are not gendered on their face, a slight majority of male respondents stated that they associate the two traits they deem most significant to leadership more typically with men.¹⁸⁴ Most men believe that males generally display superior leadership ability and physical prowess at VMI.¹⁸⁵ A majority of both sexes agree that men and women equally display superior academic performance.¹⁸⁶ While female respondents do not mind having a male supervisor, a sizeable minority of male respondents prefer not to have a female supervisor.¹⁸⁷ Most respondents assume that female cadets receive rank or awards because of their sex, not their merit.¹⁸⁸ But what accounts for these perceptions of female cadets in positions of power? Although our data fails to provide a definitive answer, Part Three of the Article considers potential explanations that, taken together, may account, at least in part, for our results.

IV. OBSERVATIONS

Notably our data captures only the correlation of certain attitudes towards leadership and the respondent’s sex, not whether the respondent’s sex *causes* him or her to possess those perceptions.¹⁸⁹

178. *Id.*

179. *Id.*

180. *Id.*

181. *Id.*

182. *Id.*

183. *Id.*

184. *Id.*

185. *Id.*

186. *Id.*

187. *Id.*

188. *Id.*

189. *See id.*

Nonetheless, the non-exhaustive list of observations gleaned from our findings proves quite enlightening.

A. *Cadet Perceptions May Reflect Historical Perceptions of and Contemporary Attitudes toward Women in Leadership*

Although VMI arguably remains a bastion of masculinity, respondents' attitudes toward women in leadership at VMI are not unique; rather, they may largely reflect longstanding perceptions of female leaders in other male-dominated spheres, such as politics, law, and business.

Despite America's purported commitment to freedom and egalitarianism, our nation was founded on a "principle of exclusion."¹⁹⁰ Even our Declaration of Independence proclaims, "All *men* are created equal," explicitly excluding women from its embrace.¹⁹¹ Indeed, the architects of America were primarily affluent, heterosexual white males, many of whom owned slaves.¹⁹²

Thus, for centuries American women were expected to thrive in a world made *by men for men*.¹⁹³ Doing so was no easy task, particularly since the law often subjugated women to the needs and designs of their fathers and husbands.¹⁹⁴ Absent exceptional circumstances, colonial marriage and property laws known as "coverture," denied a married woman the right to own property in her own name or control her own earnings.¹⁹⁵ Nor could she even bring suit to redress a wrong.¹⁹⁶ A woman

190. I attribute this articulation to L.T., a historian who shared this insight during a visit to the International Civil Rights Museum in Greensboro, North Carolina, in February of 2016.

191. *Dred Scott v. Sandford*, 60 U.S. 393, 410 (1856), *overruled by* U.S. CONST. amend. XIV (emphasis added). Only after the enactment of the Fourteenth Amendment did men of color formally possess equal protection under the law. Yet Jim Crow laws, racial segregation, and other forms of racial inequality persisted long after its enactment.

192. Jane Rutherford, *Equality As the Primary Constitutional Value: The Case for Applying Employment Discrimination Laws to Religion*, 81 CORNELL L. REV. 1049, 1061 (1996) ("Indeed, the Founding Fathers were affluent 'insiders.'") (footnote omitted); A. Leon Higginbotham, Jr., *The Relevance of Slavery: Race and The American Legal Process*, 54 NOTRE DAME L. REV. 171, 175 (1978).

193. *Compare Women and the Law*, HARV. BUS. SCHOOL, http://www.library.hbs.edu/hc/wes/collections/women_law/ [https://perma.cc/LH53-K5MU] (last visited Jun. 12, 2017), with *Start of the Suffragette Movement*, U.K. PARLIAMENT, <http://www.parliament.uk/about/living-heritage/transformingsociety/electionsvoting/womenvote/overview/startosuffragette/> [https://perma.cc/8R27-3Z53] (discussing the history of the British suffragette movement).

194. *Women and the Law*, *supra* note 193.

195. *Id.*

196. *Id.*

could not enter into contracts or serve as guardian to her children, which confined many women to unhappy, abusive marriages for which there was little or no recourse.¹⁹⁷ And the situation was far more dire for female slaves who were sold, traded, raped, and abused without legal rights or redress.¹⁹⁸ Yet women were largely powerless to effect change because they were prohibited from voting and otherwise participating in the political process.¹⁹⁹

Slowly things changed. Although historically women were often precluded from holding public office or even voting, through the centuries, women have played an increasingly prominent role in local and national politics.²⁰⁰ Often such preclusion served as a catalyst, mobilizing women to fight for equality. For example, when Elizabeth Cady Stanton attended the World Anti-Slavery Convention in 1840, male abolitionists barred female delegates from speaking or voting and required them to sit separately from the men behind a railed enclosure.²⁰¹ This demeaning treatment purportedly prompted Stanton to become a staunch advocate for women's suffrage.²⁰² In part due to her efforts, the first petition advocating for women's suffrage was adopted and signed in 1848 in Seneca Falls, New York.²⁰³ Half a century later, Frances Clock, Clara Cressingham, and Carrie C. Holly were the first women elected to a state

197. "Though a married woman was not able to sue or sign contracts on her own, her husband often did have to obtain her consent before he sold any property his wife had inherited." *Id.*

198. *Id.*

199. U.S. CONST. amend. XIX.

200. Some critics of women's suffrage claimed that giving women the right to vote would ensure that they would also have the right to hold public office. Even after women obtained the right to vote, opponents challenged women's ability to run for and hold public office. For example, Missouri attorney general Frank McCallister ruled in 1920 that four female candidates for the state legislature were not qualified to serve because the law stated that "to be member of the state legislature one must be a male voter and a voter for two years before the election." Similarly, the Arkansas Attorney general ruled that women were ineligible to hold public office. Notably, obstacles to female leadership were not confined to the South. For instance, the New Hampshire Supreme Court concluded that women were eligible for elected office but could be ineligible for appointed offices. KRISTI ANDERSEN, *AFTER SUFFRAGE: WOMEN IN PARTISAN AND ELECTORAL POLITICS BEFORE THE NEW DEAL* 122 (1996).

201. JUDITH WELLMAN, *THE ROAD TO SENECA FALLS: ELIZABETH CADY STANTON AND THE FIRST WOMAN'S RIGHTS CONVENTION* 59-61 (2004).

202. *Id.* at 61-63.

203. Judith Wellman, *The Seneca Falls Women's Rights Convention: A Study of Social Networks*, 3 J. WOMEN'S HIST. 9, 9-17 (1991).

legislature.²⁰⁴

It would take decades before a woman served at the federal level, but in 1917 Jeannette Rankin of Montana became the first woman to be elected to Congress.²⁰⁵ Ironically, Congresswoman Rankin was elected to office three years before ratification of the Nineteenth Amendment permitted her to vote in federal elections.²⁰⁶ As of August 2016, approximately 307 women had followed in Rankin's footsteps.²⁰⁷ However, women comprised 50.8% of the U.S. population in 2014²⁰⁸ but held only 19% (104 seats) of the 114th Congress.²⁰⁹ Yet that was a record number twice the representation seen twenty years earlier.²¹⁰ Although female political

204. Notably, they were each elected in Colorado, the first state to grant women the right to vote in state elections. *First Women Elected/Appointed to State Legislative Office*, WOMEN IN GOV'T, <http://www.womeningovernment.org/legislate/first-women-electedappointed-state-legislative-office> [https://perma.cc/56KT-AARV] (last visited Jun. 12, 2017). Crystal Bird Faucet was the first African American woman elected to a state legislature. The share of state legislators who are women has risen from 4.5% in 1971 to 24.2% in 2015. One documentary reported that countries like Cuba and Iraq have more women in the government than the United States. MISS REPRESENTATION (Jan. 20, 2011); see also *Women and Leadership*, *supra* note 168.

205. Emmy E. Werner, *Women in Congress: 1917–1964*, 19 THE W. POL. Q., 16, 16 (1966).

206. *Id.*; 19th Amendment, HISTORY, <http://www.history.com/topics/womens-history/19th-amendment> [https://perma.cc/TED8-PTD5] (last visited Jun. 12, 2017).

207. *Chapter 1: Women in Leadership*, PEW RES. CTR. (Jan. 14, 2015), <http://www.pewsocialtrends.org/2015/01/14/chapter-1-women-in-leadership/> [https://perma.cc/Y9P9-L8WL] [hereinafter *Women in Leadership*]; *Women in U.S. Congress*, RUTGERS EAGLETON INSTITUTE OF POLITICS, <http://www.cawp.rutgers.edu/women-us-congress-2015> [https://perma.cc/MG99-JEF8] (last visited Jun. 12, 2017); *American Fact Finder*, U.S. CENSUS BUREAU, https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_15_5_YR_DP05&src=pt [https://perma.cc/2WNP-RAHS] (last visited Jun. 12, 2017) (hereinafter *Women in U.S. Congress*).

208. *Women in U.S. Congress*, *supra* note 207.

209. Frida Ghitis, *100 Women in Congress is Not Enough*, CNN (Nov. 5, 2016, 5:22 PM), <http://www.cnn.com/2014/11/05/opinion/ghitis-women-in-congress/index.html> [https://perma.cc/S7NA-GAVU] (“[T]he comparatively low number of women with political power in Washington should concern us all. The embarrassingly small percentage is far lower than in most advanced democracies.”). The story of Utah Congresswoman Mia Love, the first African American woman to be elected by the Republican party, is particularly inspirational. L.Z. Granderson, *Mia Love's Inspirational Life Story*, CNN (Nov. 6, 2014, 8:12 PM), <http://www.cnn.com/2014/11/05/opinion/granderson-mia-love-victory/index.html> [https://perma.cc/87EU-EHD5]. According to Congresswoman Love, “I wasn’t elected because of the color of my skin; I wasn’t elected because of my gender. I was elected because of the solutions that I put [on] the table.” Nia-Malika Henderson, *Mia Love: ‘I Wasn’t Elected Because of the Color of my Skin,’* WASH. POST (Nov. 5, 2014), <https://www.washingtonpost.com/news/the-fix/wp/2014/11/05/mia-love-i-wasnt-elected-because-of-the-color-of-my-skin/> [https://perma.cc/A79H-MEHM].

210. *Women and Leadership*, *supra* note 168. This study conducted between November 12

representation is moving in the right direction, according to The Representation Project, “[a]t this rate, women may not achieve parity for 500 years.”²¹¹ Similarly, at the state level, the share of female legislators has more than quadrupled from 4.5% in 1971 to 24.2% in 2015 but still does not accurately reflect the proportion of women in the population.²¹²

Likewise, while women have undoubtedly made significant progress in attaining *entrance* into the private sector, they often face obstacles to advancement once there.²¹³ For example, although women account for nearly half of the labor force, as of 2014, only around 26 women (5%) served as CEOs of Fortune 500 companies; however, none served as CEOs in 1995.²¹⁴ As of 2013, about one-in-six board members of Fortune 500 companies (17%) were women, up from 10% in 1995.²¹⁵ That same year,

and 21 of 2014, samples 1,835 Americans, including 921 women and 914 men all of whom are 18 years of age or older. A second survey was conducted November 20 to 23 of 2014. It involved 1,004 adults all of whom are 18 years of age or older and live in the continental United States. This survey was conducted over the telephone under the direction of Princeton Survey Research Associates International.

211. *Miss Representation Trailer*, THE REPRESENTATION PROJECT, <http://therepresentationproject.org/film/miss-representation/see-the-film/> [<https://perma.cc/N4PE-XE4X>] (last visited Jun. 12, 2017).

212. *Women in Leadership*, *supra* note 207.

213. *See id.*

214. *Women and Leadership*, *supra* note 168. *See, e.g.*, Justin Wolfers, *Fewer Women Run Big Companies than Men Named John*, N.Y. TIMES (Mar. 2, 2015), <http://www.nytimes.com/2015/03/03/upshot/fewer-women-run-big-companies-than-men-named-john.html> [<https://perma.cc/5TS2-RRRS>] (“Fewer large companies are run by women than by men named John, a sure indicator that the glass ceiling remains firmly in place in corporate America. Among chief executives of S&P 1500 firms, for each woman, there are four men named John, Robert, William or James. We’re calling this ratio the Glass Ceiling Index”); Emily Peck, *Do You Realize How Few Women CEOs Exist? These Executives Don’t*, HUFFINGTON POST (July 13, 2015, 7:35 AM), http://www.huffingtonpost.com/2015/07/13/weber-shandwick-female-ceo_n_7771608.html [<https://perma.cc/N7EF-KQGJ>] (observing that in a recent survey of 1,700 C-suite leaders around the world, women executives wrongly guessed that 25% of companies had female CEOs, which is five times the actual percentage); Matt Egan, *Still Missing: Female Business Leaders*, CNN MONEY (Mar. 24, 2015, 1:49 PM), <http://money.cnn.com/2015/03/24/investing/female-ceo-pipeline-leadership/> [<https://perma.cc/QW8V-H6MC>] (“Only 14.2% of the top five leadership positions at the companies in the S&P 500 are held by women . . . there are only 24 female CEOs.”).

215. *Women and Leadership*, *supra* note 168. *See, e.g.*, *No News is Bad News: Women’s Leadership Still Stalled in Corporate America*, CATALYST, <http://www.catalyst.org/media/no-news-bad-news-womens-leadership-still-stalled-corporate-america> [<https://perma.cc/NJ75-FAWS>] (last visited Jun. 12, 2017) (observing that 10% of companies have all-male boards and only 3% of boards include a woman of color even though a recent Catalyst study demonstrates that “[c]ompanies with three or more women board directors in four of five years, on average, outperformed companies with zero women board directors—by 84% return on sales, 60%

women held 52.2% of managerial and professional occupations in America, up from 30.6% in 1968.²¹⁶ Thus, women are undoubtedly making progress, but they still lag far behind men in acquiring senior management positions.²¹⁷ According to one survey of American businesses, “in 2014, only 22% of senior managers were women.”²¹⁸ Furthermore, by some estimates, “women hold only 3% of clout positions in telecommunications, entertainment, publishing, and advertising.”²¹⁹ According to some, this lack of gender diversity, particularly in media outlets, may account for portrayals of women in magazines, movies, and television that perpetuate gender stereotypes and promote inequality.²²⁰

Women have also made notable gains in entering law but difficulty reaching the height of the profession. For example, in 2015, 34% of legal professionals and one-in-five law firm partners were women as were 24% of federal judges and 27% of state court judges.²²¹ Only 6% of managing partners at the nation’s largest law firms were female.²²² With regard to legal Academia, in 2008–2009, there were four times more male than female law school deans.²²³ Women held only 29% of highly coveted

return on invested capital, and 46% return on equity.”). Out of full disclosure, Catalyst is a non-profit organization dedicated to “expanding opportunities for women and business.” *Id.*

216. *Women and Leadership*, *supra* note 168.

217. *Id.* Notably, most of the richest women in the world inherited their fortunes from fathers or spouses. Emily Jane Fox, *The Richest Women Around the World*, CNN MONEY (Oct. 29, 2014, 2:25 PM), <http://money.cnn.com/2014/10/29/luxury/richest-women/index.html> [<https://perma.cc/JRZ7-7B9L>] (observing that there are 286 female billionaires worldwide compared to 2,039 male billionaires, and among the women, 65% inherited their wealth).

218. *Women in Leadership*, *supra* note 207. “Overall, 53% believe men will continue to hold more top executive positions in business, even as more women move into management roles; 44% believe that as more women move into management, it is only a matter of time before there are as many women as men in top business leadership positions. Men and women express nearly identical views.” *Obstacles to Female Leadership*, *supra* note 174.

219. MISS REPRESENTATION (Jan. 20, 2011).

220. *Id.*

221. *Women in Leadership*, *supra* note 207; see also Justin D. Levinson & Danielle Young, *Implicit Gender Bias in the Legal Profession: An Empirical Study*, 18 DUKE J. GENDER L. & POL’Y 1, 5 (2010) [hereinafter Levinson & Young, *Gender Bias in the Legal Profession*] (“The number of women in leadership roles in the nation’s courts and law schools is only slightly better than in the private sector. Statistics show that less than thirty percent of judges in federal and state courts are women, including federal district court judges (25%), federal appeals court judges (29%), and state court judges (26%)”) (footnotes omitted).

222. Levinson & Young, *Gender Bias in the Legal Profession*, *supra* note 221, at 4.

223. *Id.* at 5; see also Kristen K. Tiscione & Amy Vorenberg, *Podia and Pens: Dismantling the Two-Track System for Legal Research and Writing Faculty*, 31 COLUM. J. GENDER & L. 47, 51 (2015) (explaining that on average, a female legal writing professor makes 55 cents for every dollar that a male, tenured professor earns).

tenure track and tenured faculty positions.²²⁴ Professor Kristen Tiscione argues that many legal writing professors, who have historically been disproportionately female, are treated as a “‘permanent[ly] underprivileged stratum of untouchables’ and ‘second-class citizens’ in the ‘pink ghetto’” in part because law schools “demean teaching legal writing as unintellectual ‘women’s work.’”²²⁵ She further emphasizes that as of 2014, 64% of tenured law faculty were male, while women comprised 72% of legal writing faculty.²²⁶ Notably, many law schools still categorically exclude legal writing professors from tenure eligibility.²²⁷

Moreover, male-dominated microclimates like BigLaw, Wall Street, and Silicon Valley remain hotbeds of sex discrimination and sexual harassment.²²⁸ Despite this, only 28% of the 800 companies surveyed in

224. Levinson & Young, *Gender Bias in the Legal Profession*, *supra* note 221, at 5.

225. Kristen Konrad Tiscione, “*Gender Degradation*”: *New Words to Tell an Old Story*, THE SECOND DRAFT, Fall 2015, at 29, 30 (footnotes omitted).

226. *Id.* (citing ALWD/Legal Writing Inst., *Report of the Annual Legal Writing Survey* (2014)); see generally Deborah L. Brake, *Perceiving Subtle Sexism: Mapping the Social-Psychological Forces and Legal Narratives that Obscure Gender Bias*, 16 COLUM. J. GENDER & L. 679 (2007); Martha S. West, *Gender Bias in Academic Robes: The Law’s Failure to Protect Women Faculty*, 67 TEMP. L. REV. 67 (1994) (discussing the role that gender bias may play in evaluations and hiring of women faculty); Joan M. Krauskopf, *Touching the Elephant: Perceptions of Gender Issues in Nine Law Schools*, 44 J. LEGAL EDUC. 311, 329 (1994); Pamela Edwards, *Teaching Legal Writing as Women’s Work: Life on the Fringes of the Academy*, 4 CARDOZO WOMEN’S L.J. 75 (1997); Richard K. Neumann, Jr., *Women in Legal Education: What the Statistics Show*, 50 J. LEGAL EDUC. 313 (2000); Kathryn M. Stanchi & Jan M. Levine, *Gender and Legal Writing: Law Schools’ Dirty Little Secrets*, 16 BERKELEY WOMEN’S L.J. 3, 4 n.3 (2001); Christine Haight Farley, *Confronting Expectations: Women in the Legal Academy*, 8 YALE J.L. & FEMINISM 333 (1996).

227. See Tiscione, *supra* note 225, at 30–31.

228. Audrey Dilling, *Sex Discrimination Trial Puts Silicon Valley Under The Microscope*, NPR (Mar. 17, 2015, 4:52 PM), <http://www.npr.org/2015/03/17/393347548/sex-discrimination-trial-puts-silicon-valley-under-the-microscope> [<https://perma.cc/SRU5-AKE7>] (discussing Ellen Pao’s sex discrimination lawsuit against venture capitalist firm Kleiner Perkins); Yunha Kim, *What I Learned in My First Year as a Female Startup CEO*, HUFFINGTON POST (Apr. 16, 2014, 12:24 PM), http://www.huffingtonpost.com/yunha-kim/what-i-learned-in-my-female-ceos_b_5149186.html [<https://perma.cc/35MR-2DA4>] (“You may get more sales meetings because some of the guys that you are pitching to have a different agenda.”); *Female Workers at German Bank Sue for \$1.4B*, NBC (Jan. 9, 2006), http://www.nbcnews.com/id/10777165/ns/business-world_business/t/female-workers-german-bank-sue-b/#.Vuiu0Rjm1ek [<https://perma.cc/B36T-9L8C>]; Anita Raghavan, *Terminated: Why the Women of Wall Street are Disappearing*, FORBES (Feb. 26, 2009, 6:00 PM), http://www.forbes.com/forbes/2009/0316/072_terminated_women.html; Debra Cassen Weiss, *Men-Only Golf Retreats and Unequal Work Assignments Alleged in Bias Suit Against McElroy Deutsch, ABA J.* (Apr. 6, 2015, 8:48 AM), http://www.abajournal.com/news/article/men_only_golf_retreats_and_unequal_work_assignments_alleged_in_bias_suit_ag [<https://perma.cc/XM24-4VZG>]; Daniel Fisher, *Faruqi & Faruqi’s*

2009 cited “achieving leadership diversity” as a top ten goal, and 40% indicated that “it wasn’t a priority at all.”²²⁹

But why do these disparities persist decades after Title VII and Title IX prohibited sex discrimination in employment and education, respectively?²³⁰ Could gendered notions of leadership and the perceptions of female leaders to which they give rise play a role? In *Gender Diversity* (2000), Dr. Serena Nanda posits that in western cultures like the United States, society creates a male/female dichotomy between sex, which is biological, and gender, which is a social construct, but then fuses together the two distinct concepts.²³¹ Thus, men are usually acculturated to exhibit “masculine” characteristics traditionally associated with the social construct of maleness, while women are generally socialized to display “feminine” qualities in order to be perceived as “true women.”²³² Individuals who challenge such characterizations and adopt characteristics more often associated with the opposite sex are known as *gender variants*.²³³ Their attempts, conscious or not, to breach the fused cultural template of sex and gender are often stigmatized and viewed as undesirable or threatening.²³⁴

Female leaders, particularly in predominantly male domains like VMI, may be viewed as gender variants to the extent a male-gendered construct of leadership prevails therein.²³⁵ As a result, a female who possesses male-

Clouded Reputation Takes Another Hit with Sex Suit, FORBES (Mar. 14, 2013, 11:25 AM), <http://www.forbes.com/sites/danielfisher/2013/03/14/faruqi-faruqi-clouded-reputation-takes-another-hit-with-sex-suit/#7d6666731266>.

229. Carol Hymowitz, *Women Leadership Styles*, FORBES (May 26, 2010, 6:11 PM), <http://www.forbes.com/sites/work-in-progress/2010/05/26/women-leadership-styles/#492a3f426b98>.

230. See 20 U.S.C. § 1681 (2012); 42 U.S.C. § 2000e-2 (2012).

231. SERENA NANDA, *GENDER DIVERSITY: CROSSCULTURAL VARIATIONS*, 1 (2d ed. 2000).

232. See, e.g., *Prowel v. Wise Business Forms, Inc.*, 579 F.3d 285, 287–92 (3d Cir. 2009) (concluding that a self-described “effeminate” gay man, who spoke in a high voice, was neat and well-groomed, sat “the way a woman would sit,” pushed the buttons on the machine he operated with “pizzazz” and whose coworkers called him “Princess” and “Rosebud,” among other names, presented sufficient evidence of sex bias under a sex stereotyping theory for his harassment claim to be submitted to a jury).

233. NANDA, *supra* note 231, at 3.

234. Such stigmatization is not universal. For example, among the Mojave, some biological females become warriors and dress as such, and some biological men dress as women and perform domestic responsibilities. These *gender variants* sometimes marry. Yet notably, their gender variance is only tolerated if they participate in a heterogenderal relationship.

235. According to Dr. Caroline Heldman, at age seven, roughly equal numbers of boys and girls express an interest in being President of the United States but by age fifteen, the number of

gendered leadership qualities like an autocratic leadership style and who openly displays them may be viewed as a gender variant and sanctioned as a result, socially or otherwise. According to sociologist Marianne Cooper, “high-achieving women experience social backlash because their very success—and specifically the behaviors that created that success—violate[] our expectations about how women are supposed to behave.”²³⁶ As will be illustrated below, the same may hold true for women who attend VMI. They may find themselves caught between a rock and a hard place—derided for being ill-suited for leadership unless they overtly conform to male-gendered notions of what it means to be a capable “cadet” and “combat leader.” Yet if they abandon traditionally feminine aspects of their identity, they are often perceived by their male counterparts as “manly,” “raging lesbians,” and more masculine than non-VMI women.²³⁷ Put differently, their failure to conform to hypermasculine sex stereotypes sometimes provokes resistance to their authority, while conforming may compel them to sacrifice a crucial part of their personal identity.²³⁸ This may explain, at least in part, why women leaders and female cadets are so often subjected to sex-based criticisms as well as sexual harassment.

a. Women in Politics

Nowhere were sex-based attacks more evident than during the 2008 election when media outlets seemingly declared open season on female candidates.²³⁹ One media personality told Americans that “[t]he reason [Hillary Clinton is] a U.S. senator, the reason she’s a candidate for president, the reason she may be a front-runner is her husband messed

girls with political aspirations has dropped “massive[ly].” She attributes this to the cultural climate that western media cultivates, a climate in which women are often exploited and objectified based on their appearance and where men are conditioned to be hypermasculine and in control over women. MISS REPRESENTATION (Jan. 20, 2011).

236. Marianne Cooper, *For Women Leaders, Likability and Success Hardly Go Hand-in-Hand*, HARV. BUS. REV. (Apr. 30, 2013), <https://hbr.org/2013/04/for-women-leaders-likability-a/> [<https://perma.cc/T8R4-HW5B>].

237. Abigail Perdue, *Transforming “Shedets” into “Keydets”: An Empirical Study Examining Coeducation through the Lens of Gender Polarization*, 28 COLUM. J. GENDER & L. 371, 403–05 (2015).

238. *Id.* at 413–15.

239. Much of the scholarship about media coverage of women in politics has focused on the 2008 presidential election because few women have pursued a major-party presidential nomination. Gregory S. Parks & Quinette M. Roberson, *“Eighteen Million Cracks”: Gender’s Role in the 2008 Presidential Campaign*, 17 WM. & MARY J. WOMEN & L. 321, 327–28 (2011).

around. That's how she got to be senator of New York . . . She didn't win . . . on her merit."²⁴⁰ Notably, his sentiments echo many respondents' view that most women at VMI obtained rank or won awards primarily because of their sex.²⁴¹ Likewise, Mark Rudov purportedly commented, "[w]hen Barack Obama speaks, men hear, 'Take off for the future.' And when Hillary Clinton speaks, men hear, 'Take out the garbage.'"²⁴² Instead of criticizing then-Senator Clinton's platforms or policies, a TV commentator labeled Clinton "a 'stereotypical bitch' who would drive all men crazy after four years of listening to her 'nagging.'"²⁴³ Similarly, a radio host remarked, "Will [this country] want to watch a woman get older before their eyes on a daily basis?";²⁴⁴ notably, Clinton was younger than Senator John McCain, who ultimately won the Republican nomination.²⁴⁵ Perhaps the best illustration of these sexist attacks occurred at a Clinton rally when obnoxious hecklers yelled "Iron my shirt" during her speech and held large

240. *Id.* at 337.

241. *See infra* Appendix.

242. Parks & Roberson, *supra* note 239, at 337.

243. Morvareed Z. Salehpour, *Election 2008: Sexism Edition: The Problem of Sex Stereotyping*, 19 UCLA WOMEN'S L.J. 117, 130 (2012). Likewise, when discussing Senator Mary Landrieu, Beck commented,

We're with a high class prostitute. That's what we're with . . . You're not sittin' there in a back alley and sayin' hey what do you say, five bucks? No, no, no this comes to your Four Seasons hotel room and does it right. There's nobody that's going to look at her and say oh my gosh you're with a whore . . .

Kim Conte, *Top 50 Most Sexist Quotes on the Campaign Trail*, NAME IT CHANGE IT, <http://www.nameitchangeit.org/blog/entry/top-50-most-sexist-quotes-on-the-campaign-trail/> [https://perma.cc/LF9A-PNXR] (last visited Jun. 12, 2017).

244. Then-Senator Clinton was not the only target of Limbaugh's jibes. When speaking of Supreme Court Justice Sonia Sotomayor, Limbaugh reportedly quipped, "I think I'm going to send Sotomayor, and her club, a bunch of vacuum cleaners to help them clean up after their meetings." Conte, *supra* note 243.

245. Compare Phillip Bump, *If He Wins in 2016, John McCain Will Still be Fairly Young by Senate Standards*, THE WASH. POST (Apr. 7, 2015), <https://www.washingtonpost.com/news/the-fix/wp/2015/04/07/if-he-wins-in-2016-80-year-old-john-mccain-will-still-be-fairly-young-by-senate-terms/> [https://perma.cc/66L2-MQXK], with Pete Seat, *Clinton is Too Old to Be President*, POLITICO (July 24, 2013, 10:12 A.M.), <http://www.politico.com/story/2013/07/hillary-clinton-is-too-old-to-be-president-094666> [https://perma.cc/GG3V-KTFG]; *see also* Alex Seitz-Wald, *Is Hillary Clinton Too Old to Be President?*, MSNBC (Dec. 16, 2014, 6:36 P.M.), <http://www.msnbc.com/msnbc/hillary-clinton-too-old-be-president> [https://perma.cc/VQ4G-QN49] (observing that Clinton has been called "old" and compared to a cast member of *The Golden Girls* but noting that Bill Clinton's camp criticized Bob Dole's age in 1996).

signs saying the same.²⁴⁶ As jibes about Clinton as a wife, mother, and woman persisted, other media personalities cast her as an abrasive, domineering figure overcompensating because of her sex.²⁴⁷ According to Morvareed Salehpour, “Clinton was being criticized for the same aggressiveness and assertiveness that would have been valued in a man as a sign of a strong leader.”²⁴⁸ These attacks continued in the 2016 election when a *Washington Post* reporter called Clinton an “old hag.”²⁴⁹

Emphasis on the appearance of female leaders not only comports with the all-too-frequent sexual objectification of women’s bodies in the media, but is also indicative of perceptions of women leaders as gender non-conformists who must be reminded of their proper place. Indeed, like female VMI cadets, “[f]emale candidates . . . face pressures to exhibit femininity while displaying the required masculine qualities.”²⁵⁰ Although prior election coverage had largely failed to dissect candidates’ appearance, in both 2008 and 2016, media outlets heavily scrutinized every aspect of Clinton’s dress and grooming.²⁵¹ In particular, her

246. Sarah Wheaton, ‘Iron my Shirt’, THE CAUCUS (Jan. 7, 2016, 7:49 PM), <http://thecaucus.blogs.nytimes.com/2008/01/07/iron-my-shirt/comment-page-4/> [<https://perma.cc/YCS7-KB6V>].

247. Salehpour, *supra* note 243, at 129.

248. *Id.*

249. Petula Dvorak, *Hillary Clinton is a 68-Year-Old Woman. And Plenty of People Hate Her for It*, WASH. POST (Oct. 6, 2016), https://www.washingtonpost.com/local/hillary-clinton-is-a-68-year-old-woman-and-plenty-of-people-hate-her-for-it/2016/10/06/fac46ee8-8bd9-11e6-bf8a-3d26847eed4_story.html?utm_term=.9be4258f4abe [<https://perma.cc/JAJ2-EAT9>].

250. Salehpour, *supra* note 243, at 137.

251. *Id.* at 131, 140. Intense scrutiny of Clinton’s appearance persisted during her subsequent tenure as Secretary of State. *See, e.g.*, Raquel Laneri, *Appearances Do Matter: Hillary Clinton’s Hair Clip Controversy*, FORBES (Sept. 24, 2014, 5:28 PM), <http://www.forbes.com/sites/raquellaneri/2010/09/24/appearances-do-matter-hillary-clintons-hair-clip-controversy/#44c90b8b1a22> (“But the sartorial critics’ claws came out when U.S. Secretary of State Hillary Clinton arrived to the General Assembly Monday wearing a vibrant cobalt blue suit and—*quelle horreur*—a plastic butterfly clip in her hair.”); MIRROR.CO.UK, *Hillary Clinton Scrapes Her Hair Back Like David Beckham at UN General Assembly in New York*, THE DAILY MIRROR (Apr. 20, 2012), <http://www.mirror.co.uk/news/uk-news/hillary-clinton-scrapes-her-hair-back-248777> [<https://perma.cc/49QU-YJTS>] (“United Nations delegates did a double-take yesterday as Hillary Clinton turned up with a David Beckham hairdo. U.S. Secretary of State Hillary had her highlighted hair scraped back in the style made famous by the former England football star. But while it may have suited Becks, experts agreed that it was a poor look for the 63-year-old politician.”); *Id.* (Celebrity hairdresser Daniel Galvin Jr. said: “Hillary looks as though she may have missed her regular appointment with her stylist and colourist as the colour looks dull and washed-out. And the hair clip she chose is not at all flattering. Hillary has made a style no-no with this look which is a shame as she usually looks very stylish and groomed”); *Oh Hillary, that Hairstyle Just Doesn’t Cut it: Mrs. Clinton Prepares for Huge UN Meeting with Lank*

signature pantsuits spawned countless jokes²⁵² and even a nutcracker, symbolic of all-too-frequent portrayals of her as a figurative “ballbuster.”²⁵³ As Salehpour notes, “[t]he media regularly used the most unflattering pictures of [Clinton] in the most awkward positions to portray her as ugly and hysterical.”²⁵⁴ When Clinton responded by attempting “to dress more femininely, particularly by wearing more colors and make-up that matched her clothes. . . . the media attacked her for these attempts.”²⁵⁵ Notably, however, while Clinton’s appearance again took center stage in 2016, this time it prompted more mixed reactions: criticism of her fashion sense from media outlets like *Elle* mobilized Clinton supporters to create Pantsuit Nation, a vocal Facebook Clinton fan club.²⁵⁶

Locks, THE DAILY MAIL (Sept. 21, 2010, 2:17 PM), <http://www.dailymail.co.uk/news/article-1313592/Hillary-Clinton-prepares-huge-UN-meeting-lank-locks.html> (“With minimal make-up, Mrs[.] Clinton’s 63 years came into sharp focus as she moved neatly from urging Pakistan to mend its reputation to an attempt to undermine Mr[.] Ahmadinejad within his own country.”); *Daily Mail: Hillary Forgets Her Makeup?*, FOX NATION (May 7, 2012), <http://nation.foxnews.com/hillary-clinton/2012/05/07/hillary-forgets-her-makeup> [<https://perma.cc/6V49-7YBN>] (“In photos taken at events in Bangladesh and India this weekend, the Secretary of State appears tired and withdrawn—far from the well—coiffed image she has maintained over the past two decades in politics. The images - in which she is make-up free, casually dressed and wearing glasses - come as she revealed she has no desire to make another bid for the White House as she is looking for a rest.”).

252. Comedian Jimmy Fallon commented on Chelsea Clinton’s then future child’s wardrobe: “If it’s a girl, it will get some of Chelsea’s old hand-me-downs, and if it’s a boy, it will get some of Hillary’s.” *Project Runway* Mentor Tim Gunn commented on Clinton’s pantsuits: “Why must she dress that way? I think she’s confused about her gender!” Elizabeth Enochs, *5 Times Hillary Clinton’s Style Was Criticized Instead of Her Ideas*, BUSTLE (June 3, 2015), <http://www.bustle.com/articles/86973-5-times-hillary-clintons-style-was-criticized-instead-of-her-ideas> [<https://perma.cc/9CDE-G5ZD>].

253. *The Hillary Nutcracker*, AMAZON, http://www.amazon.com/dp/B000UB0004/?tag=googhydr-20&hvadid=53895871118&hvpos=1t1&hvexid=&hvnetw=g&hvrand=2002314982974226209&hvpone=27.06&hvptwo=55&hvqmt=b&hvdev=c&ref=pd_sl_1wk994ms51_ [<https://perma.cc/2SRU-J3TJ>] (last visited Jun. 12, 2017).

254. Salehpour, *supra* note 243, at 131.

255. *Id.* at 134. When one interviewer asked Clinton, “Which designers do you wear?”, she responded, “Would you ever ask a man that question?” Mary Elizabeth Williams, *Hillary Clinton Does Not Have Time for Your Games*, SALON (Aug. 16, 2012, 2:43 PM), http://www.salon.com/2012/08/16/hillary_clinton_does_not_have_time_for_your_games/?utm_source=huffpost_women&utm_medium=referral&utm_campaign=pubexchange_article [<https://perma.cc/E83Y-258X>]; see also Diana B. Carlin & Kelly L. Winfrey, *Have You Come a Long Way, Baby? Hillary Clinton, Sarah Palin, and Sexism in 2008 Campaign Coverage*, 60 COMM. STUD. 326, 331–32 (2009).

256. See Emanuella Grinberg, *Hillary Clinton’s ‘Pantsuit Nation’ Suits Up for Election Day*, CNN (Nov. 8, 2016), <http://www.cnn.com/2016/11/06/politics/pantsuit-nation-trnd/> [<https://perma.cc/HCK9-8BYC>] (describing a Facebook group of Clinton supporters who show

Vice-presidential nominee Sarah Palin took a different approach in 2008, “embrace[ing] her femininity and play[ing] it up, trying to use it to her advantage.”²⁵⁷ Yet she still encountered sexist critiques. Emphasizing her femininity prompted her to be sexually objectified and presumed incompetent.²⁵⁸ Republicans labeled Palin “Hot VP,” and a *Huffington Post* article deemed her a “VPILF”; the nickname purportedly spawned a website.²⁵⁹ A well-known Republican commentator announced that he wanted to sleep with Palin.²⁶⁰ Photographers took photos of the audience at Republican rallies through Palin’s legs making it look, intentionally or not, as if attendees were simply staring up her skirt.²⁶¹ Comedian David Letterman quipped, “[d]uring her trip to New York, Sarah Palin bought makeup from Bloomingdale’s to update her slutty flight attendant look.”²⁶² According to Salehpour,

[w]hile the male candidates could easily wear the same suit on multiple occasions with no one batting an eyelash, Palin did not have the same freedom If the media had not criticized her extravagant wardrobe, they would likely have criticized her poor wardrobe *à la* Hillary Clinton and her pantsuits.²⁶³

The media portrayals did their work well. Clinton lost a presidential

their support in part by wearing Clinton’s so-called signature look).

257. Salehpour, *supra* note 243, at 137; *see also* Carlin & Winfrey, *supra* note 255, at 330 (“Sexist portrayals of Palin stemmed from her beauty queen background, her youthful appearance, wardrobe, and her unabashed feminine nonverbal communication such as winking.”).

258. Salehpour, *supra* note 243, at 137.

259. *Id.* at 137–38.

260. *Id.* at 141.

261. Bonnie Erbe, *Sarah Palin—Feminist or Victim of Sexism?*, U.S. NEWS (Oct. 9, 2009, 2:35 PM), <https://www.usnews.com/opinion/blogs/erbe/2008/10/09/sarah-palin—feminist-or-victim-of-sexism?offset=10> [<https://perma.cc/AR9V-ECA6>].

262. Conte, *supra* note 243.

263. Salehpour, *supra* note 243, at 140–41. Nor is this brand of sexism limited to national politics. Indeed, when CEO of the Women’s Campaign Forum Foundation, Sam Bennett ran for Congress, a potential opponent’s chief of staff advised a local paper that Bennett was “a phony political whore who gives good head and makes cheap, blatant political opportunists look like Mother F**king Teresa. Even her pussy is made of plastic.” The newspaper subsequently printed this remark on the front page. Linda Lowen, *Women in Politics—Sexist Media, Sexist Attacks Hurt Women in Politics*, ABOUT NEWS & ISSUES, <http://womensissues.about.com/od/thepoliticalarena/a/Women-In-Politics-Sexist-Media-Sexist-Attacks-Hurt-Women-In-Politics.htm> [<https://perma.cc/693P-QGZ8>] (last visited Jun. 12, 2017).

nomination and later, the presidency.²⁶⁴ While an in-depth analysis of whether and to what extent gender played a role in the 2016 election results exceeds the scope and purpose of this Article, at least some research suggests that females may not have voted for Clinton in part because she did not “adhere to their vision of what it means to be a woman;” likewise, a University of Michigan survey noted a correlation between “hostile attitudes toward women” and voting against Clinton.²⁶⁵ Indeed, only a slight majority of female voters—54%—voted for Clinton.²⁶⁶

Similarly, Sarah Palin also never became Vice-President, and a 2010 study concluded that she actually cost her running mate, John McCain, “just under 2% of the final vote share,” or roughly two million votes.²⁶⁷ Some have even characterized Palin’s post-election endeavors as a “plunge . . . from national icon to national laughingstock.”²⁶⁸

Perhaps unsurprisingly, one post-election poll in 2008 indicated that 40% of men agreed with the statement “men are ‘naturally more suited’ to being in the Oval Office.”²⁶⁹ Other studies further confirm that sexist attacks and sexist media coverage harm women in politics.²⁷⁰ According

264. Clare Foran, *Women Aren’t Responsible for Hillary Clinton’s Defeat*, ATLANTIC (Nov. 13, 2016), <http://www.theatlantic.com/politics/archive/2016/11/hillary-clinton-white-women-vote/507422/> [<https://perma.cc/5HH5-9LLT>].

265. *Id.*; Nina Burleigh, *The Presidential Election Was a Referendum on Gender and Women Lost*, NEWSWEEK (Nov. 14, 2016, 8:00 A.M.), <http://www.newsweek.com/2016/11/18/hillary-clinton-presidential-election-voter-gender-gap-520579.html> [<https://perma.cc/9HRR-C3P3>].

266. Alec Tyson & Shiva Maniam, *Behind Trump’s Victory: Divisions by Race, Gender, Education*, PEW RES. CTR. (Nov. 9, 2016), <http://www.pewresearch.org/fact-tank/2016/11/09/behind-trumps-victory-divisions-by-race-gender-education/> [<https://perma.cc/W9TS-VJJB>].

267. Roy Elis, D. Sunshine Hillygus, & Norman Nie, *The Dynamics of Candidate Evaluations and Vote Choice in 2008; Looking to the Past or Future?*, 29 ELECTORAL STUD. 582, 582–93 (2010); see also Philip Bump, *Sarah Palin Cost John McCain 2 Million Votes in 2008, According to a Study*, WASH. POST (Jan. 19, 2016), https://www.washingtonpost.com/news/the-fix/wp/2016/01/19/sarah-palin-cost-john-mccain-2-million-votes-in-2008/?utm_term=.e2aeb144c8db [<https://perma.cc/VAV2-QKFD>] (“Palin’s presence on the 2008 Republican presidential ticket cost John McCain 1.6 percentage points. In an election in which 131 million people voted, that’s 2.1 million votes that McCain should have gotten but didn’t.”).

268. Aliyah Frumin, *Sarah Palin’s Big Flame-Out*, MSNBC (July 13, 2014, 12:15 P.M.), <http://www.msnbc.com/msnbc/sarah-palin-big-flame-out> [<https://perma.cc/EF4Q-WJW9>].

269. John A. Tures, *Is it Going to be Open Season on All Women in Politics in 2016?*, THE HUFFINGTON POST (Aug. 10, 2015, 9:15 AM), http://www.huffingtonpost.com/john-a-tures/is-it-going-to-be-open-se_b_7965332.html [<https://perma.cc/TAH8-YPUB>].

270. See, e.g., Linda Lowen, *supra* note 263; Susan Page, *Study: Sexist Insults Hurt Female Politicians*, USA TODAY (Sept. 23, 2010), http://usatoday30.usatoday.com/news/politics/2010-09-22-sexist-insults-female-politicians_N.htm [<https://perma.cc/X5M6-4MUP>].

to Terry O'Neill, President of the National Organization for Women, headlines criticizing female candidates' appearance send a powerful message "to all women, don't you dare step into the public sphere, we will savage you for what you look like."²⁷¹ Likewise, CEO of the Women's Campaign Forum Foundation Sam Bennett opined, "[p]olitics remains one of the most rampant breeding grounds for misogyny."²⁷²

Notably, sexism in politics is a global phenomenon that transcends time. Political adversaries seeking to disqualify Queen Elizabeth I accused her of sexual indecency, and because some felt that she was unfit to lead the Church of England, she was deemed Supreme Governor instead of Supreme Head of the Church.²⁷³ When British Prime Minister Margaret Thatcher took office centuries later in 1979, she too encountered significant sexism.²⁷⁴ For instance, an opposing political party popularized the slogan "Ditch the Bitch!" and the Vice-Chairman of the same party Thatcher would one day lead purportedly remarked, "My God! The bitch has won!"²⁷⁵ French President Jacques Chirac allegedly observed, "What does she want, this housewife? My balls on a tray?"²⁷⁶ Due to Thatcher's no-nonsense leadership style, a Soviet journalist deemed her "The Iron Lady"—a nickname that stuck.²⁷⁷ Yet a Palestinian political leader reportedly called Thatcher "The Iron Man," while one MP supposedly nicknamed her "Attila the Hen."²⁷⁸ Another male MP is credited as saying, "It's been a touching spectacle: the brave little woman getting on with the

271. Martha T. Moore, *Focus on Hillary Clinton's Appearance Sparks Criticism*, USA TODAY (May 10, 2012) <http://usatoday30.usatoday.com/news/washington/story/2012-05-09/hillary-rodham-clinton/54860282/1> [<https://perma.cc/73C2-76WW>].

272. Sam Bennett, *This Just In: The Measure of a Female Candidate Isn't in Her Measurements*, HUFFINGTON POST (Sept. 16, 2010, 11:45 AM), http://www.huffingtonpost.com/sam-bennett/this-just-in-the-measure_b_719411.html [<https://perma.cc/XEF4-PWQ4>].

273. See, e.g., JUDITH M. RICHARDS, ELIZABETH I 53 (2012); KAREN L. NELSON, ATTENDING TO EARLY MODERN WOMEN: CONFLICT AND CONCORD 158 (2013).

274. Dan Amira, *10 Very Sexist Things People Said To or About Margaret Thatcher*, N.Y. MAG. (Apr. 2, 2013, 12:27 PM), <http://nymag.com/daily/intelligencer/2013/04/sexist-margaret-thatcher-quotes-sexism.html> [<https://perma.cc/V2EF-RCLX>].

275. *Id.*

276. *Id.*

277. Max Fisher, *Irony Lady: How a Moscow propagandist gave Margaret Thatcher her famous nickname*, THE WASH. POST (April 8, 2013), https://www.washingtonpost.com/news/worldviews/wp/2013/04/08/irony-lady-how-a-moscow-propagandist-gave-margaret-thatcher-her-famous-nickname/?utm_term=.3fb6f2d8c21d [<https://perma.cc/RKN6-WGSF>].

278. Amira, *supra* note 275.

woman's work of trying to dominate the world."²⁷⁹

The same undercurrents of sexism described above persist today, undermining the authority of female leaders around the world. For example, in 2012, audience members whistled loudly at French Housing Minister Cecile Duflot during her speech at the National Assembly.²⁸⁰ South Korean presidential candidate Park Geun-hye was accused of having "no femininity" because she had no children.²⁸¹ When Brazilian President Dilma Rousseff attended the World Cup match-up between Brazil and Croatia, her own countrymen shouted: "Hey, Dilma, go f*** yourself in the a**!"²⁸² In the flurry of Twitter messages that followed the incident, one person tweeted: "468 men and 45 women in Congress and you blame Dilma for everything. How ugly is that machismo, eh?"²⁸³ Similarly, the media labeled former Argentinian President Christina Fernandez de Krichner a "bitch," "bimbo" and even "botox Evita" and "lampooned [her] . . . for buying Christian Louboutin shoes during a trade trip to Paris."²⁸⁴ Similarly, Australia's first female Prime Minister, Julia Gillard, has been accused of being "deliberately barren" and called a "non-productive old cow."²⁸⁵ One interviewer asked Gillard if her partner was homosexual,²⁸⁶ and pornographic cartoons featuring Gillard were circulated on social media.²⁸⁷ Like Thatcher's opponents, critics of Gillard

279. *Id.*

280. Emine Saner, *Top 10 Sexist Moments in Politics: Julia Gillard, Hillary Clinton and More*, GUARDIAN (June 14, 2003, 1:14 PM), <http://www.theguardian.com/politics/2013/jun/14/top-10-sexist-moments-politics> [<https://perma.cc/E24Q-5ALN>].

281. *Id.*

282. Lulu Garcia-Navarro, *Can A Female Politician be Insulted Without it Being Sexist?*, NPR (June 13, 2014, 12:28 PM), <http://www.npr.org/sections/thetwo-way/2014/06/13/321670129/can-a-female-politician-be-insulted-without-it-being-sexist> [<https://perma.cc/U6LA-7B4H>].

283. *Id.*

284. David Osborne, *Cristina Fernandez de Kirchner: The Iron Lady of the Malvinas*, INDEPENDENT (Feb. 11, 2012), <http://www.independent.co.uk/news/people/profiles/cristina-fernandez-de-kirchner-the-iron-lady-of-the-malvinas-6715348.html> [<https://perma.cc/MPJ5-E6QY>].

285. Damien Murphy, *Julia Gillard Tells BBC Sexist Attitudes She Encountered as PM Weren't 'Something Australian'*, SYDNEY MORNING HERALD (Feb. 26, 2014), <http://www.smh.com.au/federal-politics/political-news/julia-gillard-tells-bbc-sexist-attitudes-she-encountered-as-pm-werent-something-australian-20140226-33hry.html> [<https://perma.cc/E677-SJAC>].

286. *Id.*

287. Kathy Marks, *Julia Gillard: Australia's First Female Prime Minister Reveals the 'Sexism and Misogyny' She Faced on Her Rise to the Top*, INDEPENDENT (Oct. 15, 2014), <http://www.independent.co.uk/news/world/australasia/julia-gillard-australias-first-female->

used sex-based slogans like “[D]itch the witch” and “[D]itch the bitch”²⁸⁸ and even featured “Julia Gillard Kentucky Fried Quail” on the menu at a fundraiser.²⁸⁹ The dish was described as having “small breasts, huge thighs and a big red box.”²⁹⁰

b. Women in Business

Similar issues plague female leaders in the private sector. Indeed, the U.S. Supreme Court first recognized sex stereotyping as a form of sex discrimination in a case involving a female accountant who was denied consideration for partnership in part because peers viewed her as too “macho.”²⁹¹ Ann Hopkins was a senior manager at PricewaterhouseCooper (PWC).²⁹² She possessed a wealth of valuable experience²⁹³ and was indisputably a strong performer, even landing a \$25 million contract.²⁹⁴ Partners and clients praised Hopkins as an “an outstanding professional” with “strong character, independence and integrity” who was “extremely competent, intelligent,” “strong and forthright, very productive, energetic and creative.”²⁹⁵ Indeed, the District Court concluded that Ms. Hopkins “was generally viewed as a highly competent project leader who worked long hours, pushed vigorously to meet deadlines and demanded much from the multidisciplinary staffs with which she worked.”²⁹⁶

Yet PWC refused to consider Hopkins’ candidacy for partnership and

prime-minister-reveals-the-sexism-and-misogyny-she-faced-on-9796953.html.

288. Laura Bates, *Julia Gillard's Views on Sexism in Politics are About Every Woman in Every Job*, GUARDIAN (June 16, 2014, 12:54 AM), <http://www.theguardian.com/lifeandstyle/womens-blog/2015/jun/16/julia-gillards-views-on-sexism-in-politics-are-about-every-woman-in-every-job> [<https://perma.cc/4TG9-PNNG>].

289. Saner, *supra* note 280.

290. See Bridie Jabour, *Julia Gillard's 'Small Breasts' Served Up on Liberal Party Dinner Menu*, GUARDIAN (June 11, 2013, 12:18 AM), <http://www.theguardian.com/world/2013/jun/12/gillard-menu-sexist-liberal-dinner> [<https://perma.cc/CM3P-ADCH>].

291. *Price Waterhouse v. Hopkins*, 490 U.S. 228, 235, 250 (1989).

292. *Id.* at 228–33.

293. Ann Hopkins, *Price Waterhouse v. Hopkins: A Personal Account of a Sexual Discrimination Plaintiff*, 22 HOFSTRA LAB. & EMP. L.J. 357, 358 (2005); PATRICK J. CIRON & JAMES OTTAVIO CASTAGNERA, *EMPLOYMENT AND LABOR LAW* 150 (2011).

294. *Price Waterhouse*, 490 U.S. at 233.

295. *Id.* at 234.

296. *Id.*

later declined to revisit that decision, prompting Hopkins to sue.²⁹⁷ PWC claimed that Hopkins was unfit for partnership because she was perceived by some as “macho”, “overcompensat[ing] for being a woman,” “overly aggressive,” “unduly harsh,” “difficult to work with,” and “impatient with staff.”²⁹⁸ One partner suggested that Hopkins “take ‘a course at charm school,’” while another objected to her use of profanity “because it’s a lady using foul language.”²⁹⁹ In advising Hopkins on how to improve her chances of becoming partner, one PWC partner encouraged Hopkins to “walk more femininely, talk more femininely, dress more femininely, wear make-up, have her hair styled, and wear jewelry.”³⁰⁰

Notably, Hopkins was the only woman in the pool of partnership candidates, and social psychologist and associate professor Dr. Susan Fiske later testified that sex stereotyping likely infected PWC’s partnership selection process.³⁰¹ The District Court found that past female candidates for partnership “were viewed favorably if partners believed they maintained their femin[in]ity while becoming effective professional managers” and “[t]o be identified as a ‘women’s lib[b]er’ was regarded as [a] negative comment.”³⁰² According to the District Court, “[o]ne partner repeatedly commented that he could not consider any woman seriously as a partnership candidate and believed that women were not even capable of functioning as senior managers—yet the firm took no action to discourage his comments and recorded his vote in the overall summary of the evaluations.”³⁰³

Ultimately, Hopkins prevailed. In a 6–3 decision, the U.S. Supreme Court ruled that PWC had violated Title VII by discriminating against Hopkins on the basis of sex.³⁰⁴ According to Justice William Brennan, “[a]n employer who objects to aggressiveness in women but whose positions require this trait places women in an intolerable and impermissible catch 22: out of a job if they behave aggressively and out of a job if they do not.”³⁰⁵

297. *Id.* at 233.

298. *Id.* at 235.

299. *Id.*

300. *Id.*

301. *Id.* 235–36.

302. *Hopkins v. Price Waterhouse*, 618 F. Supp. 1109, 1117 (D.D.C. 1985), *aff’d in part, rev’d in part*, 825 F.2d 458 (D.C. Cir. 1987), *rev’d*, 490 U.S. 228 (1989).

303. *Price Waterhouse*, 618 F. Supp. at 1117.

304. *Price Waterhouse*, 490 U.S. at 258.

305. *Id.* at 251. By the time a federal district court judge awarded Hopkins a partnership and back pay a year later, she had already taken a new position at the World Bank. Ultimately,

Ann Hopkins is not the only woman to have been precluded from power on the basis of sex. In *Chadwick v. Wellpoint*, the First Circuit reversed the grant of summary judgment to an employer accused of failing to promote a female employee due to a sex stereotype that “women who are mothers, particularly of young children, neglect their jobs in favor of their presumed childcare responsibilities.”³⁰⁶ Likewise, in 2015 the *Philadelphia Daily News* reported that soon after Colleen Mitchell was promoted to lieutenant, becoming the highest-ranking female fireman in her station, male coworkers subjected her to sexual harassment and sex-based threats, even ejaculating on a photo album Mitchell kept inside her desk.³⁰⁷

Indeed, according to a recent Pew Research Center survey, 52% of female respondents opined that a major reason more women are not in top leadership positions in business is that women are held to higher standards and have to do more to prove themselves; one-third of male respondents shared this view.³⁰⁸ Similarly, 50% of female respondents said many businesses are not ready to hire women for these positions, compared with 35% of male respondents who believe this is a major obstacle to female leadership.³⁰⁹

In sum, although male-dominated spheres differ markedly, the persons populating those diverse spheres are generally products of the same androcentric culture and thus, often share strikingly similar attitudes toward women in leadership. This is true whether in the courtroom or the

however, she returned to PWC where she worked until her retirement. She later authored a book on her experience entitled *So Ordered: Making Partner the Hard Way*. She also participated in creating the documentary *Makers: Women in Business*. See also *Lewis v. Heartland Inns of Am., LLC* 591 F.3d 1033 (8th Cir. 2010) (A female hotel desk clerk, who alleged her employer took away her daytime hours and then discharged her not because of her job qualifications or performance but because her appearance did not comport with the employer’s preferred feminine stereotype, asserted a Title VII sex-stereotyping claim. The record revealed that her superiors criticized her lack of a “Midwestern girl look” and said she dressed like Ellen DeGeneres and was not pretty enough.). Sex stereotypes can adversely impact men as well. See, e.g., *Nichols v. Azteca Rest. Enters., Inc.*, 256 F.3d 864 (9th Cir. 2001) (noting a male employee was criticized for walking “like a woman” and referred to as “she” and “her” because he did not conform to stereotyped expectations of masculinity).

306. *Chadwick v. Wellpoint, Inc.*, 561 F.3d 38, 41 (1st Cir. 2009).

307. Dana DiFilippo & David Gambacorta, *Critics: Sexual Harassment a Pervasive Problem in Fire Department*, PHILLY.COM (Feb. 25, 2015), https://web.archive.org/web/20160514022720/http://articles.philly.com/2015-02-25/news/59465747_1_sexual-harassment-female-paramedic-philadelphia-fire-department.

308. *Obstacles to Female Leadership*, *supra* note 174.

309. *Id.*

classroom, on Wall Street or at VMI. Thus, it is probable that cadets enter VMI with pre-existing notions that comport with a male-gendered construct of leadership. Over time, VMI's hypermasculine environment and institutional narrative about coeducation may impact those beliefs. Women leaders who overtly challenge those deeply engrained notions will either provoke hostility or change minds.

B. Cadet Attitudes May Reflect Continued Resistance to Coeducation and Discomfort with Gender Variance

Because VMI is a hotbed of masculinity, women who not only attend VMI but attain rank may be perceived as challenging patriarchal structures or traditions; indeed, female attempts to attain power in any male-dominated sphere will likely incite resistance or hostility. Men in hypermasculine environments like VMI tend to more rigidly enforce gender boundaries when they perceive those boundaries to be under assault.³¹⁰ By way of illustration, shortly after The Citadel admitted female students, two women withdrew under allegations of sexual harassment and hazing.³¹¹ Likewise, our results suggest that at VMI, some men view female cadets, particularly those who attain rank, as threatening gender variants. Such cadets may manifest their hostility in various ways from microaggression to more overt sanctions, including the use of sex-based slurs, sex discrimination, and sexual harassment.

Examining student perceptions of the reasons why women attend VMI supports the conclusion that many cadets perceive women cadets as intruders or infidels, and these attitudes shape perceptions of women at VMI. Just as media outlets sexualized Sarah Palin for acting in traditionally feminine ways and simultaneously accused Margaret Thatcher and Hillary Clinton of overcompensating for their sex, many male respondents reported that women attend VMI "to prove something," "to feel equal," "because they are 'manly,'" "to 'hunt' men," "because they are raging lesbians," or "to find husbands."³¹² Many of these perceptions cast female cadet's motivations in a negative light and relate to unsubstantiated (and

310. See Edward LaFontaine & Leslie Tredeau, *The Frequency, Sources, and Correlates of Sexual Harassment Among Women in Traditional Male Occupations*, 15 *SEX ROLES* 433, 434 (1986).

311. Judith Havemann, *Two Women Quit Citadel over Alleged Harassment*, WASH. POST (Jan. 13, 1997), <https://www.washingtonpost.com/archive/politics/1997/01/13/two-women-quit-citadel-over-alleged-harassment/54962eea-a265-4785-9daf-3808e4cf53fe/> [<https://perma.cc/JG2T-SPGA>]; see also BRODIE, *supra* note 4, at 167.

312. Perdue, *supra* note 237, at 403.

arguably misguided) beliefs about the sexual orientation or sexual proclivities of female cadets. According to one male cadet, VMI women “realize they might look cuter with fewer girls around” Another male observed, women attend VMI because they “wanted to act like they are big and strong and wanted to dress up and play soldier.”

These perceptions, in turn, illuminate why 75.6% of male respondents did not believe that VMI should have admitted women and 82.26% believed that coeducation had negatively impacted VMI.³¹³ Significantly, not all students agree. One cadet explained that the “most positive and overwhelmingly positive [impact] is that motivated, selfless females are given the opportunity to develop as leaders at VMI and cadets learn to work in a coed environment similar to the armed forced or professional work environment.” Other respondents observed that women attend VMI for many of the same reasons as male cadets. Yet anti-assimilation attitudes persist and may result from perceptions of female cadets as dangerous boundary crossers whose undesirable and deviant behavior warrants resistance. Yet if a male cadet does not wish to serve *beside* a woman, he certainly does not want to serve *under* her. Moreover, a male cadet who believes that women choose VMI for the “wrong” reasons may be more likely to also perceive them as categorically less fit for rank or acclaim.

In conclusion, our data revealed a microclimate in which many male cadets fiercely defend their male domain and the power and privilege it provides.³¹⁴ Their animosity toward female cadets whom they perceive as invaders and infidels may be reflected in their perception of women as less well suited for and thus, less deserving of power.³¹⁵ Hence, at VMI, cadet attitudes reaffirm the gendered place and status of female cadets, which in turn, makes it easier for male cadets to understand what it means to be a man at VMI and how to perform their masculinity accordingly.³¹⁶ Thus, for men, defending their once-exclusive male domain both preserves their male privilege and cements their masculine identities. This is especially true with regard to female leaders who have not just infiltrated their male domain but worse yet, have been given some measure of authority over it.

313. *Id.* at 401–02.

314. *Id.* at 431.

315. *Id.*

316. ERVING GOFFMAN, RELATIONS IN PUBLIC: MICROSTUDIES OF THE PUBLIC ORDER (1971) (observing that when humans interact, bits of identity are encoded in that behavior and exchanged).

C. *Cadet Attitudes May Reflect the Perception of Women Leaders as Undeserving Tokens of Gender Diversity*

Broader explanations that are applicable outside the unique context of VMI may provide further insight. For example, concerns regarding the selection of female leaders as mere tokens of gender diversity may account, at least in part, for our results. *Tokenism* refers to the inclusion of a person, usually a member of an underrepresented group, to symbolically represent the views or perspectives of that group.³¹⁷ Tokens are chosen to create the illusion, albeit not the reality, of diversity, equality, and inclusion.³¹⁸ Tokenism can be harmful because, among other things, it essentializes the experiences and attitudes of all group members.³¹⁹ It also renders tokens more susceptible to anxiety to the extent they feel responsible to serve as spokesperson for the multitude of disparate viewpoints and concerns of an entire group (*e.g.*, all women or all Hispanics)³²⁰—an impractical and impossible task that fails to account for the intersection of various aspects of each person’s identity.³²¹ Moreover, the failures of the token group member are often unfairly attributed to *all* group members.³²² As a result, tokenism, and relatedly stereotype threat, can undermine achievement.³²³ For instance, one male executive expressed reluctance to promote a woman to a certain position “because if she fails, it will be a disaster for all women.”³²⁴ Yet according to Joanna Barsh, co-author of *How Remarkable Women Lead: A Breakthrough Model for Work and Life*, women must be allowed “to fail—the way plenty of male leaders are doing. It’s unfair to expect one gender to be perfect.”³²⁵ In reality, however, female trailblazers experience intense pressure to exceed expectations, particularly since their failures will likely be attributed,

317. Judith Long Laws, *The Psychology of Tokenism: An Analysis*, 1 *SEX ROLES* 51, 51–52 (1975).

318. Nancy Leong, *Racial Capitalism*, 126 *HARV. L. REV.* 2151, 2153 (2013) (defining racial capitalism as “the process of deriving social or economic value from the racial identity of another person”).

319. Laws, *supra* note 317, at 59.

320. *Id.* at 53.

321. See generally Kimberle Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics*, 1 *UNIV. CHI. LEGAL F.* 139 (1989).

322. See *id.* at 150.

323. *Id.* at 150–51.

324. Hymowitz, *supra* note 229.

325. *Id.*

rightly or not, to their sex.³²⁶ As female CEO Yunha Kim observed, “[i]f you are aggressive, you are a bitch. If you are emotional, you are PMSing. If you are soft, you are too feminine. Whatever way someone finds you . . . it is because you are female.”³²⁷

The impact of tokenism is perhaps most evident in student responses regarding whether female cadets attain rank or awards primarily due to sex or merit. Nearly 75% of respondents attributed such attainments primarily to women’s sex.³²⁸ According to one respondent,

[w]omen should not be given jobs or rank here just because they are women. If they are truly the best candidate then that is absolutely fine but their gender should not be taken into account. Interviews and resumes should be anonymous and gender neutral to support this Otherwise the men will just continue to look at the women as hiding behind the fact that they are in fact women.

Another cadet observed that “[w]omen here are taken into rank positions, etc. regardless of their qualifications because VMI is trying to be seen as an institution of ‘equal opportunity’ [M]any of the Cadets in charge lack some, or all of these values.” The cadet then provides a specific example of a female selected for rank even though she had been “sent to the General Committee for disrespect to the Honor Court and overall as a Rat and Cadet, has failed to uphold the VMI Standard.”

Similarly, when asked to list the two most significant changes at VMI resulting from coeducation, illustrative responses included, “females have a slightly easier time achieving rank,” “reverse sexism,” “drop in standards,” and “rank preference” for women.³²⁹ In response to the open-ended question “what is the most significant way your experience at VMI would differ if you were a member of the opposite sex, if at all?” 65 respondents observed that females had an easier time at VMI, in part because it was easier for women to attain rank.³³⁰ Unfortunately, such

326. Laws, *supra* note 317, at 53.

327. Yunha Kim, *What I Learned in My First Year as a Female Startup CEO*, HUFFINGTON POST (Apr. 16, 2014, 12:24 PM), http://www.huffingtonpost.com/yunha-kim/what-i-learned-in-my-female-ceos_b_5149186.html [<https://perma.cc/5R9A-SN7E>].

328. See *infra* Appendix.

329. *Compare* City of Richmond v. J.A. Croson Co., 488 U.S. 469 (1989), with *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200, 241 (1995) (arguing that affirmative action “programs stamp minorities with a badge of inferiority and may cause them to develop dependencies or to adopt an attitude that they are ‘entitled’ to preferences”).

330. Of course, this raises the important question of whether sex and gender should be

widespread assumptions may, among other things, threaten to undermine female cadet's authority and consequently their efficacy as leaders. It may not only taint how others see them, but more importantly, how they see themselves.

D. Cadet Attitudes May Reflect Gender Polarization and Androcentrism

Undercurrents of gender polarization and androcentrism may also elucidate our results. In *The Lenses of Gender* (1993), Sandra Bem discusses three prisms through which human beings often view one another and the world: gender polarization, androcentrism, and biological essentialism.³³¹ The first lens—*gender polarization*—refers to the separation of sex/gender into opposite poles representing masculine and feminine domains; westerners often use this separation to quickly process information and interpret sex and gender differences.³³² The second lens—*androcentrism*—signifies a male-centeredness that treats men and maleness as the norm and women as “other.”³³³ Bem defines these “lenses” as “hidden assumptions about sex and gender . . . [that are] embedded in cultural discourses, social institutions, and individual psyches that invisibly and systemically reproduce male power in generation after generation.”³³⁴ As Bem explains, “[b]ecause society is not only gender polarizing but androcentric, the males and females living within it become androcentric and gender polarizing themselves.”³³⁵ As a result, we tend to construct gender identities consistent with the lenses through which we view the world.³³⁶ Conclusions reached as a result of viewing men and women through these lenses will likely impact the gender identity of any woman who is perceived as violating well established gender boundaries by attaining a position of authority in a male-dominated sphere. As a historically all-male military institution utilizing the masculinized

taken into account not only when selecting cadets for positions of leadership but in determining whether to admit students. Exploration of this issue will be the subject of a future article.

331. BEM, *supra* note 1, at 1–2. The third lens—*biological essentialism*—refers to the use of biology and science to “legitimize the sexual status quo” and will not be discussed herein. *Id.* at 6.

332. *Id.* at 2.

333. *Id.* at 41. According to Bem, Charlotte Perkins Gilman first enunciated the concept of “androcentrism,” which she described as “man being held the human type; woman a sort of accompaniment.” *Id.*

334. *Id.* at 2.

335. *Id.* at 139.

336. *Id.*

adversative educational method, VMI cadets likely viewed and perhaps still view one another through the reality-altering lenses of androcentrism and gender polarization.³³⁷ Any attempt to challenge this stronghold of masculinity would likely incite resistance.³³⁸ Not surprisingly, female cadets, particularly those who attain rank or other leadership positions, would be particularly vulnerable.

1. *Gender Polarization*

The existence of gender polarization³³⁹ at VMI may impact notions of leadership and perceptions of women leaders. According to Bem, “gender polarization homogenizes women and men, rather than allowing either the diversity that naturally exists within each sex or the overlap that naturally exists between the two sexes to flower in social and psychological life.”³⁴⁰ Furthermore, internalization of gender polarizing views may result in *gender schematicity*, or “the imposition of a gender-based classification on social reality, the sorting of persons, attributes, behaviors, and other things on the basis of the polarized definitions of masculinity and femininity that prevail in the culture.”³⁴¹ This is perhaps best illustrated in cadet responses indicating that men, not women, typically display superior leadership ability at VMI.

As a result of gender polarization, male cadets may perceive female leaders as a threat to their masculine identities, consciously or not. By way of illustration, in *Saving the Males*, Michael Kimmel, recounts overhearing a VMI cadre shouting to a male cadet, “What’s wrong with you, skirt? There are women who can do more push-ups than you. When I was in the army, there was a woman who could do 100 push-ups. You can’t even do 50.”³⁴² This suggests that to some VMI cadets, women and all things feminine represent weakness, failure, and the low bar of performance; they do not command the strength, honor, and respect required of an effective leader.

337. Perdue, *supra* note 237, at 421–22 (noting survey responses, which indicate the existence of gender polarization and androcentrism among respondents).

338. According to Susan Faludi, the first female cadet at The Citadel was harassed until she withdrew. SUSAN FALUDI, *STIFFED: THE BETRAYAL OF THE AMERICAN MAN* 116–17, 119–20 (1999).

339. See BEM, *supra* note 1, at 41–42 (“[M]ales and male experience are treated as a neutral standard or norm for the culture or the species as a whole, and females and female experience are treated as a sex[-]specific deviation from that allegedly universal standard.” Put differently, male experience is the “reference point or the standard for the culture.”).

340. *Id.* at 193.

341. *Id.* at 125.

342. Kimmel, *supra* note 35, at 494–95.

Accordingly, hyper-masculine male cadets likely prefer a gender-polarized, male-dominated Cadre where female leaders do not challenge their masculine identities. After all, if cadets associate attributes salient to effective leadership with men and masculinity, then what does it mean to the average male cadet when a “skirt” holds rank over him?³⁴³

2. *Androcentrism*

The second lens of gender—*androcentrism*—may further illuminate our findings. As explained above, androcentrism signifies a male-centeredness that treats men, maleness, and traditional notions of masculinity as the norm and women, womanhood, and femininity as “other.”³⁴⁴ Put differently, male leaders and male-gendered styles of leadership become the “reference point or the standard for the culture.”³⁴⁵ Significantly, “androcentrism is the lens that most often turns gender difference into male advantage and female disadvantage, [often] creating a bias toward men and against women.”³⁴⁶ Bem asserts that when feminine and masculine domains are gender polarized as in settings like VMI, androcentrism is likelier to exist, emphasizing gender differences, normalizing the male-gendered perspective, and “otherizing” the female-gendered perspective.³⁴⁷

Throughout history, androcentrism has impacted American law.³⁴⁸

343. Gender polarization and sex stereotyping likely persist in the general population as well albeit to a different extent. By way of illustration, in a 2015 Pew Center Report, [m]ost Americans (54%) say men would do a better job running a professional sports team, while just 8% say women would be better at this. And a 46% plurality also give men the edge when it comes to running a large oil or gas company. But the public is two and a half times more likely to say a woman, rather than a man, would do a better job running a major hospital or a major retail chain.

Women and Leadership, *supra* note 168.

344. BEM, *supra* note 1, at 41. Our arguably androcentric English language provides several good examples. For instance, common terms like “chairman,” “fireman,” “policeman,” “classman,” “mankind,” “freshman,” and “watchman” explicitly exclude women just as “ballerina” excludes men. Androcentric language has been adopted and perpetuated throughout history. See Perdue, *supra* note 237, at 391–92.

345. BEM, *supra* note 1, at 42.

346. Perdue, *supra* note 237, at 392.

347. *Id.*

348. For example, in deciding that Illinois could deny women the right to receive a law license because of sex, the Supreme Court opined “Man is, or should be, woman’s protector and defender. The natural and proper timidity and delicacy which belongs to the female sex [] unfits it for many of the occupations of civil life.” *Bradwell v. Illinois*, 83 U.S. 130, 141. According to

Some scholars have even suggested that it influenced *United States v. Virginia*. For example, the opinion makes clear that “[i]nherent differences’ between men and women . . . remain cause for celebration, but not for denigration of the members of either sex or for artificial constraints on an individual’s opportunity”³⁴⁹ and that a person may be not excluded based on “fixed notions concerning the roles and abilities of males and females.”³⁵⁰ Yet as Professor Mary Ann Case observes, the decision seemingly permits VMI to require females to fit into a model designed by men for men.³⁵¹ Indeed, the opinion states that “*some* women can meet the physical standards now imposed on men”³⁵² and “that some women may prefer it to the methodology a women’s college might pursue.”³⁵³ Simultaneously, the opinion potentially undermines the value of the female-gendered leadership approach taught at VWIL, treating it, in a sense, as a less effective alternative to VMI’s male-gendered, hypermasculine adversative style.³⁵⁴ As Case points out, the opinion nowhere suggests that both male and female cadets might benefit from a pedagogical approach rooted in the significant studies conducted in designing VWIL.³⁵⁵ Instead, the Majority opinion could be construed as legitimizing VMI’s male-gendered pedagogy while marginalizing VWIL’s more female-gendered approach. Nor did the Court appear to consider that VWIL’s pedagogical style might be beneficial and attractive to male students.³⁵⁶

Justice Joseph Bradley, “[t]he paramount destiny and mission of woman are to fulfill the noble and benign offices of wife and mother. This is the law of the Creator.” *Id.* at 141. *See also* *Barber v. Barber*, 62 U.S. 582 (1858) (deciding that married women have to live where their husbands choose); *Pennsylvania v. Ravenel*, 62 U.S. 103 (1858) (determining that women’s citizenship derives from their husbands); *Kelly v. Owen*, 74 U.S. 496 (1868) (same); *Gridley v. Wynant*, 64 U.S. 500 (1859) (concluding that a husband owns his wife’s property).

349. *United States v. Virginia*, 518 U.S. 515, 533, 541 (1996) (concluding that the District Court’s findings on gender-based developmental differences are generalizations and “fixed notions concerning the roles and abilities of males and females.” (quoting *Miss. Univ. for Women v. Hogan*, 458 U.S. 718, 725 (1982))); *see also* *Avery*, *supra* note 101, at 270.

350. *Virginia*, 518 U.S. at 541–42 (quoting *Hogan*, 458 U.S. at 725).

351. *Case*, *supra* note 110, at 349–50.

352. *Virginia*, 518 U.S. at 525 (quoting *United States v. Virginia*, 976 F.2d 890, 896 (4th Cir. 1992)).

353. *Id.* at 540; *see also id.* at 542 (“Education, to be sure, is not a ‘one size fits all’ business.”).

354. *Case*, *supra* note 110, at 348–49.

355. *Id.* at 363.

356. *Id.* at 366; *see also* Dr. Lesley Novack & Dr. David Novack, *Gendered Views on Coeducation at a Military College: The Impact of Gender Polarization* (on file with author).

In light of this, cadets may be likelier to associate male-gendered qualities with strong leadership, and as a result, female cadets, particularly those in leadership, likely feel significant pressure to display traditionally masculine traits and behaviors in order to be accepted. Indeed, West Point issued a press release in 1979 stating, “[f]emale cadets here adopt traditional masculine personality traits to be accepted as leaders.”³⁵⁷ Likewise, in our VMI survey, nearly 75% of male respondents agreed that “female students who attend VMI are typically more masculine than most women I know.”³⁵⁸ Notably, 34.25% of male respondents believed that female cadets should be “gender neutral”, and 32.65% of female respondents agreed.³⁵⁹ Another 20.2% of male cadets believed that female cadets should be “somewhat not feminine” or “not feminine,” and 10.2% of women agreed.³⁶⁰ Only 6.85% of men and 8.16% of women believed that female cadets should be “very feminine.”³⁶¹ Although many female cadets experience intense pressure to suppress or minimize their feminine gender identities³⁶², female cadets in leadership likely experience it even more keenly since they pose a double threat to their male counterparts, particularly male subordinates.

Yet this pressure places women leaders at VMI and elsewhere, in a difficult Catch-22: if they perform their sex in traditionally feminine ways, they risk not being taken seriously and instead being perceived as weak, “soft,” unqualified, incompetent, or as a sex object. As noted earlier, their personal failures will likely be ascribed to all women leaders and attributed to their sex. For example, when Sarah Palin expressed her femininity in traditional ways, she was effectively deemed an incompetent pageant queen unfit for the Oval Office.³⁶³ On the other hand, if a woman suppresses her female-gendered identity or expresses herself in traditionally masculine ways, even as benign as choosing to wear pants like Hillary Clinton or refusing to wear makeup like Ann Hopkins, then she is accused of overcompensating for being a woman, as if her sex is a weakness that requires redress.³⁶⁴ For instance, Margaret Thatcher was

357. Kimmel, *supra* note 35, at 506.

358. Perdue, *supra* note 237, at 421.

359. *Id.* at 423.

360. *Id.*

361. *Id.*

362. *Id.* at 424.

363. Salehpour, *supra* note 243, at 137–38; Erbe, *supra* note 261.

364. *See supra* note 256 and accompanying text.

deemed “The Iron Man” due to her no-nonsense approach to leadership; her show of strength, decisiveness, and resolve subjected her to sex-based mockery and criticism.³⁶⁵ Similarly, Clinton earned the ire of many simply because she wore pants and was viewed as a figurative “nutcracker.”³⁶⁶ Likewise, Hopkins was told to “wear makeup” and “take ‘a course in charm school’” in order to increase her odds of becoming a partner at PWC—this after she had landed a \$25 million contract and amassed over a decade of relevant work experience.³⁶⁷ Female cadets experience the same pressures daily; they are often derided for traditional displays of femininity but depicted as “manly” and “raging lesbians” without them.

In recognition of this longstanding Catch-22, Facebook COO and author of *Lean In: Women, Work, and the Will to Lead*, Sheryl Sandberg, recently launched the *Ban Bossy* campaign.³⁶⁸ According to the campaign’s website, peers often brand assertive young girls as “bossy,” which may discourage them from later seeking leadership positions.³⁶⁹ The website references research indicating that “[b]etween elementary school and high school, girls’ self-esteem drops 3.5 times more than boys” and “[g]irls are twice as likely as boys to worry that leadership roles will make them seem ‘bossy.’”³⁷⁰ In class, girls are usually called on less and more frequently interrupted.³⁷¹ Rachel Simmons, Co-Founder of the *Girls Leadership Institute*, advises girls to cultivate effective leadership skills by, *inter alia*, speaking in class, not making themselves seem small or unconfident by speaking quietly or apologizing before they speak, seeking out strong role models and mentors, holding group members accountable for performing an equal share of group work, and pushing themselves beyond their comfort zones instead of constantly worrying about what others will think

365. Amira, *supra* note 274.

366. *The Hillary Nutcracker*, *supra* note 253.

367. *Price Waterhouse v. Hopkins*, 490 U.S. 228, 233–35 (1989).

368. See *Ban Bossy*, BAN BOSSY, <http://banbossy.com/> [<https://perma.cc/22U8-U2JN>] (last visited Jun. 12, 2017). According to the campaign’s website,

When a little boy asserts himself, he’s called a “leader.” Yet when a little girl does the same, she risks being branded “bossy.” Words like bossy send a message: don’t raise your hand or speak up. By middle school, girls are less interested in leading than boys—a trend that continues into adulthood. Together we can encourage girls to lead.

369. *Id.*

370. *Ban Bossy Leadership Tips for Teachers*, BAN BOSSY, available at <http://banbossy.com/teacher-tips/> [<https://perma.cc/R696-XY23>] (last visited Jun. 12, 2017).

371. *Id.*

of them.³⁷²

Critics of the *Ban Bossy* initiative argue, *inter alia*, that androcentrism, gender polarization, and sex stereotypes no longer serve as barriers to female success; even if people possesses those views, there is no evidence to show that they regularly act upon them to discriminate against women or undermine female leaders.³⁷³ Yet according to sociologist Michael Kimmel, “[p]rivilege is invisible to those who have it.”³⁷⁴ Similarly, individuals who view one another through the lens of androcentrism are unable to see how androcentrism impacts their view and, as a result, how these lenses may impede women’s advancement.³⁷⁵ In light of this, it is unsurprising that many Americans do not believe that lack of toughness or management skills prevent women from reaching top executive positions.³⁷⁶ Similarly, at VMI, many respondents believed that it was easier for women to obtain admission, scholarships, awards, and rank, that female cadets were held to lower standards in many respects, and that most women attained rank primarily due to sex.

F. Cadet Attitudes May Reflect Sex Stereotyping

Sex and gender stereotypes may also account for our findings just as they played a prominent role in *United States v. Virginia*. Research reveals that stereotypes are not only prevalent but sometimes also self-fulfilling.³⁷⁷ Humans often use stereotypes, consciously or not, to

372. *Ban Bossy Leadership Tips for Girls*, BAN BOSSY, available at <http://banbossy.com/girls-tips/> [<https://perma.cc/DQK6-97D8>] (last visited Jun. 12, 2017).

373. Ann Friedman, *The Problem with Sheryl Sandberg’s ‘Ban Bossy’ Campaign*, NY MAG., <http://nymag.com/thecut/2014/03/problem-with-the-ban-bossy-campaign.html> [<https://perma.cc/ADP5-5TTA>] (last visited Jun. 12, 2017); Mollie Hemingway, *The 7 Most Ridiculous Things About the New Ban Bossy Campaign*, FEDERALIST, <http://thefederalist.com/2014/03/11/the-7-most-ridiculous-things-about-the-new-ban-bossy-campaign/> [<https://perma.cc/KWC7-ZZ4K>] (last visit Jun. 12, 2017).

374. Michael Kimmel, *Why Gender Equality is Good for Everyone – Men Included*, TED (Sept. 2015), http://www.ted.com/talks/michael_kimmel_why_gender_equality_is_good_for_everyone_men_included/transcript?language=en [<https://perma.cc/MY63-GZLB>].

375. See Perdue, *supra* note 237, at 392; see also BEM, *supra* note 1, at 42.

376. *Women and Leadership*, *supra* note 168.

377. Diane L. Bridge, *The Glass Ceiling and Sexual Stereotyping: Historical and Legal Perspectives of Women in the Workplace*, 4 VA. J. SOC. POL’Y & L. 581, 604 (1997) (explaining “these characterizations of women nevertheless prevent women from sharing fully in all levels of society, including in the work environment, because the traits associated with men and women are valued differently”); Levinson & Young, *Gender Bias in the Legal Profession*, *supra* note 221, at 5-6 (“[S]tereotypes . . . emerge early in life, often influencing children as young as three years

efficiently assess the world around them and make snap judgments.³⁷⁸ Thus, stereotypes are in a sense a mental shortcut that enables us to quickly process information.³⁷⁹ According to Levinson and Young, “[i]n the context of gender stereotypes, children are likely to learn at an early age that men are ‘competent, rational, assertive, independent, objective, and self confident,’ and women are ‘emotional, submissive dependent, tactful, and gentle.’”³⁸⁰ They further observe, “If we immediately picture a man when we think about a trial lawyer, for example, what might that mean for women seeking to reach the pinnacle of the [legal] profession?”³⁸¹ The question is apt for VMI cadets as well, assuming that society generally pictures a male when asked to imagine a VMI cadet. Thus, stereotypes can undermine the development and success of female leaders. Indeed, according to LeanIn.Org President and Co-Founder Rachel Thomas:

Men are expected to be assertive, confident, and opinionated, so we welcome their leadership. In contrast, women are expected to be kind, nurturing, and compassionate, so when they lead, they are going against our expectations. A man who makes a tough decision at

old. These impressionable children, who are constantly engaged in interpreting the world around them, quickly learn to ascribe certain characteristics to members of distinct ethnic and social groups. Such associations derive from cultural and social beliefs and are learned directly from multiple sources, including the children’s parents, peers, and the media. As the children grow older, their stereotypes harden . . . and become implicit (or automatic).” (footnotes omitted); see also Perdue, *supra* note 101.

378. See, e.g., Galen V. Bodenhausen & Meryl Lichtenstein, *Social Stereotypes and Information-Processing Strategies: The Impact of Task Complexity*, 52 J. PERSONALITY & SOC. PSYCHOL., 871, 871 (1987) (“[W]hen subjects face a complex judgmental situation, they use stereotypes (when available and relevant) as a way of simplifying the judgment. Specifically, they use the stereotype as a central theme around which they organize presented evidence that is consistent with it, and they neglect inconsistent information.”); Levinson & Young, *Gender Bias in the Legal Profession*, *supra* note 221, at 6 (“Once adults have ingrained implicit bias[], the stereotypes they learned as children continue to affect the way they perceive the world. That is, people perceive information in ways that conform to their stereotypes.”); Gary Blasi, *Advocacy Against the Stereotype: Lessons From Cognitive Social Psychology*, 49 UCLA L. REV. 1241, 1255–56 (2002) (“[T]ry to imagine a carpenter. When you have that image settled in your mind, describe the color of her hair. . . . Try to imagine, in sequence, a baseball player, a trial lawyer, a figure skater, and a U.S. Supreme Court justice—without a specific gender or race . . .”).

379. Galen V. Bodenhausen & Robert S. Wyer, *Effects of Stereotypes on Decision Making and Information-Processing Strategies*, 48 J. PERSONALITY & SOC. PSYCHOL., 267, 267 (1985) (“[S]tereotypes are often functional; they permit stimulus input to be simplified and provide a basis for understanding and predicting the behavior of others when information processing demands are high.”).

380. Levinson & Young, *Gender Bias in the Legal Profession*, *supra* note 221, at 6.

381. *Id.*

work is often seen as decisive, while a woman who does the same may be seen as impulsive and brash.³⁸²

Such sex stereotyping legitimates male power while potentially disadvantaging women. For example, one study found that simply inserting a man's name on a woman's resume increases her "worthiness of hire" by 60%.³⁸³ Another study revealed that women who are more "likeable" because they are viewed as helpful or friendly are less likely to also be perceived as competent; yet, women are more likely to be sanctioned for self-promoting or being direct.³⁸⁴ Research further indicates that women usually speak less but are interrupted more at meetings, the same phenomenon that often plagues young girls in the classroom.³⁸⁵ As a result, women may often wield less influence than their male counterparts; indeed, men are also likelier to sit in the front and center at meetings, while women often sit at the edges of the table.³⁸⁶ As observed in PWC's selection process, women are also often evaluated more harshly than men or using criteria unrelated to the position.³⁸⁷ Women are likelier to attribute success to external factors, while men usually internalize success, taking full or primary credit for their accomplishments; as an indirect result, women are often given less credit than men for their role in group accomplishments.³⁸⁸ Women also generally undervalue their skills and competency and perhaps as a result,

382. *Leadership Tips for Managers*, Ban Bossy, available at <http://banbossy.com/manager-tips/> [<https://perma.cc/29GF-8NLH>] (last visited Jun. 12, 2017).

383. *Id.*; Rhea E. Steinpreis, Katie A. Anders, & Dawn Ritzke, *The Impact of Gender on the Review of Curricula Vitae of Job Applicants and Tenure Candidates: A National Empirical Study*, 41 *SEX ROLES* 509, 509–10 (1999).

384. *The Double-Bind Dilemma for Women in Leadership: Damned if You Do, Doomed if You Don't*, CATALYST (July 15, 2007), <http://www.catalyst.org/knowledge/double-bind-dilemma-women-leadership-damned-if-you-do-doomed-if-you-dont-0> [<https://perma.cc/RM23-MLC7>]; Madeline E. Heilman & Julie J. Chen, *Same Behavior, Different Consequences: Reactions to Men's and Women's Altruistic Citizenship Behaviors*, 90 *J. APPLIED PSYCHOL.* 431, 431–32 (2005); Madeline E. Heilman & Tyler G. Okimoto, *Why are Women Penalized for Success at Male Tasks?: The Implied Communitarian Deficit*, 92 *J. OF APPLIED PSYCHOL.* 81, 81–82 (2007).

385. Deborah Tannen, *The Power of Talk: Who Gets Heard and Why*, 73 *HARV. BUS. REV.* 138, 138–48 (1995); Melissa C. Thomas-Hunt & Katherine Phillips, *When What You Know is Not Enough: Expertise and Gender Dynamics in Task Groups*, 30 *PERSONALITY & SOC. PSYCHOL. BULLETIN* 1585, 1585–88, 1594 (2004).

386. *Leadership Tips for Managers*, *supra* note 382.

387. Corinne A. Moss-Racusin et al., *Science Faculty's Subtle Gender Biases Favor Male Students*, 109 *PROCS. NAT'L ACAD. SCI. U.S.* 16,474, 16,474 (2012).

388. Madeline E. Heilman & Michelle C. Haynes, *No Credit Where Credit is Due: Attributional Rationalization of Women's Success in Male-Female Teams*, 90 *J. APPLIED PSYCHOL.* 905, 905–08, 915 (2005).

are less likely to ask to handle a high-stakes matters or new opportunity—the kind of initiative and risk-taking that often leads to promotions and advancement.³⁸⁹ Women are also more susceptible to self-doubt and the feeling that they are frauds who do not belong in the position, a phenomenon oft-described as “impostor syndrome.”³⁹⁰ In fact, one study found that women typically will not apply for a job unless they meet 100% of the application criteria, while men will apply if they meet only 60% of the criteria.³⁹¹ Predictably, women, on average, earn less than men even when one accounts for the difference in hours worked.³⁹² Indeed, one study recently found that women earn approximately 82 cents per dollar earned by their male counterparts.³⁹³ Perhaps because women are expected to be more community-oriented and collaborative, employers often react negatively when women self-promote or advocate for themselves, such as by asking for a promotion or a raise.³⁹⁴ Women also

389. Irene E. De Pater et al, *Channeling Experiences: Gender Differences in Task Choice*, 24 J. MANAGERIAL PSYCHOL. 4, 5–6 (2009); D. Scott Lind et al., *Competency-Based Student Self-Assessment on a Surgery Rotation*, 105 J. SURGICAL RES. 31, 31 (2002); Kimberly A. Daubman, Laurie Heatherington, & Alica Ahn, *Gender and the Self-Presentation of Academic Achievement*, 27 SEX ROLES 187, 187–90 (1992).

390. Pauline Rose Clance & Suzanne Imes, *The Impostor Phenomenon in High Achieving Women: Dynamics and Therapeutic Intervention*, 15 PSYCHOTHERAPY THEORY, RES. AND PRAC. 241, 241 (1978); Gina Gibson-Bevelry & Jonathan P. Schwartz, *Attachment, Entitlement, and the Impostor Phenomenon in Female Graduate Students*, 11 J.C. COUNSELING 119, 120–21 (2008).

391. Georges Desvaux, Sandrine Devillard-Hoellinger, & Mary C. Meaney, *A Business Case for Women*, THE MCKINSEY Q. (Sept. 2008).

392. *Equal Pay – A Good Business Decision*, EQUALITY HUM. RTS. COMMISSION (Dec. 2011), <http://web.archive.org/web/20160407021252/http://www.equalityhumanrights.com/sites/default/files/documents/publications/equalpayagoodbusinessdecision.pdf>; Peggy A. Cloninginer, Nagarajan Ramamoorthy, & Patrick C. Flood, *The Influence of Equity, Equality and Gender on Organizational Citizenship Behaviors*, 76 S.A.M. ADVANCED MGMT. J. 37, 38 (2011); Kent Roamhoff, Ken Boehm, & Edward Benson, *Pay Equity: Internal and External Considerations*, 18 COMPENSATION & BENEFITS REV. 17, 17–25 (1986).

393. Christianne Corbett & Catherine Hill, *Graduating to a Pay Gap: The Earnings of Women and Men One Year After College Graduation*, AM. ASS'N U. WOMEN (Oct. 2012), <http://www.aauw.org/files/2013/02/graduating-to-a-pay-gap-the-earnings-of-women-and-men-one-year-after-college-graduation.pdf> [<https://perma.cc/TX4M-ZW7G>]; see also Tiscione & Vorenberg, *supra* note 223, at 53.

394. SHERYL SANDBERG, *LEAN IN* 45 (2013); Emily T. Amanatullah & Catherine H. Tinsley, *Punishing Female Negotiators for Asserting Too Much . . . or Not Enough: Exploring Why Advocacy Moderates Backlash Against Assertive Female Negotiators*, 120 ORG. BEHAV. & HUM. DECISION PROCESSES 110, 110–11 (2013); Hannah Riley Bowles, Linda Babcock, & Lei Lai, *Social Incentives for Gender Differences in the Propensity to Initiate Negotiations: Sometimes it Does Hurt to Ask*, ORG. BEHAV. & HUM. DECISION PROCESSES 84, 84–85 (2007).

frequently have more difficulty finding valuable mentors.³⁹⁵ Yet research indicates that people who negotiate are typically promoted on average seventeen months earlier than those who do not;³⁹⁶ thus, penalizing women for self-promotion and advocacy only further exacerbates the gender disparity of women in leadership positions. Furthermore, two-thirds of women at Fortune 200 companies serve in the kinds of support roles that are less likely to culminate in senior leadership positions.³⁹⁷ Women also generally accept more service work, which is often undervalued in the promotion process.³⁹⁸ Another study noted that “when women are asked a favor at work, they earn almost no social capital for saying yes and are penalized for declining. Men, on the other hand, gain points for saying yes and face minimal fallout for saying no.”³⁹⁹

Awareness of the harmful impact of stereotyping has played a pivotal role in equal rights jurisprudence. For example, in *Mississippi University for Women v. Hogan*, Justice Sandra Day O’Connor stated:

[t]he test for determining the validity of a gender-based classification . . . must be applied free of fixed notions concerning the roles and abilities of males and females. Care must be taken in ascertaining whether the statutory objective itself reflects archaic and stereotypic notions. Thus, if the statutory objective is to exclude or “protect” members of one gender because they are presumed to suffer from an inherent handicap or to be innately inferior, the objective itself is illegitimate.⁴⁰⁰

Thus, the Supreme Court concluded that because the nursing school’s admission policies were not substantially related to an important objective, the Court need not resolve whether sex classifications are

395. SANDBERG, *supra* note 394, at 8; Kimberly E. O’Brien et al., *A Meta-Analytic Investigation of Gender Differences in Mentoring*, 36 J. MANAGEMENT 537, 539–40 (2010); Herminia Ibarra, Nancy M. Carter, & Christine Silva, *Why Men Still Get More Promotions than Women*, 88 HARV. BUS. REV. 80, 80–85 (2010); George F. Dreher & Taylor H. Cox Jr., *Race, Gender, and Opportunity: A Study of Compensation Attainment and the Establishing of Mentoring Relationship*, 81 J. APPLIED PSYCHOL. 297, 297–300 (1996).

396. Fiona Greig, *Propensity to Negotiate and Career Advancement: Evidence from an Investment Bank that Women are on a “Slow Elevator,”* 24 NEGOT. J. 495, 502 (2008).

397. Joanna Barsh & Lareina Yee, *Special Report, Unlocking the Full Potential of Women at Work*, available at <http://www.mckinsey.com/business-functions/organization/our-insights/unlocking-the-full-potential-of-women-at-work> [<https://perma.cc/TW32-45N8>] (last visited Jun. 12, 2017).

398. MALCOLM GLADWELL, *BLINK* (2005).

399. *Leadership Tips for Managers*, *supra* note 382.

400. STRUM, *supra* note 9, at 77.

inherently suspect.⁴⁰¹ “The whole lesson of gender discrimination cases in the 1970s and 1980s had been that rights inhered in the individual, who did not necessarily conform to ‘average’ abilities and propensities.”⁴⁰² Similarly, in *United States v. Virginia*, Justice Ginsburg made clear “[s]tate actors . . . may not exclude qualified individuals based on ‘fixed notions concerning the roles and abilities of males and females.’”⁴⁰³ She further observed, “[t]he notion that admission of women would downgrade VMI’s stature, destroy the adversative system and, with it, even the school, is a judgment hardly proved, a prediction hardly different from other ‘self-fulfilling prophec[ies]’ once routinely used to deny rights [and] opportunities.”⁴⁰⁴

Research reveals that stereotypes can undermine performance, fueling the self-fulfilling prophecy to which Justice Ginsburg referred.⁴⁰⁵ *Stereotype threat* occurs when a person believes that he or she may confirm negative stereotypes about a group to which he or she belongs.⁴⁰⁶ Research reveals that stereotype threat may cause an individual to underperform. By way of illustration, Joshua Aronson and Claude Steele (1995) performed a study, which found that African American students performed comparably with white students when told they were taking a test involving “a laboratory problem-solving task.”⁴⁰⁷ However, when another group was instructed that the exact same test would instead measure intellectual ability, the African American students underperformed.⁴⁰⁸ Likewise, a group of white male math and engineering majors performed less well on a math test than their Asian counterparts

401. *Id.*

402. *Id.* at 184.

403. *United States v. Virginia*, 518 U.S.515, 541–42 (quoting *Miss. Univ. for Women v. Hogan*, 458 U.S. 718, 725 (1982)).

404. *Id.* at 542–43 (internal citation omitted); *see also id.* at 550 (“[G]eneralizations about ‘the way women are,’ estimates of what is appropriate for *most women*, no longer justify denying opportunity to women whose talent and capacity place them outside the average description.”).

405. *See, e.g.*, Toni Schmader, Michael Johns, & Chad Forbes, *An Integrated Process Model of Stereotype Threat Effects on Performance*, 115 *PSYCHOL. REV.* 336, 336 (2008) (“Research showing that activation of negative stereotypes can impair the performance of stigmatized individuals on a wide variety of tasks has proliferated.”); *Virginia*, 518 U.S. at 542–43.

406. Claude M. Steele & Joshua Aronson, *Stereotype Threat and the Intellectual Test Performance of African Americans*, 69 *J. PERSONALITY & SOC. PSYCHOL.* 797, 797 (1995) (“*Stereotype threat* is being at risk of confirming, as self-characteristic, a negative stereotype about one’s group.”).

407. *Id.* at 799–800.

408. *Id.* at 797, 802.

when they were instructed that the test aimed to investigate “why Asians appear to outperform other students on tests of math ability.”⁴⁰⁹ Similarly, female high school students did less well on a test of spatial skills when advised that males are better at solving spatial problems due to inherent genetic differences between the sexes.⁴¹⁰ Taken together, these studies indicate that widespread narratives regarding female cadets being ill-suited for positions of leadership may discourage them from attempting to obtain these positions and perhaps even adversely impact their performance thereof.⁴¹¹ In short, female cadets may buy into the stereotypes without even realizing it; their lack of self-confidence may undermine their authority or as will be discussed below, prompt them to overcompensate for the female-gendered qualities they have been acculturated to perceive as weaknesses.

VMI’s hypermasculine, somewhat hostile environment may also impede women’s efficacy as leaders. In a study conducted in Chicago’s crime-ridden South Side, students who lived in areas where a homicide had recently occurred “scored half a deviation lower on a test of intelligence.”⁴¹² This may indicate that a person’s environment, particularly high-stress, anxiety-creating settings, can adversely impact performance. Given the high-stress, hellish nature of the Ratline, one could assume that pervasive opposition to coeducation may create an environment that would impede the leadership efficacy of any female cadet, particularly one struggling to gain the respect of her peers.

G. Cadet Attitudes May Reflect Reactions to Gender Coping Strategies

As noted earlier, to gain respect and acceptance from peers, female

409. Annie Murphy Paul, *It’s Not Me, It’s You*, N.Y. TIMES (Oct. 6, 2012), http://www.nytimes.com/2012/10/07/opinion/sunday/intelligence-and-the-stereotype-threat.html?_r=2 [<https://perma.cc/BUW7-BK9R>].

410. *Id.*

411. In 2008, the European Parliament voted to “scold advertisers” for advertisements that promote sex stereotypes and in 2007, the governments of Spain and Italy compelled Dolce & Gabbana to pull a controversial ad purportedly featuring an alleged rape fantasy. Doreen Carvajal, *Europe Takes Aim at Sexual Stereotyping in Ads*, N.Y. TIMES (Sept. 9, 2008), <http://www.nytimes.com/2008/09/10/business/media/10adco.html> [<https://perma.cc/C9N4-SYJF>].

412. Paul, *supra* note 409.

leaders may deploy gender coping strategies, or “ways of doing gender.”⁴¹³ One such strategy—*emphatic sameness*—involves “downplaying gender identity as women [as well as female solidarity] in favor of being seen as cadets.”⁴¹⁴ For example, female rats rejected the term “sister rats,” and some even voluntarily shaved their heads, although VMI did not require it.⁴¹⁵ Another strategy—*strategic overcompensation*—⁴¹⁶ occurs when members of the dominant group—here, men—are presumed to be competent until proven otherwise, while members of an underrepresented group—women—feel that they must constantly demonstrate their competence to earn others’ respect.⁴¹⁷ In other words, female cadets who feel “otherized” due to their sex or gender may actively dissociate themselves from all things feminine to be regarded as “one of the guys.” As one West Point graduate explained, “[o]nce I was accepted as ‘not one of those women’ then I was O.K.”⁴¹⁸ According to Major Sherrise Powers, “The women [at VMI] feel that they have to do the very same things [as the men], to the point that they will acquire language that they would not normally use; they will start spitting on the stoop. . . . ‘I’ve got to be one of the guys.’”⁴¹⁹ In a sense, women “blend” in to gain social acceptance as well as to cope with difference anxiety.⁴²⁰

Emphatic sameness and strategic overcompensation are not uncommon, for women leaders in in male-dominated spheres.⁴²¹ Such women, including female cadets, may downplay their gender identities as

413. Kimmel, *supra* note 35, at 505.

414. *Id.*

415. See BRODIE, *supra* note 4, at 220–22.

416. Kimmel, *supra* note 35, at 505.

417. BEM, *supra* note 1, at 158; GABRIELLA GUTIÉRREZ ET AL., PRESUMED INCOMPETENT: THE INTERSECTIONS OF RACE AND CLASS FOR WOMEN IN ACADEMIA 8 (2012).

418. *Id.*

419. BRODIE, *supra* note 4, at 286–87.

420. See Kimberlyn Leary, *Passing, Posing, and “Keeping it Real”*, 6 CONSTELLATIONS 85, 85 (1999).

421. During the Civil War, Emma Edmonds and approximately 400 other women passed as men so they could fight as soldiers. See generally KARON ABBOT, LIAR, TEMPTRESS, SOLDIER, SPY (2014); Jess Righthand, *The Women Who Fought in the Civil War*, SMITHSONIAN.COM, <http://www.smithsonianmag.com/history/the-women-who-fought-in-the-civil-war-1402680/?no-ist> [<https://perma.cc/23GF-N4NZ>] (last visited Jun. 12, 2017). On August 8, 1558, Queen Elizabeth I purportedly wore a steel cuirass over her gown in order to rally the English troops to battle the Spanish Armada. RICHARDS, *supra* note 273, at 53. Similarly, French heroine Joan of Arc allegedly cropped her hair and dressed in male clothing to enhance her credibility as a military leader. *Joan of Arc*, BIOGRAPHY, <http://www.biography.com/people/joan-of-arc-9354756> [<https://perma.cc/FUW8-34UY>] (last visited Jun. 12, 2017).

well in order to emphasize their intelligence and be taken seriously. They may intentionally adopt traditionally masculine traits, dress, and behaviors, such as increased use of profanity, binding breasts, or refusing to wear jewelry, makeup, or perfume, to minimize perceived gender difference.⁴²² For example, in a study of female science majors, one woman observed that she wore pants to the lab instead of a skirt in an attempt “to make herself appear more ‘masculine,’ or at least more ‘androgynous’ and thus purchase[] (literally) her credibility as a scientist.”⁴²³

Likewise, female cadets at VMI also took great strides to differentiate themselves from VWIL and to deemphasize traditionally feminine dress, appearance, and behaviors.⁴²⁴ Like Clinton and Palin, the women of VWIL and VMI exhibited “contrasting styles of femininity” most evident when they took ROTC classes side by side. Some VMI women resented that VWIL women embraced traditional femininity, wearing makeup, jewelry, and varying lengths of hair.⁴²⁵

A similar phenomenon can still be readily observed in other male-dominated spheres where women are sometimes unwittingly pitted against one another, vying for acceptance. Benenson et al (2011) concluded that when women believe that they are at risk of being socially excluded, their first reaction is to exclude a third party.⁴²⁶ Crick and Bigbee (1998) found that women are likelier both to engage in and become victims of such relational aggression.⁴²⁷ According to psychologist Seth Meyers, “[i]ndependent of what the research shows, it’s understandable on a common-sense level if women feel that they must work hard to secure whatever social power they can, and this may sometimes take the form of exclusionary practices with other women.”⁴²⁸ Similarly, Brodie observes that at VMI, “[e]very female cadet had to earn her place separately, and this

422. See, e.g., BRODIE, *supra* note 4, at 286–87; Leary, *supra* note 420, at 85.

423. Maria Ong, *Body Projects of Young Women of Color in Physics: Intersections of Gender, Race, and Science*, 52 SOC. PROBS. 593, 605 (2005).

424. According to Kimmel, “[t]he United States Military Academy . . . offered its first women a class in how to apply and wear makeup.” Kimmel, *supra* note 35, at 506.

425. BRODIE, *supra* note 4, at 296.

426. Seth Meyers, *Women Who Hate Other Women: The Psychological Root of Snarky*, PSYCHOL. TODAY (Sept. 24, 2013), <https://www.psychologytoday.com/blog/insight-is-2020/201309/women-who-hate-other-women-the-psychological-root-snarky> [https://perma.cc/Q2JT-D3RW].

427. *Id.*

428. *Id.*

sort of pressure was not conducive to group bonding.”⁴²⁹ Indeed, VMI women showed no special allegiance to other women.⁴³⁰ Cadets from VWIL and VMI often refused to sit together.⁴³¹ Female rats also snubbed the female exchange students brought in to serve as role models and refused to call them “ma’am.”⁴³²

In conclusion, deployment of these coping strategies may allow otherized female leaders to more easily evade their stigmatized status.⁴³³

Yet opting for androgyny or masculinity may require them to sacrifice a vital part of who they are. The pressure women experience to be more masculine in order to be perceived as a deserving cadet and capable leader may further explain why roughly 75% of male cadets view female cadets as *more* masculine than non-VMI women.⁴³⁴ As one female cadet explained, “I don’t know whether I want to be feminine for the outside world, or whether I want to be tough for VMI. I don’t know which world I need to live up to . . . There’s no middle, either.”⁴³⁵ Notably, the cadet’s response implicitly assumes that femininity and toughness cannot be synonymous. Female politicians, attorneys, and CEOs who are often accused of lacking femininity may likely feel the same way.⁴³⁶

H. Cadet Attitudes May Reflect Implicit Gender Bias

Implicit gender bias could also explain our findings. “The vast and growing body of research on implicit⁴³⁷ social cognition suggests that

429. BRODIE, *supra* note 4, at 294.

430. *Id.*

431. *Id.*

432. *Id.* at 299–300, 303.

433. *See generally* GOFFMAN, *supra* note 316.

434. *Id.* at 423.

435. BRODIE, *supra* note 4, at 291.

436. *See, e.g.,* Niko Bowie, *Hillary: An Ideal of Masculine Hegemony*, YALE NEWS (Feb. 1, 2008) (“Hillary’s dominant message of ‘experience’ is also based in a conventional and often gendered understanding of leadership. . . . Much of this might be a strategic move by Hillary to convince voters, swept up in the president-as-patriarch mentality, that a woman can do a man’s job. . . . Yet as someone who obviously does not want to compartmentalize the identity of women to their maternal and marital relationships, Hillary has been remarkably brazen in her willingness to play up the traditionally feminine roles of wife and mother. . . . [I]t loses some of its freshness when the candidate simultaneously embraces the White House’s image of masculine hegemony. . . . [H]er election, unfortunately, would likely be more of a symbolic victory for women than a substantive win for women’s issues. The glass ceiling, in other words, would be broken, but only by a woman who governs like a man.”).

437. Herein, “implicit” connotes a lack of explicit or express access to memory, perception, attitudes, and the like. *See* Abigail L. Perdue & Gregory S. Parks, *The Nth Decree: Examining the*

individuals lack absolute awareness of their own thoughts” and thus, may be less in control of the ensuing behavior that results from such thoughts.⁴³⁸ Such mental processes include implicit attitudes⁴³⁹ and implicit stereotypes,⁴⁴⁰ which could differ markedly from the person’s explicit attitude about an individual, category, or thing.⁴⁴¹ Such mental dissociations are particularly prevalent in attitudes toward stigmatized groups, such as female leaders at VMI.⁴⁴²

Taken together, implicit attitudes and stereotypes may, in turn, give rise to implicit bias, or an unconscious bias for or against a particular person, group, or category. Implicit bias may provoke in-group favoritism and out-group discrimination,⁴⁴³ or an unconscious bias against members of one’s own group.⁴⁴⁴ By way of illustration, shooter bias studies indicate that both African American and Caucasian participants are likelier to shoot an unarmed African American target and refrain from shooting a Caucasian armed target.⁴⁴⁵ Likewise, courts have long recognized that members of a group could discriminate against other members of the same group⁴⁴⁶ and more recently, have appeared willing to at least consider evidence of implicit bias to assess whether unlawful discrimination has

Intra-racial Use of the N-word in Employment Discrimination Cases, 64 DEPAUL L. REV. 65, 92–93 (2014) [hereinafter Perdue & Parks]. Compare Samuel R. Bagenstos, *Implicit Bias, “Science,” and Antidiscrimination Law*, 1 HARV. L. & POL’Y REV. 477 (2007), with Gregory Mitchell & Philip E. Tetlock, *Antidiscrimination Law and the Perils of Mindreading*, 67 OHIO ST. L.J. 1023 (2007) [hereinafter Mitchell & Tetlock] (criticizing the science underlying implicit bias theory and its use in legal and policy decision-making in part because much implicit bias research fails to demonstrate that individuals act on their implicit biases to discriminate).

438. Perdue & Parks, *supra* note 437, at 92–93.

439. Implicit attitudes have been defined as “introspectively unidentified (or inaccurately identified) traces of past experience that mediate favorable or unfavorable feeling, thought, or action toward social objects.” Anthony G. Greenwald, Debbie R. McGhee & Jordan L. K. Schwartz, *Measuring Individual Differences in Implicit Cognition: The Implicit Association Test*, 74 J. PERSONALITY & SOC. PSYCHOL. 1464, 1464 n.1 (1998).

440. Perdue & Parks, *supra* note 437, at 92–93.

441. *Id.*

442. *Id.* at 93.

443. See, e.g., Nilanjana Dasgupta, *Implicit Ingroup Favoritism, Outgroup Favoritism, and Their Behavioral Manifestations*, 17 SOC. JUST. RES. 143, 143–48, 162–63 (2004).

444. Perdue & Parks, *supra* note 437, at 102.

445. Jerry Kang, *Trojan Horses of Race*, 118 HARV. L. REV. 1489, 1525 (2005).

446. See, e.g., *Oncale v. Sundowner Offshore Servs., Inc.*, 523 U.S. 75, 79–80 (1998) (recognizing same-sex sexual harassment as actionable under Title VII); *Castaneda v. Partida*, 430 U.S. 482 (1977); *Ross v. Douglas Cty.*, 234 F.3d 391, 396 (8th Cir. 2000) (“[W]e have no doubt that, as a matter of law, a black male could discriminate against another black male ‘because of such individual’s race.’”).

occurred.⁴⁴⁷ As the Supreme Court has explained, “Because of the many facets of human motivation, it would be unwise to presume as a matter of law that human beings of one definable group will not discriminate against other members of their group.”⁴⁴⁸ Implicit bias may manifest itself in the form of overt discrimination⁴⁴⁹ or as microinsults,⁴⁵⁰ microinvalidation,⁴⁵¹

447. See, e.g., *Thomas v. Eastman Kodak Co.*, 183 F.3d 38, 42 (1st Cir. 1999) (“Title VII’s prohibition against ‘disparate treatment because of race’ extends both to employer acts based on conscious racial animus and to employer decisions that are based on stereotyped thinking or other forms of less conscious bias.”); *Watson v. Fort Worth Bank & Trust*, 487 U.S. 977, 990 (1988) (In justifying its disparate impact analysis, the Supreme Court explained, “even if one assumed that any such discrimination can be adequately policed through disparate treatment analysis, the problem of subconscious stereotypes and prejudices would remain.”); *Pippen v. State*, 854 N.W.2d 1, 6 (Iowa 2014), *reh’g denied* (Oct. 13, 2014) (permitting implicit bias expert Dr. Anthony Greenwald to testify about implicit race bias in a race discrimination class action filed in Iowa State Court against all Iowa executive agencies). But see *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338 (2011) (rejecting testimony of commonality by social scientist Dr. William Bielby who argued that bias infected the decision-making process).

448. *Castaneda*, 430 U.S. at 499.

449. Justin D. Levinson, Huajian Cai, & Danielle Young, *Guilty by Implicit Racial Bias: The Guilty/Not Guilty Implicit Association Test*, 8 OHIO ST. J. CRIM. L. 187 (2010) (researchers created a Guilty/Not Guilty IAT that tested whether people associate African Americans with criminal guilt and the results found that people implicitly associate African Americans (compared to white people) with guilt and that people’s levels of implicit bias predicted the way they evaluated evidence in a criminal trial); see also Jeffrey J. Rachlinski et al., *Does Unconscious Racial Bias Affect Trial Judges?*, 84 NOTRE DAME L. REV. 1195, 1199 (2009); John F. Dovidio, Samuel L. Gaertner & Kerry Kawakami, *Implicit and Explicit Prejudice and Interracial Interaction*, 82 J. PERSONALITY & SOC. PSYCHOL. 62, 65–67 (2002) (revealing that individuals with a strong implicit bias on the White/Black IAT may exhibit different behavior toward African Americans than those who do not possess as strong of a bias); Laurie A. Rudman & Richard D. Ashmore, *Discrimination and the Implicit Association Test*, 10 GROUP PROCESSES & INTERGROUP REL. 359, 361–65 (2007) (suggesting that a person’s IAT score may be predictive of the person’s discriminatory behavior, such as using racial slurs).

450. A microinsult is a comment, perhaps intended as compliment, that insults the recipient. By way of illustration, a microinsult might occur if a softball coach told a female player, “You’d never guess you were a girl by the way you pitch.” While likely well-intentioned, the remark sends a message that women usually do not pitch well and that the female player deserves praise because she meets the male standard of pitching.

451. With regard to implicit bias based on sex or gender, microinvalidation refers to portrayals of women that are untrue, unflattering, or tell only part of the story as well as the complete omission of women. For example, scientist Rosalind Franklin was an English chemist and crystallographer whose work on X-ray diffraction images of DNA led Francis Crick, James Watson, and Maurice Wilkins to eventually discover DNA’s structure—the double helix. Yet while Watson and Crick’s widely celebrated accomplishments made them household names, Franklin’s contributions have historically been overlooked in science books and courses. Jane J. Lee, *6 Women Scientists Who Were Snubbed Due to Sexism*, NAT’L GEOGRAPHIC (May 9, 2013), <http://news.nationalgeographic.com/news/2013/13/130519-women-scientists-overlooked-dna-history-science/> [https://perma.cc/NVU5-PZZ4] (“Like many women scientists, Franklin was robbed of recognition throughout her career . . . Over the centuries, female researchers

or microaggression,⁴⁵² which, while unintentional and often unconscious, are still harmful.⁴⁵³ Implicit bias, albeit unconscious, may explain why so many female respondents associate traits most salient to effective leadership with men, believe that women usually attain rank at VMI due to sex, and do not mind having a male supervisor.⁴⁵⁴

Implicit attitudes are most often measured using the Implicit Association Test (“IAT”), which requires participants to press two designated keys as quickly as possible after seeing certain words or images on the computer monitor, and the words or images are grouped into meaningful categories, such as “male” or “female.”⁴⁵⁵ It then measures implicit association by calculating how quickly and how accurately the participant completes the categorization task, operating on the assumption that more errors and slower reaction time indicate the strength of the association.⁴⁵⁶ Put differently, a participant with a stronger association between the words “male” and “leader” would either have a slower reaction time when asked to group “female” with “leader” or would commit an error when attempting to do so.⁴⁵⁷ Notably, however, Professors Gregory Mitchell and Philip Tetlock contend that implicit bias

have had to work as ‘volunteer’ faculty members, seen credit for significant discoveries they’ve made assigned to male colleagues, and been written out of textbooks.”).

452. See, e.g., Mitchell & Tetlock, *supra* note 437, at 1051; Levinson, Cai & Young, *supra* note 449, at 193 (microaggressions describe subtle forms of bias and discrimination experienced by members of marginalized groups).

453. Devah Pager, *The Mark of a Criminal Record*, 108 AM. J. SOCIOLOGY 937, 959 (2003) (stating that the negative effect of having a criminal record is 40% greater for African American than white person); see also *Leadership Tips for Managers*, *supra* note 382.

454. Perdue & Parks, *supra* note 437, at 98–99; Brian A. Nosek, Anthony G. Greenwald & Mahzarin R. Banaji, *Harvesting Implicit Group Attitudes and Beliefs From a Demonstration Web Site*, 6 GROUP DYNAMICS: THEORY, RES., & PRAC. 101, 105 (2002); Luigi Castelli, Silvia Tomelleri & Cristina Zogmaister, *Implicit Ingroup Metafavoritism: Subtle Preference for Ingroup Members Displaying Ingroup Bias*, 34 PERSONALITY & SOC. PSYCHOL. BULL. 807 (2008).

455. Anthony G. Greenwald, Mahzarin R. Banaji & Brian A. Nosek, *Understanding and Using the Implicit Association Test: I. An Improved Scoring Algorithm*, 85 J. PERSONALITY & SOC. PSYCHOL. 197 (2003); Levinson & Young, *Gender Bias in the Legal Profession*, *supra* note 221, at 20.

456. Levinson & Young, *Gender Bias in the Legal Profession*, *supra* note 221, at 19.

457. The Gender/Science IAT

[R]equires participants to group together male and female photos with science and liberal arts words. It consistently shows that people associate men with science and women with liberal arts. It is worth noting the flexibility of the IAT to test either evaluative dimension words (such as grouping Male/Female with Good/Bad), or attribute dimension words (such as grouping Male/Female with Career/Family).

Id. at 20.

“[r]esearchers jump the inferential gun in labeling measures of implicit associations measures of unconscious propensity to discriminate. . . . until empirical studies link specific ranges of scores to specific acts that objectively . . . represent discrimination.”⁴⁵⁸

While not without its critics, implicit bias research may still shed light on our findings. For example, in 2010, Justin Levinson and Danielle Young conducted an empirical study that would first measure the implicit association between men and judges and women and paralegals as well as between men and the workplace and women and home.⁴⁵⁹ After assessing implicit gender bias, Levinson and Young then tested whether gender stereotypes predicated biased decision-making by asking participants to select a candidate for hire, to rank the desirability of masculine and feminine traits in appellate judges, and finally, to reallocate a law school’s budget for student organizations due to budget cuts.⁴⁶⁰ Levinson and Young

found that a diverse group of both male and female law students implicitly associated judges with men, not women,⁴⁶¹ and also associated women with the home and family . . . implicit gender biases were pervasive . . . [T]he more strongly male participants associated judges with men in the Judge/Gender IAT, the more they preferred that appellate judges possess masculine (compared to feminine) characteristics . . . demonstrat[ing] that implicit gender biases can affect decision-making.⁴⁶²

458. Mitchell & Tetlock, *supra* note 437, at 1030–32. Elsewhere Mitchell and Tetlock note that “[t]he IAT is an arbitrary metric that sorts people along a dimension—reaction time—that looks objective but lacks any objective connections to legally actionable behavior.” *Id.* at 1032. “Researchers ignore alternative explanations for alleged discriminatory behavior that conflict with the implicit-prejudice hypothesis. . . . [Their studies] rarely control for a variety of confounding factors that could explain the pattern of results without assuming implicit prejudice or stereotypes at work.” *Id.* at 1032–33. “The IAT has serious . . . flaws and an alarmingly high false alarm rate. . . . [A] host of factors other than association strength can affect reaction time [such as] . . . evaluation apprehension.” *Id.* at 1033. Finally, studies fail to “establish that the correlations between IAT scores and discriminatory conduct found in artificial laboratory settings reliably predict behavior in real-world settings that often have institutionalized layers of safeguards against the expression of prejudice.” *Id.*

459. Levinson & Young, *Gender Bias in the Legal Profession*, *supra* note 221, at 2–3.

460. *Id.* at 3.

461. *Id.* Specifically, “the more implicit bias the participants displayed linking judges to males, the more they preferred masculine judge attributes” and “the more implicit bias male participants displayed linking men to career, the more they preferred feminine judge attributes.” *Id.* at 30.

462. *Id.* at 3.

Notably, however, the same individuals who possessed an implicit gender bias were still capable of making gender-neutral decisions. Specifically, “for the resume study, male law student participants even preferred female candidates to male candidates and held other pro-female job attitudes⁴⁶³ . . . [and] law student participants were no more likely to cut funds from a women’s organization⁴⁶⁴ than from other organizations.”⁴⁶⁵ According to Levinson and Young, their results “highlight two conflicting sides of the ongoing gender debate: first, that the power of implicit gender biases persists . . . [but] the emergence of a new generation of egalitarian law students may offer some hope for the future.”⁴⁶⁶

Although our VMI survey did not measure the implicit gender bias of respondents, our results may suggest that powerful sex stereotypes, both explicit and implicit, conscious and unconscious, persist in settings that, while quite distinct from VMI, remain male-dominated. Thus, while VMI is a unique environment that attracts a special type of individual, the associations observed among our respondents mirror those observed among the respondents in Levinson and Young’s study—students at a non-military institution that has been coeducational for decades.⁴⁶⁷

In light of this, our results are somewhat unsurprising.⁴⁶⁸ First, VMI’s hyper-masculine culture may foster an implicit, even unconscious, attitudinal preference for all things masculine. Thus, solidarity with other males, most of whom oppose coeducation, may trump support for women, particularly female leaders. Even in the absence of an implicit attitudinal

463. *Id.* at 3–4. Specifically, “male participants hired Ashley more (N=17) than female participants (N=14), while female participants hired David more (N=12) than male participants (N=7).” *Id.* at 31.

464. *Id.* at 4.

There were no gender differences on budget cuts; male and female participants made budget cuts similarly. The average amount cut from a group was 19%. Participants cut 15% from the Public Interest Law Association, 20% from Women Lawyers Association, 20% from Criminal Justice Society, 19% from the Environmental Law Group, 17% from Moot Court, and 25% from the Law and Business Society. The closeness of the cuts to the desired 20% cut demonstrates that participants preferred to make fairly equal cuts to all groups.

Id. at 31.

465. *Id.* at 4.

466. *Id.*

467. *Id.*

468. See generally Brian A. Nosek, *Moderators of the Relationship Between Implicit and Explicit Evaluation*, 134 J. EXPERIMENTAL PSYCHOL. GEN. 565 (2005); see also Anthony G. Greenwald & Linda Hamilton Krieger, *Implicit Bias: Scientific Foundations*, 94 CAL. L. REV. 945, 958 (2006).

preference, a cadet's explicit attitudes toward a female leader may be distinct from his implicit attitudes toward the opposite sex. Cadets may experience an implicit attitudinal preference for the attitudes of the dominant in-group around which VMI's culture revolves—male cadets. As a natural byproduct of that preference, cadets may, consciously or not, adopt the attitudes and behaviors of prototypical male cadets, including perceptions that men are superior leaders and that women attain rank largely due to their sex.

Use of demeaning sex-based slurs, such as “shedet,” as well as widespread, well-known opposition to coeducation could further impact perceptions of women in leadership.⁴⁶⁹ By way of illustration, social psychologists Jeff Greenberg and Tom Pyszczynki asked African American and white college students to judge a debate but planted audience members who, immediately after the debate, either referred to the African American students as the N-word, criticized them in a non-racial manner, or said nothing. Observers who overheard the slur were likelier to lower their evaluation of the African American debaters. This suggests that racial slurs “can indeed cue prejudiced behavior in those who are exposed.”⁴⁷⁰

In another study, Mahzarin Banaji and her colleagues (1993) exposed participants to phrases related to the female stereotype of dependence (*e.g.*, phrases like “never leaves home”).⁴⁷¹ They predicted that mere exposure to such phrases would trigger other female stereotypes that would impact participants' subsequent evaluation of women's behaviors.⁴⁷² Banaji, Hardin and Rothman told participants that they were beginning an unrelated study and then asked participants to read short

469. Female cadets are predictably in favor of coeducation (82.3%), but even two decades after the onset of *United States v. Virginia*, most male cadets still oppose it (75.6%), with over half being strongly opposed. Perdue, *supra* note 237, at 401.

470. RANDALL KENNEDY, *NIGGER: THE STRANGE CAREER OF A TROUBLESOME WORD* 60 (2002).

471. Mahzarin R. Banaji, Curtis Hardin & Alexander J. Rothman, *Implicit Stereotyping in Person Judgment*, 65 J. PERSONALITY & SOC. PSYCHOL. 272, 274 (1993). Other participants were exposed to phrases related to the male stereotype of aggression (*e.g.*, “threatens other people”). *Id.* Participants in the control conditions were exposed to neutral phrases (*e.g.* “crossed the street”). *Id.* See also Jerry Kang et al., *Are Ideal Litigators White? Measuring the Myth of Colorblindness*, 7 J. EMPIRICAL LEGAL STUD. 886, 886–915 (2010) (researchers created an IAT to examine whether jurors' implicit ethnic biases might impact how they evaluate Asian male litigators versus white male litigators in a mock trial. The results indicated that participants were likely to implicitly associate white males with traits more commonly assigned to successful litigators, such as “verbal” and “charisma,” and participants with higher levels of implicit bias were likelier to favor the white litigators' performances).

472. Banaji, Hardin & Rothman, *supra* note 471, at 273.

stories about a person (either male or female) and rate the person's level of dependence, inhibition, insecurity, and passivity (*e.g.*, female stereotypes).⁴⁷³ Participants who had previously had their gender stereotypes triggered by exposure to phrases reinforcing female stereotypes were more likely to evaluate a woman's behavior as dependent, inhibited, insecure, passive, and weak than members of a control group who had not been exposed to the trigger phrases.⁴⁷⁴ This demonstrates that mere exposure to statements reinforcing sex stereotypes may affect how the person perceives and thus, evaluates women.

In another study, Alison Lenton and colleagues (2001) presented participants with a list of words,⁴⁷⁵ some more typically associated with women (*e.g.*, secretary and nurse) and others more often associated with men (*e.g.*, lawyer and soldier).⁴⁷⁶ After briefly distracting participants, the researchers asked the participants to identify the words they had seen.⁴⁷⁷ Participants more often erroneously reported that they had seen gender stereotyped words than non-gender-stereotyped words,⁴⁷⁸ yet most were completely unaware that each word list had a gender stereotype theme.⁴⁷⁹ Thus, Lenton et al. concluded that gender stereotypes could perhaps facilitate the implicit creation of false memories, which may help elucidate the "self-perpetuating nature of stereotypes and their resistance to change."⁴⁸⁰

It is no great stretch then to assume that at VMI, common usage of denigrating, sex-based slurs like "shedet" and "skirt" as well as sexist phrases like "don't be a pussy" may similarly "cue" prejudiced behavior and negative attitudes toward women. Indeed, resistant students wrote 2000 LCWB "Last Class with Balls" on desks to intimidate female

473. *Id.* at 274–75.

474. *Id.* at 275.

475. Alison P. Lenton, Irene V. Blair & Reid Hastie, *Illusions of Gender: Stereotypes Evoke False Memories*, 37 J. EXPERIMENTAL SOC. PSYCHOL. 3, 5–6 (2001). All participants were shown seventy-five words that constituted gender-neutral roles and fifteen words that were gender stereotypes. Of these fifteen words, half of the participants received female stereotype roles and half received male stereotype roles. To obfuscate the gender context, the list of gender-specific stereotype roles was surrounded by the other sixty words. *Id.*

476. *Id.* at 5.

477. *Id.* at 6.

478. *Id.* at 7.

479. *Id.*

480. *Id.* at 11–12.

newcomers.⁴⁸¹ When the first two women became members of Cadre in the spring of 1999,⁴⁸² a cadet newspaper openly questioned their qualifications.⁴⁸³ Third class women encountered resistance when disciplining male rats; some male dykes purportedly encouraged male rats to ignore female upperclassmen.⁴⁸⁴ Likewise, when a female faculty member tried to discipline male cadets, male students allegedly came out onto their stoops and loudly called her a “bitch” and “whore.”⁴⁸⁵

Yet hope remains. First, implicit bias does not necessarily lead to discriminatory actions or decision-making.⁴⁸⁶ To the contrary, individuals can limit the influence of prejudice and stereotypes, particularly when they are highly motivated, externally or internally, to do so.⁴⁸⁷ Second, awareness and acknowledgement of implicit bias can actually decrease it, and hopefully, by extension, its adverse effects.⁴⁸⁸ In the context of race, Alexander Czopp, Margo Monteith and Aimee Mark designed an experiment in which researchers confronted participants about racially stereotyped responses and then administered a confidential stereotype test.⁴⁸⁹ Participant responses provided after the confrontation displayed significantly fewer stereotypes than those given before the confrontation, which indicates that awareness of implicit stereotypes may sometimes

481. BRODIE, *supra* note 4, at 254.

482. *Id.* at 348.

483. *Id.* at 349.

484. *Id.* at 348.

485. *Id.* at 174–75.

486. Levinson & Young, *Gender Bias in the Legal Profession*, *supra* note 221, at 41; *see also* Levinson, Cai & Young, *supra* note 449.

487. Jack Glaser & Eric D. Knowles, *Implicit Motivation to Control Prejudice*, 44 J. EXPERIMENTAL SOC. PSYCHOL. 164, 164 (2008); Adam R. Pearson, John F. Dovidio & Samuel L. Gaertner, *The Nature of Contemporary Prejudice: Insights from Aversive Racism*, 3 SOC. & PERSONALITY PSYCHOL. COMPASS 314, 328 (2009) (finding that participants who were implicitly motivated to avoid prejudice were less likely to display shooter bias while participants with low motivation to control prejudice and/or who did not implicitly consider themselves to be prejudiced were likelier to display shooter bias).

488. Alexander M. Czopp, Margo J. Monteith & Aimee Y. Mark, *Standing Up for a Change: Reducing Bias Through Interpersonal Confrontation*, 90 J. PERSONALITY & SOC. PSYCHOL. 784, 799 (2006). Czopp, Monteith and Mark showed participants images during an online chat and confronted the participant if his or her reactions revealed racial stereotypes. After this confrontation, participants took a confidential stereotype test. According to Levinson and Young, “[a]lthough this study was conducted in the context of racial stereotypes rather than gender stereotypes, the theory behind it should hold true for reducing gender stereotypes as well.” Levinson & Young, *Gender Bias in the Legal Profession*, *supra* note 221, at 39.

489. Czopp, Monteith & Mark, *supra* note 488, at 792.

reduce them.⁴⁹⁰

Finally, exposure to individuals that defy stereotypes can counter them.⁴⁹¹ For example, to examine whether exposing female college student participants to atypical female leaders would decrease the students' implicit gender biases, Nilanjana Dasgupta and Shaki Asgari (2004) asked one group of female students to peruse photos and short biographies of women who defy sex stereotypes like Justice Ruth Bader Ginsburg.⁴⁹² Then the students took a stereotype/gender IAT.⁴⁹³ Students who had learned about female leaders displayed less implicit gender bias than those who had not; specifically, they more quickly grouped together women with leadership attributes on the IAT.⁴⁹⁴ Dasgupta and Asgari later compared female students in an all-women's college with those in a coeducational college, predicting that the former group would display less implicit gender bias after one year of college due to the underrepresentation of women leaders at co-ed colleges.⁴⁹⁵ They tested the women at the beginning of college and again after one year. Their results revealed that while both groups entered college with nearly equal levels of implicit gender biases, the women at the all-women's college displayed almost no implicit gender bias after just one year⁴⁹⁶—not so for the women attending a coeducational college. Significantly, the more female professors a student had, the less implicit gender bias she expressed on the IAT.⁴⁹⁷

These studies demonstrate that even engrained implicit gender biases are subject to change with proper intervention. Thus, if male-dominated spheres commit to selecting and supporting high-quality female leaders, particularly in traditionally male positions, the spheres can send a powerful message that reduces bias, promotes solidarity between men and women, and cultivates strong leaders of both sexes.

490. *Id.* at 799.

491. See Nilanjana Dasgupta & Shaki Asgari, *Seeing Is Believing: Exposure to Counterstereotypic Women Leaders and Its Effect on the Malleability of Automatic Gender Stereotyping*, 40 J. EXPERIMENTAL SOC. PSYCHOL. 642, 645 (2004) (determining that exposure to women role models may temporarily decrease implicit bias); see also *The Ugly Face of Disability Hate Crime* (BBC Documentary) (participants who attained high scores on the disability IAT, showing significant implicit bias against persons with disabilities, received notably lower scores when they retook the same IAT after experiencing a positive and meaningful interaction with a person with a disability).

492. *Id.* at 646.

493. *Id.*

494. *Id.* at 647–68.

495. *Id.* at 649.

496. *Id.* at 650–53.

497. *Id.* at 651.

V. IMPLICATIONS

Although VMI cadets likely enter college with preexisting beliefs and biases, VMI can still impact those attitudes in a positive way. Indeed, our findings highlight the need for male-dominated spheres, such as VMI, to explicitly acknowledge the existence and impact of sex stereotyping, implicit gender bias, androcentrism, and gender polarization on notions of leadership and to provide a nonjudgmental forum where men and women of all backgrounds can productively discuss these phenomena. Such spheres should further consider adopting empathy and egalitarianism as core values integral to institutional leadership and develop effective ways to cultivate those values in student leaders, faculty, and administrators. Administrators, alumni, and student leaders should collaborate to transform the institutional narrative that women leaders attain rank primarily due to sex. They should also provide diversity and inclusion training as well as leadership training for first-year cadets, provide conflict resolution workshops, regularly conduct climate surveys, and facilitate deliberative dialogue sessions regarding topics like implicit bias, diversity, gender variance, and stereotype threat. Leadership workshops should also address these phenomena and feature guest speakers who overtly challenge sex stereotypes, such as Captain Kristen Griest, one of the first female soldiers to graduate from Army Ranger School and the Army's first female infantry officer.⁴⁹⁸ They should also encourage faculty to equally highlight the societal contributions of both sexes in their courses and scholarship, highlighting, for example, the hundreds of women who disguised themselves as men to fight in the Civil War.⁴⁹⁹ Although the aforementioned measures are far from exhaustive, they could make a profound and positive impact.

VI. CONCLUSION

In conclusion, women leaders evoke resistance because they challenge traditional notions of what it means to be both a leader and a man. Thus,

498. Scott Neuman, *First Female Soldiers Graduate from Army Ranger School*, NPR (Aug. 21, 2015, 12:17PM), <http://www.npr.org/sections/thetwo-way/2015/08/21/433482186/first-female-soldiers-graduate-from-army-ranger-school> [<https://perma.cc/3YRM-9YSV>]; Michelle Tan, *Meet the Army's First Female Infantry Officer*, ARMY TIMES (Apr. 27, 2016), <https://www.armytimes.com/story/military/careers/army/officer/2016/04/27/meet-armys-first-female-infantry-officer/83591066/> [<https://perma.cc/2VV2-DUME>].

499. Jess Righthand, *The Women Who Fought in the Civil War*, Apr. 7, 2011, <http://www.smithsonianmag.com/history/the-women-who-fought-in-the-civil-war-1402680/> [<https://perma.cc/23GF-N4NZ>]; see also BONNIE TSUI, SHE WENT TO THE FIELD: WOMEN SOLDIERS OF THE CIVIL WAR 1 (2011).

despite their uniquely masculine environment, female cadets in leadership often experience the same obstacles faced by women leaders in other male-dominated spheres throughout history. Cadet attitudes toward women in leadership likely reflect the longstanding gender bias, stereotyping, androcentrism, and gender polarization so deeply engrained in our sociocultural experience that, unwittingly or not, they have become a part of who we are and thus, impact how we view of ourselves and each other. Until we can understand *how* these phenomena influence our perceptions, they will continue to taint our notions of what it means to be a leader and a woman, causing history to repeat itself. Gendered notions of leadership, which are harmful and limiting, will endure. Yet as Bem notes, women leaders should not have to act “exactly like men in order to earn [the respect that] men earn.”⁵⁰⁰ Nor should they have to “virtually become men to make it” at VMI or anywhere else.⁵⁰¹

500. BEM, *supra* note 1, at 181.

501. *Id.* at 179.

APPENDIX

Which sex typically displays superior leadership ability at VMI:

	Women	Men	Equally for Both Sexes	Total
Q1: Male	0% 0	80.33% 241	19.67% 59	300
Q1: Female	10% 5	30% 15	60% 30	50

Which sex typically displays superior physical prowess at VMI:

Typically Displays Superior Physical Prowess at VMI				
	Women	Men	Equally for Both Sexes	Total
Q1: Male	0% 0	97.67% 294	2.33% 7	301
Q1: Female	2% 1	90% 45	8% 4	50

Which sex typically displays superior academic performance at VMI:

Typically Displays Superior Academic Performance at VMI				
	Women	Men	Equally for Both Sexes	Total
Q1: Male	10.30% 31	28.57% 86	61.13% 184	301
Q1: Female	38% 19	6% 3	56% 28	50

When I see that a female cadet is selected for a high position or award, I think . . .

	She Must Have Deserved It	She Was Chosen Primarily Because She Was Female	Total
Q1: Male	22.18% 65	77.82% 228	293
Q1: Female	59.18% 29	40.82% 20	49
Total Respondents	94	248	342

For the two most significant leadership characteristics noted above, please indicate whether each is associated more with one sex or with both relatively equally.

The Most Important Leadership Characteristic Noted Above				
	More With Men	More With Women	Both Sexes Equally	Total
Q1: Male	54.18% 149	2.55% 7	43.27% 119	275
Q1: Female	29.17% 14	10.42% 5	60.42% 29	48
The Second Most Important Leadership Characteristic Noted Above				
	More With Men	More With Women	Both Sexes Equally	Total
Q1: Male	54.58% 149	3.66% 10	41.76% 114	273
Q1: Female	18.75% 9	20.83% 10	60.42% 29	48

I don't mind having a keydet of the opposite sex in a leadership position supervising me.

I Don't Mind Having a Keydet of the Opposite Sex in a Leadership Position Supervising Me.					
	Strongly Agree	Somewhat Agree	Somewhat Disagree	Strongly Disagree	Total
Q1: Male	20.81% 62	35.57% 106	19.46% 58	24.16% 72	298
Q1: Female	95.92% 47	4.08% 2	0% 0	0% 0	49