

# THE CHILLY CLIMATE ON COLLEGE CAMPUSES: AN EXPANSION OF THE “HATE SPEECH” DEBATE

KATHARINE T. BARTLETT\* AND JEAN O'BARR\*\*

Reports of the kind of outrageous, blatantly racist, sexist, or heterosexual events which are the subject of the powerful Lawrence-Strossen debate about “hate speech” regulations<sup>1</sup> have become increasingly frequent in the late 1980s and early 1990s. Few colleges can claim to have remained free of such events, which include verbal assaults in various public and “private” settings, defacement of posters and walls with swastikas, nude caricatures, and “KKK” signatures, and other sorts of repeated harassment based on the sex, race, or sexual lifestyle of particular individuals or groups.

In addition to these very visible incidents of blatant racial, sexual, and homophobic vilification, however, there are even more common, everyday types of behaviors that also disempower members of subordinated groups. These behaviors are so ordinary, so numerous, and so pervasive, as to be taken almost entirely for granted, by victims and victimizers alike. The Lawrence-Strossen debate focuses only on the most visible forms of racism, and thus misses these more subtle discriminatory practices that pervade our current cultural milieu. In this Comment, we show, through an exploration of sexism on college campuses, how the “hate-speech” debate is incomplete, and how its terms may even stymie a full analysis of the wider range of subordinating behaviors that characterize racism, sexism, and heterosexism on college campuses in this country. Based upon this analysis, we argue in favor of branching out from a focus on the regulation of blatant forms of racist, sexist and heterosexual harassment, toward a more multi-faceted set of campus strategies.

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\* Professor of Law, Duke University School of Law.

\*\* Director of Women's Studies at Duke University and Editor of SIGNS: THE JOURNAL OF WOMEN IN CULTURE AND SOCIETY.

1. See Charles Lawrence, *If He Hollers, Let Him Go: Regulating Racist Speech on Campus*, 1990 DUKE L.J. 431; Nadine Strossen, *Regulating Racist Speech: A Modest Proposal?*, 1990 DUKE L.J. 484; see also Mari J. Matsuda, *Public Response to Racist Speech: Considering the Victim's Story*, 87 MICH. L. REV. 2320 (1989).

## EVERYDAY OPPRESSIONS

In an effort to bring the everyday oppression of campus sexism into question, Roberta Hall and Bernice Sandler of the Project on the Status and Education of Women of the Association of American Colleges have catalogued more than thirty-five of these behaviors in two reports, *The Classroom Climate: A Chilly One for Women?* and *Out of the Classroom: A Chilly Campus Climate for Women?*<sup>2</sup> Examples of some of these behaviors convey a sense of how common and potentially devastating they are:

—When faculty members ask questions in class, “they mak[e] eye contact with men more often than with women, so that individual men students are more likely to feel recognized and encouraged to participate in class”;<sup>3</sup>

—Faculty members use tones that communicate interest, and “assum[e] a posture of attentiveness (for example, leaning forward) when men speak,” but a patronizing or impatient tone and inattentive posture (such as looking at the clock) when talking with women;<sup>4</sup>

—Faculty members call directly on men students more often than on women students, and are more likely to probe a male student’s response to help the student work toward a fuller answer or explanation;<sup>5</sup>

—Faculty members call men students by name more often than women students, and credit comments and ideas to men but not to women;<sup>6</sup>

—Faculty members “wait[ ] longer for men than for women to answer a question before going on to another student,” and are more likely to interrupt a woman student;<sup>7</sup>

—Faculty members “ask[ ] women students questions that require factual answers . . . while asking men [‘higher order’] questions that demand personal evaluation and critical thinking”;<sup>8</sup>

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2. See ROBERTA M. HALL & BERNICE R. SANDLER, *THE CLASSROOM CLIMATE: A CHILLY ONE FOR WOMEN?* (Project on the Status and Education of Women 1982) [hereinafter R. HALL & B. SANDLER, *CLASSROOM CLIMATE*]; ROBERTA M. HALL AND BERNICE R. SANDLER, *OUT OF THE CLASSROOM: A CHILLY CAMPUS CLIMATE FOR WOMEN?* (Project on the Status and Education of Women 1984) [hereinafter R. HALL & B. SANDLER, *OUT OF THE CLASSROOM*].

3. R. HALL & B. SANDLER, *CLASSROOM CLIMATE*, *supra* note 2, at 7. This, and other behaviors, have been documented even at women’s colleges that have recently become co-educational. See Edward B. Fiske, *Lessons*, N. Y. Times, Apr. 11, 1990, at B8, col. 1 (reporting experiences at Wheaton College).

4. R. HALL & B. SANDLER, *CLASSROOM CLIMATE*, *supra* note 2, at 7.

5. *Id.* at 8.

6. *Id.*

7. *Id.* at 8-9.

8. *Id.* at 9.

—Faculty members give longer and more complete responses to the questions of men students than to those of women students;<sup>9</sup>

—Faculty members “spontaneously offer[ ] to write letters of reference for men students but not for equally competent women students,” and invite men, but not women, students to share authorships, accompany them on professional trips, and meet recognized scholars outside the department<sup>10</sup>;

—Female athletes’ accomplishments go relatively unnoticed, as compared to men’s sports, which are the focus of discussion and praise;<sup>11</sup>

—“Women are expected to perform stereotypically ‘feminine’ roles in conjunction with social events and cooperative housing arrangements—such as preparing food and cleaning up—while men make tapes, provide entertainment or do maintenance work”;<sup>12</sup>

—Women are asked questions by faculty members, admissions staff and financial aid officers that question their seriousness of purpose, their need for educational credentials, and their actual or potential marital or parental status, that men are not asked.<sup>13</sup>

Not surprisingly, women minority students, older women students, lesbians, and disabled women are especially affected by these forms of behavior that devalue them both as women and as members of another outsider group. Moreover, the combination of sex and race, age, sexual preference, or disability may inspire additional forms of prejudice and subordination. Thus, for example, the silence of an African American woman may be perceived as “sullenness,” whereas the silence of an Asian, Hispanic, or Native American woman may be perceived as “passivity.”<sup>14</sup> Older women are viewed as bored, economically dependent spouses who have nothing better to do with their time and are often patronized by faculty members and other students.<sup>15</sup> Disabled women students are often overlooked, excluded or dismissed; concepts are over-explained, or delivered in an overtly loud or patronizing tone.<sup>16</sup> Disabled women are presumed to be asexual beings, who do not date and who will never assume marital or family roles.<sup>17</sup>

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9. *Id.*

10. *Id.* at 11.

11. R. HALL & B. SANDLER, *OUT OF THE CLASSROOM*, *supra* note 2, at 10.

12. *Id.*

13. *Id.* at 6-7.

14. *Id.* at 12.

15. *Id.*

16. *Id.*

17. *Id.* at 13. By this criticism, we do not mean to endorse dating, or the assumption of marital or family roles, as the female norm. The point is, rather, that a particular norm is assumed with respect to disabled women that is restrictive for many of them.

The harm caused by these behaviors, like the harm caused by more blatant forms of sexist expression, is very real. Researchers on sex difference in language have identified patterns of women's speech that appear to correspond to the devaluation that women experience in relation to their male peers. Robin Lakoff was one of the first to identify a number of "hedges" common to women's speech that tend to convert declarative sentences into ambiguous, uncertain statements.<sup>18</sup> These hedges include hesitations and false starts ("I think . . . I was wondering . . ."); high pitch; "tag" questions ("This is really important, don't you think?"); a questioning intonation in making a statement; excessive use of qualifiers ("Don't you think that maybe sometimes . . ."); and other speech forms that are excessively polite and deferential ("This is probably not important, but . . .").<sup>19</sup> Women also tend to use more submissive gestures, such as inappropriate smiling when making a serious statement or asking a question, or averting their eyes, especially when dealing with men.<sup>20</sup>

These responses reflect the lower status and power that many women feel as a result of the behaviors described above.<sup>21</sup> They are also self-perpetuating, for they put women at a disadvantage in a classroom environment where assertion, clarity, and confidence are rewarded, and thus reinforce the attitudes of faculty and peers that women need not be taken seriously.<sup>22</sup>

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18. ROBIN LAKOFF, *LANGUAGE AND WOMAN'S PLACE* 53 (1975). For a comprehensive, annotated bibliography of the wealth of research in this area, see Cheri Kramarae, Barrie Thorne & Nancy Henley, *Sex Similarities and Differences in Language, Speech, and Nonverbal Communication: An Annotated Bibliography*, in *LANGUAGE, GENDER, AND SOCIETY* 151 (Barrie Thorne, Cheri Kramarae & Nancy Henley eds. 1983).

19. R. LAKOFF, *supra* note 18, at 53; see also R. HALL & B. SANDLER, *CLASSROOM CLIMATE*, *supra* note 2, at 9-10; John Conley, William O'Barr & E. Allen Lind, *The Power of Language: Presentational Style in the Courtroom*, 1978 *DUKE L.J.* 1375, 1379-80 (poor and uneducated most likely to use speech that conveys a lack of forcefulness). For a riveting narrative illustrating the use of subordinate speech patterns by a welfare recipient client in an administrative hearing concerning charges of welfare fraud, see Lucie White, *Subordination, Rhetorical Survival Skills, and Sunday Shoes: Notes on the Hearing of Mrs. G.*, 38 *BUFFALO L. REV.* 1, 21-32 (1990).

20. R. HALL & B. SANDLER, *CLASSROOM CLIMATE*, *supra* note 2, at 9-10.

21. Cf. William O'Barr & Bowman Atkins, "Women's Language" or "Powerless Language"?, in *WOMEN AND LANGUAGE IN LITERATURE AND SOCIETY* 93, 102-04 (Sally McConnell-Ginet, Ruth Borker & Nelly Furman eds. 1980) (finding greater correlation between use of "women's language" and lower social status than with gender per se).

22. These values are perhaps most evident in law school classrooms, which are seen as the training ground for a profession in which assertiveness and confidence are critically important. A survey of 765 law students from five different law schools revealed that male students volunteer in class significantly more often than female students, that the rate of women's participation decreases over time while the rate of men's participation remains constant, and that women students feel more insecure than male students. See Taunya Lovell Banks, *Gender Bias in the Classroom*, 38 *J. LEGAL EDUC.* 137, 141-42 (1988). A study of 667 Boalt Hall students, which corroborated these findings, also concluded that women law students with comparable entrance qualifications attained lower grades than their male peers, and had much lower self-esteem. See Suzanne Homer & Lois

The gendered nature of women's responses is apparent from the fact that they are more likely to be construed as signs of weakness or lack of proficiency than arguably analogous behaviors by men.

For example, a woman student who "breaks down and cries" because of academic pressures is likely to be seen as "unstable," whereas a male student who, for the same reason, "goes out and gets drunk" is simply "blowing off steam." The man is welcomed back as "one of the guys," the woman—avoided—or advised to "get out of the kitchen if she can't take the heat."<sup>23</sup>

Other forms of sexism also take forms that are not widely understood as sexism. Take, for example, "red light district" (or "Bourbon Street") parties historically given by some fraternities at Duke University and elsewhere. Women attend the parties dressed as prostitutes in scanty clothing, allegedly to be "picked up" by men. These parties are understood as "just good, clean fun." They are sexy, provocative fantasies that release "normal" male energies "without harm." Everyone can have a good time. In fact, of course, such events eroticize the objectification of women. Women existing to serve men comes to stand for "good, clean fun." In such an example, injury based upon gender derives not from overt attacks and explicit messages of hate. Injury derives, instead, from eroticizing women's subordination to men. This process of definition implicates basic social patterns and explanatory frameworks—indeed, matters of fundamental identity for both women and men. For this reason, efforts by women's groups to eliminate these parties have been long, tedious, and contentious.

The difficulty of identifying, and communicating about, these issues can be seen in another Duke example. At a recent discussion in a dormitory unit, attended by women and men, the topic was acquaintance rape. The group asked a Women's Studies teacher to attend as a resource person. One of the men, whose previous comments indicated that he was sympathetic to changing the practices surrounding date rape at fraternity functions, offered this explanation for why such rapes occur. It is, he said, like driving home when you are drunk at 2 a.m. You come to a red

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Schwartz, *Admitted but Not Accepted: Outsiders Take an Inside Look at Law School*, 5 BERKELEY WOMEN'S L.J. 1, 28-31, 33-34, 37-44 (1989-90). Virtually all of the work in this area has reached consistent conclusions. See Stephanie M. Wildman, *The Question of Silence: Techniques to Ensure Full Class Participation*, 38 J. LEGAL EDUC. 147 (1988); *Gender, Legal Education, and the Legal Profession: An Empirical Study of Stanford Law Students and Graduates*, 40 STAN. L. REV. 1209, 1239 (1988) (showing men law students at Stanford more likely than women to ask questions and volunteer answers in class); see also Catherine Weiss & Louise Melling, *The Legal Education of Twenty Women*, 40 STAN. L. REV. 1299, 1333-45 (1988) (describing experiences of twenty women law students at Yale Law School, including their disproportionate silencing in the classroom and their alienation from the classroom).

23. R. HALL & B. SANDLER, *OUT OF THE CLASSROOM*, *supra* note 2, at 3.

light. You don't want anyone to think you're a softie, so you just go through it. All the guys do. The men and women listening to his account agreed with him—he had found a good image. Both the gendered nature of the image—woman/red light, hard/soft, the role of alcohol, the salience of peer pressure, ignoring established laws and conventions, the equating of woman and object, to name but a few—and its harmful implications, escaped all present. When cognitive systems about sexuality are operating in this way, getting outside them to expose their sexism—their inherent inequality—proves a formidable task.

Sexual harassment provides yet another set of examples. Although many campuses, in compliance with the law, now have student-faculty committees to hear sexual harassment cases, most committees are underutilized, in part because the victims of sexual harassment are conditioned to experience their harassment as “normal”—the way things are and will always be. Indeed, when a professor, or a graduate student in a position of authority, “comes on” to a female student or a female staff member or a female professor, she is supposed to be flattered. Her femininity is being affirmed; she is considered attractive by someone who counts. She is desirable. Such advances are dismissed, at worst, as trivial, something that women with a good sense of humor take in stride—certainly not a sign of deep sexism. The sexism, of course, is that the woman is affirmed only as an object of someone else's pleasure. She is expected to be pleased, grateful, and giving. The professional penalty for failing these expectations is sometimes high.

It is even more difficult to recognize the sexism of less overt forms of harassment. A recent classroom exercise in the introductory Women's Studies class at Duke enabled some students to do so. In this class, students were asked to commit gender role violations—to do something they considered inappropriate for themselves and then to analyze how they and their observers felt and explain why. Here are excerpts from a student report of violations and the reactions:

I am on a varsity team, and so I spend a considerable amount of time in and around the gym every day. I therefore come into contact with more sweaty guys than anyone could ever want to. One thing, or two things, actually, that I notice many of them seem to do, *very publicly*, is to scratch their crotches and spit loudly on the ground. It never seems to bother them how many people are around, or if a passer-by has to step out of their way to avoid a stream of spit. Personally, I'm not very fond of these two common traits, but even if disgusting, what upsets me most is that they are perfectly acceptable behavior for athletic men, but not women.<sup>24</sup>

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24. Comment by Kerry Dolan.

Most of my friends are men and while I adore them and appreciate my privileged status as one of the guys, I am often amazed and frequently disgusted by the activities I observe while in their presence. Furthermore, I realize that I'm only one of the guys as long as I laugh (prettily and convincingly) at their antics, but should I repeat them myself, I immediately become a girl who has overstepped her bounds. Specifically, I am referring to that boundary between men's bodies, which make noises, have needs and drives, and women's bodies, which are not allowed any of these things. Of the many functions available, I chose those three which were either the most uncommon to women, the most offensive to me/uncomfortable for me to do, or the most obvious violation of gender roles: spitting, passing gas, and consuming particularly large quantities of food.<sup>25</sup>

Their shock and difficulty in dealing with my crudeness was expected, as not only were they disgusted, but I was as well. I was embarrassed and confused that I had so rudely followed my instinct and belched in public. My embarrassment stemmed from the values and manners which had been so deeply ingrained in my character. These values caused me to react by apologizing for my actions. However it was actually my apology which caused me to be confused. I could not understand why I was apologizing for something which guys praise one another for doing publicly.<sup>26</sup>

The particular gender norm that I violated seems to come from the fact that it is acceptable for men to do "whatever" they want . . . . [M]en are allowed the luxury of sitting in undignified positions, sitting with their legs apart, or slouched down, and cursing, and other like behavior, whereas women are not. Partially this must come from the fact that our society is ingrained with the idea that whatever men do is of course "right" or "correct."<sup>27</sup>

If a person can be made to control their own body by an external force (even if this external force acts through internal restraints) then has not this control actually been removed from the individual? Furthermore, this process of suppression has insidious implications for the position of women in our society, for once a person's body can be controlled, how difficult is it to prevent the expression of their mind, and then their social and political needs?<sup>28</sup>

I've noticed that men tend to re-arrange themselves directly as an assertion of their superiority; in debates, when they cannot think of a good response (as if to say "yeah, but do you have one of these?") or in the midst of bragging (as if such an acknowledgement is corroborating evidence that his story is true).<sup>29</sup>

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25. Comment by Janice Jensen.

26. Name withheld upon request.

27. Comment by Kerry Dolan.

28. Comment by Janice Jensen.

29. Comment by Lucy Mochman.

Formal definitions of harassment don't cover behaviors like these; it is hard to imagine how they could, without instituting a kind of Orwellian nightmare. It is *these ordinary, everyday* types of behaviors, however, that condition women to accept the limits placed on their social and cultural possibilities on an ordinary, everyday basis.

#### THE PROBLEM OF DENIABILITY

An important part of the problem we are describing is that the forms of more subtle, sexist degradation that women experience on college campuses are easily, and often, denied. This deniability is one very important reason why sexism remains an elusive target. There is a widespread belief that women in America—at least white women—have “made it.” Sure, sexism used to exist, the story goes: Opportunities for women used to be limited, and there are still some old fogeys around who continue to think of women in old-fashioned, stereotypical ways. But the legal barriers have been removed, allowing full participation in society achieved by women. Equal rights have been won. Any failures that women now experience are failures of the individual, or private choices not to pursue one's full potential.<sup>30</sup> The institutions are clean.

The possibility exists, of course, that the very advances women have made in legal terms are countered culturally by a rise in misogyny at the individual level. In other words, the eradication of formal, visible, undesirable forms of sexism might cause a rise in the incidence and intensity of the informal, invisible, and deniable behaviors which undermine women's sense of self-value and women's opportunities.

Whether or not the incidence of everyday oppression is growing, the everyday behaviors we have discussed are easy to ignore. Because of their very ordinariness, these behaviors are less precise and more difficult to describe than the more extreme forms of abuse addressed by Lawrence and Strossen. In addition, these behaviors take enormously varied forms, which we are only now beginning to specify in any comprehensive way. They are subject to endless mutation; as one behavior is recognized as sexist, racist, or heterosexist, it may be suppressed, only to take a differ-

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30. Elinor Lenz and Barbara Myerhoff express this point of view in their best-seller, *THE FEMINIZATION OF AMERICA: HOW WOMEN'S VALUES ARE CHANGING OUR PUBLIC AND PRIVATE LIVES* 248-49 (1985) (“The process of feminization has shown us the way to achieve a balanced and humane society . . . [whether we achieve such a society] will be determined by our response to this unprecedented opportunity for individual and social change.”). In a powerful critique of this book, Catharine Hantzis both challenges the claim that gender justice is a completed agenda, and examines how the premature celebration of women's equality leads women to adapt to rather than resist their oppression. See Catharine Hantzis, *Is Gender Justice a Completed Agenda?*, 100 HARV. L. REV. 690 (1987).

ent, less recognizable form.<sup>31</sup> Moreover, these behaviors tend to be subtle and unconscious,<sup>32</sup> not openly hostile or mean-minded, and are sometimes undertaken by members of the victimized groups themselves. For these reasons, even apart from whatever free speech issues that might be implicated, few would argue that these behaviors can be the subject of effective, formal regulation. At most, critics argue that their identification and education about them can lead to self-regulation and eventually voluntary modification.

A focus on the verbal and symbolic abuse addressed by Lawrence and Strossen has the unintended consequence of further reinforcing the invisibility of these everyday forms of oppression. First, by comparison, these behaviors seem so trivial, so harmless, so ordinary. How can white women, or blacks, complain of "insensitive," offhand classroom remarks or petty slights, in a world where skinheads shout "nigger" at a black man waiting to use a public telephone, or posters go up celebrating the massacre of Montreal feminists?

Second, this focus on regulation reinforces a conceptualization of racism, sexism, and heterosexism as blatant and intentional with specific perpetrators and specific victims. This conceptualization, while accurate with respect to some forms of verbal or symbolic assault, makes it more difficult to recognize and respond to the kind of racist, sexist or heterosexist behaviors that are subtle, unknowing, and without a single clear perpetrator or intended victim. Where this conceptualization prevails, a remark which is not meant as insulting or derogating is seen as harmless, or worse, trivial.<sup>33</sup> The victim comes to be viewed as the problem. The question shifts from "How do we eradicate racist, sexist, and heterosexist behaviors?" to "Why do some people have to be so sensitive?"

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31. This phenomenon is captured by what Richard Delgado, in the context of racism, calls the "Law of Racial Thermodynamics: Racism is neither created nor destroyed." Richard Delgado, *When a Story is Just a Story: Does Voice Really Matter?*, 76 VA. L. REV. 95, 106 (1990). Although this phenomenon, to the best of our knowledge, has not yet been scientifically documented, it rings true to many members of "outsider" groups, who find that the identification and suppression of one form of oppression leads to the emergence and growth of another.

32. Professor Lawrence, himself, has contributed some of the most sophisticated scholarship about the unconscious aspects of racism. See Charles Lawrence, *The Id, the Ego, and Equal Protection: Reckoning With Unconscious Racism*, 39 STAN. L. REV. 317 (1987); see also Lawrence, *supra* note 1, at 468-70. Regulation seems a particularly ineffective weapon against verbal and symbolic acts driven by unconscious hate and prejudice.

33. Darryl Brown in an excellent student note on racism in the university has demonstrated the extent to which this "perpetrator perspective" is reflected in the law of race discrimination. See Note, *Racism and Race Relations in the University*, 76 VA. L. REV. 295, 309 (1990). Brown argues that this perspective "conceptualizes racism as a discrete and specific act, an act committed by one individual, group, or institution against another whose injury can be identified," and thus "ignores the possibility that 'race' is structural and interstitial, that it can be the root of injury even when not traceable to a specific intention or action." *Id.* at 309-10.

A focus on blatant, intentional acts of verbal or symbolic abuse also enhances the likelihood that those holding such unconscious prejudices will respond with resentment and annoyance to calls to improve the campus atmosphere for members of subordinated groups.<sup>34</sup> The cry becomes: "We do not do *these awful things* at this university: We are civilized people. *I* certainly am not a racist: *I* would not do these things. And I don't know anyone else who would. What's the big deal all about?"

In this way, everyday behaviors are legitimated by their separation from the more blatantly assaultive behaviors that have become the rallying point for regulatory action. Defining the readily definable—trading grades for sexual favors is sexual harassment; shouting "cunts" at a group of women protesting for greater campus security against rape deems and defames women; and so on—leaves untouched, even sanitizes, the remaining activities.<sup>35</sup> As a result, the pervasive behaviors that devalue individuals based upon their race, sex, and sexual lifestyle implicitly are disassociated from more blatant behaviors, and the non-regulatory alternatives that might be effective against these multiple forms of oppression remain unexplored.

Many forms of regulation, of course, necessarily leave some set of undesirable practices untouched and thus, in some sense, affirmed. The effect of not regulating the overt behaviors condones *these* behaviors, as well as the covert ones.<sup>36</sup> One might argue that in this area, as in others, the best way to attack many problems is "one step at a time." Distinctions between what the law forbids and what it does not, however, usu-

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34. See *id.* at 310. Brown writes:

[A]n understanding of racism limited to the perpetrator perspective, helps to explain vocal resentment of whites to charges of racism and provides insight into allegations that the term "racism" has been so misused and overused that it has lost its meaning. When whites conceive of "racism" as requiring an intentional racist motive for which they deserve personal blame for a personal fault, they get angry because they know they had no racist intent. They plead that they were misunderstood, or that blacks are "oversensitive."

*Id.* at 310-11 (footnote omitted). The following line in a Letter to the Editor of the Duke student newspaper illustrates this infuriated (and infuriating) attitude: "I am sick of a bunch of whining women who place blame for social evils on the nearest scapegoat, and I am tired of these women pointing their fingers at me and all other males." Tony Leung, *Don't Assign Blame for Rape So Quickly*, Chronicle, Mar. 28, 1990, at 8, col. 3-4.

35. A similar criticism has been made by feminists in relation to pornography and rape. See, e.g., CATHARINE A. MACKINNON, *FEMINISM UNMODIFIED: DISCOURSES ON LIFE AND LAW* 162 (1987) (in carving out and prohibiting a limited number of types of pornography, obscenity law authorizes and legitimizes the rest); Katharine T. Bartlett, *Porno-Symbolism: A Response to Professor McConahay*, LAW & CONTEMP. PROBS., Winter 1988, at 71, 73 (by "rendering unacceptable the most extreme forms of pornography, [society] legitimizes the remainder"); Frances Olsen, *Statutory Rape: A Feminist Critique of Rights Analysis*, 63 TEX. L. REV. 387, 427 (1984) ("Censuring the most blatant and oppressive manifestations of sexual aggression may make its more subtle, everyday forms actually seem more acceptable.").

36. We thank Professor Tom Grey for this point.

ally turn on the extent of the harm caused. It seems at least plausible that subtle, everyday forms of sexist oppression on college campuses are every bit as harmful as those caused by more blatant forms of oppression.<sup>37</sup> Indeed, the invisibility of these everyday behaviors and these everyday harms may make them all the more insidious. For this reason, it is crucial that any attempt to eradicate the more blatant examples of racism, sexism, and heterosexism simultaneously combats the validation of the remainder.

If there is a silver lining to the blatant, egregious forms of hateful harassment that Lawrence describes, it is that they help to make the underlying forms of prejudice undeniable. Incidents directed specifically against women, although fewer in number, serve the same purpose with respect to sexism. The problem is that we are in danger of getting stuck on these more dramatic examples and thereby failing to deal with the more subtle, daily forms of oppression that may play an even larger role in establishing the subordination of members of certain groups on college campuses. Recognizing that the everyday may be as oppressive as the extraordinary is essential to any meaningful transformation of the campus climate.

How might colleges and universities stimulate awareness of all those behaviors that demigrate members of subordinated groups? The simple fact that we know less about the ordinary daily forms of discrimination means that we have fewer intellectual and political tools to bring to bear on the very discussion of them. Strategies, however, are urgently needed and these strategies must be sufficiently diverse that no one single variety of degrading practices is taken for the whole problem. To take just a few examples, many universities have widely disseminated the contents of the reports upon which we have relied heavily in this Comment.<sup>38</sup> Others have designed workshops for faculty, administrators, and students to generate awareness of these issues.<sup>39</sup> At least two universities have used these materials as part of classroom curricula.<sup>40</sup> Still other universities

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37. See Note, *supra* note 33, at 323.

38. See SELECTED ACTIVITIES USING "THE CLASSROOM CLIMATE: A CHILLY ONE FOR WOMEN?" (Project on the Status and Education of Women 1984) (reporting dissemination strategies at the University of Delaware, Michigan State University, Pennsylvania State University, California State University at Northridge, Harvard University, and Rutgers University).

39. *Id.* at 2-3 (describing programs and workshops at the University of Maine at Orono, Bangor Community College, American University, Northeastern Illinois University, and the University of Nebraska, Lincoln).

40. The University of Texas at El Paso, for example, used THE CLASSROOM CLIMATE, *supra* note 2, in an upper division course, "Women, Power and Politics," both to "sensitize students to campus climate issues and to teach research [methods and] design." *Id.* at 3. At Denison University, these materials were used to generate discussion and paper assignments based upon the student's own experiences. *Id.*

have initiated their own research on the campus environment at their own institutions.<sup>41</sup>

One recent example of a productive campus program was a mock date rape trial staged at Duke University on April 12, 1990.<sup>42</sup> Date rape is one of those events which is "everyday," in comparison to the more dramatic and less common instances of stranger rape that occur on college campuses. Like other more common forms of sexual oppression, its boundaries are blurred, its harm unappreciated, and its dimensions misunderstood. At the mock trial, not only students but also college faculty and administrators played roles, lending support to the message that date rape is a problem to be taken seriously on campus. A local prosecutor and well-known defense attorney played the parts of counsel. A balanced script made it clear that date rape is a complicated phenomenon, with two points of view representing conflicting, and overlapping, social norms. The event was promoted by clever advertisements in the student newspaper, that sketched out chronologically the (all-too-familiar) alternative accounts of what led to the eventual charge of rape. After the trial—attended by over 250 students—the audience divided up into six groups to deliberate as juries about the guilt or innocence of the defendant. Such events, legitimized by the support and participation of well-placed university administrators and student groups, bring hidden everyday dilemmas involving sexual oppression out into the open, where they can be revealed, taken seriously, and debated in a setting which is both real and yet controlled. They not only educate the university population about a pervasive campus problem, but also inform many women that their concerns and perspectives are important to the university.

Most of all, universities must be pressed to throw their moral weight around. Since universities cannot be neutral, they must attend to how their actions affirm some perspectives as "regular" and marginalize others as "special."<sup>43</sup> Curricular reforms must reflect a commitment to diverse cultural and racial experiences. Universities must support student organizations and facilitate cultural events and other campus programs to help eliminate the alien environment in which many students find themselves. Moreover, university administrators should publicly identify and condemn specific, objectionable behaviors—those that are subtle and unintentional as well as blatant and egregious, and those that

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41. These universities include Bowling Green State University, the University of Delaware, Rhode Island College, Massachusetts Institute of Technology, and the University of Maryland. *Id.* at 3-4.

42. The mock trial was based upon an original play written by Rebecca Patton, Duke Law School Class of 1991, and presented by the Duke Rape and Sexual Assault Task Force and the Interfraternity Council.

43. See Lawrence, *supra* note 1, at 473-75.

cannot be legally regulated as well as those that can. This public practice must be continual and ongoing, not sporadic or only in response to the most overt and repulsive events. Moreover, strategies for change must be sensitive to the range of individuals whose attitudes and behaviors require attention. Strategies that generate only guilt will impede constructive communication, as will strategies that generate backlash by those who feel no guilt.<sup>44</sup> We all are implicated by the racism, sexism, and homophobia in our universities. Only strategies that produce greater self-awareness by *all* members of the university community will enable climate changes conducive to genuine understanding between individuals whose diversity we are both required, and privileged, to respect.

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44. Darryl Brown makes this point specifically with respect to strategies toward ending campus racism. Note, *supra* note 33, at 333-34.