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THE YWCA AS A SINGLE SEX ORGANIZATION - WOULD IT SURVIVE A LEGAL CHALLENGE?

ROSANNE CALBO*

"In our society and in our world there are swift and significant changes affecting the lives of women and girls. In all countries, women and girls face discrimination in the exercise of their civil, social and political rights and must work for positive change. They need training skills and self-assurance to meet the needs of new opportunities and responsibilities.

An autonomous women's organization which is controlled by women, who are responsible for its sound management, is able to focus its resources, energies and leadership to meet these needs. Such an organization can offer a training and testing ground where women and girls work together to develop skills, define values, explore options and exercise leadership."

-1976 YWCA National Convention¹

INTRODUCTION

Single sex organizations face many challenges² to their continuing existence in today's diverse society. The safe haven which many groups have traditionally found behind closed doors is being legally challenged by those who have been prevented from entering those doors. The idea of being excluded from an organization simply because of gender offends many who have, in turn, taken legal action in an attempt to be

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1. See video, *The YWCA as a Single-Sex Organization*. From the section narrated by YWCA of the U.S.A. Board Member, Mercedes Marquez, Esq.

2. These challenges include economic (see pages 2-3) and legal challenges (see pages 14-19).

included.³ For example, the Boys Club has been forced to admit girls⁴ and in some areas is now known as the Boys and Girls Club.⁵ Federal courts, including the Supreme Court, have also forced the Jaycees,⁶ Rotary,⁷ and Lions Clubs⁸ to open their doors and admit women as members in their respective organizations. In addition, the Boy Scouts of America has developed a program which is separate from, but parallel to, the traditional program, and includes girls as well as gay boys.⁹

While some all-male clubs are being forced to integrate by the courts, others are doing so to avoid litigation of the male-only issue.¹⁰ For example, the prestigious all-male Olympic Club in San Francisco recently decided to admit women as members as a part of a settlement with the City of San Francisco.¹¹ The Club had opened its doors to female members in December 1990, but the San Francisco Board of Supervisors halted the admittance plan after conflicts erupted between the Supervisors and the club over the fairness of that proposed

3. Women have taken legal action to be admitted to all-male organizations (see pages 14-19) and men have taken action to be admitted to all-female organizations (see pages 20-28). See *Roberts v. U.S. Jaycees*, 468 U.S. 609 (1984), *Rotary Int'l v. Rotary Club of Duarte*, 481 U.S. 537 (1987), *Rogers v. International Ass'n of Lions Clubs*, 636 F. Supp. 1476 (E.D. Mich. 1986), *Isbister v. Boys Club*, 40 Cal. 3d 72, 707 P.2d 212, 219 Cal. Rptr. 150 (1985).

4. *Isbister v. Boys Club*, 40 Cal. 3d 72, 707 P.2d 212, 219 Cal. Rptr. 150 (1985).

5. The National Boys and Girls Club of America does not require that the local clubs use the new name, but it does encourage the use of both the words "Boys and Girls" in the club's title. Local clubs are autonomous and are free to choose the name they prefer. For example, Oakland, California clubs use the new name, while across the bay in San Francisco, California, some clubs are still called the Boys Club. Telephone interview with Richard Jones, Field Service Manager, Boys and Girls Clubs of America (Nov. 6, 1992).

6. See *Roberts v. U.S. Jaycees*, 468 U.S. 609 (1984).

7. See *Rotary Int'l v. Rotary Club of Duarte*, 481 U.S. 537 (1987).

8. See *Rogers v. International Ass'n of Lions Clubs*, 636 F. Supp. 1476 (E.D. Mich. 1986).

9. The Boy Scout's policy of only admitting boys was recently called into question by gay activists as well as by several young girls. The United Way, a major source of funding for the Scouts, withheld grants as a result of the Scouts' discriminatory membership policy. A new Boy Scout Program, called "Learning for Life," will teach the same things that are taught in Scouts, such as career awareness, ethical values and how to serve the community. Participants in this program will be given special caps, T-shirts and shirt patches in the same manner that boys are given uniforms in the Scouts. Those challenging the Scouts are still worried about the effect of the separate-but-equal status that the Learning for Life program may have on its participants. *Oakland Tribune*, Aug. 13, 1991, at A-3, col. 1.

10. See *San Francisco Daily Journal*, July 29, 1991, at 1, col. 1.

11. City Attorney Louise Renne, on behalf of the City of San Francisco had filed two discrimination suits against the club to gain admission for women and minorities. *Id.*

settlement.¹² Some of the Olympic Club's male members filed suit and then attempted to settle with the City of San Francisco.¹³ In July, 1991, the Olympic Club again voted to allow women to become members, a vote reaffirmed in September 1991.¹⁴ Immediately following the vote, various male members made plans to fight the new membership policy.¹⁵

While the Olympic Club acted to avoid litigation over its membership policy, some all male organizations integrate for the financial benefits.¹⁶ One industry expert stated, "Managers (of clubs) know they'll do more business once clubs open up [to women]. Imagine if McDonald's catered only to men."¹⁷ Despite the economic clout which men's clubs used to muster, times are now hard for the working man's club and the bastion of male chauvinism is subsequently turning to women for help.¹⁸

12. Merla Zellerbach, *Inside the Private Clubs of San Francisco*, SAN FRANCISCO FOCUS, Nov. 1991, at 142. There had been two discrimination suits against the club over its exclusively male membership policy. The proposed settlement was an attempt by the Olympic Club and the Board of Supervisors of the City of San Francisco to reach an agreement on this issue. Those objecting to the settlement noted the lack of specific mention of admission policies concerning gays and other groups.

13. San Francisco Daily Journal, July 29, 1991, at 8.

14. Merla Zellerbach, *Inside the Private Clubs of San Francisco*, SAN FRANCISCO FOCUS, Nov. 1991, at 142. San Francisco City Attorney Louise Renne, who acted as the impetus for the discrimination suit against the Club, expressed concern about women actually *becoming* members. Renne stated, "...the city won't drop its lawsuit until women actually do become members. It took the club nearly two decades to admit the first black member after changing the rules to permit them (to become members)." *Id.*

15. Roger Lalanne, head of the Concerned Olympians 328 Committee, a committee dedicated to preserving the status quo membership policy at the Club, sent petitions to all the members in July, 1991 demanding a membership vote on the change in bylaws which would allow women to become members. Lalanne claimed that members were not informed of the vote and that the notice concerning the change in the bylaws was posted on one of the bulletin boards at the Club and subsequently buried under other club materials. He expressed confidence in obtaining the requisite number of signatures and has fine tuned a mechanism for challenging board moves to admit women members. Lalanne, after the first attempted settlement between the Board of Supervisors and the Olympic Club, produced signatures of 951 members who demanded a membership vote on the issue. When that failed, he and the Concerned Olympians filed a civil suit to stop the settlement from going through before the members had their say. After an initial defeat for Lalanne, the suit became moot when the city supervisors killed the settlement. San Francisco Daily Journal, July 29, 1991, at 8.

16. *The Joy of Two Sexes*, FORTUNE, Aug. 1, 1988, at 8. Without women to extend their existing membership, some clubs are experiencing financial difficulties as membership in approximately 300 city clubs is stagnating or in decline in all areas of the United States except the Far West. *Id.*

17. *Id.*

18. Alan Farnham, *Girls in the Club*, THE ECONOMIST, April 1, 1989, at 54.

Section I of this article will discuss how the forces affecting all-male organizations, specifically economic constraints and legal challenges, might affect all-female organizations by using as a case study the Young Women's Christian Association (hereinafter referred to as the YWCA).¹⁹ This section will examine the history of the YWCA as a women's organization and the legal, psychological and sociological issues surrounding the YWCA's female-only membership policy.²⁰

The YWCA's national policy of admitting only women as members has not been legally challenged.²¹ The National YWCA has, however, voluntarily undertaken a research survey to examine members' sentiments regarding possible mixed sex membership.²² This article will examine the YWCA survey

19. The YWCA has been characterized as a classic women's membership movement and provider of direct services, as well as an advocate for women and their families. Jacqueline Fields & Diane Kell, Findings of a Survey of Top YWCA Leadership Regarding Membership in the YWCA, 1 YWCA Research Update: Membership in the YWCA: Research Reports (No. 3, April 1991) at 21 (hereinafter referred to as "YWCA Research Reports"). The YWCA was founded in the late 1800's as an integral part of the feminist movement of that era. The primary values of 19th century feminists, who demanded economic, educational and legal rights for women, became the primary values of the YWCA's programmatic thrust. The YWCA's historical feminism refers to the advocacy of legal, educational, economic and political or social changes in order to enhance the position of women in the community. Dr. Rita Marinho, *The YWCA - A Women's Organization*, in Discussion Papers: The YWCA as a Single Sex Organization (1988) at 1. The YWCA is a worldwide organization with Associations in 81 countries with over 8 million members. Telephone conversation with Alice Levine, Director of Data Center/Research Department, YWCA of the U.S.A. (Dec. 18, 1991).

20. See CONSTIT. AND BYLAWS OF THE YOUNG WOMEN'S CHRISTIAN ASSOCIATION OF THE UNITED STATES OF AMERICA 1988, art. II Membership § 3 (a).

Membership qualifications are as follows:

- (1) Community YWCA's: membership is open to any woman or girl twelve years of age and over, payment of dues is required and all members fifteen years and over shall have the privilege of voting (except where limited by state law).
- (2) Student YWCA's: membership is open to any woman of the college or university community, payment of dues is required except where precluded by academic regulations and all members shall have the privilege of voting.

21. There have been some challenges to the YWCA's single sex policy, but none of them have been on a national scale. Several local YWCA's have been subject to suits by men alleging the membership policy to be discriminatory. In Minnesota, a student YWCA's single-sex policy was challenged by a male who sought a YWCA student council position. The outcome of that case is at this point unknown as it is presently being addressed by the Minnesota Human Rights Commission. Interview with Kay Logan, Consultant, Services to Student Association, YWCA of the U.S.A. (Nov. 1991).

22. Currently the YWCA does not allow men to become members with full voting privileges. Men may, however, affiliate with the YWCA in various other capacities. See *infra* note 47-50 and accompanying text. Additionally, members of Board of Directors, Nominating Committees and Standing Committees in community YWCA's, and Officers, Advisory Board members and Cabinet members in student YWCA's must be voting members. CONSTIT. AND BYLAWS OF THE YOUNG WOMEN'S CHRISTIAN ASSOCIATION OF THE UNITED STATES OF AMERICA 1988, art. II Membership § 3 (d).

as well as other empirical data regarding single sex organizations or environments.

Section II of this article examines several of the legal challenges to the all-male membership policy of the Jaycees,²³ the Rotary Club,²⁴ the Boys Club²⁵ and the Lions Club.²⁶ Section II will argue that, despite the decisions in the aforementioned cases which forced the all-male organizations to integrate, the YWCA would survive a legal challenge to its single sex membership policy based on the compensatory purpose doctrine which Justice O'Connor outlined in *Mississippi University for Women v. Hogan*.²⁷

Section III will present empirical data examining the nature of mixed-sex environments and the interaction of males and females from early childhood development through adulthood. The section will examine Carol Gilligan's research²⁸ on the differences in moral development in boys and girls and will also examine the beneficial nature of all-female organizations.

Section IV will be a synthesis of the previous sections and will conclude that there is a need for women to maintain an organization of their own, where they are permitted to grow and develop in an environment free of traditional male domination. This article maintains that the YWCA provides such an environment by allowing women to explore their leadership potential while mentoring others and also excel while helping other women empower themselves.

23. See *Roberts v. U.S. Jaycees*, 468 U.S. 609 (1984).

24. See *Rotary Int'l v. Rotary Club of Duarte*, 481 U.S. 537 (1987).

25. See *Isbister v. Boys Club*, 40 Cal. 3d 72, 707 P.2d 212, 219 Cal. Rptr. 150 (1985).

26. See *Rogers v. International Ass'n of Lions Clubs*, 636 F. Supp. 1476 (E.D. Mich. 1986).

27. See *Mississippi Univ. for Women v. Hogan*, 458 U.S. 718 (1982). This case involved a challenge to an all-female nursing school. The Court did not uphold the school's single sex membership policy because the nursing school could not meet all the elements of the compensatory purpose doctrine. The four part compensatory purpose doctrine set forth by the Court is as follows: 1) Members of the gender benefitted by the classification must have actually suffered a disadvantage related to the classification; 2) the gender-based classification must have been adopted with the intention of helping members of the sex which have been disadvantaged; 3) the sex-specific program cannot be based on or perpetuate stereotypes about the disadvantaged group and 4) the sex-based classification must be substantially and directly related to the proposed compensatory objective. See *infra* notes 123-162 and accompanying text.

28. See CAROL GILLIGAN, *IN A DIFFERENT VOICE: PSYCHOLOGICAL THEORY AND WOMEN'S DEVELOPMENT* (1982). See *infra* notes 183-199 and accompanying text.

I. THE YWCA AS A WOMEN'S ORGANIZATION

The YWCA had an important place in the early women's movement of the 1800's.²⁹ The YWCA is now examining its current role in today's women's movement by addressing the direction it hopes to take regarding its female-only membership policy. The research conducted by the YWCA³⁰ explored the disadvantages and the advantages of having men as members in the YWCA, as perceived by current YWCA members and staff.³¹ Those results are an important part of the analysis of the YWCA's single-sex issue. Additionally, the changes that took place when a male executive director was head of the Tacoma, Washington YWCA provide insight into the importance of a female-only policy.³²

A. HISTORICAL BACKGROUND

The YWCA was founded in 1866 to address the needs of women in the everchanging "machine age".³³ Family structures were changing, and the need for safe housing, companionship, recreation, and support for religious and ethical beliefs and values was high.³⁴ The YWCA answered that need, with women leading the charge.³⁵ Women, who by virtue of position, ability and influence, could move to address these needs, joined with others from differing backgrounds to identify and address their mutual concerns.³⁶ Women began to assume the responsibility for working to address the societal conditions³⁷ which gave rise to those needs.³⁸ Service³⁹ was not the only

29. Dr. Rita Marinho, *The YWCA - A Women's Organization*, in Discussion Papers: The YWCA as a Single Sex Organization (1988) at 1.

30. See *infra* note 51-67 and accompanying text.

31. 1 *YWCA Research Reports* (No. 3, April 1991) at 1.

32. *Id.* at 26.

33. *Id.* at ii.

34. *Id.*

35. *Id.*

36. *Id.*

37. The new technology of the "machine age" affected women in various ways. Women faced disruptions in the workplace as machines took opportunities away from them and freed them from tasks. Women who were freed from these tasks were freed to envision other ways of structuring their lives, and the women who depended on these tasks for their livelihood were forced to move into different work environments. *Id.*

38. *Id.*

39. Service refers to the provision of programs designed to directly benefit women.

focus; advocacy⁴⁰ on behalf of women took its rightful place and a "movement" was born.⁴¹ From these beginnings, the YWCA has emerged as a leading women's organization.⁴²

Throughout its 130 year history, the central focus of the YWCA has been on women and their needs. Women's needs are currently being met in the YWCA through a variety of specific programs,⁴³ and through advocacy and social action. The YWCA also gives women the opportunity to develop leadership skills by managing and structuring the organization themselves.

The YWCA organization is designed to meet the needs of its surrounding community. For example, the University YWCA in Berkeley, California has adopted its own mission to meet the changing role of its community and members.⁴⁴ The University

40. The YWCA sees advocacy as rooted in the historical feminist notion of advocacy of legal, educational, economic and political or social changes in order to enhance women's position in the community. Dr. Rita Marinho, *The YWCA - A Women's Organization*, in Discussion Papers: The YWCA as a Single Sex Organization (1988) at 1.

41. *Id.* In the United States in 1866, women in Boston passed the first constitution of the YWCA in a meeting of thirty women. DOROTHY THELEN CLEMENS, *STANDING GROUND AND STARTING POINT: 100 YEARS WITH THE UNIVERSITY YWCA* (1990) at 6.

42. The Mission (also known as the Purpose) of the YWCA of the U.S.A. is as follows:

The Young Women's Christian Association of the United States of America is a women's membership movement nourished by its roots in Christian faith and sustained by the richness of many beliefs and values.

Strengthened by diversity, the Association draws together members who strive to create opportunities for women's growth, leadership and power in order to attain a common vision: Peace, justice, freedom and dignity for all people.

The Mission also includes the YWCA's One Imperative which is as follows:

To thrust our collective power toward the elimination of racism wherever it exists and by any means necessary.

Summary of Convention Action, YWCA of the U.S.A., 32nd Nat'l Convention 13 (May 17, 1991).

43. For example, some of the programs offered at the University YWCA in Berkeley, California include: a career center and career counseling for women who are re-entering the workforce, a speakers' series covering a variety of career choices and options, a youth mentor program which pairs up college students at UC Berkeley with disadvantaged urban high school students, an English-In-Action program which matches international scholars, students and their families with YWCA volunteers for English conversation, a student council designed to foster leadership in college aged women, art exhibits showcasing the work of women artists in the area, health and fitness classes, self defense classes, a volunteer placement program which places UC Berkeley students in internships which help define and shape career goals and develop interests. *See* University YWCA, Schedule (Fall 1991).

44. *Id.* Local YWCA's adopt the National Mission (*see supra* note 42), but are free to modify it to fit the particular needs of their respective communities. Interview with Sharon Bettinelli, Executive Director of the University YWCA, in Berkeley, California (Oct. 9, 1991).

YWCA's mission is "to meet the changing needs of women from diverse backgrounds on campus and in the community by empowering them to fulfill personal, career and humanitarian goals."⁴⁵

Although its main focus is empowering women to achieve their goals, the YWCA does not entirely exclude men.⁴⁶ Men can be staff members, financial donors, volunteers, and program participants.⁴⁷ Men can become non-voting associates of the YWCA.⁴⁸ What men cannot be at this point are voting members, executive directors or board members.⁴⁹ These positions are considered leadership positions and can be held only by voting members.⁵⁰

B. YWCA RESEARCH - MEMBERS WHO DISFAVOR MALE MEMBERSHIP

The YWCA recently hired a research firm to prepare a survey asking local YWCA staff members and volunteers, and National YWCA staff and board members their views on the single sex membership issue.⁵¹ The survey showed that YWCA members are currently divided on the issue of female-only

45. The University YWCA's Mission is implemented through its programs such as health and fitness classes, personal enrichment classes, a career center, career seminars, a volunteer placement program (matching participants with community service organizations), an English-in Action program (matching English-speaking participants with foreign scholars and their families for conversation). See YWCA Schedule 1991. See note 43.

46. 1 YWCA Research Reports (No. 2, Dec. 1990).

47. 94% of Executive Directors who responded to the YWCA survey indicated that men are donors at their YWCA's, 89% said men are program participants, 83% said they are consultants or advisors, and 83% also said they are auditors. Many also reported that men are instructors (82%), support staff (79%), or program volunteers (75%). Men serve on the Board of Trustees or Advisory Panel at 69% of the YWCA's. At 68% of the YWCA's, men are on special task forces or ad hoc groups. Also, at 68% of the YWCA's, men provide legal services. A smaller majority of YWCA's include men on committees (58%) and 40% employ men as professional staff. *Id.*

48. 1 YWCA Research Reports (No. 3, April 1991) at 5.

49. See CONSTIT. AND BYLAWS OF THE YOUNG WOMEN'S CHRISTIAN ASSOCIATION OF THE UNITED STATES OF AMERICA 1988, art. II Membership § 3 (a)(1-2) and §3(d).

50. *Id.*

51. 1 YWCA Research Reports (No. 3, April 1991). The portion of this survey which addressed views regarding the single sex membership policy, entitled *Findings of a Survey of Top YWCA Leadership Regarding Membership in the YWCA*, was conducted by Jacqueline P. Fields, Ph.D, YWCA Research Project Director and Diane Kell, Senior researcher, The NETWORK, Inc., a non-profit research and educational services corporation. The NETWORK sent 3,028 questionnaires, 1,846 (61%) of which were returned. Of these 1,846 respondents, 860 were volunteers, 910 were Staff members at local YWCA's and 69 were National Staff or National Board members.

membership. Of the total number of respondents participating in the survey, forty percent believed that men should be able to become members, while fifty-three percent of the respondents felt that men should not be allowed to become members because the disadvantages were too great.⁵² Those who opposed membership for men indicated the following disadvantages⁵³:

- Lose identity as a women's organization/Lose focus on women's issues 56%
- Lose an environment free from male domination 31%⁵⁴
- Fewer opportunities for women in leadership roles, as men move into leadership positions 15%

Additionally, some respondents indicated their responses were affected by what they perceived to be the power of an all-women advocacy for programs and policies that address women's issues.⁵⁵ Others mentioned the personal nature of some programs (such as counseling for battered women and mastectomy support groups) which they believe are best provided "in a female atmosphere."⁵⁶ Some said that "men and women are different, and they should have the right to have separate organizations."⁵⁷ In general, however, the responses in this category expressed the concern that the YWCA would lose its identity as a women's organization, led by women to support women.⁵⁸

52. 1 YWCA *Research Reports* (No. 2, Dec. 1990) at 4. Percentages do not add up to 100% because 7% said "Other". One very interesting aspect of the answers to this question is the division along regional lines. Respondents from the Eastern Seaboard were least likely to approve of men as members (35% approved). Moving west across the country, the number of respondents who favored men as members increased - 44% of those from the Mid-States Region and 48% of the Western Region respondents favored men being admitted as members.

53. Responses given by fewer than 5% of respondents are not listed. 1 YWCA *Research Reports* (No. 3, April 1991) at 10.

54. The respondents giving this answer said there was a danger in admitting men because in most cultures men are brought up to be controlling and women are brought up to defer to men. *Id.* Additionally, when a YWCA has merged with a YMCA (Young Men's Christian Association), it has been perceived as merging with the YMCA, even when the YWCA had better leadership and more viable financial resources. Mercedes Marquez, *An Interpretation - The YWCA: An Autonomous Women's Membership Movement* at 3.

55. 1 YWCA *Research Reports* (No. 3, April 1991) at 10.

56. *Id.*

57. *Id.*

58. *Id.*

C. BENEFITS OF ALLOWING MEN TO JOIN AN ALL-FEMALE ORGANIZATION

It has been argued that men may bring certain advantages to an all-female organization such as the YWCA. The YWCA membership has been discussing this issue for several years and will probably put the issue to a membership vote either nationally or locally in the near future.⁵⁹

i. YWCA Research - Members Favoring Male Membership

The YWCA survey enumerated the following as advantages of having men as members; the percentage following each statement reflects agreement by those who favor membership for men.

- End discrimination by sex/ Practice equality fairness and balance 28% in favor
- Increase YWCA's revenues/ Access to funds 18%
- Add new or different viewpoints, talents, experiences 16%
- Increase membership and enrollments 14%
- Lessen criticism based on policy of exclusion/Improve YWCA image 10%
- Benefit from support of men who are committed to YWCA mission and/or to empowering women 10%
- Increase men's commitment to YWCA goals/ Educate them by involving them 8%
- Enhance women's leadership development by offering opportunities to lead where both men and women are involved 6%⁶⁰

59. YWCA members discussed the issue of single sex membership at the YWCA National Conventions in Chicago in 1988 and Atlanta in 1991. They did not formally vote on the issue at either convention; however, they will probably vote at the National Convention in Los Angeles in 1994. Interview with Sharon Bettinelli, Executive Director, University YWCA, Berkeley, CA (Dec. 17, 1991).

60. 1 YWCA *Research Reports* (No. 3, April 1991) at 9. Percentages do not add up to 100 because more than one response could be given. Responses given by fewer than 5% of respondents are not listed.

The advantages of allowing men into the membership ranks of the YWCA seem compelling, especially given the trend that exists in integrating all-male organizations.⁶¹ If the advantages which the respondents cited in the YWCA survey operated in a vacuum, the argument for allowing men into an organization such as the YWCA would probably find few critics. The membership of the YWCA would probably enjoy the added resources, both financial and emotional, that men would have to offer. In addition, the YWCA membership could benefit from the varied ideas and experiences which men would bring to the organization. Also, the YWCA might be able to lessen criticism of its exclusive membership policy.

The YWCA does not, however, exist in a vacuum. All-male organizations have been integrated in order to advance the compelling state interest in eliminating gender discrimination.⁶² The same type of gender discrimination is not necessarily present in all-female organizations "discriminating" against males trying to gain access to their female-only organizations. "Reverse discrimination", it has been argued, should be given different treatment than discrimination against women.⁶³ No discrimination seems to be permissible unless it seeks to remedy a past discriminatory wrong.⁶⁴

The compensatory purpose doctrine⁶⁵ recognizes the need to compensate for past discrimination and allows a classification scheme such as the YWCA's membership policy if certain distinct elements are met. If the YWCA can meet the four elements of the compensatory purpose doctrine, it will be allowed to maintain its structure which seemingly discriminates against men.⁶⁶

61. See *Roberts v. U.S. Jaycees*, 468 U.S. 609 (1984); *Board of Directors of Rotary Int'l v. Rotary Club of Duarte*, 481 U.S. 537 (1987); *Isbister v. Boys Club of Santa Cruz, Inc.*, 40 Cal. 3d 72, 707 P.2d 212, 219 Cal. Rptr. 150 (1985); *Rogers v. International Ass'n of Lions Clubs*, 636 F.Supp. 1476 (E.D.Mich. 1986).

62. See cases addressed in Section II of this article.

63. See e.g., *United States v. Carolene Products Co.*, 304 U.S. 144, 152-53, n. 4 (1938). Justice Brennan and Justice Marshall have advocated for protecting "discreet and insular" minorities and therefore afford greater protection to organizations that are engaged in what is viewed as "reverse discrimination".

64. See LAURENCE TRIBE, *AMERICAN CONSTITUTIONAL LAW* (2d ed. 1988) at 1537. For a discussion of Affirmative Action Issues, see TRIBE, pp. 1521-1544.

65. See notes 129-161 and accompanying text.

66. See notes 138-161 and accompanying text to see how the YWCA as an organization meets the four elements of the compensatory purpose doctrine.

Even though men may bring some potential advantages to the YWCA, certain compromises would have to be made by the female members in the event of integration. To understand fully what those compromises would be, it is essential to address the currents which guide the relationships and group dynamics of females and males in mixed-sex settings.⁶⁷ The National YWCA addressed those dynamics when it recently examined the direction a local YWCA took when a male held a leadership position. The results of that study are examined below.

ii. *Case Study of a Male Executive Director at the Tacoma YWCA*

In Tacoma, Washington, a male occupied the executive director position at the YWCA for a period of two years between May 1988 and August 1990.⁶⁸ This prompted the National YWCA to conduct a case study⁶⁹ to examine the work of its first male executive director and to see how his leadership impacted the Tacoma YWCA. The results revealed many changes, the most drastic of which involved the switch from an emphasis on women's programming to a focus on service to all people—men, women, and children.⁷⁰ Other substantive changes involved the following:

- The executive director made recommendations for women's programming that did not correspond to women's needs. For instance, he suggested that the Women's Support Shelter offer a workshop on gun use and safety to the battered women in the shelter.
- Men began working in the Women's Support Shelter.
- The Women's Resource Center changed its name to the Resource Center.

67. See *infra* notes 163-214 and accompanying text.

68. See *Summary: Impact of a Male Executive Director on the Functioning of a YWCA* by Carol Shakeshaft in 1 *YWCA Research Reports* (No. 3, April 1991) at 24 - 26.

69. The case study was conducted between July 1989 and February 1991. Eight field trips to the Tacoma YWCA were designed to coincide with different board meetings and with sample activities at various times of the year. The primary method of data collection was interview, supplemented by document review and observations. *Id.* at 24.

70. *Id.*

- While the number of men served by the Tacoma/Pierce County YWCA was small, it increased by 37% in 1989, while the number of women served in the same year increased by only 7%.
- Language in official YWCA publications changed from discussing the provision of assistance to women to that of providing assistance to people.
- The executive director participated only in community organizations that provided assistance to both men and women. He did not participate in any feminist or women's organizations or events.

The leadership style of the executive director was described by staff members as hierarchical, bureaucratic, distant, fragmented, uninvolved with staff, oriented outside the organization and not participatory. Most staff and board members believed the executive director had not served as an effective role model for women.⁷¹

The case study⁷² concluded that the executive director used what many researchers would describe as a traditional male management style,⁷³ one which was not effective at building community, sustaining relationships, focusing on programs or building morale.⁷⁴ As a result, staff morale and productivity decreased and the financial status of the organization remained weak.⁷⁵

The National Board of Directors of the YWCA is considering what implications this case study has regarding the

71. *Id.* at 25.

72. *Id.* at 26.

73. Traditional male leadership style has been described as "transactional" leadership, with male leaders viewing job performances as a series of transactions with subordinates - exchanging rewards for services rendered or punishment for inadequate performance. Judy Rosener, *Ways Women Lead*, HARVARD BUSINESS REV. 119, 120 (1990) (Citing for the concept of transactional leadership, JAMES MCGREGOR BURNS, *LEADERSHIP* (1976) and BERNARD BASS, *LEADERSHIP AND PERFORMANCE BEYOND EXPECTATIONS* (1985)).

74. Leadership by females has been described as "transformational" - getting subordinates to transform their own self-interest into the interest of the group through concern for a broader goal. *Id.* at 120. Women who used the "transformational" type of leadership also tended to have a more "interactive" leadership style, actively working to make their interactions with subordinates positive for everyone involved. More specifically, the women encouraged participation, shared power and information, enhanced other people's self-worth, and got others excited about their work. *Id.* at 120.

75. 1 YWCA *Research Reports* (No. 3, April 1991) at 26.

qualifications necessary for an effective executive director.⁷⁶ The case study obviously raised considerable questions about the appointment of a male to a leadership role in an organization dedicated to empowering women and eliminating racism.⁷⁷ The YWCA continues to receive information and to evaluate this issue in anticipation of the impending vote on whether to allow men to become members.⁷⁸ The Tacoma case study will be an important part of this analysis.

II. LEGAL CHALLENGES TO ALL-MALE ORGANIZATIONS

Court decisions regarding all-male organizations and forced integration provide guidance as to the YWCA's position in the event of a challenge to its national all-female membership policy. This section will address all-male organizations that have been challenged in court by those adverse to their male-only membership policy.⁷⁹ It will examine several cases individually and will then synthesize the reasoning behind the forced integration of these clubs.

A. ROBERTS V. UNITED STATES JAYCEES

In *Roberts v. United States Jaycees*,⁸⁰ female members of the Minneapolis and St. Paul chapters of the Jaycees successfully used the Minnesota Human Rights Act of 1982⁸¹ to challenge the National Jaycees' all-male membership policy⁸² and to enjoin the National Jaycees from revoking the local clubs'

76. *Id.*

77. See YWCA Mission Statement, note 42 *supra*.

78. 1 YWCA Research Reports (No. 3, April 1991) at 26.

79. It will not address those clubs previously mentioned which have voluntarily, or, because of monetary concerns, integrated women into the ranks of their clubs. See pages 2-3 *supra*.

80. 468 U.S. 609 (1984).

81. The court quotes the Act as follows:

"It is an unfair discriminatory practice:

To deny any person the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation because of race, color, creed, religion, disability, national origin or sex."

MINN. STAT. § 363.03, subdiv. 3 (1982).

82. Regular membership is limited to men between the ages of 18 and 35, while associate membership is available to individuals or groups ineligible for regular membership, principally women and older men. An associate member, whose dues are somewhat lower than those charged regular members, may not vote, hold local or national office, or participate in certain leadership training or awards programs. *Roberts*, 468 U.S. 609, 613.

charters.⁸³ The Supreme Court balanced the conflict between the state's compelling interest in eradicating gender-based discrimination and the Jaycees' constitutional freedom of association.⁸⁴

The Court ruled in favor of ending sex-based discrimination against women, and held that admitting women to the club would not impose any serious burden on the male members' freedom of expressive association.⁸⁵ The Court also noted that "discrimination based on archaic and overbroad assumptions about the relative needs and capacities of the sexes forces individuals to labor under stereotypical notions that often bear no relationship to their actual abilities."⁸⁶

B. BOARD OF DIRECTORS OF ROTARY INTERNATIONAL V. ROTARY CLUB OF DUARTE

Three years after the Roberts decision in Board of Directors of Rotary International v. Rotary Club of Duarte,⁸⁷ the Supreme Court extended Roberts to a similar situation. The International Rotary revoked the charter and terminated the Duarte Club's membership because the Club had admitted three women as members.⁸⁸ The Court applied the California Unruh Act⁸⁹ and held that the Rotary Club violated that Act by refusing to allow women to become members and by revoking the local club's charter.⁹⁰

The Court was forced to consider whether the Rotary was a business establishment covered by the Act and found that

83. *Id.* at 611.

84. *Id.* at 612.

85. *Id.* at 626. Women were, to a large extent, active participants in the Minneapolis-St. Paul Jaycee chapters. These chapters began admitting women as members in 1974 and 1975, and, at the time this suit was brought, the memberships and Board of Directors of each of these clubs contained a substantial proportion of women. *Id.* at 614.

86. *Id.* at 625.

87. Board of Directors of Rotary Int'l v. Rotary Club of Duarte, 481 U.S. 537 (1987).

88. *Id.* at 541-542.

89. The 1982 Unruh Civil Rights Act provides, in part:

"All persons within the jurisdiction of this state are free and equal, and no matter what their sex, race, color, religion, ancestry, or national origin are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever." CAL. CIV. CODE § 51 (West 1982).

90. Board of Directors of Rotary Int'l v. Rotary Club of Duarte, 481 U.S. 537, 543.

both Rotary International and the Duarte Rotary, because they were very public in nature, constituted business establishments⁹¹ subject to the provisions of the Unruh Act. Additionally, the Court noted that admitting women to the Rotary Club would not affect, in any significant way, the existing male members' ability to carry out their various purposes.⁹² On the contrary, the Court found that by "opening up membership to leading business and professional women in the community, Rotary Clubs would be likely to obtain a more representative cross section of community leaders with a broadened capacity for service."⁹³ Finally, the Court found that "even if the Unruh Act imposes some slight infringement on Rotary members' right of expressive association,⁹⁴ that infringement is justified because it serves the State's compelling interest in eliminating discrimination against women."⁹⁵

C. ISBISTER V. BOYS CLUB OF SANTA CRUZ

In a 1985 case involving California's Unruh Civil Rights Act, *Isbister v. Boys Club of Santa Cruz, Inc.*,⁹⁶ the California Supreme Court held that the Boys' Club refusal to admit girls into its organization because of their gender constituted a violation of that Act.⁹⁷

91. *Id.* at 542. The Court further described a business establishment as follows: "A 'business' embraces everything about which one can be employed," and an "establishment includes 'not only a fixed location',... but also a permanent 'commercial force or organization' or a 'permanent settled position (as in life or in business).'" *Id.* (quoting *O'Connor v. Village Green Owners Ass'n*, 33 Cal. 3d 790, 795, 662 P.2d 427, 430 (1983)(quoting *Burks v. Poppy Construction Co.*, 57 Cal. 2d 463, 468-469, 370 P.2d 313, 316 (1962)).

92. *Rotary Int'l*, 481 U.S. 537, 548.

93. *Id.* at 549. The Court suggested the need for a more representative cross section of professionals and leaders in light of the fact that, in 1980, women reportedly made up 40.6% of the managerial and professional labor force in the United States. *Id.* n. 7 (citing U.S. Dep't of Commerce, Statistical Abstract of the United States 400 (1986)).

94. The International Rotary argued that their exclusion of female members was protected by the First Amendment principles set out by the Court, in *Roberts v. United States Jaycees*, see *supra* notes 80-86. The Court described the constitutional freedom of association in two distinct senses: protection against unjustified government interference with an individual's choice to enter into and maintain certain intimate or private relationships. Second, freedom of individuals to associate for the purpose of engaging in protected speech or religious activities. *Id.* at 544.

95. *Id.* at 549.

96. 40 Cal. 3d 72, 707 P.2d 212, 219 Cal. Rptr. 150 (1985).

97. *For the relevant sections of the Act*, see *supra* note 89.

The Court first found that the Club was a place of public accommodation and therefore a business establishment because the Club's recreational facilities (which were its principal activity and reason for existence) were open to the community generally, but closed to members of a particular group (namely girls).⁹⁸ The Club argued that it should be able to choose its focus, serving boys, as many other non-commercial organizations serve various minority subgroups.⁹⁹ The Court rejected this claim, stating that such non-commercial groups are, unlike the Boys Club, not considered places of public accommodation and therefore may not be business establishments.¹⁰⁰ The Act would therefore not apply to such organizations.¹⁰¹ The court stated, "The Boys Club admits without distinction or selectivity fully half the youth population of Santa Cruz. Girls, the sole group excluded, though not numerically a minority, have been a traditional target of gender-based discrimination."¹⁰² The court held that the Club was therefore controlled by, and in violation of, the Unruh Act which prohibits arbitrary discrimination.¹⁰³

D. ROGERS V. INTERNATIONAL ASSOCIATION OF LIONS CLUBS

In *Rogers v. International Association of Lions Clubs*,¹⁰⁴ the Lions Club was subjected to the same scrutiny as was the

98. 40 Cal. 3d. 72, 76, 707 P.2d. 212, 214, 219 Cal. Rptr. 150, 152.

99. *Id.* at 89, 707 P.2d. 212, 229, 219 Cal. Rptr. 150, 167.

100. *Id.*

101. *Id.*

102. *Id.* The court found no evidence that the Club's programs, services, and facilities were unsuitable for girls nor that female membership would cause serious and permanent danger to the club's funding or its relationship with its national organization. *Id.* at 76.

103. The legislative history of the Unruh Civil Rights Act (see note 85 for relevant sections of the Act) specifically addressed prohibition of gender based discrimination. A 1974 amendment to the Act added a specific reference to sexual discrimination. California Senator Petris, author of the Act, in urging then Governor Reagan to sign the gender bias amendment, explained, "[One of] The purpose[s] of the act is to bring to the attention of the legal profession that the Unruh Act provides a remedy against *arbitrary* discrimination against women (or against men) in public accommodations which are business enterprises. The gender bias amendment will not bring discrimination in public accommodations within the Act because the Act has already been interpreted as making *all* arbitrary discrimination illegal, on whatever basis. The listing of possible bases of discrimination has no legal effect, but is merely illustrative." 40 Cal. 3d 72, 86-87, 707 P.2d 212, 221-222, 219 Cal Rptr. 150, 159-160. The Court further stated that the addition of "sex" as a prohibited ground of discrimination did not give it a special "arbitrary per se" status. *Id.* The court then found the 1974 addition of "sex" to the Act's list of prohibited discriminations was intended to highlight the problems of inequality traditionally faced by girls and women. *Id.*, at 89, 707 P.2d 212, 224, 219 Cal Rptr. 150, 162, n. 20.

104. 636 F. Supp. 1476 (E.D. Mich. 1986).

Isbister Boys Club.¹⁰⁵ The local Lions Club in Michigan (Sunrise chapter) admitted several women as members and the International Lions Club subsequently revoked Sunrise's charter.¹⁰⁶ The plaintiffs claimed that the revocation violated Michigan's anti-discrimination statute, the Elliott-Larsen Act.¹⁰⁷ The court concluded that the Lions Club fell within the Act's definition of public accommodation because its meetings were held in a public place and were open to the public.¹⁰⁸ The International Lions Club claimed that the local clubs should be exempted from the Act by virtue of the statutory "private club exemption"¹⁰⁹ which provides in part: "This article shall not apply to a private club ... not in fact open to the public."¹¹⁰

In rejecting the "private club" argument, the court listed the following factors which influence whether a club is considered a private club: the organization's size, selectivity, public services offered, and use of public facilities.¹¹¹ The Court found that the Lions Club is potentially unlimited in size (the International membership is over 1,350,000) and should therefore be considered public in nature.¹¹² Regarding selectivity, the formal admission criterion state that "[a]ny male person of legal majority and of good moral character and good reputation in his community may be granted membership."¹¹³ Almost all men who applied were in fact granted membership.¹¹⁴ Along

105. 40 Cal. 3d. 72, 707 P.2d 212, 219 Cal. Rptr. 150 (1985).

106. 636 F. Supp. 1476, 1477. (E.D. Mich. 1986).

107. MICH. COMP. LAWS ANN. § 37.2302 (1977). The pertinent sections of the Act §§ 37.2301, 2302, provide that:

"... [A] person shall not ... [d]eny an individual the full and equal enjoyment of ... services, facilities, privileges, advantages or accommodations of a place of public accommodation or public service because of... sex..."

Places of public accommodation and public service are defined as follows:

(a) "Place of public accommodation" means a[n] ... institution of any kind ... whose... services, facilities, privileges, advantages, or accommodations are ... made available to the public.

(b) "Public service" means ... a tax exempt private agency established to provide service to the public. MICH. COMP. LAWS ANN. § 37.2301 (1977)

108. Rogers, 636 F. Supp. 1476, 1479.

109. *Id.* at 1479.

110. MICH. COMP. LAWS ANN. § 37.2303 (1977).

111. 636 F. Supp. 1476, 1479.

112. *Id.*

113. *Id.* See LIONS CONST. ART. III, § 8.

114. *Id.* at 1480-1481.

with its vast work in the community, one of the major public services the Lions Clubs provide is membership to the public.¹¹⁵ The Lions Club's use of public facilities is great.¹¹⁶ The meetings are held in public places and are open to the qualified public.¹¹⁷ The Court therefore concluded that the Lions Club was definitively a public club, not covered by the "private club exemption."¹¹⁸

E. CONCLUSION

In sum, these four cases demonstrate that the courts have begun to recognize that the state's compelling interest in eradicating gender based discrimination will generally prevail over the rights of individuals to associate in exclusively male groups. If the legislatures continue to find the need to address gender bias against women in the form of acts like those previously discussed,¹¹⁹ it appears the Court will continue to interpret and uphold such acts.

Most state legislation, however, that addresses gender-based discrimination does not specify whether the statute applies to males, females or both. The use of gender neutral language leaves open the question of whether a male could use such legislation if he attempts to become a member of an all-female organization. The following section will address the question of whether all-female clubs could, like all-male clubs, be forced to integrate.

III. DISCUSSION OF ALL-FEMALE ORGANIZATIONS

As the previous section has shown, all-male clubs are no longer the haven to men that they once were. Although it has not been completely dismantled, the "old boys network"¹²⁰ does

115. *Id.* at 1480.

116. *Id.* at 1479.

117. *Id.*

118. *Id.* at 1479 - 1480.

119. See pages 14-19. The cases in this article contain gender-based discrimination legislation by several states as interpreted by the Supreme Court. California's Unruh Act, Minnesota's Human Rights Act specifically prohibit gender based discrimination in places of public accommodation.

120. This "old boys network" has been described as that series of linkages with influential elders, ambitious peers and younger men on their way up which men develop as they move through school, work, professional and community service organizations and private clubs. It provides men with knowledgeable allies who help them to advance in their careers, to quickly learn who the cast of characters is and how to behave in a new position, and to get the earliest news of job openings, business opportunities and grants to be awarded.

not stand on the firm footing that it did in the past. But what about an "old girls network"? Does one exist¹²¹ and if it does, will it be subjected to the same dismantling by the courts as its male counterpart? Would integration of an all-female organization be necessary, as it was for all-male organizations, in order to achieve the same goal of ending discrimination?

Given the recent Court decisions where all-male clubs have been forced to allow women to become members, would the YWCA in particular also be forced to integrate? This section will address the YWCA's chances of remaining all-female, by applying the analytical framework articulated in *Mississippi University for Women v. Hogan*.¹²²

A. MISSISSIPPI UNIVERSITY FOR WOMEN V. HOGAN

In *Mississippi University for Women v. Hogan*,¹²³ the Supreme Court examined a challenge to an all-female nursing school by an otherwise qualified male, Joe Hogan, who was refused admittance on the basis of his gender. Hogan was allowed to audit courses, but he could not enroll for credit.¹²⁴ In his action for injunctive and declaratory relief, as well as for compensatory damages, Hogan claimed the single sex admissions policy of Mississippi University for Women's School of Nursing (hereinafter referred to as MUW) violated the Equal Protection Clause of the Fourteenth Amendment.¹²⁵

The Supreme Court affirmed the Court of Appeals' decision and found that the State of Mississippi's claim of "providing the greatest practical range of educational opportunities for its female student population" did not properly meet the rational

Burns, *The Exclusion of Women from Influential Men's Clubs: The Inner Sanctum and the Myth of Full Equality*, 18 HARV. C.R. -C.L. L. REV. 321, 323-4 (1983)(citing Brief Amicus Curiae of the Minnesota Chapter, National Organization for Women at 21-22, *United States Jaycees v. McClure*, 305 N.W.2d 764 (Minn. 1981)).

121. Some have argued that female associations, which are often referred to as "old girl networks" have begun to form within various professions, and particularly within academia in response to being excluded from the "old boys network." These networks serve a number of functions - promoting scholarly sharing, providing professional assistance, increasing political clout and providing emotional and social support. ANGELA SIMEONE, *ACADEMIC WOMEN* (1987) at 90.

122. 458 U.S. 718 (1982)

123. 458 U.S. 718 (1982)

124. 458 U.S. 718, 721.

125. *Id.* The relevant portions of the Fourteenth Amendment are as follows: "...[no] State shall deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." U.S. CONST. amend. XIV, § 1.

relationship test.”¹²⁶ The Court found further that the proper test is whether the State has carried the heavier burden of showing that the gender-based classification substantially relates to an important governmental objective. Recognizing that the State has a significant interest in providing educational opportunities for all its citizens, the Court then found that the State had failed to show that providing a unique educational opportunity for females, but not for males, bears a substantial relationship to that interest.¹²⁷ The Court found that the admissions policy therefore violated the Equal Protection Clause.¹²⁸

B. THE COMPENSATORY PURPOSE DOCTRINE AS APPLIED TO HOGAN AND THE YWCA

The Supreme Court analyzed Hogan by using the “compensatory purpose doctrine” four-part test stating that in limited circumstances, a gender-based classification can be justified if it intentionally and directly assists members of

126. 458 U.S. 718, 721.

127. *Id.* at 721-722.

128. The Court applied an Equal Protection Clause analysis because the School of Nursing was a public school, and therefore state action was involved. “State action” is a term of art, referring to involvement of any government, state or federal, direct or indirect, sufficient to invoke constitutional proscriptions. Catharine M. Goodwin, *Challenging the Private Club: Sex Discrimination Plaintiffs Barred at the Door*, 13 S.W. U.L. REV. 237, 238 (1982).

The criteria for establishing the required nexus between the state and the organization are extremely strict and most truly private entities are not vulnerable to constitutional attack. In determining whether there is a sufficient nexus, the question is whether the discriminatory conduct has received the “imprimatur of the state”. The state is considered to have given the imprimatur “when it has exercised coercive power or has provided such significant encouragement, either overt or covert, that the choice in law must be deemed to be that of the state.” Chai R. Feldblum, Nancy Fredman Krent & Virginia G. Watkin, *Legal Challenges to All-Female Organizations*, 21 HARV. C.R.-C.L. L. REV. 171, 195 (1986).

The YWCA may possibly be found to be a state actor based on the fact that, in 1974, it was given an exemption by Congress through Title IX, section 1681(a)(6). Congress evidenced its intent to uphold the YWCA’s single sex policy in strong contrast to its long history of prohibiting all forms of discrimination. *Id.* at 224.

Although the standard for an acceptable compensatory purpose doctrine was developed by the Court in Hogan in an Equal Protection context, the doctrine may also be used in other contexts as well to defend against legal challenges to all-female organizations. Since the purpose of any anti-discrimination law is to end discrimination against those traditionally discriminated against, a program or organization which satisfies the standards set forth in Hogan advances that objective. Thus, a women’s organization, whether public or private, sued under an anti-discrimination law should be able to defend itself by arguing that it serves an appropriate compensatory purpose. *Id.* at 219. The YWCA would therefore be able to use the compensatory purpose doctrine without having to make an Equal Protection argument.

the sex that is disproportionately burdened.¹²⁹ The Court cautioned, however, that the "mere recitation of a benign, compensatory purpose is not an automatic shield which protects against any inquiry..."¹³⁰

The four part test is as follows: 1) Members of the gender benefitted by the classification must have actually suffered a disadvantage related to the classification;¹³¹ 2) the gender-based classification must have been adopted with the intention of helping members of the sex which have been disadvantaged;¹³² 3) the sex-specific program may not be based on or perpetuate stereotypes about the disadvantaged group¹³³ and 4) the sex-based classification must be substantially and directly related to the proposed compensatory objective.¹³⁴

Therefore the State can evoke a compensatory purpose to justify an otherwise discriminatory classification only if members of the gender who benefit from the classification actually suffer a disadvantage related to the classification.¹³⁵ The Court in MUW found that the school made no showing that women lacked opportunities to obtain training in the field of nursing or to obtain positions of leadership in that field when the MUW School of Nursing was chartered in 1971.¹³⁶ In fact, in 1970, women earned 94% of the baccalaureate nursing degrees conferred throughout Mississippi and 98.6% of the nursing degrees earned nationwide.¹³⁷

The YWCA appears to easily meets the actual discrimination element of the compensatory purpose doctrine. Actual

129. *Id.* at 728 (citing *Schlesinger v. Ballard*, 419 U.S. 498 (1975) holding that a longer employment period without a promotion (and therefore subsequent mandatory discharge by the Navy) for women naval officers than for male officers was not a violation of the Due Process Clause because female officers lacked the same opportunities to prove themselves that male officers had.)

130. *Id.* (citing *Weinberger v. Wiesenfeld*, 420 U.S. 636, 648 (1975) holding that a provision of the Social Security Act which granted survivors' benefits to a widow and her children based on her deceased husband's earnings, but only granted survivors' benefits to the minor children of a deceased wife and not to her widower, violated Due Process because it unjustifiably discriminated against female wage earners by affording their survivors less protection.)

131. *Id.* at 728.

132. *Id.*

133. *Id.* at 729.

134. *Id.* at 730.

135. *Id.* at 728.

136. When MUW's School of Nursing began operation, nearly 98% of all employed nurses were women. *Id.* at 729 (citing United States Bureau of Census, 1981 Statistical Abstract of the United States 402 (1981)).

137. *Id.* at 729.

discrimination against women in society has been well documented. Gender-based discrimination begins at an early age and affects most women in mixed sex settings. The AAUW survey found schools to be failing young girls.¹³⁸ Other research finds university aged women, in mixed sex schools, being discriminated against in many ways in the classroom.¹³⁹ The YWCA, with its worldwide membership, is committed to fighting gender based discrimination in the United States and throughout the eighty-one countries where the YWCA has members.¹⁴⁰

The second element of the compensatory doctrine explored by the Court is whether the discriminatory classification was adopted with the intention of helping women. In *Hogan*, the Court found that MUW had from its inception limited enrollment to women and that its admittance policy reflected its charter and the intent of the Mississippi Legislature.¹⁴¹ The charter was written in 1884 and reflects the limited career options that were available to women at that time.

However, by the time the School of Nursing opened almost one hundred years later, women's career options had greatly expanded. One year before the nursing school opened, women earned 94% of all nursing degrees conferred in Mississippi and 98.6% of the degrees conferred nationwide.¹⁴² The need in

138. See *infra* note 163-182 and accompanying text. The survey found differences in self-esteem levels between girls and boys. Girls' self-esteem levels tended to drop more dramatically than boys' from elementary to high school. This drop in self-esteem affected girls' academic performance and their confidence in their school work, especially in math and science.

139. See *infra* note 205-214 *supra* and accompanying text.

140. See *supra* note 19.

141. 458 U.S. 718, 720. The charter of MUW, basically unchanged since its founding, now provides:

"The purpose and aim of the Mississippi State College for Women is the moral and intellectual advancement of the girls of the state by the maintenance of a first-class institution for their education in the arts and sciences, for their training in normal school methods and kindergarten, for their instruction in bookkeeping, photography, stenography, telegraphy, and typewriting, and in designing, drawing, engraving, and painting, and their industrial application, and for their instruction in fancy, general and practical needlework, and in such other industrial branches as experience, from time to time, shall suggest as necessary or proper to fit them for the practical affairs of life." Miss. Code Ann. §37-117-3 (1972).

142. See *supra* note 137.

1971 for a school that was open solely for women to earn their nursing degrees was considerably less than the need in 1884 for women to earn their liberal arts degrees.

Applying the second element of the compensatory purpose doctrine reveals evidence of the YWCA's intent to help women. The YWCA's decision to become an all-female organization was adopted with the intention of providing an environment in which women could help other women achieve their goals. In the late 1800's, groups of women met in America's eastern cities and identified the needs of younger women. These women developed strong convictions that "their own personal piety would be greatly promoted by associated effort, and greater influence could thereby be brought to bear upon many of their own sex in the cities (who were without the means of social and religious education that the older women enjoyed)."¹⁴³

The founding female members of the YWCA sought to serve only women and their programming was geared to women's specific needs. At its inception, the YWCA was a Christian organization, emphasizing religious needs and the benefit of Christianity to women of the working class.¹⁴⁴ Now, the YWCA, while recognizing those Christian roots, has evolved into an organization which is dedicated to serving the career, humanitarian, political and physical needs of women from all backgrounds.¹⁴⁵ The YWCA, because of its intention and historical evidence of addressing women's needs, would meet this part of the compensatory purpose doctrine.

The third element of the compensatory purpose doctrine as enunciated in Hogan states that the sex-specific program cannot be based on a classification which perpetuates stereotypes.¹⁴⁶ The School of Nursing failed to meet this part of the test. Rather than compensate for discriminatory barriers faced by women, MUW's policy of excluding males from the nursing school tended to perpetuate the stereotyped view of nursing as

143. DOROTHY THELEN CLEMENS, *STANDING GROUND AND STARTING POINT: 100 YEARS WITH THE UNIVERSITY YWCA* (1990) at 6.

144. This commitment is evident both in the name picked for the organization, Young Women's Christian Association, and in the first YWCA Objective, which was "the temporal, moral and religious welfare of young women who are dependent on their own exertions for support." *Id.*

145. See Mission Statement of the University YWCA *supra* note 42.

146. 58 U.S. 718, 729-730.

exclusively a woman's job.¹⁴⁷ The school's female only policy lent credibility to the outdated view that "women, not men, should become nurses, and made a self-fulfilling prophecy the assumption that nursing was a field for women."¹⁴⁸

In contrast, the YWCA does not perpetuate stereotypes about women; rather, it defies them. There are no limits to what a woman can do at the YWCA. Women can be executive directors, finance managers, janitors, program directors, board members, volunteers, house counsel, board presidents, donors, committee members, or instructors. Career choices are open to female employees at the YWCA; they will not be made to choose a "traditional female career" if that is not what they want.¹⁴⁹ The YWCA offers women a hands-on experience in management, as they are the decision makers, role models and mentors in the organization.¹⁵⁰ Women are responsible for establishing goals and achieving them.¹⁵¹

In addition, the programs at the YWCA do not currently limit women to sewing and typing, as they did at the YWCA's inception.¹⁵² At the University YWCA, for example, women can choose from a variety of programs, including self-defense classes, a seminar on a career as a landscape contractor, an environmental careers forum, a positive parenting class, self-development and enrichment classes as well as various health and fitness classes.¹⁵³ Many community YWCA's offer programs such as: counseling for teen mothers, child care, AIDS education, health and family planning services for men and women and health care and counseling for drug-addicted women and their families.¹⁵⁴ These organizations strive to

147. *Id.* at 729.

148. *Id.* at 730 (citing *Stanton v. Stanton*, 421 U.S. 7 (1975) holding that a state statute which specified an age of majority at twenty-one years old for males and eighteen years old for females was a denial of Equal Protection Clause in the child support context.)

149. One of the features of the YWCA is that many options exist for women, especially for those women who work within the organization. Each woman brings to the YWCA many talents and varied experience. YWCA management, to its own benefit and to the employee's benefit, tries to have the employee explore and develop those talents. Additionally, many employees at the YWCA hold several different jobs during their tenure at the YWCA. Interview with Sharon Bettinelli, Executive Director of the University YWCA, Berkeley, California (Oct. 9, 1991).

150. See YWCA National Board, Statement Explaining YWCA Policies Regarding Membership and Management (Sept., 1990).

151. *Id.*

152. 1 YWCA *Research Reports* (No. 3, April 1991) at ii.

153. See University YWCA, Schedule (Fall 1991).

154. 1 The Movement (No. 1, Winter 1990) (YWCA of Oakland Membership Newsletter).

empower women to take charge of their own lives. The YWCA's focus is on women and helping them expand and explore their options - career, personal, social and humanitarian - by allowing them to experience a full range of activities. The YWCA, as an organization, meets the third part of the compensatory purpose doctrine as it does not perpetuate stereotypic notions about women.

The Hogan Court next examined the fourth and final element of the compensatory purpose doctrine to determine whether the gender-based admissions program was substantially and directly related to the proposed compensatory objective. The Court found that the State failed to make any kind of showing that MUW's admissions policy served to meet the professed need of women to have a school of their own.¹⁵⁵ MUW's policy of permitting men to audit the classes, though not being able to formally enroll, fatally undermined the school's claim that women, at least those in the School of Nursing, are adversely affected by the presence of men.¹⁵⁶ The School failed to establish the "exceedingly persuasive justification" needed to sustain the gender-based classification.¹⁵⁷

The YWCA would be able to meet this burden, as its female-only membership policy is substantially and directly related to the compensatory purpose it hopes to achieve. The Mission of the YWCA, to empower women to meet their personal, career and humanitarian goals, is achieved by women working together to help other women achieve their goals, virtually free of male participation.¹⁵⁸ The YWCA allows women to overcome the discrimination they have suffered by virtue of their sex in an environment free of such discrimination.

Although the YWCA allows men to participate in a limited capacity, it has safeguarded its leadership positions for women only and has been careful not to allow men into any positions of power. By restricting the role of men at the policy-making level of the organization, YWCA members experience the exercise of leadership and management free of the constraints normally found in male-dominated or co-ed organizations.¹⁵⁹

155. Hogan, 458 U.S. 718, 730.

156. *Id.*

157. *Id.* at 731.

158. Recall men are able to affiliate with the YWCA in various reduced capacities. See *supra* note 22.

159. See YWCA National Board, Statement Explaining YWCA Policies Regarding Membership and Management (Sept., 1990).

The case of the Tacoma/Pierce County YWCA¹⁶⁰ demonstrates precisely that when a male begins to lead an all-female organization, the organization's direction may change drastically and the focus on women's issues may become severely compromised. With leadership under women's direction, programs geared toward women, and restricted access for men, the YWCA is clearly distinguishable from MUW's School of Nursing. The YWCA would therefore meet the fourth element of the compensatory purpose doctrine because its single sex membership classification is substantially and directly related to its proposed compensatory objective.¹⁶¹

C. SUMMARY

In sum, the Mississippi University for Women School of Nursing did not pass Equal Protection scrutiny because it could not show that nursing students had suffered actual discrimination. The school perpetuated stereotypes and made nursing as a women's career a self-fulfilling prophecy. Additionally, the school could not show that the gender-based classification was adopted with the intention of helping women who were disadvantaged, because women, as nurses, suffered no disadvantage in obtaining their nursing degrees and because women dominated the nursing field. Finally, the school could not establish how its program and policy of only admitting females substantially and directly related to its proposed compensatory objective.

Conversely, in the same type of legal challenge to the YWCA, the YWCA would be able to show that its members have suffered actual discrimination.¹⁶² The YWCA would present evidence of its intention to benefit women. It would also be able to show that its programs as well as the organization itself do not perpetuate stereotypes, but defy them. The YWCA helps to promote positive images of women. Finally, the YWCA would be able to show its programs directly and substantially help women overcome gender-bias by providing a supportive environment where women are allowed to excel while focusing their energies on empowering other women.

160. See *supra* note 68-78.

161. See Hogan at 729-730 for the fourth element of the compensatory purpose doctrine.

162. For further information on discrimination against women, see generally AAUW Survey (*infra* note 163-182 and accompanying text), Carol Gilligan, IN A DIFFERENT VOICE: PSYCHOLOGICAL THEORY AND WOMEN'S DEVELOPMENT (1982) (*infra* notes 183-199).

IV. THE DISADVANTAGES TO WOMEN IN MIXED-SEX SETTINGS - AN EVEN STRONGER CASE FOR A SINGLE-SEX YWCA

The compensatory purpose doctrine in Hogan, when applied to the YWCA, shows a need to maintain all-female organizations such as the YWCA. The empirical data which follows in this section will show that in many instances it is beneficial to young girls, adolescents and adult women to maintain an environment which is female-only. To fully assess the potential benefit of maintaining all-female groups, extra-legal factors such as the group dynamics as well as the socialization processes of females and males must be examined. An important aspect of this assessment is the interaction of young boys and girls because it lays the foundation for patterns which continue through adolescence and adulthood.

A. AAUW STUDY OF ELEMENTARY AND HIGH SCHOOL CHILDREN IN MIXED SEX SETTINGS

In 1991, the American Association of University Women commissioned a survey which examined the differences in attitudes between girls' and boys' perception of themselves and their futures. The survey identified critical processes which work to form adolescents' self-esteem and their identity and measured changes in their attitudes toward themselves as they grow older.¹⁶³

The survey¹⁶⁴ found that girls' sense of self-esteem drops dramatically from elementary school age to high school age. The drop in self-esteem was calculated by a "Self-esteem Index" which examined the following as measures of the levels of basic self-esteem: "I like the way I look," "I like things about myself," "I'm happy the way I am," "Sometimes I don't like myself very much," and "I wish I were someone else."¹⁶⁵ Sixty percent of all eight to nine year old girls surveyed agreed with the statement, "I am happy the way I am."¹⁶⁶ However, the number of high school aged girls who agreed with that statement dropped to twenty-nine percent.¹⁶⁷ The study found that boys

163. Survey, Greenberg-Lake Analysis Group, Inc. and American Ass'n of Univ. Women, *Shortchanging Girls, Shortchanging America* (1991) (hereinafter *Shortchanging Girls*).

164. The study surveyed 2,400 girls and 600 boys at thirty-six public schools in twelve communities throughout the country. N.Y. Times, Jan. 9, 1991, at B1.

165. *Shortchanging Girls* at 5.

166. *Id.* at 4.

167. *Id.*

eight to nine years old had a slightly higher self-esteem, with sixty-seven percent saying, "I like the way I am." In high school, forty-six percent of boys liked the way they were (compared to only twenty-nine percent of high school girls).¹⁶⁸ These figures reflect a thirty-one percent drop in girls' self-esteem, while boys' self-esteem dropped only twenty-one percent from elementary school to high school.

Adolescence, the period of transition from childhood to adulthood, is a critical time for the development of self-identity.¹⁶⁹ Low self-esteem during this developmental stage can have lasting effects on a child.¹⁷⁰ Self-esteem is critically related to the academic, social and career decisions young people make which subsequently influence their lives.¹⁷¹ The higher self-esteem of young boys translates into bigger career dreams.¹⁷² Girls start out with lower hopes for their careers, and with less confidence in their talents and abilities.¹⁷³ Girls are much more likely than boys to say they are "not smart enough" or "not good enough" for their dream careers.¹⁷⁴ These findings show the importance of examining how self-esteem and developmental issues affect girls in all areas of society, particularly in schools, and the kind of difference and impact, both positive and negative, these important issues can have on young students' lives.

A young girl's low self-esteem may impact not only her future career choice, but may also impact her academic performance. Because of her low self-esteem, a girl can become trapped in a cycle of being unable to envision a professional career and can suffer poorer grades which can lead to further academic disenchantment. Boys also feel a greater sense of confidence in their ability to "do things"¹⁷⁵ than do girls, and this sense of confidence translates into a greater willingness to speak out in academic settings.¹⁷⁶ A strong correlation exists between the sense of confidence a young student has and the

168. *Id.*

169. *Id.* at 2.

170. *Id.* at 8.

171. *Id.*

172. *Id.*

173. *Id.*

174. *Id.*

175. *Id.* at 6.

176. *Id.*

student's ability to perform well in math and science.¹⁷⁷ Eighty-one percent of girls in elementary school like math, while only sixty-one percent of high school girls like math.¹⁷⁸ The number of boys in elementary school who like math is slightly higher (eighty-four percent) and remains higher in high school (seventy-two percent).¹⁷⁹ Interest in science shows similar patterns.¹⁸⁰

What causes such a big discrepancy between what boys and girls experience and achieve in school? Why do the reactions and experiences differ so drastically between the sexes at such a young age? In regard to the AAUW study,¹⁸¹ Dr. Carol Gilligan, a professor of education and a pioneer in studying the development of girls, commented, "This survey makes it impossible to say that what happens to girls is simply a matter of hormones. If that was it, then the loss of self-esteem would happen to all girls and at roughly the same time."¹⁸²

B. Gilligan's Research

Gilligan, in her book, *In a Different Voice*,¹⁸³ examined female and male development and heard a "different voice" throughout her research. The different voice she heard is characterized not by gender but by theme.¹⁸⁴ The different voice is traced consistently throughout female development,¹⁸⁵ and is one that has largely been ignored or undervalued in the field

177. Math and science are thought to be important indicators of career paths. Adolescents who like math and science are more likely to prefer careers in occupations they believe make use of these subjects. By small margins, students who like math and science express stronger desires for careers as teachers, doctors, and scientists. Even more important, students who like math and science are more likely to aspire to, and name careers as professionals as their first career choice. *Id.* at 15.

178. *Id.*

179. *Id.* at 12.

180. The number of girls who like science drops from seventy-five percent in elementary school to sixty-three percent in high school. Eighty-two percent of elementary school boys like science while the percentage drops to seventy-five percent for high school boys. *Id.* at 13.

181. See *supra* notes 163-182.

182. The New York Times, Jan. 9, 1991, at B1, col. 2.

183. Carol Gilligan, IN A DIFFERENT VOICE: PSYCHOLOGICAL THEORY AND WOMEN'S DEVELOPMENT (1982). (hereinafter IN A DIFFERENT VOICE).

184. IN A DIFFERENT VOICE at 2. Gilligan made no claims about the origin of the different voice but explained, "these (differences) arise in a social context where factors of social status and power combine with reproductive biology to shape the experience of males and females and the relations between the sexes." *Id.*

185. *Id.* Gilligan cautioned that this association was not absolute and that there was an interplay of the two voices within both sexes. *Id.*

of human psychology and in the evaluation of female and male development.¹⁸⁶

In her research, Gilligan found that differences between males and females surface at an early age.¹⁸⁷ In one example, elementary school girls and boys attempted differently to resolve a dilemma posed to them which was devised to measure moral development by presenting a conflict between moral norms.¹⁸⁸ Gilligan viewed Amy's judgments as containing the insight central to what Gilligan termed an ethic of care and Jake's judgments as reflecting the ethic of justice approach.¹⁸⁹ Amy scored lower on the Kohlberg scale¹⁹⁰ because she sees the problem rooted in the persons involved rather than in the larger universal issues posed by the dilemma.¹⁹¹

Gilligan asserts that Kohlberg's scale is based on male responses that posit the male as the norm and subsequently

186. Gilligan noted that psychological theorists, by implicitly adopting the male life as the norm, have tried to fashion women out of masculine cloth. *Id.* at 6. Gilligan traced this projection of a masculine image back to Freud and argued that Freud built his theory of psychosexual development around the experiences of a male child that culminate in the Oedipus complex. *Id.* Freud struggled to resolve the contradictions posed by his Oedipus complex theory because female would not "fit" his theory. Gilligan noted that Freud then found the differences in female anatomy and early female family relationships to be responsible for what he saw as female developmental failure. *Id.* at 6-7.

187. *Id.* at 25.

188. The dilemma posed to the eleven year old participants in Gilligan's research was devised by Lawrence Kohlberg as follows: A man named Heinz considers whether or not to steal a drug which he cannot afford in order to save his wife's life. The participants, Jake and Amy, were asked the question, considering the situation, Heinz's predicament, his wife's disease, and the druggist's refusal to lower his price, "Should Heinz steal the drug?" Jake was clear that Heinz should steal the drug, using logic and the priority of life to support his conclusion. Jake believed that Heinz's action was "the right thing to do" and that a judge, after Heinz was caught for stealing, would probably see Heinz's theft of the drug in the same way. He viewed the conflict as one between life and property. *Id.* at 25-26. Amy, on the other hand, did not think that Heinz should steal the drug and believed that Heinz stealing the drug might affect his relationship with his wife. Amy explained, "If he stole the drug, he might save his wife, but if he did, he might go to jail and then his wife might get sicker." Amy viewed the situation in the context of relationships and saw a need to sustain rather than sever connections. *Id.* at 28.

189. *Id.* at 30.

190. Kohlberg's scale weighs the moral development of its subjects in the following manner: stages one and two measure an egocentric understanding of fairness based on individual need, stages three and four measure a conception of fairness anchored in the shared conventions of societal agreement and finally, stages five and six measure a principled understanding of fairness that rests on the free-standing logic of equality and reciprocity. *Id.* at 27.

191. *Id.* at 31.

elevates male responses. In response to the question, "What does he see that she does not?" Kohlberg's theory elevates Jake's judgments a full scale higher than Amy's in regard to moral maturity.¹⁹² In response to the question, "What does she see that he does not?" Kohlberg's theory has nothing to offer.¹⁹³ Amy's responses fall through the sieve of Kohlberg's scoring system, and therefore appear to be outside the patriarchal moral domain.¹⁹⁴

In addition to being scored differently using Kohlberg's developmental stages, girls and boys of the same age saw and described themselves differently.¹⁹⁵ Gilligan described the contrast between a self defined through separation and measured against an abstract ideal of perfection, often by boys, and a self defined through connection and measured through particular activities of care, often by girls.¹⁹⁶

According to Gilligan, a girl's world is one of relationships and psychological truths.¹⁹⁷ In this world, an awareness of the connection between people gives rise to a recognition of responsibility for one another, a perception of the need of response.¹⁹⁸ Gilligan found that girls believe communication is the right mode of conflict resolution. Gilligan's insight has spawned numerous analyses of the ways in which the understanding of this ethic of care and connection could improve legal analysis.¹⁹⁹

Gilligan's analysis of girls' different voice supports the need for the YWCA to remain a single sex organization. The

192. *Id.*

193. *Id.* Kohlberg's six stages of moral development (*see supra* note 190) are based empirically on a study of eighty-four boys whose development Kohlberg followed for a period of twenty years. *Id.* at 18. Although Kohlberg claimed universal application of his stages, those groups not included in his original sample rarely reach the higher stages of his developmental scale. *Id.* The Kohlberg scale does not seem to be able to adequately reflect female development because the different voice which is associated with females was neither looked for nor discovered in Kohlberg's determinations.

194. *Id.*

195. Amy and Jake were both asked to describe themselves. Amy enumerated her likes, her wants, and her beliefs while locating herself in relation to the world. She described herself through actions that bring her in connection with others, elaborating ties through her ability to provide help. *Id.* at 34-35. Jake described himself by locating his particular position in the world and separated himself from the world by his abilities, his belief and his height. He described an ideal of perfection, against which he measured his self-worth. *Id.* at 35.

196. *Id.*

197. *Id.* at 30.

198. *Id.*

199. For an expansion of Gilligan's theory and its relationship to legal issues, *see generally* works by Katharine MacKinnon, Carrie Menkel-Meadow, Martha Minnow, and Christine Littleton.

ethic of care and the sense of connection are vital elements of the YWCA. The YWCA provides women with an environment where their "different voices" are valued. In this environment, women can work to empower themselves and other women, thereby strengthening their connection with others.

In addition, Dr. Rita Marinho²⁰⁰ argues that women bring a unique ethos to all-female organizations.²⁰¹ Women are more likely to achieve when they empower themselves and others to exert power on their own behalf.²⁰² Dr. Marinho asserts that women are more likely to assert this power in their own organizations where they have the opportunity to decide what is important.²⁰³ In organizations such as the YWCA, women can determine what is worthy of their time, money and energy and female values have a chance to grow and flourish.²⁰⁴

C. UNIVERSITY WOMEN'S STUDY

Another way to study the effects of a mixed sex setting is to contrast the co-educational college and university system against the all-female college or university. In two major reports prepared for the Association of American Colleges' Project on the Status and Education of Women, Roberta Hall and Bernice Sandler document factors that make the co-educational classroom and overall university climate "chilly" and negative for women.²⁰⁵ These factors include male dominance of classroom discussions, the devaluation of women's contributions in class, differential treatment of male and female students by faculty, and stereotyped expectations of women on the part of students, faculty and administrators.²⁰⁶

200. Dr. Marinho is a Vice President of the Board of Directors of the YWCA of the U.S.A. and Professor of Political Science at Southeastern Massachusetts University.

201. Dr. Rita Marinho, YWCA Discussion Papers, *The YWCA - A Women's Organization* at 4.

202. *Id.*

203. *Id.*

204. *Id.*

205. Chai R. Feldblum, Nancy Fredman Krent & Virginia G. Watkin, *Legal Challenges to All-Female Organizations*, 21 HARV. C.R.-C.L. L. REV. 171, 177 (citing Roberta Hall, *The Classroom Climate: A Chilly One for Women?*, Project on the Status and Education of Women, Association of American Colleges 1 (1982); Roberta Hall & Bernice Sandler, *Out of the Classroom: A Chilly Campus Climate for Women?*, Project on the Status and Education of Women, Association of American Colleges 1 (1984)).

206. *Id.* at 177-178.

Additionally, even the co-educational universities have the atmosphere and ambience of being "male universities."²⁰⁷ As compared to male students, female students face greater obstacles to admission, receive less financial aid and tend to garner fewer leadership positions available to students on their campus.²⁰⁸ Detailed observations of thousands of hours of videotapes of college and university classes show that faculty members consistently take male students and their comments more seriously than females' comments.²⁰⁹ Faculty members also permit males to dominate discussions far out of proportion to their numbers.²¹⁰

All-women's colleges offer their female students a much more supportive environment.²¹¹ In a recent survey of women's colleges, the presidents and faculties described their colleges' institutional mission as concerned with equity as well as with traditional liberal arts goals.²¹² Their educational goals included providing a supportive atmosphere for women, encouraging women to take leadership roles, developing women's self-confidence and self-respect, and promoting positive images of women.²¹³ This commitment to women's needs is reflected in research which shows, for example, that during a five-decade period, fifty-nine women's colleges graduated twice as many higher achieving women (as indicated by citation in *Who's Who in American Women*, an index of career prominence) than did 289 co-educational colleges.²¹⁴

207. NANCY FRAZIER & MYRA SADKER, *SEXISM IN SCHOOL AND SOCIETY* (1973).

208. *Id.* at 146-148.

209. Edward B. Fiske, *New York Times*, April 11, 1990 at B-1.

210. *Id.* Male undergraduates, even though similar in number to female undergraduates, usually dominated classroom discussions, speaking up to twelve times longer than female students. See Hanson, *Classy Talking*, *HARVARD MAGAZINE* (1989).

211. According to data compiled by the Women's College Coalition in 1987, there are ninety-eight women's colleges in the United States. These colleges comprise approximately four percent of all U.S. higher educational institutions and currently educate about two percent of women undergraduates in the U.S. II *Women's Studies Encyclopedia*, Volume II, Literature, Arts and Learning at 351. Edited by Helen Tierney. Written by Sally Schwager. Additionally, in 1980, sixty-seven percent of all women's college presidents were women. *Id.*

212. Chai R. Feldblum, Nancy Fredman Krent & Virginia G. Watkin, *Legal Challenges to All-Female Organizations*, 21 *HARV. C.R.-C.L. L. REV.* 171 (1986) at 179. (See The Women's College Coalition, *A Study of the Learning Environment at Women's Colleges* 27-28 (1981)).

213. *Id.*

214. Judith I. Stoecker, Ernest T. Pascarella, *Women's Colleges and Women's Career Attainments Revisited*, 62 *J. HIGHER EDUC.* (1991) at 395 (citing M. Elizabeth Tidball, *Perspective on Academic Women and Affirmative Action*, *EDUCATIONAL RESEARCH*, 54 (1973) at 130-135 and M. Elizabeth Tidball, *The Search for Talented Women*, 6 *CHANGE* (1974) at 51-53). These differences persisted even when institutional

V. CONCLUSION

The aforementioned studies show that there is a need for women to maintain a space of their own. Additionally and somewhat paradoxically, women should no longer be barred at the door of the men's club. Men are being forced to integrate their clubs and organizations at a rapid pace because these organizations perpetuate discrimination against women, and society now recognizes the need to eradicate this type of gender based discrimination. The same does not necessarily apply to women's organizations because women have not been the perpetrators, but the victims, of such gender-based discrimination. Organizations such as the YWCA are striving to eliminate gender based discrimination because its members have traditionally been the target of such discrimination.

The YWCA serves a "compensatory purpose" by allowing women to achieve and excel in an environment free of traditional male domination and female deference to men. Eighty-one percent of women polled felt that "single sex organizations such as the YWCA, which are designed to help women achieve equal opportunity with men, are not discriminating against men."²¹⁵ Additionally, ninety-four percent of the respondents believed that the experience of being a YWCA member has helped them with their own self-esteem and confidence.²¹⁶ Further, the YWCA experience and the support gained through involvement in the organization and its programs lends itself to other aspects of members' lives and helps contribute to member's individual growth.²¹⁷

As the YWCA approaches its 126th year of operation, the issues facing it are extremely important with respect to the direction the YWCA will take into the 21st century. Whether or not men should be allowed to become members²¹⁸ will prob-

selectivity, size and faculty salaries were taken into account. *Id.* (citing M. Elizabeth Tidball *Women's Colleges and Women Achievers Revisited* SIGNS: 5 J. OF WOMEN IN CULTURE AND SOCIETY (1980) at 505-517).

215. 1 YWCA *Research Reports* (No. 3, April 1991) at 15.

216. *Id.*

217. Ninety percent of survey respondents said, "My experience in the YWCA as a women-led organization have made me feel more powerful personally. *Id.* at 16. Additionally, seventy-two percent of respondents agreed with the statement, "Because of my experience in the YWCA, I am more able to accomplish my goals than would have been the case if I were involved in an organization lead by men and women." *Id.*

218. Actual male membership per se is not what threatens the YWCA's women membership movement; it is the issue of membership as a tool of governing and leadership which threatens the YWCA. Dr. Rita Marinho, *The YWCA - A Women's Organization*, in *Discussion Papers: The YWCA as a Single Sex Organization* (1988) at 5.

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ably engender fierce debate. However, one thing should remain clear. The Mission of the YWCA is to empower women. When women work together to address this objective, they are already in the process of achieving it. YWCA members and leaders, as women, empower themselves and each other with their commitment and awareness of the important issues facing women. In effect, to remain single sex will be to make women's empowerment the YWCA's "self-fulfilling prophecy."