

NAME-CALLING

*Elizabeth M. Glazer**

I will address you by your first names. I will do this despite the prevailing practice on the part of law school faculty members to address students by a gendered title, “Mr.” or “Ms.,” followed by a student’s surname. I feel strongly that each individual should be able to choose a gendered title, rather than feel compelled to respond to a gendered title chosen by someone else. Because I call on individuals during class without prior notice, I will not have the opportunity to determine in advance whether an individual prefers to be addressed by a particular gendered title. If you would like for me to address you by a name other than the first name by which you are identified in Hofstra’s online portal system, please just let me know and I will happily address you by your preferred name. To be sure, because the title, “Professor,” is gender-neutral, I ask that you please abide by law school conventions in addressing me as “Professor Glazer” even though I address you by your first names.¹

Jennifer Hoffman² identified as a woman. A classmate of mine in law school and a section-mate of mine during our first year, Jennifer wore no make-up, her short brown wavy hair parted to her right side,

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1. Elizabeth M. Glazer, Syllabus for First Amendment Course, Jurisprudence Course, Property Course, and Transactional Lawyering Course (Aug. 27, 2008) (unpublished, on file with the Hofstra Law Review).

2. The student’s name has been changed so as to preserve her anonymity. However, it should be noted that the choice of this pseudonym, which contains a first name traditionally conferred on women and not on men, is deliberate because the student whose identity is protected also bore a traditionally female first name.

and an oxford shirt tucked into slacks each day. Jennifer always took her seat in the middle of the classroom in our large first year lectures. While members of my first year section, like many first year law students, shared the fear of being called on in class,³ many of us shared another fear, as well: the fear that Jennifer would be called on. On more than one occasion, professors leading lectures would call on “Mr. Hoffman” while looking at Jennifer in the middle of the classroom.

In so doing, these professors called on Jennifer as they would call on any other student sitting in their classroom, which is to say they used the gendered title with which they assumed she associated and the surname that appeared in the box on the professor’s seating chart that represented the seat she occupied. Perhaps these professors engaged in the practice of calling on students in this way so as to generate a more professional classroom environment.⁴ Perhaps they did it so that they, new to law teaching, could earn their students’ respect.⁵ Perhaps they called on students in this way because doing so is traditional in a law school setting, and they did not “give it that much thought.”⁶

Perhaps it is because I spent more than a few uncomfortable moments during my first year of law school trying to avoid eye contact with a professor who had just called on “Mr. Hoffman.” Perhaps it is because I spent several frustrating moments that same year rolling my eyes after a professor called on “Mr. Hoffman” for the second or third time in a single semester, after she courageously corrected the professor for mistaking her for a man the time before. Perhaps it is because, after cutting short my own hair, I understood, firsthand, what Jennifer and

3. See, e.g., Posting of zippypinhead to The Volokh Conspiracy, <http://volokh.com/posts/1219340811.shtml#418289> (Aug. 21, 2008, 17:09 EST) (“[Professor] White was especially frightening at 8:00 am when he was at his peak and most of the class was bleary-eyed. The students had to be prepared daily, as it was impossible to know when you were going to be put on the spot . . .”).

4. See, e.g., Therese Maynard, *Teaching Professionalism: The Lawyer as Professional*, 34 GA. L. REV. 895, 921 (2000) (explaining how the author calls on students by their last names in order “to emphasize the respect that each law student must show all others, both in the classroom and outside the classroom”); Bridget McCormack, *Teaching Professionalism*, 75 TENN. L. REV. 251, 256 (2008) (“To emphasize professionalism, law school faculty regularly refer to students by their last names.”).

5. Posting of Jay Wexler to PrawfsBlawg, <http://prawfsblawg.blogs.com/prawfsblawg/2008/12/the-last-time-i-called-a-student-by-a-last-name-.html> (Dec. 10, 2008, 08:20 EST) (“I was reluctant to use last names to call on students to begin with--it seemed needlessly formal and my own teachers hadn't done it--but a lot of people had advised me that it made sense to do as a new teacher . . .”).

6. Posting of Paul Horwitz to PrawfsBlawg, <http://prawfsblawg.blogs.com/prawfsblawg/2008/12/the-last-time-i-called-a-student-by-a-last-name-.html> (Dec. 13, 2008, 11:16 EST).

others about whose experiences I had read were going through.⁷ Whatever the reason, since I began a career teaching law, I have included in my course syllabi the name-calling policy quoted above (the “Name-Calling Policy”).⁸

As I have articulated briefly elsewhere, the motivation behind the Name-Calling Policy is an aspiration toward gender neutrality in the law school classroom.⁹ This Idea, and the Name-Calling Policy it explains, seek to cause readers to pause and give some thought to the prevailing practice, in law school classrooms and elsewhere, to infuse gender into both formal exchanges and casual conversation. While this practice goes on unquestioned, this Idea invites its reader to pause to consider whether it is suitable to call attention to other traits that constitute the basis of discrimination (for example, differentiating between white and black individuals by assigning to either group distinct titles).¹⁰ To be sure, this Idea does not argue that using gendered titles amounts to what the law would constitute discrimination on the basis of sex or gender.¹¹ Instead,

7. See, e.g., Posting of justmarsh to After Ellen, <http://www.afterellen.com/node/41751> (Dec. 13, 2008, 16:19 EST) (“Last week while at work some one [sic] called me sir, I repeated several times ‘sir!’ he looked puzzled[.] So I took my hat off and pointed at my hair! Still confused I told him ‘ok, I will pull out your car ma’am!’ He got it and was embarrassed.”).

8. See *supra* note 1 and accompanying text.

9. This aspiration was reflected in a series of comments on the PrawfsBlawg between myself and Professor Paul Horwitz, presented in chronological order: Posting of Liz Glazer to PrawfsBlawg, <http://prawfsblawg.blogs.com/prawfsblawg/2008/12/the-last-time-i-called-a-student-by-a-last-name-.html> (Dec. 12, 2008, 18:49 EST) (setting forth the Name-Calling Policy); Horwitz, *supra* note 6 (criticizing the Name-Calling Policy for its elevation of issues of gender above issues of race and class); Posting of Liz Glazer to PrawfsBlawg, <http://prawfsblawg.blogs.com/prawfsblawg/2008/12/the-last-time-i-called-a-student-by-a-last-name-.html> (Dec. 13, 2008, 13:34 EST) (clarifying that the purposes of the Name-Calling Policy are to highlight the irrelevance of gender and to avoid the problem of mistaking a student’s gender identity); Posting of Paul Horwitz to PrawfsBlawg, <http://prawfsblawg.blogs.com/prawfsblawg/2008/12/the-last-time-i-called-a-student-by-a-last-name-.html> (Dec. 13, 2008, 22:12 EST) (explaining that the poster’s prior comment had not taken into account the issue of mistaking a student’s gender identity); Posting of Liz Glazer to PrawfsBlawg, <http://prawfsblawg.blogs.com/prawfsblawg/2008/12/the-last-time-i-called-a-student-by-a-last-name-.html> (Dec. 14, 2008, 13:08 EST) (inquiring why using different honorifics to address students and teachers does not call attention to a hierarchical difference between them); Posting of Paul Horwitz to PrawfsBlawg, <http://prawfsblawg.blogs.com/prawfsblawg/2008/12/the-last-time-i-called-a-student-by-a-last-name-.html> (Dec. 15, 2008, 10:01 EST) (arguing that the use of “the right spirit” when addressing students and teachers by different honorifics “does not emphasize differences between [them]”).

10. See, e.g., The Civil Rights Act of 1964, Pub. L. No. 88-352, 78 Stat. 241, 253 (as amended at 42 U.S.C. §§ 2000e-2000e-17 (2000)) (providing in § 2000e-2 that “[i]t shall be an unlawful practice for an employer . . . to discriminate against any individual . . . because of such individual’s race, color, religion, sex, or national origin”).

11. A complete explanation of what constitutes discrimination on the basis of sex or gender lies beyond the scope of this Idea and has been more than adequately summarized elsewhere. It should be enough to say that a policy is said to discriminate on the basis of a particular trait if the

this Idea and the Name-Calling Policy are concerned with the ways in which the norm of using gendered titles has spawned a culture¹² of calling attention to gender-based differences among individuals in situations where gender-based differences are irrelevant and moreover, where calling attention to these differences is indeed harmful. In this way, this Idea takes up Professor Kenji Yoshino's call to "move[] . . . away from legal solutions toward social solutions"¹³ in order "to do the work of civil rights."¹⁴ The hope is that by raising consciousness about the cultural harms inflicted by a prevailing norm¹⁵ that has until now gone unquestioned, that norm may change.

The issue of name-calling in the law school classroom is a live one. After all, the Socratic method, a "teaching style in which the professor selects a single student without warning and questions the student about

policy affects a protected group disproportionately. See *Watson v. Fort Worth Bank & Trust*, 487 U.S. 977, 986-87 (1988) (explaining that after the Court's holding in *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971), "facially neutral employment practices that ha[d] significant adverse effects on protected groups ha[d] been held to violate the [Civil Rights] Act [of 1964] without proof that the employer adopted those practices with a discriminatory intent"). For further elaboration on what constitutes discrimination on the basis of sex or gender, see generally Zachary A. Kramer, Note, *The Ultimate Gender Stereotype: Equalizing Gender-Conforming and Gender-Nonconforming Homosexuals Under Title VII*, 2004 U. ILL. L. REV. 465.

12. I mean here to refer, as I have in other work, to the emerging "law and culture" movement, which has argued, among other things, that culture influences the law, but also that the law creates and influences culture, "participat[ing] in the production of meanings within the shared semiotic system of a culture." Naomi Mezey, *Law as Culture*, 13 YALE J.L. & HUMAN. 35, 47 (2001). Professor Mezey encapsulates the movement as follows:

[W]e tend to think of playing baseball or going to a baseball game as cultural acts with no significant legal implications. We also assume that a lawsuit challenging baseball's exemption from antitrust laws is a legal act with few cultural implications. I think both of these assumptions are profoundly wrong, and that our understandings of the game and the lawsuit are impoverished when we fail to account for the ways in which the game is a product of law and the lawsuit a product of culture—how the meaning of each is bound up in the other, and in the complex entanglement of law and culture.

Id. at 35-36. For a list of other influential writings in the field of law and culture, see Elizabeth M. Glazer, *When Obscenity Discriminates*, 102 NW. U. L. REV. 1379, 1421 n.283 (2008) and Madhavi Sunder, *Cultural Dissent*, 54 STAN. L. REV. 495, 506 n.53 (2001).

13. KENJI YOSHINO, *COVERING: THE HIDDEN ASSAULT ON OUR CIVIL RIGHTS* 27 (2006).

14. *Id.* at 194.

15. A related but distinct movement from the law and culture movement is the social norms movement, which explores the ways in which forces other than the law have had the effect of regulating behavior. See ROBERT C. ELLICKSON, *ORDER WITHOUT LAW: HOW NEIGHBORS SETTLE DISPUTES* 123-26 (1991); Robert C. Ellickson, *A Hypothesis of Wealth-Maximizing Norms: Evidence from the Whaling Industry*, 5 J.L. ECON. & ORG. 83, 87 (1989); Robert C. Ellickson, *Law and Economics Discovers Social Norms*, 27 J. LEGAL STUD. 537, 542 (1998). For further citations indicating the "explosive" nature of the legal academy's engagement with social norms, see Ryan Goodman, *Beyond the Enforcement Principle: Sodomy Laws, Social Norms, and Social Panoptics*, 89 CAL. L. REV. 643, 644 n.1 (2001).

a particular judicial opinion that has been assigned for class,”¹⁶ has essentially defined the American law school experience.¹⁷ Whether to use first or last names when employing some version of the Socratic method¹⁸ has been a topic of some very recent discussion.¹⁹ Addressing students by their last names alone made me feel uncomfortably like I was addressing a football team rather than a class of law students, so I use first names. Of course, this means that many students named Michael, Sarah, Matthew, Jessica, and Justin must follow my gaze to determine whether I mean to call on them.²⁰ I also tend to call on these students by using their first names and the first letters of their last names, generating “Justin A.,” “Justin L.,” and “Justin Z.” in a room of sixty-five students. Having graduated from Jewish day school with “Shira B.,” “Shirah G.,” “Shira K.,” “Shira L.,” “Shira S.,” and “Shira Sh.” (the latter of whom was called “Shira S. H.” so that she could be distinguished from “Shira S.”), I was familiar with at least this one way of handling many students who share the same first name.

Of course, while the Name-Calling Policy seeks to value individual autonomy by not forcing students to answer to a gendered title chosen by someone else, students likely did not choose the names that I use to address them. After all, as Professor Liz Emens has observed,

[n]ames are mere words – a string of letters and sounds typically chosen by someone else to identify us. Our first names and our last names are given by others before or shortly after we are born, when the choosers have no idea of our personalities, and thus are in some sense chosen blindly.²¹

16. Orin S. Kerr, *The Decline of the Socratic Method at Harvard*, 78 NEB. L. REV. 113, 114 n.3 (1999).

17. *See id.* at 113 n.1 (“For nearly a century now, American lawyers have been bound together by the knowledge that they have all survived a similar initiation; it is something of a grand tradition.” (quoting SCOTT TUROW, *ONE L* 294 (1977))) (“[A]lmost every law school classroom is a place where ritual interrogation is a rite of passage.” (quoting John Yemma, *Lawyers’ Adversarial Schooling Undergoes Cross-Examination*, BOSTON GLOBE, May 3, 1997, at A11)).

18. *See* Thomas D. Eisele, *Bitter Knowledge: Socrates and Teaching by Disillusionment*, 45 MERCER L. REV. 587, 588 (1994) (“Law teachers use a version of the Socratic method (or, perhaps better, several variants of it) . . .”).

19. *See* Posting of Nate Oman to Concurring Opinions, http://www.concurringopinions.com/archives/2008/12/in_defense_of_m_1.html (Dec. 10, 2008 09:59 EST); Wexler, *supra* note 5.

20. *See* Social Security Online, Popular Baby Names, Popular Birth Names by Year, Popularity in 1982, <http://www.ssa.gov/cgi-bin/popularnames.cgi> (listing the most popular male and female names for babies born in 1982) (fill year of birth field with “1982”; then select “Go”) (last visited Jan. 1, 2009).

21. Elizabeth F. Emens, *Changing Name Changing: Framing Rules and the Future of Marital Names*, 74 U. CHI. L. REV. 761, 768 (2007).

In recognition of this fact, the Name-Calling Policy invites students to let me know to address them by a name other than the first name by which they are identified in the university's online portal system.

However, one might argue that it is apparent from an individual's first name whether that individual is male or female. Therefore, one might argue, the decision to address students by first names is no more and no less gendered than a decision to address them by gendered titles. Though the Name-Calling Policy seeks to eliminate gender-bias from the law school classroom, the sort of gender-bias eliminated would necessarily be limited to an unconscious gender-bias.²² While elements of the law school experience, including the Socratic method,²³ have been said to affect men and women differently, the gender-bias with which this Idea and the Name-Calling Policy are concerned does not involve the sorts of differences between law students of different genders that commentators have previously addressed.²⁴ Male and female students,

22. Unconscious biases have been studied in the contexts of the law and law school. *See, e.g.*, Ann C. McGinley, *!Viva La Evolución!: Recognizing Unconscious Motive in Title VII*, 9 CORNELL J.L. & PUB. POL'Y 415, 436 (2000) ("Seeing men as the 'norm' leads to the need to explain why women deviate from the 'norm,' a tendency which in turn stigmatizes women as 'the other.'"). *See generally* Richard K. Neumann, Jr., *Women in Legal Education: What the Statistics Show*, 50 J. LEGAL EDUC. 313 (2000) (noting and discussing disparity between genders in legal academia, particularly in tenure-track positions); Richard K. Neumann, Jr., *Women in Legal Education: A Statistical Update*, 73 UMKC L. REV. 419, 442 (2004) (updating study demonstrating unequal treatment of women in law schools, and calling for change by way of "examin[ing] our assumptions, no matter how well-meaning our stated beliefs might be").

23. *See, e.g.*, LANI GUINIER, MICHELLE FINE & JANE BALIN, *BECOMING GENTLEMEN: WOMEN, LAW SCHOOL, AND INSTITUTIONAL CHANGE* 13-14, 28 (1997) (reporting women's aversions to the Socratic method); Elizabeth Garrett, *Becoming Lawyers: The Role of the Socratic Method in Modern Law Schools*, 1 GREEN BAG 2D 199, 203 (1998) (reviewing GUINIER, FINE & BALIN, *supra* note) (arguing that the Socratic method, applied with sensitivity, does not discriminate against women); Lani Guinier et al., *Becoming Gentlemen: Women's Experiences at One Ivy League Law School*, 143 U. PA. L. REV. 1, 3 (1994) ("[M]any women are alienated by the way the Socratic method is used in large classroom instruction, which is the dominant pedagogy for almost all first-year instruction."); Janet Taber et al., *Gender, Legal Education, and the Legal Profession: An Empirical Study of Stanford Law Students and Graduates*, 40 STAN. L. REV. 1209, 1242 (1988) (finding that male graduates were more likely to prefer Socratic instructors, and suggesting a cultural feminist explanation).

24. *See, e.g.*, Allison L. Bowers, *Women at the University of Texas School of Law: A Call for Action*, 9 TEX. J. WOMEN & L. 117, 160 (2000) (conducting a study and concluding that "[h]aving a high percentage of women in a law school class does not appear to have an effect on women's overall performance"); Marsha Garrison, Brian Tomko & Ivan Yip, *Succeeding in Law School: A Comparison of Women's Experiences at Brooklyn Law School and the University of Pennsylvania*, 3 MICH. J. GENDER & L. 515, 520 (1996) (finding that female students volunteered in class "significantly less" often than did male students, but finding, too, that female students were not "comparatively disadvantaged with respect to grades and academic honors" than were male students and were "just as likely" as were male students to contact professors outside of class). *See generally* Guinier et al., *supra* note 23 (studying students enrolled at the University of Pennsylvania Law

while arguably distinguishable by their levels of success in response to Socratic questioning and other emblems of the American law school experience, are, as a formal matter, addressed by their professors in an equally gendered manner if referred to by gendered titles. But the same unconscious gender-bias may persist if a professor addresses her students by first names or by gendered titles. So, one might wonder why I have decided to address students by their first names. Setting aside the growing trend of bestowing unisex first names on children,²⁵ and the fact that individuals can and do change their first names,²⁶ the student who corrects a professor who has called on him by the wrong first name is likely to feel less embarrassed than the student who corrects a professor who has called on him by the wrong gendered title. As a result, the Name-Calling Policy provides that as a default rule, I address students by their first names.

Of course, an unconscious gender-bias may persist even if the student addressed is not embarrassed by his gender, the fact that his gender is apparent because he was given a gendered first name, or the fact that he corrected a professor for calling him by the wrong name. Unconscious biases arise “in individuals who claim they are not biased”²⁷ and could be activated on the basis of a gendered title or a gendered first name. Moreover, evolutionary psychologists have discovered that while biases on the basis of race can be overcome, biases on the basis of gender are far more salient.²⁸

School between 1987 and 1992 and concluding that women were much more likely to fare much worse than male law school classmates); Claire G. Schwab, *A Shifting Gender Divide: The Impact of Gender on Education at Columbia Law School in the New Millennium*, 36 COLUM. J.L. & SOC. PROBS. 299 (2003) (arguing that women’s experiences in law school are different from men’s, but that women’s law school experiences have shifted since scholars began studying gender in the law school classroom); Taber et al., *supra* note 23, at 1238-39 (finding “few . . . significant differences between the responses of female and male students” to law school related questions posed to students as part of the authors’ empirical study, but finding that male students were “considerably more likely” than were female students to report asking questions in class and were “more likely” to report that they volunteered answers in class).

25. See *Unisex Baby Names Next Big Trend*, WIRELESS FLASH NEWS, Dec. 11, 2002, <http://www.ncbuy.com/news/2002-12-11/1005661.html> (“Babynames.com has just released a list of the year’s most popular baby names and 9 out of the top 20 names are unisex . . .”).

26. See, e.g., Dean Spade, *Resisting Medicine, Re/modeling Gender*, 18 BERKELEY WOMEN’S L.J. 15, 19 n.14 (indicating that the author changed his first name).

27. Debra Lyn Bassett, *The Rural Venue*, 57 ALA. L. REV. 941, 952-58 (2006) (providing a quick primer on the psychological concept of unconscious bias).

28. See generally Robert Kurzban, John Tooby & Leda Cosmides, *Can Race be Erased? Coalition Computation and Social Categorization*, 98 PROC. NAT’L ACAD. SCI. 15387 (2001) (finding that respondents who had misattributed statements to individuals of the same race ceased to do so when individuals of the same race wore differently colored t-shirts, but that respondents

The decision to address students by their first names does something more than help to eliminate unconscious gender-bias, which may be too salient to eliminate in any case. Addressing students by their first names avoids the problem of mistaking a student's gender identity. Though the number of self-identified transgender students in law schools is very small,²⁹ the institution of policies that disadvantage some individuals need not be measured by the percentage of those individuals in a particular environment. For example, the notion that discrimination against blacks reasonably offends whites is hardly novel.³⁰ In addition, even non-transgender individuals may be affected by a policy that forces all individuals to conform to stereotypical gender identities³¹ and individuals can be mistaken for a gender with which they do not associate even if they do not identify as transgender.³² Those individuals may or may not take offense or feel embarrassment as a result of someone else's mistaking their gender identity, while individuals who self-identify as transgender may differ in their responses to a particular pronoun or gendered title, as well. In light of the range of different responses individuals of questionable gender can have³³ to the ways in which others address their gender, it is common practice among those who interact with members of the transgender community to ask on an

continued to misattribute statements to individuals of the same gender even after individuals of the same gender wore differently colored t-shirts).

29. According to a recent study, only between four and five percent of all law students identify as "GLBT," the catch-all abbreviation for gay, lesbian, bisexual, and transgender people. See Kelly Strader et al., *An Assessment of the Law School Climate for GLBT Students*, 58 J. LEGAL EDUC. 214, 217, 226 (2008) (making use of data compiled in two surveys conducted by the Law School Admission Council). The study found further that "it seems that transgender students still are largely invisible in most law schools." *Id.* at 218.

30. See Eugene Volokh, *Deterring Speech: When Is it "McCarthyism"? When is it Proper?*, 93 CAL. L. REV. 1413, 1451-52 (2005) ("[Whites] also hate racism, and they're troubled by the social harm caused by . . . increased discrimination and reasonable fear of discrimination.").

31. See generally Devon W. Carbado & Mitu Gulati, *Working Identity*, 85 CORNELL L. REV. 1259 (2000) (elaborating the identity harms caused by pressures to assimilate).

32. Because the term "transgender" has been observed to "simultaneously encompass various definitions," I should pause here to define what I mean by it. Ming-Yu Bob Kau, Book Review, 22 BERKELEY J. GENDER L. & JUST. 274, 274 (2007). I borrow a broad and inclusive definition of the term from Professor Anna Kirkland, who has defined transgender to include "gender variant people who have not necessarily sought to alter their bodies but nonetheless feel a disjunction between their biologically and socially gendered selves." Anna Kirkland, *Victorious Transsexuals in the Courtroom: A Challenge for Feminist Legal Theory*, 28 LAW & SOC. INQUIRY 1, 2 (2003). This term is considered broader than the term "transsexual," which "refer[s] to people who identify as [transsexual] and who seek to alter their physiological gender status through surgery or hormones in order to bring it into line with their social and emotional gender status." *Id.*

33. Of course, non-transgender individuals can also have a range of responses to the usage of pronouns.

individual basis, before addressing someone, which pronoun they prefer to use, if any.³⁴

The Name-Calling Policy seeks to import this norm from the transgender community to the law school community, only a very small percentage of which is transgender. The importation of this norm would make law schools friendlier places for transgender individuals. More importantly, refusing to assume an individual's gender identification and making an effort to lessen the extent to which gender identification is infused in everyday dialogue may expand the number of identity "scripts" available to all individuals, whether transgender or not.³⁵ An individual like Jennifer Hoffman would be freer to "experiment – or 'play' – with identity categories"³⁶ without fearing that being asked to recite the facts of a case require her to act more feminine.

This Idea is meant as just that—an idea. It describes an idea to effect gender-neutrality in the classroom that I have implemented as a law teacher after first having the idea as a law student. Law school classrooms are spaces where neutrality is valued and, at times, demanded. Students routinely express distaste for professors whose political ideologies seem to prevent them from presenting material in a neutral, unbiased way. Professors routinely call on students during class to present a side of an argument that may not be the student's own. My idea is to neutralize the law school classroom from its remaining bias, namely its gender-bias. But this Idea has not argued that the Name-

34. See, e.g., Katherine M. Franke, Introduction, *Lucas Rosa v. Park West Bank: Do Clothes Really Make the Man?*, 7 MICH. J. GENDER & L. 141, 143 n.1 (2001) ("In this introduction, I will refer to Lucas Rosa with a feminine pronoun, as that is what she prefers, and it is a common practice for referring to a transgender person who self-identifies as female, the advice and guidance of mental health and other professionals who work with [transgender] clients, and the practice followed by most courts."); Scottish Transgender Alliance, *Transgender Good Practice*, http://www.scottishtrans.org/Page/Use_of_Pronouns.aspx (last visited Jan. 3, 2009) ("If you are speaking briefly with someone and you are unsure whether the person would wish to be addressed as he or as she, then it is usually best just to avoid using any gendered terms than to risk insulting them by guessing wrong. When the interaction is long enough, ask the person their name to try to determine which pronoun to use. If it is not clear whether their name is a male or female name then it is acceptable to politely ask: 'excuse me, but which pronoun do you prefer?' or 'excuse me, but how do you prefer to be addressed?'.")

35. Scholars have argued for some time that coerced identity scripts hinder the effects of anti-discrimination efforts. See, e.g., K. Anthony Appiah, *Race, Culture, Identity: Misunderstood Connections*, in K. ANTHONY APPIAH & AMY GUTMANN, *COLOR CONSCIOUS: THE POLITICAL MORALITY OF RACE* 30, 97-99 (1996); Janet E. Halley, *Gay Rights and Identity Imitation: Issues in the Ethics Representation*, in *THE POLITICS OF LAW: A PROGRESSIVE CRITIQUE* 115, 115-18 (David Kairys ed., 3d ed. 1998); Holning Lau, *Formalism: From Racial Integration to Same-Sex Marriage*, 59 HASTINGS L.J. 843, 871 (2008).

36. Heather K. Gerken, *Second-Order Diversity*, 118 HARV. L. REV. 1099, 1193 (2005) (quoting Appiah, *supra* note 35, at 104).

Calling Policy is the only way to rid the classroom of gender-bias. I have explained in this Idea the reasons I depart from the traditional law school classroom practice of calling on students by gendered titles. My classroom policy invites my students to engage with me about their ideas about name-calling and the Name-Calling Policy. This Idea invites its readers to do the same.