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SUMMERS OF OUR DISCONTENT

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On January 14, 2005, Lawrence H. Summers, President of Harvard University, addressed a conference convened for the purpose of addressing diversity concerns in the science and engineering workforce. Hoping to create light on that cold winter day in Cambridge, instead he created considerable heat. Reflecting on the conflagration in its aftermath, contributors to this symposium wish to create the conditions under which heat becomes light, to consider a variety of perspectives on the meaning of these events such that lessons can be gathered from them.

The easiest lesson to draw from the Summers discontent is that dialogue about diversity is the third rail of academia, or perhaps of all institutional life. Proceed at your peril. With the benefit of this symposium, one hopes the lessons will be broader and deeper and will move us to advance diversity, both in discussion and in action, rather than retreat from it in fear, anger, or confusion.

My intention here is to explore why Summers' observations about gender unleashed a firestorm among diversity's proponents and other gathering critics of his presidency. No doubt dissatisfactions with Summers' administration that preceded his infamous remarks to the conference raised the decibel level of the response to those remarks.¹ Nevertheless, the remarks themselves warrant close scrutiny. Given Summers' professed concern about the underrepresentation of women in leadership positions in science and engineering, and his assertion that diversity is a "crucial objective,"² which aspects of his remarks were so incendiary?

I. THE HIGH-POWERED JOB HYPOTHESIS

In his comments to the conference, Summers offered his "best guesses" as to the sources of women's underrepresentation in tenured positions in science and engineering at top universities and research institutions.³ The most significant

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¹ See Marcella Bombardieri, *Summers' Foes See A CEO Approach*, THE BOSTON GLOBE, March 12, 2005, at A1. See also Richard Bradley, HARVARD RULES: THE STRUGGLE FOR THE SOUL OF THE WORLD'S MOST POWERFUL UNIVERSITY (2005) (assessing Summers' presidency).

² Lawrence H. Summers, *Remarks at NBER Conference on Diversifying the Science & Engineering Workforce* (Jan. 14, 2005), transcript available at <http://www.president.harvard.edu/speeches/2005/nber.html>, at 1.

³ See Summers, *supra* note 2, at 7.

source of underrepresentation, he asserted, was what he called the high-powered job hypothesis.⁴ Because rising to a position of leadership in one's forties, according to Summers, requires a near-total commitment to one's work, and "a mind always working on the problems that are in the job, even when the job is not taking place," the consequence was that "a much higher fraction of married men have been historically prepared to make" a commitment at that level than have married women.⁵ He also asserted, although no evidence was marshaled, that those women who achieve high-ranking positions are disproportionately unmarried or without children.⁶

Summers insists that he is endeavoring "to think systematically and clinically about the reasons for underrepresentation."⁷ In fairness, he is explicit that he is not speaking normatively.⁸ Nonetheless, the words he selects carry powerful implications. He describes the spectrum of attitudes that one can hold toward high-powered work as simple matters of choice—"who *wants* to do high-powered intense work?"⁹ Phrasing the question as an issue of group-based desire suggests that the category "woman" is filled with people who have lesser affinity for demanding employment than do their male counterparts.

Desire may play some role, but how can one understand it without reference to culture and history? Desire may be an artifact of the environment's hydraulic pressures. For example, the construction and enforcement of the separate spheres ideology, virulent in the nineteenth century and persistent through the twentieth, which consigned women to unpaid labor in the home and men to wage-earning labor beyond its threshold,¹⁰ surely has had considerable impact on framing present experiences of desire.

Even in the face of disapproving cultural norms, however, many women were "historically prepared to make" high-level professional commitments only to find gateways to the professions sealed.¹¹ Some then made all-consuming

⁴ *Id.* at 1.

⁵ *Id.* at 2.

⁶ *Id.*

⁷ *Id.* at 1.

⁸ See Summers, *supra* note 2

⁹ *Id.* at 3 (emphasis added).

¹⁰ Joan Williams, UNBENDING GENDER: WHY FAMILY AND WORK CONFLICT AND WHAT TO DO ABOUT IT 23 (2000).

While the market economy reorganized work in ways that set the economic structure within which domesticity arose, the notion that men and women belonged in spheres that were separate but (in some sense) equal reflected the influence of Enlightenment ideals. . . . Domesticity not only bifurcated the work of adults into a women's sphere of the home and men's market work outside of it, it justified that reorganization through new descriptions of the "true natures" of men and women.

Id.

¹¹ See, e.g., *Bradwell v. Illinois*, 83 U.S. 130, 141 (1872) (upholding state's denial of license to practice law to a married woman because the female sex is "unfit[] . . . for many of the occupations of civil life" and the idea of a woman "adopting a distinct and independent career from that of her husband . . . is repugnant."). See also *In re Goodell*, 39 Wis. 232 (1875) (denying admission to the bar to a "lady

commitments to activism aimed at unsealing those gates for themselves and others.¹² With a boost from powerful economic and social forces, their heroic struggles were largely successful at dashing formal barriers to employment. Yet entrenched gender constructs, including cultural norms and arrangements that as yet assign caretaking work disproportionately to women, continue to constrain women's employment options.¹³

Words of choice and desire, acontextual and ahistorical, are far too glib when placed against this well-documented history and continuing context of gender-stratified notions of work. If the question instead were, "Why are men underrepresented in preschool teaching?" one might assert accurately that men do not typically seek such positions. To parallel Summers' next argument,¹⁴ one might even assert that men have less intrinsic aptitude than women for preschool teaching. Yet this would obviously be an impoverished understanding of the situation. Without any reference to the impact of generations of cultural enforcement of gender-appropriate work in shaping desires and honing abilities, we would know very little about men's underrepresentation in preschool teaching or how one so inclined might craft effective solutions to the problem.

II. THE INTRINSIC APTITUDE HYPOTHESIS

Summers' second hypothesis about the source of the underrepresentation of women in leadership roles in science and engineering entailed "different availability of aptitude at the high end"¹⁵ or "issues of intrinsic aptitude."¹⁶ Summers opined that his first and second hypotheses, when combined, explained most of the underrepresentation and that "socialization" and "discrimination," while present to some degree, were lesser factors.¹⁷ Although largely underdeveloped, his intrinsic aptitude hypothesis appears to be based on Summers' general sense that "empirical psychology,"¹⁸ which he later refers to as "behavioral genetics,"¹⁹ has moved toward explanations of innate differences in a variety of contexts and away from explanations based on socialization.

whose character raises no personal objection: something perhaps not always to be looked for in women who forsake the ways of their sex for the ways of ours.").

¹² See, e.g., HISTORY OF WOMEN'S SUFFRAGE, Vol. II, 1861-1876 (Elizabeth Cady Stanton, Susan B. Anthony & Matilda Joslyn Gage eds., Ayer Co. reprint ed. 1985) (1881-1922). See also Martha Craig Daughtrey, *Women and the Constitution: Where We Are at the End of the Century*, 75 N.Y.U. L. REV. 1, 5-6 (2000) (describing the work of the radical suffragist Alice Paul who organized women to chain themselves to the White House gates, to undertake hunger strikes in prison, and to continue to agitate for women's rights after the Nineteenth Amendment was passed in 1920).

¹³ See generally Williams, *supra* note 10. For an analysis of gender-based allocations of work on law school faculties, see Marjorie E. Kornhauser, *A Room of Their Own: An Empirical Study of Occupational Segregation by Gender Among Law Professors*, 73 UMKC L. REV. 293 (2005).

¹⁴ See *infra* notes 15-22 and accompanying text.

¹⁵ See Summers, *supra* note 2, at 1.

¹⁶ *Id.* at 5.

¹⁷ *Id.*

¹⁸ *Id.* at 4.

¹⁹ *Id.* at 7.

Summers' additional evidence took the form of anecdotes: 1) in Israel, the perceived need to abandon gender-neutral work assignments on a number of kibbutzes,²⁰ and 2) closer to home, his recollection that his own twin daughters, at age two-and-a-half, played with trucks by having the "daddy truck" carry the "baby truck."²¹ Summers indicated that such a familial experience tells us "something" that we "probably have to recognize."²²

What is that something that has to be recognized? Apparently, Summers finds some obvious meaning in the truck tale, a nugget that supports a belief in intrinsic gender difference of some sort. Because he relays this vignette in the context of defending his second hypothesis, he apparently finds support in it for gender differences in aptitudes, although it seems more pertinent to a theory of gender differences in choices. In other words, the story seems to hold greater relevance for his first hypothesis than his second. Perhaps this suggests that the two hypotheses bleed into one another, that Summers is suggesting innate gender differences are influential not only in differential aptitude but also in differential choice, whether in childhood play or in adult work.

Of course, the intrinsic differences hypothesis is not an inevitable or transparent interpretation of the story of the Summers twins' play. Other plausible interpretations present themselves as well. For example, even girls playing with trucks in a household otherwise imbued with conventional gender roles may be revealing how early in their lives young people can absorb the gender roles that are predominating in their environment, as gender roles are displayed and communicated to them in innumerable ways, both subtle and explicit, throughout their childhoods. A parent who perceives innate differences between men and women will likely act in accordance with that belief and raise children who, at least in the formative years before they develop a sufficiently sophisticated conceptual apparatus to forge another path, will experience the world and their place in it through a similar lens.

Moreover, the gender lessons conveyed by the truck play in the Summers' home have some inherent complexity. In one sense, the anecdote reveals conventional gender inclinations because the Summers girls are playing with trucks as if they were dolls. Yet in another sense, the anecdote challenges conventional gender roles. Why is it the "daddy truck" that is carrying—presumably in a caretaking way—the "baby truck?" In the traditional nuclear family of the professional classes, where men and not women work the eighty hours a week that Summers suggests their high-powered jobs require,²³ young girls at play might be

²⁰ See Summers, *supra* note 2, at 3-4.

²¹ *Id.* at 4.

²² *Id.*

²³ *Id.* at 2.

expected to depict a mother, rather than a father, caring for a baby. But Summers seems to ignore the aspect of the story that defies gender expectations, noticing only the aspect that matches gender expectations. Viewed more fully, the story does not speak clearly about the power of intrinsic gender differences.

No one as yet has effectively disentangled the influence of genes from the influence of environment in the development of the human personality. Even Summers cannot distinguish inherited characteristics from those that are acquired. With respect to gender roles, we can find more variability within genders than between them, supporting the likelihood that gender would be a less binary concept if the culture were less invested in gender dichotomy.²⁴ At our present level of knowledge, Summers' claim that genetics supersedes socialization as an explanation of gendered traits does not rest on a solid foundation.

III. SOURCES OF THE HYPOTHESES

Summers devoted most of his remaining comments at the January conference to listing and describing how much hard data we still need on many issues relating to diversity in the workplace. For example, he wants data on the quality of "marginal hires" in academia, on the effectiveness of various university search procedures, on the real costs of career interruptions in different fields, and on other matters as well.²⁵ He describes these as questions for which data collection can provide answers.²⁶ Yet despite his penchant for framing questions and bringing quantitative information to bear in answering them—habits of mind presumably cultivated in his years as an economist—he abandons his preferred intellectual method when he formulates his views on intrinsic gender-based differences.

Why does someone of prodigious intellectual stature who prescribes thinking about diversity issues "in as rigorous and careful ways as we can"²⁷ offer such porous reasoning about gender? Why does someone who states that diversity issues are "too important to sentimentalize"²⁸ offer little more than his sentiments on the matter? On one level, it is startling that Summers considers his conjectures about gender differences to be sound enough to voice them at a conference on diversity. It is stunning that he has sufficient confidence in his overall gender schema to rank gender differences in career choices and intrinsic aptitude over socialization and discrimination as explanations for the dearth of women in the upper echelons of the science and engineering fields.

²⁴ See, e.g., Anne Fausto-Sterling, *The Five Sexes: Why Male and Female Are Not Enough*, THE SCIENCES, Mar.-Apr. 1993, at 20.

²⁵ Summers, *supra* note 2, at 5-6.

²⁶ *Id.*

²⁷ *Id.* at 7.

²⁸ *Id.*

Yet on another level, while deeply disappointing, these views do not foster genuine surprise. Beliefs in intrinsic differences in choices and abilities between men and women have an exceptionally long pedigree.²⁹ Consequently, they have considerable cultural power. Intellectual ability is not in itself an antidote to the ideologies that grip a culture.

While these general observations may aid us in understanding Summers' remarks, specific circumstances of his presidency may play a role as well. Prior to the January conference on diversity, Summers suffered sharp criticism for the steep decline in tenured faculty positions extended to women during his presidency.³⁰ Against this background, his two hypotheses may have been supplied as a helpful external rationale for Harvard's failure to make more such offers.

Summers indicates he would prefer that the "unfortunate truth"³¹ of gender differences were proven wrong, for then underrepresentation problems for women would be "addressable simply by everybody understanding what they are, and working very hard to address them."³² To the contrary, if the gender disparity problem remains intransigent despite valiant efforts—that is, if few women want tenured offers from Harvard and even fewer have the requisite aptitude—then Summers did not deserve to be blamed for this state of affairs. For facing down his critics, Summers' revelation of the "unfortunate truth" is fortunate indeed.

Perhaps, then, Summers' conference commentary is another example of the not uncommon—though likely unconscious—dynamic through which our needs shape our beliefs about where truth lies. Those ideas that we embrace as true may well be those that best serve our interests. Is there a better way to understand an ideology such as, for example, white supremacy? Is this not the basis upon which the genocide of American Indians and the enslavement of people of African descent were justified? These examples are offered not to compare the magnitude of the harms to the problem of discrimination against women, but to dramatically illustrate that contemporaneous psychological processes can be robust enough to lend a cast of defensibility even to views and behaviors that appear to be utterly indefensible in hindsight. The psychological root of these views is self-interest, for these are the ideas that we need to believe in order to defend our actions to ourselves and to others.

²⁹ See *supra* notes 10, 11. See also Katherine T. Bartlett, Angela P. Harris, & Deborah L. Rhode, GENDER AND LAW: THEORY, DOCTRINE, COMMENTARY 16 (3d ed. 2002) ("Certainly there is support for the notion that women have long been considered inferior to men in the Western European tradition.").

³⁰ See *supra* note 1.

³¹ Summers, *supra* note 2, at 3.

³² *Id.* at 5.

IV. COSTS OF THE HYPOTHESES

The preceding perspectives may help explain why particular passages of Summers' remarks were so incendiary. Strong feelings are loosed when ill-supported positions on sensitive issues of equality are lent credence, somewhat casually, by a pre-eminent intellectual leader of a world-renowned university and rendered as "truths," however "unfortunate." To my mind, however, the combustible quality of Summers' remarks lies in the stakes of the discussion. The belief system that Summers revealed, though admittedly unproven,³³ has profound material consequences for women's lives.

The costs for women flow from the connection between beliefs and behavior. Indeed, the belief system that Summers articulated is the cultural soil in which discriminatory environments thrive.³⁴ While Summers relegates discrimination to a position beneath career choice and intrinsic aptitude as the explanation for women's limited leadership roles in academia,³⁵ he seems not to have apprehended the connection between his gender schema and gender discrimination itself.

This is not to doubt the sincerity in Summers' acknowledgment that discrimination, where it exists, is a problem that efforts should be made to eradicate.³⁶ Rather, it is a statement about the need to attend closely to the conditions under which discrimination flourishes. Believing that women do not desire demanding careers and have less innate ability in certain fields can serve as the rationalization and the justification that creates and sustains discriminatory conduct and thereby limits the prospect for women's opportunity, self-sufficiency, fulfillment, and well-being.

If women disproportionately reject demanding careers, isn't a female applicant for such a position rendered suspect? Isn't hiring her a risky proposition? Will it not be particularly difficult for her to make the level of commitment deemed necessary for succeeding? Isn't she likely to be unhappy in such a position, have difficulty with the balance of responsibilities in her life, or leave the position in the not-too-distant future? In the long run, would it not be safer to hire a male applicant for the job? Even if he appears less qualified, would it not be wiser to play the odds, since he will be more likely to make the necessary intensity of commitment to the job, enabled in many instances by the labor of his wife who manages his household and performs all the support tasks he needs to behave so devotedly to his work?

If women as a group have less intrinsic aptitude for certain positions, does it not make sense to give a woman's credentials extra scrutiny? Perhaps her resume

³³ *Id.* at 7.

³⁴ See, e.g., Linda Hamilton Krieger, *The Content of Our Categories*, 47 STAN. L. REV. 1161 (1995) (arguing that insidious discrimination often occurs at an unconscious level rather than an intentional level, although law fails to address this adequately).

³⁵ See *supra* note 17 and accompanying text.

³⁶ See Summers, *supra* note 2, at 4.

is inflated, as she may have been advanced in the past in an unmerited fashion to achieve greater gender balance. Before we promote her, should we not devote extra attention to ascertaining that she has the level of aptitude that is more common in men? In evaluating her accomplishments, we should insist on being especially careful that she has provided us enough proof to overcome the presumptions against her.

Aren't these questions and concerns the offspring of the Summers' hypotheses? The problem is that they constitute the cognitive core of discriminatory conduct in employment.

V. CONCLUSION

Summers spoke his mind in an effort to talk plainly about the problem of women's underrepresentation in particular fields. Ironically, what was in his mind was the conceptual basis for the discrimination that Harvard's president stated he sought to minimize. In other words, in an effort to offer the benefit of his views to a conference focused on enhancing inclusion, he unknowingly revealed the attitudinal mechanisms of exclusion.

In my view, this is a compelling illustration of the insidious power of culturally entrenched notions of gender. Without realizing it, our minds are covertly invaded by culture. This is what it means to be acculturated or socialized, and it is difficult to gain a conscious purchase on the implicit mental constructs into which we are socialized. Despite Summers' express disavowal of the primacy of socialization in his own set of explanations, it looms large in my own understanding of both the problem of diversity and of Summers' approach to that problem as well.

Near the close of his remarks to the Conference on Diversifying the Science and Engineering Workforce, Summers observed that he might be wrong about the matters of gender and work upon which he was propounding, but declared that he had served his purpose if he had provoked thought on these questions. Given the backlash that his comments engendered,³⁷ he may well have begun to revise his thinking on such matters already.³⁸ As that process continues, these symposium contributions will provide grist for the revisionist mill. And as the richness of the symposium reveals, Summers' stated purpose has already been served.

³⁷ On March 15, 2005, the Harvard Faculty of Arts and Sciences passed a vote of no confidence in Summers' presidency by a considerable margin. The vote followed two months of "bitter campus debate" that was "touched off" by Summers' comments at the January conference. See Marcella Bombardieri & David Abel, *Summers Gets Vote of No Confidence*, THE BOSTON GLOBE, Mar. 16, 2005, at A1.

³⁸ See Marcella Bombardieri, *Summers Displays New Understandings of Women's Careers*, THE BOSTON GLOBE, Apr. 8, 2005, at B3.