



Lisa S. Blatt in her natural habitat. She has argued 30 cases before the nation's highest court.

seizure, Justice Breyer asked the government's lawyer whether his argument implied "that the Constitution would permit, in your view, the Taj Mahal, for example, to be forfeited if it was once used to sell a teaspoonful of marijuana." Blatt says she half-expected the lawyer to respond, "Justice Breyer, are you crazy?" But he didn't take the bait, and instead outlined under what circumstances that would indeed be the case.

Nevertheless, there are times you should *not* carry your argument to its logical conclusion: "Whatever you do, don't say, 'The government can ban books.'" This is essentially the mistake government lawyers made during the 2008 oral argument concerning corporate campaign expenditures in *Citizens United v. Federal Election Commis-*

sion. The justices wondered whether the government's logic in defending limits on corporations' spending in political campaigns could lead public libraries to ban a 500-page biography published by a corporation that ended with the sentence, "So vote for person X." The lawyer's answer was yes, and the government subsequently lost the case 5-4. In such instances, Blatt recommends either "tossing logic and consistency entirely out the window" or rethinking your argument altogether.

Blatt also makes some clear-eyed observations about the Court's role in American law. "Constitutional change is inevitable," she says. Judges often espouse restraint, but the truth is that Supreme Court cases are a zero-sum game: Each decision expands the

rights of either individuals or the government. When it comes to which cases the Court hears, "coordinated and strategic movements" and amicus curiae briefs (those submitted by interested parties) have gained influence in recent years.

Each year, only one percent of petitions filed are heard by the Court, about 70 in all. With so few cases heard, it's a rare privilege to stand in front of the Court's burgundy curtain—rarer yet if you're a woman. "The courtroom is a battlefield," Blatt says. Prepare to fight.

POLITICS & GOVERNMENT

Where Are the Female Politicians?

THE SOURCE: "Gendered Perceptions and Political Candidacies: A Central Barrier to Women's Equality in Electoral Politics" by Richard L. Fox and Jennifer L. Lawless, in *American Journal of Political Science*, Jan. 2011.

IT WASN'T VERY LONG AGO THAT almost no women were elected to major political offices. In the 1970s there were two female governors, and it was only in 1978 that the first woman whose husband had never served in Congress was elected to the Senate for a full term. Today, many more women hold elected office—there are 17 female senators—but the gains have slowed since 2000.

Scholars offer several explanations: overt discrimination, "situational" factors (e.g., not enough women in the feeder fields of law and business), structural barriers (e.g., the large number of incum-

bent male office-holders), and socialization (the persistence of traditional gender roles that deter women from entering the fray).

Academic research suggests that overt discrimination is no longer a potent factor. Situational explanations have lost some of their power since women have increased their presence in law and business. And the enactment of legislative term limits in 21 states without subsequent large gains by women has put into doubt the role played by the male incumbency advantage. Situational factors and structural barriers surely play some part, but they cannot account for the size of the gap. That leaves just one candidate: socialization.

Now, two political scientists, Richard L. Fox of Loyola Marymount University and Jennifer L.

Lawless of American University, have found, simply, that it is “difficult for women to embrace themselves as politicians.” In a survey of high-level professionals working in law, business, education, and political activism—fields likely to contain people who might run for office—they find that 80 percent of the men believe they are either “qualified” or “very qualified” to hold elected office. Less than two-thirds of the women regard themselves so highly.

Women are also twice as likely as men to say they are “not at all qualified” for the job. (Nine percent do so.) This is particularly striking because women are also more likely to aspire to local, rather than national, offices—positions usually requiring fewer credentials.

Women’s perceptions of the

political arena are another deterrent. Just 52 percent say they have a thick enough skin to endure a campaign.

A similar strain of self-doubt appears in studies of women beyond the realm of politics, beginning when they are quite young. Adolescent females, for example, think less highly of their mathematical abilities, despite no objective indicators that males are actually more able. And while females get better test scores in language arts, their self-assessment of their abilities is no higher than males’.

It will likely be a long time before women come close to holding an equitable share of the elected offices in this country. What they have to overcome next, say Fox and Lawless, is a socialization process that breeds self-doubt.

SOCIETY

Diversity Dismantled

THE SOURCE: “Affirmative Inaction” by William M. Chace, in *The American Scholar*, Winter 2011.

AMERICAN COLLEGES AND UNIVERSITIES have long been governed by two competing ideals: They aim to be both meritocratic centers of intellectual excellence and “model commonwealths” that bring together individuals of diverse backgrounds.

The “model commonwealth” ideal has taken a big hit over the

years as one of its principal tools, affirmative action, has fallen out of favor with the courts and the public, writes William M. Chace, a former president of Wesleyan University and Emory University. In 2003, the U.S. Supreme Court upheld the place of diversity in higher education in *Grutter v. Bollinger et al.*, ruling that race and ethnicity could continue to serve as criteria in admissions. But that same year, in *Gratz et al. v. Bollinger et al.*, the Court said that racial and ethnic

considerations could be made only if they were “narrowly tailored”—that is, if they were just two of many traits the institution considered in holistically evaluating candidates. No longer could institutions automatically increase the rankings of minority applicants.

Such holistic scrutiny is too expensive for public universities, with their tens of thousands of hopefuls. Many states, meanwhile, have banned affirmative action through ballot initiatives and by other means. In California, a 1996 state ban cut black enrollment in the freshman class of the elite University of California, Berkeley, from 258 to 140 in less than a decade. Nationwide, only about