Lucinda M. Finley is a graduate of Barnard College, where she majored in political science. After completing her undergraduate work, Ms. Finley attended Columbia Law School and graduated with honors in 1980. Upon completion of her J.D. degree, Ms. Finley clerked for Judge Arlin Adams on the U.S. Court of Appeals for the Third Circuit. She also practiced law with the Washington D.C. law firm of Shea and Gardner. Prior to joining the University at Buffalo law faculty, Ms. Finley taught at Yale Law School, University of Sydney Law School, and Cornell Law School. In 2000, Ms. Finley was named as one of the ten most outstanding women in law in western New York by the women judges committee of the Eighth Judicial District and the Women’s Bar Association of Western New York. In addition to her work as a litigator, Ms. Finley is an internationally known scholar. She has published many major articles and book chapters on tort law, gender discrimination, and abortion rights. She is also the co-author, with D. Vetri, L. Levine, and J. Vogel, of Tort Law and Practice, which is currently in its third edition. Currently, Ms. Finley serves as the Vice Provost for Faculty Affairs and the Frank Raichle Professor of Law at the University at Buffalo.

Ms. Finley’s research and teaching areas include tort law, women and the law, reproductive rights, employment discrimination, and first amendment and equal protection law. Ms. Finley recalls that “it was a combination of things” which led to her participation in the feminist project. The first of these things was Ms. Finley’s family. She recalls that “my mother was a physician and had a very successful and public career, which was unusual for the time.
My father, a lawyer, was supportive of my mother and my family frequently moved to accommodate my mother’s career. My father took grief for it—which made me realize that it was not the norm.” Indeed, it is Ms. Finley’s conception of “the pervasiveness of the male norm” that she says is the philosophical undergirding of all of her work.

The second factor which inspired Ms. Finley’s interest in women’s rights occurred with a summer job that her father acquired for her. Over the summer as an undergraduate student, Ms. Finley worked for a law firm specializing in employment discrimination. It was during this job that Ms. Finley realized the necessity of “adequate enforcement of employment discrimination laws.” Combating employment discrimination has remained a central interest for Ms. Finley. In fact, in 1991, Ms. Finley and her father became the first father-daughter team to argue a case before the Supreme Court, an experience which she describes with laughter as “a really fun experience.” The case involved tax law and employment discrimination in which a group of women had recovered wages that had originally been denied to them because they were women. Following the recovery of their wages, these women were being taxed, although the tax code said that “damages received for personal injury” were not taxable income. While Ms. Finley and her father successfully argued that discrimination was a “personal injury”, the Supreme Court nonetheless ruled that the women had to pay the income tax.

Five years later, in 1996, Ms. Finley returned to the Supreme Court as the first female lawyer from western New York to argue solely before the Supreme Court. In this case, Schneck vs. Pro-Choice Networks, Ms. Finley defended women’s reproductive rights. The case dealt with the first Amendment right of protestors to free speech versus the rights of women to access health centers. Ms. Finley recalls that the case was “high interest and high pressure, and that the
outcome had a high impact”, as it would impact health centers around the country. Ms. Finley successfully argued her case, resulting in protest clear zones in front of women’s health clinics.

Ms. Finley’s interest in reproductive rights also led her to write an article entitled “Transcending Equality Theory: A Way Out of the Maternity and the Workplace Debate.” I asked her if she would discuss this article and elaborate her conclusion that we need to move beyond the equal protection/special protection debate regarding pregnancy. Ms. Finley responded that

I wrote that paper in response to the Family and Medical Leave Act, which had just then been proposed. There were many from a feminist vantage who were opposed to this Act and I thought this was shocking. The concern was that leave should be given not just to women (which it isn’t). This was partly due to a California law which gave pregnancy leave to women only. I felt as though the equal treatment/special treatment debate had people stuck in the fight—there was no progress because it treats the male as the norm; that is, women are compared to men. This is not the best way to view the problem. Instead, I argue that it needs to be reframed as “What do human beings need? What is compatible for everyone? What do families need?” In this frame, if women need extra time off to recover from the physical process of childbirth, they can have it, and it isn’t discriminating against men. If men need time off to be fathers, they can have it. This model meets the particular needs of workers.

The model of the male as normative does not just affect women in terms of compensation for employment and reproductive rights, however; it also affects the way that laws are shaped. One of Ms. Finley’s most respected areas of research is in the area of tort law. She is the co-author of a leading Torts casebook, Tort Law and Practice. Ms. Finley’s research into how the male serves as the normative has led her to look at “tort law from a feminist perspective.” This has involved her asking

To what extent are they [laws] not objective? To what extent are the laws framed to male needs? I found that, although there were not intentional biases, the laws didn’t fit women’s needs as well as men’s. This is especially true with tort law and what constitutes damage. For example, reproductive damages that allow women to still go to work (such as taking a pill which results in infertility) became classed as emotional harm instead of physical harm. Physical harm is then valued as more real or serious, which leads to a cap or limit on the amount of damages women can receive for emotional harm.
In addition to being actively involved in current women’s rights issues, Ms. Finley has also participated in projects linking past women’s rights issues or equality and human rights issues with present concerns. In 1998, Ms. Finley was selected to participate in a group of chosen women scholars at an event at Seneca Falls commemorating the 150th anniversary of the Declaration of Sentiments. The task for this group of scholars was to analyze the original Declaration of Sentiments and “come up with a Declaration of Sentiments for the next 150 years”. Ms. Finley recounts that “it was her first time visiting Seneca Falls” and that “I was impressed by the writings of Elizabeth Cady Stanton and other nineteenth-century feminists. They were sophisticated in their thinking about human rights and in identifying the problems that women face. It struck all of us that so many of the issues and problems that they identified are still issues and problems that we identify and that have contemporary relevance.”

One such issue is that of domestic violence. Elizabeth Cady Stanton and other nineteenth-century feminists argued that the government has an obligation to protect women from violence. In 2000, the Supreme Court struck down a provision in the Violence Against Women Act that permitted lawsuits against government actors for failing to protect women from violence, claiming that this piece of the Violence Against Women Act was beyond the power of the government. Ms. Finley explains

The Supreme Court decision in the Morrison case struck down part of the Federal Violence Against Women Act as beyond the power of the government. Judge Scalia believes that the Constitution should be interpreted according to the intent of the framers. Obviously the women were not a part of the writing of the Constitution, so I needed to go back to the Fourteenth Amendment and ask “What was the original intent of the framers of that amendment?” I found that Elizabeth Cady Stanton and other women’s conceptions were the same as the men; the men were concerned that the state was ignoring violence against blacks and that the government failing to act affirmatively to protect people from racially or gender motivated violence was wrong.

The Fourteenth Amendment, therefore, interpreted according to its original intent, was drafted to affirm not just the power, but also the obligation of the government to protect citizens from
violence. Stanton and other nineteenth-century feminists who argued for the government to protect women from domestic violence argue similarly to feminists today, and in line with the original intent of the writers of the Fourteenth Amendment.

Each of the different components of Ms. Finley’s work is connected by the belief that “the male norm holds women back”. Through litigating, researching, teaching, and writing in the areas of employment discrimination, reproductive rights, tort law, and equal protection, Ms. Finley actively fights to replace the male normative with a gender inclusive view of humanity, and to bring justice to women who have suffered the results of living within a patriarchal society.