Gender, Legal Education and Legal Careers

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Gender, Legal Education, and Legal Careers
Lee E. Teitelbaum, Antoinette Sedillo López, and Jeffrey Jenkins

Much of the literature on the careers of women generally—as well as the smaller literature on the experiences of women in legal education and legal practice—supposes that women will follow different paths and have different experiences than men, and that this is and will be true because they are women. Some commentators on the relation between gender and the experience of legal professionals believe that women have distinctive modes of cognition or value orientations that shape their experience in the workplace, while others believe that social and cultural assumptions (held not only by employers but often by women themselves) are the main influence. This article reports the results of an empirical investigation of these common assumptions.

I. Common Assumptions About Gender Difference

Many inquiries into gender difference focus on the ways in which men and women see the world and seek to resolve problems. Men are said to view the world from the perspective of individual rights; they understand dispute as competition among various claims of right and see dispute resolution in terms of achieving a hierarchical order of claims. For women, the world is a network of personal relationships; they are concerned with preserving these relationships in times of distress or dispute and emphasize nurturing or responding to the needs of others.

Upon reviewing the literature, one is puzzled. Just how pervasive is women's tendency to value concern for and intimate association with others? Whether such values are absent among men is unclear. It is also unclear whether men characteristically reason by setting up either/or...
propositions—or, more polemically, false dichotomies.\(^1\) Certainly, the male/female opposition on which this view depends is no less suspect than other examples of dualistic thinking. The usual solution to the dilemma is to deny the existence of a true dichotomy and to propose a continuum along which men and women may be variously distributed. This careful qualification is often abandoned, however, in subsequent discussion,\(^2\) leaving the implication that, with relatively few exceptions, men tend to reason in a hierarchical mode, valuing rights rather than relationships.

The extent to which women reason in a distinctive voice is also not plain. A considerable body of evidence suggests that women in fact perform as well as men, even within a male-generated paradigm of moral reasoning.\(^3\) Of course, it could still be true—and, if so, it is important—that women prefer (or are more likely to prefer) a more empathic and compassionate approach to moral problems, even though they can employ the hierarchical male view with facility at least equal to the male population.\(^4\)

Among the writers on gender difference, there are varying views on the nature, origins, and distribution of differences between men and women. Carol Gilligan seems to leave open whether difference is explained by social construction or biology,\(^5\) and even her critics acknowledge that social conditions may account for gender difference. Modern social history, sociology, and psychology routinely emphasize the assignment of roles by gender. Our society differentiates between activities that are thought to be appropriate for men and those considered suitable for women, assigning men to the public arena, women to the "domestic" sphere.\(^6\) For men, it is generally assumed that economic activities will provide the basis for social relations. Their principal social roles, status, and opportunities are defined by their employment outside the home, and their expected contributions within the home are similarly framed in economic terms, while traditionally women are expected to carry out their roles within the home, providing

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2. For a self-conscious realization of this problem, see Menkel-Meadow, supra note 1, at 62.
3. Catherine G. Greeno & Eleanor E. Maccoby, How Different Is the "Different Voice"? 11 Signs 310 (1986). See also Zella Luria, A Methodological Critique, 11 Signs 316 (1986) (when social class is accurately controlled, women may come out slightly ahead on the Kohlberg measure of moral reasoning to which Gilligan's argument was initially addressed).
4. See Greeno & Maccoby, supra note 3, at 312.
5. Carol Gilligan, In a Different Voice: Psychological Theory and Women's Development 2 (Cambridge, Mass., 1982). Gilligan reiterates that it is unclear whether differences are explainable by social construct or biology in Reply, 11 Signs 324, 327 (1986), but also states that the care perspective is not biologically determined. For a review and critique of Gilligan's theory, see On In a Different Voice: An Interdisciplinary Forum, 11 Signs 304-33 (1986).
nonmaterial forms of support to the family.\textsuperscript{7} Sociological analysis distinguishes between the instrumental (male) function and the expressive (female) function within the modern family.\textsuperscript{8}

These conventional role assignments may embody the perceptions of both employers and women in various ways. Because the American family institution is thought to demand total allegiance of women, employers often doubt that women will want to occupy positions that also require a near-total commitment. In the professions, employers (like families) tend to be "greedy" in terms of the commitment they demand.\textsuperscript{9} Members of service professions are expected always to be available to clients for any needs. The prestige occupations also demand a commitment to the profession itself and to the employee's colleagues. Coworkers are expected to become the professional's primary reference group, to which his or her loyalty will be directed.\textsuperscript{10}

One study of women in medicine suggests that medical school officials believe that women applicants "may tend to have a career but will be overwhelmed by a stronger desire to get married and have children. Once they become married and mothers, they will lose interest in a career. If women are considered attractive, it is assumed that marriage will win over career."\textsuperscript{11} This assumption may be more than a stereotype—that is, a normative element may be at work as well. The deep commitment required of professionals cannot, it is said, coexist with the commitment that women are expected to give to their families; thus, a woman who gives priority to a professional career is felt to reject a culturally valued preference.\textsuperscript{12} One

\textsuperscript{7} Women who are homemakers spend about eight hours a day in family tasks. See Joseph H. Pleck, The Work-Family Role System, in Rachel Kahn-Hut, Arlene Kaplan Daniels & Richard Colvard, Women and Work: Problems and Perspectives 101, 102 (New York, 1982) (hereinafter Women and Work). Their responsibilities emphasize commitment to childrearing and support of the husband, to whom they offer, through their domestic activities and care, a "refuge" from the stress of occupational or public life. See Lee E. Teitelbaum, Family History and Family Law, 1985 Wis. L. Rev. 1135, 1140–44; Philippe Aries, The Family and the City in the Old World and the New, in Changing Images of the Family, ed. Virginia Tufte & Barbara Myerhoff, 29 (New Haven, 1979); John Demos, Images of the American Family, Then and Now, in Changing Images of the Family, supra, at \textsuperscript{7} note 10, at 43.


\textsuperscript{10} See Coser & Rokoff, supra note 9, at 47. Corporate organizations are also "greedy"; however, employees in management positions owe their loyalty to organizational goals rather than to their coworkers. See Rosabeth Kanter, The Impact of Hierarchical Structures on the Work Behavior of Women and Men, in Women and Work, supra note 7, at 234.

\textsuperscript{11} Patricia Gerald Bourne & Norma Juliet Wikler, Commitment and the Cultural Mandate: Women and Medicine, in Women and Work, supra note 7, at 111, 115.

\textsuperscript{12} See id. at 235; Coser & Rokoff, supra note 9, at 42.
cannot have equal time commitments to two "families," and society prefers that women choose the domestic sphere.

Employers may also believe that the time women devote to family responsibilities is not the only difference in women's and men's work orientations. The "different voice" theory suggests that women will be more concerned about their relationships with other people than with such conventional measures of success as efficiency, official recognition, or financial rewards. Some observers believe that women's concern with the quality of relationships affects their behavior and performance and that they tend to be more "accommodating" than men, who are described as more "exploitative" and "success-oriented." These findings have been challenged on a variety of grounds; indeed, a considerable body of research suggests that there are few if any differences in how—and how much—men and women use power in competitive settings. Nonetheless, the "different voice" theory may lend continuing vitality to such assumptions about gender difference.

Male guardians of professional opportunity are not the only ones to assume that men and women will perform differently. Women themselves (as products of the same culture as the male guardians) are said to experience conflict and anxiety about occupying multiple "greedy" roles. To the extent that women accept the normative expectations associated with family life, they may feel that they must moderate their professional roles in order to meet at least unexpected domestic claims (such as the illness of a child). Although men can partition their various roles and resolve doubts in favor of employment, women may feel they cannot do so. In consequence, women who have or expect to have a family may feel less free to choose work that requires an intense commitment.

II. Gender Difference, Law School, and Law Practice

Law, legal education, and law practice in the United States are often seen as a paradigmatic expression of "male" norms and reasoning. Some

13. See Kanter, supra note 10, at 235. For studies supporting this interpretation, see id. at 239.
14. See id.
16. See Bourne & Wikler, supra note 11, at 116:

The knowledge that they will have to play the roles of doctor, wife and mother, and social worker, while their male counterparts have only the role of doctor, was very much on the minds of women medical students in the interviews. Those who are already married find that the double demands on their time create friction with their mates. Those who contemplate marriage and children know that it will be a difficult logistical task; they fear that professional involvement means that they will not be able to provide a professional husband with the support system that he will need to do his work well.

Another common concern is the apparently high divorce rate among students in professional schools, including law school.
17. See Coser & Rokoff, supra note 9, at 45.
18. See, e.g., Bourne & Wikler, supra note 11.
feminists have criticized law schools as male creations19 that, even with increased admission of women, are still dominated by males and hierarchical principles. The teaching style, particularly the Socratic method, emphasizes the power of the faculty member and the vulnerability of the students.20 In the classroom, verbally and intellectually aggressive behavior is rewarded and perhaps insisted on, rather than mutual support and respect for the views of the entire class.21 The pedagogical approach demands abstract analysis of legal problems and emphasizes generalizations rather than discussion of individual experience within its specific contexts.22 A student's success is measured largely or solely by high grades and the various law school positions (law review, research assistantships) associated with academic success. No account is taken in this "merit system" of the personal circumstances of students: their age, family responsibilities, even their culture. All participants are treated as if they had the same priorities, values, and experiences.

Law school, critics argue, mirrors the legal system, which focuses on the position of a hypothetical, featureless individual whose situation is measured only by a narrow range of circumstances. Indeed, a central feature of modern legal theory is its decontextualization of legal relations by separating legal norms from other social structures.23 Legal relations thus depend on the abstract personhood of a legal actor and not on his or her social position or, most particularly, family status.

Finally, the practice of law is often criticized for emphasizing material success and for according status only to certain kinds of practice and certain firms.24 The successful lawyer is not one who does the most social good, but the attorney who works for the highest paying firm. The most prestigious firms represent the wealthy and powerful in society, and principally regarding issues related to their wealth and power. The firms and law schools share the same structure; thus, the firms are primarily interested in the professional performance of their members. A successful associate must

19. E.g., Catherine Weiss & Louise Melling, The Legal Education of Twenty Women, 40 Stan. L. Rev. 1299, 1300 (1988) (the women who were subjects of the report "were alienated because we were women and therefore outsiders—women had not made law or law schools"). See also Duncan Kennedy, Legal Education As Training for Hierarchy, in The Politics of Law ed. David Kairys, 40, 56–57 (New York, 1982).
20. See Menkel-Meadow, supra note 1, at 67:

[T]he law school form of Socratic dialogue occurs in so large a group that little reciprocity, genuine conversation, or exploration is possible. Students are often glad that someone else is "on the hook," and, while "out there," each student feels alone, unsupported, alienated, fearful, and grows increasingly apathetic. Thus, the metamessages of such classes are that teachers know it all, that students must guess at what is temporarily "right," and that learning is highly individualized . . . .

See also Kennedy, supra note 19, at 42.
21. E.g., Menkel-Meadow, supra note 1, at 67; Weiss & Melling, supra note 19 (passim).
22. See, e.g., Menkel-Meadow, supra note 1, at 80.
24. Menkel-Meadow, supra note 1, at 61.
bill a certain number of hours; the more hours billed, the greater the success. This system, like the law practiced, takes little account of illness or of other responsibilities. If other responsibilities are valued, it is only because they can be recategorized as “professional duties.” Certain kinds of civic activities qualify if they offer connections or opportunities that will extend the client list or enhance the reputation of the firm; domestic responsibilities, however, are considered irrelevant to professional life. These general assumptions about legal education and law practice are often translated into hypotheses about the experience of women in law school and practice. The sections that follow discuss some of these hypotheses.

A. Reasons for Attending Law School

Women, it is believed, are more likely to choose a legal career in order to contribute to the “social good” or to be helpful to people in need, while men are more apt to be motivated by egoistic concerns such as personal financial success and the utility of a legal background to further political and business careers. Empirical studies do offer some support for the notion that women have different reasons than men for entering law school. A survey of Stanford Law School students and graduates found that, among the graduates, more women than men mentioned service to society as a strong motivation for enrolling in law school. For currently enrolled students, however, no significant difference in motivation was found. Indeed, only two items showed gender differences in motivation among currently enrolled students: males were more likely to report that an interest in politics and a desire to make money were reasons for going to law school. The data are difficult to interpret: Perhaps the graduates in the study had special values that led them to the then relatively unusual step of going to law school. Alternatively, the attitudes of women or of men who have chosen to attend law school may have changed over the years.

B. Experiences in Law School

Women are also assumed to have different experiences than males while in law school. Indeed, the “different voice” theory might suggest that


27. Id. at 1238.

28. Id.

29. There is a third possibility: graduates’ recollections, often many years later, of their reasons for going to law school do not necessarily represent their original motivations accurately. Indeed, there is a fourth, rather more subtle, interpretation that questions the apparent similarity of declared reasons for attending law school among current students. Menkel-Meadow suggests that there may be differences that are not recorded by survey instruments and that “it is far too early to assert that because women appear to be specifying reasons similar to men’s reasons for entering the legal profession there are no significant differences in their reasons.” Menkel-Meadow, Review Essay, supra note 25, at 195. This argument assumes that men and women use the same words but intend different meanings.
Gender Study

women will find the method of teaching and reasoning less accessible and congenial and will have greater difficulty in law study than men. This hypothesis is unsupported by research or experience. Rather, feminists have maintained that women are distinctively dissatisfied with the characteristics and structure of legal education. They are, it is said, less inclined than men to value or engage in verbally aggressive behavior and, therefore, to participate in the kind of discussion that characterizes “traditional” law school classes.

The reasons given for women’s silence and for their supposed dissatisfaction with law school vary. One explanation is that traditional law school teaching implicitly values individualism and hierarchy at the cost of values such as community and caring typically held by women students. A related explanation is that course materials are largely comprised of narrowly abstracted appellate opinions, which are then analyzed through hypothetical questions that “decontextualize” problems. The traditional approach is said to frustrate and alienate women because it insists on the hierarchy of legal principles and proceeds as if only formally recognized analytical categories are relevant.

Another school of thought attributes the presumed disaffection of women law students—particularly their silence—to the status ascribed to them by teachers, other students, and perhaps by women students themselves. If law school rewards only certain forms of reasoning and particular perspectives, and if, as proponents of the “different voice” theory suggest, women are less likely to prefer these forms of reasoning or share these perspectives, all participants may tend to devalue the contributions of women to classroom discussion. Women receive the message from teachers and students that, to the extent they deviate from the “male” norm, their

30. E.g., Weiss & Melling, supra note 19, at 1299 (discussing “the four faces of alienation [of women students]: from ourselves, from the law school community, from the classroom, and from the content of legal education”); Taunya Lovell Banks, Gender Bias in the Classroom, 38 J. Legal Educ. 137, 138 (1988) (“Anecdotal evidence suggests that many women still perceive the law school environment as hostile to women”); Menkel-Meadow, supra note 1, at 77–82.

31. E.g., Banks, supra note 30 (self-reported study of men and women law students); Elizabeth M. Schneider, Task Force Reports on Women in the Courts: The Challenge for Legal Education, 38 J. Legal Educ. 87, 92 (1988) (women students in Women and the Law course report that this is the first class in which they have spoken); Weiss & Melling, supra note 19, at 1300 (women’s group established “for women who felt silenced in the classroom”); Stephanie M. Wildman, The Question of Silence: Techniques to Ensure Full Class Participation, 38 J. Legal Educ. 147, 149 (1988) (“The question of the silence of women in the law school classroom is an issue ripe for legal educators to address.”). Banks's study finds that women are more likely to report that they have never volunteered to speak in class (17.6%) and less likely to report that they regularly volunteered (32.1%) than are men (9.6% and 44.3%, respectively). Men and women were approximately equal, however, in the rates of “infrequent participation” (46.1% of the men and 50.3% of the women described themselves in this way). Banks, supra note 30, at 141.

32. Menkel-Meadow, supra note 1, at 67.

33. See id. at 77. See also Weiss & Melling, supra note 19, at 1306–07 (relying on Gilligan in emphasizing the “proclivity of women to reconstruct hypothetical dilemmas in terms of the real”—a proclivity that “shifts their judgment away from the hierarchical ordering or principles and the formal procedures of decision making” that continue to dominate legal education).
ideas and perspectives are not equally valuable. For their part, women may tend to accept or even anticipate that judgment. Women may feel themselves caught in a double bind; if they choose to respond to a problem in a "feminine" mode by considering its context, their response may be criticized as "inappropriate"; if they adopt a "masculine" approach, they may believe others view behaving "like a man" as also inappropriate.

Finally, a woman's social position may affect her satisfaction with law school. Law school, like many forms of law practice, is a greedy institution. It demands a total commitment and, in the main, forbids part-time participation. For women who are married and have children—or for the many students who are single parents—the demands of legal study will conflict with family obligations. There will be daily conflicts between familial claims and the time required for class preparation, compounded for upper-class students by the additional demands of cocurricular work on the law journal, moot court program, or a clerkship—activities often considered prerequisites for employment after graduation. And, of course, there will be special conflicts that arise when child-care arrangements fall through or family illness occurs; then the student must miss classes, seek to postpone examinations, or abandon projects for a time.

C. Experiences in Practice

To the extent that law school reflects the ideology and structure of law practice, women graduates might be expected to be dissatisfied in the legal profession. One would, for example, expect women to find the contentiousness of ordinary practice particularly distasteful. They might choose fields of practice that offer some sense of contribution to the social good and that feature less involvement in litigation than in negotiation or other forms of relatively noncontentious dispute resolution. Research suggesting that women cluster in certain kinds of practice (probate, domestic relations, real estate) and favor certain tasks (research and drafting rather than negotiation or advocacy) tends to support this hypothesis.

One would expect that women with families—especially those with young children—would find the conflicting demands of profession and

34. See Schneider, supra note 31, at 90. See also Banks, supra note 30, at 138-39 (suggesting that women remain silent in class because they believe their views carry no weight). Banks also reports that men are more likely than women to believe that professors respect other students' opinions and comments. Id. at 143.

35. Such a dilemma has been attributed to women who enter the field of medicine. On the one hand, their personal "female" characteristics are thought to be incongruent with those expected of and valued in a physician. On the other hand, a woman who displays the aggressiveness, egoism, and independence valued in doctors faces disapproval because of her failure to satisfy expectations associated with her gender. Bourne & Wikler, supra note 11, at 113. The same dilemma is said to face women who enter any previously male field. See id. and sources cited therein.

36. The American Bar Association standards for accreditation of law schools incorporate rigid limitations on part-time study and carefully define the meaning of full-time commitment to legal education. See ABA Standards for Approval of Law Schools Standard 305(b) (1987) (generally requiring full-time study, defined as not less than ten class-hours for each academic period).

37. See Menkel-Meadow, Review Essay, supra note 25, at 196; James J. White, Women in the Law, 65 Mich. L. Rev. 1051, 1062 (1967). See also Epstein, supra note 25, at 114 (women are highly represented in government work because of their interest in "good works").
family particularly stressful, and that they will feel less rewarded by their profession than men or than women without family obligations. Women with families may be less accepted as coprofessionals by their colleagues; indeed, it is often suggested that children make the road to partnership more difficult for female lawyers. One would expect women with children to seek employment in bureaucratic ("less greedy") rather than entrepreneurial forms of practice. They may also be more likely to move from one job to another than are men—and toward jobs that allow them to limit the time they must devote to professional commitments.

Finally, one would expect women with families to be more likely than men to decide not to enter the practice of law on graduation from law school, to abandon it after some years of experience, or to engage in part-time rather than full-time practice. In addition, it seems likely that women generally—and perhaps especially those with families—would be more likely to consider leaving full-time practice at least temporarily.

III. Research Design and Method

To examine career patterns of men and women, we developed a comprehensive questionnaire, which we administered to alumni of the University of New Mexico Law School who graduated between 1975 and 1986. The group has several characteristics besides convenience that made it attractive for our research. The University of New Mexico Law School has long enjoyed female and minority group enrollments that are, proportionally, unusually large by national standards. In addition, because the group

38. See Coser & Rokoff, supra note 9, at 45.
39. See Linda Liefland, Career Patterns of Male and Female Lawyers, 35 Buff. L. Rev. 601, 617, 618 n.60 (1986).
40. Even within professions, there are opportunities that are less time consuming or inflexible than is usually the case. In medicine, such opportunities are often found in "bureaucratic" rather than "entrepreneurial" settings (for instance, in health maintenance organizations (HMOs) and institutional health care organizations (such as student health services). See Bourne & Wilder, supra note 11, at 117–18. In law, government employment is said to be less greedy than private practice, at least in large firms. These are settings to which, it is expected, women will migrate more often than men. See Menkel-Meadow, supra note 25, at 196–97, drawing on Epstein, supra note 25, at 112–13.
41. See Epstein, supra note 25, at 151–52, 320, 360. See also Liefland, supra note 99, at 630, Fig. 7, indicating that 99% of male lawyers worked full time, while only 79% of women lawyers did so. However, the percentages of part-time and nonworking graduates were small for both men and women. Only 3% of the men and 6% of the women reported part-time employment, and only 2% of the men and 4% of the women reported that they were not working.
42. During the period studied (1975–1986), the female proportion of law students nationally averaged 31%, with a high of 38%. Female representation in the graduating classes at the University of New Mexico during the same period averaged 42%, with a high of 58%. Comparative data on minority enrollments are even more dramatic. During the period in question, the national representation of minority students averaged 8.6%, with a low of 8% and a high of 10%. At the University of New Mexico, the average minority representation was four times as great (34%), ranging from a low of 13% in 1976 (the first year for which minority data are available) to a high of 45% in the last year studied. It should be noted that the national data are average law school enrollments for each year; the New Mexico data reflect only students who graduated. These data are presented fully in Appendix A.
does not come from the large law schools on either coast or practice primarily in large firms, the students' experience seems worth comparing with the results of other studies.\textsuperscript{43}

\textbf{A. The Law School}

The University of New Mexico Law School is in many respects similar to law schools in the central regions of the country. It serves a regional population, and a substantial majority of its students remain in the state after graduation. The curriculum and the faculty, however, are "national" in character. Courses and materials are generally the same as those used at law schools across the country, and faculty members are drawn mainly from the same institutions that produce teachers for other schools.

The University of New Mexico Law School is, however, distinctive in several ways. The composition of its student body has already been mentioned. In addition, the New Mexico faculty differed from the national profile during the period covered by our research. It enjoyed one of the lowest faculty-student ratios in the country, with an average of 24.5 faculty for a student body of approximately 325 (roughly 13:1, compared to a national average faculty-student ratio of approximately 22:1\textsuperscript{44}). The faculty included (on average) five women and five minority group members, an unusually large proportion for each category. Finally, during a substantial part of the period, the University of New Mexico had a greater than usual commitment to clinical legal education and skills training. There were at least two full-time, tenure-track faculty teaching in the clinic even at the beginning of the period and as many as five at the end. During most of the period, students were required to complete at least six credit-hours of clinical work to graduate.

\textbf{B. The Population}

Although our original hypotheses focused on the experiences of women law school students and graduates, we decided to include all graduates in the study. Research that addressed the experiences of women in the legal profession without including data for both genders risked comparing the attitudes and experiences of women with a hypothesized norm (attitudes and experiences of "traditional" male lawyers) that may never have existed or might not now exist.

As with many law schools that attract a largely regional student body, the great majority of students at the University of New Mexico remain in the


\textsuperscript{44} The national data were provided by Kathy Grove, Assistant Consultant to the Section on Legal Education of the American Bar Association.
state after graduation. That circumstance, together with good alumni records for those who left the state, meant that most of the group could be located. Questionnaires were mailed to all 1048 graduates for whom addresses were available, with a cover letter indicating that the survey sought to gather information on law school experiences and career patterns that the law school might use for its curricular and placement programs. After one follow-up letter, 602 respondents returned completed forms (a response rate of almost sixty percent).

The responding population closely resembled the overall population demographically. Of the 602 graduates who completed the questionnaire, 57.3% were male and 42.7% female. Further, the percentage of female respondents consistently increased from earlier graduating classes to later classes, reflecting the change in the composition of classes at the law school over the twelve-year period. The minority group response—23.8% of the respondents—was somewhat below the distribution of minority group members (34%) in the overall population.48

C. Research Instruments

Questionnaire. The questionnaire addressed remembered and current attitudes and opinions for three broad areas of experience: motivation for enrolling in law school, experience during law school, and current professional situation. In addition, the protocol sought extensive information about the respondents’ law school activities and performance; the nature, extent, and course of their legal or other postgraduate activities; and their family circumstances both during and after law school. The questionnaire included 172 items in various answer formats, depending on the nature of the item.

Interviews. To supplement our understanding of graduates’ experiences with and attitudes toward their legal education and careers, we also administered a personal interview to a stratified random sample of 104 questionnaire respondents. The interviews were conducted by trained interviewers in each lawyer’s office and lasted for approximately one hour.

45. Respondents were assured confidentiality, a promise implemented by assigning code numbers that were linked to names only to determine who had not completed a questionnaire and to choose interview subjects.
46. The proportion of women in the overall population averaged 42%. See supra note 42.
47. Seventeen-and-a-half percent of the respondents for the class of 1975 were women; for the class of 1986, 48.1% were women.
48. See supra note 42.
49. The questionnaire is available from the authors.
50. A stratified random sample is one that randomizes subjects within categories and may appropriately be used for focusing on one or more subgroups of a population. Current literature, in legal and other areas, has emphasized a supposed trend, particularly by women, to leave professional careers. We decided, therefore, to interview as many of those who had left the legal profession as possible. In addition, because our data base included a group that has not been much examined before, minority lawyers, we sought to interview a greater number of this subpopulation than complete randomization would have been likely to include. We were still able, however, to include a substantial and random sample of male and female nonminority practitioners in our interview group.
A set of forty-nine questions, many open-ended, served as the stimulus for the interview.  

IV. Results and Discussion

A. Choosing the Legal Profession

There are at least two substantial reasons for expecting that women and men would have different motivations for entering law school. As we noted earlier, a considerable body of literature suggests that women tend to hold values that would lead them to emphasize what might be called "altruistic" goals associated with social service rather than "egoistic" goals associated with wealth or power.  

Our general impression over the years, however, suggested a second and possible confounding factor. It seemed to us that women students tended to be older than men students and therefore brought different sets of experiences to law school. These situational characteristics might affect both the experiences of women in law school and their reasons for deciding to enter law school. Accordingly, we sought demographic data on the stage at which respondents decided on a legal career, their ages on entering law school, and the amount of time between college graduation and law school enrollment. We also asked about their activities between college and law school.

Examination of the data reveal significant differences between our men and women graduates. As one might expect, given current cultural norms, men were more likely to choose a legal career earlier in their lives. Almost sixty percent of the women respondents decided to pursue legal studies only after graduation from college, while less than forty percent of the men reached the decision so late. Concomitantly, men were almost twice as likely (26%) to have formed a desire to become lawyers during or before high school than were women (14%). It is also not surprising to find that women law students were, on the average, significantly older (27 years at entry) than were their male classmates (24 years). More important, female students were much less likely to be quite young (under 25) and much more likely to be relatively older (30 or older) than were men at the time of matriculation.

51. A code book for open-ended answers was developed, and all of the interview responses were coded by one of the authors. To test intercoder reliability (that is, to ascertain whether others would interpret the answers in the same way as the coder), a sample of ten percent of the interview sheets was reviewed by another author; disagreement in coding was identified for only two responses of the 490 items.

52. See supra text accompanying note 25.

53. The difference is statistically significant ($x^2 = 22.42, df = 3, p < .01$).

54. The following table indicates the age distribution for men and women upon entering law school.

<table>
<thead>
<tr>
<th>Age at Enrollment</th>
<th>Under 25</th>
<th>25–29</th>
<th>30 or older</th>
</tr>
</thead>
<tbody>
<tr>
<td>Women</td>
<td>32%</td>
<td>37%</td>
<td>31%</td>
</tr>
<tr>
<td>Men</td>
<td>49%</td>
<td>34%</td>
<td>17%</td>
</tr>
</tbody>
</table>

$x^2 = 22.34, df = 2, p = .01$. 
These age differences are also reflected in the experiences of men and women law students before their enrollment. Table 1 indicates how much time passed between college graduation and entrance into law school.

**TABLE 1**

<table>
<thead>
<tr>
<th>Years Between College Graduation and Law School Entry</th>
<th>0-2</th>
<th>3-5</th>
<th>6-10</th>
<th>11 or more</th>
</tr>
</thead>
<tbody>
<tr>
<td>Women</td>
<td>41%</td>
<td>19%</td>
<td>21%</td>
<td>19%</td>
</tr>
<tr>
<td>Men</td>
<td>58%</td>
<td>18%</td>
<td>16%</td>
<td>7%</td>
</tr>
</tbody>
</table>

Almost sixty percent of the male students came to law school immediately (or almost so) following graduation from college, while only forty-one percent of the women did so. Women were almost three times as likely to have entered law school after a long hiatus (over ten years) from college and almost twice as likely to have been out of school for five or more years (40%) than were men (23%). The intervening periods for both groups were most often spent in employment. Of those students with a gap of three or more years between college and law school, seventy-one percent of the women and ninety-one percent of the men were employed full time. Only two percent of the women reported having been full-time homemakers during that period. As one might also expect, there were some differences in family situation. Most notably, women were more likely to have been divorced than were their male colleagues.

There are, then, theoretical and demographic bases for believing that women and men would report different reasons for choosing a legal career. To investigate this hypothesis, we asked respondents to rate a series of eight reasons for attending law school on a three-point scale reflecting the importance of each reason to their own decisions. Three items measured "egoistic" motivations by focusing on the financial rewards, prestige, and power often associated with the legal profession. Three other items measured "social" motivation by addressing the desire to help others and bring about social change. The remaining two items, addressing perceptions of law as an interesting or challenging experience or as an opportunity for personal growth, were combined to measure "personal motivation."

As Table 2 indicates, although both men and women viewed all sets of factors as important to their decisions, there are statistically significant differences in the levels of importance men and women attach to the factors as important to their decisions, there are statistically significant differences in the levels of importance men and women attach to the five

55. The differences are statistically significant ($\chi^2 = 24.94, df = 3, p < .01$).
56. Another 8% of the women reported that they worked part time and cared for the home part time during the time between college and law school.
57. Twenty-three women (8.7%) but only nine men (2.6%) reported having been divorced before entering law school ($\chi^2 = 11.62, df = 1, p < .01$).
58. We should note a possible ambiguity in these measures that has not been discussed in other studies. As is conventional, we included the prospect of making money as an indicator of egoistic motivation. On reflection, however, we are less sure of that interpretation. If traditional allocations of social roles affect men as well as women, a desire for financial success by men may indicate their acceptance of an other-directed obligation to an existing or expected family rather than mere selfish acquisitiveness.
reasons for attending law school. Egoistic reasons were significantly more important for men than for women, while women placed a higher value on social motivators and were more strongly motivated by reasons of personal growth than were men. Additionally, more women than men indicated a need for further education.

### TABLE 2

<table>
<thead>
<tr>
<th></th>
<th>Egoistic</th>
<th>Social</th>
<th>Personal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Women</td>
<td>1.8</td>
<td>2.4</td>
<td>2.7</td>
</tr>
<tr>
<td>Men</td>
<td>2.0</td>
<td>2.2</td>
<td>2.5</td>
</tr>
</tbody>
</table>

1 = irrelevant; 3 = very important

There are similarities between our male and female respondents that may be far more important than their differing levels of emphasis. In fact, both men and women rated the motivators in exactly the same order. For both groups, personal motivators were most important; social concerns, second most important; and for men as well as women, egoistic reasons were the least important for deciding to attend law school. Thus, the data suggest that women and men do not differ in their views of what are the most and least important values associated with a professional career in law.

Further, situational differences between our male and female groups did not produce significant differences in motivations for attending law school. As we saw, women tended to be older than their male colleagues. Age, however, was not itself significantly correlated with emphasis on egoistic or social motivators. There was a statistically significant effect only for personal motivators: respondents who were more than thirty years old when they entered law school thought that personal satisfaction was a more important reason for attending than was true of either the very young (under 25) or middle (25–29) group.62

The questionnaire also included an item on the importance of financial independence (as distinct from a desire for financial success). We expected that “independence” would be more heavily emphasized by women than men for three reasons: (1) their relatively greater age when attending law school, (2) their greater likelihood of being divorced, and (3) the importance attached to nondependency in feminist discourse. We found, however, no significant difference in the responses on this item; the ratings were substantially the same for women and men, for divorced and unmarried respondents, and for divorced women and divorced men.63

59. $F(1,565) = 11.68, p < .001.$  
60. $F(1,565) = 18.74, p < .001.$  
61. $F(1,563) = 7.11, p < .01.$  
62. $F(2,589) = 3.03, p < .05.$  
63. The average ratings on a three-point scale, with 3 = very important, were as follows: men = 2.2; women = 2.1; divorce(e)s = 2.2.
Our data resemble those for the student population participating in the Stanford study. Our male respondents, like those from Stanford, reported more interest in financial motivators than did women. However, because the Stanford study does not provide the order of preferences, it is difficult to say whether the difference it reports is one of emphasis, as ours appears to be, or a difference in relative importance as well.

It would be tempting to conclude that men and women do not substantially differ in their motivations for attending law school. Although our data do not support the conventional assumptions about the relation between gender-based value preferences and choice of professional careers, it is too early to say that the data disconfirm those assumptions. The notion, for instance, that men and women mean the same thing when they talk about personal satisfaction or financial success remains merely an assumption.

B. The Law School Experience

As we have seen, a number of considerations suggest that women might experience law school differently than men. Differences in value orientations presumably make the Socratic method and the decontextualizing of problems especially alienating for women. The predominance of male law teachers deprives women of appropriate role models and of support for their development. And, of course, situational factors may enter as well. Because law schools are greedy institutions that value only (or primarily) success achieved through undivided attention to legal studies, women with husbands and/or children may face serious conflicts between their academic and other obligations. These conflicts are presumed to entail unwanted sacrifice of academic success, inability to participate in law school cocurricular activities, and increased stress, all of which would make women’s experience in law school less satisfying and fulfilling than would be true for male students. Women may also lack the approval and support of family members, who may resent the time and energy demanded by law school or who may believe that a professional career is not an appropriate choice for women generally or for their child, spouse, or mother particularly. Although these hypotheses are plausible and commonly held, we found little evidence to confirm them.

Support for going to law school. We asked our interview respondents to indicate the degree of support they received from family members. Although fathers, for example, might be supposed to think legal careers more appropriate for their sons than their daughters, women and men

64. Stanford Project, supra note 26.
65. We do not see that our data suggest that there are differences between the answers given by older women and by younger women. Thus, we cannot disprove a suggestion that younger women (than those in our study) might have different reasons for going to law school than do men of the same age.
66. Cf. Menkel-Meadow, Review Essay, supra note 25, at 195 (“relationship between biological and cultural or sociologized gender differences is far from clear”).
graduates reported no significant differences in level of supportiveness. Further, women law students do not appear to receive less support from their spouses than do males. Sixty-three of our 104 interviewees were married either when they began law school or during their time there. Both men and women typically described their spouses as "very supportive"; sixty-nine percent of the women and sixty-five percent of the men chose this highest rating. Nineteen percent of the women who were married and five percent of the men who were married rated their spouses as not at all or not particularly supportive—a difference that, perhaps because of small numbers, does not rise to the level of significance.

**Academic and cocurricular success.** It does not appear from our questionnaire responses that men and women differ substantially in their performance or activities during law school. Responses from women indicate that they did quite as well as men. Slightly greater percentages of women than men reported ranking in the top 10% and 20% of their classes. The questionnaire also asked about participation in student activities, including law review and the Student Bar Association. Of those responding, a greater percentage of women reported having been on the law review. Women and men reported having served as officers of the Student Bar

67. About one half of the female respondents for whom this question was relevant described their fathers as "very supportive," and an approximately equal proportion of males did so. Twenty-seven percent of the women considered their fathers to be "not at all" or "not particularly" supportive, while eighteen percent of the males chose these ratings. These differences are not statistically significant. The chi-square statistic produces a probability of .477, well above the level \( p < .05 \) required for inferences about real differences.

68. We also asked about support from non-law school friends. Again, the responses from male and female interview participants were almost identical, with about one quarter of each group describing the friends as "very supportive" and one half of each describing them as "somewhat supportive." One respondent, for whom we express sympathy, answered that the question was not applicable.

69. Reported Class Rank

<table>
<thead>
<tr>
<th></th>
<th>Top 10%</th>
<th>Top 20%</th>
<th>Top 50%</th>
<th>Third Quarter</th>
</tr>
</thead>
<tbody>
<tr>
<td>Women</td>
<td>30% (60)</td>
<td>29% (59)</td>
<td>31% (62)</td>
<td>11% (22)</td>
</tr>
<tr>
<td>Men</td>
<td>20% (49)</td>
<td>23% (57)</td>
<td>51% (128)</td>
<td>7% (17)</td>
</tr>
</tbody>
</table>

No students reported being in the bottom quarter of their classes. It bears mention that these reported class rankings have not been validated by reference to actual class standings. There is no obvious reason, however, to believe that women would overstate their performances more than men. That women in fact outperformed men in law school can be determined by the composition of the Order of the Coif, a law school honorary society reserved for the top 10% of each graduating class. Although female students made up only 42% of the student population during the period in question, 56% of the Coif members were women.

70. In fact, the University of New Mexico published two law journals during the time in question: *University of New Mexico Law Review* and *Natural Resources Journal*. The law review was entirely student edited; although a faculty member served as editor-in-chief of *Natural Resources Journal*, other board and staff positions were occupied by law students.

71. One hundred twenty-two of 260 women (47%) reported law review membership, as compared with 110 of 335 men (33%). It should be added that law review membership rates do not simply reflect the class-rank reports of women. Membership on both journals has, at least for most of the period in question, depended on performance in a writing competition rather than on class rank; in fact, it has not been uncommon for students with relatively low class ranks to achieve membership and office on the journals.
Gender Study

Association in approximately equal percentages.\textsuperscript{72}

\textbf{Support from other students and faculty.} Our interview form asked a series of questions to investigate the assumption that women are less likely to find support from male colleagues and faculty. No differences between men and women were found in their ratings of support from their classmates.\textsuperscript{73} Nor did significant differences appear when our sample was asked to distinguish between the supportiveness of male and female classmates.\textsuperscript{74} Nevertheless, the apparent pattern of responses—women and men both reporting stronger support from other students of their own gender—may invite further study with an expanded sample. Certainly no sense of camps among students, sharply divided by gender, appears; indeed, the overall impression is one of generally supportive student relations.

The responses on faculty support are similar. Differences in the rates at which women (33\%) and men (44\%) reported that male faculty were “very supportive” were not significant. It is also worth noting that only five percent of the women (and three percent of the men) described male faculty as “not at all supportive.” There were, however, significant differences in perceptions of women faculty’s supportiveness. Women rarely found female teachers less than “somewhat supportive” (only ten percent rated them as “not at all” or “not particularly” supportive, and more than sixty percent found them “very supportive”). Almost one quarter of the male students, however, found the female faculty “not at all” or “not particularly” supportive, and less than forty percent rated them as “very supportive.”\textsuperscript{75}

\textsuperscript{72} Nineteen of 260 women students (7\%) reported holding positions in the Student Bar Association; 29 of 335 male students who answered this question (9\%) did so.

\textsuperscript{73} Support by Students in Your Class

\begin{center}
\begin{tabular}{|c|c|c|c|}
\hline
 & Not Supportive & Somewhat Supportive & Very Supportive \\
\hline
Women & 15\% (6) & 38\% (15) & 46\% (18) \\
\hline
Men & 13\% (8) & 38\% (24) & 49\% (31) \\
\hline
\end{tabular}
\end{center}

\textsuperscript{74} Degree of Support From Other Students

\begin{center}
\begin{tabular}{|c|c|c|c|c|c|c|c|}
\hline
 & Male Colleagues & & & Female Colleagues & & & \\
 & Not at all & Not Particularly & Somewhat & Very & Not at all & Not Particularly & Somewhat & Very \\
\hline
Women & 5\% & 13\% & 49\% & 31\% & 0 & 13\% & 38\% & 49\% \\
\hline
Men & <1\% & 16\% & 42\% & 40\% & <1\% & 11\% & 51\% & 34\% \\
\hline
\end{tabular}
\end{center}

\textsuperscript{75} Degree of Support by Faculty

\begin{center}
\begin{tabular}{|c|c|c|c|c|c|c|}
\hline
 & Male Faculty & & & Female Faculty* & & & \\
 & Not at all & Not Particularly & Somewhat & Very & Not at all & Not Particularly & Somewhat & Very \\
\hline
Women & 5\% & 21\% & 41\% & 33\% & 5\% & 5\% & 29\% & 61\% \\
\hline
Men & 3\% & 10\% & 43\% & 44\% & 8\% & 15\% & 39\% & 38\% \\
\hline
\end{tabular}
\end{center}

\*p < .05.
Satisfaction with law school. Although hypotheses about law school experiences suggest that women students are less satisfied with law school than men, we found no significant differences between women and men in their ratings of overall satisfaction with their experiences. We administered an additional set of questions to our interview sample in a “semantic differential” format to measure several sets of attitudes about their law school experiences. The first set concerned perceptions about the personal impact of legal education: whether law school challenged or was consistent with the respondent's values; whether they found law school friendly or lonely; and whether law school brought out the best or did not give the respondent a chance. A second set concerned teaching method and socialization, including whether interviewees favored non-Socratic teaching methods (particularly litigation, counseling, and negotiation skills training) and whether they felt adequate role models were available. The last set concerned the intellectual challenge presented by law school: whether respondents found legal studies boring or interesting, mundane or creative, difficult or easy.

The literature supplies reasons for expecting men and women to differ in their ratings of these aspects of law school. It would lead us to expect women to feel more challenged in their values by legal education and to find law school more lonely than did men and less likely to give them a chance. We would expect them to believe, more than men, that counseling and negotiation skills are underrepresented in the curriculum and to be less satisfied with the available role models. That women would find law less challenging or interesting than men is not so clear, but the response might be expected to follow from the general alienation that women are said to experience in law school.

Our men and women interviewees, however, held closely comparable attitudes on all of these measures. Average ratings for the first cluster of items were very much alike (the mean for men was 4.4 on a 7-point scale; for women, 4.50). Both groups found the law school experience slightly more friendly and supportive to them personally than not. Both men and women felt that their law school training tended somewhat, but not greatly, to underemphasize the clinical and applied aspects of lawyering. Finally, both women and men thought that law school was only slightly more creative and interesting than not. There were, in short, no significant differences between women and men on any of these measures of the law school experience.

76. On a 7-point scale, with 7 as the highest rating, the average rating by women was 4.97; the average by men, 5.38. The difference is not significant at the .05 level.

77. See Charles E. Osgood, George J. Suci & Percy H. Tannenbaum, The Measurement of Meaning (Urbana, Ill., 1957). The semantic differential format presents paired adjectives as poles on a continuum with six or more rating points between them; respondents rate the degree to which their perception can best be described by one pole or the other. For example, our respondents were asked to rate where their legal education lay on a 7-point scale, with one pole labeled “boring” and the other “interesting.”

78. The mean for males was 3.3; for females, 3.2. It is worth recalling that the University of New Mexico maintained an unusually large clinical program throughout this time and for much of that time clinical participation was mandatory.
The obvious question is why, despite the literature that supposes and sometimes claims that women experience law school differently from men, no real differences emerge in our study. Several possibilities are worth considering. One possibility is that our measures—and perhaps any “objective” measures—cannot capture the kinds of experience the literature addresses. This is not the place to review the often vitriolic debate between proponents of “scientific” and “interpretivist” methodologies.\(^7\) We do believe, however, that a common language and culture provide some basis for thinking that our respondents generally interpreted our questions in much the same way and interpreted their own experiences in ways that would be commonly understood. Although a less-structured research strategy may have told us much more about our subjects’ experiences, two values are apt to be lost in highly individuated research, especially if based on anecdotal evidence. One is the possibility of generalization beyond the usually relatively few persons and situations examined. The other is the possibility of comparison with other persons or groups whose experiences are assumed to be different. Much of the existing discussion suffers from these drawbacks.

In the kind of inquiry that we have conducted, the disjunction between prediction and results may reflect several partially related conditions. Most expectations of difference in law school experiences—particularly those founded on ideology—incorporate two assumptions: (1) law school teaching styles and institutional structures are pretty much undifferentiated, falling within a “Socratic” and hierarchically authoritarian mode; (2) men generally like this approach, while women do not.

Both assumptions have weaknesses. Generalizations about law school teaching techniques tend to be inaccurate. For instance, one of the characteristics of the “Socratic” method is said to be its authoritarian character—the teacher is supposed to have all the answers, and the students are there to be instructed.\(^8\) This allocation of roles, however, does not distinguish the Socratic method from many other forms of instruction—certainly including the lecture method—that are not generally thought to produce different reactions in women and men. Perhaps a more salient characteristic of “Socratic” teaching is the expectation that students will engage actively in discussion. In its “classical” form, one student is questioned extensively until he or she can no longer explain the position taken or falls into contradiction. Students see that outcome as inevitable, if not because legal reasoning is itself uncertain, then because the instructor is adept at “hiding the ball.”\(^9\)

The “Socratic” method involves anxiety coupled with the risk of public embarrassment. Although public participation in some form is common in

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80. See supra text accompanying note 20.
law school classes, most law teachers do not teach in the same fashion, even when employing the “classical” form of Socratic questioning. Indeed, the term in practice covers a variety of techniques, from oral recitation of facts and rules\(^\text{82}\) to a relatively unstructured discussion format. Moreover, law teachers vary in other respects that are apt to affect students’ reception of classroom teaching, whatever the methodology. Law teachers differ in cognitive skills, in the experiences they bring to the class, in their comfort with the subject matter, in their goals for the class, in personality (particularly aggressiveness), and in the empathy they bring to bear in exchanges with their students.\(^\text{83}\)

Structural and value differences may affect other aspects of the teaching enterprise. Interest in teaching outside the classroom varies among teachers individually and law schools institutionally,\(^\text{84}\) and faculty accessibility may affect not only students’ learning but their perceptions of the classroom experience. The reward structure also differs from school to school: law review membership, to take one example, may follow the traditional model (based entirely on first-year grades), may result from writing samples submitted by candidates, or may incorporate several criteria.

Even if we were to suppose a single educational method and a common structure and value scheme prevail (as the greater part of the literature does at least implicitly), it is still necessary to confront the assumption that men typically enjoy that form of teaching, while women do not. The notion may derive as much from the relative absence of public complaints about the method of law teaching before women were heavily represented in law schools as from women’s expression of discontent with legal pedagogy. Its main source, however, is probably the underlying assumption that men incline toward authoritarian and hierarchical relations and therefore will enjoy such relations within the classroom.

The evidence, however, is not compelling. Men’s silence does not necessarily indicate their approval of the Socratic style. If, as the theory claims, one aspect of male socialization is an acceptance of authority, that inclination would also explain why men might not criticize publicly something they did not enjoy. There is, as well, evidence that criticism of Socratic teaching is not a recent phenomenon. The doubts Andrew Watson expressed more than twenty years ago have often been noted and repeated.\(^\text{85}\)

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82. So it was perceived in, for example, Suzanne Dallimore, The Socratic Method—More Harm Than Good, 3 J. Cont. Law 177, 178 (1977).
84. Ideological concerns, such as the law school’s definition of its mission, and/or structural features, such as the student-faculty ratio, will affect faculty accessibility. The University of New Mexico Law School, for example, expressly values out-of-class teaching and student contact in its standards for retention, promotion, and tenure. In addition, this value is intentionally expressed in the architecture of the law building. The original design, in place for most of the period of this study, provided that faculty could not go from the library or classrooms to their offices without passing through a large, comfortably furnished, open “forum” area in which students gathered.
85. See, e.g., Andrew S. Watson, The Quest for Professional Competence: Psychological Aspects of Legal Education, 37 U. Cin. L. Rev. 91, 123 (1968);
A student colloquium held at Columbia after the suicide of a Harvard Law School student in 1972 addressed, generally unfavorably, the Socratic style, with both women and men joining in the critique. Finally, anecdotal evidence indicates that many male law school graduates—from a number of years ago as well as recently, and inside as well as outside law school faculties—defer to nobody in their dislike of their law school experiences. To choose only one such anecdote, Herma Hill Kay recalls the following brief but pungent graduation address by a male student at Boalt Hall in the 1960s: “I hated this place. I hated the faculty. I hated the courses. And, as for my classmates, I’ll see you bastards in court.”

It seems fair to say that universal or near-universal claims about the experiences of women and men law students go too far. What is less clear is whether our data should be taken to mean that claims of difference should be discounted or that differences may exist but only in certain kinds of law schools and student groups. The relatively small class sizes and the relatively large proportion of women students and faculty at the University of New Mexico might have led women generally to feel more accepted inside and outside the classroom. Such factors may as well have influenced faculty members to deal with students and to conduct classroom discussion in ways that increase women’s sense of acceptance. It is important to note, however, that these factors—if they are indeed significant—imply that neither pedagogical method nor gender alone accounts for the alienation of women; rather, a variety of factors—perhaps including faculty and student gender distribution, school size, classroom atmosphere, classroom size, clinical options, and faculty availability—explain differences in experience. This inference, which is not wholly consistent with the usual theoretical grounds for expecting gender-based differences in educational settings, merits further study.

C. Experiences in Practice

General Characteristics

The great majority of our graduates are now full-time practicing lawyers. However, a greater proportion of male graduates (85%) than

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86. Anthony J. Mohr & Kathryn J. Rodgers, Legal Education: Some Student Reflections, 25 J. Legal Educ. 403 (1973). Male students, for example, described the teaching method as "terror tactics" founded on "the principle of fear." Some indicated that they did not participate in the Socratic dialogue and thought that it valued only "nasty, loud" students. Id. at 410-12.

females (75%) are so engaged.88

Practice settings. Table 3 indicates the distribution of graduates among different kinds of law practice.

TABLE 3
Practice Settings of Graduates

<table>
<thead>
<tr>
<th></th>
<th>Women</th>
<th>Men</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sole practice</td>
<td>20%</td>
<td>23%</td>
</tr>
<tr>
<td>Small firma</td>
<td>24</td>
<td>33</td>
</tr>
<tr>
<td>Medium firmb</td>
<td>14</td>
<td>13</td>
</tr>
<tr>
<td>Large firmc</td>
<td>14</td>
<td>11</td>
</tr>
<tr>
<td>State government</td>
<td>17</td>
<td>13</td>
</tr>
<tr>
<td>Legal Services or public defender office</td>
<td>8</td>
<td>5</td>
</tr>
<tr>
<td>Municipal government</td>
<td>&lt; 1</td>
<td>1</td>
</tr>
<tr>
<td>Tribal government</td>
<td>1</td>
<td>&lt; 1</td>
</tr>
</tbody>
</table>

aLess than 8 lawyers.
b8–30 lawyers.
cMore than 30 lawyers.

Although slightly greater proportions of men than women were engaged in sole and small-firm practices and slightly greater proportions of women worked in large law firms and for government and legal services or public defender offices, these differences are not statistically significant.89

88.  $X^2 = 22.2, df = 6, p < .01$. Of the remaining 25% of women graduates, 5% practiced part time, 4% engaged in nonlegal business work, 3% worked for the government in some nonlegal capacity, 2% were homemakers, and 10% indicated some other occupation. No male respondents were homemakers, and only 1% reported part-time practice. Otherwise, the distributions are approximately the same.

Differences in coding practices and time periods make it hard to make direct comparisons between the incidence of legal employment in our sample and that in other studies. A study of Stanford Law School graduates, for example, reports that more than 80% of women and male graduates were practicing law in some form at the time the research was conducted, with no significant differences by gender. Stanford Project, supra note 26, at 1244. Chamber’s study of Michigan Law School graduates reveals that five years after graduation 91% of the men and 81% of the women were in practice. David L. Chambers, Accommodation and Satisfaction: Women and Men Lawyers and the Balance of Work and Family, 14 Law & Soc. Inquiry 251, 262, Table I (1989). However, this cohort only included lawyers who graduated between 1976 and 1979 and may have included some who were practicing law but not on what we treated as a “full time” basis (more than thirty hours per week).

89. Nationally, distributions among practice settings differ greatly from place to place. The most recent national figures indicate very high rates of sole practice: 56% of male lawyers and 48% of female lawyers are so engaged. Barbara A. Curran, American Lawyers in the 1980s: A Profession in Transition, 20 Law & Soc’y Rev. 19, 49, Table 28 (1986). These rates are far higher than ours. In contrast, only 4% of the female and 6% of the male Michigan graduates studied by Chambers reported that they worked in sole practice. Chambers, supra note 88, at 262 n.50. At the other end of the practice range, far higher rates of Michigan graduates (51% of the women and 39% of the men) were employed by “large” firms (more than fifty lawyers) than was true nationally. Id. Because there were only three firms in New Mexico with more than fifty lawyers at the time of
For areas of practice, the distributions are also generally similar, with some notable and predictable exceptions. Greater proportions of men reported that they devoted substantial time to corporate law, criminal law, personal injury, and real estate work; greater proportions of women listed domestic relations and natural resources. It is worth noting, however, that relatively few areas of practice are "ghettoized"—few are the sole or nearly sole domain of one gender. More than thirty percent of the male lawyers engage in substantial domestic relations practice, while almost one third of the women do substantial criminal representation, and almost a quarter of the women (compared to a third of the men) engage in corporate work. There are, in short, differences of emphasis worth considering, but the pattern is more complex than one might expect, perhaps because of the breadth of practice characteristic in locations other than very large cities.

Income. Perhaps the most significant differences we found are also the hardest to interpret. As one would expect, we did find significant differences in income according to lawyers' practice situations. Lawyers in large firms earned the highest income (with a median income of $59,000), our study (IV Martindale-Hubbell Law Directory (1987)), we treated any firm of more than thirty lawyers as "large" and still found relatively small proportions of graduates in those firms.

90. Percent of Graduates Devoting at Least 20% of Time in Various Areas*

<table>
<thead>
<tr>
<th>Practice Area</th>
<th>Women</th>
<th>Men</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administrative Law</td>
<td>30%</td>
<td>28%</td>
</tr>
<tr>
<td>Business Planning</td>
<td>12</td>
<td>17</td>
</tr>
<tr>
<td>Consumer Law</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>Commercial Law</td>
<td>44</td>
<td>49</td>
</tr>
<tr>
<td>Corporate Law</td>
<td>23</td>
<td>33</td>
</tr>
<tr>
<td>Criminal Law</td>
<td>32</td>
<td>40</td>
</tr>
<tr>
<td>Domestic Relations</td>
<td>39</td>
<td>51</td>
</tr>
<tr>
<td>Estates and Trusts</td>
<td>19</td>
<td>17</td>
</tr>
<tr>
<td>Land Use Planning</td>
<td>4</td>
<td>6</td>
</tr>
<tr>
<td>Natural Resources</td>
<td>22</td>
<td>11</td>
</tr>
<tr>
<td>Personal Injury/Workers' Compensation</td>
<td>42</td>
<td>56</td>
</tr>
<tr>
<td>Public Interest Law</td>
<td>13</td>
<td>9</td>
</tr>
<tr>
<td>Real Estate</td>
<td>29</td>
<td>43</td>
</tr>
<tr>
<td>Taxation</td>
<td>11</td>
<td>9</td>
</tr>
</tbody>
</table>

*Each respondent chose more than one practice area.

91. $F(5,452) = 12.81, p < .01$. The differences in income by practice setting can be summarized more fully as follows:

Differences in Income Levels by Practice Settings

<table>
<thead>
<tr>
<th>Practice Setting</th>
<th>Average Income</th>
</tr>
</thead>
<tbody>
<tr>
<td>[1] Sole practice</td>
<td>$48,000</td>
</tr>
<tr>
<td>[2] Large firm</td>
<td>$59,000</td>
</tr>
<tr>
<td>[3] Medium firm</td>
<td>$57,000</td>
</tr>
<tr>
<td>[4] Small firm</td>
<td>$46,000</td>
</tr>
<tr>
<td>[5] Government practice</td>
<td>$37,000</td>
</tr>
<tr>
<td>[6] Other</td>
<td>$34,000</td>
</tr>
</tbody>
</table>

"Other" lawyers includes attorneys in legal services, public defenders, tribal government, and unspecified employment.

* = significant difference
* = not significant
significantly higher than lawyers in all other practice settings other than medium-sized firms (in which lawyers averaged $57,000). Sole practitioners averaged $48,000, an income significantly higher than that of government or other legal workers and not significantly different from lawyers in medium- or small-sized firms. Direct comparisons between sole practitioners and others are not possible, however, because some may have reported gross firm rather than personal annual income. Small-firm lawyers ($46,000), government lawyers ($37,000), and other practitioners ($34,000) did not differ significantly among themselves.

We did find significant differences in the income levels of male and female lawyers. Women averaged $43,000, while men averaged $50,000.92 Although female respondents had typically graduated more recently than males, the differences we found cannot be accounted for by differences in years of practice.93 Nor can the differences be accounted for by looking at practice situations. Although there are, to be sure, disparities,94 there is no significant interaction between gender and practice setting.

We have no explanation for these differences, which are significant statistically and, we think, practically. Several possible hypotheses come to mind, all of which call for further study. Some form of discrimination may be involved. Compensation levels may reflect something besides work done; they may reflect expectations about future productivity and commitment to the professional enterprise.95 If employers believe—as the literature and informal discussions often suggest—that women are more likely than men to have children or family responsibilities that will claim priority over professional work, that perception could itself influence compensation decisions. An alternate explanation may lie in another aspect of the compensation scheme. To the extent that income is related to “rainmaking” (production of clients rather than hours), it would be worthwhile examining whether women lawyers do—or are thought to—bring in less business and whether they are equally situated to be able to generate clients. It may be that membership in civic and fraternal organizations and social clubs, for example, is—or is thought to be—a valuable entrée to client development and that women are disadvantaged insofar as these organizations do not

92. $F(1,452) = 9.55, p < .01.$  
93. See supra note 91.  
94. The data can be summarized as follows:

<table>
<thead>
<tr>
<th></th>
<th>Women</th>
<th>Men</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sole Practice</td>
<td>$44,000</td>
<td>$52,000</td>
</tr>
<tr>
<td>Large Firms</td>
<td>$54,000</td>
<td>$64,000</td>
</tr>
<tr>
<td>Medium Firms</td>
<td>$49,000</td>
<td>$64,000</td>
</tr>
<tr>
<td>Small Firms</td>
<td>$40,000</td>
<td>$52,000</td>
</tr>
<tr>
<td>Government</td>
<td>$38,000</td>
<td>$36,000</td>
</tr>
<tr>
<td>Other</td>
<td>$34,000</td>
<td>$34,000</td>
</tr>
</tbody>
</table>

95. Anecdotal evidence indicates that some firms establish salaries by projecting an associate's or partner's income production for the next year (based in part but not necessarily wholly on the previous year's production). Accordingly, women lawyers may decide not to disclose pregnancy or their plans to have a child before the compensation committee decision.
often welcome female members. These are, however, illustrative hypotheses rather than explanations, and there are doubtless others that would repay exploration as well.

The Professional Environment

The question of stress. The literature strongly suggests that women experience more stress in legal practice than men and that women with spouses and with children especially feel stress derived from a conflict in role requirements. Accordingly, we asked a series of questions related to stress, both generally and in relation to marital status and the presence of minor children in the home.

Overall levels of stress. As Table 4 indicates, our respondents generally agreed that law is a stressful profession, with no significant difference by gender.

**TABLE 4**

Degree of Stress in Legal Practice

<table>
<thead>
<tr>
<th></th>
<th>Extreme</th>
<th>Moderate</th>
<th>None</th>
</tr>
</thead>
<tbody>
<tr>
<td>Women</td>
<td>32% (60)</td>
<td>63% (120)</td>
<td>5% (10)</td>
</tr>
<tr>
<td>Men</td>
<td>28% (79)</td>
<td>67% (187)</td>
<td>4% (12)</td>
</tr>
</tbody>
</table>

Substantial percentages of men and women described law practice as “extremely stressful” and virtually all of the rest thought it “moderately” stressful.

Stress and family situation. Overall agreement about stress in law practice is itself somewhat surprising. It is even more surprising that the degree of stress that our questionnaire population reported does not differ according to family situation. Table 5 summarizes the data on reported stress levels according to marital status; Table 6 does so according to the presence of minor children within the home.

**TABLE 5**

Degree of Stress in Legal Practice by Marital Status

<table>
<thead>
<tr>
<th></th>
<th>Extreme</th>
<th>Moderate</th>
<th>None</th>
</tr>
</thead>
<tbody>
<tr>
<td>Married women</td>
<td>32%</td>
<td>63%</td>
<td>5%</td>
</tr>
<tr>
<td>Single women</td>
<td>31</td>
<td>64</td>
<td>5</td>
</tr>
<tr>
<td>All women</td>
<td>32</td>
<td>63</td>
<td>5</td>
</tr>
<tr>
<td>Married men</td>
<td>26</td>
<td>69</td>
<td>5</td>
</tr>
<tr>
<td>Single men</td>
<td>35</td>
<td>62</td>
<td>3</td>
</tr>
<tr>
<td>All men</td>
<td>28</td>
<td>67</td>
<td>45</td>
</tr>
</tbody>
</table>
TABLE 6
Degree of Stress in Legal Practice by Family Status

<table>
<thead>
<tr>
<th></th>
<th>Extreme</th>
<th>Moderate</th>
<th>None</th>
</tr>
</thead>
<tbody>
<tr>
<td>Women with children</td>
<td>29%</td>
<td>64%</td>
<td>7%</td>
</tr>
<tr>
<td>Women without children</td>
<td>33</td>
<td>64</td>
<td>3</td>
</tr>
<tr>
<td>All women</td>
<td>32</td>
<td>63</td>
<td>5</td>
</tr>
<tr>
<td>Men with children</td>
<td>28</td>
<td>67</td>
<td>5</td>
</tr>
<tr>
<td>Men without children</td>
<td>33</td>
<td>65</td>
<td>2</td>
</tr>
<tr>
<td>All men</td>
<td>28</td>
<td>67</td>
<td>4</td>
</tr>
</tbody>
</table>

The data show no statistically significant differences, a finding that is counterintuitive. We had supposed that, because of conflicting role obligations, married women and women with children would be more likely to experience stress than single women or men (whether single or married). However, women with children and men with children in our study are no more likely to describe law practice as extremely stressful than either men or women in general or than men and women without children at home. Nor is marriage itself, apart from the presence of children, apparently related to the degree of stress reported. Even the difference between single men (35%) and married men (26%) who find their practice extremely stressful is not statistically significant.

Practice settings and stress. It may be supposed that the lack of significant differences in stress levels results from decisions already made by men and women about the kind of practice in which they would engage. More particularly, the lack of difference between genders may reflect career choices that minimize differences in stress. We have already seen, however, that no significant differences exist in the practice settings occupied by men and women. Nor does choice of fields of practice plainly indicate that women have entered inherently less stressful areas. Although men appear to be somewhat overrepresented in business planning, commercial, corporate, and real estate work, there is little reason to believe that these are inherently more stressful than natural resources and public interest law, fields in which women often practice. Indeed, women frequently engage in domestic relations practice, which is generally regarded as extremely stressful because of its heavy emotional burden and frequent court appearances.

It may be, however, that women have reduced their sense of stress to the level held by men by not entering or by moving out of a particularly stressful aspect of practice. Anecdotal evidence suggests that women graduates tend to abandon litigation in favor of less contentious kinds of practice that are more likely to involve planning and problem solving and to demand less time. Accordingly, we asked our respondents about the time devoted to trial work, whether they had previously engaged in more litigation than was presently the case, and, if so, the reasons for the change.

96. See supra Table 3.
97. Fields of practice are set forth supra note 89.
in emphasis. Table 7 summarizes the amount of time spent in litigation.

**TABLE 7**

<table>
<thead>
<tr>
<th>Amount of Time in Litigation Practice</th>
<th>Women</th>
<th>Men</th>
</tr>
</thead>
<tbody>
<tr>
<td>25% or less</td>
<td>37%</td>
<td>26%</td>
</tr>
<tr>
<td>26%–50%</td>
<td>21</td>
<td>23</td>
</tr>
<tr>
<td>51%–75%</td>
<td>16</td>
<td>22</td>
</tr>
<tr>
<td>More than 75%</td>
<td>26</td>
<td>30</td>
</tr>
</tbody>
</table>

None of these differences in reported time devoted to litigation is statistically significant. Even though it is true that one quarter of our women respondents reported that they have reduced the level of their litigative activity, twenty-eight percent of the men also had done so. We did, however, find a significant difference when we asked those who had reduced their litigative activity why they had done so.\(^9\) The stress associated with trial work was a significantly more important reason for shifting away from litigation for women than for men.\(^9\) Even this difference, however, is of very limited meaning. One subgroup of women—those who were married—were significantly more influenced by one aspect of stress—that related to time pressure—than were other women or men.\(^1\) In addition, and to our surprise, women without children considered stresses related to the nature of litigation ("systemic stress") most influential in their decision to reduce trial work, and they differed significantly from men without children.\(^1\)

Our data do not go far toward confirming the assumption that women lawyers experience greater professional stress; overall, no significant dif-
ferences between men and women appear. The presence of a spouse and/or children does not contribute to increased stress levels and, if anything, the absence of children and (for men) a spouse seems associated with higher stress levels. Indeed, the only area in which particular effects related to gender can be found is reasons for reducing trial work, but the differences are minimal and highly specific.

It should be noted that the questionnaire responses are most directly concerned with stressfulness of the profession. Women may nonetheless experience greater stress—in general or in balancing work and nonwork responsibilities—than men. Other data from the survey and interview forms tend to support this hypothesis, although not uniformly or strongly. For instance, women are more likely than men to report dissatisfaction with their work schedules (although they are otherwise equally satisfied with their professional acceptance and settings). However, a series of questions to our interview sample that did directly address conflict between job and family responsibilities revealed no significant differences by gender, either individually or when aggregated. We also asked our interview subjects to indicate how they dealt with conflicts that arise from competing demands for time and energy. The three most frequent answers can be categorized as “work first,” “family first,” and “sacrifice.” The distributions of responses in these categories by women and men were virtually identical.

The question of time. There are, as we have seen, reasons to believe that women would find complete commitment to legal practice uncongenial and that married women and women with children would face conflicting demands on their time. One accommodation would be to “lump it”: to accept the situation and the stress associated with inconsistent role demands. Our findings suggest, however, that the level of stress does not significantly differ by gender or family circumstances.

An alternate accommodation would be for women generally, or those with family responsibilities particularly, to choose to work fewer hours than men. When we gathered information on both billable hours and total hours worked, some significant gender differences appeared.

103. The questions asked interview subjects to indicate on a four-point scale (1 = strongly agree; 4 = strongly disagree) their agreement with the following statements: “In order to practice law, one must subordinate familial responsibilities to professional ones”; “If I had it to do over again, I would select a career that left me more time for my family”; “I often regret that I have to work so much, for it interferes with my family/personal life.” Although the combined means for the questions (2.45 for women; 2.67 for men) do not show a significant difference ($\mu = .1093$), the apparent consistency in responses to these items suggests that research with a larger population might be worthwhile.

104. Twenty-nine of 110 interview responses (10 women and 19 men) employed these categories. Seven women and 13 men said they would emphasize work; 2 women and 4 men said they emphasized family demands; and the remaining woman and two men simply indicated that they “sacrificed.”

105. Initially, it is worth noting that the size of a lawyer's firm was significantly related to both total and billable hours. Billable and total hours were reported by survey respondents in ranges (e.g., 1–20; 21–30; 31–40). For the purpose of analysis, the midpoint of a range was used to estimate both billable and total hours. The average of 42 billable hours a week for lawyers in large firms was not significantly different from the average in
Men worked significantly more total\textsuperscript{106}—but not billable\textsuperscript{107}—hours than did women. There are, however, some real curiosities in these data. Marital status did not affect the total hours reported at work, as one would have thought. Further, the presence of children in the home did \textit{not} produce the significant differences one might expect in hours worked by lawyers.\textsuperscript{108} Lawyers with children worked an average of 49 hours; childless lawyers, 50 hours. For lawyers with children, whether female or male and whether married or not, the ages of children were not found to be significantly related to hours worked with one exception: women with children between two and five years old worked fewer hours than men with children in the same range.\textsuperscript{109}

Although there were no significant differences by marital or custodial situation in hours \textit{worked}, there were some differences with respect to hours

\begin{table}
\centering
\caption{Average Hours}
\begin{tabular}{lrr}
\hline
              & Billable Hours & Total Hours \\
\hline
Women        & 33             & 47             \\
Men          & 35             & 50             \\
\hline
\end{tabular}
\end{table}

medium-sized firms (38 hours); it was, however, significantly higher than the average for small-firm lawyers (32 hours) and sole practitioners (30 hours). $F(3,325) = 26.5, p < .001$. In addition, lawyers in large firms reported working an average of 52 total hours a week, which was significantly more than the average of 48 total hours worked by lawyers in small firms and the 47 hours worked by sole practitioners. $F(3,351) = 8.12, p < .01$. The average of 50 total hours a week for lawyers in medium-sized firms was not significantly different from the time invested by large- or small-firm lawyers.

\textsuperscript{106} $F(1,351) = 4.6, p < .01$.

\textsuperscript{107} $F(1,325) = 2.75$, n.s.

\textsuperscript{108} The following table summarizes the data and includes a “ratio” stating the proportion between billable hours and hours worked.

\begin{table}
\centering
\caption{Average Hours Worked by Marital Status and Presence of Children*}
\begin{tabular}{lrrrrrr}
\hline
                        & Marital Status & Children in Home & & & & \\
              & Single & Married & 0 & 1 & 2 & 3 or more \\
\hline
Women                  & 48     & 50     & 48 & 46 & 47 & 48     \\
Men                    & 47     & 51     & 51 & 52 & 51 & 51     \\
\hline
\end{tabular}
\end{table}

*No significant differences.

\textsuperscript{109} The significance level is generated by the difference between women and men with children between two and five years of age.
Married men on the average billed significantly more hours (36) than did married women (32). Fathers in intact families averaged 38 billable hours a week, while mothers in intact families billed on the average only 32 hours a week.

There are several plausible explanations for the differences. The differences may reflect an acceptance of conventional role expectations, according to which men must generate income in a tangible way, while women feel less vulnerable, when they are married, to the financial pressures exerted by law firms. They may also reflect conventional roles in a different way. It is commonly assumed that working women with spouses and children remain responsible for household and child-care arrangements. Their lower rates of billable hours may indicate a greater time commitment, even at the office, to nonprofessional tasks such as talking on the telephone with their children, arranging alternate child care, or scheduling service calls to the home.

The question of satisfaction. As we have seen, ideological orientation and situational conditions are thought to cause women to be less satisfied with legal practice than men. Two of our questionnaire items provide a general measure of job satisfaction. Respondents were asked, “Would you leave the practice of law if circumstances allowed you to do so?” and “Do you plan to leave the practice of law within the next five years?” Just over one half of both women (52%) and men (51%) said that they would leave law practice if they could, and a small minority of both—18% of the women and 14% of the men—said that they really did plan to leave in the foreseeable future.

Other questionnaire items sought to address more specifically various circumstances (such as perceived professional acceptance) that might influence the sense of satisfaction. Despite the literature that suggests that women lawyers are perceived as less committed to practice and thus less likely to be given—or to believe they are given—equal responsibility with male attorneys at similar levels, our respondents did not report such disparities. Both women and men preponderantly felt that they had as much or more responsibility for clients compared to other attorneys in their firms. Because small firms may operate quite differently from large firms, we examined the question of client responsibility separately for small,
Gender Study

medium, and large firms. No significant differences appeared.116

We also examined individual job satisfaction more directly, asking respondents to assess satisfaction in sixteen aspects of practice on a five-point scale. One item addressed "overall satisfaction." The remaining fifteen items covered three general categories: satisfaction with the relation between practice and personal life, satisfaction with professional relationships, and satisfaction with office situation. No significant differences were found in overall satisfaction; indeed, the ratings of men and women were strikingly similar.117 Seventy-three percent of both the men and women placed themselves within the top two levels of job satisfaction, and their distribution between those levels was almost identical. Only two percent of each group indicated that they were "very dissatisfied."

Close similarity rather than significant difference also characterized ratings of satisfaction with professional relations and office situations. Although the literature suggests that women would experience and/or perceive less acceptance by other (particularly male) senior lawyers, judges, and even peers, our population does not report different degrees of satisfaction in their relations with these groups. Indeed, their ratings are surprisingly consistent.118 Although it seems that women were less satisfied

116. In large firms, 63% of the women and 61% of the men felt that their client responsibilities were the same as those of other lawyers, and only 7% of the women and 3% of the men felt that others had more client responsibility. As one might expect, the percentage of lawyers reporting that others had more responsibility was somewhat lower in medium- and small-sized firms; however, no differences between men and women appeared. In medium-sized firms, 71% of the women and 73% of the men felt that they had the same degree of client responsibility as other lawyers did; 8% of the women and 3% of the men reported that others had more responsibility. In small firms, 74% of the women and 76% of the men felt that they had the same degree of responsibility of others; 6% of the women and 2% of the men thought that others had more.

117. The responses can be summarized in the following table:

<table>
<thead>
<tr>
<th>Overall Satisfaction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Women</td>
</tr>
<tr>
<td>1 = very satisfied; 5 = very dissatisfied.</td>
</tr>
<tr>
<td>1</td>
</tr>
<tr>
<td>19%</td>
</tr>
<tr>
<td>Women</td>
</tr>
<tr>
<td>16%</td>
</tr>
<tr>
<td>Men</td>
</tr>
</tbody>
</table>

118. Degree of Satisfaction With Specific Professional Relations

<table>
<thead>
<tr>
<th>Judges</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
</tr>
<tr>
<td>Women</td>
</tr>
<tr>
<td>17%</td>
</tr>
<tr>
<td>Men</td>
</tr>
<tr>
<td>19</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Senior lawyers</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
</tr>
<tr>
<td>Women</td>
</tr>
<tr>
<td>36</td>
</tr>
<tr>
<td>Men</td>
</tr>
<tr>
<td>44</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Peer lawyers</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
</tr>
<tr>
<td>Women</td>
</tr>
<tr>
<td>45</td>
</tr>
<tr>
<td>Men</td>
</tr>
<tr>
<td>47</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Nonlegal Personnel</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
</tr>
<tr>
<td>Women</td>
</tr>
<tr>
<td>50</td>
</tr>
<tr>
<td>Men</td>
</tr>
<tr>
<td>47</td>
</tr>
</tbody>
</table>

1 = very satisfied; 5 = very dissatisfied.
by their relations with senior lawyers than with peers and less satisfied with their relations with judges, men had the same experiences or perceptions and to the same extent as women. These similarities held for relations both within and outside the office.

The one domain in which women and men differed significantly was not within the professional setting itself but in their satisfaction with the relation of their professional and personal lives in matters such as flexibility of work schedule and opportunities for pursuing individual interests.\textsuperscript{119} One third of the women, but only one fifth of the men, were "very dissatisfied" or "dissatisfied" with the flexibility of work schedules and with the hours of work required. The difference is consistent with the hypothesis, discussed earlier, that for ideological and/or situational reasons, women are less entirely committed to the professional domain. The difference may also, not inconsistently, indicate in some indirect way a sense of stress about competing role requirements that questionnaire items on stress did not capture.\textsuperscript{120}

The question of competitiveness. A substantial literature indicates that women are more likely to find the competition associated with successful or at least entrepreneurial law practice relatively uncongenial. Because the question is interesting in itself and may also influence the sense of satisfaction with practice and the experience of stress in practice, a series of six items focused on commitment to the competitive and cooperative aspects of practice. Commitment to competitive aspects included concern for the firm's financial success, reputation, and accomplishment of client goals. Cooperative orientation was characterized by commitment to fair results in legal matters, to the reputation of the legal profession in general, and to improving community attitudes toward the profession.

The responses are interesting. On the one hand, both men and women were strongly committed to the competitive aspects of their practices. On a five-point scale, with 5 indicating "very strong" commitment, the average ratings were 4.3 for men and 4.2 for women. The difference is plainly not significant. On the other hand, women's commitment to cooperative values in law averaged 4.0, nearly as great as their commitment to competitive aspects, and was significantly stronger than the commitment claimed by men, who on average rated the items at 3.7 on a five-point scale.\textsuperscript{121}

These findings bear an obvious relation to the current discussion of differences in men's and women's value orientations. Research has shown that women perform hierarchical reasoning as well as men, both on moral development tests and in law school.\textsuperscript{122} Although it may also be true that women nevertheless attach greater significance than men to other kinds of values,\textsuperscript{123} this is plainly only a relatively stronger attachment. Men also value cooperative values generally and in law practice (indeed, their 3.7

\textsuperscript{119} The average satisfaction rating was 3.4 for men and 3.1 for women (5 = very satisfied). 
\textsuperscript{120} See supra Tables 4-6 and accompanying text.
\textsuperscript{121} \(F(1,466) = 9.69, p < .01\). 
\textsuperscript{122} See supra text accompanying note 3.
\textsuperscript{123} See supra text accompanying note 4.
average rating indicates more than moderate commitment to such values in legal practice). Relative differences are also important, however, and may indeed be the differences to which attention can most usefully be directed.

The question of mobility. Occupational mobility is a phenomenon that seemingly cuts across stress, satisfaction, and other practice experiences. Although some literature suggests that women may choose practice settings or fields that are consonant with their value orientations and/or their social situations, we have seen relatively little evidence to support the hypothesis. The same set of considerations might, however, lead women to move from one firm or agency to another, especially if, like most young lawyers, they have little concrete idea about the firms or organizations with which they make initial employment commitments.

Lawyers do change jobs relatively often, but our study suggests that this is as true for men as for women. Fifty-five percent of the women and 56% of the men reported having changed employers at least once during their careers. We also asked respondents who changed jobs to indicate whether one or more of a list of reasons was important to their decision. There are some differences between the responses given by men and women; in the main, however, similarities in reasons for changing are far more striking than differences.\textsuperscript{124}

Two reasons for changing jobs were cited far more frequently than any other by men and women alike. More than two thirds of the men cited more interesting work and greater financial rewards; slightly more than two thirds of the women cited more interesting work, and almost two thirds of the women cited greater financial rewards as their reasons for change. Men were more likely than women to regard greater prestige as important in the decision to change jobs, although less than half of the men cited prestige as a factor. For both groups, reduction of stress was the third or fourth most frequently stated reason for the change. Our groups also generally agreed on which factors were not important. For a majority of both men (68%) and women (61%), a desire for more time with their family was not a reason for changing jobs. They did not change jobs to improve political or social—as

\textsuperscript{124} The following table indicates the number of respondents who indicated that various factors were important to their decision to change jobs. Respondents could list as many factors as they considered relevant to their decisions.

<table>
<thead>
<tr>
<th>Factors Important in Job Change</th>
<th>Women</th>
<th>Men</th>
</tr>
</thead>
<tbody>
<tr>
<td>Greater financial rewards</td>
<td>52</td>
<td>93</td>
</tr>
<tr>
<td>Greater prestige</td>
<td>21</td>
<td>47</td>
</tr>
<tr>
<td>Greater power</td>
<td>12</td>
<td>19</td>
</tr>
<tr>
<td>Effect social change</td>
<td>18</td>
<td>21</td>
</tr>
<tr>
<td>Help disadvantaged</td>
<td>9</td>
<td>22</td>
</tr>
<tr>
<td>More family time</td>
<td>32</td>
<td>33</td>
</tr>
<tr>
<td>More time/personal interests</td>
<td>25</td>
<td>40</td>
</tr>
<tr>
<td>More interesting work</td>
<td>56</td>
<td>89</td>
</tr>
<tr>
<td>Less stress</td>
<td>40</td>
<td>43</td>
</tr>
<tr>
<td>Skills more suited</td>
<td>28</td>
<td>36</td>
</tr>
<tr>
<td>Encouraged to leave</td>
<td>18</td>
<td>21</td>
</tr>
</tbody>
</table>
opposed to personal—conditions; very few listed a desire to cause social change or to help the disadvantaged. Nor, for that matter, was a desire for greater power or influence in the community frequently cited by either men or women.

In sum, men and women were likely to give both professional and personal reasons for job changes. Greater professional satisfaction—often both in the nature of the work and in financial rewards—provided the most frequently stated reason for both men and women. Many men and women also counted nonprofessional values as important to their decisions. Altruistic values, however, did not often influence the decisions of either group.

V. The Generalizability of the Findings

Our data on legal careers diverge considerably from the common expectation that the legal role itself and multiple roles for professional women with families will produce special stress and dissatisfaction for women who practice law. Our findings cast substantial doubt on the more ideologically based assumptions that generalize about “women” and “law” in such a way as to ignore differences in the organization and setting of legal work.

In our discussion of experiences during law school, we have suggested that the characteristics of the school and its student body may contribute to equalizing the reported satisfaction of women and men students. It is appropriate to ask, however, whether our findings about law practice experiences in the Southwest, particularly in New Mexico, apply to women practicing law in the major legal centers. There are, to be sure, differences in the settings. New Mexico, for example, has few large firms. As we have already noted, when our study was conducted only three firms in New Mexico employed more than fifty lawyers, and none employed as many as sixty-five. It does not seem likely that even these firms would possess the structure and expectations—and therefore create the stress—of a 300-lawyer firm that competes for business not only in the city in which the home office is located but across the country. Indeed, our study suggests that generalizations about legal careers and legal practice drawn from specific locations and settings are dangerous.

Differences in practice settings should not be exaggerated, however. Our graduates did not, it is true, work in firms the size of those characteristic of heavily urbanized areas—firms that may be considered voracious rather than merely greedy. They were not expected to produce the 2,500–3,000 billable hours that a “good corporate associate” in a firm such as Skadden, Arps is said to be required to produce annually. Large-firm lawyers in our sample did, however, bill an average of 42 hours a week, which is comparable to the estimated national average for midlevel associates in

125. See supra note 89.
127. See supra note 105.
large firms. Lawyers in medium-sized firms (which would be relatively small by coastal standards) reported billing an average of 38 hours a week, which is also comparable with the expectations of large firms across the country (with the exception of New York). Finally, a comparison of total hours worked by New Mexico graduates with those in the Michigan study points in the same direction. Men and women without children in the Michigan sample averaged about 52 working hours a week; those with children averaged about 49 hours a week. Male graduates of New Mexico averaged 50 hours and female graduates 47 hours a week; in addition, male and female lawyers with children averaged the same number of hours a week (49) as those in the Michigan sample. These similarities are especially worth noting because the Michigan graduates are heavily engaged in large-firm practice.

Although it is surely possible that the circumstances of practice in the Southwest affect the experiences of our graduates, simple explanations—such as that reduced work commitments generally eliminate stress for our sample—are not satisfactory. It is also important to note that although our graduates’ reports diverge from some aspects of the literature on the experiences of women in law, they are generally consistent with the broader literature on the work experiences of women and with other studies of legal careers.

The satisfaction generally experienced by women lawyers in our sample, both in absolute terms and in comparison with men, has been reported in other studies. The Stanford study found no differences in the professional satisfaction of their women and men graduates. The same aspects of employment (such as intellectual stimulation, helping people, and service to society) were regarded as important to job satisfaction by men and women alike. The Michigan study reached the same conclusion: there was no significant difference in the overall satisfaction levels of working men and women. And in all of these surveys, respondents expressed high levels of satisfaction with their careers.

It should be added that our findings and those of other empirical studies of the experiences of women in law also reflect the general literature on job satisfaction. Personal satisfaction is generally an important aspect of job

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128. This estimate is drawn from the American Lawyer survey of midlevel associates in the 189 largest law firms. The survey reports billable hours in ranges, with a score of “2” for 31–40 billable hours, “3” for 41–50 billable hours, and “4” for 51–60 billable hours a week. The average national score was 2.8. Shop Talk, Associates Survey, Am. Law. October 1988, at 57.

129. New York associates reported an average hours billed score of 3.2, with many firms at the 3.4 and 3.5 levels. Id.

130. Chambers, supra note 88, at 269.

131. Id. at 269.

132. See supra note 89.

133. The average satisfaction rating for women was 5.31 on a 7-point scale (7 = “very satisfied”); that for men was 5.12. Stanford Project, supra note 26, at 1245. The ratings seem closely comparable to ours. See supra text accompanying note 76.

134. Id. at 1246.

135. Chambers, supra note 88, at 275, Table 5.
satisfaction.\textsuperscript{136} The broadest study addressing the satisfaction of Americans with their lives observed, perhaps with some surprise, that “[t]here is practically no difference between women and men in average job satisfaction.”\textsuperscript{137} As we have seen, our women graduates felt satisfied in their acceptance within the profession and with their careers overall, and it is not therefore remarkable to find equivalent satisfaction levels for women and men.\textsuperscript{138}

Our findings on the effects of multiple roles on the stress and satisfaction levels of women lawyers are similar. Although the women in our sample do not confirm commonly stated predictions of higher stress and less satisfaction, our data are consistent with other research. Married women typically report high levels of job satisfaction and, generally, higher levels than do unmarried men and women.\textsuperscript{139} Studies that have addressed the job satisfaction of women with children have also found mothers as satisfied with their jobs as are women without children and men in general.\textsuperscript{140} Chambers’s Michigan study finds, as does ours, that women lawyers with children are likely to be highly satisfied with their professional careers; indeed, he found them to be more contented than any other group.\textsuperscript{141} Why this should be so, generally and for New Mexico and Michigan law school graduates, is a matter for speculation.

We offer two further suggestions that future research may choose to take into account. First, when we talk about multiple roles and the peculiar demands on the time of the mother, we may incorporate a special, usually imprecise, notion of child care. Certainly the ordinary sense of “child care” implies a burden, even if lovingly undertaken and executed. Talk about child care may therefore not include activities that involve spending time with children that would be spent in any case (such as taking the children along while shopping or going to a ball game) and activities that, although they are done only because of the children, are nevertheless considered enjoyable (such as attending a child’s volleyball game). Such activities, however, suggest that men with families also occupy multiple roles in ways that even out the sense of stress and satisfaction.

Second, as Chambers also suggests, in a multiple-role situation each role will itself create some stress, but each also provides respite from the stress


\textsuperscript{137} Id. at 300–01.

\textsuperscript{138} It is true that our women graduates were paid significantly less well than their male counterparts. See supra text accompanying notes 92–93. And it also seems that there is a tendency for women to feel less satisfied with their compensation than are men. There is also, however, considerable evidence that compensation, even differential compensation, does not determine job satisfaction overall. See Quality, supra note 136, at 428; see generally Faye Crosby, Job Satisfaction and Domestic Life, in Mary Dean Lee & Rabindra N. Kanungo, Management of Work and Personal Life: Problems and Opportunities 41, 45 (New York, 1984).

\textsuperscript{139} Quality, supra note 136, at 428, 432. See also Faye J. Crosby, Relative Deprivation and Working Women 64–65 (New York, 1982) (married women generally).

\textsuperscript{140} See Chambers, supra note 88, at 255–56 n.26 (and sources cited therein).

\textsuperscript{141} Id. at 275.
associated with the other role.\textsuperscript{142} To the extent that mothers find caring for children burdensome, the opportunity to undertake the also challenging but very different responsibilities of legal work may provide relief from child-care duties—respite that is sufficiently engaging to allow genuine refreshment. In addition, working mothers who are lawyers may take the view that they have succeeded in every domain, despite what appear (from popular and professional literature, among other sources) to be substantial obstacles. That may itself provide a sense of satisfaction in both the professional and domestic domains.

VI. Conclusion

Our study of New Mexico graduates does not confirm predictions that women and men choose the legal profession, experience legal education, and engage in law practice differently. On the contrary, the women and men we studied attached the same priorities to reasons for enrolling in law school and reported remarkably similar experiences during their law school years. Similarity rather than difference also marked their careers in practice.

As for the legal role itself, our graduates do not report experiencing special stress because of the competitive nature of law practice. Men and women alike perceived the stress associated with practice as "moderate."\textsuperscript{143} Further, women appear to accept the contentious aspect of legal work as fully as men. The women lawyers in our sample placed the same value on the competitive aspects of practice as did men, although they also valued cooperative aspects more than did male respondents.\textsuperscript{144} The women in our sample also felt that they were accepted in the profession; their reported satisfaction with treatment by judges and by lawyers inside and outside of their own firms is high in absolute terms and is indistinguishable from the satisfaction levels reported by their male colleagues. Finally, the experiences of women with families in our population do not confirm anecdotal suggestions that they experience more stress and less satisfaction in practice or that they will probably not advance as far as men. In fact, women with children did not report more stress than either women without children or men with and without children.\textsuperscript{145} Nor do our data indicate that women with families relieved their stress by reducing their time commitment to the office. Neither marital status, the presence of children in the home, or even the number of children at home significantly affected the hours worked by women or men.\textsuperscript{146}

\textsuperscript{142} \textit{Id.} at 282.
\textsuperscript{143} See \textit{supra} Tables 5 and 6.
\textsuperscript{144} See \textit{supra} text accompanying note 121.
\textsuperscript{145} See \textit{supra} Tables 5–6. Differences were found for a small group of women who had reduced the extent of their litigation practice; they rated stress related to time demands as a more important reason for reducing trial work than did others who had also reduced their litigation activities. Women lawyers without children, however, found other sources of stress (such as contentiousness) more important in their decisions to reduce litigation than did women lawyers with children and men lawyers in general. See \textit{supra} text accompanying notes 100–01.
\textsuperscript{146} See \textit{supra} Tables 5 and 6.
Like other recent empirical work on the careers of women lawyers, our study suggests the weakness of models based on universalistic ideological or situational assumptions. There is much we do not know about the careers of lawyers, regardless of gender. If research on women's experiences in legal education and law practice treats gender as the primary independent variable, it may not only fail to yield substantial results but also risks diverting attention from other important conditions and behaviors.\footnote{See generally Roslyn L. Feldberg & Evelyn Nakano Glenn, Male and Female: Job Versus Gender Models in the Sociology of Work, in Women and Work, supra note 7, at 65.} Research that treats educational and professional institutions—or the jobs people do—as the principal independent variables may help us examine and explain the conduct of lawyers on and off the job, the real costs of "greedy" institutions for those who submit, and the strategies used by those who do not. Our study has shed empirical light on gender differences, legal education, and careers of lawyers in the Southwest. Clearly, there is room for additional research and for different methodologies; we invite such research.
### Appendix

#### Enrollment Percentages for Women and Minorities*

<table>
<thead>
<tr>
<th></th>
<th>Women</th>
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<th>Women</th>
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<tr>
<td></td>
<td>National</td>
<td>New Mexico</td>
<td>National</td>
<td>New Mexico</td>
</tr>
<tr>
<td>1974-75</td>
<td>19%</td>
<td>31%</td>
<td>8%</td>
<td>—</td>
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<tr>
<td>1975-76</td>
<td>22</td>
<td>33</td>
<td>7</td>
<td>13%</td>
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<tr>
<td>1976-77</td>
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<td>8</td>
<td>25</td>
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<td>1977-78</td>
<td>27</td>
<td>37</td>
<td>8</td>
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<tr>
<td>1978-79</td>
<td>29</td>
<td>35</td>
<td>8</td>
<td>36</td>
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<td>1979-80</td>
<td>31</td>
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<td>8</td>
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<td>1981-82</td>
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<td>1983-84</td>
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<td>1984-85</td>
<td>37</td>
<td>55</td>
<td>9</td>
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</tr>
<tr>
<td>1985-86</td>
<td>38</td>
<td>48</td>
<td>10</td>
<td>39</td>
</tr>
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</table>

Average 31% 42% 8.6% 34%

*Data compiled from sources contained in annual volumes of *A Review of Legal Education in the United States* (ABA Section of Legal Education and Admission to the Bar).

We recognize that the data compare oranges and tangerines. The national data reflect enrollments for all three years of law school in the year reported; the New Mexico data only report the distribution of the graduating class. However, given the upward trend, the New Mexico distributions are all the more distinctive because they reflect admissions practices of an earlier period. In addition, the New Mexico figures do not include students who have left law school before graduating, while the national figures necessarily include some such students. If minority students are disproportionately at risk of leaving law school for academic or other reasons, one would expect the comparable national distributions at graduation to include an even smaller percentage of minority students than recorded in the table.