

COURTING GENDER BIAS:
AN EXAMINATION OF WOMEN'S EXPERIENCES IN THE
PROFESSION OF LAW IN KANSAS

by

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B.A., Kansas State University, 2002

A THESIS

submitted in partial fulfillment of the requirements for the degree

MASTER OF ARTS

Department of Sociology, Anthropology and Social Work
College of Arts and Sciences

KANSAS STATE UNIVERSITY
Manhattan, Kansas

2012

Approved by:

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Abstract

This study examines the issue of gender bias and other gendering processes within the profession of law in Kansas. Although women have made great strides toward equality within the law profession, there are still glaring disparities between men's and women's occupational attainment. Women enter law school at similar rates as men do; however, they are not similarly represented in the legal profession upon graduation, or throughout their careers. Utilizing a theory of gendered organizations, this study seeks to investigate what impact, if any, certain sociodemographic factors, sector of law, mentorship, and perceptions of discrimination, have on women's levels of job satisfaction. To accomplish this goal, this study makes connections between previous research conducted by the Kansas Bar Association, and more recent survey data modeled after the original KBA research. Underlying structures and ingrained interactions are examined quantitatively, to gain a better understanding of the gendered processes that women experience within the profession of law in Kansas.

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Acknowledgements

First and foremost, I owe a debt of gratitude to my graduate committee. Thank you, Dr. Gerad Middendorf, for serving as Major Professor and seeing me through the final stretch of this process. Your assistance and support are very much appreciated. Thank you, Dr. Pat Akard, for always demonstrating the utmost kindness and compassion throughout my journey as a graduate student. Last but certainly not least, thank you, Dr. Torry Dickinson, for many years of mentorship, advocacy, guidance and support. Without your continued encouragement, this endeavor would not have been possible.

Thank you to the Department of Sociology, Anthropology and Social Work at Kansas State University, with special thanks to Dr. Betsy Cauble and Karen Rundquist, for your support in this endeavor.

To my friends and colleagues, I offer a sincere thank you for all of your support throughout the years. My K-State colleagues can attest to the fact that I cringed a time or two when asked, “How’s your thesis coming along?”, yet it was your continued interest and encouragement that kept me pushing forward on those days when I was struggling to persevere. To my supervisor, Dr. Mike Lynch, I offer my gratitude along with the acknowledgement that sometimes, the end does justify the means.

To my family, a heartfelt thanks for your unwavering support. To my brother, Mike, thank you for teaching me the value of education at a young age. Never doubt the impact that your teaching imparts on others, to include your little sister. Special thanks to my grandmother, the matriarch of my family, whose wisdom and perseverance has taught me as much as any formal education ever could. To my mother, thank you for your unconditional love and support

which has sustained me throughout. Thank you for instilling in me an intellectual curiosity, and a life-long love of learning. Thanks to you, Mom, I can say, “Oh, the Places I’ve Gone!”

To my husband and step-son, thank you for your continued encouragement and support, as well as your patience on the nights when I had to skip family activities to work on my thesis. To my step-son, I thank you for your continued questions about the status of my “book report,” and for your reminders that your homework was finished before mine. (There is nothing quite like the commentary of a child to keep you honest in your endeavors!) To my husband, thank you for your tolerance of my need for intellectual debates over the merits of my thesis when yet another edit seemed as though it was too much to bear. Most of all, thank you for your love and support throughout this process, and for standing by me in good days and in bad.

To the countless others along the way who have influenced me on my journey leading up to, through, and now beyond graduate school, I offer my sincere thanks.

Dedication

This thesis is dedicated to the legal professionals who graciously donated their time, effort, and wisdom to this research. They are an inspiration to all who strive to make progress toward equality within the profession of law and beyond.

CHAPTER ONE

INTRODUCTION

From their entrance into the courthouse and throughout their participation in the business of the courts...[women] are faced with unnecessary and unacceptable obstacles that can only be explained in terms of their gender (Report of the Massachusetts Supreme Judicial Court Gender Bias Study Committee – New England Law Review 1990: 757).

On the surface, women in the United States appear to be making substantial progress in the traditionally male-dominated profession of law. Within the last 60 years, the number of women in law school has increased by more than 43 percent, with women now comprising almost 50 percent (48.2%) of law school students nationwide (American Bar Association 2011). Despite progress in law school admissions, women account for less than 32 percent of attorneys nationwide, and continue to be underrepresented in top positions within the legal profession (U.S. Department of Labor 2011; American Bar Association 2011). Only 26 percent of all federal and state judgeships, 20.6 percent of law school deans, and 15 percent of equity partners of private practice law firms, are women (American Bar Association 2011). These numbers demonstrate that although women are gaining access to study law, the progression from student to attorney is not the same for women as it is for men.

Recent figures for Kansas women in law mirror national statistics. Women comprised 40.6 percent of the student body of Washburn Law School in 2011, while the University of Kansas School of Law reported a student body of 39.9 percent women. Nonetheless, in 2011 women consisted of only 35 percent of lawyers practicing in the state of Kansas (KBA 2011). Additionally disturbing is the disparity between the number of women and men serving in the

judiciary. Although women have achieved visibility at the highest level of the judiciary in Kansas (three out of the seven Kansas Supreme Court Justices are women), they continue to be underrepresented in trial and appellate courts. Currently, less than 16 percent of District Court Judges in Kansas are women, while only three women sit on the Kansas Court of Appeals (Kansas Judicial Branch 2012).

Why this disparity between women and men in the legal profession? After all, women have undoubtedly made progress. The number of women graduating from Kansas law schools continues to rise. Women hold 10 of the 32 positions on the Board of Governors of the Kansas Bar Association in 2012. Even so, the presence of women is scarce at top positions such as managing partner, tenured professor, or judge, demonstrating that the ascent to top legal positions is anything but a straight-line progression for women. Unlike men, women in law have consistently faced barriers and blocked opportunities because of their gender.

The Gender Bias Task Force Movement

In 1980, the National Organization for Women's Legal Defense and Education Fund, in collaboration with the National Association for Women Judges, established the National Judicial Education Program (NJEP) to promote equality for men and women in the courts, and within the profession of law itself (NOW 2004; Resnik 1996). In order to accomplish this task, the facilitators of the program knew that concrete facts about gender bias from each state would be an integral part of convincing judges that education on identifying and taking action against gender bias was a necessary part of their job. "This stress on developing state-specific data for judicial education resulted in the national gender bias task force movement" (Schafran 2004, 460). As a result, the NJEP led an initiative of state and local task forces to investigate the

pervasiveness of gender bias within the courts, seeking empirical data to combat denial that such bias existed.

The impetus for creating these task forces was not simply the knowledge that one's gender affects their interactions within the legal system – women have been cognizant of this reality for years. Rather, the more disturbing issue was that women who had been discriminated against would bring their claims to court, only to be subjected to further degradation (Resnik 1996). Moreover, gender discrimination went beyond the interactions of the courtroom, as it was (and often still is) pervasive throughout much of the written law in the United States.

Armed with this knowledge of gender bias and discrimination, the National Judicial Education Program sought recognition, and therefore collaboration, with the courts. In 1982, the NJEP received recognition from Chief Justice Robert N. Wilentz of the New Jersey Supreme Court. In 1983, Chief Justice Wilentz commissioned the first state task force, the New Jersey Supreme Court Task Force on Women in the Courts, upon hearing a presentation from Judge Marilyn Loftus (a member of the NJEP) regarding the National Judicial Education Program, and the need to obtain information specific to New Jersey (ABA 2004). The findings of the New Jersey Task Force would prove to be highly representative of the other states' task forces that would later ensue:

“Although the law as written is for the most part gender neutral, stereotyped myths, beliefs, and biases were found to sometimes affect judicial decision making in the areas investigated: damages, domestic violence, juvenile justice, matrimonial law and sentencing. In addition, there is strong evidence that women and men are sometimes treated differently in courtrooms, in chambers, and at professional gatherings.”¹

¹ “Learning from the New Jersey Supreme Court Task Force on Women in the Courts: Evaluation, Recommendations and Implications for Other States.” *Women's Rights Law Reporter*, Volume 12, Number 4, Fall 1991 (Wikler and Schafran: 313-385).

Following the publication of New Jersey's Task Force report (1984), the National Association of Women Judges formed the National Gender Bias Task Force as a mechanism through which they could assist and encourage the formation of state task forces (NOW 2004; Wikler & Schafran 1991). One by one, 45 of the 50 states joined in the national movement of gender bias task forces, by creating a task force to investigate gender bias within their respective state. The results are disturbing, providing a general consensus that gender bias exists at every level of the legal system. Although many of the states' task forces investigated bias at each level of the legal system (victim, litigant, lawyer, court personnel), for the purpose of this thesis, I limit the discussion of their findings to only courtroom actors (attorneys and judges).

One pattern among task force findings is the overwhelming difference between male and female attorneys and judges regarding the existence of bias. In Nebraska (1999), the task force findings demonstrate that 48 percent of male attorneys did not believe that gender bias in the courts existed, whereas only 3 percent of female attorneys did not believe that bias existed (Hemmens et al. 1998). Perhaps the comments from a male attorney in Utah (1990) best illustrate the extent of denial regarding gender bias: "This sounds to me like someone fishing for problems that don't exist. In eleven years, I have never seen a judge treat a woman with less respect than a man" (Hemmens et al. 1998: 35).

The most commonly reported form of gender bias was the occurrence of attorneys and judges addressing female attorneys in a demeaning manner (KBA 1992; Hemmens et al 1998). For example, the Missouri task force (1993) found that, "...female attorneys reported being addressed by judges in familiar terms twice as often as male attorneys. Similarly, women lawyers in Michigan (1989) reported being called "sweetie," "little lady lawyer," "pretty eyes," and "dear" (Hemmens et al. 1998).

Another finding among the task forces was that a woman's identity as an attorney was being called into question. Women lawyers in Minnesota (1989) and Nebraska (1994) reported frequently being asked whether or not they were even attorneys, as compared to men who were not asked that question. "When I accompany a senior partner to court, I am often asked if I am his daughter (by attorneys, judges), I am not assumed to be a competent associate attorney working on a case" (Hemmens et al. 1998: 35). Furthermore, female attorneys are not alone in their experience of gender bias. Female judges also report bias both inside and outside of the courtroom (Wikler and Schafran 1991).

In all states, women are grossly underrepresented on the bench. Additionally disturbing is the fact that, for female judges, the most common occurrence of gender bias was in "the hiring practices and placement of judges" (Hemmens et al. 1998: 37). Female judicial applicants report being asked inappropriate questions, such as queries regarding childcare, or whether or not they had the intention to have children. In contrast, male judicial applicants were not asked these questions (Hemmens et al. 1998).

Although the state task force findings are alarming at best, what is even more disconcerting is that several states did not conduct task force investigations. Five states, Alabama, North Carolina, Oklahoma, South Carolina, and Wyoming did not join in the movement. Additionally, task forces located in Arizona, Delaware, Kansas, Ohio, and the District of Columbia, all disbanded after an initial investigation of gender bias concluded (NOW 2004). Kansas, being one of the five task forces to disband, provides an instructive case study to investigate the process of change as well as the possible resistance to change.

The Kansas Gender Bias Task Force

The Kansas Bar Association Task force on the Status of Women in the Profession was created in June of 1989, at the direction of Kansas Bar Association President, Jack Focht. During its existence from 1989 to 1992, the Task Force had 29 members, consisting of attorneys from both public and private practice, judges from all levels of the Kansas judiciary, as well as law school professors and court personnel. The Task Force was charged with the mission of assessing the status of women in the profession of law in Kansas, by investigating the existence of possible gender bias and discrimination within the general practice of law, the judiciary, and the legal educational setting (KBA 1992). For the purpose of this thesis, a discussion of the Task Force findings will be limited to the general practice of law and the judiciary.

In order to assess the status of women in the profession of law in Kansas, the Task Force commissioned the Central Research Corporation of Topeka, Kansas, to assist in the construction and administration of a survey that was administered to 401 Kansas attorneys. At the time of the survey, 7,500 attorneys were licensed to practice law in Kansas, with only 15 percent being women. Therefore, women were oversampled to allow for equal numbers of male and female participants.

The findings of the Kansas Bar Association Task Force demonstrate a similar pattern to that of other states' task forces and are, at best, disturbing. Within the survey there are 17 questions regarding the treatment of female attorneys by their colleagues. These questions range from the inquiry of, "inappropriate use of names like 'dear' or 'sweetie' toward female attorneys," to "female attorneys subjected to unwanted pressure for sex", to "actual battery or rape of a female attorney." The difference in responses between female and male attorneys is alarming, with a much higher rate of female attorneys responding that they had witnessed or

experienced such conduct. The most frequently mentioned observation or experience by female attorneys (70%), and the second most frequent observation by all attorneys (45%), is the condescending treatment of women attorneys by male attorneys, usually occurring outside of the courtroom. One female attorney commented, “Several times male attorneys have patted me or held on to my elbow, more in a condescending than a sexual manner” (KBA 1992). Further, 18 percent of all attorneys and 31 percent of female attorneys reported having observed or experienced instances of inappropriate comments on the dress or appearance of female attorneys. Although only 16 percent of male attorneys reported these instances, one male attorney commented on his experience:

“Some of the comments I have heard about female attorneys include... ‘she’s ugly; she doesn’t dress well enough; because of her appearance I could never vote for her to become a partner’” (KBA 1992).

Moreover, though it may appear that more of the discriminatory conduct reported in the 1992 study occurred outside of the courtroom between male and female attorneys, this is not always the case. One question regarding women lawyers being treated with less respect than male lawyers evoked the following response from a female attorney:

“I’ve had several divorce cases before a judge who does not treat female litigants or witnesses (even expert witnesses) with the same courtesy or deference he affords men...this attitude applies to lawyers, too. If I’m an advocate, he thinks it’s ‘bitchy’...If I’m firm, he thinks I’m obstinate” (KBA 1992).

This discrepancy between female and male attorneys’ responses with regard to their perceptions of gender bias in the justice system can be found in every state’s task force report (Schafran 2004, 460).

Another pattern in task force findings nationally that was echoed in the Kansas report is the perception among female attorneys (58%) that their gender has been a professional disadvantage to them, whereas only 11 percent of male attorneys perceive themselves to be

similarly situated. Perhaps one validation of this perception is the wage gap displayed by the Kansas report. The wages earned by female and male attorneys are extremely disparate, with female attorneys averaging \$41,000 per year, and male attorneys averaging over \$80,000 per year. One possible contribution to the wage gap is the fact that, “male attorneys in Kansas remained in their first full-time jobs as attorneys about twice as long as did female attorneys” (KBA 1992, 8). Additionally, the data obtained from Kansas demonstrate that female attorneys tend to hold positions as assistant district attorneys, associate positions in law firms, or serve as research assistants. In contrast, male attorneys tend to be partners or managing partners in law firms, or serve on the bench (KBA 1992). This information demonstrates that women are lacking longevity in their first positions as attorneys, as well as facing employment in less lucrative positions: a combination that produces fewer opportunities for salary increases, as well as lower pay from the start.

In 1992, having obtained such inequitable results between women and men in the profession of law in Kansas, the Task Force delivered its findings on gender bias and provided several recommendations to counter such bias. The final report of the Kansas Bar Association Task Force on the Status of Women in the Profession delineates general recommendations, such as: (1) continuing legal and judicial education programs to provide awareness of gender bias in the profession; (2) the preparation of informational materials regarding gender bias and its effects within the system; (3) the appointment of a committee to implement the recommendations set forth by the Task Force. The Task Force also set forth specific recommendations for general practice and the judiciary to ensure education on gender bias, as well as compliance with gender bias policies within each sector of the law.

The Kansas Task Force disbanded following the publication of their findings, at which time the recommendations from the 1992 report were to have been incorporated with the Kansas Bar Association's strategic plan, thus mainstreaming the implementation of gender equity into the larger framework of the Kansas Bar Association's mission.

Progress?

What has happened in the years since the national gender bias task force movement began? Was the Kansas Task Force able to follow through with their original goals and implement the recommendations set forth in the 1992 report? It is important to note that while the Kansas Task Force disbanded just a few years after its inception, many of the other states task forces (or subsequent committees to oversee the task force recommendations) are still in existence today. As of 2011, of the 34 states (and the District of Columbia) that published reports of their task force findings, eight have published a second, follow-up report, with California and New Jersey publishing three and four reports, respectively (Legal Momentum 2009).

Initially, the federal courts were hesitant to concede that they harbored the same gender bias that existed in the state courts. Nonetheless, a majority of the federal courts did join in the movement; eight of the twelve federal circuit courts, including the D.C. circuit court, formed task forces on gender bias. In fact, six of the circuits have published more than one report on their task force findings, with the ninth circuit having published a total of 7 reports (Legal Momentum 2009).

Although progress may seem slow, the national gender bias task force movement is creating change within the judicial system. The ideology of gender equality that has been created by the movement provides a model for the judiciary to look to when interpreting the law. For

example, in the landmark case Catchpole v. Brannon (Conte 2000), judicial gender bias compromised the outcome of a sexual harassment lawsuit. In a long list of derogatory comments toward the female plaintiff, the judge stated that the case was “nonsense” and that sexual harassment cases were “detrimental to everyone concerned” (Conte 2000). The plaintiff appealed the case and won, at which time the original judgment was reversed due to the trial court judge’s gender bias:

“In reaching its decision the Court of Appeals was guided by NJEP’s [National Judicial Education Program] definition of gender bias...the findings of the California and Ninth Circuit Gender Bias Task Forces...and the 23 gender bias task force reports that have discussed women’s lack of credibility in the courts” (Conte 2000).

This is but one example of the change that can result from the study of gender bias in the profession of law. However, this example is from California, which is a part of the ninth circuit federal court – the same circuit that produced seven reports for publication on the findings of their gender bias task force. It is clear that states such as California, and federal circuits such as the ninth, have remained active in their goals to combat gender bias in their respective venues. *What happens in the states and federal circuits that have NOT viewed gender bias in the law profession as a priority issue? What about states such as Kansas, in which the gender bias task force disbanded, leaving the onus of the task force recommendations to the larger agenda of the statewide Bar Association?* This thesis seeks to explore the possible effects that the task force may have had on women lawyers’ and judges’ experiences in general, as of the year this thesis survey data was collected (2004). This study does not produce a direct comparison with the 1992 survey, nor is it able to provide a comparison between women’s and men’s experiences, as was available in the 1992 survey. Rather, it uses variables constructed from the 2004 survey that assess multiple factors (sociodemographic factors, sector of law, mentorship, perceptions of

discrimination) that may affect women's overall levels of job satisfaction, thereby affecting their "status" within the profession of law.

The objective of this thesis is to expand on previous research on the status of women in the legal profession. Although gender bias in the legal profession in Kansas was documented in the 1992 report, there is no current data on the status of Kansas women in the profession. Furthermore, little attention has been directed toward the oversight of the recommendations set forth by the Task Force. Additionally, upon the disbandment of the Kansas Task Force, its goals were incorporated into the larger framework of the Kansas Bar Association. I anticipate that the nature of gender bias has changed from blatant discrimination, to more subtle forms of bias, and that resistance to change has played a large role in blocking women's progress. In this sense, the quantitative data used in this thesis will help to answer different questions, with the goal of substantively combining the results to demonstrate the gendering processes of the legal profession.

The theoretical framework employed by this thesis will utilize the multi-dimensional perspectives set forth in Acker's *Theory of Gendered Organizations* (1990). This theory opposes the traditional view of the gender-neutral organization, asserting that the organizational structure of the workplace is gendered, and that assumptions about the abstract worker have a disparate effect on women. Acker's theory has been used to analyze the workplace dynamic of women in male-dominated occupations, as well as men in female-dominated occupations (Britton 2003, Williams 1995). Using Acker's components of structure, culture and ideology, and agency to frame the research, it will also be possible to conceptualize the profession of law in the context of a gendered organization. This theoretical perspective does not claim to establish causal links

to a cause and effect relationship but does propose to add context and analysis of the process of challenges and potential for change.

Chapter two of this thesis elaborates on the theoretical framework and provides a review of the literature on gender bias within the profession of law. Chapter three provides a discussion of the methodology utilized for the thesis, describing the process used to gather information for this study. The quantitative method of survey data collection, as well as the operationalization of the variables is discussed. Chapter four reports the findings of the quantitative research, providing an analysis of the current data. Lastly, chapter five consists of a summary and conclusions regarding the implications of the study, limitations of the study, as well as suggestions for further research.

CHAPTER TWO

LITERATURE REVIEW AND THEORETICAL FRAMEWORK

A Review of the Literature

The Historical Context of Women in Law: Debunking the Myth

In a country that did not permit women to vote until 1920, it is perhaps surprising to learn that the first women lawyers appeared in the 1860s. Although there were women who held some legal power, such as Margaret Brent, women were not recognized as lawyers prior to this period (Dusky 1996).

Beginning in the 1860's a number of women challenged gender inequality within the profession of law by petitioning the courts for access to law schools and for equal recognition as lawyers. Interestingly, the success of the petitioner may have been dependent upon their region of residence, as Dusky (1996) notes that those residing in the Midwest appeared to break through sexist barriers more easily than in other regions. Yet, this is not to say that women in *any* region had an easy time acquiring access to a legal education or to the profession of law. "Women were kept out of law schools until they proved it was absurd to bar them and then they were kept out of courtrooms with the same vigor" (Dusky 1996: 135). The task was even more daunting for women of color and women of lower social standing (Dusky 1996; Epstein 1981; Harrington 1993).

A wide variety of arguments were set forth against women entering the profession of law by both men and women. Women entering the profession were perceived as a threat to the gender order – that is, the historical context in which power relations (male superiority and female subordination) have been constructed and perpetuated (Connell 1987; Harrington 1993).

Early arguments for exclusion centered on the nature of femininity, describing women as too tender and delicate for the courtroom, an arena in which their husbands could not adequately protect them. Other arguments disparaged women's credibility as potential lawyers, citing a lack of competency and lack of motivation for positions of power (Dusky 1996; Epstein 1981).

Nonetheless, women did continue to enter the legal profession. During the first quarter of the twentieth century the number of women in the profession of law increased dramatically, rising more than 15 percent from the turn of the century (Grossblat and Sikes 1973). However, women's entry into the profession of law did not always include such substantial increases. Rather, the percentage of women in the profession rose and fell depending on several of the same factors that influenced the entry of women into the paid labor force, in general. The Civil Rights Movement and Student Movement of the 1960's, as well as the ensuing legislation of the Civil Rights Act and employment laws that supported equality and forbade discrimination, all laid a foundation for women's access into the paid labor force, and more specifically, into the profession of law (Epstein 1981).

“The law became a mechanism for change as it was implemented by the concerted action of women's movement activists, by feminist lawyers, and by the acceptance of legal methods as effective tools for winning women's entry into the male-dominated establishment and guaranteeing the possibility of their success” (Epstein 1981: 5).

Opportunities for women also increased during times of military conflict, but especially with the women's movement of the 1960's and 1970's (Dusky 1996; Epstein 1981; Harrington 1993).

With the Civil Rights Movement serving as an impetus for change, women came to understand that the feminist struggle for equality needed its own identity, its own movement (Ferree & Hess 2000). Using the resources they had acquired from the Civil Rights Movement, women had an organizational model with which to structure their feminist goals and ideals. Women now had a sense of the power that could be generated from mobilization toward a

common goal. Second, women were able to effectively utilize the organizational skills they had obtained from the Civil Rights Movement, while effectively implementing tactics for change (Ferree & Hess 2000). The ensuing feminist movement of the 1960's and 1970's provided many opportunities for women, especially women seeking to enter the realm of male-dominated professions.

As women gained access to legal education and the profession of law, the attitudes of men and women toward women lawyers began to change. "This change in attitudes and aspirations and acquisition of competence came as more and more women entered the labor force and the growing women's movement proposed an ideology of equality underscoring women's commitment to work" (Epstein 1981: 4). As more women looked to the profession of law as a means of gaining credibility and competence, and as older women encouraged younger women, by acting as role models and mentors, the field of law became a preferable career choice for women (Epstein 1981).

The Shift to "Normality"

Prior to the 1970's, women who entered the profession of law were often seen as deviant, as their presence in the profession, and even their admittance into law school, was not welcomed (Epstein 1981). In fact, blatant discrimination on the basis of sex in work and education was not illegal until the passage of Title VII of the Civil Rights Act of 1964. However, in the 1970's, as the women's movement in the United States gained momentum and barriers to a legal education for women were lifted, women began to enter the profession of law in larger numbers than ever before (Epstein 1981). Women were only four percent of law school students in 1965; however, by 1975 women comprised 23 percent of law school students (ABA 2012). With women's increased enrollment in law school, the percentage of women lawyers also increased. According

to the American Bar Foundation, there were 324,818 directory listings for attorneys in the United States in 1970. Of that number, only 9,103 (2.8%) were women (Grossblat and Sikes 1973). By 1980 women lawyers totaled 62,000 (12%) of lawyers nationwide, climbing nearly 10 percent in one decade. (Epstein 1981). Thus, with increased access to legal education, women's participation in the profession of law increased, making the profession a more "normal" choice.

The Double Bind

While the profession of law may be a fairly typical career choice for women today, it is still a male-dominated profession in which women continue to encounter discrimination and bias because of their gender. Women aspiring to be lawyers may first experience gender bias in the classroom. Although the number of women attending law school is now equal to the number of men in law school, their experience is far from comparable. "Teachers don't call on women, won't listen to what they say, [and] refuse to acknowledge that the law itself is written from the perspective of prosperous white males" (Dusky 1996: 2). Thus, while blatant gender discrimination in the admissions process is no longer acceptable, gender bias still occurs in the teaching of the law and in the day to day classroom interactions.

Unfortunately, the experience for women lawyers who have finished law school and have entered the profession of law is even more daunting. While women now account for nearly 50 percent of law school students nationwide, they do not account for more than half of all attorneys. Moreover, women lawyers hold a small percentage of top positions in law firms, law schools, and the judiciary (ABA Commission on Women in the Profession 2011). Hence, a law school education is not a guarantee that women will have access to the practice of law. What is more, a legal education is most certainly not an equal opportunity pass for access to the web of power at the top of the profession.

Although women in law today have come a long way from the first women lawyers in the 1860's, a double bind still exists:

“Their sex connects them to the conventional roles of women, while their work connects them unconventionally to the professional roles of men. And in their duality, they are not fully part of either camp. Rather, they are mistrusted, often despised, by both” (Harrington 1993: 7).

Furthermore, while the gendered division of labor often creates a basis for solidarity among women, such is not the case for women lawyers. This is the double bind for women in the law profession: being a woman and a lawyer. Consequently, women lawyers are often met with resistance and encounter backlash from both men and women, neither of whom appreciate the power, real or perceived, that women in law are acquiring. In order to understand the resistance that women in the profession have encountered (and continue to encounter), it is useful to explore the structure of power relations that is ubiquitous in gender relations (Faludi 1991).

Power and Resistance

Gender and power are inextricably intertwined, as power relations are at the core of inequality within gender relations. Power need not be overtly expressed, incorporate the use of force, or be an individual action against another. Rather, “relations of power function as a social structure, as a pattern of social practice” (Connell 1987, 107). It is within the social structure of power that the ideology (and practice) of gender inequality is allowed to flourish. In this sense, it is possible for gender inequality to manifest itself through institutions and organizations such as the courtroom or the profession of law because of the larger structure that supports and perpetuates the ideology of female subordination. Yet, if women infiltrate the power structure by gaining access to top positions within the law profession, then the ideology that views women as subordinate is diminished (Ely 1995). “With no or few women in positions of power, sex may

persist as a salient category with negative consequences for women lower down in the organization, despite balanced representation at lower levels” (Ely 1995: 590). *Therefore, striving for an equal number of women and men in the law profession is not enough. Rather, to abolish the inequality perpetuated by the gendered organization of the law profession, equality in numbers matters most in the positions of power at the top (Ely 1995).* Thus, if more women gain access to positions such as managing partner or law school dean, it will become less likely that attitudes of prejudice and practices of discrimination are tolerated at *any* level in the profession.

Nonetheless, wherever there are power relations, there is resistance (Foucault 1990). As women gained entrance into the profession of law, their perceived encroachment on the profession was met with resistance, manifesting itself in the form of gender bias. While the nature of bias against women has evolved from blatant acts of discrimination to more subtle, prejudicial methods, many have focused their efforts on ways to counter such resistance. Recognizing the pervasiveness of the problem, task forces were enacted to investigate and combat the presence of gender bias in the courtroom and in the profession of law.

Theoretical Framework

The theoretical framework for this research is Joan Acker’s *Theory of Gendered Organizations* (1990). Supplementing Acker’s structural analysis is the interactional perspective that focuses on the perpetuation of gendered structures through the everyday interactions of individuals within the structure (West & Zimmerman 1987; West & Fenstermaker 1995).

Theoretical perspective

Although task forces on gender bias in the courts and the profession of law exist, much of the literature provides a descriptive account without the incorporation of a theoretical perspective. At the crux of this research is the assumption that in every component of social structure, there are processes that occur, both overt and latent, and that these processes are gendered. Joan Acker (1990) asserts that work organizations *are* gendered processes. Acker's *Theory of Gendered Organizations* (1990), which views gendering in the workplace as it occurs through structure, culture and ideology, and agency², provides a model with which the multi-dimensional aspects of gender relations may be analyzed through the context of process. While the three levels of analysis are mutually dependent, they will be reviewed independent of one another for the purpose of discussion.

According to Acker (1990) the structure of an organization is constructed through the gendered division of labor. While the division of labor provides for certain kinds of work to be allocated to certain categories of people, the gendered division of labor depends upon the nature and organization of work (Acker 1990; Connell 1987). Hence, "the concept of the 'job' assumes a particular gendered organization of domestic life and social production," (Acker 1990: 309). The very definition of work subsumes a male interpretation, and the standard for the ideal worker becomes one of complete absorption in one's job; a standard in which women appear to do less than men, as their attention must often be directed outside the realm of paid labor (Acker 1990; Smith 1990). "The ranking of women's jobs is often justified on the basis of women's identification with childbearing and domestic life. They are devalued because women are

² Acker's (1990) theory of gendered organizations utilized five levels of analysis: structure, policy and practice, ideology, interaction, and identity. This thesis uses the model of three levels of gendering, as set forth by Britton (2003).

assumed to be unable to conform to the demands of the abstract job” (Acker 1990: 311). Yet it is the structure of the gender order that allows for such a characterization of women’s and men’s work. As Smith (1990) notes, it is the structure of labor itself that demands a worker to assume full participation in the labor force, unencumbered by domestic chores.

Acker (1990) asserts that perceptions of gender and gender inequalities are incorporated into the structure of organizations, which, in turn reproduce gendered inequalities. As people within the structure practice the gendered division of labor both consciously, as with overt domination, and unconsciously, as in everyday interaction and the “doing” of gender (West & Zimmerman 1987), the structure of gender relations within the division of labor is upheld. Hence, organizational structures create and reinforce gendered attitudes and actions often through policy and informal practices that may be facially gender-neutral, but have the effect of reproducing and sustaining gender inequality (Acker 1990; Britton 2003). Within the gendered organizational structure of work, women often face blocked opportunities and encounter insufficient networking, creating a difficult atmosphere for women to achieve the same success as men enjoy (Kanter 1976; Acker 1990; Pierce 1995). For this reason, having access to a mentor is critical to women’s retention and advancement within the law profession, not to mention their overall job satisfaction (Samborn 2006).

The gendered structure of the law profession is upheld in part through the gendered division of labor among sectors of law. Men continue to be the highest paid litigators because they can devote their entire self to the process, whereas women are not similarly situated. Female attorneys will often take lower paying nine-to-five jobs, so that they can care for children, clean, and cook; all of the tasks that men are often “liberated” from (Smith 1990). This gendered division of labor between women and men in the law profession has a disparate impact on

women, as men may be seen as more dedicated employees due to their ability to work longer hours, and may therefore receive raises and promotions over equally qualified women (Britton 2003; Smith 1990).

Culture and ideology are another level at which organizations are gendered. Acker (1990) asserts that ideology is, “the construction of symbols and images that explain, express, reinforce, or sometimes oppose gender divisions,” (146). These images and symbols originate from many sources, including language, popular culture, and everyday conceptions of women’s and men’s work (Britton 2003). Dye and Mills (2012) suggest that culture is, in part, “organizational symbols and slogans emphasizing strength, speed, or power help to create an environment that values characteristics traditionally associated with ‘maleness’” (280). Hence, culture subsumes a male context; it becomes the standard by which gender is measured (Acker 1990). Regarding the construction of ideology, Pierce (1995) notes that in the law profession, “Women, unlike men, encounter a double bind between the role of the ‘good woman’ and the emotional requirements of the adversarial role” (104). In litigation, men are afforded the image of the ‘Rambo litigator,’ which suggests that a lawyer must be tough, aggressive, and ready to put up a ‘fight’ in the courtroom; all traits that are not considered a part of women’s work (Pierce 1995). Hence, characteristics attributed to women are given less value than those deemed masculine (Parsons et al. 2012; West and Zimmerman, 1987).

The final component within the gendering process in organizations is agency. Britton (2003) describes agency as inclusive of, “all the interactions in which workers are involved that, intentionally or not, invoke gender or reproduce gender inequality, as well as processes of identity construction through which individuals come to see themselves as “appropriately” gendered through their work” (15). For the purpose of this study, I adopt this conception of

agency as the pressure to act gender-appropriate, as reinforced by inter and intra-sex interactions. Other feminist literature suggests that this account is negative and limited in scope, and undervalues the “creative dimension” that exists within an individual’s dynamic social reality. (McNay 2000). However, I suggest that this definition of agency is appropriate in the context of discussing the impact of gender identity as it impacts one’s professional identity.

Similar to Acker’s (1990) and Britton’s (2003) conception of agency, West and Zimmerman (1987) assert that being labeled “female” or “male” places individuals into categories in which women are pressured to act like other women, and men like other men. By acting appropriately to one’s sex category, women and men perpetuate gender inequality by ‘doing gender.’ A woman lawyer may not see herself as ‘appropriately’ suited for litigation, instead choosing an alternative position that does not require an adversarial role. By not challenging the gender order, the gendered division of labor within the profession of law is perpetuated. Thus, as people within the structure practice the gendered division of labor both consciously, as with overt domination, and unconsciously, as in everyday interaction and the “doing” of gender (West & Zimmerman 1987), the structure of gender relations within the organization is upheld. As this study demonstrates, structural and interactional gendering, as described in the Kansas Task Force Report (1992), has a disparate impact on women attorneys’ job satisfaction, through direct challenges in the workplace, and with indirect barriers affecting women’s choice of job placement within the profession of law.

In this study I assert that the profession of law is a gendered organization and offer evidence of this through my analysis. In this chapters that follow, I assess women attorneys’ and judges’ job satisfaction, testing for the influence of sociodemographic characteristics, opportunity for mentorship, sector of law, and perceptions of discrimination.

CHAPTER THREE

METHODOLOGY

The original purpose of this study was to determine if the perception of gender inequities exist within the profession of law in the state of Kansas, and to compare men's and women's views on these issues. Unfortunately, a low response rate to my survey among male attorneys (N=17) has meant that I have had to shift my focus to studying the predictors of job satisfaction among women attorneys (n=155) in my survey. The literature on women's experiences in law (reviewed in chapter two) provides many clues about factors that should predict satisfaction for women attorneys, and I will test those factors using survey data.

Hypotheses

Previous literature addressing attitudes and perceptions of gender inequities within the profession of law suggest that individual differences should affect satisfaction with work. Specifically, variables like marital status, presence of children, income level, career experience, and whether one works full-time should all shape work experiences and satisfaction. Hence, the findings of previous literature suggest the following hypotheses:

Specifically, I expect:

Hypothesis 1a: Those who are married will have lower job satisfaction than those who are not.

Hypothesis 1b: Those who have minor children will have lower job satisfaction than those who do not.

Hypothesis 1c: Those who have full-time employment will have higher job satisfaction than those who do not.

Hypothesis 1d: Those who have more experience in the field of law will have higher job satisfaction than those who do not.

Hypothesis 1e: Those who have a higher income³ will have higher job satisfaction than those who do not.

The literature also suggests other factors that may affect women's satisfaction with their work. Rhode (2001) and others point to the importance of social networks, and argue that women may be less likely to have access to these networks than men. One way women might be able to establish contacts at work is through a more experienced mentor. Such people may help women to navigate paths to advancement, and having a mentor might help mediate the effects of other factors, like demands or a comparative lack of experience. This suggests hypothesis two:

Hypothesis 2: Having a mentor will predict increased job satisfaction.

There is a considerable literature which suggests that women in law face gender-based discrimination and forms of subtle bias, such as women attorneys being addressed less formally in the courtroom (e.g. "Mr." or "Counselor" for men, and use of first names, "honey" or "dear" for women); judges treating women attorneys dismissively or with less tolerance than male attorneys; and male attorneys receiving praise for behaving aggressively, while women attorneys are chastised for the same behavior (Kearney and Sellers 1996). This suggests hypothesis three:

Hypothesis 3: Perceiving that one is discriminated against will decrease job satisfaction.

³ The variable "income" refers to individual income, not household income. This variable is measured as individual rather than household income for two reasons: (1) In the KBA's 1992 survey, income was measured as individual, not household. As the survey for this thesis seeks to duplicate the 1992 survey questions; the meaning of this variable was not altered. (2) Using a household measure of income would disproportionately increase the income of respondents who are "partnered" as opposed to "single".

Finally, one of the most important findings in the literature is the pattern of internal segregation for women in law. Specifically, Pierce (1995) and others suggest that women choose sectors of the legal profession (e.g., government law) that allow them more flexibility to balance work and family, and avoid sectors, like large private law firms, that require long hours and a sole commitment to work. This suggests that the sector of law in which one works may mediate the effects of other variables on job satisfaction. Specifically, I expect:

Hypothesis 4: The sector of law⁴ in which one practices will mediate the observed relationships, if any, between partner status, minor children, income level, career experience, and full-time job status, having had a mentor, and having experienced discrimination and the dependent variable of job satisfaction.

Data

The source of the data for this project is a survey of Kansas attorneys I conducted in 2004. This survey was a replication of a survey that had been conducted by the Kansas Bar Association in 1992. At the time of the original survey, 7,500 attorneys were licensed to practice law in Kansas, only 15% were women. A random sample of 275 male and 275 female attorneys was compiled using a “computerized random selection procedure” (KBA 1992). Using telephone interviews as a means of sampling, 198 of the 275 men attorneys were successfully interviewed, and 203 of the 275 women were successfully interviewed, providing for a total of 401 completed interviews (KBA 1992). The questions in the survey ranged from simple demographic questions such as marital status, law school attended, and salary, to questions regarding perceptions of disadvantage, discrimination, and bias.

⁴ The “sector of law” variables are defined as they were in the 1992 KBA survey (Law Firm, Government Agency, Business/Corporation, Solo Practice, and Non-Profit.)

The questions in the 1992 survey were of interest to me, yet I wanted to obtain more recent data on women and men in the profession of law in Kansas. I decided that the best option was to replicate the 1992 survey. I sought permission from the survey designer to replicate and distribute the survey. Although the Central Research Corporation had been commissioned to administer and analyze the original survey, it was nonetheless the property of the Kansas Bar Association. Thus, I sought and obtained permission from the current Kansas Bar Association Executive Director⁵. My intent for the gathering the sample was to obtain a list of licensed attorneys in Kansas, and use a method of random selection to create a sample size of approximately 1,000. Unfortunately, when I sought assistance from the Kansas Bar Association in obtaining the list of licensed attorneys, I encountered hesitation on the part of the Executive Director. He commented that there were over 9,000 attorneys licensed in Kansas, and that the KBA would only have information on its members, which consisted of approximately 5,900 attorneys. It became clear to me that the most feasible way of reaching the largest number of Kansas attorneys was through the network of KBA members.

Due to time and financial constraints, I decided that an electronic survey distributed via email would be more feasible than a paper or telephone survey. At the suggestion of my thesis committee, I decided to utilize Kansas State University's online survey system. After entering the questions into the survey system, I utilized the system's capacity to insert conditional branching, so that participants could automatically skip over any questions that did not pertain to them.

⁵ I obtained permission to replicate the survey from both the second and third individuals (from the time my research began in 2003) to hold the position of Executive Director at the Kansas Bar Association.

The survey was then made available to all Kansas Bar Association members having registered email addresses with the KBA. At the suggestion of the Executive Director, the survey notification was disseminated through the KBA's weekly email newsletter, in which I and the chair of the association's Diversity Committee, discussed the purpose of the survey, asked for participation, and provided a link to the survey website.

Variables

The dependent variable, job satisfaction, is measured by a scale comprised of six items tapping various aspects of the job. All items are measured on a 4-point Likert scale, coded from zero to four, with four indicating higher satisfaction. Hence, the dependent variable in this study is measured as follows:

Job satisfaction – six items that identify respondent's level of overall satisfaction with their current job. The questions measure opportunity for advancement, professional treatment by colleagues, respect as an advisor by clients, status/prestige with other attorneys outside the job, intellectual challenge of work, fitting in personally and socially with colleagues.

Reliability analysis for this dependent variable indicates a scale alpha of .802

Means and standard deviations for this scale are reported in Table 1. The possible values for the job satisfaction scale range from zero to twenty-four (6 combined items, each with a value of zero to four). The mean for job satisfaction is 19.15, indicating a feeling of moderately high job satisfaction.

I constructed several sociodemographic variables. Initially I intended to create a marital status variable coded 1 if respondents are married, 0 otherwise. 94 of my respondents report that they are married. There are a number of others who are partnered, for example, 2 report same-

sex partnerships, 2 report domestic/unmarried partnerships, and 1 reports living with her fiancé. It is likely the fact that one is partnered (rather than legally married) that affects one's participation in domestic labor, for example, and hence struggles around work-family balance and ultimately satisfaction. So I created a variable (partner) coded 1 if a respondent is partnered, 0 otherwise. As table 1 indicates, 65% of those in the sample are partnered. There are two questions in the survey that ask about whether a respondent has children. One asks whether a respondent has any children under 18 living at home (39% of respondents do), the other asks whether one has any children, regardless of age (63% of respondents do). Because the literature suggest that having young children at home is particularly important for increasing struggles with the demands of work versus those of family, I decided to use a dummy variable (minor children) coded 1 if a respondent has minor children at home, 0 if they do not.

One question in the survey asks about respondents' current annual income. As income is a likely determinate of job satisfaction, I decided to use income as a variable. In the survey, respondents are asked to provide their income range, with categories beginning at "less than \$30,000", up to "more than \$101,000", in increasing \$11,000 increments (e.g. \$30,000 to \$40,999; \$41,000 to \$50,999, etc.). In order to operationalize income, I created a variable (income now) using midpoint values within each income range (\$25,000; \$35,000; \$45,000, etc.). The median income of respondents is \$65,000.

Another important sociodemographic variable that could affect job satisfaction is one's experience within the profession of law. There are several questions within the survey that ask questions which could measure one's experience in law. For example, the survey asks about a person's age, the year an individual obtained their law degree, the year he/she was first admitted to the bar, the year one was first admitted to the bar in Kansas, and the year in which one first

worked full-time as an attorney. I did not feel that using a respondent's age would be an accurate prediction, as it is possible that many law school students did not progress to law school directly from their undergraduate work, or may have begun their undergraduate work as non-traditional students later in life. I could make a similar argument for not using the year one graduated from law school, in that he/she may have taken time off before practicing law. Using the year that respondents passed the bar in Kansas would discount any work they did prior to taking the Kansas bar. Hence, I decided to construct a variable (experience) calculated by using the year the survey was administered (2004), minus the year a respondent passed the bar. As reported in Table 1, respondents have an average of 14.3 years of experience. Finally, as being employed full-time could directly affect one's job satisfaction, I wanted to include a variable that accounted for full-time employment. In the survey, respondents are asked about their current employment status. One is able to choose if they are currently working full-time as an attorney (77% of respondents are), part-time as an attorney (10% of respondents are), working full-time or part-time but not as an attorney (11% of respondents are), or if they are retired or not working (1.4% of respondents are). As full-time attorney status is the category that I want to measure, I created a dummy variable (ftjobnow) coded 1 if a respondent is working full-time as an attorney, 0 if they are not.

The item assessing mentorship in the survey asked if respondents had a mentor in their first, full-time position who gave advice or helped to advance their career. I created a dummy variable coded 1 if the respondent answered yes (56% of respondents did), 0 if no. Epstein (1981) and others note that mentorship of female attorneys is crucial to women's progression within the profession of law, which may also suggest that having a mentor has a positive impact on job satisfaction.

The survey data include twelve questions on respondents' perceptions on discrimination in a given context. The literature suggests a wealth of information on perceptions of discrimination. I focus on the perceptions of women who have observed/experienced discrimination. To operationalize perceptions of discrimination, I used reliability analysis to construct a scale. The scale for discrimination is composed of the twelve items, all of which tap into various aspects of women's perceptions of discrimination. Hence, I measured discrimination as follows:

Discrimination - twelve items that identify respondent's perception of discrimination within their current job. The questions measure witnessing use of inappropriate names; demeaning jokes; comments on dress; verbal advances; inappropriate physical touching; condescension by attorneys; condescension by judges; lack of overall respect; unwanted sexual teasing, jokes, questions, looks, or gestures; client complaints based on gender; unwanted client verbal or physical advances (all except the last two are based on female responses to male attorneys and/or judges.)

I coded all responses in which a respondent answered affirmatively as a 1, and all negative answers as 0. The possible values for the discrimination scale range from zero to twelve (12 items, each with a value of zero to one). Reliability analysis for the variable, discrimination, indicates a scale alpha of .780. Means and standard deviations for this scale are reported in Table 1. The mean for discrimination is 3.79, indicating a response of moderately low perceptions of discrimination.

Finally, the survey asked respondents to choose one of five categories indicating the sector of law in which they currently work. I used these answers to construct five dummy variables: non-profit work (2.2% of respondents), law firms (41% of respondents), business/corporate law (11% of respondents), government law (29% of respondents), and solo

practice (10% of respondents). In the regression analyses that follow, “law firm” is the excluded category. All sector coefficients should be read as the effect of working in a particular sector compared to working in law firm. Means and standard deviations for these variables are reported in Table 1.

Table 1 - Univariate Statistics, All Variables

Dependent Variable	Mean	S.D.
Job Satisfaction	19.15	3.68
Sociodemographic Variables		
Partner	0.65	0.48
Minor Children	0.39	0.49
Experience	14.33	8.26
Income	67888.88	26762.27
Full-time Job	0.77	0.42
Perception Variables		
Mentor	0.56	0.50
Discrimination	3.79	2.71
Sector Variables		
Non-profit	0.02	0.15
Law Firm	0.41	0.49
Business/Corporation	0.11	0.31
Government Law	0.29	0.45
Solo Practice	0.10	0.30

Table 2 - Univariate Statistics: Scale Items – Job Satisfaction (N = 103)

Item	Mean	S.D.
The opportunity for me to advance is very good.	2.72	1.020
I am treated as a professional colleague by my associates at work.	3.40	0.862
I am respected as a valuable advisor by my clients.	3.50	0.735
My status or prestige with other attorneys who work elsewhere is high.	3.24	0.812
The intellectual challenge of my work is great.	3.27	0.812
My colleagues at work see me as “fitting in” with them socially and personally.	3.17	0.859

Table 3 - Univariate Statistics: Scale Items – Discrimination (N = 137)

Item	Mean	S.D.
Inappropriate use of names like “dear” or “sweetie” toward female attorneys.	0.50	0.502
Inappropriate comments on the dress or appearance of female attorneys.	0.33	0.470
Verbal advances made toward female attorneys.	0.14	0.346
Touching of a female attorney that you thought was inappropriate.	0.10	0.303
Condescending treatment of female attorneys, by male attorneys.	0.64	0.480
Condescending treatment of female attorneys, by judges.	0.17	0.380
The telling of jokes that are demeaning to women.	0.42	0.495
Female attorneys treated with less respect than male attorneys.	0.67	0.473
A client who complains because an attorney is female.	0.21	0.409
Female attorneys subjected to unwanted sexual teasing, jokes, or questions.	0.18	0.388
Female attorneys subjected to unwanted sexual looks or gestures.	0.17	0.375
Has a client ever made any inappropriate verbal or physical sexual advances toward you.	0.27	0.446

Then and Now

Although the survey questions for this study were replicated from the Kansas Bar Association’s 1992 survey, this study does not seek to provide an exact question for question comparison. However, for those variables such as perceptions of discrimination, it is useful to use the 1992 survey as a baseline for comparison on this particular variable.

Table 4 - Univariate Statistics: Scale Item Comparison of Discrimination 1992 and 2004

Item	1992 (N = 203)	2004 (N = 155)
Inappropriate use of names like “dear” or “sweetie” toward female attorneys.	0.48	0.50
Inappropriate comments on the dress or appearance of female attorneys.	0.31	0.326
Verbal advances made toward female attorneys.	0.16	0.138
Touching of a female attorney that you thought was inappropriate.	0.11	0.101
Condescending treatment of female attorneys, by male attorneys.	0.70	0.645
Condescending treatment of female attorneys, by judges.	0.26	0.174
The telling of jokes that are demeaning to women.	0.55	0.42
Female attorneys treated with less respect than male attorneys.	0.48	0.667
A client who complains because an attorney is female.	0.19	0.21
Female attorneys subjected to unwanted sexual teasing, jokes, or questions.	0.21	0.182
Female attorneys subjected to unwanted sexual looks or gestures.	0.16	0.168
Has a client ever made any inappropriate verbal or physical sexual advances toward you.	0.27	0.27

Many of the responses in the former survey were similar to the survey data compiled for this study: women consistently reported having observed or experienced demeaning or condescending acts toward themselves or other female colleagues, whereas the presence of

physical or sexual violence was minimally reported. Tables 2 and 3 depict the mean and standard deviation for the scale variables, job satisfaction and discrimination, while table 4 depicts a comparison in numbers between the 1992 and 2004 surveys.

Plan of Analysis

The analysis will proceed in two steps. First, I examine the correlations between variables in the analysis to look for patterns in bivariate relationships. Next, regression analysis allows me to explore effects net of other factors and to explore possible mediating relationships.

CHAPTER FOUR

ANALYSIS OF DATA AND FINDINGS

Introduction

In the previous chapter, I discussed my methods of investigating the effects of individual variables (partner status, having minor children, work experience, income and full-time job status), as well as the potential effects of mediating variables (having a mentor, perceptions of discrimination, and the sector of law in which one works), on the dependent variable, job satisfaction. In this chapter, I will discuss the findings of my study.

This chapter opens with a discussion of the bivariate relationships between variables in the study. The second section in this chapter presents the regression analyses that test my hypotheses.

Correlations

Table 5 illustrates the correlations between all of the variables utilized in this study. Several variables are correlated with job satisfaction. The strongest correlation (-0.293) is with having witnessed or experienced gender discrimination; as expected, those who perceive discrimination are also less satisfied with their jobs. This finding reflects the literature on the inverse relationship between discrimination and job satisfaction: real or perceived discrimination has a negative effect on the level of satisfaction one feels in their job. The job sector variable of law firm is also negatively correlated with job satisfaction (-0.174). This finding also reflects the literature on job sector, which suggests that working in a law firm may have a disparate impact on women who have familial/caregiver obligations, and may therefore choose positions that do

not require working extensive overtime, as a law firm might (Pierce 1995). This may also explain the strong, negative correlation between law firm and discrimination (-0.531). Balancing the dual realities of law firm work and family obligations, a feat that disproportionately affects women, may lead to a decreased sense of satisfaction within one or both realms (Pierce 1995).

Having a mentor is associated with higher levels of satisfaction (0.265), as is working full time (0.243). In the latter case it is impossible to determine the direction of this relationship; it may be that those who work full time are more likely to be satisfied, but it may also be that those who are more satisfied are more likely to work full time. None of the other variables in the analysis are significantly correlated with job satisfaction. Contrary to what one might expect from the literature, family status, income, and experience have no significant relationship to satisfaction in this sample.

Being partnered is highly correlated with having minor children (0.350). It is also strongly negatively correlated (-0.227) with perceiving gender discrimination. It is difficult to know what to make of this. It may be that women who are single are more likely to face discrimination and harassment. It could also be that those who are partnered are younger, and so less likely to have accumulated experiences of discrimination. The lack of a significant correlation with years of experience makes this somewhat doubtful, however.

Income is strongly correlated with experience, as we might expect (0.220), and with working full time (0.284). It is also positively correlated with working in corporate law (0.227), though not with work in any other sector. The only remaining significant correlations are between the sector dummy variables.

Table 5 - Bivariate Correlation Matrix (N = 155)

Variable	1	2	3	4	5	6	7	8	9	10	11
1 jobsat											
2 partner	.174										
3 minkids	.083	.350*									
4 incomenow	.182	.093	.010								
5 experience	.134	-.036	-.156	.220*							
6 ftjobnow	.243*	.019	-.138	.284*	-.130						
7 mymentor	.265*	.042	.066	.000	-.028	.063					
8 discrim	-.293*	-.227*	-.138	.004	-.032	.009	-.070				
9 govjob	.154	.135	.064	-.161	.145	-.004	-.068	-.036			
10 soloprac	-.148	.016	-.018	-.064	.075	-.002	-.069	.048	-.206*		
11 busncorp	.012	-.002	-.056	.227*	-.084	-.033	-.165	-.031	-.223*	-.114	
12 nonprof	-.021	-.001	.078	-.111	-.064	-.038	-.071	-.025	-.095	-.049	-.053
13 <u>lawfirm</u>	-.174*	-.062	.080	-.133	.170	.220	.023	-.531*	-.272*	-.295	-.126

Regression Analysis

To test the hypotheses outlined in chapter three, I regressed job satisfaction on the independent variables in this analysis. Using ordinary least squares regression, I conducted the analysis in three steps. First, to test hypotheses 1a through 1e, I regressed job satisfaction on partner status, minor children, income, experience and work full-time. The results appear in the first results column of table 6. The r-square value indicates that these variables, taken together, account for about 15% ($r\text{-square}=0.151$) of the variance in job satisfaction.

Hypothesis 1a predicts that being partnered will predict lower job satisfaction, as those women who are partnered are likely to have more difficulty in juggling work and family, and this should decrease their satisfaction with work. There is no support for this hypothesis – the coefficient for partner status does not achieve significance at the 0.05 level. The unstandardized coefficient for this variable (.722), indicates that, net of the other variables in the model, being partnered increases one's job satisfaction by only .722 points on a 24 point scale. One explanation for this finding may be that women in this study who are partnered are able to share the responsibilities of the home/children with their partner, wherein being partnered would not be a hindrance to job satisfaction.

Hypothesis 1b predicts that having minor children will be associated with decreased job satisfaction, again because the literature suggests that women with minor children are faced with particularly severe demands in balancing work and family. There is no support for this hypothesis in this sample. The unstandardized coefficient for this variable (1.048), indicates that, net of the other variables in the model, having minor children increases one's job satisfaction by only 1.048 points on a 24 point scale. The lack of an effect may be due to the fact that those women who have minor children have perhaps adapted by working part-time; in fact,

other results in this analysis suggest that part time work is negatively related to job satisfaction. Or, as with the possible explanation offered for the finding of hypothesis 1a, for respondents in this survey having a partner may not mean extra duties at home, but may instead reflect extra assistance within the home, especially with regard to child rearing responsibilities. Interestingly, the quote provided by one of the survey respondents of this study (45) offers support for hypothesis 1a and 1b, as she notes that having a partner was not as helpful as she would have preferred. Although, it is probable that respondents with no complaints about partner status and/or child rearing responsibilities might not have voiced their satisfaction.

Hypothesis 1c predicts that those who have full-time employment will have higher job satisfaction than those who do not, as the literature suggests that promotion and career advancement, two possible contributing factors of job satisfaction, are less likely to be earned during part-time employment. The analysis demonstrates that there is support for this hypothesis: the coefficient does achieve significance at the 0.05 level. The unstandardized coefficient for this variable (2.413), indicates that, net of the other variables in the model, being employed full-time increases one's job satisfaction by 2.413 points on a 24 point scale.

Hypothesis 1d predicts that those who have more experience in the field of law will have higher job satisfaction than those who do not. The analysis shows that there is support for this hypothesis, as the coefficient achieves significance at the 0.05 level. The unstandardized coefficient for this variable (.105), indicates that, net of the other variables in the model, having more experience in the field of law increases one's job satisfaction by .105 points on a 24 point scale. Both Hypotheses 1c and 1d are consistent with previous literature, such as Schafran, who suggests that having experience in the field of law, and working full-time within the field, are indicators of job satisfaction (Schafran 2004).

Hypothesis 1e states that those who have a higher income will have higher job satisfaction. There is no support for this hypothesis - the coefficient for income does not achieve significance at the 0.05 level. The literature on income within the profession of law consistently demonstrates that women are paid less than their male counterparts (ABA 2011; Schafran 2004; Kearney and Sellers 1996; KBA 1992). This inequity in pay could create a seemingly obvious reason for job dissatisfaction, yet in this sample, no support is offered for higher pay creating a higher level of job satisfaction. One plausible explanation may be that women are judging their pay relative to other women within the law profession, rather than comparing their earnings with men (Hodson 1989).

In total, the analysis of this sample only provides support for two of the five hypotheses offered for the first model in this regression analysis. Partner status, having minor children, and earning a higher income are not related to job satisfaction. Conversely, work experience and being employed full-time do positively affect job satisfaction.

In the second step of the regression analysis, I regressed job satisfaction on the variables, mentor and discrimination as well as the previous set of independent variables, to test hypotheses 2 and 3. The results appear in the second results column of table 6. The r-square value indicates that these variables, taken together, account for about 28% ($r\text{-square}=0.284$) of the variance in job satisfaction.

Hypothesis 2 predicts that having a mentor will predict increased job satisfaction. The literature on mentorship within the profession of law suggests that women who are able to receive guidance from an established female (or male) attorney are likely to be able to better navigate career decisions, such as setting career goals, making client choices, and balancing family and career simultaneously (Samborn 2006). The analysis demonstrates that there is

support for this hypothesis, as the coefficient achieves significance at the 0.05 level. The unstandardized coefficient for this variable (2.089), indicates that, net of the other variables in the model, having a mentor in the field of law increases one's job satisfaction by 2.089 points on a 24 point scale.

Hypothesis 3 predicts that perceiving that one is discriminated against will decrease job satisfaction. The literature on discrimination in the workplace supports the assertion that if a person perceives workplace discrimination, it will have a negative effect on their level of job satisfaction. In fact, much of the literature on gender bias task forces within the profession of law focus on this very point, suggesting that discrimination, or the perception of discrimination, is the linchpin that determines job satisfaction, in some cases even affecting career decisions (KBA 1992). There is support in this sample for hypothesis 3, as the coefficient achieves significance at the 0.05 level. The unstandardized coefficient for this variable (-.319), indicates that, net of the other variables in the model, perceiving that one is being/has been discriminated against decreases one's job satisfaction by .319 points on a 24 point scale.

In Model 2, the second step of the regression analysis, it is also important to note that the variables, experience and full-time job, maintained their significance from Model 1, albeit at a slightly decreased level. In Model 1, the experience variable is significant at .236, yet in model 2 the level decreases slightly to a standardized value of .207. Similarly, in Model 1 having a full-time job is significant at .294, and in Model 2 it maintains significance but loses strength slightly at .269.

In the third step of the regression analysis, to test hypothesis 4, I regressed job satisfaction on the job sector variables. The results appear in the third results column of table 6.

The r-square value indicates that these variables, taken together, account for about 32% ($r\text{-square}=0.315$) of the variance in job satisfaction.

Hypothesis 4 predicts that the sector of law in which one practices will mediate the observed relationships, if any, between partner status, minor children, income level, career experience, full-time job status, having had a mentor, having experienced discrimination, and the dependent variable of job satisfaction. The five sectors of law utilized in this study are government law, business/corporate law, non-profit law, solo practice. Law firm is the excluded category, hence the results for the other variables should be interpreted as a comparison of the effect of working in that sector versus working in a private law firm. The analysis demonstrates that there is no support for this hypothesis - the coefficients for job sector variables do not achieve significance at the 0.05 level. This finding is inconsistent with the literature, wherein Pierce (1995) and others suggest that the sector of law in which one works does make a difference in one's job satisfaction.

Moreover, it is important to note that hypothesis 4 is limited in scope by the replication of the KBA's 1992 survey questions, wherein the variables I call "job sector variables" (Law Firm, Government Law, Business/Corporate Law, Non-Profit Law, and Solo Practice), were not thoroughly defined in the original survey. Hence, in order to replicate them in this study, no definition of terms was provided to participants. Although the categories may seem transparent, it is possible that not providing a definition could create confusion, or cause a respondent to choose a category that is unintended.

Interestingly, when controlling for job sector, the variable of experience is no longer a significant predictor of job satisfaction. However, full-time job status remained a significant predictor of job satisfaction, even while controlling for other variables in Models 1, 2, and 3.

Table 6 - Regression of Dependent Variable

Regression of Dependent Variable on Sociodemographic Variables, Mentorship and Discrimination, and Sector of Law (Betas Reported)			
	<u>Job Satisfaction</u>		
Sociodemographic Variables			
Partner status	.095	.047	.028
Minor children	.145	.099	.114
Income	.056	.077	.088
Experience	.236*	.207*	.181
Full-time job	.294*	.269*	.266*
Mentorship		.288*	.311*
Discrimination		-.227*	-.205*
Sector of Law			
Government			.12
Business/Corporation			.080
Non-profit			.031
Solo Practice			-.116
R ²	.151	.284	.315

Summary

The analysis reveals interesting findings regarding women in law and job satisfaction. While the literature suggests that job satisfaction is tied to sociodemographic variables (e.g. partner status, having children, income, experience, full-time employment), the findings of this study demonstrate mixed support for the hypotheses and previous literature on this topic. The expectation that women with partners will be less satisfied in their jobs is not supported in this study, nor is the hypothesis regarding minor children and lower job satisfaction. Income is also not shown to significantly affect job satisfaction. In contrast, the analysis does find support for job experience and being employed full-time as having a significant relationship with job satisfaction. Different possibilities were offered as to why the data obtained from this sample supported some hypotheses and not others. It was asserted that partner status and having minor children may not disproportionately affect women in that way that hypotheses 1a and 1b suggested. To the contrary, having a partner may assist women with responsibilities within the home, such as childrearing. In fact, in the context of this study, it appears that partnership does not detract or add extra duties to one's relationship; or if it does, it does not do so to the extent that it detracts from one's career and level of job satisfaction.

Other hypotheses tested assertions about mentorship, and perceptions of discrimination as variables which may mediate the effects of the sociodemographic variables on job satisfaction. The analysis does find support for the assertions that having a mentor and perceiving discrimination mediate the effects of having experience within the profession and being employed full-time. Yet, when accounting for job sector (government, business/corporation, non-profit, solo practice), the analysis did not find a significant relationship to job satisfaction.

Hence, the findings of the regression analysis imply that while some consistencies do exist with other studies on women in law, there is not a “one size fits all” model. Rather, some interesting implications have emerged from the findings, suggesting that certain sociodemographic circumstances (partner status, children, income) that were assumed to have an impact on job satisfaction, may have an opposite effect (or no effect), which differs from previous assumptions.

In the following chapter, I will summarize the quantitative results and suggest a few conclusions based on the findings. I will also examine the theoretical implications of the findings of this study, and discuss its relevance within the literature.

CHAPTER FIVE

SUMMARY AND CONCLUSIONS

Introduction

In this chapter I will summarize the quantitative results discussed in chapter four, as well as provide a few conclusions based on the findings. I will also discuss the limitations of the study and offer suggestions for future research.

This study seeks to contribute to previous research by providing additional data to support the assertion that gendering processes, on individual, sociocultural, and legal/structural levels, often create barriers for women that negatively affect their job satisfaction within the legal profession. The literature suggests that men frequently experience a straight-line progression toward promotion and advancement while women do not. Family obligations, specifically with regard to parenting, are often seen as women's work. They produce gendered barriers for women, such as parenting leave or part-time employment that often do not count toward promotion or advancement. A woman respondent in the 2004 survey I analyzed here made this point in the "comments" section of a question that asked whether parenting leave had a negative impact on her work:

There's a price to be paid for most (perhaps all choices). I didn't build experience in the practice of law while making the children my primary responsibility. Because I was in a small firm with the father of the children and good friends, I had lots of support and flexibility. But I wasn't practicing full-time and that meant I didn't learn as much or as quickly as I otherwise would have. I have no regrets about this. The kids grew up and I was free to devote myself more completely to my professional growth. In a more perfect world their father would have felt free to make the choice for a more balanced life.

And, much like their predecessors, the women in this study indicated that perceptions of discrimination negatively affect their job satisfaction. Yet, other factors, such as having a mentor, somewhat mitigated the negative effects created by perceptions of discrimination, lack of promotion or advancement, or lack of social networking (often due to part-time employment).

Summary

There is a wealth of information comparing the experiences of male and female attorneys. Initially, this study sought to add to that comparative body of literature, by utilizing previous research, specifically the 1992 KBA survey from which the current survey is replicated. And, while the Kansas Bar Association's (KBA) 1992 Task Force Report on the Status of Women in the Profession of Law in Kansas served as a good baseline and model for the current survey, this study only utilizes the responses of female attorneys and judges in the profession of law in Kansas. Although this study does not compare and contrast men's and women's experiences, both studies join a realm of literature that suggests that women attorneys perceive that they face issues, both within their personal and professional realms which create a disparate impact on their professional lives. Hence, this study seeks to contribute specifically to understanding the experiences of women attorneys as they relate to job satisfaction.

In chapter three, I hypothesized that certain sociodemographic variables would have an effect on women's levels of job satisfaction. Specifically, I investigated whether partner status (being in a partnered relationship) and parental status (being a parent of a minor child) would have a negative impact on one's job satisfaction. Conversely, I predicted that that full-time employment, experience in the field of law, and having a higher income, would all increase job satisfaction. However, the analysis demonstrated mixed support for these hypotheses: no support was found in this study that being partnered or having minor children decreased job satisfaction,

or that having a higher income increased satisfaction. However, I did find that full-time employment and experience positively affected job satisfaction. One explanation for these results may be that women who are partnered are likely to have minor children, and may therefore be employed part-time. While this may positively assist them in their personal circumstances, working part-time is linked to lower job satisfaction than working full-time, based upon the results of this study. Hence, adapting for parenthood may be negatively affecting women professionally, specifically as the adaptation relates to experience, full-time status, and eventually consideration (or lack of consideration) for promotion and advancement.

This study also connects with previous research which finds that that gender bias and discrimination, or the perception of such bias and discrimination, negatively affects women attorneys' feelings of job satisfaction. While such discrimination may not occur in the blatant form it once took in the past, it still proves harmful in its consequences for women attorneys in Kansas. Having a mentor positively affected women attorneys' job satisfaction. Mentorship promotes formal networking and informal relationships, both of which have an impact on one's job satisfaction and retention within the profession (Samborn 2006).

Another hypothesis of this study predicted that the sector of law in which one practices law would mediate the observed relationships, if any, between the sociodemographic variables, as well as the variables of mentorship and perceptions of discrimination. This assertion was based upon previous research that indicates that women tend to take jobs that allow them to work between the hours of 9-5, so that they may tend to family obligations after work hours. In contrast, men tend to enter employment with law firms, which often requires employment well beyond 40 hours. Forfeiting a laborious schedule for better hours may negatively affect pay, promotion, and advancement, creating a circumstance in which women are disproportionately

represented in lower-paid positions, with fewer opportunities for advancement and promotion. Interestingly, this study did not find support for this hypothesis. In addition to the other possible explanations offered, one possible conclusion is that women are comparing their experiences to those of other women in their job sectors, making them feel relatively satisfied as they see other women sharing the same personal and professional burdens. As Hodson (1989) notes that the satisfaction or lack of complaints illustrated by women in a given context, "...may be more easily understood if we are able to assume that women workers compare themselves to other women but not to male workers" (387).

Regardless of the job sector, this study finds that the perception or experience of gender discrimination within women's employment as legal professionals had the strongest relationship with the dependent variable, job satisfaction. Given previous literature on gender bias and discrimination in the profession of law, this finding is not surprising. Acker (1990) argues that gendered organizations are cyclical, in that they produce the structure that creates gendered interactions, which in turn perpetuate the gender structure. In fact, one can see the different levels of the gendered organization throughout the findings of this study. Using Acker's (1990) model, as adapted by Britton (2003), structure, culture and ideology, and agency provide theoretical framework with which the profession of law may be viewed as gendered organization. Acker (1990) asserts that the structure of an organization creates and reinforces gendered attitudes, practices, and inequalities, both through formal policies and informal procedures. Blocked opportunities, insufficient networking, and the perpetuation of discrimination through comments, gestures, and actions toward women are all indicators of the structure of a gendered organization. Within this study, there are remnants of all three of these circumstances. Respondents indicated that mentorship positively affected their level of job

satisfaction, undoubtedly serving as a conduit for networking and opportunities, otherwise blocked by the gendered structure of the profession. The variable discrimination, as measured by the scale comprised of respondents' answers to various questions regarding perceptions of discrimination, had the strongest negative correlation with job satisfaction, indicating that women's experiences continue to reflect negative comments, gestures, and actions, as a result of their gender. Furthermore, these comments, gestures, and actions imply a perpetuation of the perceived gender order, wherein symbols, images, and language promote the culture and ideology that engender organizations (Acker 1990). Hence, when women report being called upon informally in court, whereas their male counterparts are called upon by title, or when women report being called, "dear" or "sweetie", it is a perpetuation of traditional culture and promotes an ideology of stratifying men over women in the professional sphere.

This study also demonstrates the component of agency as gendered organization. As discussed in the theoretical perspective for this study, agency is another component of the gendering process that serves to invoke and reproduce gender inequality, through processes of identity construction which perpetuate 'gender-appropriate' perceptions (Britton 2003). With regard to the profession of law, this component is often demonstrated by the sector of law in which women choose to practice. Women may see non-profit law as gender-appropriate, in that it is helping, rather than adversarial, and government law as convenient, in that an 8-5 schedule allows for familial obligations after work (Pierce 1995). In this study, 29 percent of women work in government law, whereas only 2.2 percent work in non-profit law. The largest percentage by sector is law firm, with 41 percent of women working in that sector. Hence, while the components of structure, culture and ideology are visible within this study, the component of agency is demonstrated to a lesser extent.

Limitations

While this study did provide useful information on women in the profession of law in Kansas in 2004, there are several limitations. Having only 17 male respondents out of a population of 172 proved to be the first challenge. I made a decision to exclude men from the data analysis because of the small sample size. Having additional male respondents would have been helpful in drawing conclusions that help to prove or disprove suppositions based on gender.

Another limitation of this study is the lack of racial diversity within the population. Although the study provides useful information from the individuals who participated in the survey, the sample is predominately white. More to this point, there exists a growing body of literature from feminist legal scholarship, which rejects the opinion of law as “rational, neutral, and unaffected by history and social context” (Vogel 1992). Rather, this literature provides context to analyze the law within the structures of gender, race, and class. Furthermore, feminist legal scholarship exemplifies the attempt at understanding structural constraints at different levels of inequality, as well as the ‘doing of gender’ (West and Zimmerman 1987) and the ‘doing of difference’ (West and Fenstermaker 1995) as contributory to embedded social structures. Hence, it is important to understand that in the same way that feminism often expresses the white, middle-class view of women’s oppression, so too may feminist literature on law oversimplify the challenges that face women of color.

In order to have a complete picture of the structure, culture and ideology, and agency that is exemplified by the gendered organization of the law, it would have been helpful to have a representative sample in terms of gender, race, and class. This study did not attempt to study race or class, as the composition of the sample, as well as the original survey questions from which this survey was replicated, limited the ability to study either variable. Thus, having an

opportunity to study the intersectionality of gender, race, and class would provide a more complete understanding of the challenges faced by all women. In a publication succeeding her original work on gendered organizations, Acker (2006) addresses the need to take a more comprehensive approach considering the intersectionality of race, class, and gender, and the ways in which these embedded systems function systematically to maintain and reproduce inequalities. Expounding on this concept, Acker introduces “inequality regimes”, as “loosely interrelated practices, processes, actions and meanings that result in and maintain class, gender and racial inequalities within particular organizations” (Acker 2006: 443). Berry and Bell (2012) expand on Acker’s (2006) work, discussing the explanatory impact of intersectionality when, “...understanding disadvantage and exclusion, which are inherent in practices of employee selection and hiring decisions” (Tatli and Ozbilgin 2012: 253).

Another limitation of this study is the manner in which some of the survey questions were articulated, as well as the sheer length of the survey, which likely limited the amount of information I was able to collect. The survey was estimated to take 30 minutes; however, many respondents failed to answer the questions at the end of the survey. Thirty minutes was perhaps an unreasonable request for busy professionals. It might have been useful to construct a survey from scratch, rather than replicate the 1992 survey, to create variables that targeted only the desired research questions. Furthermore, with the original 1992 survey a follow-up questionnaire was sent to willing participants to allow for further elaboration on topics within the survey. Whereas the 1992 survey utilized telephone interviews, this study used an electronic survey making anonymity possible, but hindering the probability of follow-up data collection.

Suggestions for Future Research

Given the previous intentions of the Kansas Bar Association to promote diversity throughout its membership and beyond, it would be interesting to replicate this survey in 2012, to see if perceptions have changed from the time the data were collected for this study in 2004. Another possibility for research is a longitudinal study, so that as perceptions change -if they change - it would be possible to measure those changes, and find out what created the changes in perceptions, and what resistance they've had, if any, to such change.

Another suggestion for future research would be to expand the scope of gendered organization research, to include written law as a mechanism of discrimination. While much of the literature on gendered organizations focuses specifically on one entity within a system (i.e., a courtroom within the justice system), it is nonetheless useful to see the effects that a larger structure has on the organizations within that structure. In fact, one of Resnik's (1996) critiques of gender bias task forces is that their focus is constrained to the actions and experiences within the courtroom and the profession of law. Thus, no change is made *to* the law. "Although task forces may be able to ameliorate the conditions by which justice is deployed, they may have little effect on the basic rules from which substantive outcomes are derived." (Resnik 1996, 962). This evidence would suggest that the issue is a procedural one. The United States Constitution still does not treat women and men as equals before the law.

Conclusion

While the progress that women have earned in the profession of law is laudable, it is not sufficient. Creating task forces to assess problems is a good start; however, if resources are not afforded to those attempting to carry forward the goal of the task force, then the assessment is a

moot point. As women navigate the gendered processes of the legal profession, it is likely, as Ely (1995) asserts, that true change will not come about until women are able to hold key positions within the upper echelon of the profession of law. Additionally, until the gendered structures of the organization changes, in part due to women entering top positions, the 'doing' of gender, as West and Fenstermaker (1995) suggest, is not likely to stop.

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