The Role of Networks, Mentors, and the Law in Overcoming Barriers to Organizational Leadership for Women with Children

Cindy A Schipani
Terry Morehead Dworkin, Seattle University
Aarti Ramaswami
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by

Terry Morehead Dworkin

Aarti Ramaswami

Cindy A. Schipani

More than four decades ago, Title VII of the Civil Rights Act of 1964 outlawed unequal-treatment discrimination based on diversity, including one’s gender, color, religion, or national origin.\(^1\) Furthermore, the U.S. Civil Service Reform Act of 1978 and protections in many individual states outlaw discrimination and harassment based on family status (marital or parental).\(^2\) Subtle yet entrenched forms of gender-based discrimination, however, continue to disadvantage women’s career progress.\(^3\) Research on sex differences and the consequences of family status for one’s career development and progress suggests that discrimination is indeed


\(^3\) See, e.g., George F. Dreher et al., Mobility and Cash Compensation: The Moderating Effects of Gender, Race, and Executive Search Firms, 37 J. MGMT. 651, 675 (2011) (finding, inter alia, that “[w]hite males were . . . more likely than their female and minority male counterparts to be contacted by representatives of executive search firms . . . .”)

These gender differences may be a function of demand-side (work-related) and supply-side (worker-related) characteristics. These include personal characteristics, human and social capital, developmental, interpersonal, and situational factors. Gender overlaps with multiple group memberships based on family status, race, religion, national origin, and disability also influence

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4 See, e.g., Madeline E. Heilman & Tyler G. Okimoto, Motherhood: A Potential Source of Bias in Employment Decisions, 93 J. APPLIED PSYCHOL. 189, 196 (2008) (“[O]ur results demonstrated bias against mothers, both in anticipated competence assessments and in screening recommendations . . . [But] parenthood was shown not to be a liability for men in either competence projections or screening recommendations”); Jenny M. Hoobler et al., Bosses’ Perceptions of Family-Work Conflict and Women’s Promotability: Glass Ceiling Effects, 52 ACAD. MGMT. J. 939, 951 (2009) (finding that “managers tend[] to categorize women as experiencing greater family-work conflict, even after controlling for family responsibilities and women’s own perceptions of family-work conflict” and that “[i]n turn, managers’ perceptions of family-work conflict seem to influence their perceptions of fit and performance, with managers appearing to view female employees as having poorer fit with their organization and job”); Karen S. Lyness & Michael K. Judiesch, Can a Manager Have a Life and a Career? International and Multisource Perspectives on Work-Life Balance and Career Advancement Potential, 93 J. APPLIED PSYCHOL. 789, 793, 800 (2008) (finding that for countries that rated low on a scale of gender equality, managers’ level of work-life balance had a positive relationship to the career potential of men, but no relationship to the career potential of women).


6 Id.

7 Fiona M. Kay & John Hagan, Raising the Bar: The Gender Stratification of Law-Firm Capital, 63 AM. SOC. REV. 728, 730-32, 740 (1998) (using the concepts of social and cultural capital to analyze the differing treatment of male and female candidates for law firm partnership) (citing PIERRE BOURDIEU, DISTINCTION: A SOCIAL CRITIQUE OF THE JUDGMENT OF TASTE 114 (1984) (providing concepts of social and cultural capital)); Belle R. Ragins & Eric Sundstrom, Gender and Power in Organizations: A Longitudinal Perspective, 105 PSYCHOL. BULL. 51, 51, 81 (1989) (arguing that men more easily obtain positions of influence than women due to “differential access to a variety of resources for power”); Phyllis Tharenou et al., How Do You Make It to the Top? An Examination of Influences on Women’s and Men’s Managerial Advancement, 37 ACAD. MGMT. J. 899, 899 (1994) (finding that training, work experience and education provided greater career benefit to men than to women, and that having a spouse and dependents at home provided career benefit to men but impeded women’s careers).

women’s status and power dynamics in the family, the workplace, and in other communities.\textsuperscript{9} This makes gender-based discrimination an even more interesting phenomenon to explore. Specifically, in this study we are interested in better understanding which gender benefits more from having access to networks when they have dependents and whether the outcome differs for those men and women who report having mentors. Indeed, mentoring and networking are major components of professional development that lead to career advancement.\textsuperscript{10} Having dependents is an important family status variable in the larger scheme of social differentiators that account for sex differences in career-related outcomes.\textsuperscript{11} Moreover, we examine the legal terrain relevant to the standing of women in the workforce and the issues that firms should address when setting up mentoring programs to help women overcome barriers to career advancement.

To accomplish these objectives, this manuscript is organized as follows. Part I provides an overview of the important role of mentoring and networking for career advancement. In Part II, we focus on the importance of mentoring on the ability for women to benefit from networking opportunities. This Part also describes the results of our empirical study which finds that it is particularly important for women with dependents to have developmental opportunities that are sensitive to how they can benefit from joining networks. Part III follows with analysis of the relevant legal considerations. In Part IV we advocate possible corrections to gender inequities through existing legal remedies. Concluding remarks are offered in Part V.

\textsuperscript{9} Ragins & Sundstrom, \textit{supra} note 7, at 52 (defining categories of resources that lead to differences in the development of power over a career).
\textsuperscript{11} Heilman & Okimoto, \textit{supra} note 4, at 189 (arguing that mothers are subject to deleterious stereotyping both on the basis of gender and the basis of parenthood); Hoobler et al., \textit{supra} note 4, at 953 (arguing that diminutions in status in the business context result from women’s use of on-site child care services); David Leonhardt, \textit{A Labor Market Punishing to Mothers}, \textit{N.Y. TIMES}, Aug. 3, 2010, at B1 (reporting that status as a parent exacts vastly greater professional costs for women than for men).
I. Role of Mentoring and Networking

Mentoring is an intense reciprocal interpersonal exchange between a senior experienced individual (the mentor) and a less experienced individual (the protégé or mentee), characterized by the type of guidance, counsel, and support provided by the mentor for the protégé’s career and personal development. Mentoring’s positive association with career outcomes for protégés makes it a key employee development and talent management practice. Through these developmental interactions, mentors enhance protégés’ skills and aid their socialization to a new work (or non-work) setting.

Networking is an alternative, yet complementary, mechanism that provides career and moral support, advice, and personal and interpersonal resources that aid in employees’ career progression. Networking can be particularly helpful for those that did not have access to mentors.

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12 Raymond A. Noe, An Investigation of the Determinants of Successful Assigned Mentoring Relationships, 41 PERSONNEL PSYCHOL. 457, 458 (1988) (identifying common themes among definitions of mentoring); Connie R. Wanberg et al., Mentoring Research: A Review and Dynamic Process Model, 22 RES. IN PERSONNEL & HUM. RESOURCES MGMT. 39, 39 (2003) (“Mentoring refers to a one-on-one relationship between a less experienced person . . . and is prototypically intended to advance the professional growth of the less experienced individual.”) (citing Ellen J. Mullen, Framing the Mentoring Relationship as an Information Exchange, 4 HUM. RESOURCE MGMT. REV. 257 (1994)).


14 Suzanne M. Crampton & Jitendra M. Mishra, Women in Management, 28 PUB. PERSONNEL MGMT. 87, 94 (1999) (“Networking is the process of gaining advice and moral support or using contacts for information in order to become more effective in the work world.”); Forret & Dougherty, supra note 10, at 420 (defining “networking behaviors” as “individuals’ attempts to develop and maintain relationships with others who have the potential to assist them in their work or career”); Catherine R. Smith & Jacquie Hutchinson, Gender as a Strategic Management Education Issue, 1 INT’L REV. WOMEN & LEADERSHIP 46, 46 (1995).
early in their careers. Networking and mentoring indeed go hand in hand, both providing similar career benefits.

The gender dynamics of interpersonal and developmental relationships such as mentoring and networking have received research attention. Women, and men and women with dependents represent important sources of diversity at work, and networking and mentoring are mechanisms through which gender inequality in career attainment may be reduced. The importance of

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15 Tracey & Nicholl, supra note 10, at 31 (finding that networking is especially important for some women who have not had the benefit of mentors early in their careers); see Ronald J. Burke & Carol A. McKeen, Training and Development Activities and Career Success of Managerial and Professional Women, J. MGMT. Dev., 53-63 (1994) (finding that among a sample of women mostly in the early stage of their careers, mentoring was perceived to be useful but was infrequently undertaken relative to other training and development activities).
16 See Forrett & Dougherty, supra note 10, at 431 (finding that many networking behaviors are positively correlated with number of promotions obtained, total compensation, and perceived career success); Tracey & Nicholl, supra note 10, at 31 (arguing that mentoring and networking are alternative means to achieve the same career-related ends, and that mentoring is more appropriate to individuals in the early stage of their careers).
17 See Forrett & Dougherty, supra note 10, at 430-31 (“[G]ender differences do impact the utility of networking behavior as a career-enhancing strategy.”); Margaret Linehan & Hugh Scullion, Repatriation of European Female Corporate Executives: An Empirical Study, 13 INT'l J. HUM. RESOURCE MGMT. 254, 258-62 (2002) (“[T]he study’s participants observed that, as females, they experienced greater uncertainty regarding re-entry [after international assignments] because many female managers are in a pioneering role. . . . The interviewees believed that the exclusion of female managers from business and social networks compounds their isolation, which in turn may prevent female managers from building up useful networking relationships that would be advantageous for their repatriation.”); Belle R. Ragins, Barriers to Mentoring: The Female Manager’s Dilemma, 42 HUM. REL. 1, 17 (1989) (reporting, based on a literature review, that “[a]lthough mentors may be essential for advancement, female managers may be thwarted in their attempts to gain mentors by interpersonal and organizational barriers”); Belle R. Ragins, Gender and Mentoring Relationships: A Review and Research Agenda for the Next Decade, in HANDBOOK OF GENDER AND WORK 347 (Gary N. Powell ed., 1999); Wanberg et al., supra note 12, at 66 (reviewing research that examines “the relationship of masculinity – the constellation of attributes traditionally comprising the male gender role” – to having a mentor).
18 EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, supra note 2 (noting that Title VII of the Civil Rights Act of 1964 and the Equal Pay Act of 1963 protect workers against gender discrimination and that state and municipal laws protect workers against discrimination and harassment based on status as a parent); Elizabeth Mannix & Margaret A. Neale, What Differences Make a Difference? The Promise and Reality of Diverse Teams in Organizations, 2 PSYCHOL. SCI. PUB. INT. 31, 42 (2005) (“[T]o the extent that groups are more diverse in their perspectives and approaches to problem solving, they should outperform groups with less diversity.”).
19 Forrett & Dougherty, supra note 10, at 433 (“While engaging in networking behavior might be viewed as a promising career management strategy for women, our results show that networking behaviors are not as advantageous for women as for men.”); Linehan & Scullion, supra note 17, at 254 (establishing that “female international managers experience more difficulty than their male counterparts” in repatriation after an international assignment, and suggesting that “home-based mentors and access to networks while abroad are important factors in contributing to the successful repatriation of international managers”); Aarti Ramaswami, George F. Dreher, Robert Breit & Carolyn Wiethoff, Gender, Mentoring and Career Success: The Importance of Organizational Context, 63 PERSONNEL PSYCHOL. 385, 399 (2010) [hereinafter Ramaswami, et al., Organizational Context] (“[T]he return to a mentoring relationship appears greatest for women employed in male-gendered industries . . . . [W]ithin industries characterized by general levels of female underrepresentation or by aggressive, engineering-intensive, competitive, ‘up-or-out’ corporate cultures, the importance of a senior male mentor seems high for female managers and
mentors for employee career progress and organizational outcomes necessitates an examination of the role that mentoring plays in a career enhancing strategy such as networking.

Linehan and Scullion’s qualitative study (completed in 2002) among 50 senior female managers on the role of mentoring and networking in the career development of global female managers suggests organizational processes hinder their career development. Their findings show that female managers may miss global appointments because they lack mentors, role models, sponsorship, or access to appropriate networks, which are all available to their male counterparts. The interviewees suggest that men, as the dominant group, may want to maintain their dominance by excluding women from the informal interactions of mentoring and networking. If women had more access to networks and mentors they could gain from the professional and organizational socialization that these relationships provide. Yet, the women in their sample reported encountering gender related barriers to their career progress. Gender differences in the work environment need to be considered in order to understand the causes and consequences of inequality and discrimination in the workplace. Engaging in networking and maintaining

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20 Allen, et al., Mentoring for Protégés, supra note 13, at 132 (finding overall positive effects on career success for mentoring); Eby, et al., Comparing Mentored and Non-Mentored Individuals, supra note 13, at 254 (showing, based on a meta-analysis of existing studies, that mentoring favorably affects the behavior, attitudes, health, relationships, motivation and careers of protégés); Ng, et al, supra note 13, at 387 (finding that organizational sponsorship of employees, including by senior employees and supervisors, is positively related to salary, promotions and career satisfaction).

21 Linehan & Scullion, supra note 17, at 254, 258 (showing that the process of repatriation is more uncertain and difficult for female international managers than for their male counterparts).

22 Id.

23 Id.

24 Id.
relationships with others who might provide work or career assistance is considered to be an important part of career success for women.  

Two comprehensive reviews and two mentoring handbooks suggest that mentoring theory, research and its practical applications have made much progress over the past three decades. Despite this voluminous literature, few studies have examined the role of mentoring in network related outcomes and consequently our current knowledge and insights about the interaction of demographics and mentoring on network outcomes appear limited. This gap in research precludes our understanding of mentoring and leadership development, especially for women. Given the challenges in fostering network relationships for women (with or without dependents), it is important for human resource professionals to be sensitive to diversity and status dynamics in order to effectively cater to the developmental needs of an increasingly diverse workforce.

II. The Pathways Study

Our study, denoted the Pathways Study, explores two research questions: (1) how do gender and having dependents interact with network benefits and challenges?; and (2) how does the interaction of gender and having dependents with network outcomes differ between men and women.  

25 Forrett & Dougherty, supra note 10, at 419-420 (“[S]ince women have historically lacked access to important organizational contacts, networking behavior has been thought to be especially critical because it is one strategy women can use to break through the glass ceiling.”) (citations omitted).
26 Raymond A. Noe et al., Mentoring: What We Know and Where We Might Go, 21 RES. PERSONNEL & HUM. RESOURCES MGMT. 129 (2002) (“[M]entoring is a very robust topic, and has generated a considerable body of literature.”); Wanberg et al., supra note 12, at 94 (conceptualizing social networks as a category of protégé change resulting from mentoring relationships); TAMMY D. ALLEN & LILLIAN T. EBY, THE BLACKWELL HANDBOOK OF MENTORING: A MULTIPLE PERSPECTIVES APPROACH (2010); THE HANDBOOK OF MENTORING AT WORK: THEORY, RESEARCH, AND PRACTICE (Belle Rose Ragins & Kathy E. Kram, eds., 2007).
27 But see Linehan & Scullion, supra note 17, at 261 (reporting that the study’s interviewees saw “mentors . . . as important for introducing them to the informal networks which existed in their organizations”).
28 Linehan & Scullion, supra note 17, at 263 (showing gender-specific challenges in relying on social networks for female executives, with and without dependents, re-entering their home organizations after international assignments).
women who have mentors? That is, does having a mentor increase network benefits and lessen network challenges for men versus women with and without dependents?

The results of this study reinforce the value of mentoring for women’s network outcomes, especially for those with dependents, and contribute to research on gender issues in career advancement. First, this study responds to calls for research to the role of mentoring and networking in women’s careers. Further, by heeding recent calls for research on the interaction of gender and family status as well as the moderators of the gender–network outcomes relationship, we contribute to theory by examining boundary conditions. From a practical perspective, the study’s findings would be particularly applicable to organizations and human resource managers interested in tapping diversity and high potential female talent. Finally, we analyze the legal issues to be navigated to open the pathways for women with dependents to overcome organizational barriers.

A. Theory and Research Questions

One could not overstate the importance of social capital for career advancement. As noted before, networking is one strategy for women to break through the glass ceiling. Taking the

29 Forret & Dougherty, supra note 10, at 433 (“[W]omen may be at a structural disadvantage to build effective networks. . . . Studies are needed to examine structural barriers that may prevent women from engaging in cross-gender networking behaviors. . . .”); Linehan & Scullion, supra note 17, at 263 (explaining the need for examination of “the role of social support, both within the family unit and in various social support networks between the family and others” in the context of the international repatriation of female executives).
30 Hoobler et al., supra note 4, at 951 (finding that “managers tended to categorize women as experiencing greater family-work conflict, even after controlling for family responsibilities and women’s own perceptions of family-work conflict”);
31 Forret & Dougherty, supra note 10, at 433-34 (suggesting that future research address “how networking behaviors shape the structure of an individual’s social network, and how this, in turn, influences career outcomes[,] . . . explore the effectiveness with which men and women utilize their contacts[,] and[,] . . . explore how organizations value the professional activities of men and women”); Linehan & Scullion, supra note 17, at 264-65 (suggesting that future research on the repatriation of female executives be more theoretical and focus on the policies and practices that organizations use, including “mentoring and networking strategies,” in the repatriation process).
32 Katherine Giscombe, Advancing Women through the Glass Ceiling with Formal Mentoring, in THE HANDBOOK OF MENTORING AT WORK, supra note 26, at 569 (suggesting ways organizations might improve formal mentoring programs for women).
33 SHEILA WELLINGTON & BETTY SPENCE, BE YOUR OWN MENTOR: STRATEGIES FROM TOP WOMEN ON THE SECRETS OF SUCCESS 109-28 (2001) (contending that networking is the “number one success strategy” for women).
example of the law profession, Higgins, and Kay and Hagan emphasize the social capital perspective as being more appropriate for understanding disparities in career outcomes between men and women. They note that social capital includes social relations and connections between and among persons that bring one legitimacy, provide access to privileged information about the firm and industry, and build networking capital beyond the firm.

Yet women have historically lacked access to important organizational networks and contacts. Reasons for exclusion include structural barriers, such as organizational form, institutionalization and genealogy of organizational leadership, domestic commitments and lack of child care, lack of role models and mentors, rainmaking demands (bringing in more clients

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34 Monica C. Higgins, The More, the Merrier? Multiple Developmental Relationships and Work Satisfaction, 19 J. MGMT. DEV. 254, 277-296 (2000) (concluding that “the composition and quality of an individual's entire set of early-career developmental relationships are related to his or her work satisfaction”); Kay & Hagan, supra note 7, at 730-732 (“[S]ocial capital refers to the sum of the actual and potential resources that a lawyer can mobilize through membership in social networks.”).

35 Id.

36 Rosabeth Moss Kanter, Men and Women of the Corporation 16, 184 (1977) (reporting that despite “[w]omen’s rising labor force participation,” there has not been a corresponding increase in women getting “higher paying and more powerful jobs,” and that organizational sponsorship alliances are very important for women, yet much more difficult to come by); Gary N. Powell & Lisa A. Mainiero, Cross-Currents in the River of Time: Conceptualizing the Complexities of Women’s Careers, 18 J. MGMT. 215, 227-29 (1992) (arguing that networks formed by women are often “largely ineffective because they are not as well integrated into the organization’s dominant coalition”); Ragins & Sundstrom, supra note 7, at 81 (concluding that “[g]ender differences in power reflect differential access to a variety of resources for power”). See generally, Cindy A. Schipani, et al., Pathways for Women to Obtain Positions of Organizational Leadership: The Significance of Mentoring and Networking, DUKE J. OF GENDER L. & POLICY 89 (2009); Cindy A. Schipani, et al., The New Corporate Governance and Pathways for Women to Obtain Positions of Organizational Leadership, 56 MD. L. REV. 101 (2006).

37 Clarissa Cook & Malcolm Waters, The Impact of Organizational Form on Gendered Labour Markets in Engineering and Law, 46 SOC. REV. 314, 335 (1998) (concluding that “differential organizational form is the antecedent that gives rise to the differential participation of qualified women in the legal and engineering professions”).

38 Damon J. Phillips, Organizational Genealogies and the Persistence of Gender Inequality: The Case of Silicon Valley Law Firms, 50 ADMIN. SCI. Q. 440, 465 (2005) (“[A] parent firm's gender hierarchy is important to understanding the advancement of women in that firm's off-spring.”).

39 Paula Nicolson, Gender, Power and Organisation 103-104 (1996) (describing how the responsibilities of motherhood and a lack of available child-care disadvantage women professionally).

40 Epstein et al., Glass Ceilings and Open Doors: Women’s Advancement in the Legal Profession, 64 FORDHAM L. REV. 306, 343 (1995) (arguing that it is imperative to women’s success in the legal profession that women have mentoring opportunities); NICOLSON, supra note 39, at 104-106 (“Another observable barrier to women’s achievement has been the lack of female role models and mentors.”).
for the firm), long work hours, and part-time work. Moreover, attitudinal barriers such as prejudice towards women, family, pregnancy, social hierarchy, sexual harassment, and sex-role socialization may lead to women being perceived as uncommitted and lacking in necessary abilities and skills for professional roles. Thus, organizational characteristics such as social structure and the societal and cultural constraints imposed on women may influence the occupational and professional participation and engagement of both men and women.42

Although studies suggest that marital or family role commitment are unassociated with family-to-work interference, and that gender, marital status, and number of children are unrelated to occupational commitment, biases against women (regardless of family status) in the profession persist. For example, Jenny M. Hoobler and her colleagues found that managers’ perceptions of female subordinates’ work-family conflict (whether conflict existed) influenced their perceptions of these women’s person-organization fit, person-job fit, and performance.46 Lyness and

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41 Epstein et al., supra note 40, at 331, 378, 403 (“The topic of business development is frequently regarded as an area in which many women, but not all, experience difficulty. . . . Everyone points to the increasing expectations regarding billable hours as one of the greatest impediments to women’s movement up the career ladder at large law firms. . . . With one exception, at every firm in the sample, associates working part-time are taken off the partnership track.”); Sharon Foley et al., The Perceived Glass Ceiling and Justice Perceptions: An Investigation of Hispanic Law Associates, 28 J. MGMT. 471, 488 (2002) (finding that the existence of a perceived glass ceiling for female Hispanic law firm associates “decreases perceptions of promotion fairness”).

42 Peter M. Blau et al., Occupational Choice: A Conceptual Framework, 9 INDUS. & LAB. REL. REV. 531, 542 (1956) (“The social structure affects occupational choice in two analytically distinct respects: as the matrix of social experiences which channel the personality development of potential workers, and as the conditions of occupational opportunity which limit the realization of their choices.”).

43 Laura M. Graves, Patricia J. Ohrott & Marian N. Ruderman, Commitment to Family Roles: Effects on Managers’ Attitudes and Performance, 92 J. APPLIED PSYCHOL. 44, 51 (2007) (finding “no evidence that family role commitment led to negative outcomes by increasing family-to-work interference” and that “[n]either marital nor parental role commitment was associated with the increased interference”).

44 Kibeom Lee et al., A Meta-Analytic Review of Occupational Commitment: Relations With Person- and Work-Related Variables, 85 J. APPLIED PSYCHOL. 799, 803 (2000) (“[O]ccupational commitment was unrelated to gender . . . as well as to number of dependents . . . and marital status.”).

45 Ragins & Sundstrom, supra note 7, at 59-60 (arguing that disproportionately negative performance reviews for women may be due to “sex-role stereotypes”).

46 Hoobler et al., supra note 4, at 951 (“[M]anagers tended to categorize women as experiencing greater family-work conflict, even after controlling for family responsibilities and women’s own perceptions of family-work conflict. In turn, managers’ perceptions of family-work conflict seem to influence their perceptions of fit and performance, with managers appearing to view female employees as having poorer fit with their organization and job.”).
Thompson found that female executives were more likely than male executives to report lack of cultural fit and exclusion from informal networks as barriers to their career advancement.47

Signalling theory suggests that because organizational decision makers have incomplete information about an individual, they rely on signals, an individual’s observable qualities (such as demographics or social relations, for example), to make judgments about that individual.48 Being female with dependents may signal negative attributes that influence superiors’ organizational decisions regarding women. Moreover, according to social role theory and the "doctrine of separate spheres,"49 individuals view women as caregivers and that signals their non-work demands (real or imagined) to organization members.50 Also, socially sanctioned gender-typical roles influence one’s own as well as others’ perceptions of and expectations about the two sexes.51

On the career front, on the one hand, men being attributed masculine qualities of agency, competence, and success are naturally associated with managerial roles or positions of power and

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47 Karen S. Lyness & Donna E. Thompson, Climing the Corporate Ladder: Do Female and Male Executives Follow the Same Route?, 85 J. APPLIED PSYCHOL. 86, 97 (2000) (“[F]emale executives reported that lack of culture fit, being excluded from informal networks, and difficulty getting developmental assignments and geographic mobility opportunities were greater barriers to advancement than did the male executives.”).

48 Michael Spence, Job Market Signaling, 87 Q. J. ECON. 355, 357 (1973) (arguing that employers rely on signaling because “[a]n employer cannot directly observe the marginal product [of the employee] prior to hiring,” but can directly “observe . . . a plethora of personal data in the form of observable characteristics and attributes of the individual, and it is these that must ultimately determine his assessment of the lottery he is buying”).

49 Ruth Schwartz Cowan, More Work for Mother 69 (1983) (arguing that “separate spheres” for men and women developed out of practical necessity at the beginning of the industrial age and then persisted as “inventors and entrepreneurs and advertising copywriters and consumers themselves simply assumed that the separation of spheres was a normal arrangement”); Allison Munch et al., Gender, Children and Social Contact: The Effects of Childrearing for Men and Women, 62 AM. SOC. REV. 509, 510 (1997) (“The ‘doctrine of separate spheres’ suggests that powerful historical forces have created a social context in which parenting (like domestic tasks in general) is viewed as women’s work.”).

50 Jenny M. Hoobler, On Site or Out-of-Sight? Family-Friendly Child Care Provisions and the Status of Working Mothers, 16 J. MGMT. INQUIRY 372, 379 (2007) (“When family-friendly programs entice women to bring their children with them to on- or near-site workplace child care facilities, women’s secondary status in a business environment that favors the rational, productive man over the emotional, reproductive woman is reinforced.”); Hoobler et al., supra note 4, at 951 (“Our results support the contention that women are often categorized as nurturing and others assume they experience competing demands from incompatible work and family roles.”)

51 See Alice H. Eagly, Sex Differences in Social Behavior: A Social Role Interpretation 8-34 (1987) (explaining how the social roles of men and women determine the differences between them); Alice H. Eagly & Wendy Wood, The Origins of Sex Differences in Human Behavior: Evolved Dispositions Versus Social Roles, 54 AM. PSYCHOL. 408, 413 (1999) (“Gender-stereotypic expectations can also affect behavior by becoming internalized as part of individuals’ self-concepts and personalities. Under such circumstances, gender roles affect behavior through self-regulatory processes.”).
responsibility. On the other hand, women’s stereotypical association with feminine qualities of being supportive and nurturing makes them less likely to be associated with managerial or high status roles, in turn causing them lose out on benefiting from a network.52

Viewing women (especially those with dependents) as people to provide networking and developmental opportunities may not be high due to social norms valuing the “male bread-winner” or that “men support the family”53 thereby signalling that men with dependents have higher need of career support.54 Such signalling may also suggest that investing in men’s initiation and sustenance of networking relationships may be more beneficial.55 Indeed, research shows that because of differences in social roles and experiences of childrearing between men and women,56 the impact of childrearing or dependent care on social networks varies by gender. For example, Allison Munch and her colleagues examined the impact of childrearing on men’s and women’s social networks, using a probability sample of residents of 10 Great Plains towns.57 They found

52 Heilman & Okimoto, supra note 4, at 196 (finding that mothers face a negative bias in employment decisions because they are thought to be “more deficient in stereotypically male attributes, the agentic attributes that are considered essential for success at male-gender-typed work”); Hoobler et al., supra note 4, at 942 (“Being a woman signals femininity, which has been associated with perceptions of decreased managerial ability, less effective leadership, and fewer attributions for organizational successes — in essence, incompatibility with what organizations are assumed to desire in employees.”)

53 Jacqueline Landau & Michael B. Arthur, The Relationship of Marital Status, Spouse’s Career Status, and Gender to Salary Level, 27 SEX ROLES 665, 677-680 (1992) (finding that “the presence of children under 18 at home and pregnancy leave of greater than three months were not related to earnings for women, but presence of children was positively related to salary for men” which suggests “that organizations allocate salary, to some degree, on the basis of perceived need...”); Rachel A. Rosenfeld, Race and Sex Differences in Career Dynamics, 45 AM. SOC. REV. 583, 588 (1980) (“Although, in principle, family of [sic] procreation characteristics are not related to productivity, they may be used as indicators of stability by employers.”).

54 Tharenou et al., supra note 7, at 904-905, 925 (finding support for the idea that “an inequitable division of household labor may make homes a source of support for male managers but a source of demands for female managers”); Phyllis Tharenou, Is There a Link between Family Structures and Women’s and Men’s Managerial Career Advancement?, 20 J. ORG. BEHAV. 837, 839, 859-60 (1999) (finding evidence supporting distributive justice theory, according to which “resources such as pay are allocated on the basis of individual need”); see Jeffrey Pfeffer & Jerry Ross, The Effects of Marriage and a Working Wife on Occupational and Wage Attainment, 27 ADMIN. SCI. Q. 66, 70 (1982) (examining “the idea of need as a basis of [salary] allocation” and theorizing that having a spouse is a sign of greater need).


56 Alexandra Kalev et al., Best Practices or Best Guesses? Assessing the Efficacy of Corporate Affirmative Action and Diversity Policies, 71 AM. SOC. REV. 589, 593 (2006) (“The implicit associations we make between race, gender, ethnicity, and social roles can have the effect of reproducing existing patterns of inequality.”).

57 Munch et al., supra note 49, at 511 (describing the data, measures, and methods of the study).
that social network size, contact volume, and composition vary with the age of the youngest child in a family.\textsuperscript{58} Childrearing reduced women's network size and contact volume, while it alters the composition of men's networks. These results suggest that gender differences in social roles influence career-related outcomes by placing men and women in different social spheres. The influence of childbearing and childrearing to men’s and women’s career advancement is therefore crucial to understanding how gender differences in career outcomes may be maintained throughout one’s life. Another study on childbearing and its relation to women’s and men’s networks suggest that having young children at home decreases women's, but not men's, job-related contacts.\textsuperscript{59}

Organizational members may perceive women as having increased family responsibilities and therefore not fitting or not ready to be integrated into wider professional networks, roles, and challenges. In this context, we suggest that for women with dependents, mentors can help increase the benefits of networks and decrease the network challenges they face with respect to attitudes toward gender, family, and social hierarchy. According to signaling theory,\textsuperscript{60} by having a mentor, signals are sent to superiors, decision makers, and networks that these women are indeed legitimate, capable, and fit professional roles. Apart from signaling,\textsuperscript{61} mentors may provide their mentees career and psychosocial support.\textsuperscript{62} Career support helps protégés navigate within the organization and advance their careers. This support includes coaching, sponsoring, providing challenging assignments, protection from organizational politics or harmful individuals, and exposure and visibility to key players in the organization and industry. Psychosocial support on

\textsuperscript{58} Id. at 513-17 (discussing the effects the age of the youngest child on network size, contact volume, and network composition).
\textsuperscript{59} Karen E. Campbell, Gender Differences in Job-Related Networks, 15 WORK AND OCCUPATIONS 179, 195 (1988) (“[N]etwork traits are negatively associated with mobility and the presence of young children among women, but not among men.”).
\textsuperscript{60} Spence, supra note 48, at 356-58 (describing signaling theory).
\textsuperscript{61} Id.
\textsuperscript{62} Allen, et al., Mentoring for Protégés, supra note 13 at 132-33 (analyzing the impact of psychosocial mentoring on protégés’ career outcomes and on protégés’ satisfaction with their careers and their mentors).
the other hand, relates to more personal aspects of the relationship and are intended to build the protégés’ self-worth, feelings of competence, and personal and professional identity through role modeling, acceptance and confirmation, friendship, and counseling. In turn, these mentoring experiences can provide an initial link in the development of a network system for the individual. This raises the question whether for women with dependents, does having a mentor increase the benefits she experiences from networks, as compared to mentored males or mentored women without dependents. And would women with dependents who have a mentor be better able to overcome network challenges as compared to mentored males or mentored women without dependents?

B. Survey Method

Data used in this study are part of a larger project on career pathways for women to obtain organizational leadership. The survey was administered beginning in August, 2007 and continued into 2008 to graduates of leading business schools. In the U.S., surveys were sent to 11,291 male and 3,198 female Master of Business Administration (MBA) graduates, 173 female and 274 male Master of Accounting (MAcc) graduates, and 1393 female and 2875 male Bachelor of Business Administration (BBA) graduates of the Ross School of Business at the University of Michigan, and 1643 MBA, MAcc, and BBA graduates of the Warrington College of Business at the University of Florida. Those earning MAcc, and BBA degrees were sent surveys so long as at least three and ten years had passed since their graduation, respectively, to allow for sufficient experience to potentially rise in their organizations. In Europe, survey links were sent in a

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63 Id. at 128 (defining psychosocial support as support that “addresses interpersonal aspects of the relationship and refers to ‘those aspects of a relationship that enhance an individual’s sense of competence, identity, and effectiveness in a professional role’”) (quoting KATHY E. KRAM, MENTORING AT WORK: DEVELOPMENTAL RELATIONSHIPS IN ORGANIZATIONAL LIFE 32 (1985)).
64 Tracey & Nicholl, supra note 10, at 28 (theorizing that mentoring serves the career functions of preparing protégés for career advancement and providing exposure and visibility).
65 Professors Virginia Maurer, Angel Kwolek-Folland and Mary Hinesly coauthored the Pathways survey with Professors Cindy Schipani and Terry Morehead Dworkin.
newsletter subscribed by 9,101 graduates of the Cass Business School of City University in London. In addition, a survey firm was hired to solicit additional responses from men and women outside the United States. The firm sent survey invitations to 10,370 men and women who were at least college graduates and working full-time in Europe and Asia. All surveys were in English. Through the above methods, we received in total 1516 usable surveys.

The majority of the sample consisted of U.S. respondents (59%); other countries represented in the sample with at least 10 respondents included United Kingdom, Singapore, Hong Kong, Germany, India, Greece, France, and Thailand. The sample consisted of 69% males, 68% of the sample were between ages 30 and 49, 76.80% were in a committed relationship (married, civil union, or living with a partner), 2% had an two-year bachelor degree, 19.80% had a college four-year bachelor degree, 69.50% had a masters degree, 3% had a doctoral degree, and 6% had a professional degree.

1. **Measures: Independent and Dependent Variables**

Our study involved three independent variables. First we coded the gender of the respondent, Males were coded 1 and females as 0. Next, respondents indicated the number of children or other dependents they have. Those with dependents were coded 1 and those without dependents were coded 0. The third independent variable was whether the respondent stated they had a mentor. A mentor was defined as “an experienced person who acts as guide and advisor to another person.” The survey further provided that “[i]n a Mentoring relationship, the mentor assists the mentee in achieving leadership goals.” Those with mentors were coded 1 and those without mentors were coded 0.

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66 The survey was featured in December’s Newsletter, under the section Cass News, and was sent out to 15,000 Cass Alumni.
We then compiled information regarding three dependent variables. The first dependent variable was whether the respondent benefited from a network. Respondents rated a single statement, “I have benefited from being part of a network,” on a five-point scale ranging from 1 = strongly disagree to 5 = strongly agree.

The second dependent variable measured was the respondent’s overall network challenges. Respondents rated eleven items on the extent to which cultural factors have made creating and sustaining their network challenging (1= rewarding, 5 = challenging). These factors included: knowledge of language, attitude towards gender/gender roles/sexual orientation, attitude towards family, religion, social hierarchy, community service, type of education, military service, politics, race, class, and cultural identity, and sports. Cronbach’s alpha was .84.67

The final dependent variable analyzed in this study concerns the respondent’s network challenges (gender, family, social hierarchy). Of the eleven items noted above, we averaged three items that related to cultural factors have made creating and sustaining their network challenging (1= rewarding, 5 = challenging): attitude towards gender/gender roles/sexual orientation, attitude towards family, and attitude towards social hierarchy. Cronbach’s alpha was .70.

2. Measures: Control Variables

Following prior research,68 we controlled for 14 demographic, human capital, career success, organization and industry-related, social capital, and spouse work situation variables that could influence the outcomes of interest. These control variables were:

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67 Cronbach’s alpha is a measure of internal consistency or reliability of a measure. The minimum suggested level is .70, but could be lower for exploratory or new measures. J. C. NUNNALLY, PSYCHOMETRIC THEORY (2d ed. 1978).
68 Powell & Mainiero, supra note 36, at 215 (reviewing theoretical approaches to “women’s career development”); Ramaswami, Interactive Effects of Gender and Mentoring, supra note 19, at 701 (reviewing lawyers’ career outcomes, controlling for year of graduation, law firm, law firm size, career interruption, age, presence of committed relationship, and number of children); Ramaswami, et al., Organizational Context, supra note 19, at 396 (reviewing midcareer managers, controlling for graduate degree, firm size, career interruption, age, presence of a committed relationship, presence of children, and career priority).
(a) **Demographics and human capital.** *Country* was coded such that respondents from U.S. were coded 1, and others 0. (Respondents reported their *age* based on the following scale: 1) 20-29 years, 2) 50-59 years, 3) 30-39 years, 4) 60-69 years old, 5) 40-49 years old, and 6) 70+ years old. Finally, respondents indicated their *education level* on the following scale: 1) Associates Degree (2-year college degree), 2) 4-year College Degree, 3) Master's Degree, 4) Doctoral Degree, and 5) Professional Degree.

(b) **Career success.** Because networking outcomes and mentor involvement may be influenced by protégés’ career success, *career satisfaction* and *reporting level* were added as controls. Respondents rated the item, “I am satisfied with the level I have reached in my career,” on a five-point scale ranging from 1 = strongly disagree to 5 = strongly agree. They also indicated their reporting level to the top person in their organization on the following scale: 1) Three or four levels below, 2) Two levels below, 3) Direct report or one level below, and 4) I am the top person.

(c) **Organization and industry.** Respondents indicated their *firm size* on the following scale: 1) Fewer than 50, 2) 50-499, 3) 500-999, 4) 1,000-9,999, and 5) 10,000+. We controlled for industry using a dummy coding sequence where those with positions in *service industries* and *manufacturing industries* were contrasted with those in other industries.

(d) **Current social capital.** We included four measures of social capital to account for any networking related effects other than mentoring. *Access to top people in career* was measured by asking the respondents, whether they have access to people at the top levels of organization, outside their office in their first job, early career, mid career and late career, each of which were rated on a five-point scale (1 = strongly disagree, 5 = strongly agree). *Significant activity with top people in career* was measured as the total number of such activities (social, religious, community service, artistic and cultural, sports, meetings/seminars/conferences, political, and other) across
their first job, early career, mid career, and late career. For *shared cultural background with top people*, respondents rated the sentence, “Over the course of my career, I have shared a great deal of cultural background with the people at the top levels of my organizations,” on a five-point scale (1 = strongly disagree, 5 = strongly agree). Finally respondents answered Yes or No to whether or not they had a *family member in a leadership position* in an organization in which they have worked.

(e) *Spouse work situation.* We added two spouse work situation variables as controls as they might influence the investment that respondents may need to make to care for dependents. Respondents noted whether they had a *full-time working spouse* (yes = 1, no = 0), and whether their *spouse earns more* compared to them (1 = substantially less, 2 = about the same, 3 = substantially more).

C. **Analysis and Results**

Descriptive statistics including means, standard deviations, and correlations are reported in Table 1. Among the independent variables, all correlations were low to moderate, suggesting few overlaps among independent variables. Variation inflation factors values indicated no problems with multicollinearity. We used ordinary least squares (OLS) multiple regression, where the control and independent variables were entered first followed by the two-way interaction terms and finally the three-way interaction term in separate steps to examine the relationship among the variables.

Among the independent variables, only *mentor yes/no* had a significant positive relationship with benefit from network (β = .07, p < .05), and the only significant two-way interaction was *gender x dependents* (β = -.15, p < .05) on the dependent variable benefit from network. There were no other significant main or two-way interactions. The significant lower order
interactions, however, need to be interpreted in the context of the significant three-way interactions.

Interestingly, the three-way interaction for gender x dependents x mentor was significant for all three dependent variables: benefit from network ($\beta = -0.69, p < .01$), overall network challenges ($\beta = -0.41, p < .05$), and network challenges gender/family/social hierarchy ($\beta = -0.42, p < .05$). We plotted graphs of the three-way interactions for each dependent variable using unstandardized regression coefficients. Figure 1 suggests that women with dependents who also have mentors report having benefited from a network more than women with dependents who do not have mentors. Mentoring thus allows women with dependents to benefit most from networks compared to other groups. Figures 2 and 3 suggest, however, that although mentored women with dependents report benefiting from a network more than when such women did not have mentors, returns diminish when considering overall network challenges or network challenges with respect to gender, family and social hierarchy. The results suggest that mentoring is more beneficial for women without dependents than for women with dependents to overcome network related challenges. In contrast, for men with dependents, their network challenges are reduced when they have mentors compared to when they do not. Thus, while mentored women with dependents may have access to a beneficial network, they continue to face network related challenges, despite having a mentor.

D. Limitations of the Study

As with any research endeavor, this study is also not without limitations. We could not gather data directly from mentors about their own demographic characteristics (gender, and dependents) and perceptions of women with dependents. Also, we did not go deeper into country differences. Cross-cultural differences in mentoring dynamics and outcomes may influence how
mentoring interacts with demographic and context variables. Although we acknowledge that the dynamics of formal and informal mentoring may differ, we included both formal and informal mentoring cases as we did not have a theoretical reason to expect differences between formal and informal mentoring in research questions and hypotheses examined. Moreover only fewer than three percent of respondents reported having formal mentor. Given that the focus of the study was all type of professional networks, we also did not distinguish between respondents’ experiences with alumni networks, organizational networks, or professional associations. The data were collected through self-report surveys, and we also used single-item measures for some variables to ensure that the survey was not too long. Finally, the cross-sectional design of the study, where all data were gathered at the same time, does not allow us to make more definitive causal inferences as we did not have the research opportunity to gather longitudinal data.

III. The Legal Terrain

As discussed above, Title VII of the Civil Rights Act, which has been on the books for over forty years, prohibits discrimination in employment on the basis of gender, race, color, religion and national origin. Gender stereotyping is included within the prohibition against discrimination and included in those prohibited stereotypes are those based on pregnancy and motherhood or family responsibilities. These stereotypes seem to be particularly persistent, resulting in hundreds of cases being filed with the EEOC. When the discrimination is explicit, such as being told, “This is no job for someone with little ones,” or denying a promotion because the supervisor did not think she would want to relocate, the discrimination claim is

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71 Id. at 285. There was a 400% increase in cases based on family responsibilities and motherhood from 2000-2006.
72 Black v. Hastings on Hudson Union Free Sch. Dist., 368 F.3rd 107 (2d Cir. 2004).
73 Lust v. Sealy, Inc., 383 F.3d 580, 583 (7th Cir. 2004).
usually successful. Today, however, there are often no “smoking gun” statements and such stereotyping is difficult or impossible to prove.74

A. FMLA

There are also other federal laws on the books that attempt to accommodate work and family life but these too, vary in their effectiveness. Maternity leave and family leave is guided by the Family and Medical Leave Act of 1993 (FMLA),75 which allows unpaid job-protected leave for twelve workweeks in a twelve-month period. Leave must be granted, for employers and employees covered by the FMLA for the birth of a child and to care for the newborn child within one year of birth, adoption or foster care and to care for the newly placed child within one year of placement. Additionally, leave to care for the employee’s spouse, child, or parent who has a serious health condition, among other reasons is also included.76 Some states have expanded the coverage beyond the federal law.77 Only one state, California, provides some payment during family leave.78 Five states, California,79 New York,80 New Jersey,81 Rhode...
Island, and Hawaii, provide some payment during maternity leave in the form of temporary disability payments. Unfortunately, the United States is one of only six nations of 184 nations that do not provide paid maternity leave. Liberia, Papua New Guinea, Samoa, Sierra Leone and Swaziland are the five other countries that do not provide paid maternity leave.

B. Pregnancy Discrimination Act

In addition to the FMLA, the Pregnancy Discrimination Act ("PDA") prohibits all forms of discrimination on the basis of pregnancy, such as discriminatory failures to hire and promote. Courts, however, routinely restrictively interpret the PDA so that a woman’s ability to continue to work and give birth "seems to be in spite of, rather than because of, passage of the PDA." These restrictive interpretations "inculcate the cultural stereotypes and invidious treatment of women who have been, are, or may be affected by pregnancy or childbirth in their

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85 Id.
87 42 U.S.C. § 2000e-(k) (1981). It was passed as an amendment to Title VII.
88 See H.R. Rep. No. 95-948, at 6-7. It was passed as a response to the Supreme Court decision in General Electric v. Gilbert, 429 U.S. 125 (1976). The PDA picked up on a vigorous dissent by Justice Brannan who said in holding that the majority, in holding that Title VII did not cover pregnancy, had lost sight of the intention of Title VII. Id. at 159. See Julie Manning Magid, Pregnant with Possibility: Reexamining the Pregnancy Discrimination Act, 38 AM. BUS. L. J. 819, 820-21 (2001).
89 See, e.g., Maldonado v. U.S. Bank, 186 F.3d 759 (7th Cir. 1999).
90 Magid, supra note 88, at 821.
lifetime.”91 The PDA is sufficiently vague giving rise to wide discrepancies among court decisions addressing pregnancy related issues such as infertility92 and breastfeeding.93

Many courts treat pregnancy under the PDA as the equivalent of a disability, and one that is chosen because women have control over becoming pregnant. Because the disability is thought to be by choice, protection against discrimination is minimal.94 All that is required is that pregnant employees be treated the same as other employees similar in their ability or inability to work.95 Thus, if the employer treats a similarly sick employee poorly, it can treat the pregnant employee as poorly. Some courts hold that the PDA “prohibits only discriminatory animus against pregnant women.”96 Thus, the PDA is held to not remedy sex-neutral policies even when these policies disproportionately affect pregnant women.97

The widely acknowledged deficiencies of the PDA have prompted lawmakers to introduce the Pregnant Workers Fairness Act.98 This bill aims to offer more protection to pregnant workers than does the PDA. Its goal is “to eliminate discrimination and promote women’s health and economic security by ensuring reasonable workplace accommodations for workers whose ability to perform the functions of a job are limited by pregnancy, childbirth, or a

94Magid, supra note 88, at 830.
95Troupe v. May Dep’t Stores Co., 20 F.3d 734, 738 (7th Cir. 1994).
97Id.
related medical condition.” For example, even if the pregnant worker cannot perform the same work as the nonpregnant worker, the employer will still be required to accommodate the pregnant woman to a certain degree. It has been said, however, that this bill has only a three percent chance of being enacted. Of course, the judges could also interpret the language of the PDA in the manner intended by Congress when it passed the law. Such a construction would also be consistent with the way the law is written.

IV. Possible Corrections through Existing Legal Remedies

Despite all this legislation, and although women make up 46.6% of the labor force, only 16.1% of the board members of Fortune 500 companies are female, and although 45.4% of associates in the nation’s major law firms are women, women make up only 19.5% of the partners in these firms. Furthermore, women still earn 77 cents on a man’s dollar by the latest census conducted in 2008. At least so far, it seems clear that more needs to be done to rectify these disparities.

A. Quotas: A European Solution

The board disparities are not unique to the U.S. For example, the proportion of women on European company boards averages about 10%, with a high of 40% in Norway and a low of

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99 Id.
101 See Magid, supra note 88.
1% in Portugal. One solution adopted by many European countries is to impose quotas to make sure women have a voice in governmental and business organizations. Norway was the first to adopt such a measure and it has resulted in it being the leader. Belgium, Spain, the Netherlands, France, Iceland, and Italy have also recently adopted such measures. In addition, countries, such as Australia and the United Kingdom encourage female representation through their corporate governance codes. Some companies that operate internationally have seen meeting the quota as an opportunity to gain U.S. business and have actively recruited U.S. women to serve on their boards. Currently there are 96 U.S. women on 136 boards in twelve countries.

**B. Affirmative Action in the United States**

The European quota system for increasing representation of women on boards cannot be legally adopted in the United States. More than three decades ago, the U.S Supreme Court found quotas as a means of addressing inequities unconstitutional. In that decision, Regents of University of California v. Baake, Justice Powell, however allowed institutions to take race into account provided that it was part of a holistic approach in judging the applicant. Subsequent decisions have allowed government entities to set goals under an affirmative action

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108 Id. American female executives are increasingly serving on European company boards such as Sodexo SA, Fiat, and Logica PLC.
110 Id.
plan to correct the inequitable numbers. The issue of affirmative action remains quite controversial, and the current Supreme Court has been limiting its use in the public sector. The Court, though, has not given its last word on the issue. Currently, it is reviewing *Fisher v. University of Texas*, a university admission case alleging reverse discrimination.

Affirmative action in the private sector has also been contentious. The Supreme Court has also addressed this issue, but in the context of Title VII cases. Here, again, the Court has allowed goals but not quotas, and many companies have adopted affirmative action plans to correct imbalances. For example, in *Johnson v. Transportation Agency, Santa Clara County, California*, the U.S. Supreme Court upheld a gender-based, voluntarily-adopted affirmative action plan under which the employer promoted a woman over a man who had scored higher on the exam. The Court held that an affirmative action plan giving women a plus factor is valid under Title VII when there is a manifest imbalance that reflected underrepresentation of women. So far, the employment cases have held that as long as race or sex is but one factor of many rather than a quota, the affirmative action plan is legal.

C. The SEC and Disclosure Requirements

Thus, motivated companies can voluntarily adopt an affirmative action plan. The numbers, however, indicate that few have chosen to do so for the top ranks. This is despite numerous studies showing a strong correlation between better financial performance and female

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112 In 2003, in Grutter v. Bolinger, 539 U.S. 306 (2003), the Court recognized the importance of diversity in education and allowed race as a plus factor in law school admissions that could be used to correct an imbalance. 
114 Fisher v. Univ. of Tex. at Austin, 631 F.3d 213 (5th Cir. 2011), cert. granted, 80 U.S.L.W. 3144 (U.S. Feb. 21, 2012) (No. 11-345).
115 Title VII guarantees equal opportunity in employment regardless of race, color, religion, sex, or national origin. This is similar to the constitutional protection in the public sector. There are important differences, however, in interpretation.
116 480 U.S. 616 (1987). The employer had adopted the plan in order to achieve “a statistically measureable yearly improvement in hiring, training and promotion of minorities and woman’ in jobs where they were underrepresented. Id. at 622.
117 Id. at 617.
board representation.\textsuperscript{118} One thing that could encourage companies to increase representation without forcing a quota is to have the SEC make gender diversity a priority. This would help companies and society the benefits of diversity as acknowledged by the Supreme Court.

The SEC adopted a diversity disclosure requirement for proxy statements in 2005. Under it, companies are required to state whether diversity was a factor in considering board candidates, how diversity was considered, and the effectiveness of its diversity policy if it had one.\textsuperscript{119} However, diversity is undefined. The SEC could now require companies to adopt a diversity policy and include gender as a consideration. This inclusion would likely spur more companies to adopt gender diversity policies. This would be consistent with the stress on board independence\textsuperscript{120} as well as meeting the goal of maximizing shareholder wealth.\textsuperscript{121} It would also be consistent with the recommendations of the Congressional Glass Ceiling Commission which looked at artificial barriers hindering advancement to mid-and senior-level positions.\textsuperscript{122} Its recommendations included the demonstration of the CEO’s commitment to diversity, inclusion of diversity in all strategic business plans, holding managers accountable for progress, the use of affirmative action as a tool, selection, promotion and retention of qualified individuals,\textsuperscript{123} and the

\begin{footnotesize}
\begin{enumerate}
\item Corporate Governance, 17 C.F.R. §229.407(c)(1-2)(2012).
\item See Carlson, supra note 107, at 4. Carlson also argues that the SEC could adopt a non-binding “Say-on-Diversity” shareholder vote rule similar to its nonbinding shareholder vote on executive compensation reflecting the Dodd-Frank disclosure requirement on executive compensation. \textit{Id.} at 35.
\item Carlson, \textit{supra} note 107, at 15-45.
\end{enumerate}
\end{footnotesize}
implementation of mentorship programs to help women get around barriers including lack of information, visibility, and resources.\textsuperscript{124} Once diversity is embraced, mentoring programs are likely to follow. Mentoring programs are one of the most common tools companies have used to help achieve diversity goals.\textsuperscript{125}

\textbf{D. Mentoring Programs}

The results of the Pathways Study suggest that employers should be encouraged to provide mentoring for women to help open networking pathways for women to succeed in business. Our study shows that mentoring results in higher returns for women with children or other dependents at least in terms of benefiting from a network. Women with dependents, however, continue to need organizational and social support to overcome network related challenges so that they can make the most of their membership in such network. Fortunately, many companies have established mentoring programs for women and minorities in place.\textsuperscript{126} Perhaps more investment needs to be made in the area of diversity training and sensitivity to the unique contingencies that impinge on the career paths chosen by women with dependents.

\textsuperscript{124} See Dworkin, Maurer, & Schipani, supra note 105, at 368.

\textsuperscript{125} Joann S. Lublin & Kelly Eggers, More Women Are Primed to Land CEO Roles, WALL ST. J. Apr. 30, 2012, at B1 (citing the ten top choices to be a likely pick in the next five years after polling fifteen search firms, executive coaches and women’s organizations).

\textsuperscript{126} Upon review of the websites of the \textit{Fortune} 500 companies, we found forty-two companies that provide mentoring or networking platforms exclusively for women. This search was conducted on a very broad basis by accessing each company’s website or publicly available information. It may not include companies that do provide such programs but the information is not publicly available.

The Supreme Court has emphasized that Congress, in passing Title VII, desired voluntary compliance with the law to eliminate discrimination. Regents of Univ. of Cal. v. Bakke, 438 U.S. 265, 336 (1978). A private employer is not constrained by constitutional claims that apply only to government entities, thus a private employer need only meet the requirements of Title VII. Finally, “the Supreme Court has never addressed the constitutional validity of a gender-based affirmative action program in the workplace, although it has confronted a Title VII challenge to such a program.” Rosalie Berger Levinson, \textit{Gender-Based Affirmative Action and Reverse Gender Bias: Beyond Gratz, Parents Involved and Ricci}, 34 HARV. J.L. & GENDER 1, 14 (2012).

Some states have recently banned the use of affirmative action by state agencies. ARIZ. CONST. art 2, §36; CAL. CONST. art. 1, §31; MI. CONST. art. 1, §26 (The Sixth Circuit Court of Appeals invalidated the affirmative action ban in Coalition to Defend Affirmative Action v. Regents of the University of Mich., 652 F. 3d 607 (2011). The case, however, has been appealed and the ban is in force while the appeal is pending.); WASH. REV. CODE § 49.60.400 (2008).
Mentoring would be one plan to not only promote diversity of an employer’s workforce, but to also help them overcome challenges minorities face with respect to career enhancing resources such as networks.

It is also possible that a government entity such as the Office of Federal Contract Compliance Programs (“OFCCP”) or Equal Employment Opportunity Commission (“EEOC”) impose mentoring programs.\textsuperscript{127} The OFCCP might more actively monitor diversity in management and impose mentoring programs where there is a lack of female managers among government contractors.

The EEOC recently strengthened its systemic litigation system, which could mean that employers will be defending more cases that involve many employees.\textsuperscript{128} Additionally, it can file suit despite the employees having signed arbitration agreements.\textsuperscript{129} In resolving these disputes, mentoring programs could be offered as settlements when the issue at task is lack of promotions and opportunities to advance. This is also recommended where employees have brought successful claims of discrimination. The benefits to women and men, and to the organizations for which they work, make the effort worth the cost and potentially turn an issue of contention and fairness into a more fair and equitable approach to advancement in organizations.

Courts and arbitrators could likewise use mentoring programs as a remedy in appropriate cases. Judges and arbitrators should be made aware of the advantages of mentoring when discrimination against women is alleged, and incorporate it as part of their tool bag of remedies. Title VII allows equitable as well as legal (damages) remedies. Mentoring programs as an equitable remedy, or part of a remedy, seem well suited for Title VII disparate treatment cases.

\textsuperscript{127} Dworkin, Maurer & Schipani, \textit{supra} note 105, at 370.  
Although a mentoring program would not be a substitute for changes in company human resource policies, it could serve as an additional measure that would assist women in recognizing and managing barriers. Mentoring may be an even more effective remedy in disparate treatment cases where, for example, evaluation and selection criteria—including the sorts of criteria that come into play in selecting top management—have the effect of disproportionately stalling the careers of women otherwise qualified for top management.

V. Conclusion

Various studies have suggested that mentoring and networking are means to improve career outcomes, but past research has not examined how mentoring influences networking outcomes for men and women with and without dependents. The Pathways study provides evidence that for women with dependents, mentoring can improve the benefits women experience in their networks. Our results, however, also suggest that women with dependents, even with mentors, report higher network related challenges than do mentored women without dependents – mentoring helped reduce network related challenges when women did not have dependents and when men had dependents. While the good news is that mentoring does help women (at least those without dependents), it is especially women with dependents who seem to need increased developmental investment as their having dependents could send negative signals to senior decision makers and mentors, and continue to pose challenges compared to when they do not have dependents. Thus organizations and mentors could do more to understand the career dynamics of and reduce the challenges faced by these women.

Past research also suggests that women who are married with or without children or other dependents have more difficulty gaining mentors. From our data too, it is reasonable to

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130 Ramaswami, Huang, & Dreher. *Mentoring across cultures: The role of gender and marital status in Taiwan and the U.S.* (April 2012)(manuscript available from the authors).
conclude that it is precisely these women who need mentoring most. This may be because mentoring tends to boost confidence, provide career clarity, and career satisfaction. It may also be that a mentor can provide role modeling for women working to balance work and family lives.

Finally, we note that in July, 2012, Yahoo announced that it was hiring Marissa Mayer as the new CEO. That same day, Ms. Mayer announced that she and her husband were expecting their first child. Not only is Ms. Mayer the twentieth female CEO in a Fortune 500 company, a fact headline worthy in itself, she is also the first ever pregnant CEO in a Fortune 500 company. Ironically, the news hit the stands barely weeks after Anne-Marie Slaughter’s debate-spawning article, Why Women Still Can’t Have It All, in the Atlantic. Perhaps with proper mentoring, more women with dependents will have the opportunity to achieve career success similar to that of Ms. Mayer’s and find pathways to positions of organizational leadership.

TABLE 1
Descriptive Statistics and Correlations

| Variable                                      | M    | SD   | 1    | 2    | 3    | 4    | 5    | 6    | 7    | 8    | 9    | 10   | 11   | 12   | 13   | 14   | 15   | 16   | 17   | 18   | 19   | 20   |
|-----------------------------------------------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|
| Age                                           | 2.87 | 1.08 |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Education Level                               | 4.23 | 1.36 |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Career Satisfaction                          | 3.52 | 1.16 | .20  |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Reporting Level                               | 2.46 | 1.07 | .25  | -.06 | .26  |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Firm Size                                     | 2.66 | 1.44 | -.13 | .12  | -.11 | -.56 |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Service Industry                              | .46  | .50  | .07  | .01  | .03  | .08  | -.10 |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Manufacturing Industry                        | .17  | .38  | -.07 | .06  | -.14 | .15  | .42  |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Access to Top People in Career                | 2.57 | 1.01 | -.07 | .10  | -.26 | -.36 | .19  | -.05 |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Activity with Top People                      | 2.20 | 1.46 | .08  | -.09 | .12  | -.07 | .00  | -.02 | -.34 |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Shared Cultural Background with Top People    | 3.29 | 1.08 | .05  | -.12 | .24  | -.18 | -.07 | .02  | -.05 | -.37 | .20  |      |      |      |      |      |      |      |      |      |      |      |      |
| Family in Leadership Position                 | .19  | .39  | -.06 | .13  | .11  | -.11 | -.01 | -.04 | -.18 | .04  | .13  |      |      |      |      |      |      |      |      |      |      |      |      |
| Spouse Working Full-time                      | .49  | .50  | -.20 | -.21 | -.11 | -.08 | .01  | .01  | -.04 | -.09 | -.04 | -.03 | .04  |      |      |      |      |      |      |      |      |      |      |      |
| Spouse Earns More                             | 1.23 | .95  | -.14 | -.20 | -.07 | -.02 | -.06 | .01  | -.06 | .04  | -.02 | -.03 | .03  | .65  |      |      |      |      |      |      |      |      |      |      |
| Country U.S. vs. Others                       | .59  | .49  | .24  | .53  | .07  | .00  | .05  | -.01 | .05  | .02  | -.06 | .01  | -.06 | -.16 | -.13 |      |      |      |      |      |      |      |      |      |
| Dependents Yes/No                             | .65  | .48  | .30  | .07  | .11  | .13  | -.04 | -.02 | .06  | -.04 | .05  | .07  | .02  | -.25 | -.18 | .14  |      |      |      |      |      |      |      |      |
| Mentor Yes/No                                 | .79  | .40  | -.07 | .07  | .08  | -.04 | .09  | .00  | .05  | -.11 | .00  | .12  | .03  | -.02 | .00  | .10  | .01  |      |      |      |      |      |      |      |
| Gender                                        | .69  | .46  | .13  | .08  | .01  | .11  | -.03 | .00  | .00  | -.09 | .03  | .05  | .00  | -.39 | -.43 | -.01 | .18  | -.05 |      |      |      |      |      |      |
| Benefit from Network                          | 3.81 | .94  | -.10 | -.05 | .05  | .02  | -.02 | .00  | -.02 | -.16 | .19  | .14  | .10  | .00  | .00  | .05  | -.06 | .10  | -.02 |      |      |      |      |      |
| Overall Network Challenges                    | 2.52 | .52  | -.03 | .05  | -.10 | -.08 | .03  | -.04 | -.01 | .16  | -.04 | -.19 | -.11 | -.02 | -.04 | -.01 | -.03 | -.06 | .03  | -.17 |      |      |      |      |      |
| Network Challenges Gender/Family/Social Hierarchy | 2.27 | .68  | .00  | .04  | -.12 | -.05 | .01  | -.02 | -.01 | .12  | -.04 | -.10 | -.03 | -.11 | -.09 | -.09 | -.09 | -.06 | .14  | -.11 | -.02 |      |      |      |

N = 1037-1516
For r => .05, p < .05 minimum
## Table 2
Regression Results

<table>
<thead>
<tr>
<th>Variable</th>
<th>Benefit from Network N=846&lt;sup&gt;a&lt;/sup&gt;</th>
<th>Overall Network Challenges N=749&lt;sup&gt;a&lt;/sup&gt;</th>
<th>Network Challenges Gender/Family/Social Hierarchy N=743&lt;sup&gt;a&lt;/sup&gt;</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age</td>
<td>-.11**</td>
<td>.03</td>
<td>.00</td>
</tr>
<tr>
<td>Education Level</td>
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<td>-.01</td>
<td>.02</td>
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<tr>
<td>Career Satisfaction</td>
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<td>-.02</td>
<td>-.05</td>
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<tr>
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<td>-.01</td>
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<td>-.03</td>
<td>-.03</td>
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<tr>
<td>Manufacturing Industry</td>
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<td>-.05</td>
<td>-.05</td>
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<tr>
<td>Access to Top People in Career</td>
<td>-.13***</td>
<td>.08*</td>
<td>.07*</td>
</tr>
<tr>
<td>Activity with Top People</td>
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<td>.05</td>
<td>.05</td>
</tr>
<tr>
<td>Shared Cultural Background with Top People</td>
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<td>-.16***</td>
<td>-.11**</td>
</tr>
<tr>
<td>Family in Leadership Position</td>
<td>.05</td>
<td>-.06*</td>
<td>-.04</td>
</tr>
<tr>
<td>Spouse Working Full-time</td>
<td>-.01</td>
<td>.01</td>
<td>.05</td>
</tr>
<tr>
<td>Spouse Earns More</td>
<td>-.01</td>
<td>-.05</td>
<td>-.12**</td>
</tr>
<tr>
<td>Country U.S. vs. Others</td>
<td>-.03</td>
<td>.02</td>
<td>-.02</td>
</tr>
<tr>
<td>Dependents Yes/No</td>
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<td>-.05</td>
<td>-.06</td>
</tr>
<tr>
<td>Mentor Yes/No</td>
<td>.07**</td>
<td>-.01</td>
<td>.00</td>
</tr>
<tr>
<td>Gender</td>
<td>.00</td>
<td>.01</td>
<td>.02</td>
</tr>
<tr>
<td><strong>R square, F change</strong></td>
<td>.06, 3.04***</td>
<td>.06, 2.80***</td>
<td>.05, 2.23</td>
</tr>
<tr>
<td>Gender x Dependents</td>
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<td>-.13</td>
<td>-.01</td>
</tr>
<tr>
<td>Mentor x Gender</td>
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<td>-.03</td>
<td>-.09</td>
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<tr>
<td>Dependents x Mentor</td>
<td>-.02</td>
<td>.01</td>
<td>.04</td>
</tr>
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<td><strong>R square</strong></td>
<td>.06, .37</td>
<td>.06, .73</td>
<td>.05, .24</td>
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<tr>
<td>Gender x Dependents x Mentor</td>
<td>-.57**</td>
<td>-.41*</td>
<td>-.42*</td>
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<tr>
<td><strong>R square</strong></td>
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<td>.08, 3.21*</td>
<td>.06, 3.29*</td>
</tr>
</tbody>
</table>

<sup>a</sup> List-wise deletion. *p < .05, **p < .01, ***p < .001
Figure 1. Three-way interaction of gender x dependents x mentor on having benefited from a network.
Figure 2. Three-way interaction of gender x dependents x mentor on overall network challenges
Figure 3. Three-way interaction of gender x dependents x mentor on network challenges with respect to attitudes towards gender, family, and social hierarchy.