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Abstract

The development of knowledge in any profession is determined by many factors including the cultural receptivity to new ideas within the field and in the larger society, the interests and visions of the professions’ leaders, and the availability of resources for recruitment of talent, resource development and dissemination of knowledge. This paper examines the impact of resources within the legal profession, and particularly regarding the role of resources in determining public interest career options. It draws from a larger study of the factors that facilitate and deter the choice of legal careers in the public interest. I find that fellowships are quite important not only in helping students financially but in providing many other benefits, such as granting prestige and fostering public interest communities within law schools and networks after graduation that offer employment possibilities. Further, the institutions in which fellowships are administered and offered are affected by them, for recipients of fellowships bring prestige to their law schools. Finally, the impact of the distribution of fellowships also reaches beyond the law school environment in affecting the shape and direction of the public interest sector of the legal profession.

I. Introduction

The development of knowledge in any profession is determined by many factors including the cultural receptivity to new ideas within the field and in the larger society, the interests and visions of the professions’ leaders, and the availability of resources for recruitment of talent, resource development and dissemination of knowledge. Thus, ideas, people and resources such as money, place and space are important dimensions of knowledge production. This paper focuses on the third aspect – resources. It examines the impact of this factor within the legal profession, and particularly regarding the role of resources in determining public interest career options.

This paper draws from a larger study of the factors that facilitate and deter the choice of legal careers in the public interest. One element serving as a reinforcer and motivator of students toward public interest careers was their access to grants and fellowships. A number of high profile fellowships, e.g. the Root-Tilden Fellowships at New York University Law School for
entering students, the Skadden fellowships, and fellowships awarded by Equal Justice Works, the Soros Foundation and Echoing Green made it possible and attractive for talented students to choose public interest careers. Fellowships not only made it economically possible for students to choose public interest work, but fellowships also had an impact on the structuring of the public interest community and the focus on the kinds of work that could be accomplished. Fellowships and grants privileged certain kinds of public interest law and determined the pool of participants who become players in the sphere of public interest work. Thus, fellowship grants administered internally within law schools and externally through institutions that screen and select grantees play a role in determining who become the producers and actors creating a base of knowledge and what kinds of inquiry are privileged.

Among the consequences that flow from the organization of funding are 1) the development of new arenas of public interest work, such as entrepreneurial work in enterprise zones 2) development of specialists 3) the development of focus on areas of concern, litigation design and subject content (e.g. international human rights, gay and lesbian rights and Native American concerns) 4) the privileging of impact litigation or direct services work 5) the development of public interest “experts” who become gatekeepers in the public interest arena and 6) the spotlighting of particular schools as “public interest” oriented, which results in a concentration of public interest legal work in certain institutions and geographic arenas, and the development of a stratification system within the sphere of public interest law. I further find that even in the “do good” world of public interest law, knowledge/power becomes concentrated in the hands of gatekeepers either by reflecting the interests, concerns and prejudices of organization founders or governing committees or reflecting their own personal style and
interests. Moreover, the culture around certain kinds of fellowships (e.g. the Root Tilden-Kern fellowships at N.Y.U. Law School) defined the institution where it is based as being a public interest law site—drawing human resources such as faculty and students who comprise knowledge communities.

This article analyzes the intended and unintended consequences of fellowship funding for public interest-oriented students in law schools. Part II focuses on the purpose and characteristics of such fellowships, and it also reviews the methodology of the larger study of public interest students from which this article draws. Part III deals with the consequences of these fellowships in three main arenas: the effect on grantees, the effect on universities, and the effect on larger realm of knowledge production. As this section shows, these fellowships do much more than simply provide a funding source for public interest students; for instance, they affect the culture of law schools, serve as markers of prestige and status, and affect the issues on which public interest students’ focus. Part IV focuses specifically on the relationship between gender and public interest law fellowships. It documents females’ overrepresentation as recipients of public interest law fellowships, and it raises questions regarding this gender imbalance. Part V concludes this article, highlighting the variety of unintended or non-explicit consequences of public interest fellowships for individual students and for the law profession as a whole.

II. Purpose and Characteristics of Public Interest Fellowships

Before analyzing the effects of public interest law fellowship, it is important to first understand the purpose and structure of these fellowships. Given the relatively low salaries of public interest jobs, public interest fellowships exist to attract students to a public interest jobs

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and to help these students pay for their education. Despite these common goals, these fellowships vary in many ways, including when they are awarded to student and in whether they are external or internal to the law school. This section reviews these fellowship characteristics, outlines the theoretical framework for examining their intended and unintended consequences, and explains the methodology used in this study. In sum, it sets the stage for analysis of the intended and unintended effects of public interest fellowships.

**The Economic Need for Public Interest Fellowships**

“Most law students can’t afford public service,” headlined a recent article in the *New York Law Journal.* Reporting on a national survey, the article noted that two-thirds of today’s law school graduates cannot afford to take low-paying jobs because of “mortgage-sized” debts. Law schools have become increasingly expensive in the last decade, and few students and their families pay for law school without financial assistance. Further, scholarship aid decreased in both public and private law schools in recent decades. The most common way of financing law school is for the student to go into debt and contemplate loan repayment following graduation. Repayment is usually not a problem for students who go into the private sector, where students from elite law schools anticipate having high paying jobs on graduation; however, it is a problem for students who anticipate working in public interest jobs (including government jobs).

Jobs in the public interest sector of the legal profession do pay very modest salaries compared to jobs in private law firms, rarely adequate for young lawyers to live both on and also pay back their debt. Public interest organizations are also clustered in larger cities, particularly in New York, Washington D.C, San Francisco and Chicago. The relatively high living expenses in

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these cities exacerbate the problems of debt repayment. While salary is restrictive on an individual level, funding is a more general issue across the public interest sector. Many public interest firms and agencies (including the most prestigious ones) face constant budget problems creating few job openings and an uncertain job market for law graduates. Competition is very high for the small number of jobs in the public interest sector in general, and especially for those regarded as most prestigious.⁴

Those looking to enter the public interest sectors have a wide variety of organizations to consider. Some public interest organizations focus on specific issues and populations, such as those working to defend reproductive rights and prisoners’ rights and those working to defend and obtain rights for Lesbian and Gay constituents and for children. This category includes certain prestigious organizations, including the NAACP Legal Defense Fund (primarily on behalf of African Americans; the NOW and Legal Defense Fund [recently renamed Legal Momentum] on behalf of women; MALDEF (on behalf of Mexican-Americans). Other organizations are not solely issue-based and instead provide direct services to individuals who need legal assistance and cannot afford lawyers. Among the problems addressed in these organizations are matrimonial, housing, and immigration issues. Most of these organizations have relatively few lawyers (e.g. from 5 to 25) and rely, almost entirely, on private funding. An exception is the Legal Aid Society of New York, which benefits from private funding and is concurrently funded by the city of New York; it has almost one thousand lawyers. There are also other venues for lawyers to do work regarded as public interest work, such as offices of public defenders and attorneys general, which are government jobs and distributed through the country.

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I will not deal with these in this paper except to note that they, too, are not competitive financially with the private sector.

Many distinguished members of the Bar in the United States publicly worry that too few law students are motivated to go into public service work. Fellowships are regarded as important motivating and enabling factors in orienting and establishing the commitment of law students to careers in the public interest. In an effort to support and encourage law school students and graduates to pursue careers in the public interest field, law schools and other organizations offer a variety of fellowships that cover students’ tuition, or otherwise support them in working at jobs in the public interest sphere upon graduation from law school. Although some law schools also support loan forgiveness programs known as LRAPS (Loan Repayment Assistance Programs), canceling law school debt according to certain guidelines, these programs are complicated and often inadequate in addressing the problem of paying off debt. Competition is therefore very high for fellowships, especially for those regarded as prestigious. Fellowships and scholarships are located in a stratification system not just by the amount of money they offer but by their traditions and the visibility of former recipients who have gone on to attain high ranking careers. William J. Goode has noted the extent to which prestige constitutes a control system, and this paper will consider how it plays a role in constituting public interest elites and defining a public interest agenda.

Fellowships in law schools are of two types. One type provides law school tuition and other benefits while students are in law school. Another type provides a stipend and other

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assistance (health benefits and sometime loan forgiveness) granted to students when they graduate. The latter type is usually applied for while the student is in law school, and it can be separated into two categories. Some are tied to specific projects in public interest law firms and agencies; these therefore provide not only funds but also a job guarantee. Public interest law firms that might otherwise be unable to hire additional lawyers are enabled to increase their staff through this fellowship subsidation and thus extend the scope of their activities. Others provide stipends for law school graduates who work on independent projects that are not connected with existing institutions. This provides a subsidy for legal work that falls outside of the usual canon.

Analysis of the study upon which this article is based finds that fellowships (and loan forgiveness programs) are very important to students contemplating legal careers in the public interest both while they are at law school and when they graduate. For an important sub-set of public interest jobs, fellowships are an absolute “must.” Individuals could not afford to work in this sphere without financial assistance, and top performing law students who might otherwise easily obtain jobs in the top echelons of the private sector are reinforced in their decision to work in the public interest. It is also probably the case that without such fellowships there would be reduced activity on behalf of constituencies in need, and public interest agendas not served.

Types of Law School Fellowships

There are a number of types of scholarships and fellowships available in law schools, administered through the schools, though law firms, and through outside organizations and donors (eg. philanthropists or civic-minded groups). Some funding is offered by student

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8 I am not including government service in this category.
9 Of the four schools I surveyed, about one quarter of those students answering questionnaires had some kind of financial assistance. In one public law school, one quarter of students who responded had financial assistance, and
organizations which raise money to support public interest commitments (particularly summer employment). Some fellowships are unique to particular schools, and some are offered competitively to students in law schools throughout the country. All fellowships tend to be restricted and are offered for particular kinds of activities within guidelines set by the organizations, schools or persons offering them. Most of them are highly competitive, and most of these fellowships have become available only in the last decade or decade and a half. I shall not detail them all here, but it is clear that they were created to encourage recruits to work in the public interest bar by underwriting them or subsidizing them in the early years of practice.

Of the fellowships offered to students to subsidize schooling costs, among the best known are the Root-Tilden-Kern fellowships offered by New York University Law School. Considered the premier scholarship in law, the “Root-Tilden” exemplifies the reach that fellowships may have, going beyond financial assistance to give honor, prestige and connections to recipients. While about ten of these had been traditionally offered each year, N.Y.U. announced in 2004 that the Law School would increase the program’s annual scholarship reach, and this pledge was carried out by 2008. The Arthur Garfield Hays fellowships offered at N.Y.U in the second and third years are for students interested in civil rights law. Similarly, they provide connections and prestige to recipients. Fellowships that originate external to law schools are usually offered to graduating law students (or those completing a term as a judicial clerk) to work in public interest organizations for a one or two year period. This includes the Skadden Fellowship, which is offered by the large, private, corporate law firm of Skadden, Arps, Slate, Meagher and Flom; the Equal Justice Works fellowships (formerly known as NAPIL (National Association of Public
Interest Lawyers),\textsuperscript{11} Echoing Green organization fellowships (formerly oriented to business school graduates but now including law students) and Soros Foundation fellowships.\textsuperscript{12}

Summer scholarships and fellowships have consequences for students' career choices in multiple ways. This topic is addressed at greater length in an upcoming book based upon this public interest law, for I found that the summer experience is a very important element in the career decision-making process. However, in the context of this analysis, I note some base line consequences for students. Summer grants augment the pay for students taking low-paying public interest summer jobs and internships, and these summer jobs further provide exposure to communities of like-minded students making similar choices. Summer funding comes from money raised by public-interest minded students and law professors through fund-raising activities such as auctions and contributions and from the law schools.

Organizations in the legal profession and those outside it that create and administer fellowship programs vary in their commitments, programs and interests. These organizations also vary in their selection criteria--for example, in the kind of institutions from which they recruit, and in the background of the candidates they fund. Thus, the interests and biases of funders play an important role in the selection of recipients and in the ways in which they shape their proposals for funding. This means that only a particular subset of students who conform to

\textsuperscript{11} The Equal Justice Works program (formerly NAPIL) was launched in 1992 to address the shortage of attorneys working on behalf of traditionally under-served populations and address the shortage of attorneys working on behalf of under-served populations and causes in the United States and its Territories. According to its web-site the program offers salary and generous loan repayment assistance, a national training and leadership development program and other forms of support during the term of the fellowship. In 1997, with the support of a substantial matching grant from the Open Society Institute, the foundation created by financier and philanthropist George Soros, the Fellowship Program was expanded to encourage partnerships between law firms, corporations and public interest organizations to fund Fellowships. As a result, in 1998 the fellowship program than called the NAPIL Equal Justice Fellowships became the nation's largest postgraduate legal fellowship program supporting 86 Fellows in the field 2003-4. Fifty-nine fellows began in September 2002 and 51 Fellows began September 2003. The aim is to develop "the public interest law leaders of the future, whether they continue to work in the nonprofit arena or become pro bono advocates in the private bar. (from their website). The fellowships are given for discrete projects not for salaries of staff attorneys.
the profiles and guidelines set by fellowship gatekeepers have access to fellowship assistance, and law schools vary in their resources and in their commitment to funding students interested in public interest careers. The policies of funding in school and outside also determine the parameters of the public interest community creating boundaries between various public interest communities and between public interest lawyers and those who work in the for-profit sector. (Of course, boundaries may be permeated, and there is some traffic back and forth between the public interest community of lawyers and those in the for-profit sector. For example, there are for-private practice lawyers who do pro bono work.)

Law School Fellowships: Intended and Positive Consequences

As the sociologist Robert K. Merton suggested a half century ago, units of analysis (such as an educational program or a ritual celebration) may serve both manifest and latent functions in a social system. Manifest functions are usually intended and serve the system of which they are a part. The most obvious 'manifest' function of law school fellowships is to support and reinforce potential public interest law careers, by giving public interest oriented students tangible financial support for legal education. Latent functions may serve the system or the people within it in ways not designed: they may have positive or negative effects—or unanticipated consequences. In this paper I discuss the manifest and latent functions of fellowships for the creation of knowledge and knowledge communities in the public interest. Fellowships are quite important, as we shall see, not only in helping students financially but in providing many other benefits that I shall describe, such as granting prestige and fostering public interest communities within law schools and networks after graduation that offer employment possibilities. Further,

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12 George Soros, the philanthropist who funds the eponymous foundation, also contributes to the Equal Justice Works program.
the institutions in which fellowships are administered and offered are affected by them, for recipients of fellowships bring prestige to their law schools. The impact of the distribution of fellowships also reaches beyond the law school environment in affecting the shape and direction of the public interest sector of the legal profession.

**Method**

The research for this paper is based on a study investigating the factors contributing to law students' selection of careers in the public interest. The study surveyed students in two elite private law schools (New York University Law School and Stanford Law School) and two public law schools below the rank of “national” law school (City University of New York (CUNY) School of Law and University of California Hastings School of Law). One elite private school and one lower-ranked public school were situated on the east coast of the United States, and one elite private school and one lower-ranked public school on the west coast. The research included observations of law school programs, the collection of information in the public domain through studies, newspaper accounts and on the web, and interviews with students. In the schools surveyed, students were asked about their career goals (whether in the public interest or the for-profit sector), the role of economics on their decisions and their participation in activities such as clinics, journals, conferences and classes. This aspect of the research also investigated their backgrounds and ideological commitments before and during law school. The research also included interviews with administrators and law professors to examine their views and experiences and to obtain a sense of their academic environments. Finally, it also interviewed gatekeepers of fellowship opportunities within the law schools and in the organizations that offer them to law students.

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III. Consequences of Scholarships and Fellowships

This paper’s findings concentrate on New York University Law School’s Root-Tilden fellowships and the Skadden, Equal Justice Works and Echoing Green programs for which students compete throughout the country. It is for these programs that I have the most data, although the patterns and consequences I found are clearly applicable to other schools and other national fellowship programs. The effects of fellowships can be divided into three main realms: the effect on the students, the effect on universities associated with fellowships, and the effect on the overall production of knowledge.

Fellowships’ Effect on Grantees

Although relatively few law students become “public interest lawyers”, a good proportion of law students say they have chosen to go to law school for the purpose of serving society.\textsuperscript{14} In the application phase, during law school and looking beyond graduation, fellowships have a motivating and reinforcing effect on students. Fellowship availability ensures that there will be lawyers dedicated to public interest work. Thus, these fellowships play a role in determining the constituency of the public interest bar. As we shall see, given the conditions set for the fellowships, they also play a role in determining the kind of public interest work these lawyers go on to practice.

\textsuperscript{14} See Deborah Rhode, \textit{In the Interests of Justice: Reforming the Legal Profession}, New York: Oxford University Press (2003). Rhode found that in her sample of law schools 29.2 percent responded that they went to law school “to prepare for public service” and 31 percent responded that they went “to promote social justice.”
Encouraging a Public Interest Identity

Fellowships are awarded to encourage students to commit themselves to public interest careers by helping them financially. But fellowships matter for more than the money; acquiring a named fellowship confers an identity as an award winner (e.g. a Root-Tilden scholar; a “Skadden” etc.) and as a public-interest lawyer. Identity is very much linked to knowledge domains. What individuals think is important to learn, and how they apply their knowledge, is tied to their concepts of self. These concepts of self are in turn tied to the institutional contexts in which they are located. Thus being a “Skadden fellow” or a “Root” commits one to a focus on a particular subset of legal (and social) knowledge and work. Deviating from the agenda occurs at some cost to the person’s good opinion of his or her self. Labels such as “sell-out,” or “the kind of person who could never work for big corporations” come to mind as the individual refers to his or her career decisions. In the case of the Skadden fellowships, for example, the organization is reported by students to be interested in the person not only fulfilling the commitment to work at the organization for which he or she submitted the proposal, but also in the person conforming to some model of being a “Skadden fellow.” Thus, the organization’s program has an identity and the person funded has an identity as a Skadden fellow.

This identity development is aided by fellowship-related programs that create a sense of community. Most fellowship programs not only award money, but also put some effort into maintaining ties to their awardees. Often, programs connect awardees to a network of like-minded grantees. At NYU, for example, Root Tilden scholars are expected to attend weekly lectures and meetings, and Hays fellows also frequently dine together in formal settings. Being in such a community creates a boundary between the self (and others like the self) and others who do not share that status (e.g. those who plan to work for large private corporate law firms). The
fellowship application process, which includes not only writing, but also multiple interviews with individuals who represent the organization funding the fellowship, makes for a collective experience in defining a pool as exclusive. Working on the application with officers of the granting agency or law school advisors, reinforces the individual’s commitment to a public interest career line. Interaction with other applicants further creates a community and sharing of knowledge. This community function was indicated by a student in our sample who commented on the power of a law school fellowship to direct and socialize students to the field of public interest:

I sit now on the Root selection committee so I end up looking at a lot of resumes of people who say they are coming here to do public interest work. I find that some of them… are… wishy-washy…but…we'll get them here. They will join this community and I think this community will help them down the path.

Another student commented on the ramification of a summer program financial grant that also obliges students to become part of a community:

The PIC [Public Interest Center] grant is an incentive to become more involved in the public interest community … there are requirements for a PIC grant, and one of them is to go to these meetings and talk to the speakers. So people meet [each other].

*Defining Career Trajectories*

Many prestigious awards and fellowships have a lasting effect in defining the communities in which awardees work. Analysis of classes of winners of the Root-Tilden award shows that a large number of the winners populate directorships of fellowship programs at law schools and assume leadership in prestigious public interest firms and agencies. They do tend to

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be accomplished and perform well in law school, qualifying them for other prestigious positions, for example as clerks to federal and Supreme Court judges. A recent study of the career routes of Root-Tilden scholars shows that in every cohort, all but two took positions as law clerks. Over the years, the greatest number of these clerks moved into public interest jobs or jobs in academia. These fellowship grantees are least likely to wind up in private corporate law firms.

Awards and fellowships are also apt to be cited in descriptions of the person, included in their vitas and establish reputations. Like being a Harvard graduate, a Rhodes scholar, or a member of the Skull and Bones club at Yale while an undergraduate, these statuses are markers that endure as identity locators throughout a person’s adult life. Thus, I see that fellowships begin a status-sequence, or a track into the public interest domain.16

Offering Prestige to Grantees

These fellowships also affect students’ career trajectories by offering them a visible and solid symbol of prestige. Students who win prestigious fellowships in school or on graduation gain many benefits beyond the money (and for the graduates, assurance of a job). In Goode’s analysis of the role of prestige in society, he points to “prestige economies” in which the payout to members is esteem.17 Winners gain visibility and often are seen as “stars.” They gain access to faculty and to alumni of both the school and the fellowship programs. This helps with forming relationships with a law school professor who may be counted on to write amicus briefs for their cases and with members of the press whose beat is legal affairs. According to one student who described the benefits of holding a Root-Tilden fellowship:

… [Fellowship students] get to meet a lot of alumni, who are already in jobs.... They introduce speakers at talks. They get to be very well known by the faculty, very well known by the dean. They are much more visible in the law school as representatives of the public interest community, than are those people who don’t have that funding and don’t …go to those events.

In this regard, the source of the largest number of fellowships-- Equal Justice Works-- funds students in a wide array of schools in many parts of the country giving these students visibility and network access they might not otherwise have. The Equal Justice Works generally supports around 50 fellowships per entering class, with 54 new Fellows beginning in September 2008 and 47 beginning in 2009.\(^{18}\) For the schools I sampled, just as many students from the public universities were awarded Equal Justice Works fellowships as in the private, elite schools. Thus, although many students from elite schools are drawn to prestigious public interest jobs, the Equal Justice Works fellowships also finances students from less prestigious schools, thereby raising their status and giving them the opportunity to work in arenas that might ordinarily be unavailable to them. This, of course, opens up the public interest system and enlarges the pool of qualified public interest lawyers although the numbers are small compared with the numbers in the profession overall. This is an example of how some fellowship programs play a role in the accumulation of advantage as Merton described the phenomenon.\(^{19}\) Describing the greater appreciation shown to Nobel Prize winners for their subsequent work as contrasted with the work of equally gifted scientists who had not won the prize, he termed the phenomenon as the


“Matthew Effect” following the biblical passage from Matthew, “to he who hath shall be given.”

In this study, I found that winners of Skadden fellowships not only obtain prestige because they have won a competition, but because Skadden primarily draws the award winners from prestigious schools. In this case, the program and the recipients bring prestige and advantage to each other. One fellow explained how the prestige of a Skadden fellowship opens doors to jobs:

… I knew that I wanted to apply for a Skadden Fellowship because… I felt it was a good way to get in the door of a public interest organization. If you are going to an organization that you are interested in working for and tell them, “… you’re going to have this relatively prestigious fellowship that you’ll be able to tell people that you have a Skadden fellow in your organization.” Then they are much more likely to hire you than if you just come and say, “Hi, I want a job.”

Fellowship holders can draw on this capital not only when they hold the fellowships but also later in order to form relationships with lawyers in other elite sectors of the bar. For example, using the “halo effect” of the fellowship, recipients have entrée into the private sector and can form relationships with lawyers in large firms. Drawing upon these relationships, recipients can persuade private lawyers to help on public interest cases as pro bono work, giving these cases and clients valuable resources such as money and in kind services. Further, the fellowship gives recipients control over the subject matter of their legal work and gives them the opportunity to shape it. One noted:

[Being a Skadden fellow is] an opportunity to work with an organization, to pick your organization and pick your project and create your own job and get money to do it. It’s a really great opportunity, as opposed to going in and being a staff attorney somewhere and having to do whatever they tell you to do.

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Networks, Tacit Knowledge, and Public Interest Culture

Much of the sociological literature on networks notes the importance of connections between people and notes how connections bring information about such things as job opportunities.\(^2^1\) Other literature attests to the influences people have on one another with such matters as voting behavior or buying certain products or the impact of friendship circles and networks on the production of culture.\(^2^2\) This study does not have sufficient information on the development of friendship circles, but I am conjecturing that holders of particular fellowships, the Skadden Fellows, or the Root Tildens, for example, develop friendship circles not only while they are beneficiaries of these fellowships but maintain these circles throughout their lives. For instance, there is some attempt on the part of the granting institutions to foster these associations through newsletters and reunions. Grantees also tend to cluster in certain cities and encounter each other in associations like the Association of the Bar of the City of New York that has special sections for young lawyers and lawyers working in the public interest. Those who define themselves as radical join the Lawyers’ Guild and become active in it. Although there are some public interest organizations (such as the Federalist Society) that are politically conservative and right-wing favoring the Republican Party, most legal organizations in the public interest attract and reinforce left-wing or Democratic politics. Former fellows also assist aspiring fellows with their applications and often supervise them later as their employers. The development of these circles not only provides opportunities for future employment when the fellowships have ended


but also reinforces a mind-set on the part of the lawyers who have held them and who are the 
alumni. 

Amongst these networks of people who share this public interest orientation, I further 
purport that understandings develop between these holders, and these understandings come to 
constitute a public interest culture. To this culture is brought both overt and tacit knowledge 
about the public interest workplace and its content—that is, what constitutes reasonable and 
preferred legal activities on behalf of groups commonly regarded as “deserving.” 23 With regard 
to tacit knowledge, fellowship holders likely develop ways of knowing about how “ready” the 
courts and the larger public are to accept certain kinds of cases, and what kinds of test cases best 
represent a cause. 24 Public interest professionals’ application to law school, applications for 
fellowships during law school, application for fellowships on graduation, and performance of 
public interest law creates a knowledge system of the public interest sector of the legal 
profession. All of this constitutes a “habitus” as Bourdieu has conceived it, in which people 
gather “the habitual, patterned ways of understanding, judging and acting which arise 
from...[their] particular position as members of ...‘fields.’” 25 As this knowledge becomes part of 
the substance and the social capital of the public interest bar, fellowship recipients become the 
producers of legal knowledge in the spheres in which they work. 

Fellowships’ Effect on Universities

23 Robert Saute is currently documenting work done on behalf of German immigrants—especially widows and 
orphans-- in the early days of the New York Legal Aid Society at the turn of the 20th century. His work also shows 
how views on who constitutes the “deserving” changed, especially during the “great society” program initiated by 
President Lyndon Johnson in the 1960s including members of minority groups; the unemployed. 
24 See Michael Polanyi, Personal Knowledge: Towards a Post Critical Philosophy, London: Routledge (1958, 
25 See Pierre Bourdieu, The Force of Law Toward a Sociology of the Juridical Field. 38 Hastings Law Journal 805-
Fellowships can define schools as centers of public interest scholarship. For instance, the Root-Tilden-Kern fellowship at New York University defines the school as a site for public interest work nationwide. This reinforces the commitment of the school to a public interest mission and indeed, through its relationship with the Brennan Center—an NYU advocacy institution—and other organizations within the school, it supports faculty and courses devoted to public interest concerns. Therefore, applicants are attracted to NYU because of its reputation for public interest law. I learned from respondents that a number of students who were attracted to the fellowship possibilities at the school applied for admission to the school even if they did not get a fellowship. Further, knowledge about the school’s fellowship resources attracted additional applicants who might not otherwise apply. (Of course, other schools develop public interest programs and have students who compete well for fellowships, creating a “draw” for possible recruits and faculty interested in public interest advocacy in the classroom and in their professional scholarship and work on actual cases).

A practicing lawyer and former recipient of a prestigious law-school scholarship talked about the role of this high-profile scholarship in students’ choices among prestigious schools:

I was talking to a lot of people who had gotten into Harvard. Into Yale too. And we were talking about making that decision. It was not … at all difficult for me to choose to go to NYU over Harvard… the Root Tilden was a decisive factor.

This means that this fellowship clusters students who are interested in public interest work in one institutional setting creating a critical mass of like-minded students and defining the school as “a private school in the public interest,” as it defines itself. Moreover, the symbolic capital that fellowships and awards confer to awardees is transferred back to the organizations in which their
fellowships have situated them, giving the organizations the identity of recruiting the finest public interest students.26

The awarding of fellowships can also help encourage diversity in the student body of schools where students obtain them. Fellowship programs designed to attract students interested in pursuing non-traditional career paths will, by definition, contribute to intellectual diversity in the schools. Fellowship programs geared specifically toward introducing diversity to their programs also may encourage diversity in the student body of the schools from which they draw. This, of course, broadens the perspectives of people in the field of public interest law and widens the area of concern of various kinds of cases.

Granting Organizations’ Effect on Knowledge Production

Fellowships more broadly encourage the development of particular spheres of knowledge production. Granting organizations or the philanthropists who donate major funds for fellowship programs are engaged not only in altruistic behavior and in prestige enhancing behavior, but also in setting a programmatic agenda. Giving the money also gives them power in setting the guidelines for recruitment into certain programs and in shaping the boundaries of the legal profession’s service bar. Applicants to particular programs are directed by the funders and by the host organization into certain projects, subject to unwritten rules, and limited choice of project. Some projects are attractive to them and others are not. Some funding organizations encourage direct services. Some fund students whose projects focus on impact litigation, and others are only interested in projects leading to systemic social change.

For example, by offering fellowships, the Skadden organization is able to track top public interest-minded students into the domains of public interest law it favors. Fellowships are specifically "to providing legal services to the poor (including the working poor, the elderly, the homeless and the disabled, as well as those deprived of their civil or human rights)" and not for other areas that might create conflicts with other firm interest.\(^27\) For example, money is given for projects dealing with legal services for the poor, not for projects that address systemic concerns. Some areas, like the environment, are avoided. The Skadden organization is said to encourage direct service and funds students working within established institutions. As one respondent put it: “[What] … project is ‘fundable’ is pretty clear. Environmental justice, immigration issues and criminal justice work are not of interest ….I think they want fellows to represent what is called the “deserving poor.” Another respondent clearly recognized the strategic elements of both the application process and funding organizations’ foci, explaining that:

They are very interested in helping working poor, and so I think if you can spin your project that way, it’s more likely to catch their attention … I think they really like to fund projects that have to do with kids. Because it’s good P.R. I think if you want to do a project that was about drug policy, you might have less luck.

Other students support the claim the organization does not want to fund anything 'controversial'—that is to say, issues that would conflict with the interests of the firm’s clients. This is important because prestigious fellowships may have an effect on what constitutes the definition and awareness of public interest.\(^28\)

Equal Justice Works categorizes its fellowship winners according to a pre-determined set of social justice topics, and over the past decade, some of the most popular categories of work funded by this fellowship include children/youth, immigrant population, and

housing/homelessness. The organization Echoing Green grants fellowships to “emerging social innovators, “for tackling seemingly unsolvable social challenges.” In contrast to Skadden, Echoing Green insists that its grantees develop their own projects outside of an existing organizational system. Applicants must work in the community and “launch, manage and grow organizations…. for creating lasting social change.” This places an emphasis on funding for “new” projects and often eliminates students who do not have contact with lawyers in the organizations or who do not have ideas for “new” projects and would rather work on established programs according to some of our informants. This element of constraint was expressed clearly by one respondent, who explained “I think that the way that people are investing in funding is messed up, because even though I'm somebody who wants to start my own organization, I think I would be happy to work within an organization that was doing the same thing. But the way that it's set up.”

Another example of donors’ influencing the growth of various sectors of public interest law is the implementation of twenty fellowships of $50,000 each for recent graduates who will spend a year in Zurich with the Claims Resolution Tribunal II. This is also an example of how private donors can direct money, and therefore public interest lawyers, to causes of their choosing. This, while private funding provides a group of students with opportunities, training, reinforcement, and serves worthy causes, it also skews the field in particular directions.

IV. Gender and Public Interest Law Fellowships

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28 However, a spokesperson for the firm noted in a law school forum “we can’t do everything under the sun”…and added that with regard to social justice issues, they focus on civil and not criminal issues.
It is important to note another important dimension of the public interest social system: the large number of women who comprise it. Although the numbers of women do not substantially exceed the numbers of men among those expressing interesting public interest careers (about 6.1 percent of women and 3.4 percent of men practice public interest law), they do tend to be quite over-represented among the public interest law fellowship population. Women express a somewhat greater interest than men in pursuing careers in the public interest, and they seem to receive a greater number of fellowships than men. From 1989 to 2003, more than twice as many women (255 or 67.3%) received Skadden Fellowships than did men (124 or 32.7%). In 2007, 19 of 30 fellowship winners were women, in 2009, 19 of the 28 fellowship winners were women, and in 2010, 21 of the 27 fellowship winners were women. Similarly, in 2002 and 2003, 82.4% (or 89) of Equal Justice Works Fellows were women, while 17.6% (19) were men. In 2007, at least 38 of the 52 fellows were women; in 2009, at least 32 of the 46 fellows were women.

The cause of this gender gap in fellowships is an intriguing and difficult matter. Is it a matter of organizations favoring women candidates over male candidates? Or do women simply constitute a larger proportion of the pool of applicants? Is this a matter of different interests of women and men, or the perception of different economic necessity? Do organizations working on public interest matters focus more quantitatively on topics regarded as women’s issues --that is, in knowledge domains regarded as female gendered? Unfortunately, I cannot answer all of these questions in this paper. I do not have information about the applicant pools, and I do not

31 Data on Equal Justice Works 2010 Fellows was not yet available at the time this article was completed.
know how many women and men who apply for these grants can count on spousal or parental support which would enable them to forego salaries in the private sector in favor interest-driven but less remunerative public interest careers. The concerns of women in general may have much to do with the projects they devise and which are funded by granting agencies, and the large number of projects on children, on reproductive rights and discrimination in employment may represent the particular (but not exclusive) interests of women. However, I must note that few female respondents pointed to the salience of gender in the application process or in the community of public interest lawyers with whom they become involved.

V. Conclusion

In this paper, I suggest that the granting of public interest fellowships in law schools has consequences beyond their intended mission, which is to provide financial aid for students so they can pursue public interest careers. Obviously, the fellowships are in short supply. This condition of scarcity, alone, creates problems for students who do not get them as it helps students who do. Fellowship distribution has many consequences. Among the consequences are 1) the fostering of particular perspectives in public interest law activities—in some cases privileging direct services with a particular “take” on who are the deserving poor, 2) the encouraging of the development of “enterprise zones”, emphasizing the fostering of business activities of lawyers as a way of solving the economic problems of the disadvantaged, and 3) emphasizing the particular interests of the identity politics of “elite” legal organizations such as the NAACP Legal Defense Fund, the NOW Legal Defense Fund (now called Legal Momentum) and the Lambda Association for gay and lesbian legal problems.
Students accepting fellowships for their first years out of law school are molded and oriented to particular missions—those favored by the funders—often reflecting students’ interests but often steering them toward paths that express the goals of the organization and the boundaries they draw within the public interest world. Thus, the apportionment of fellowships has consequences for the delivery of public interest law to particular populations of people. Fellowship communities also have their own cultures inside and outside of law schools, and these communities help shape the futures of students who receive fellowships and for the funders who provide money. This research is therefore an important beginning step in analyzing the integration of culture and structure in the legal profession.