

Working Paper

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

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THE ROLE OF NETWORKS, MENTORS, AND THE
LAW IN OVERCOMING BARRIERS TO
ORGANIZATIONAL LEADERSHIP FOR WOMEN
WITH CHILDREN†

*Terry Morehead Dworkin** *Aarti Ramaswami*** *Cindy A. Schipani****

- I. POSSIBLE CORRECTIONS THROUGH EXISTING
LEGAL REMEDIES • 86
 - A. *Quotas: A European Solution* • 86
 - B. *Quotas, Goals, and Affirmative Action in the
United States* • 87
 - C. *Pregnancy Discrimination Act* • 95
 - D. *Family and Medical Leave Act
(FMLA)* • 98
- II. THE ROLE OF MENTORING AND
NETWORKING • 100
- III. THE PATHWAYS STUDY • 104
 - A. *Theory and Research Questions* • 105
 - B. *Survey Method* • 110
 - 1. Measures: Independent and Dependent
Variables • 111
 - 2. Measures: Control Variables • 112
 - C. *Analysis and Results* • 114
 - D. *Limitations of the Study* • 115
- IV. IMPLICATIONS FROM THE STUDY • 115
 - A. *Recommended Governmental Interventions:
OFCCP and EEOC* • 116
 - B. *Recommended Governmental Interventions:
The SEC* • 116
 - C. *Recommended Intervention of the Courts and
Arbitrators* • 118
- V. CONCLUSION • 118

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The 2012 election brought headlines such as “Another ‘Year of Women’ in Congress.”¹ Although the number of women in the highest legislative offices increased, their numbers are still significantly lower than those of men. Fewer than 100 women hold office in both houses of Congress.² Corporate America similarly reflects significantly low female leadership numbers. For example, “fewer than 20% of finance industry directors and executives are women, and [there are] no women leading the 20 biggest U.S. banks and securities firms.”³ Women make up nearly half the workforce and hold 60% of bachelor degrees,⁴ yet they hold only 14% of senior executive positions at Fortune 500 companies⁵ and 40% of managerial positions overall.⁶ These figures have persisted unchanged since 2005.⁷ Subtle yet entrenched forms of gender discrimination have clearly stalled women’s career progress,⁸ and more must be done to rectify these disparities.

The differences in gender outcome may be a function of demand-side (work-related) and supply-side (worker-related) characteristics. These include personal characteristics, human and social capital, and developmental, interpersonal, and situational factors.⁹ Gender overlaps with multiple group

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1. Janet Hook, *Another ‘Year of Women’ in Congress*, WALL ST. J., Nov. 9, 2012, at A4.
 2. *Id.*
 3. Terry Morehead Dworkin, Virginia Maurer & Cindy A. Schipani, *Career Mentoring for Women: New Horizons/Expanded Methods*, 55 BUS. HORIZONS 363, 364 (2012) (citing Dan Fitzpatrick & L. Rappaport, *Financial Firms’ Ceiling*, WALL ST. J., Sept. 8, 2011, at C1). J.P. Morgan Chase & Co. announced that a woman, Marianne Lake, will succeed Douglas Braunstein as CFO. Morgan Chase is the largest U.S. bank. This will make her “one of the most powerful women on Wall Street.” Dan Fitzpatrick et al., *Female Inroad on Wall Street*, WALL ST. J., Nov. 20, 2012, at C1.
 4. Phyllis Korkki, *Number of Women Breaking Through Glass Ceiling Stalls*, SEATTLE TIMES, Oct. 15, 2011, http://seattletimes.com/html/business/2016448066_womenceos16.html.
 5. *Id.*
 6. U.S. GOV’T ACCOUNTABILITY OFFICE, GAO-10-892R, WOMEN IN MANAGEMENT: ANALYSIS OF FEMALE MANAGERS’ REPRESENTATION, CHARACTERISTICS, AND PAY 2 (2010), available at <http://www.gao.gov/products/GAO-10-892R>.
 7. *Id.*
 8. 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 . . .”).
 9. Fiona M. Kay & John Hagan, *Raising the Bar: The Gender Stratification of Law-Firm Capital*, 63 AM. SOC. REV. 728, 730–32, 740 (1998) (citing PIERRE BOURDIEU, *DISTINCTION: A SOCIAL CRITIQUE OF THE JUDGMENT OF TASTE* (1984)) (using the concepts of social and cultural capital to analyze the differing treatment of male and female candidates for law firm partnership); Belle R. Ragins & Eric Sundstrom, *Gender and Power in Organizations: A Longitudinal Perspective*, 105 PSYCHOL. BULL. 51,

memberships based on family status, race, religion, national origin, and disability.¹⁰ These group memberships also influence women's status and power dynamics in the family, the workplace, and in other communities.¹¹ The interplay of these factors makes gender-based discrimination an interesting phenomenon to explore.

Having dependents is an important family status variable in the larger scheme of social differentiators that account for sex differences in career-related outcomes.¹² In this study, we are interested in whether men or women benefit more from having access to networks when they have dependents. Prior studies have shown that mentoring and networking are major components of professional development that lead to career advancement.¹³ We are also interested in whether the outcome differs for those men and women who report having mentors.

This study is organized as follows. Part I discusses possible corrections through existing legal remedies. Part II follows with an overview of the im-

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).

10. Shana Levin et al., *Perceived Discrimination in the Context of Multiple Group Memberships*, 13 PSYCHOL. SCI. 557, 560 (2002) (finding that "Latinas and African American women did not differ from [Latinos and African American men] in expectations of general discrimination," while "[w]hite women's expectations of general discrimination are based exclusively on their perceptions of gender discrimination").
11. Ragins & Sundstrom, *supra* note 9, at 52 (defining categories of resources that lead to differences in the development of power over a career).
12. Madeline E. Heilman & Tyler G. Okimoto, *Motherhood: A Potential Source of Bias in Employment Decisions*, 93 J. APPLIED PSYCHOL. 189, 189 (2008) (arguing that mothers are subject to deleterious stereotyping both on the basis of gender and the basis of parenthood); 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, 372 (2007) (arguing that diminutions in status in the business context result from women's use of on-site child care services); David Leonhardt, *A Market Punishing to Mothers*, N.Y. TIMES, Aug. 4, 2010, at B1 (reporting that status as a parent exacts vastly greater professional costs for women than for men).
13. Monica L. Forret & Thomas W. Dougherty, *Networking Behaviors and Career Outcomes: Differences for Men and Women?*, 25 J. ORG. BEHAV. 419, 430-31 (2004) (finding that involvement in certain networking behaviors was positively correlated with survey participants' number of promotions and compensation); Caroline Tracey & Honor Nicholl, *Mentoring and Networking*, 12 NURSING MGMT. 28, 28-32 (2006) (reviewing the documented career benefits of mentoring and noting the special importance of networking for those who lacked mentors during their early careers).

portant role of mentoring and networking for career advancement. Part III describes the results of our empirical study, finding 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 IV offers implications from the study together with recommendations for potential governmental interventions. Concluding remarks follow.

I. POSSIBLE CORRECTIONS THROUGH EXISTING LEGAL REMEDIES

The broad gender disparities in business, described above, are not unique to the United States. For example, only 2.5% of European company chairpersons are women,¹⁴ and the proportion of women on European company boards averages about 10%, with a high of 40% in Norway and a low of 1% in Portugal.¹⁵ By comparison, in the United States, 16.1% of board members of Fortune 500 companies were female in 2011.¹⁶ To overcome these disparities, many European countries have imposed quotas, which ensure women's participation in governmental and business organizations.

A. Quotas: A European Solution

Norway, the first to adopt such a quota system,¹⁷ has influenced other European countries to adopt similar quotas.¹⁸ Belgium, Spain, the Netherlands, France, Iceland, and Italy have also recently adopted quotas.¹⁹ In addition, countries such as Australia and the United Kingdom encourage female representation through their corporate governance codes.²⁰ Some international companies consider meeting the quota an opportunity to gain U.S. business and have actively recruited U.S. women to serve on their

14. Viviane Reding, Address at Conference at the European Parliament, Turning Gender Equality into Reality: from the Treaty of Rome to the Quota Debate (Oct. 3, 2012), available at http://europa.eu/rapid/press-release_SPEECH-12-678_en.htm.

15. See Dworkin, Maurer & Schipani, *supra* note 3, at 364.

16. *Statistical Overview of Women in the Workplace*, CATALYST.ORG, <http://www.catalyst.org/knowledge/statistical-overview-women-workplace> (last visited Feb. 22, 2013).

17. AAGOTH STORVIK & MARI TEIGEN, FRIEDRICH EBERT SIFTUNG, WOMEN ON BOARD: THE NORWEGIAN EXPERIENCE (2010), available at <http://library.fes.de/pdf-files/id/ipa/07309.pdf>.

18. Valeria Criscione, *Norway Eyes Female Boardroom Quota*, FIN. TIMES, Aug. 20, 2011, <http://www.ft.com/cms/s/0/250a33d8-c982-11e0-9eb8-00144feabdc0.html#axzz2LYpbFVDn>.

19. Joann S. Lublin, *'Pink Quotas' Alter Europe's Boards*, WALL ST. J., Sept. 11, 2012, <http://online.wsj.com/article/SB10000872396390443696604577645470530827882.html>.

20. See Claire Braund, *UK Boardrooms Still Need More Women*, THE GUARDIAN, Sept. 25, 2012, <http://www.guardian.co.uk/society/2012/sep/25/uk-boardrooms-need-more-women>.

boards.²¹ Currently, there are 96 U.S. women on 136 boards in 12 countries.²²

The European Union considered a mandatory quota of 40%.²³ It was, however, rejected and later replaced by a proposal to “smash the glass ceiling that keeps women out of top jobs” by setting a 40% goal.²⁴ If adopted, larger companies²⁵ would be required to favor women over equally qualified men. Companies would face sanctions not for failing to meet quotas, but rather for failing to favor women.²⁶ They would, though, be required to disclose the identity of unsuccessful female candidates and why they were not chosen.²⁷ Neither of these European systems would be legally sustainable in the United States, although the goal system comes close.

B. Quotas, Goals, and Affirmative Action in the United States

The result-oriented European quota system relatively quickly diversifies representation and overcomes overt and covert prejudices and stereotyping. These advantages were understood in the United States decades ago. In the 1970s, however, the Supreme Court declared using quotas as a means to bring more Blacks into higher education unconstitutional. That decision, *Regents of University of California v. Bakke*,²⁸ still stands. *Bakke* was controversial then, and the idea of racial and gender preference, also called affirmative action, remains so today.

Affirmative action had a long history prior to the 1978 *Bakke* decision. During World War II, President Franklin Roosevelt issued Executive Order 8802, which prohibited discrimination by defense contractors.²⁹ President Kennedy, in 1961, issued Executive Order 10925, requiring federal

21. American female executives are increasingly serving on European company boards such as Sodexo SA, Fiat, and Logica PLC. Lublin, *supra* note 19.

22. *Id.*

23. Aoife White, *EU Companies Face 40% Quota Rule Favoring Women on Boards*, BLOOMBERG.COM, Nov. 14, 2012, <http://www.bloomberg.com/news/2012-11-14/eu-companies-face-40-quota-rule-favoring-women-on-boards-2-.html>. The European Commission set a goal of two-fifths women on boards by 2020. *Id.* For state-owned companies the goal is to be met by 2018. It would encompass about 5,000 listed companies. *Id.* The proposal replaces one rejected by the EU in October because it had binding quotas. *Id.*

24. *Id.* (quoting EU Justice Commissioner Viviane Reding).

25. The goal would apply only to companies with 250 or more employees or global sales over 50 million euros. *Id.*

26. *Id.*

27. James Fontanella-Khan, *Sanctions to Enforce Female Board Quotas*, FIN. TIMES, Nov. 14, 2012, <http://www.ft.com/intl/cms/s/0/4621efb6-2e80-11e2-9b98-00144fcaebdc0.html#axzz2LYpbFVDn>.

28. *Regents of Univ. of Cal. v. Bakke*, 438 U.S. 265 (1978).

29. Exec. Order No. 8802, 6 Fed. Reg. 3109 (June 25, 1941).

contractors to “take affirmative action” to ensure they were not discriminating in employment on the basis of race or national origin.³⁰ President Lyndon B. Johnson “greatly expanded the reach and effectiveness of non-discrimination provisions in federal contracting”³¹ through Executive Order 11246,³² which also “gave American law and culture the phrase ‘affirmative action.’”³³ In addition to barring discrimination, the Order required contractors to adopt plans to correct underutilization of those in protected groups, including women.³⁴ These orders barred discrimination, but did not mandate racial preference.

The 1960s saw a sea change in attitudes about societal disparities. Congress,³⁵ educational institutions,³⁶ agencies,³⁷ and businesses³⁸ also began to take measures to level the playing field and to ensure entry for groups that were traditionally the victims of discrimination. Some went further, however, and employed racial preferences to speed up the process.³⁹ As these programs were implemented, court challenges ensued.⁴⁰

When the government granted preferences in favor of minorities, challenges were mounted under the Equal Protection clause of the Constitution. In *Bakke*, the University of California, Davis Medical School adopted an admissions policy that reserved sixteen of one hundred seats for members of certain minority groups.⁴¹ A white student who was not admitted challenged the legality of the policy.⁴² The Court held that the program violated the Equal Protection clause,⁴³ but did not provide clear limits as “its guidance came in a fractured decision.”⁴⁴ Four Justices stated that race

30. Deborah A. Ballam, *Affirmative Action: Purveyor of Preferential Treatment or Guarantor of Equal Opportunity? A Call for a “Revisioning” of Affirmative Action*, 18 BERKELEY J. EMP. & LAB. L. 1, 9 (1997).

31. Dworkin, Maurer & Schipani, *supra* note 3, at 368.

32. Exec. Order No. 11,246, 30 Fed. Reg. 12, 319 (Sept. 24, 1965).

33. Dworkin, Maurer & Schipani, *supra* note 3, at 368.

34. *See id.*

35. *Id.* at 5–6.

36. *Id.* at 11.

37. *Id.* at 15.

38. *Id.* at 10.

39. DAVID J. WALSH, EMPLOYMENT LAW FOR HUMAN RESOURCE PRACTICE 219 (2006).

40. *Id.*

41. Regents of Univ. of Cal. v. Bakke, 438 U.S. 265, 265 (1978).

42. *Bakke*, 438 U.S. at 276–77.

43. *Bakke*, 438 U.S. at 320.

44. Fisher v. Univ. of Tex. at Austin, 631 F. 3d, 213, 222 (5th Cir. 2011), *cert. granted*, 132 S. Ct. 1536 (2012); *see* Reva B. Siegel, *From Colorblindness to Antibalkanization: An Emerging Ground of Decision in Race Equality Cases*, 120 YALE L.J. 1278, 1293–94 (2011) (“[F]our members of the Court opposed an admissions policy that took applicant race into account in order to increase minority representation in a

should not be taken into account, while another four disagreed.⁴⁵ Justice Powell broke the deadlock by rejecting the Medical School's particular admissions program, but acknowledged the importance of "attainment of a diverse student body."⁴⁶

The Medical School argued that its special program served four purposes: "(i) reducing the historic deficit of traditionally disfavored minorities in medical schools . . . ; (ii) countering the effects of societal discrimination; (iii) increasing the number of physicians who [would] practice in communities currently underserved; and (iv) obtaining the educational benefits that flow from an ethnically diverse student body."⁴⁷ By rejecting the first three and accepting the fourth, Justice Powell allowed institutions to take race into account in the admissions process, provided that it was part of a holistic approach in evaluating the applicant.⁴⁸

Though Justice Powell's opinion stands today,⁴⁹ quotas as a means of addressing inequities remain unconstitutional.⁵⁰ Subsequent decisions have allowed government entities to set goals under an affirmative action plan to correct inequitable numbers.⁵¹ The difference between this scheme and the EU proposal is that the EU plan mandates a preference, while the U.S. goal system does not. Indeed, courts in the United States would likely find mandated preferences illegal "reverse discrimination."⁵²

When Title VII of the Civil Rights Act of 1964 was enacted, barring discrimination in private employment, affirmative action was only mentioned as a court-ordered remedy for intentional employment discrimination.⁵³ Prior to *Bakke*, the United States Supreme Court stated, with regard to Title VII (which guarantees equal opportunity regardless of race, color,

state medical school; but with Justice Powell casting the deciding vote, the Court sanctioned affirmative action in education, so long as it assumed a particular form.").

45. *Bakke*, 438 U.S. at 326–79 (joint opinion of Brennan, J., White, J., Marshall, J., Black, J., concurring in the judgment in part and dissenting in part).

46. *Bakke*, 438 U.S. at 311–12.

47. *Bakke*, 438 U.S. at 305–06.

48. Ann Mallatt Killenbeck, *Bakke, with Teeth?: The Implications of Grutter v. Bollinger in an Outcome-Based World*, 36 J.C. & U.L. 1, 16 (2009).

49. *Id.*

50. *Bakke*, 438 U.S. at 265.

51. In 2003, in *Grutter v. Bollinger*, 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.

52. See, e.g., Donald G. Alpin, *FAA Settles White Male Worker's Bias Case, Agrees to Re-view Affirmative Action Policies*, 209 DAILY LAB. REP. (Oct. 29, 2004). But see, *United States v. Paradise*, 480 U.S. 149 (1987) (upholding a court order reserving 50% of state police positions in Alabama for Blacks after it was shown that the state had not hired black troopers until sued in the early 1970s).

53. 42 U.S.C. 2000e-5 § (g)(1) (Westlaw through P.L. 112-207).

religion, sex, or national origin),⁵⁴ that: “[d]iscriminatory preference for any group, minority or majority, is precisely and only what Congress has proscribed.”⁵⁵

One year after *Bakke*, in *United Steelworkers of America AFL-CIO v. Weber*,⁵⁶ a case decided under Title VII, the Court upheld voluntarily-adopted affirmative action in private employment. Because Title VII prohibited racial preference, the Court cited “the ‘spirit’ of the 1964 Civil Rights Act rather than its language prohibiting discrimination. It found that the purpose of the Act was to advance historically disadvantaged groups in employment; therefore voluntary affirmative action plans were permitted when they helped achieve this end.”⁵⁷

The Court, relying on *Weber* and *Bakke*, upheld affirmative action for women (who are a majority in the voting population, but also traditionally discriminated against in employment) in *Johnson v. Transportation Agency, Santa Clara County, California*.⁵⁸ The case involved a gender-based, voluntarily-adopted affirmative action plan under which the county employer promoted a woman over a man who had scored slightly higher on the exam taken for promotion.⁵⁹ The Court held that an affirmative action plan that considered being female a plus factor was valid when there was a manifest imbalance reflecting women’s underrepresentation.⁶⁰ It noted that no positions were set aside for women⁶¹ and that no men were automatically excluded.⁶² Unlike the EU proposal, the plan did not require that a woman be selected.⁶³

54. *Id.*

55. *Griggs v. Duke Power Co.*, 401 U.S. 424, 431 (1971).

56. *United Steelworkers of Am. AFL-CIO v. Weber*, 443 U.S. 193 (1979).

57. Dworkin, Maurer & Schipani, *supra* note 3, at 369. *See also Weber*, 443 U.S. at 204 (“It would be ironic indeed if a law triggered by a Nation’s concern over centuries of racial injustice and intended to improve the lot of those who had ‘been excluded from the American Dream for so long,’ constituted the first legislative prohibition of all voluntary, private, race-conscious efforts to abolish traditional patterns of racial segregation and hierarchy.” (quoting 110 Cong. Rec. 6552 (1964) (remarks of Sen. Humphrey))).

58. *Johnson v. Transp. Agency, Santa Clara Cnty., Cal.*, 480 U.S. 616, 619–26 (1987).

59. *Johnson*, 480 U.S. at 616. The employer had adopted the plan in order to achieve “a statistically measurable yearly improvement in hiring, training and promotion of minorities and women,” in jobs where they were underrepresented. *Id.* at 622. At the time of the plan’s adoption, women were concentrated in the traditionally female jobs in the agency, and no woman held a Skilled Craft Worker position, the area involved in the case. *Id.* at 621. The case was decided under Title VII. *Id.* at 619.

60. *See Johnson*, 480 U.S. at 631–34.

61. *See Johnson*, 480 U.S. at 622.

62. *See Johnson*, 480 U.S. at 638.

63. *See Johnson*, 480 U.S. at 618.

The Court also affirmed the requirements for a legally defensible affirmative action plan.⁶⁴ These include: 1) evidence of manifest imbalance or past discrimination;⁶⁵ 2) an existing plan;⁶⁶ 3) the plan exists only until the underrepresentation is corrected;⁶⁷ 4) only qualified people may be selected;⁶⁸ 5) no unnecessary trammeling of the interests of the majority;⁶⁹ and 6) goals, not quotas.⁷⁰

During the late 1970s and the 1980s, several large organizations adopted plans. Some of these plans included mentoring programs.⁷¹ Soon thereafter, though, favoring one group over another to correct imbalance fell out of favor.⁷² In the late 1980s, under more conservative presidents, administrative agencies, and the Supreme Court, and reflecting the beginning of a split in public opinion, challenges to affirmative action met a more sympathetic ear and had greater success.⁷³ This is a trend that continues today.

One example is the decision in *Taxman v. Board of Education*.⁷⁴ *Taxman* involved two teachers, one white and one black. One of them had to be laid off,⁷⁵ but it was conceded that both were equally qualified and had equal seniority.⁷⁶ The school district chose to lay off the white teacher under an established affirmative action policy.⁷⁷ The Third Circuit Court of Appeals found the decision unlawful under *Weber*, stating that it “unnecessarily trammled” the interests of the majority and did not further the purposes of Title VII as required by *Weber* and *Johnson*.⁷⁸ The court cited, with favor, flipping a coin to choose the person to be retained. The burden of

64. See *Johnson*, 480 U.S. at 640–41.

65. See *Johnson*, 480 U.S. at 631.

66. See *Johnson*, 480 U.S. at 626.

67. See *Johnson*, 480 U.S. at 630.

68. See *Johnson*, 480 U.S. at 637.

69. See *Johnson*, 480 U.S. at 630.

70. See *Johnson*, 480 U.S. at 635.

71. Dworkin, Maurer & Schipani *supra* note 3, at 369; see also Shimon-Craig Van Collië, *Moving up Through Mentoring*, 77 *WORKFORCE* 36, 38 (1998).

72. Dworkin, Maurer & Schipani, *supra* note 3, at 369; see, *Text Note: Affirmative Action*, in *FEMINIST JURISPRUDENCE: CASES AND MATERIALS* 790 (Cynthia Bowman et al. eds., 4th ed. 2010).

73. See Dworkin, Maurer & Schipani, *supra* note 3, at 369.

74. *Taxman v. Bd. of Educ.*, 91 F.3d 1547 (3d Cir. 1996).

75. *Taxman*, 91 F.3d at 1549.

76. *Taxman*, 91 F.3d at 1549.

77. *Taxman*, 91 F.3d at 1549.

78. *Taxman*, 91 F.3d at 1564. The Court found that the affirmative action plan was not adopted to correct underrepresentation. *Id.* at 1563. Advocates for affirmative action, fearing a decision by the Supreme Court would outlaw the practice, created a fund and convinced the white teacher to drop the suit. Lyle Denniston, *Key Affirmative Action Case Settled: Civil Rights Groups Step in to End Dispute over N.J. School Job*,

losing a tenured position because of race was too great to justify the discrimination.⁷⁹ Using a strict scrutiny standard based on the Fourteenth Amendment Equal Protection Clause, the Third Circuit made set-aside plans adopted by government entities (ones similar to those under the executive orders discussed above) increasingly difficult to justify.⁸⁰ Additionally, some states passed statutes banning governmental affirmative action. Table 2 provides information about these statutes.

In some respects, affirmative action seems to have come full circle. Affirmative action policies in higher education have again become the focus of litigation, and many predict that it will be extinguished with a pending decision by the Court, *Fisher v. University of Texas at Austin (UT)*.⁸¹ This case follows two prior Supreme Court decisions related to higher education.⁸² The essential question in each case is whether affirmative action has run its course and should no longer be allowed.⁸³ Although narrowly allowed in 2003, many pundits are predicting that, in the pending case, the Court will limit affirmative action to such a degree that it will be almost impossible to use, or that they will ban it entirely.⁸⁴

In the 2003 case of *Grutter v. Bollinger*, the Supreme Court affirmed that race may be one factor in deciding admissions to law school.⁸⁵ In *Grutter*, a rejected applicant challenged the race-conscious admissions program of the University of Michigan Law School.⁸⁶ Although the Law School's admissions plan focused on an applicant's GPA and Law School Admission Test (LSAT) scores, it also employed "soft variables"⁸⁷ to achieve a diverse student body.⁸⁸ "Soft variables" included, but were not limited to, recommenders' enthusiasm, the quality of the undergraduate institution, the applicant's essay, and racial and ethnic status.⁸⁹ In a 5–4 decision, the Court upheld the Law School's "narrowly tailored use of race in admissions deci-

BALT. SUN, Nov. 22, 1997, http://articles.baltimoresun.com/1997-11-22/news/1997326003_1_affirmative-action-opponents-of-affirmative-racial-preferences.

79. *Taxman*, 91 F.3d at 1564–65.

80. *Taxman*, 91 F.3d at 1573.

81. *Fisher v. Univ. of Tex. at Austin*, 631 F.3d 213 (5th Cir. 2011), *cert. granted*, 132 S. Ct. 1536 (2012).

82. *Grutter v. Bollinger*, 539 U.S. 306 (2003); *Gratz v. Bollinger*, 539 U.S. 244 (2003).

83. *Grutter*, 539 U.S. at 306; *Gratz*, 539 U.S. at 244.

84. *See, e.g.*, Jess Bravin, *Justices Clash on Affirmative Action*, WALL ST. J., Oct. 11, 2012, at A1 [hereinafter Bravin, *Justices Clash*]; Jess Bravin, *Supreme Court to Revisit Ruling on Race and Colleges*, WALL ST. J., Sept. 28, 2012, at A6 [hereinafter Bravin, *Revisit Ruling*].

85. *Grutter*, 539 U.S. at 306.

86. *Grutter*, 539 U.S. at 306.

87. *Grutter*, 539 U.S. at 306.

88. *Grutter*, 539 U.S. at 314.

89. *Grutter*, 539 U.S. at 306.

sions to further a compelling interest in obtaining the educational benefits that flow from a diverse student body.”⁹⁰ The Court thus found this practice constitutional and not prohibited by Title VI of the Civil Rights Act of 1964.⁹¹ Justice O’Connor wrote for the majority.

On the same day, the Court also ruled on *Gratz v. Bollinger*,⁹² illustrating how sharply limited the scope of constitutionally permissible affirmative action had become.⁹³ In *Gratz*, a rejected in-state applicant for admission to the University of Michigan’s undergraduate program challenged the race-conscious admissions plan of the University.⁹⁴ Unlike the Law School’s admissions program, the undergraduate program automatically awarded 20 points of the 100 needed to guarantee admission to applicants from underrepresented racial or ethnic minority groups.⁹⁵ This program was found to be “not narrowly tailored to achieve the interest in educational diversity,” thereby violating the Equal Protection Clause.⁹⁶ The Court stated that a program that “prefer[s] members of any one group for no reason other than race or ethnic origin is discrimination for its own sake.”⁹⁷ Citing *Bakke*, the Court reiterated that race or ethnic minority status could be considered as a “plus”⁹⁸ factor, but no quota should be set.⁹⁹ A “university admissions program is narrowly tailored only if it allows for individualized consideration of applicants of all races.”¹⁰⁰

The makeup of the Court has changed since *Grutter*, and because Justice Alito has replaced Justice O’Connor, many think that *Fisher* will be the vehicle used to essentially eliminate affirmative action.¹⁰¹ In *Fisher*, the Uni-

90. *Grutter*, 539 U.S. at 343.

91. Because this was not an employment case, Title VII did not apply. The case was decided under Title VI of the Civil Rights Act of 1964, which prohibits discrimination by government agencies that receive federal funds. *Grutter*, 539 U.S. at 317. While the focus of this manuscript is private employers, the Supreme Court’s ruling on Title VI provides a useful analogy. *Grutter*, 539 U.S. at 306.

92. *Gratz v. Bollinger*, 539 U.S. 244 (2003).

93. Girardeau A. Spann, *Fisher v. Grutter*, 65 VAND. L. REV. EN BANC 45, 46 (2012) (arguing that affirmative action should be handled by the political branch, rather than the judicial branch).

94. *Gratz*, 539 U.S. at 251–52.

95. *Gratz*, 539 U.S. at 255.

96. *Gratz*, 539 U.S. at 270.

97. *Gratz*, 539 U.S. at 270 (quoting *Regents of Univ. of Cal. v. Bakke*, 438 U.S. 265, 307 (1978)).

98. *Gratz*, 539 U.S. at 246 (quoting *Bakke*, 438 U.S. at 317).

99. *Gratz*, 539 U.S. at 245.

100. *Fisher v. Univ. of Tex. at Austin*, 631 F.3d 213, 220–21 (5th Cir. 2011), *cert granted*, 132 S.Ct. 1536 (2012).

101. See Robert Barnes, *Administration Urges Justices to Continue College Affirmative Action Admissions*, WASH. POST, Aug. 13, 2012, <http://www.washingtonpost.com/politics/administration-urges-justices-to-continue.college-affirmative-action-admissions>.

versity of Texas (“UT”) adopted a “Ten Percent Plan,” pursuant to which it admitted the top ten percent of students from Texas high schools.¹⁰² Under this plan, UT has been able to maintain a diverse enrollment because most schools serve neighborhoods that reflect the diverse makeup of the state.¹⁰³ UT also considered race in a *Grutter*-like fashion for about 25% of the freshman class in admission decisions. For this group, decisions were made on the basis of several factors, including race.¹⁰⁴ The rationale was that the numbers of Blacks and Hispanics admitted under the Ten Percent Plan was too low to represent a state that will soon have no majority race.¹⁰⁵ UT was concerned that the Ten Percent Plan might overlook middle ranked students with higher SAT scores at a more competitive suburban school.¹⁰⁶ The Plaintiff, who was denied admission,¹⁰⁷ argued that because the Ten Percent Plan already admitted many minority students from minority-concentrated high schools, there was no need for a *Grutter*-style consideration of race for the rest of the applicants.¹⁰⁸

A large number of private and public universities, over half of the Fortune 500 companies,¹⁰⁹ and the Obama administration, among others, filed briefs supporting the UT plan.¹¹⁰ The administration’s brief stated that the government “has a vital interest in drawing its personnel—many of whom will eventually become its civilian and military leaders—from a well-qualified and diverse pool of university and service-academy graduates of all

102. *Fisher*, 631 F.3d at 216–17.

103. Many high schools are nearly all Black or Hispanic. Bravin, *Justices Clash*, *supra* note 84, at A3. The Hispanic enrollment at UT is about 20% and the Black enrollment is about 5%. *Id.*

104. *Fisher*, 631 F. 3d at 228. Among factors considered are grades, test scores, leadership qualities, and work experience. *Id.*

105. *Fisher v. Univ. of Tex. at Austin*, 645 F. Supp. 2d 587, 602 (W.D. Tex. 2009).

106. Jess Bravin, *Justices Face a Test on Race*, WALL ST. J., Oct. 9, 2012, at A3.

107. Abigail Fisher had higher scores than some of the minorities admitted. Barnes, *supra* note 101. She graduated from Louisiana State University in the spring of 2012. *Id.*

108. See Brief of Plaintiffs-Appellants Abigail Noel Fisher & Rachel Multer Michalewicz at 8–9, *Fisher v. Univ. of Tex. at Austin*, 631 F.3d 213 (5th Cir. 2011) (No. 09-50822), 2009 WL 6028011.

109. Bravin, *Revisit Ruling*, *supra* note 84, at A6.

110. More than 50 groups filed briefs. Barnes, *supra* note 101. Amherst filed a brief on behalf of itself and thirty-six other colleges and universities. *Amherst Files Amicus Brief in Supreme Court Diversity Case*, AMHERST C. (Sept. 5, 2012 11:19 AM) <http://collegenews.org/news/2012/amherst-files-amicus-brief-in-supreme-court-diversity-case.html>. Amherst’s President, Bidy Martin, stated, “We are committed to maintaining a richly diverse learning environment that will prepare our students for our increasingly heterogeneous and global society.” *Id.*

backgrounds who possess the understanding of diversity that is necessary to govern and defend the United States.”¹¹¹

This strong support is unlikely to sway the Court to uphold the plan.¹¹² The long trend of the Court decisions is to require greater proof of need, and the 10% numbers will make that very hard to show.¹¹³ This decision will likely clarify the future of affirmative action. At this point, however, it is clear that preference without a great showing of need, and without individual consideration on a variety of factors, will not be sustained.

C. *Pregnancy Discrimination Act*

The Pregnancy Discrimination Act (“PDA”) was specifically designed to provide women a level playing field in employment.¹¹⁴ Recognizing that Title VII was not preventing women from suffering discrimination on the basis of motherhood, pregnancy, and perceptions related thereto,¹¹⁵ Congress passed the PDA as an amendment to Title VII during the activism of the 1970s.¹¹⁶ The PDA prohibits “all forms of discrimination on the basis

111. Barnes, *supra* note 101 (citing Brief for the United States as Amicus Curiae Supporting Respondents at 6, *Fisher v. Univ. of Tex. At Austin*, 631 F.3d 313 (5th Cir. 2011), *cert granted*, 132 S. Ct. 1536 (2012) (No. 11-345)). The defense argued that “if any state action should respect racial equality, it is university admission. Selecting those who will benefit from the limited places available at universities has enormous consequences for the future of American students and the perceived fairness of government action.” *Id.* (citing Brief for Petitioner at 18, *Fisher*, 631 F.3d 213).
112. Justice Kennedy, the member of the conservative wing of the court most likely to be swayed to uphold the need for diversity argument, said to UT’s lawyer during oral argument, “So what you’re saying is that what counts is race above all. . . . You want underprivileged of a certain race and privileged of a certain race. So that’s race.” Bravin, *Justices Clash*, *supra* note 84, at A1.
113. Justice Kagan has recused herself, assumedly because she was Solicitor General before her appointment to the Court. Thus, the case could end in a 4-4 split, which would result in the lower court opinion being upheld. The lower court allowed the policy. Barnes, *supra* note 101.
114. 42 U.S.C. § 2000e-(k) (Westlaw through P.L. 112-207).
115. *See, e.g.*, *Gen. Elec. Co. v. Gilbert*, 429 U.S. 125 (1976), *superseded by statute*, Civil Rights Act of 1964, Pub. L. 95-555, 92 Stat 2076 (1978) (Title VII’s ban on sex discrimination does not include distinctions based on pregnancy). Outrage about this decision and others led to Congress passing the PDA. Joanna L. Grossman, *Pregnancy, Work, and the Promise of Equal Citizenship*, 98 GEO. L. J. 567, 602 (2010).
116. The PDA was passed in 1978. Pregnancy Discrimination Act, Pub. L. No. 95-555, 92. Stat. 2076 (codified as amended at 42 U.S.C. § 2000(e)(k)) (1978).

of pregnancy, such as discriminatory failures to hire and promote.”¹¹⁷ Courts, however, routinely interpret the PDA restrictively.¹¹⁸

Some courts treat pregnancy under the PDA as the equivalent of a disability, and one that is chosen because women have control over becoming pregnant.¹¹⁹ Because the disability is thought to be by choice, protection against discrimination is minimal.¹²⁰ The law only requires that that pregnant employees be treated the same as other employees similar in their ability or inability to work.¹²¹ Thus, if an employer treats a similarly restricted employee poorly, it can treat the pregnant employee just as poorly. Some courts hold that the PDA “prohibit[s] only discriminatory animus against pregnant women.”¹²² Thus, the PDA may not remedy sex-neutral policies even when these policies disproportionately affect pregnant women.¹²³ 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.”¹²⁴ 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 lifetime.”¹²⁵ The PDA is sufficiently vague so as to lead to wide discrepan-

117. Julie C. Suk, *Are Gender Stereotypes Bad for Women? Rethinking Antidiscrimination Law and Work-Family Conflict*, 110 COLUM. L. REV. 1, 11 (2010) (citing H.R. Rep. No. 95-948, at 6–7 (1978)). The PDA was passed as a response to the Supreme Court decision in *Gilbert*, 429 U.S. 125 (1976). *Grossman*, *supra* note 115. The PDA picked up on a vigorous dissent by Justice Brennan who said that the majority, in holding that Title VII did not cover pregnancy, had lost sight of the intention of Title VII. H.R. Rep. No. 95-948, at 159 (1978). See Julie Manning Magid, *Pregnant with Possibility: Reexamining the Pregnancy Discrimination Act*, 38 AM. BUS. L.J. 819, 820–21 (2001).
118. See, e.g., *Armstrong v. Flowers Hosp.*, 812 F. Supp. 1183 (M.D. Ala. 1993) (holding that the PDA does “not require employer to make accommodations to pregnant employees which amount to preferential treatment”); *Maldonado v. U.S. Bank*, 186 F.3d 759 (7th Cir. 1999) (“An employer may, under narrow circumstances . . . project the normal inconveniences of pregnancy and their secondary effects into the future and take actions in accordance with and in proportion to those predictions”).
119. Judith Olans Brown, Wendy E. Parmat & Phyllis Tropper Baumann, *The Failure of Gender Equality: An Essay in Constitutional Dissonance*, 36 BUFF. L. REV. 573, 577–79, 601 (1987).
120. Magid, *supra* note 117, at 830.
121. *Troupe v. May Dep’t Stores Co.*, 20 F.3d 734, 738 (7th Cir. 1994).
122. Deborah Dinner, *The Costs of Reproduction: History and the Legal Construction of Sex Equality*, 46 HARV. C.R.-C.L. L. REV. 415, 417 (2011).
123. *Id.* at 417–18.
124. Magid, *supra* note 117, at 821.
125. *Id.* at 821–22. See also, Laura T. Kessler, *The Attachment Gap: Employment Discrimination Law, Women’s Cultural Caregiving, and the Limits of Economic and Liberal Legal Theory*, 34 U. MICH. J.L. REF. 371, 399 (2001) (examining the reasons for the law’s inability to address women’s conflicts between work and family); Suk, *supra*

cies among court decisions regarding issues¹²⁶ such as infertility¹²⁷ and breastfeeding.¹²⁸

Discrimination on the basis of pregnancy operates at all levels of employment, including at the upper levels. *Bass v. Chemical Banking Corp.* provides one example.¹²⁹ Bass sued her employer over the loss of a promotion opportunity.¹³⁰ She alleged that her employer discriminated against her because she was the mother of young children.¹³¹ Instead, the promotion went to a woman without children.¹³² Her claim was dismissed because she failed to show that men with young children were treated more favorably than she.¹³³ Men with young children, however, seldom suffer discrimination on that basis.

An example of how rare it is to have pregnant women in the top levels of organizations is the selection of Marissa Mayer as the CEO of Yahoo in July 2012.¹³⁴ The same day that Yahoo announced that it was hiring her, Ms. Mayer announced that she and her husband were expecting their first child.¹³⁵ The selection made Ms. Mayer the twentieth female CEO in a *Fortune 500* company,¹³⁶ a fact headline-worthy in itself, but also the first

note 117, at 11 (contrasting the American antidiscrimination approach to maternity leave with European countries' law and criticizing both); Michele A. Travis, *The PDA's Causation Effect: Observations of an Unreasonable Woman*, 21 YALE J.L. & FEMINISM 51 (2009) (discussing the idea that the PDA is a conceptual tool judges use to shift their causal attributions to an employer, rather than attribute a pregnant woman's struggles in the workplace to her own decision to become a mother).

126. Kent John McCready, Note, *Employment Discrimination—Pregnancy Discrimination Against Male Employees: Extending the Pregnancy Discrimination Act to Employees' Dependents*, 61 N.C. L. REV. 733, 744 (1983).
127. Beth A. Rubenstein, *It Will Take More Than Hall v. Nalco Co. to Eradicate the Ambiguities of the Pregnancy Discrimination Act of 1978*, 25 A.B.A. J. LAB. & EMP. L. 73, 75 (2009).
128. Diana Kasdan, Note, *Reclaiming Title VII and the PDA: Prohibiting Workplace Discrimination Against Breastfeeding Women*, 76 N.Y.U. L. REV. 309, 310 (2001).
129. *Bass v. Chem. Banking Corp.*, 94 CIV. 8833 SHS, 1996 WL 374151 (S.D.N.Y. July 2, 1996).
130. *Bass v. Chem. Banking Corp.*, 1996 WL 374151, at *1–*2.
131. *Bass v. Chem. Banking Corp.*, 1996 WL 374151, at *3.
132. *Bass v. Chem. Banking Corp.*, 1996 WL 374151, at *3.
133. *Bass v. Chem. Banking Corp.*, 1996 WL 374151, at *5.
134. Press Release, Yahoo!, Yahoo! Appoints Marissa Mayer Chief Executive Officer (July 16, 2012), <http://pressroom.yahoo.net/pr/ycorp/236553.aspx>.
135. Patricia Sellers, *New Yahoo CEO Mayer is Pregnant*, FORTUNE, July 16, 2012, <http://postcards.blogs.fortune.cnn.com/2012/07/16/mayer-yahoo-ceo-pregnant/>.
136. Colleen Leahey, *Update: Fortune 500 Women CEOs Hits a Record 20*, FORTUNE, July 18, 2012, <http://postcards.blogs.fortune.cnn.com/2012/07/18/fortune-500-women-ceos-2/>.

ever pregnant CEO in a *Fortune 500* company.¹³⁷ Unfortunately, her pregnancy generated more discussion than did her qualifications to lead Yahoo and her visions for the organization.¹³⁸

The widely acknowledged deficiencies of the PDA have prompted lawmakers to introduce the Pregnant Workers Fairness Act.¹³⁹ This bill aimed 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 related medical condition.”¹⁴⁰ For example, even if the pregnant worker cannot perform the same work as the non-pregnant worker, the employer would still be required to accommodate the pregnant woman to a certain degree. Lawmakers, however, failed to muster enough support for the bill and it recently died.¹⁴¹ Of course, judges could also interpret the language of the PDA in the manner intended by Congress when it passed the law.¹⁴² Construing the PDA in this way would also be consistent with the way the law is written.¹⁴³

D. Family and Medical Leave Act (FMLA)

The Family and Medical Leave Act of 1993 (FMLA), another federal law attempting to accommodate work and family life, also varies in its effectiveness in addressing work-family conflicts faced by women with dependents.¹⁴⁴ The FMLA allows unpaid, job-protected leave for up to twelve

137. Annie-Rose Strasser, *Marissa Mayer Becomes First Ever Pregnant CEO of Fortune 500 Company*, THINKPROGRESS.ORG (July 17, 2012) <http://thinkprogress.org/health/2012/07/17/529141/mayer-pregnant-ceo/?mobile=nc>.

138. Mayer’s appointment also raised the issue of the “glass cliff,” a takeoff of the glass ceiling. When women are appointed to corporate leadership positions, “a disproportionate amount of the time, they are facing a dire situation.” Erin McKean, *Week in Words*, WALL ST. J., (July 21, 2012, 7:17 PM), <http://online.wsj.com/article/SB10001424052702303933704577532772865229762.html>.

139. H.R. 5647, 112th Cong. (2d. Sess., 2012).

140. *Id.*

141. GOVTRACK.US, <http://www.govtrack.us/congress/bills/112/hr5647> (last visited Sept. 1, 2012); see also Sheila Bapat, *Going Nowhere Slow: Pregnant Workers Fairness Act*, RH REALITY CHECK (July 16, 2012, 11:33 AM), <http://rhrealitycheck.org/article/2012/07/16/going-nowhere-slow-pregnant-workers-fairness-act/>.

142. Molly D. Edwards, *The Conceivable Future of Pregnancy Discrimination Claims: Pregnancy Not Required*, 4 CHARLESTON L. REV. 743, 744 (2010) (“Through the PDA, Congress clarified that discrimination on the basis of sex includes discrimination based on pregnancy.”).

143. See Magid, *supra* note 117.

144. 29 U.S.C.A. § 2612 (Westlaw through P.L. 112-207).

workweeks in a twelve-month period.¹⁴⁵ It applies, however, only to employers with fifty or more employees.¹⁴⁶ Covered employers must grant FMLA leave for the birth of a child and to care for the newborn child within one year of birth, adoption, or foster care.¹⁴⁷ Additionally, the FMLA permits leave to care for the employee's spouse, child, or parent who has a serious health condition, among other reasons.¹⁴⁸

Because leave is unpaid, many workers cannot afford to take it, and many employees are excluded because of the fifty-employee requirement. In 2005, only 54% of employees were covered.¹⁴⁹ Additionally, coverage is skewed toward higher paid employees.¹⁵⁰ These limitations again put the United States far behind Europe and, indeed, much of the world (see Table 1). Out of 184 nations, the United States is one of only six nations that do not provide paid maternity leave.¹⁵¹ Liberia, Papua New Guinea, Samoa, Sierra Leone, and Swaziland are the five other countries that do not provide paid maternity leave.¹⁵²

145. 29 U.S.C.A. § 2612(a)(1) (Westlaw through P.L. 112-207); *The Family and Medical Leave Act*, U.S. DEP'T OF LABOR, <http://www.dol.gov/whd/regs/compliance/1421.htm> (last visited Mar. 17, 2013).

146. Furthermore, the fifty or more employees must be within a 75-mile radius for the FMLA to apply. 29 U.S.C.A. § 2611(2)(B)(ii) (Westlaw through P.L. 112-207). Additionally, employees must be employed for a year before being eligible. *Id.* at (2)(A)(i).

147. U.S. DEP'T OF LABOR, *supra* note 145.

148. 29 U.S.C.A. § 2612(a)(1)(C) (Westlaw through P.L. 112-207).

149. *See Text Note, supra* note 72, at 656.

150. *Id.* Thirty-nine percent of workers earning \$20,000 or less were covered, compared with 74% of workers earning \$100,000 or more. *See also*, Eric Daniel, Note, *Family and Medical Leave Act Reform: Is Paid Leave the Answer?*, 51 CLEV. ST. L. REV. 65, 70 (2004).

151. *Pregnancy, Birth, or Adoption*, RAISING THE GLOBAL FLOOR: ADULT LABOUR, <http://raisingtheglobalfloor.org/policies/policy-selection.php?policy=pregnancy> (last visited Sept. 7, 2012).

152. *Id.*

A few states have expanded the coverage beyond the federal law.¹⁵³ Only one state, California, provides direct payment during family leave.¹⁵⁴ Five states, California,¹⁵⁵ New York,¹⁵⁶ New Jersey,¹⁵⁷ Rhode Island,¹⁵⁸ and Hawaii,¹⁵⁹ provide some payment during maternity leave in the form of temporary disability payments.

As the above discussion illustrates, the law does not adequately address the issue of gender inequality in the workplace, particularly regarding pregnant women. More information regarding gender discrimination needs to be obtained, and new approaches need to be considered. In this study, we suggest additional measures that can be taken, such as an increased focus on the role of mentoring and networking.

II. THE 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), characterized by the type of guidance, counsel, and support provided by the mentor for the protégé’s career and personal development.”¹⁶⁰ The positive association of mentoring with career outcomes for

153. *See, e.g.*, ME. REV. STAT. tit. 26, § 844 (Westlaw through 2011 legislation) (15 or more employees); MINN. STAT. § 181.940 (Westlaw through 2012 special sess.) (21 or more employees); OR. REV. STAT. § 659A.153 (Westlaw through 2012 legis. sess.) (25 or more employees); VT. STAT. ANN. tit. 21, § 471 (Westlaw through adjourned sess.) (15 or more employees). Connecticut and Washington D.C. each provide sixteen weeks of family leave time during any twenty-four month period. CONN. GEN. STAT. § 34-511l (Westlaw through 2012 Feb. Reg. Sess. & Jun. 12, Special Sess.) (extending time for leave); D.C. CODE § 32-502 (Westlaw through Dec. 11, 2012) (same). Washington provides up to 3 months of family leave time. WASH. REV. CODE §§ 49.78.220, 49.78.390 (Westlaw through 2012 legislation). California and Wisconsin permit intermittent leave giving employees more flexibility to take parental leave in non-consecutive blocks of time. CAL. GOV’T CODE § 12945.2 (Westlaw through 2012 Reg. Sess.); WIS. STAT. § 103.10(3)(d) (Westlaw through 2011 Act. 286).
154. *Cal. Unemp. Ins. Code* § 3301(a)(1) (Westlaw through all 2012 Reg. Sess. laws, Gov. Reorg. Plan No. 2 of 2011-2012, and all propositions on 2012 ballots).
155. *Id.*
156. N.Y. WORKERS’ COMP LAW § 201 9(B) (McKinney, Westlaw through 2012 legislation) (“‘Disability’ also includes disability caused by or in connection with a pregnancy.”).
157. N.J. STAT. ANN. § 43:21 (Westlaw through 2012 legislation) (providing payment in the form of disability benefits).
158. R.I. GEN. LAWS § 28-39-2 (Westlaw through Ch. 491, 2012 Reg. Sess.).
159. HAW. REV. STAT. § 392-21 (Westlaw through 2012 Act 329).
160. Aarti Ramaswami, *A Cross-Cultural Examination of the Relationship Between Mentor-Protégé Similarity and Mentor Behavior in India and the U.S.* 2 (May 2009) (unpublished Ph.D. dissertation, Indiana University) (on file with author). *See* Ray-

protégés makes it “a key employee development and talent management practice”¹⁶¹ Through these developmental interactions, “mentors enhance protégés’ skills and aid their socialization to a new work (or non-work) setting.”¹⁶²

Networking is an alternative, yet complementary, mechanism to mentoring that provides career and moral support, advice, and personal and interpersonal resources that aid in employees’ career progression.¹⁶³ It has been defined as the “process of gaining advice and moral support or using contacts for information in order to become more effective in the work world.”¹⁶⁴ Networking can be particularly helpful for those who did not

mond A. Noe, *An Investigation of the Determinants of Successful Assigned Mentoring Relationships*, 41 PERSONNEL PSYCHOL. 457, 458 (1988); Connie R. Wanberg, Elizabeth T. Welsh & Sarah A. Hezlett, *Mentoring Research: A Review and Dynamic Process Model*, 22 RES. PERSONNEL & HUM. RESOURCES MGMT. 39, 3940 (2003).

161. Ramaswami, *supra* note 160, at 2; Tammy D. Allen et al., *Career Benefits Associated with Mentoring for Protégés: A Meta-Analysis*, 89 J. APP. PSYCHOL. 127, 134–36 (2004) [hereinafter Allen et al., *Mentoring for Protégés*] (reporting that the aggregated results of mentoring studies published between 1985 and 2004 confirm that there are measurable benefits associated with mentoring); Lillian T. Eby et al., *Does Mentoring Matter? A Multidisciplinary Meta-analysis Comparing Mentored and Non-mentored Individuals*, 72 J. VOCATIONAL BEHAV. 254, 254 (2008) [hereinafter Eby et al., *Comparing Mentored and Non-Mentored Individuals*] (reporting that the aggregated results of mentoring research show that mentoring has a small, favorable effect on the behavior, attitudes, health, relationships, motivation, and careers of protégés); Thomas W.H. Ng et al., *Predictors of Objective and Subjective Career Success: A Meta-Analysis*, 58 PERSONNEL PSYCHOL. 367, 367, 371 (2005) (considering organizational sponsorship, including the extent to which employees receive sponsorship from senior employees and supervisors, as a potential determinant of objective and subjective career success, and finding that organizational sponsorship is relatively strongly related to subjective career success).
162. Ramaswami, *supra* note 160, at 2.
163. See Suzanne M. Crampton & Jitendra M. Mishra, *Women in Management*, 28 PUB. PERSONNEL MGMT. 87, 94 (1999); Forret & Dougherty, *supra* note 13, 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).
164. Crampton & Mishra, *supra* note 163, at 94.

have access to mentors early in their careers.¹⁶⁵ Networking and mentoring, indeed, go hand in hand, both providing similar career benefits.¹⁶⁶

Women, and men and women with dependents, represent important sources of diversity at work,¹⁶⁷ and networking and mentoring are mechanisms through which gender inequality in career attainment may be reduced.¹⁶⁸ The “importance of mentors for employee career progress and

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165. Tracey & Nicholl, *supra* note 13, at 31 (finding that networking is especially important for some women who have not had the benefit of mentors early in their careers); William Whitely, Thomas W. Dougherty & George F. Dreher, *Relationship of Career Mentoring and Socioeconomic Origin to Managers' and Professionals' Early Career Progress*, 34 ACAD. MGMT. J. 331, 341 (1991) (suggesting that mentoring is related to early career progress of managers and professionals); 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).
166. See Forret & Dougherty, *supra* note 13, at 431 (finding that many networking behaviors are positively correlated with the number of promotions obtained, total compensation, and perceived career success); Tracey & Nicholl, *supra* note 13, at 31 (arguing that mentoring and networking are alternative means to achieve the same career-related ends, and that mentoring is more appropriate for individuals in the early stage of their careers).
167. EQUAL EMP'T OPPORTUNITY COMM'N, *Federal Laws Prohibiting Job Discrimination Questions and Answers*, <http://www.eeoc.gov/facts/qanda.html> (last visited Nov 30, 2012) (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.”).
168. Forrett & Dougherty, *supra* note 13, 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.”); Margaret Linehan & Hugh Scullion, *Repatriation of European Female Corporate Executives: An Empirical Study*, 13 INT'L J. HUM. RES. MGMT. 254, 254 (2002) (establishing that “female international managers experience more difficulties 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 Bretz & 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

organizational outcomes”¹⁶⁹ necessitates an examination of the role that mentoring plays in a career enhancing strategy such as networking. The gender dynamics of interpersonal and developmental relationships, such as mentoring and networking, have received research attention.¹⁷⁰

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.¹⁷¹ The findings showed “that female managers can miss out on global appointments because they lack mentors, role models, sponsorship, or access to appropriate networks – all of

a senior-male mentor seems high for female managers and professionals.”); Aarti Ramaswami, George F. Dreher, Robert Bretz & Carolyn Wiethoff, *The Interactive Effects of Gender and Mentoring on Career Attainment: Making the Case for Female Lawyers*, 37 J. CAREER DEV. 692, 707 (2010) [hereinafter Ramaswami et al., *Interactive Effects of Gender and Mentoring*] (reporting that “lawyers with senior male mentors had higher compensation, career progress satisfaction, and organizational position compared to lawyers with other mentors or without mentors” and reporting an interaction that suggests that “female lawyers with senior male mentors had higher career attainment than male lawyers with senior male mentors . . .”).

169. Ramaswami, *supra* note 160, at 2. See also Allen et al., *Mentoring for Protégés*, *supra* note 161, at 132 (finding overall positive effects on career success for mentoring); Eby et al., *Comparing Mentored and Non-mentored Individuals*, *supra* note 161, 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 161, at 387 (finding that organizational sponsorship of employees, including by senior employees and supervisors, is positively related to salary, promotions and career satisfaction).
170. See 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); Forrett & Dougherty, *supra* note 13, at 430–31 (“[G]ender differences do impact the utility of networking behavior as a career-enhancing strategy.”); Linehan & Scullion, *supra* note 168, at 258–62 (“[The study’s participants] observed that, as females, they experienced greater uncertainty regarding re-entry [after international assignments] because many female international 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.”); Wanberg et al., *supra* note 160, at 66 (reviewing research that examines “the relationship of masculinity – the constellation of attributes traditionally comprising the male gender role (e.g., assertiveness, individualism, and instrumentality) – to having a mentor”).
171. Margaret Linehan & Hugh Scullion, *The Development of Female Global Managers: The Role of Mentoring and Networking*, 83 J. BUS. ETHICS 29, 29 (2008).

which are commonly available to their male counterparts.”¹⁷² The female managers interviewed suggested “that men, as the dominant group, may want to maintain their dominance by excluding women from the informal interactions of mentoring and networking.”¹⁷³ If women had more access to networks and mentors, they could gain from the professional and organizational socialization that these relationships provide.¹⁷⁴ Yet, the women in the sample reported encountering gender related barriers to their career progress.¹⁷⁵ 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.

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.¹⁷⁶ Despite this voluminous literature, few studies have examined the role of mentoring in network-related outcomes¹⁷⁷ and, consequently, our current knowledge and insights about the interaction of demographics and mentoring on network outcomes appear limited.¹⁷⁸ “This gap in mentoring research precludes our understanding of mentoring and leadership development,”¹⁷⁹ especially for women.

III. 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 do gender and having dependents interact with network outcomes? That is, does having a mentor increase network benefits and lessen network challenges for men versus women with and without dependents?

172. *Id.*

173. *Id.*

174. Linehan & Scullion, *supra* note 168, at 254, 261, 265.

175. *Id.* at 262.

176. 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); Raymond A. Noe et al., *Mentoring: What We Know and Where We Might Go*, 21 *RES. PERSONNEL & HUM. RES. MGMT.* 129 (2002) (“[M]entoring is a very robust topic, and has generated a considerable body of literature.”); Wanberg et al., *supra* note 160, at 94 (conceptualizing social networks as a category of protégé change resulting from mentoring relationships).

177. *But see* Linehan & Scullion, *supra* note 168, at 261 (reporting that the study’s interviewees saw “mentors . . . as important for introducing them to the informal networks which existed in their organizations”).

178. *See* Ramaswami, *supra* note 160, at 6.

179. *Id.*

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 on the role of mentoring and networking in women's careers.¹⁸⁰ Further, we contribute to theory by heeding recent calls for research on the interaction of gender and family status¹⁸¹ as well as the moderators of the gender-network outcomes relationship.¹⁸² 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.¹⁸³ Finally, we analyze relevant legal issues in order to open and navigate 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.¹⁸⁴ Taking the example of the legal profes-

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180. Forret & Dougherty, *supra* note 13, 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 168, 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).
181. 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 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”).
182. Forret & Dougherty, *supra* note 13, 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 168, 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).
183. Katherine Giscombe, *Advancing Women through the Glass Ceiling with Formal Mentoring*, in *THE HANDBOOK OF MENTORING AT WORK*, *supra* note 176, at 569 (suggesting ways organizations might improve formal mentoring programs for women).
184. 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).

sion, Higgins and Kay and Hagan emphasize the social capital perspective as being more appropriate for understanding disparities in career outcomes between men and women.¹⁸⁵ 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”¹⁸⁶

Yet “women have historically lacked access to important organizational networks and contacts.”¹⁸⁷ Reasons for exclusion include “structural barriers, such as organizational form, institutionalization and genealogy of organizational leadership, domestic commitments and lack of child care,”¹⁸⁸ lack of role models and mentors,¹⁸⁹ “rainmaking demands (bringing in more

185. Monica C. Higgins, *The More, the Merrier? Multiple Developmental Relationships and Work Satisfaction*, 19 J. MGMT. DEV. 277, 289 (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 9, at 730–32 (“[S]ocial capital refers to the sum of the actual and potential resources that a lawyer can mobilize through membership in social networks.”).
186. Aarti Ramaswami, *The Interactive Effects of Gender and Mentoring on Career Attainment: Do Female Lawyers Need Good Counsel?* 5 (Dec. 26, 2007) (unpublished manuscript) (on file with the Indiana School of Business), *available at* <http://www.isb.edu/Faculty/upload/Doc26122007545.pdf>. *See also* Higgins, *supra* note 185 at 289; Kay & Hagan, *supra* note 9, at 730–32; Ramaswami et al., *Interactive Effects of Gender and Mentoring*, *supra* note 168, at 692–716.
187. Forret & Dougherty, *supra* note 13 at 419; *see* 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 9, 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. & POL’Y 89 (2009); Cindy A. Schipani, Terry M. Dworkin, Angel Kwolek-Folland & Virginia G. Maurer, *The New Corporate Governance and Pathways for Women to Obtain Positions of Organizational Leadership*, 56 MD. L. REV. 101 (2006).
188. Ramaswami et al., *Interactive Effects of Gender and Mentoring*, *supra* note 168, at 708 (citations omitted).
189. Cynthia Fuchs Epstein, Robert Sauté, Bonnie Oglensky & Martha Gever, *Glass Ceilings and Open Doors: Women’s Advancement in the Legal Profession*, 64 FORDHAM L. REV. 291, 343 (1995) (arguing that it is imperative to women’s success in the legal profession that women have mentoring opportunities); PAULA NICOLSON, *GENDER, POWER AND ORGANISATION* 104–06 (1996) (“Another observable barrier to women’s achievement has been the lack of female role models and mentors.”).

clients for the firm), long work hours, and part time work . . .”¹⁹⁰ 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.¹⁹¹ 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.¹⁹²

Although studies suggest that marital or family role commitment are unassociated with family-to-work interference¹⁹³ and that gender, marital status, and number of children are unrelated to occupational commitment,¹⁹⁴ 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.¹⁹⁵ Lyness and Thompson “found that female executives were more likely than male executives to report lack of cultur[al] fit and . . . exclus[ion] from informal networks as barriers to their career advancement.”¹⁹⁶

“Signaling theory . . . suggests that organizational decision makers have imperfect information about employees and rely on environmental cues such as employees’ social relations to make personnel decisions.”¹⁹⁷ Be-

190. Ramaswami et al., *Interactive Effects of Gender and Mentoring*, *supra* note 168, at 708 (citations omitted); see, e.g., Epstein et al., *supra* note 189, at 395 (“With one exception, at every firm in [this] sample, associates working part-time are taken off the partnership track (although some may go back on it if they come back to full-time work).”).

191. See Epstein et al., *supra* note 189, at 304.

192. 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.”).

193. Laura M. Graves et al., *Commitment to Family Roles: Effects on Managers’ Attitudes and Performance*, 92 J. APPLIED PSYCHOL. 44, 51 (2007).

194. 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).

195. Hoobler et al., *supra* note 181, at 951.

196. Forret and Dougherty, *supra* note 13, at 423; see Karen S. Lyness & Donna E. Thompson, *Climbing the Corporate Ladder: Do Female and Male Executives Follow the Same Route?*, 85 J. APPLIED PSYCHOL. 86, 97 (2000).

197. Ramaswami, et al., *Interactive Effects of Gender and Mentoring*, *supra* note 168, at 698 (citation omitted); see also, e.g., Michael Spence, *Job Market Signaling*, 87 Q. J. ECON. 355, 357 (1973) (arguing that employers rely on signaling because they “cannot directly observe the [the employee] prior to hiring,” but can observe “a plethora

ing 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,"¹⁹⁸ individuals view women as caregivers, and that signals their non-work demands, real or imagined, to organization members.¹⁹⁹ Also, socially sanctioned gender-typical roles influence one's own and others' perceptions of and expectations about the two sexes.²⁰⁰ On the career front, on one hand, men, attributed masculine qualities of agency, competence, and success, are naturally associated with managerial roles or positions of power and responsibility. On the other hand, women stereotypically attributed feminine qualities of being supportive and nurturing, are less likely to be associated with managerial or high status roles, in turn making them less likely than men to benefit from a network.²⁰¹

Social norms valuing the "male bread-winner," or the idea that "men support the family," signal that men with dependents have a higher need of career support than women, especially those with dependents.²⁰² This sig-

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 [employee]").

198. See, e.g., Allison Munch et al., *Gender, Children and Social Contact: The Effects of Childrearing for Men and Women*, 62 AM. SOC. REV. 509, 510 (1997) (arguing that the doctrine of separate spheres, which "suggests that powerful historical forces have created a social context in which parenting . . . is viewed as women's work", is the most important reason that "the impact of childrearing on social networks is gender-specific").
199. Hoobler et al., *supra* note 181, 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.").
200. See generally, Alice H. Eagly & Wendy Wood, *The Origins of Sex Differences in Human Behavior: Evolved Dispositions Versus Social Roles*, 54 AM. PSYCHOL. 408 (1999).
201. Heilman & Okimoto, *supra* note 12, 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 181, 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.").
202. Tharenou et al., *supra* note 9, 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.

naling may also suggest that investing in men's initiation and sustenance of networking relationships may be more beneficial.²⁰³ Indeed, research shows that because of differences in social roles and experiences of childrearing between men and women,²⁰⁴ the impact of childrearing or dependent care on social networks varies by gender.²⁰⁵ For example, Allison Munch and her colleagues examined "the impact of childrearing on the pattern of social contacts for men and women"²⁰⁶ by using cross-sectional data from "a probability sample of 1,050 Great Plains residents in 10 towns"²⁰⁷ They found "that social network size, contact volume, and composition vary with the age of the youngest child in a family."²⁰⁸ Childrearing reduced "women's network size and contact volume, while it alter[ed] the composition of men's networks."²⁰⁹ 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 employees' career advancement is therefore crucial to understanding how gender differences in career outcomes may be maintained throughout one's life. Another study on childrearing and its relation to women's and men's networks suggested "that having young children at home decreases women's, but not men's, job-related contacts."²¹⁰

Organizational members may perceive women as having increased family responsibilities, and, therefore, not fitting for or not ready to be integrated into wider professional networks and roles. 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. From a sig-

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).

203. SOCIAL EXCHANGE THEORY (Karen S. Cook ed., 1987) (explaining social exchange theory).

204. 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.").

205. Munch et al., *supra* note 198, at 510 (arguing that "the impact of childrearing on social networks is gender-specific").

206. *Id.* at 509.

207. *Id.* at 511.

208. *Id.*

209. *Id.*

210. Kyra Leigh Sutton, *Parenthood and Organizational Networks: A Relational View of the Career Mobility of Working Parents* 52 (2006) (unpublished Ph.D. dissertation, Ohio State University), available at http://etd.ohiolink.edu/send-pdf.cgi/Sutton%20Kyra%20Leigh.pdf?acc_num=osu1155663728 (citing Karen E. Campbell, *Gender Differences in Job-Related Networks*, 15 WORK AND OCCUPATIONS 179, 195–96 (1988)).

naling theory perspective, when a woman has a mentor, signals may be sent to superiors, decision makers, and networks that the woman is indeed legitimate, capable, and fit for professional roles. Apart from signaling, mentors may provide their mentees career and psychosocial support.²¹¹ Career support helps protégés navigate “within the organization and advance [their] careers.”²¹² 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.”²¹³ Psychosocial support, on the other hand, relates to more personal aspects of the relationship; through role modeling, acceptance and confirmation, friendship, and counseling, it aims to build the protégés’ self-worth, feelings of competence, and personal and professional identity.²¹⁴ In turn, these mentoring experiences can provide an initial link in the development of a network system for the individual.²¹⁵ This raises the question whether women with dependents receive increased benefits from having a mentor, as compared to mentored men 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 men 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.²¹⁶ The survey was administered, beginning in August 2007 and continuing 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 1,393 female and 2,875 male Bachelor of Business Administration (BBA) graduates of the Ross School of Business at the University of Michigan, and 1,643 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 gradua-

211. See, e.g., Allen et al., *Mentoring for Protégés*, *supra* note 161, at 130–32.

212. Ramaswami, *supra* note 160, at 3.

213. *Id.* See also Allen et al., *supra* note 161, at 130 (noting that researchers have divided career and psychosocial support into such categories).

214. Ramaswami, *supra* note 160, at 3. See also Allen et al., *supra* note 161, at 128.

215. Tracey & Nicholl, *supra* note 13, at 28 (theorizing that mentoring serves the career functions of preparing protégés for career advancement by providing exposure and increasing mentees’ visibility among employers).

216. Professors Virginia Maurer, Angel Kwolek-Folland, and Mary Hinesly coauthored the Pathways survey with Professors Cindy Schipani and Terry Morehead Dworkin.

tion, respectively, to allow for sufficient experience to potentially rise in their organizations. In Europe, survey links were sent in a 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 were working full-time in Europe and Asia. All surveys were in English. Through the above methods, we received in total 1,516 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 the 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 a two-year bachelor degree, 19.80% had a college four-year bachelor degree, 69.50% had a master 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 were coded 0. Next, respondents indicated the number of children or other dependents they had. 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.

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 (1= strongly disagree, 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 alpha²¹⁷ was .84.

The final dependent variable analyzed in this study concerns the respondent's network challenges related specifically to gender, family, and social hierarchy. Of the eleven items noted above, we averaged three items that 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,²¹⁸ 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:

- (a) **Demographics and human capital.** *Country* was coded such that respondents from the U.S. were coded 1, and others 0. (Respondents reported their *age* based on the following scale: 1) 20–29 years, 2) 30–39 years, 3) 40–49 years, 4) 50–59 years, 5) 60–69 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

217. Cronbach's alpha is a measure of internal consistency or reliability of a measure. JOSEPH F. HAIR, JR., RONALD L. TATHAM, RALPH E. ANDERSON & WILLIAM BLACK, *MULTIVARIATE DATA ANALYSIS* 118 (1st Indian reprint 2003) (5th ed. 1998). The minimum suggested level is .70, but could be lower for exploratory or new measures. *Id.*

218. Powell & Mainiero, *supra* note 187 (reviewing theoretical approaches to women's career development and offering a new approach incorporating key factors circumscribing women's career decisions); Ramaswami et al., *Interactive Effects of Gender and Mentoring*, *supra* note 168 (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 168 (reviewing midcareer managers, controlling for graduate degree, firm size, career interruption, age, presence of a committed relationship, presence of children, and career priority).

level I have reached in my career,” on a five-point scale (1= strongly disagree, 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 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 3. 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. Our regression results are shown in Table 4.

Among the independent variables, only *mentor yes/no* had a significant positive relationship with benefit from network ($\beta = .07, p < .05$), and the only significant two-way interaction was *gender x dependents* ($\beta = -.15, p < .05$) 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 ($\beta = -.69, p < .01$), overall network challenges ($\beta = -.41, p < .05$), and network challenges gender/family/social hierarchy ($\beta = -.42, p < .05$). 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 helpful 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, although mentored women with dependents may have access to a beneficial network, they continue to face network-related challenges.

D. Limitations of the Study

As with any research endeavor, this study is 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 the research questions and hypotheses examined. Moreover, fewer than 3% of respondents reported having formal mentors. Given that the focus of the study was all types of professional networks, we also did not distinguish between respondents' experiences with alumni networks, organizational networks, or professional associations. Our results are especially interesting because the majority of the sample members had graduate degrees from top schools around the world—yet, women in this sample who had dependents continued to have network challenges, despite having mentors. Nevertheless, one should exercise caution in generalizing the results from our study to employees without a similar educational profile. We also did not consider the number of dependents the study participants had, and treated those with one dependent the same as those with more than one dependent. In addition, our study only considered the network challenges as a bundle of different challenges, taking into account only the average scores, preventing us from having a more nuanced analysis of individual challenges. 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.

IV. IMPLICATIONS FROM THE STUDY

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. Our search of the websites of the Fortune 500 companies disclosed forty-two such plans. The results of our search are listed in the Appendix. 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. Mentoring would be one plan to not only promote diversity in the workforce, but to also help employers overcome challenges minorities face with respect to career enhancing resources such as networks.

A. Recommended Governmental Interventions: OFCCP and EEOC

It is also possible for a government entity, such as the Office of Federal Contract Compliance Programs (“OFCCP”) or Equal Employment Opportunity Commission (“EEOC”), to impose mentoring programs.²¹⁹ The OFCCP might, through active monitoring of diversity, insist that government contractors adopt mentoring programs where gender diversity in management is lacking.²²⁰

The EEOC recently strengthened its systemic litigation system, which could mean that employers will be defending more discrimination cases that involve many employees.²²¹ Additionally, the EEOC may pursue litigation even when employees may not due to arbitration agreements.²²² Furthermore, mentoring programs could be required as part of settlements to address the lack of advancement of women. Similarly, mentoring programs could be recommended as part of the remedy when companies have been found liable for gender discrimination.²²³ Moreover, mentoring programs have the potential to provide a more fair and equitable approach to advancement in organizations, while avoiding contention.²²⁴

B. Recommended Governmental Interventions: The SEC

Another way the government could encourage companies to increase representation without forcing a quota is for the Securities & Exchange

219. Dworkin, Maurer & Schipani, *supra* note 3, at 368, 370–71.

220. *Id.* at 370.

221. Martha Neil, *EEOC Takes Bigger Aim*, A.B.A. J. E-REP., Apr. 21, 2006, at 4.

222. Dworkin, Maurer & Schipani, *supra* note 3, at 371. *See, e.g.*, *EEOC v. Waffle House, Inc.*, 534 U.S. 279, 279 (2002) (holding that an agreement between an employer and an employee to arbitrate employment-related disputes does not bar the EEOC from pursuing victim-specific judicial relief).

223. Dworkin, Maurer & Schipani, *supra* note 3, at 371.

224. *Id.*

Commission (SEC) to make gender diversity a priority. This would help companies and society benefit from diversity.

The SEC already has the infrastructure in place to pursue this recommendation. For instance, it adopted a diversity disclosure requirement for proxy statements in 2010.²²⁵ 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.²²⁶ Diversity, however, is undefined. The SEC could now require companies to disclose whether they have a diversity policy and whether gender is a consideration. This disclosure would likely spur more companies to adopt gender diversity policies. It would be consistent with the stress on board independence²²⁷ and with the goal of maximizing shareholder wealth.²²⁸ 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.²²⁹ Its recommendations included demonstration of the CEO's commitment to diversity, inclusion of diversity in all strategic business plans, accountability of managers for progress, use of affirmative action as a tool for selection, promotion, and retention of qualified individuals,²³⁰ and implementation of mentorship programs to help women overcome barriers including lack of information, visibility, and resources.²³¹

225. See Thomas Lee Hazen, *Diversity on Corporate Boards: Limits of the Business Case and the Connection between Supporting Rationales and the Appropriate Response of the Law*, 89 N.C. L. REV. 887, 895 (2011).

226. Corporate Governance, 17 C.F.R. §229.407(c)(2)(vi)(2012).

227. Generally, diversity is seen as promoting board independence. See Thomas Lee Hazen, *Diversity on Corporate Boards: Limits of the Business Case and the Connection between Supporting Rationales and the Appropriate Response of the Law*, 89 N.C. L. REV. 887 (2011). Recent laws also reflect this. See, e.g., Sarbanes-Oxley Act, Pub. L. No. 107-204, 116 Stat. 800 (2002) (codified in scattered sections of 11, 15, 18, 28 and 29 U.S.C.) (requiring independent directors on the audit committee); Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111-203, 124 Stat. 1376 (2010). The Dodd-Frank Wall Street Reform and Consumer Protection Act is "designed to bring greater transparency and access to the securities-based swaps market." Implementing the Dodd-Frank Wall Street Reform and Consumer Protection Act, THE SEC. & EXCH. COMM'N, <http://www.sec.gov/spotlight/dodd-frank.shtml> (last modified Feb. 14, 2013).

228. See Sonja S. Carlson, "Women Directors": *A Term of Art Showcasing the Need for Meaningful Gender Diversity on Corporate Boards*, II SEATTLE J. SOC. JUST. 337, 341 (2012). 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. *Id.* at 377.

229. THE FED. GLASS CEILING COMM'N, A SOLID INVESTMENT: RECOMMENDATIONS OF THE FEDERAL GLASS CEILING COMMISSION 6 (1995).

230. *Id.* at 13.

231. *Id.* at 14.

Once diversity is embraced, mentoring programs are likely to follow. Mentoring programs are one of the most accessible tools companies have used to help achieve diversity goals.

C. Recommended Intervention of the Courts and Arbitrators

The authors have previously recommended that judges and arbitrators consider requiring firms to provide mentoring programs as part of the remedy ordered for violations of Title VII.²³² Equitable relief is permitted under Title VII and mentoring may be particularly effective where there has been disparate treatment.²³³ A mentoring program coupled with appropriate changes in human resources practices may help women successfully navigate the pathways to positions of leadership.

V. CONCLUSION

Various studies have suggested mentoring and networking as 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. Although the good news is that mentoring does help women (at least those without dependents), women with dependents seem to especially need increased developmental investment. It may be that having dependents sends negative signals to senior decision makers and mentors, and continue to pose challenges. 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.²³⁴ From our data, too, it is reasonable to conclude that it is precisely these women who need mentoring most. This may be because mentoring tends to boost confidence and provide career clarity and satisfaction. It may also be

232. Dworkin, Maurer & Schipani, *supra* note 3, at 371.

233. *Id.*

234. Aarti Ramaswami et al., *Mentoring across Cultures: The Role of Gender and Marital Status in Taiwan and the U.S.* (April 2012) (manuscript available from the authors) (examining only Taiwan and the U.S.).

that a mentor can provide role modeling for women balancing work and family lives.

Perhaps with proper mentoring, more women with dependents will have the opportunity to achieve career success and to find pathways to positions of organizational leadership. And as delineated above, there are a number of ways the private sector, the government, the courts, and arbitrators could facilitate this goal. ✨

TABLE 1²³⁵
A CROSS-COUNTRY COMPARISON OF MATERNITY LEAVE

		Countries
Period of Maternity Leave	No Paid Leave	Liberia, Papua New Guinea, Samoa, Sierra Leone, Swaziland, United States of America
	14 Weeks or Fewer	Angola, Antigua and Barbuda, Bahamas, Bahrain, Barbados, Botswana, Brunei, Burundi, Cape Verde, Dominica, Dominican Republic, Ecuador, El Salvador, Equatorial Guinea, Eritrea, Ethiopia, the Gambia, Ghana, Grenada, Guatemala, Guinea-Bissau, Guyana, Haiti, Honduras, India, Indonesia, Iraq, Israel, Jamaica, Jordan, Kenya, Kiribati, Kuwait, Laos, Lebanon, Lesotho, Libyan Arab Jamahiriya, Malawi, Malaysia, Maldives, Malta, Mauritius, Mexico, Mozambique, Myanmar, Namibia, Nepal, Nicaragua, Nigeria, Oman, Pakistan, Paraguay, the Philippines, Qatar, Rwanda, Sao Tome / Principe, Saudi Arabia, Seychelles, Singapore, Solomon Islands, Sri Lanka, St. Kitts and Nevis, St. Lucia, St. Vincent / Grenadines, the Sudan, Syria, Timor-Leste, Trinidad and Tobago, Tunisia, Tuvalu, Uganda, United Arab Emirates, Uruguay, Vanuatu, Yemen
	14–25 Weeks	Afghanistan, Algeria, Andorra, Argentina, Australia, Bangladesh, Belize, Benin, Bolivia, Brazil, Burkina, Faso, Cambodia, Cameroon, Central African Republic, Chad, Chile, Costa Rica, Cyprus, Djibouti, Egypt, Fiji, Gabon, Georgia, Greece, Guinea, Hungary, Iran, Islamic Republic of Kazakhstan, Kyrgyzstan, Liechtenstein, Madagascar, Mali, Mauritania, Monaco, Morocco, the Netherlands, New Zealand, Niger, Panama, Peru, Poland, Senegal, Somalia, South Africa, Spain, Switzerland, United Republic of Tanzania, Thailand, Togo, Turkey, Turkmenistan, Venezuela, Vietnam, Zambia, Zimbabwe
	26–51 Weeks	Belgium, Canada, Canada, Denmark, France, Iceland, Ireland, Italy, Luxembourg, Macedonia, Portugal, Slovenia, United Kingdom
	52 Weeks or More	Albania, Armenia, Austria, Azerbaijan, Belarus, Bulgaria, Croatia, Cuba, Czech Republic, Estonia, Finland, Germany, Japan, Republic of Korea, Latvia, Lithuania, Republic of Moldova, Mongolia, Montenegro, Norway, Romania, Russian Federation, San Marino, Serbia, Slovakia, Sweden, Tajikistan, Ukraine, Uzbekistan
	Insufficient Data	Bhutan, Bosnia-Herzegovina, Cote d'Ivoire, the Democratic People's Republic of Korea, Marshall Islands, Federated States of Micronesia, Nauru, Palau, Suriname, Tonga

235. Data derived from: *Pregnancy, Birth or Adoption*, RAISING THE GLOBAL FLOOR: ADULT LABOUR, <http://raisingtheglobalfloor.org/policies/policy-selection.php?policy=pregnancy> (last visited Sept. 7, 2012).

TABLE 2
AFFIRMATIVE ACTION BANS BY STATE

State	Legislation Prohibiting Affirmative Action?	Related Statute	Text	Note
Arizona	Yes	Proposition 107 ²³⁶	Bans the consideration of race, ethnicity or gender by units of state government. (2010)	
Arkansas	No			
California	Yes	Proposition 206 ²³⁷	Bans the use of affirmative action in admissions decisions at all state institutions of higher education.	The Ninth Circuit upheld the proposition.
Colorado	No			Colorado voters rejected affirmative action ban in 2008.
Michigan	Yes	Proposition 2 Mich. Const. art. I, § 26 ²³⁸	Bans the use of affirmative action in admissions decisions at all state institutions of higher education.	The Sixth Circuit held it unconstitutional under the EPC of the 14th Amdt.
Missouri	No			Voters rejected affirmative action ban in 2010.
Oklahoma	Yes.	Oklahoma State Question 759 ²³⁹		
Washington	Yes	Initiative 200 ²⁴⁰	Prohibits government entities in Washington from discriminating or granting preferential treatment based on race, sex, color, ethnicity, or national origin.	

236. ARIZ. CONST. art. II, § 36.

237. CAL. CONST. art. I, § 31.

238. MICH. CONST. art. I, § 26.

239. OKLA. CONST. art II, § 36A.

240. WASH. REV. CODE ANN. § 49.60.400 (West 2008).

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

N = 1037-1516

For r >= .05, p < .05 minimum

TABLE 4
REGRESSION RESULTS

Variable	Benefit from Network N=846 ^a	Overall Network Challenges N=749 ^a	Network Challenges Gender/Family/ Social Hierarchy N=743 ^a
Age	-.11**	.03	.00
Education Level	.04	-.01	.02
Career Satisfaction	.04	-.02	-.05
Reporting Level	-.06	-.04	-.01
Firm Size	-.03	-.04	-.06
Service Industry	.02	-.03	-.03
Manufacturing Industry	-.03	-.05	-.05
Access to Top People in Career	-.13***	.08*	.07*
Activity with Top People	-.01	.05	.05
Shared Cultural Background with Top People	.08**	-.16***	-.11**
Family in Leadership Position	.05	-.06*	-.04
Spouse Working Full-time	-.01	.01	.05
Spouse Earns More	-.01	-.05	-.12**
Country U.S. vs. Others	-.03	.02	-.02
Dependents Yes/No	.00	-.05	-.06
Mentor Yes/No	.07**	-.01	.00
Gender	.00	.01	.02
<i>R square, F change</i>	.06, 3.04***	.06, 2.80***	.05, 2.23
Gender x Dependents	-.15*	-.13	-.01
Mentor x Gender	-.06	-.03	-.09
Dependents x Mentor	-.02	.01	.04
<i>R square, F change</i>	.06, .37	.06, .73	.05, .24
Gender x Dependents x Mentor	-.57**	-.41*	-.42*
<i>R square, F change</i>	.07, 6.95**	.08, 3.21*	.06, 3.29*

^a 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.

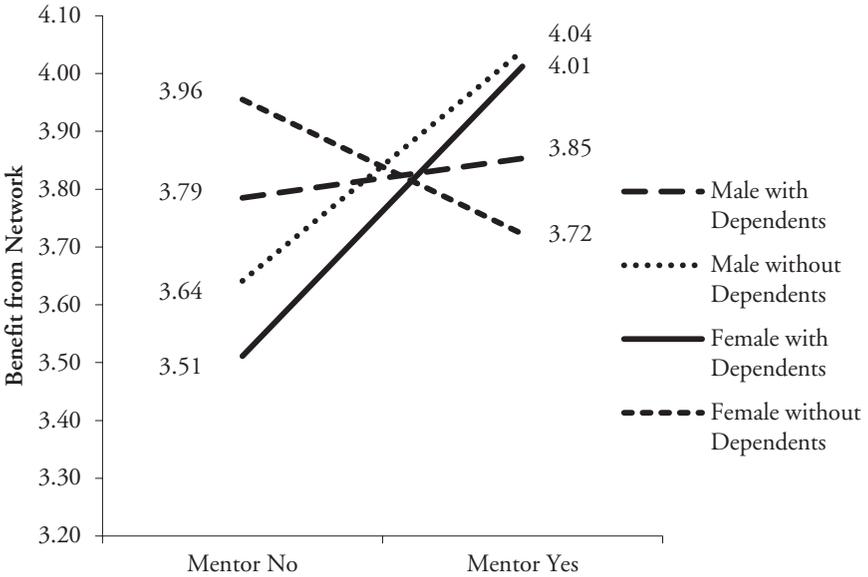


FIGURE 2. THREE-WAY INTERACTION OF GENDER X DEPENDENTS X MENTOR ON OVERALL NETWORK CHALLENGES.

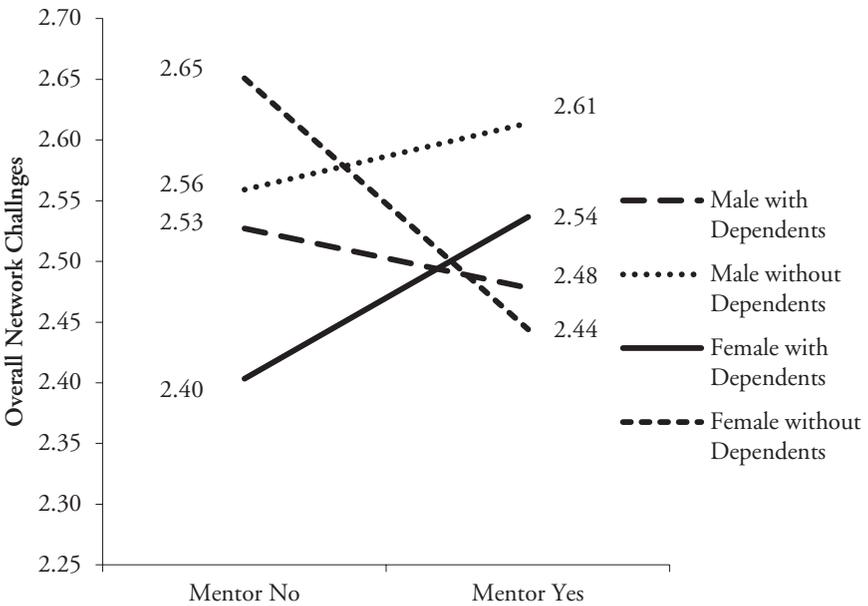
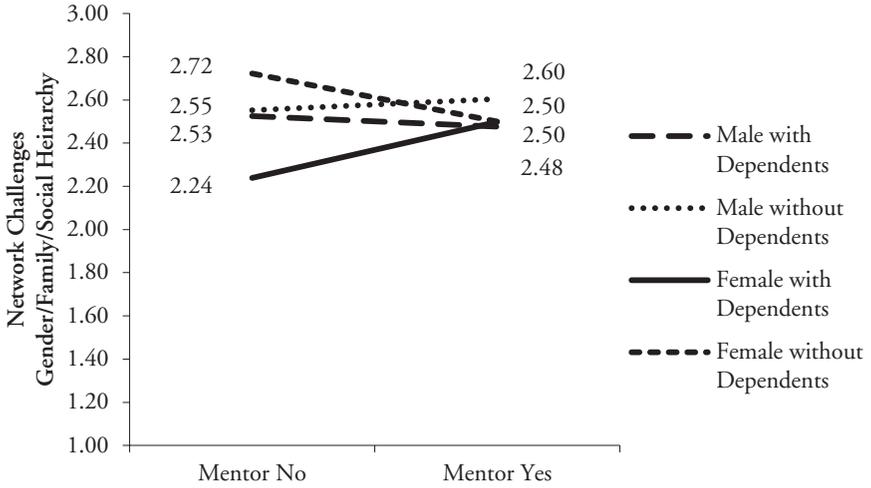


FIGURE 3. THREE-WAY INTERACTION OF GENDER X DEPENDENTS X MENTOR ON NETWORK CHALLENGES WITH RESPECT TO ATTITUDES TOWARDS GENDER, FAMILY, AND SOCIAL HIERARCHY.



APPENDIX: FORTUNE 500 COMPANIES THAT PROVIDE NETWORKING OR MENTORING FOR WOMEN²⁴¹

3M,²⁴² Alcoa,²⁴³ American Express,²⁴⁴ Amgen,²⁴⁵ Applied Materials,²⁴⁶ BlackRock,²⁴⁷ Booz Allen Hamilton Holding,²⁴⁸ CBRE Group,²⁴⁹ Chubb,²⁵⁰ Colgate-Palmolive,²⁵¹ ConAgra Foods,²⁵² Cummins,²⁵³ CVS Caremark,²⁵⁴ Deere,²⁵⁵ Dell,²⁵⁶ Delta Air Lines,²⁵⁷ Dow Chemical,²⁵⁸ East-

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241. This list was compiled after a cursory review of the public websites of the Fortune 500 companies. *2012 Fortune 500*, CNN MONEY, http://money.cnn.com/magazines/fortune/fortune500/2012/full_list/ (last visited Feb. 6, 2012).
242. *Women's Leadership Network*, 3M, http://solutions.3m.com/wps/portal/3M/en_US/us-diversity/diversity/3M/employee-resource-affinity-groups/women-leadership-network/ (last visited Nov. 19, 2012).
243. *Ongoing Partner Relationships*, WOMEN UNLIMITED, INC., http://www.women-unlimited.com/about/partner_relationships.php (last visited Nov. 19, 2012).
244. *Id.*
245. *Diversity*, AMGEN, <http://www.amgen.com/careers/diversity.html> (last visited Nov. 19, 2012).
246. *Global Diversity*, APPLIED MATERIALS, <http://www.appliedmaterials.com/about/careers/diversity> (last visited Nov. 19, 2012).
247. *Women's Initiative Network*, BLACKROCK, <http://www2.blackrock.com/global/home/Careers/WorkplaceandCulture/WomensInitiativeNetwork/index.htm> (last visited Nov. 19, 2012).
248. *Diversity Leadership*, BOOZ ALLEN HAMILTON, <http://www.boozallen.com/about/diversity-inclusion/diversity-leadership> (last visited Nov. 19, 2012).
249. *Women's Network*, CBRE, <http://www.cbre.us/NetworkGroups/women/Pages/overview.aspx> (last visited Feb. 6, 2012).
250. Eve Tahmincioglu, *Mentors Can Help Women Shatter Glass Ceiling*, NBCNEWS, Nov. 19, 2006, <http://www.msnbc.msn.com/id/15488509/ns/business-careers/t/mentors-can-help-women-shatter-glass-ceiling/>.
251. WOMEN UNLIMITED, INC., *supra* note 243.
252. *ConAgra Foods Recognized for Innovation in Diversity*, BUS. WIRE., Aug. 10, 2010, http://media.conagrafoods.com/phoenix.zhtml?c=97518&p=irol-newsArticle_pf&ID=1458801.
253. *Group Makes a Difference for Women at Cummins*, CUMMINS, <http://www.cummins.com/cmi/navigationAction.do?nodeId=97&siteId=1&nodeName=A+Voice+for+Women&menuId=1050> (last visited Nov. 19, 2012).
254. *Diversity Within*, CVS CAREMARK, <http://info.cvscaremark.com/our-company/corporate-responsibility/diversity/diversity-within> (last visited Nov. 19, 2012).
255. *Diversity*, JOHN DEERE, http://www.deere.com/wps/dcom/en_US/corporate/our_company/careers/why_john_deere/diversity/diversity.page? (last visited Nov. 19, 2012).
256. *Leadership Development*, DELL, <http://content.dell.com/us/en/corp/d/corp-comm/cr-diversity-wf-leadership-dev> (last visited Nov. 19, 2012).
257. *Our Global Reach*, DELTA, http://www.deltajobs.net/our_global_reach.htm (last visited Nov. 19, 2012).
258. *Women's Innovation Network*, DOW, <http://www.dow.com/careers/diversity/environment/woman.htm> (last visited Nov. 19, 2012).

man Kodak,²⁵⁹ Ecolab,²⁶⁰ Freddie Mac,²⁶¹ Genworth Financial,²⁶² GM,²⁶³ Goldman Sachs Group,²⁶⁴ Graybar Electric,²⁶⁵ H.J. Heinz,²⁶⁶ Harris,²⁶⁷ Kraft Foods,²⁶⁸ Liberty Interactive,²⁶⁹ Liberty Mutual Insurance Group,²⁷⁰ McGraw-Hill,²⁷¹ MeadWestvaco,²⁷² Medco Health Solutions,²⁷³ Merck,²⁷⁴

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259. *Employee Networks (Resource Groups)*, KODAK, http://www.kodak.com/ek/US/en/Global_Sustainability/Global_Diversity/Employee_Networks.htm (last visited Nov. 19, 2012).
260. *Culture and Inclusion*, ECOLAB, <http://www.ecolab.com/our-story/our-company/culture-and-inclusion> (last visited Nov. 19, 2012).
261. *WIN*, FREDDIE MAC, <http://www.freddiemac.com/careers/diversity/win.html> (last visited Nov. 19, 2012).
262. *Feedback and Mentoring*, GENWORTH, http://www.genworth.com/content/non_navigable/corporate/employment/employment_development_program/feedback_and_mentoring.html (last visited Nov. 19, 2012).
263. *GM Diversity: Employee Resource Groups*, GENERAL MOTORS, http://www.gm.com/company/aboutGM/diversity/employee_resource_groups.html (last visited Nov. 19, 2012).
264. *Employee Affinity Networks*, GOLDMAN SACHS, <http://www.goldmansachs.com/who-we-are/diversity-and-inclusion/employee-affinity-networks.html> (last visited Nov. 19, 2012).
265. *Women Influencing Graybar's Success*, GRAYBAR, <http://www.graybar.com/careers/life-at-graybar/diversity/wings> (last visited Nov. 19, 2012).
266. *Careers at Heinz*, HEINZ, <http://www.heinz.com/our-company/careers.aspx> (last visited Nov. 19, 2012).
267. *Global Inclusion*, HARRIS, http://harris.com/corporate_responsibility/employee-resource-groups.aspx (last visited Feb. 6, 2012).
268. *Kraft Foods Recognized as a Top Employer for Latinas*, PR NEWSWIRE (Aug. 29, 2011) <http://www.prnewswire.com/news-releases/kraft-foods-recognized-as-a-top-employer-for-latinas-128595213.html>.
269. *Liberty Interactive Seeks New Class for Women's eCommerce Network*, LIBERTY INTERACTIVE CORP., June 29, 2012, <http://ir.libertyinteractive.com/releasedetail.cfm?ReleaseID=687864>.
270. *Affinity Partnerships*, LIBERTY MUTUAL INSURANCE, <http://www.libertymutualgroup.com/omapps/ContentServer?pagename-LMGroup/Views/LMG&ft=4&fid=1138356784427> (last visited Nov. 19, 2012).
271. Jason Forsythe, *Winning with Diversity*, N.Y. TIMES, 2004, <http://www.nytimes.com/marketing/jobmarket/diversity/mentoring.html>.
272. *Employee Networks*, MWV, <http://www.meadwestvaco.com/AboutUs/DiversityandInclusion/EmployeeNetworks/index.htm> (last visited Nov. 19, 2012).
273. WOMEN UNLIMITED, INC., *supra* note 243.
274. *A Sparring Partner for the Career Ladder*, MERCK, http://magazine.merckgroup.com/en/Life_and_Responsibility/Mentoring/career1.html (last visited Nov. 19, 2012).

NextEra Energy,²⁷⁵ PPL,²⁷⁶ Safeway,²⁷⁷ Sears Holdings,²⁷⁸ State Street Corp.,²⁷⁹ Symantec,²⁸⁰ UPS,²⁸¹ Visteon,²⁸² Williams.²⁸³

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275. *Diversity and Inclusion*, NEXTERA ENERGY, <http://www.nexteraenergy.com/careers/message.shtml> (last visited Nov. 19, 2012).
276. *Careers*, PPL CORPORATION, <http://www.pplweb.com/careers/why-ppl/many-faces-of-ppl.aspx> (last visited Nov. 19, 2012).
277. *Safeway Inc.—Championing Change for Women: An Integrated Strategy*, CATALYST (Jan. 11, 2006), available at <http://www.catalyst.org/publication/125/safeway-incchampioning-change-for-women-an-integrated-strategy>.
278. *Career Center*, SEARS HOLDINGS, http://www.searsholdings.com/careers/learnmore_diversity.php#an10 (last visited Nov. 19, 2012).
279. *Global Inclusion*, STATE STREET, http://www.statestreet.com/wps/portal/internet/corporate/home/aboutstatestreet/careers/globalinclusion!/ut/p/c4/04_SB8K8xLLM9MSSzPy8xBz9CP0os3i_0CADCyDRwOLAHcDA09vCwM300A3Y4MgM_3g1Lz40GD9gmxHRQBVz6wP/ (last visited Nov. 19, 2012).
280. *Diversity and Inclusion*, SYMANTEC, http://www.symantec.com/corporate_responsibility/topic.jsp?id=diversity_inclusion (last visited Nov. 19, 2012).
281. *Women's Leadership Development*, UNITED POSTAL SERVICE, <http://responsibility.ups.com/Diversity/Programs/Leadership+Development> (last visited Nov. 19, 2012).
282. *Employee Resource Groups*, VISTEON, <http://www.visteon.com/careers/diversityemp.html#7> (last visited Nov. 19, 2012).
283. *Diversity and Employee Relations*, WILLIAMS, <http://co.williams.com/williams/corporate-responsibility/diversity-employee-relations/> (last visited Nov. 19, 2012).