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UB'S WOMEN IN LAW: OVERCOMING BARRIERS DURING THEIR FIRST HUNDRED YEARS

MARJORIE L. GIRTH

I. The Centennial Conference

Reaching a significant milestone often causes an institution to reflect upon its history and to attempt to predict future developments. To celebrate having graduated women for 100 years, the University at Buffalo's Law School (hereinafter, UB) convened a Centennial Conference titled "Sisters in Law: A Century of Achievement at UB Law" in 1999.

The conference commemorated the pioneering achievements of the law school's first two female graduates, who were members of the class of 1899: Helen Z. M. Rodgers and Cecil Weiner. Helen Rodgers became a private practitioner and was the first woman to argue a case before New York State's highest court, the Court of Appeals. Cecil Weiner also practiced law before becoming the first judge of Erie County's Children's Court.\(^1\)

Although Helen Rodgers and Cecil Weiner were among the earliest women who practiced law in New York, they were not the first female graduates of a New York law school. In 1991, New York University had celebrated the centennial anniversary of its decision to admit women to its law school in 1891. Even earlier, in 1886, Kate Stoneman had become the first woman to be admitted to the bar in New York. Ms. Stoneman originally qualified for admission by passing the bar examination after studying law for two years in an Albany lawyer’s office. She later obtained her law degree from Albany Law School in 1898.

In addition to celebrating Helen Rodgers’ and Cecil Weiner’s path-breaking graduations, UB’s conference also honored its female graduates who followed Cecil Weiner’s lead and currently sit as judges in state and federal courts. Special citations were awarded to four alumnae whose judicial careers had proved...
to be exemplary: Hon. M. Dolores Denman, class of ‘65, who was the Presiding Justice of the Fourth Department of the New York Supreme Court’s Appellate Division, sitting in Rochester; Hon. Jacqueline M. Koshian, class of ‘59, a Justice of New York’s Eighth Judicial District’s Supreme Court, sitting in Niagara Falls; Hon. Rose D. LaMendola, class of ‘55, also a Justice of New York’s Eighth Judicial District’s Supreme Court, sitting in Buffalo, and Hon. Ann T. Mikoll, class of ‘54, who served as a judge of the New York Supreme Court’s Appellate Division, Third Department, sitting in Albany.

Analyzing female lawyers’ achievements in their historical contexts was another goal of the conference planners. The conference’s keynote speaker was Lorraine Dusky, author of Still Unequal: The Shameful Truth About Women and Justice in America. Ms. Dusky presented an illuminating analysis of the overall legal context in which female law graduates attempted to pursue their careers during the 20th century. More particularized recollections of life as female UB law students during that same period were offered by a panel of accomplished graduates: Lillian Cowan, of the class of ‘27, Hon. Mary Ann Killeen, class of ‘52, Hon. Betsy G. Hurley, class of ‘61, Hon. Rose Hamlin Sconiers, class of ‘73, Barbra A. Kavanagh, class of ‘83 and Tonya Guzman, class of 1999.

Additional information about life as a female law student at UB can be found in the Buffalo Law Review’s tribute to UB’s female graduates in the last one hundred years. It consists of recollections from or about Mary K. Davey-Carr and Phyllis Hubbard Wilkinson, who were the law review’s first female

supra note 1, at 94-95. An assessment of the experience of female law graduates who pursued careers in higher education is also beyond this article’s scope.

7 Justice Denman was the first woman to be a Presiding Justice in one of New York’s four appellate divisions when she was appointed in 1991. Her death soon after the Centennial Celebration produced a profound sense of loss throughout Western New York’s legal community. See Remembering M. Dolores Denman, 8 BUFF. WOMEN’S L.J.1 (1999-2000).


members during 1950-51; Barbara M. Sims, ‘55, who was the first African-American female graduate; and the eight women who have served as Editors-in-Chief of the law review.\textsuperscript{10}

The conference’s final segment consisted of a continuing legal education program that focused upon issues that are currently of critical importance for women generally. Its components were: 1) Access to Health Care; 2) Balancing Work and Family; 3) Women and Their Money; and 4) Workplace Rights. The following graduates were among those who made presentations: Shelley B. Mayer, ‘79 and Mary Anne Bobinski, ‘87 on health care; Ann Evanko, ‘79 and Sara Horowitz, ‘89 on balancing work and family obligations; Dianne Bennett, ‘75 on women’s handling of financial planning; and Winnie F. Taylor, ‘75, Hon. Elena Cacavas-Schleeting, ‘85 and Ginger Schröder, ‘90 on employment rights.

If Helen Rodgers and Cecil Weiner could return to UB’s Law School now, they would find significant institutional support for attention to women’s issues and a strikingly different number of female students. Overall enrollment of women at UB’s law school began to climb dramatically in the early 1970’s, from 63, or 10.3%, in 1971-72 to 215, or 26.9% in 1975-76.\textsuperscript{11} During that same period, Dr. Marjorie C. Mix, the law school’s first female assistant dean, encouraged the formation of an Association of Women Law Students, \textsuperscript{12} and a law school clinic that focused on issues of

\textsuperscript{10}Editorial Tribute: 100 Years of Women at the University at Buffalo, 47 BUFF. L. REV. 1131 (1999).
\textsuperscript{11} Percentages were calculated from data presented in SCHAUS & ARNONE, supra note 1, at 95 (1992). A similar “explosion” occurred in the numbers of women being admitted to law schools nationwide in the 1970’s. See also DUSKY, supra note 7, at 21; AMERICAN BAR ASSOCIATION COMMISSION ON WOMEN IN THE PROFESSION, WOMEN IN THE LAW: A LOOK AT THE NUMBERS 6 (1995) [hereinafter A LOOK AT THE NUMBERS].
\textsuperscript{12} Dean Mix later graduated from the law school as a member of the class of 1977. SCHAUS & ARNONE, supra note 1, at 187. She has served with distinction since 1993 as an Erie County Family Court Judge. Excerpts from her tribute in February 2000 to female legal pioneers in Western New York can be found at Marjorie Creola Mix, Lamplighters and Beacons, 8 BUFF. WOMEN’S L. J. 5 (2000).
particular concern to women was established.\textsuperscript{13} More recently, this journal, originally known as \textit{Circles}, was founded in 1992.\textsuperscript{14}

Following the 1970's, the numbers of female law students at UB continued to grow. By comparison to the first two women whose graduation in 1899 the conference celebrated, the number of female graduates in the five years preceding the centennial celebration was:

\begin{table}[h]
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\begin{tabular}{|c|c|c|c|c|c|}
\hline
\hline
Female graduates & 99 & 125 & 131 & 117 & 114 \\
\hline
\# of women entering three years earlier & 104 & 130 & 133 & 122 & 121 \\
\hline
women as % of students entering & 50\% & 49\% & 54\% & 46\% & 49\% \\
\hline
3 years earlier & 208\textsuperscript{15} & 264 & 248 & 268 & 248 \\
\hline
\end{tabular}
\end{table}

\textsuperscript{13} \textsc{schaus} \& \textsc{arnone}, supra note 1 at 95.

\textsuperscript{14} \textit{Circles} was published through Volume VI, after which its name was changed to \textit{Buffalo Women's Law Journal} in 1999.

\textsuperscript{15} After implementation of a new curriculum, the size of entering classes was reduced, beginning with those admitted for the fall semester of 1996 as members of the class of 1999. E-mail communications from Karen Waltz, Assistant Dean for Student Services and Registrar, UB Law School (February 21, 2000 and March 6, 2000) (on file with author).
Within this group, the number of minority female graduates in the same five years was:

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<tr>
<td>Minority graduates</td>
<td>26</td>
<td>22</td>
<td>24</td>
<td>21</td>
<td>24</td>
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<tr>
<td># of minority women entering three years earlier</td>
<td>25</td>
<td>21</td>
<td>28</td>
<td>21</td>
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By dramatically increasing the numbers of female law students since the 1970's, the experience at UB paralleled that of law schools nationwide. Compared to the data reported above, women constituted forty-four percent of the nation's entering law school classes in the 1993-94 academic year. These more recent female graduates will still face many serious challenges as they

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16 In other states, pressure through legislation and litigation attempted to require law schools to use only "objective" criteria such as Law School Admission Test scores and undergraduate grade point averages in admissions decisions. If successful, those efforts risked producing a significant decline in the racial and ethnic diversity of law school students. See Kimberle Williams Crenshaw, Reclaiming Yesterday's Future, 47 UCLA L. REV. 1459 (2000). Such effects were not yet visible at UB.

17 Various changes in plans can affect the comparison of those graduating with those who entered law school three years earlier in both of these charts. Some students may simply drop out of law school completely. Others may leave temporarily to pursue a joint degree program in a second university department. Still others may enter with the intention of pursuing a four-year, part-time program. Finally, individual women may have transferred in or out of the law school. E-mail communication from Karen Waltz, supra note 15, (April 11, 2000). Nationwide, the percentage of all minority law students in American Bar Association-accredited law schools totaled only 18 percent in 1993. Lewis A. Kornhauser & Richard L. Revesz, Legal Education and Entry into the Legal Profession: The Role of Race, Gender and Educational Debt, 70 N.Y.U. L. REV. 829, 860 (1995).

18 See A LOOK AT THE NUMBERS, supra note 11, at 6.
attempt to pursue their legal careers. For them, the experience of their predecessors has indeed been predictive.

II. The Contexts for Past Achievements

Since the 1890's, the women who became UB's female law students and graduates faced a distinctive set of challenges as they attempted to pursue their professional goals. Once they overcame barriers to access to legal education, reformers asserted that the structure and substance of law school education was limiting the female students' achievements. Later, the women who graduated faced barriers to employment in the profession. Once those initial hurdles were overcome, reformers sought to modify the profession's controlling values and performance expectations in an effort to enable female lawyers to achieve their full potential.

A. Gaining Admission to Law School

Obtaining access to legal education required great commitment from prospective female students in the late nineteenth century. Another example from New York state reveals how determined the opposition could be. In 1868, more than two decades before women were admitted to law schools at New York University and the University at Buffalo, Lemma Barkaloo applied for admission to Columbia University's law school. The law faculty's decision to deny her admission was repeated when other women applied to Columbia's law school throughout the first two decades of the twentieth century. Intense opposition from powerful leaders of the law faculty prevented women from being admitted to Columbia until 1927.

Women from racial and ethnic minorities faced even higher hurdles in their efforts to gain admission to law schools. The very

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19 Emma Barkaloo was not deterred by Columbia's rejection. She and Phoebe Couzins subsequently became the first female law students in the nation at Washington University's law department in Saint Louis. MORELLO, supra note 2, at 44-47.
20 See DRACHMAN, SISTERS, supra note 2, at 130-31.
21 See id. at 145.
few black women who had college degrees before 1890 shouldered the "double impairment" of race and gender that most admissions personnel perceived. As a result, the first black females attended law school at Washington, D.C.'s, Howard University, which had been created primarily to serve minority students.

Charlotte E. Ray, a student contemporary of Emma Barkaloo's, was Howard's first black female graduate. In 1872, Ms. Ray became the first black woman admitted to practice in the District of Columbia as well as the nation's first black female lawyer. More than fifty years later, in 1925, Clara Burrill Bruce was elected editor-in-chief of Boston University's law review, thereby becoming the first black law student in America to achieve such recognition.

Despite these early achievements, women from racial and ethnic minorities continued to face barriers to success in law

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22 Only approximately thirty black women had obtained college degrees by that time. See MORELLO, supra note 2, at 144.
23 See id. at 143.
25 See J. Clay Smith, Jr., Black Women Lawyers: 125 Years At The Bar; 100 Years In The Legal Academy, 40 HOW. L.J. 365, 366-72 (1997) [hereinafter Smith, Black Women Lawyers]. Professor Smith contests the assertion by Professor Drachman that Ray used her initials, C.E., on her admissions application to avoid any discrimination against women that might persist. See DRACHMAN, SISTERS, supra note 2, at 45. Instead, he explains that many black Americans developed the practice of using initials in order to make it impossible for whites to call them by their first names. See Smith, Black Women Lawyers, infra note 27, at 370.
26 See id. at 365. A pleading filed by Charlotte E. Ray in a divorce case is the first of her signed legal documents to have been discovered. J. Clay Smith, Jr., Charlotte E. Ray Pleads Before the Court, 43 HOW. L.J. 121, 122-25 (2000).
27 Ms. Bruce had been elected to the law review's editorial board the previous year, one of "at least a dozen" black students who became law review editors in the nation before 1945. See J. CLAY SMITH, JR., EMANCIPATION: THE MAKING OF THE BLACK LAWYER 1844-1944, 39 (1993) [hereinafter SMITH, EMANCIPATION].
school during the most recent fifty years. In 1994, the American Bar Association’s Multicultural Women Attorneys Network reported that "[l]aw school is not a hospitable place for multicultural women." Women who participated in the Network’s programs reported that they faced a continuing "battle against the credibility problem, which encompasses both the phenomenon of invisibility and the presumption of incompetence." It seemed as if little had changed in the typical multicultural woman’s experiences as a law student in the 125 years since Charlotte Ray matriculated at Howard University’s law school.

Even more recently, the ABA’s Commission on Women in the Profession reported that multicultural students were reporting increasing attacks on their "right" to be law students, based upon others’ perception that their admission resulted from an affirmative action policy that admitted unqualified individuals. The multicultural students also decried some professors' attempts to treat them as the "spokesperson" for their own ethnic group or for minorities in general.

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28 For a discussion of the complex societal framework within which law students from ethnic minorities were attempting to succeed during the late 1960’s and early 1970’s, see WALTER J. LEONARD, BLACK LAWYERS 17-28 (1977).

29 A.B.A., THE BURDENS OF BOTH, THE PRIVILEGES OF NEITHER 11 (1994) [hereinafter BURDENS OF BOTH]. This report was a joint project of the ABA Commission on Women in the Profession and The Commission on Opportunities for Minorities in the Profession.

30 Id.

31 Exceptions may exist to this general rule. For example, see the report of an interview with Jacqueline Guild, who graduated from Boston’s Portia Law School in 1933 in RONALD CHESTER, UNEQUAL ACCESS: WOMEN LAWYERS IN A CHANGING AMERICA 27-29 (1985).

32 See A.B.A., ELUSIVE EQUALITY: THE EXPERIENCES OF WOMEN IN LEGAL EDUCATION 13 (1996). For an argument that affirmative action employing factors in addition to Law School Aptitude Test scores and the undergraduate grade point averages in admissions decisions at the University of Michigan’s law school proved to be so predictive of professional achievement in the long run that it should be extended to all admissions decisions, see Lani Guinier, Confirmative Action, 25 LAW & SOC. INQUIRY 565, 569-75 (2000).

33 See ELUSIVE EQUALITY, supra note 32, at 14.
For white women, gender-segregated law classes had for brief periods of time provided the first access to legal education other than instruction through apprenticeship. During the 1890's the Women’s Legal Education Society offered a women's law class under the sponsorship of New York University. Similarly, Ellen Spencer Mussey and Emma Gillett created a women’s law class in 1896 before incorporating the Washington College of Law in the District of Columbia in 1898.

Just as Howard University had been created primarily to educate minority students, the Washington College of Law was created primarily to educate women. Nonetheless, the law school was founded upon a coeducational basis, because both founders were committed to women’s equality with men. Eleven years later, in 1909, the decision to have a coeducational format produced its first majority of male students. Thereafter, female students resumed their majority status, but only until 1914, so that the Washington College of Law primarily served female students for a relatively brief period of time after its inception. The next class with a female majority did not occur until 1982.

At almost the same time, in 1908, the Portia Law School was founded in Boston. Ten years later, Portia became the nation's only degree-granting law school exclusively for women when the Massachusetts legislature permitted it to grant LL.B.

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34 See MORELLO, supra note 2, at 77-83.
35 For a description of Ms. Mussey's and Ms. Gillett's prior experience, see DRACHMAN, SISTERS, supra note 2, at 150-52.
37 See id. It has since become the law school of American University.
38 See id. at 647-50.
39 Id. at 654.
40 It is now the New England School of Law. See CHESTER, supra note 31, at 9.
degrees.\textsuperscript{41} It continued to operate exclusively as a school for women until 1938.\textsuperscript{42}

Except for these few experiments at law schools designed primarily or exclusively to serve female students, the challenge of achieving women's access to legal education had to be pursued persistently by individual women at previously all-male institutions. As indicated above, significant numbers of women did not achieve admission until the 1970's.\textsuperscript{43}

**B. Women's Performance in Law School**

Although exclusionary hurdles to admitting women were gradually overcome nationwide, scholars soon noted further obstacles to women's success in law school. Reports of female law students' alienation from the dominant male culture in law school classrooms began to be published in the late 1980's and continue to the present time.

The comparative silence of female students in law school classes was the focus of some of the earliest research. Empirical data gathered in pilot and expanded studies by Professor Taunya Lovell Banks revealed that women in her sample "seldom or never volunteered in class" significantly more frequently than men and that their participation decreased over time.\textsuperscript{44} The female students attributed their lack of participation to discouraging behavior, including sexist comments, by their professors and to hostility from some of their male classmates.\textsuperscript{45}

\textsuperscript{41} See id. at 21-23.
\textsuperscript{42} During 1915, the Cambridge Law School for Women, which required that its applicants be college graduates, also was founded in the Boston area. Because it existed for only one year, the Cambridge Law School for Women did not have a serious impact upon the Portia School of Law's success. See id. at 12.
\textsuperscript{43} See supra note 11 and accompanying text.
\textsuperscript{44} Taunya Lovell Banks, \textit{Gender Bias in the Classroom}, 38 J. LEGAL EDUC. 137, 139-40 (1988). Her subsequent study is summarized at Taunya Lovell Banks, \textit{Gender Bias in the Classroom}, 14 S. ILL. U.L. J. 527 (1990) [hereinafter Banks, \textit{Expanded}].
\textsuperscript{45} See Banks, \textit{Expanded} at 530-33. Lorraine Dusky also reports a series of memorable anecdotes revealing explicit hostility to women's presence or participation. See DUSKY, supra note 8, at 32-40. Similar anecdotes appear at
The female law students' disproportionate silence was soon attributed to alienation.\(^46\) In addition to the evidence that women were alienated from the techniques used in law school classes, other contemporary researchers suggested that they were also alienated from themselves, as revealed by lowered self-esteem,\(^47\) and from the wider communities of which they were members.\(^48\) Among the most important individuals in those communities were the law faculty members whose assessment would be critical to the women's academic success and subsequent employment.\(^49\)

Some scholars then turned their attention to the question of whether the female law students' reported alienation impaired their academic performance. Researchers pursuing this issue attempted to increase the use of statistical analyses of empirical data, by contrast to the qualitative approach of earlier research based upon interviews or recollections of various aspects of law school life.

One empirical approach was to compare the female students' academic performance with that which their entering credentials would have predicted. The only nationwide report to

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\(^46\) See Catherine Weiss & Louise Melling, The Legal Education of Twenty Women, 40 STAN. L. REV. 1299, 1302 (1988) (discussing the experiences of twenty women in Yale Law School's class of 1987). A decade later, the experiences of twenty women in Yale Law School's class of 1997 were recorded and analyzed, producing similar results. See Paula Gaber, Just Trying To Be Human In This Place, 10 YALE J. L. & FEMINISM 165, 166-72 (1998).

\(^47\) Alienation is not felt solely by female law students. See Jennifer Gerarda Brown, Apostasy?, 75 CHI-KENT L. REV 837, 842-43 (2000) [hereinafter Brown, Apostasy?].


\(^49\) See Weiss & Melling, supra note 46, at 1321-32.
date is based upon the Law School Admission Council's longitudinal study of the academic undergraduate and law school records of 29,000 first-year law students at ABA-accredited law schools in 1991. That study came to the very tentative conclusion that "while women tend to do less well in law school than would be predicted by their undergraduate records, men may tend to do better." An earlier study of Stanford law students and graduates was firmer in its repeated conclusion in various contexts that "few statistically significant differences between the responses of female and male students, or between the responses of female and male graduates" were found.

Elsewhere, the discrepancy between male and female law students' performance was reportedly more dramatic. At the University of Pennsylvania, Professors Lani Guinier, Michelle Fine and Jane Balin drew considerable attention by publishing the results of their survey of students from the University of Pennsylvania's law classes of 1987-92. Their findings included the following: 1) if men and women entered Penn's first year class with identical academic credentials, the men were "three times more likely than women to be in the top 10% of the class" after completing one year of law school; 2) although women entered law school with a disproportionate commitment to professional

51 Id. at 23. For a thorough analysis of Wightman's results, see Sarah Berger et al., "Hey! There's Ladies Here!!", 73 N.Y.U. L. REV. 1022, 1041-47 (1998).
52 Janet Taber et al., Project: Gender, Legal Education, and the Legal Profession: An Empirical Study of Stanford Law Students and Graduates, 40 STAN. L. REV. 1209, 1238 (1988). The authors surveyed all law students enrolled at Stanford in December, 1986, and 1528 graduates, including all 764 living female law graduates. Id. at 1232. For a critique of this project's methodology, see Suzanne Homer & Lois Schwartz, Admitted but Not Accepted: Outsiders Take an Inside Look at Law School, 5 BERKELEY WOMEN'S L. J. 1, 13-16 (1989).
public interest endeavors by comparison to their male counterparts, the women who graduated had "corporate ambitions and some indications of mental health distress."54

An effort to confirm the results of the University of Pennsylvania study was subsequently undertaken at Brooklyn Law School. As one measure, the authors compared the percentages of male and female law students in the graduating classes from 1990-1995 with the percentages of male and female students who had performed with distinction in various contexts during those years. Those comparisons produced a conclusion that "[w]omen at Brooklyn law school did every bit as well as men."55 But when the authors surveyed their sample graduates concerning class participation, "inappropriate treatment based upon gender," and their feelings about the law school experience in general, gender differentials again appeared.56

When the focus became the experience of minority female law students, the data were even more discouraging. The national Law School Admission Council study reported that females from racial and ethnic minorities were under-performing in law school even more seriously than their white counterparts.57 Other writings yield qualitative recollections of black and Latina females' law school experiences, confirming the depth of their alienation.58

54 Id. at 3.
55 Marsha Garrison et al., Succeeding in Law School: A Comparison of Women's Experiences at Brooklyn Law School and the University of Pennsylvania, 3 MICH. J. GENDER & L. 515, 523 (1996). The overall contexts of the two studies were dissimilar because the Brooklyn Law School had already implemented a number of the revised practices that had been suggested for the University of Pennsylvania. Id. at 518-19.
56 See id. at 524-25, 528-30. A more optimistic assessment of the ability to create supportive environments for female and minority law students can be found in Judith D. Fischer, Portia Unbound: The Effects of a Supportive Law School Environment on Women and Minority Students, 7 UCLA WOMEN'S L.J. 81 (1996). However, it is not possible to know whether these findings could be sustained over time, because the data were collected from law students near the end of the first year for Chapman Law School's initial class. See id. at 95-96.
57 Data were gathered for Asian-American, black, Mexican, and 'other Hispanic' minority students. See WIGHTMAN, supra note 50, at 23-25.
58 See GUINIER ET AL., BECOMING GENTLEMEN, supra note 45, at 85-87; Maureen Ebben & Norma Guerra Gaier, Telling Stories, Telling Self: Using
Ultimately, scholars will need to undertake further research using truly comparable methodologies if we are to understand fully the reasons for female law students' apparently dissimilar experience from that of their male counterparts. But the results to date have already triggered two kinds of recommendations: 1) that creating a law school exclusively for women should again be seriously considered; and 2) that the classroom culture of law school education should be challenged fundamentally.

C. The Challenge of Transforming Legal Education

One strand of feminist scholarship tries to identify the theoretical basis of such a challenge. Achieving agreement on the underlying theory supporting feminist goals has long eluded scholars in this field. Early efforts sought to attain "equal" treatment for women and men; more recent work has asserted


59 Wightman and the authors of the Brooklyn Law School study are among those who specifically recommend further research on the reasons why female students seem to be under-performing in law school. WIGHTMAN, supra note 50, at 27; Garrison, et al., supra note 55, at 543.

60 See Jennifer Gerarda Brown, To Give Them Countenance: The Case for a Women's Law School, 22 HARV. WOMEN'S L.J. 1 (1999) [hereinafter Brown, To Give Them Countenance]. A recent law student's report of her own experiences, with recommendations for implementing Professor Brown's concept, can be found in Melissa Cannady, Giving Women an Equal Opportunity to Succeed in Law School (unpublished manuscript, on file with the author). Ms. Cannady is a graduate in the class of 2000 from Georgia State University's College of Law. More recently, Professor Brown has voiced doubts about her proposal for a women's law school and has suggested that it might be only a temporary strategy for delivering legal education. See Brown, Apostasy?, supra note 46, at 845-46.

61 A thorough consideration of the substance of these divergent views can be found at Banu Ramachandran, Note, Re-Reading Difference: Feminist Critiques of the Law School Classroom and the Problem with Speaking from Experience, 98 COLUM. L. REV. 1757, 1762-70 (1998).

62 Professor Lani Guinier reminded us that "sameness is not necessarily fairness" in fact or as perceived by individuals whose experience is different from our
that essential differences between women and men must be acknowledged and respected.63

Professor Judy Scales-Trent advocates a third perspective, that of teaching students about the "sameness" and "difference" that are reflected simultaneously when they compare their experiences with those in others' lives.64 She believes that a focus upon differences "only reinforce[s] the categories that separate us" whereas her goal is to "engender feelings of community."65

Other scholars focus on what they consider to be essential changes in law school pedagogy if female students are to function in a supportive environment. Some focus on the structure and priorities of legal education, and call for less hierarchical,

own. GUINIER ET AL., BECOMING GENTLEMEN supra note 45, at 11. For Ms. Ramachandran, "equality" theory insofar as it would affect law classroom experience could result in female students' "settling for equal treatment within an undesirable status quo." See Ramachandran, supra note 61, at 1774.

63 Professor CAROL GILLIGAN, IN A DIFFERENT VOICE: PSYCHOLOGICAL THEORY AND WOMEN'S DEVELOPMENT (1982) received extensive attention as a symbol of the shift in attention from "equality" to "difference" theory. Ms. Ramachandran also does not accept "difference" theory as an acceptable basis for reform, because the effort to identify basic "differences between women and men ... tends to obscure differences among women." Ramachandran, supra note 61, at 1775. She also distrusts experiential critiques in this context, because of the risk that the recorded experiences of some female law students might come to be understood as a reflection of the experience of all women in law school. Id. at 1768-70.

64 See Judy Scales-Trent, Sameness and Difference in A Law School Classroom: Working at the Crossroads, 4 YALE J. L. & FEMINISM 415 (1992) [hereinafter Scales-Trent, Sameness and Difference] Prof. Scales-Trent joined UB's law faculty in 1984 and currently serves as a tenured full professor. She must confront issues of simultaneous sameness and difference on a daily basis in her own life, because she is black, but appears to many people to be white. See Judy Scales-Trent, Commonalities: On Being Black and White, Different and The Same, 2 YALE J. L. & FEMINISM 305 (1990) [hereinafter Scales-Trent, Commonalities]; JUDY SCALES-TRENT, NOTES OF A WHITE BLACK WOMAN: RACE, COLOR, COMMUNITY (1995).

65 Scales-Trent, Sameness and Difference, supra note 64, at 415. Resistance to achieving this goal can come from privileged students who do not wish to acknowledge that they share similarities with those who are denied the same privileges. See id. at 437.
authoritarian training in adversary methods.\textsuperscript{66} Others focus on substance and seek significantly more coverage of feminist,\textsuperscript{67} antiracist\textsuperscript{68} and anti-homophobic perspectives,\textsuperscript{69} as well as more attention to training for handling the emotional and ethical aspects of problem-solving in a legal context.\textsuperscript{70}

Reports of individual professors' strategies for producing a more supportive educational environment are also accumulating. These include efforts: 1) to reduce the disproportionate silence displayed by female students in class discussions;\textsuperscript{71} 2) to integrate


\textsuperscript{67} Professor Grace Blumberg, who was a member of UB's law faculty from 1974-77, urges a return to the early-1970's strategy of "reconceptualizing all [law school] subjects to include women's issues and to reflect women's concerns" instead of the more recent emphasis upon the feminist jurisprudential debate, which she believes has a marginalizing effect. Grace Ganz Blumberg, Women and the Law: Taking Stock After Twenty-Five Years, 6 UCLA Women's L.J. 279, 281 (1996); see also Mary Irene Coombs, Non-Sexist Teaching Techniques in Substantive Law Courses, 14 S. Ill. U. L.J. 507, 509-19 (1990); Ramachandran, supra note 61, at 1792-93.


\textsuperscript{70} See Rhode, Missing Questions, supra note 66, at 1558-62; Torrey et al., supra note 45, at 307-08.

\textsuperscript{71} See Stephanie M. Wildman, The Question of Silence: Techniques To Ensure Full Class Participation, 38 J. Legal Educ. 147 (1988). Minority students also become silent when issues of concern to them are treated as irrelevant. See Crenshaw, Foreword, supra note 68, at 50 (concerning the methodology that she
issues that women will find relevant in traditional courses across the curriculum, such as those concerning Torts, Property, Contracts and Tax; 3) to use courses to illustrate power relationships within the profession and how to disrupt them; and 4) to design courses that explore issues of sameness and difference across various ethnic minorities in fields where convergence of gender and racial discrimination occurs regularly, such as employment discrimination.

Moreover, advice exists about "micro-level" strategies that students can use themselves to create a more supportive educational environment and about "macro-level" mass approaches that might be required of all law schools, law professors, and


See Elizabeth M. Schneider et al., 'Feminist Jurisprudence' – The Myra Bradwell Day Panel, 1 Colum. J. Gender & L. 5, 17-24 (1991). This segment was authored by Prof. Lucinda Finley, who joined the UB Law School faculty in 1989 and currently serves as a tenured full professor. See also Mary Jo Eyster, Integrating Non-Sexist/Racist Perspectives Into Traditional Course and Clinical Settings, 14 S. Ill. U. L.J. 471 (1990).


See Guinier et al., Becoming Gentlemen, supra note 45, at 95-97.

See Scales-Trent, Sameness and Difference, supra note 64, at 433-38 (discussing a seminar titled "Legal and Policy Issues Affecting Women of Color").

See id. at 430-33.
students.\footnote{Torrey et al., supra note 45, at 298-309.} None of these scholars anticipates an early resolution to problems now inherent in law school pedagogy for women. We can anticipate that reformist efforts to transform legal education will continue to be needed for the foreseeable future.

D. Gaining Access to Employment

Gaining admission to law school was the first significant challenge for female students who wished to obtain legal training in a university rather than an apprenticeship context. Those who overcame that barrier and graduated encountered another high hurdle: finding legal employment.\footnote{Earlier, a number of the first female lawyers each had to struggle to gain admission to her state’s bar. Barbara Allen Babcock, Feminist Lawyers, 50 STAN. L. REV. 1689, 1689-94 (1998) (reviewing VIRGINIA DRACHMAN, SISTERS IN LAW: WOMEN LAWYERS IN MODERN AMERICAN HISTORY (1998)).} Since the late 19th century, when UB Law School’s first female students graduated, women’s struggles in the context of obtaining their legal education proved to be valid predictors of the obstacles they would encounter in their efforts to practice their chosen profession.

In the late nineteenth century and early decades of the twentieth century, some female law graduates practiced with their husbands.\footnote{See, e.g., the profiles of Ada Matilda Cole Bittenbender and Mary Emily Humphrey Haddock in VIRGINIA DRACHMAN, WOMEN LAWYERS AND THE ORIGINS OF PROFESSIONAL IDENTITY IN AMERICA 211-13, 231-33 (1993) [hereinafter DRACHMAN, WOMEN LAWYERS].} Others attempted to practice law in association with female lawyers who were their contemporaries as law graduates, or tried to obtain clerkships in female lawyers’ firms.\footnote{See Phyllis Eckhaus, Restless Women: The Pioneering Alumnae of New York University School of Law, 66 N.Y.U. L. REV. 1996, 2001 (1991).} Taking a clerkship in male lawyers’ firms was a more problematic first step. Female lawyers in such offices were often assigned to research or stenographic assignments. Consequently, they did not obtain the courtroom experience that often proved to be essential if female
lawyers were going to make a successful transition to their own private practice.\textsuperscript{81}

Deans and faculty members in female students' law schools often dispensed discouraging, but accurate, advice to the effect that jobs as lawyers in the larger, mainstream lawyers' offices would be virtually impossible for women to attain. For some women who become employed as lawyers, salary inequities by comparison to their male counterparts soon became obvious.\textsuperscript{82}

By 1920, this combination of circumstances produced a situation in which almost one-third of the female lawyers were solo practitioners, while only twenty percent were associated with or a partner in a law firm. Another twenty percent of the female lawyers were evenly divided between legal work for federal, state and local governments, and staff attorney positions for businesses.\textsuperscript{83}

Between 1910 and 1920, social and legislative reform efforts often consumed substantial amounts of the attention and energy of a number of these early female lawyers, including some whose participation in the profession itself was constrained.\textsuperscript{84} A particularly active group of early graduates from New York University initially championed the causes of women's suffrage

\textsuperscript{81} See Drachman, Sisters, supra note 2, at 185. With litigation experience for women so difficult to achieve, white male lawyers effectively enjoyed that specialty without competition from their female counterparts. Virginia G. Drachman, The New Woman Lawyer and the Challenge of Sexual Equality in Early Twentieth-Century America, 28 Ind. L. Rev. 227, 236 (1995), [hereinafter Drachman, The New Woman Lawyer]. For a discussion of the earliest female lawyers who gained renown through courtroom experience, see Morello, supra note 2, at 178-79. The experience of the twenty women who were the earliest female members of the U.S. Supreme Court bar is analyzed by Mary L. Clark, The First Women Members of the Supreme Court Bar, 1879-1900, 36 San Diego L. Rev. 87 (1999).

\textsuperscript{82} See Morello, supra note 2, at 198. Only rarely did an experienced male lawyer who was not a relative facilitate a women's entry into the profession. See the profile of Emma Millinda Gillett in Drachman, Women Lawyers, supra note 79, at 222-24.

\textsuperscript{83} See Drachman, Sisters, supra note 2, at 182, 259-60 tbl. 14.

\textsuperscript{84} See Morello, supra note 2, at 117. For examples of women who faced gender and ethnic discrimination in their employment searches in New York City, see Drachman, Sisters, supra note 2, at 216-17.
and birth-control reform before turning their attention to efforts to promote the pacifist movement after World War I began.  

Networking with other female lawyers also provided early support, as it continues to do today. Correspondence between members of the Equity Club illuminates the experiences of nineteenth century female lawyers who reached out to each other across state lines. The Women Lawyers’ Club in New York, founded in 1899, played a similarly supportive role at a time when New York City’s bar association excluded women from membership.  

In an effort to reach female lawyers beyond New York’s borders, the Women Lawyers’ Club of New York established the Women Lawyers’ Journal in 1911. That publication featured advice about establishing and managing a law practice. It also contained information about which bar associations were admitting women to membership and other professional issues of interest to its subscribers. Later in that decade another supportive strategy emerged when women founded The Bureau of Vocational Information. Their goal was to document women’s experience in the legal profession, so that those who were interested in these developments, including guidance counselors, could give advice based upon survey data rather than upon unsupported assumptions.  

As the nation entered the 1920’s, these combined strategies seemed to reflect gathering momentum toward women’s full

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85 See id. at 131-36; see also Eckhaus, supra note 80, at 2002-12.
86 For letters sent by members of the Equity Club from 1887-90, see DRACHMAN, WOMEN LAWYERS supra note 79, at 41-203.
87 Female lawyers soon founded similar organizations in the District of Columbia, Illinois, Massachusetts and Milwaukee. DRACHMAN, SISTERS, supra note 2, at 234-35. The Women Lawyers’ Club evolved into the National Association for Women Lawyers in 1923. For a discussion of its activities in its first 100 years, see Selma Moidel Smith, Women Lawyers: A Century of Achievement (Pts. 1 & 2), 9 FALL EXPERIENCE 6 (1998), 9 WTR EXPERIENCE 24 (1999). Efforts to achieve women’s suffrage and rights for women to serve on juries, as well as to end child labor and dismantle "protective employment laws" that disadvantaged women were among its early priorities. Id. (Pt. 1) at 7-9.
88 See DRACHMAN, SISTERS, supra note 2, at 235-36.
89 See id. at 168-69.
participation as members of the legal profession. Instead, success in obtaining suffrage in 1920 appeared to take the steam out of the earlier momentum in this specific context and in the women's movement more generally, at least temporarily.

Women remained a very small proportion of the legal profession throughout the next forty-five years. The economic depression of the late 1920's and 1930's made it even more difficult for female lawyers to succeed in private practice, a challenge that was offset to some extent by increasing opportunities to serve as lawyers for the federal government. However, these legal jobs with New Deal agencies were viewed as prized appointments. Unless a woman had significant political connections, she had little chance of being selected for a legal position during the 1930's, because of widespread sex discrimination in the hiring decisions.

It was the U.S. involvement in World War II in the early 1940's that made federal legal positions more attainable by female lawyers, who were still available, after their male counterparts left for military service.

Until the mid-1950's, the details of the post-war experience of female lawyers attracted little attention as a focus of academic research. Interest revived with the publication in 1967 of Professor James J. White's article entitled Women in Law. In October, 1965, Professor White attempted to survey all of the female law

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90 See Chester, supra note 31, at 16.
92 Women's enrollment in U.S. law schools did not reach more than five percent until 1968-69. See A Look at the Numbers, supra note 11, at 6 (1995).
93 See Chester, supra note 31, at 17.
95 See the profiles of Gladys Shapiro, Nadine Lane Gallagher, Helene Lawrence and Charlotte Slavitt in Chester, supra note 29, at 37, 39-40, 48-49, 82.
graduates and an approximately equivalent number of male graduates for the classes from 1956 through 1965 at the 108 accredited law schools that agreed to cooperate with his study. Although Professor White was careful to caution readers about the limits upon the representativeness of his sample, his data did suggest significant differences in the experience of his male and female subjects.

Once interest had revived, those who had decided to assess, (and, if necessary, to challenge) hiring practices pursued various strategies. During the 1970's some female law students organized to monitor recruitment practices at their schools, with those at Columbia and at New York University among the leaders in this effort. Columbia's Employment Project subsequently filed discrimination complaints against ten of the largest law firms in New York City. Class action litigation that ensued in New York and elsewhere produced settlement agreements that attempted to assure that female law graduates would have an equal opportunity to obtain entry-level jobs and work assignments. By 1994, the American Bar Association's Commission on Women in the Profession was able to report that "the employment market for women has changed dramatically [in the last thirty years]" and that "many of the entry-level employment gaps between women and men are being closed, particularly for white women law graduates."

97 See id. at 1052-53.  
98 See id. at 1053, 1083-84.  
99 For example, the men in his sample had a more than 2-to-1 advantage in obtaining first jobs with law firms consisting of between 5 and 30 lawyers, while the women had an almost 2-to-1 advantage in beginning their legal careers in state or local government positions. See id. at 1058 exhibit 3.  
100 See MORELLO, supra note 2, at 209-10.  
101 See id. at 211-14.  
102 AMERICAN BAR ASSOCIATION COMMISSION ON WOMEN IN THE PROFESSION, OPTIONS AND OBSTACLES: A SURVEY OF THE STUDIES OF THE CAREERS OF WOMEN LAWYERS 2 (1994). This study evaluated the data published in a wide array of contexts from the early 1980's through the early 1990's. Its appendices include: 1) data published by the National Association for Law Placement in its Employment Reports and Salary Surveys for the law classes of 1983 through 1992; and 2) an extensive bibliography of other sources from which its conclusions were drawn.
Female law graduates from ethnic minorities faced even more resistance in their quest for legal employment.\textsuperscript{103} U.S. Census data first revealed the existence of ten black female lawyers in the occupational reports produced by the Twelfth Census in 1900.\textsuperscript{104} By 1910, census reports indicated that the number of black female lawyers had dropped to two, while simultaneously reporting that twenty-one black women were abstractors, who "summarized legal documents and facts that appeared on the public records that affected title to land."\textsuperscript{105} Whether any of the abstractors were lawyers was not revealed.

Through 1940, the reported number of black female lawyers grew at a glacial pace to four in the 1920 census,\textsuperscript{106} seven in the 1930 census from New York and the District of Columbia,\textsuperscript{107} and thirty-nine in the 1940 census from fifteen states.\textsuperscript{108} With such small numbers, each pioneering black female lawyer's experience was essentially idiosyncratic. Academic references to these

\textsuperscript{103} As of this writing, much more information exists about black female lawyers than about their Latina, Asian or Native American counterparts. For invaluable scholarship about the experience of black lawyers in general, and black female lawyers in particular, I am deeply indebted to the publications of Professor (and former Dean) J. Clay Smith, Jr., of the Howard University Law School, whose works will be cited repeatedly throughout this section. See generally, Smith, \textit{Black Women Lawyers}, supra note 25.


\textsuperscript{105} See Smith, \textit{Emancipation}, supra note 27, app. 2 at 627 tbl. 7.

\textsuperscript{106} See id. app. 2 at 630 tbl. 7.

\textsuperscript{107} A tabular report on female lawyers appeared for the first time in the Fifteenth Census, but reported "Negro female lawyers" only in the District of Columbia (4) and New York (3). Id. app. 2 at 632. An unnumbered footnote that follows entitled "Totals - Lawyers, judges, and justices" and compiled from the same census lists a category of "All Negro females: 24." Id. app. 2 at 633. It is not possible to know the reason for this discrepancy, although even today, some "judges" and "justices" (of the peace, for example) do not have to be lawyers.

\textsuperscript{108} Id. app. 2 at 635-36 tbl. 13. Two female lawyers of "other (than white or black) races" were also acknowledged for the first time in this census table.
pioneers have only recently become available,\textsuperscript{109} and the potential for more in-depth scholarship about their professional and personal lives remains enormous.\textsuperscript{110}

Unlike the early white female lawyers who sometimes practiced law with each other, the successful black female lawyers more often had black male lawyers as mentors. Some were their fathers or husbands, who were themselves accomplished members of black social elites.\textsuperscript{111} Others were black male lawyers who

\textsuperscript{109} As a feature of Prof. Smith's analysis for each state, early black female lawyer pioneers in New York are described in Smith, Emancipation. \textit{Id.} at 404-07. They include Jane M. Bolin who became both the first black female lawyer to be appointed as an Assistant Corporation Counsel of the City of New York and the first black female judge in the nation when Mayor Fiorello LaGuardia appointed her to the city's Domestic Relations Court in 1939. \textit{Id.} at 405-06. The fact that Prof. Smith routinely described the women's experiences at the end of each state's analysis and did not separately analyze "the particular struggles they faced" was dismaying to at least one reviewer. Dorothy A. Brown, \textit{Faith or Foolishness}, 11 Harv. Blackletter L.J. 172 (1994). Prof. Smith's more recent publications have provided invaluable information about the black female lawyers' experiences in this country. For additional cameo descriptions, see Smith, \textit{Black Women Lawyers}, supra note 25, at 366-79. He also published an intriguing compilation of the writings of pioneering black female lawyers. J. Clay Smith, Jr., \textit{Rebels in Law: Voices in History of Black Women Lawyers} (1998) [hereinafter Smith, Rebels]. This compilation includes the works of Judge Constance Baker Motley, Gloria E. A. Toote, Cora T. Walker and Ambassador Barbara Mae Watson of the New York bar. \textit{Id.} at 41, 169, 111, 249 respectively. Prof. Smith's selections have been commended as "rich with interest and complexity" and reflective of the "range and diversity in concerns, conclusions, and writing styles" of the women whose writings are included. Susan D. Carle, \textit{Women in Law}, 8 Am. U.J. Gender Soc. Pol'y & L. 797 (2000) (reviewing J. Clay Smith, Jr., \textit{Rebels in Law: Voices in History of Black Women Lawyers} (1998)).


\textsuperscript{111} See Drachman, \textit{Sisters}, supra note 2, at 220.
employed them or who made their libraries available to black women who were studying for admission to the bar.112

Throughout the twentieth century black female lawyers were active in the civil rights movement, often playing leadership roles.113 Black lawyers had long been interested in such issues, as reflected in the path breaking jurisprudential work, *Justice and Jurisprudence*, which a black organization known as The Brotherhood of Liberty published in 1889.114 However, commitment to, and notable successes in, the struggle for civil rights risked creating a very detrimental side effect. That risk was the perception that black lawyers would be viewed as having potential exclusively or primarily as civil rights' or public interest lawyers.

Available data for the first jobs of 1993 American law graduates reveal that "multicultural" women still are disproportionately beginning their careers in public service employment. They entered government service (20.8%) at nearly twice the rate of white women (12.4%) and white men (11.4%), and they undertook public interest law (6.3%) nearly five times as often as white men (1.2%) and more than twice as often as white women (2.8%).117 While systematic data about their treatment in

113 See id. at 386-90. For a discussion of the "multiple consciousness" that such work required of one of its able practitioners, see GUINIER ET AL., *BECOMING GENTLEMEN*, supra note 45, at 87-89.
116 An example of the protective strategy that resulted from such limited options can be found at DUSKY, *STILL UNEQUAL*, supra note 8, at 154.
117 See THE BURDENS OF BOTH, supra note 29, at 15. As women from additional ethnic groups (including Latinas, Asians, Native Americans and Alaska Natives) have entered the legal profession, aggregate data are frequently reported in "non-white" or "multicultural" categories, so that no one is excluded. Multicultural women constituted 11.9%, or 21,691, of the total of 182,745 female lawyers reported by the 1990 census. Among the multicultural women, blacks were 50.7%, Latinas 29.0%, Asians, 18.0%, Native Americans and Alaska Natives 2.1% and "Other" 0.3%. See the explanatory text in SMITH, REBELS, supra note
the profession are not available, multicultural female attorneys report a continuing struggle to gain recognition, credibility and respect. The possibly distinctive experience of female lawyers from ethnic minorities other than blacks in the American legal profession is now beginning to receive significant scholarly attention. Recent efforts to chronicle Latina lawyers' experiences by using their narratives reveal a complex struggle to overcome inhibiting barriers interposed by those who see the Latinas as "outsiders" to the profession by virtue of their gender, ethnicity and culture.

The growth in the percentage of minority lawyers in America was very slow, only reaching less than seven percent in 1992. Under these circumstances, it is not surprising that black female law students and lawyers reached out to provide professional support to each other early in the twentieth century. Their first legal sorority, Epsilon Sigma Iota, was founded at Howard University's law school in 1921, and served as the only

109, App. C at 284 and Chart C5 at 294-97, from which the percentages of multicultural female lawyers from ethnic minorities were derived. 118 See BURDENS OF BOTH, supra note 117, at 6-7. As a result, the Multicultural Women Attorneys Network used a combination of "opinions, observations, viewpoints and experiences of representative groups of multicultural women lawyers throughout the U.S." as the basis for its report. Id. at 7.

119 See id. at 16-19; see also DUSKY, STILL UNEQUAL, supra note 8, at 150-51; SMITH, REBELS, supra note 109, at 6-8, 111-112; Nina Burleigh, Black Women Lawyers Coping With Dual Discrimination, 74-JUN ABAJ 64 (1988); Wilma Williams Pinder, When Will Black Women Lawyers Slay the Two-Headed Dragon: Racism and Gender Bias?, 20 PEPP. L. REV. 1054 (1993).


122 These developments paralleled those undertaken earlier by their white female counterparts. See supra text accompanying notes 86-89.
exclusively female black lawyers’ organization until at least the mid-nineteen-forties.¹²³

Throughout that period, both the American Bar Association and the National Association of Women Lawyers barred identified black lawyers from membership, finally dropping their racist bans in 1943.¹²⁴ Reacting to this exclusion, black lawyers founded the National Bar Association in 1925,¹²⁵ an organization which black female pioneers such as Georgia Jones Ellis and Louise J. Pridgeon served in leadership positions during its early years.¹²⁶ More recently, the National Association of Black Women Lawyers was founded in 1972, a half-century after Howard’s female law students organized to assist each other.¹²⁷

Other national minority bar associations include the Native American Bar Association,¹²⁸ the Hispanic National Bar Association¹²⁹ and the National Asian Pacific Bar Association,¹³⁰ which often have regional or state affiliates. In 1993 these groups joined with the National Bar Association to form the Coalition of Bar Associations of Color. The Coalition meets to "advance common agendas [concerning legislation, the hiring of attorneys,

¹²³ SMITH, REBELS, supra note 109, app. A at 267-68.
¹²⁴ SMITH, EMANCIPATION, supra note 27, at 544-46.
¹²⁵ Its predecessor, the National Negro Bar Association, had been associated as an auxiliary body with the National Negro Business League. See id at 554-55.
¹²⁶ See id. at 558, 561.
¹²⁷ See SMITH, REBELS, supra note 109, app. A at 267-68. Specialty bar associations, in this instance defined by an interest in issues of concern to a particular ethnic group, are traditional within the American legal profession. See Judith Kilpatrick, Specialty Lawyer Associations: Their Role in the Socialization Process, 33 GONZ. L. REV. 501 (1997-98).
¹²⁸ Founded in 1973, this Association was originally known as the American Indian Lawyers Association. See Native American Bar Association homepage at http://www.nativeamericanbar.org (last visited February 23, 2001).
¹²⁹ This organization was founded in 1972 in California and was originally known as the La Raza National Lawyers’ Association. See Hispanic National Bar Association homepage at http://www.hnba.com (last visited February 23, 2001).
and judicial appointments] . . . and to advance the cause of people of color everywhere."\textsuperscript{131}

Women's bar associations also proliferated at state and local levels as the numbers of female attorneys grew and their need for supportive networks became apparent.\textsuperscript{132} In Western New York, for example, two women's bar associations exist, with membership that overlaps to some extent. The Women Lawyers of Western New York, which is the much older one, characterizes itself as "an information and networking organization for women attorneys" with no national affiliation.\textsuperscript{133} The Western New York Chapter of the Women's Bar Association of New York State was formed in the early 1980's. It is affiliated with the National Conference of Women's Bar Associations, has a membership that is open to all members of the New York state bar, and a mission statement revealing a more activist agenda: "[t]o promote justice for all, to advance the social, economic and legal status of women through law, and to advance the opportunities for women in the field of law."\textsuperscript{134}

\textsuperscript{131} Rita Wiles Ross, \textit{The Coalition of Bar Associations of Color 6\textsuperscript{th} Annual Meeting: Huge Success}, 13 NBA NAT'L B.A. MAG 26 (1999).

\textsuperscript{132} See, e.g., Barbara H. Grcevic, \textit{A History of the Women's Bar Association of the State of New York}, available at http://www.wbasny.org/grcevic.htm (last visited February 23, 2001). Some localities also created their own ethnic women's bar associations for supportive professional networking, such as the Asian Pacific American Women's Alliance of Los Angeles. See Balaoning, \textit{supra} note 130, at 24-25. The National Association of Women Lawyers developed out of one such group, the Women Lawyers' Club of New York City. \textit{See supra} note 87. The creation of a separate national bar association for female lawyers proved to be a controversial step. Drachman, \textit{The New Woman Lawyer}, \textit{supra} note 81, at 246-49.

\textsuperscript{133} \textit{See} Project Flight homepage at http://www.projectflight.org/toc.htm#56 (last visited February 23, 2001) (linking to information on the Women Lawyers of Western New York).

\textsuperscript{134} \textit{See} Project Flight homepage at http://www.projectflight.org/toc.htm#57 (last visited February 23, 2001) (linking to information on the Western New York Chapter of the Women's Bar Association of New York State).
E. Women’s Performance in the Legal Profession

Female attorneys’ experience in the legal profession followed the same pattern that developed after women had been admitted to law schools. Observers noted that although the number of female attorneys grew, they were experiencing difficulty in making routine progress in a variety of legal roles.

The questions to be answered by those who studied the profession also became similar. Were female attorneys going to adjust to the pre-existing expectations of a profession that had earlier been overwhelmingly male? Or were decision-makers’ expectations for professional performance going to be adjusted to reflect the fact that increasingly significant numbers of women were now practicing law?

1. The persistence of role conflict

The initial question posed by the earliest female lawyers in the 19th century was how to reconcile their new professional roles as lawyers with traditional expectations of their roles as women. A number of them felt that they had to choose between marriage and their professional role. Female lawyers who did marry faced the issue of how to reconcile their obligations to their profession with those to their husband and children.

Whatever their marital status, debate soon developed about how the professional role for a female lawyer should be defined. Should there be no gender-based difference in her professional behavior? Alternatively, should her main objective be to provide

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135 See Virginia G. Drachman, Women Lawyers and the Quest for Professional Identity in Late Nineteenth Century America, 88 Mich. L. Rev. 2414 (1990) [hereinafter Drachman, Quest for Professional Identity].
136 See Virginia G. Drachman, The New Woman Lawyer, supra note 81, at 252-53. Census data from the 1970's indicate that 31.4 % of the female lawyers were unmarried by comparison to 7.9 % of their male counterparts; Cynthia Fuchs Epstein, Women in Law 329, tbl.18.2 at 331 (2nd ed. 1983).
137 Drachman, Quest for Professional Identity, supra note 135, at 2433-36.
138 See id. at 2428-33.
139 The "sameness" or "difference" question continued to be controversial throughout the twentieth century. See, e.g., Drachman, The New Woman Lawyer,
more understanding representation of female clients? Should she attempt the more general task of contributing to higher ethical standards for the profession as a whole? Did she have a special obligation to represent those who could not afford to pay?

During the twentieth century, the answers to questions concerning the female lawyers' possible professional roles became more expansive. Even so, the conflict between the female lawyer's professional obligations and her family responsibilities persisted. During the 1910's and 1920's the concept of "companionate marriage" created widespread hope that this conflict could be overcome. Nonetheless, it gradually became apparent that while "companionate marriage" might produce a more equal sharing of responsibilities at home, it had a limited effect in producing respect for the inevitable demands of a wife's fully-engaged professional responsibilities.

More than seventy years later, the difficulty of balancing professional and family responsibilities remains a preoccupying issue. Studies indicate that women continue to shoulder


Over time, this very specific question became more generalized as observers noted that many female lawyers brought a "care-oriented" perspective to their professional efforts within a "rights-oriented" legal system. See RAND JACK & DANA CROWLEY JACK, MORAL VISION AND PROFESSIONAL DECISIONS 130-55 (1989)

During the decade following 1910, leading female lawyers attempted to broaden this agenda by calling for more general efforts to reform the substantive law affecting women's and children's rights. The creation of the juvenile court system became one of their most notable accomplishments. Cecil Weiner, one of UB's first female graduates, was also a pioneer in this field, serving as the first judge of Erie County's Children's Court. See supra note 1 and accompanying text. In addition, these female leaders called for continuing efforts to replace the norms of success that men had created within the legal profession. See Drachman, Quest for Professional Identity, supra note 135, at 238-44.

Between the 1880's and 1920, undertaking charitable efforts also was perceived as a positive aspect of female lawyers' work. Id. at 240-41.

Id. at 250-56.

See Deborah L. Rhode, Myths of Meritocracy, 65 FORDHAM L. REV. 585, 591-93 (1996); Jacquelyn H. Slotkin, You Really Have Come A Long Way: An
approximately seventy percent of a household’s tasks,\(^{145}\) and that the "average American mother spends seventeen years caring for her children and eighteen years caring for elderly parents - both her own and her husband’s."\(^{146}\) Moreover, even caregiving beyond the traditional family remains primarily a woman’s responsibility.\(^{147}\)

This inequity remains, despite an awareness that equalizing caregiving responsibilities is essentially a matter of absorbing costs that could be reallocated if decision-makers in our profession were committed to achieving equality for women and men in these roles.\(^{148}\)

The tension between "caregiving" and professional responsibilities may be resolved if a female lawyer is wealthy


\(^{147}\) Although the management of child care is the primary focus of much of the relevant literature, Professor Bender reminds us that caregiving responsibilities may extend beyond children to include "parents, lovers, siblings, friends or the needy in our communities." Leslie Bender, *Sex Discrimination or Gender Inequality*, 57 Fordham L. Rev. 941, 942 and 949 (1989); Linda Liefland, *Career Patterns of Male and Female Lawyers*, 35 Buff. L. Rev. 601, 613-15 (1986). Liefland reports results from a random survey of graduates from the classes of 1976-78 at the University of California at Berkeley, Columbia University, New York University and the University of Pennsylvania. *Id.* at 603.

enough to pay another person (usually a woman) to assume her caregiving responsibilities. Nonetheless, whatever her economic situation, a female lawyer may be vulnerable to allegations that her professional responsibilities prevent her from performing her caregiving responsibilities adequately, especially if marital discord ensues and she becomes involved in a child custody dispute. Alternatively, she may face the mirror-image assertion that her caregiving responsibilities prevent her from performing her professional obligations adequately.

2. Initial strategies for assimilating female lawyers into the profession.

The tension between managing a combination of professional and personal responsibilities surfaced more frequently when significantly more women began to graduate from law schools in the late 1970's. Leaders of the profession responded initially to that fact by attempting to assimilate or accommodate the female lawyers' caregiving responsibilities within the professional culture that previously existed.

Writings concerning these efforts focused almost exclusively upon female lawyers' private practice experience in large firms. The experience of other female lawyers who went into government service or public interest practice, or who practiced on their own or in small firms still needs more systematic documentation. Moreover, the focus on large firms creates the risk that techniques for assuring female lawyers' professional success will solve almost exclusively white female lawyers' problems.

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149 See Bender, supra note 147, at 942 n. 6.
151 See id.
152 See supra text accompanying note 11.
153 See Rhode, Perspectives, supra note 145, at 1203.
while ignoring the female lawyers who shoulder the double burden of race and gender.\textsuperscript{155}

Authors explained their emphasis upon large firm practice by noting several facts about such firms. Deploying significant influence within the profession,\textsuperscript{156} such firms have the resources for experimenting with needed changes and can implement those that succeed.\textsuperscript{157} Leadership roles within the profession also usually require that a lawyer have achieved partnership in a large firm.\textsuperscript{158}

In their initial efforts to accommodate female lawyers' needs, some large firms created "part-time" or "flex-time" practice opportunities that supposedly provided an alternative route to possible partnership. Such arrangements were initially justified as beneficial to both the firms and the female attorneys. For the firm, the benefit was the retention of experienced lawyers whom it had trained; for the female lawyers, the benefit was the opportunity to allocate more daytime hours to their caregiving responsibilities.\textsuperscript{159}

"Part-time" or "flex-time" work can take a number of forms. Examples include working a reduced number (or


\textsuperscript{157} See Judith S. Kaye, \textit{Women Lawyers in Big Firms: A Study in Progress Toward Gender Equality}, 57 \textit{Fordham L. Rev.} 111,112-113 (1988). At that time, Judge Kaye was an Associate Justice of New York state's highest court, the Court of Appeals. [In 1993 she was appointed the Chief Judge of that court, a position that she still holds.] \textit{Id.} at 126 n. aa1.


\textsuperscript{159} See Barnett, \textit{supra} note 156, at 222. In some instances, firms made available child-care at home or in on-site day care centers in order to cover emergencies when the lawyer-caregiver's ongoing child care arrangements failed. \textit{See id.} Related policies provide for maternity (or preferably, parental) leave and prohibit sexual harassment. \textit{See id.} at 223-24.
percentage) of billable hours per year, only specified days of the week, only specified hours of the day, or only for specific clients. Although some of these opportunities still required very substantial commitments, they initially appeared to have considerable potential for reducing the tension between professional and caregiving responsibilities.

Soon, however, the professional costs reflected in allegations that part-time lawyers were receiving both less interesting work and reduced salary and benefits caused serious concern. Moreover, female lawyers who used the benefits of part-time or flex-time opportunities were said to be practicing on the "mommy-track," which was often perceived to result in substandard performance or commitment. A part-time lawyer who later returned from the "mommy track" might not be able to

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160 For a discussion of a "part-time" opportunity requiring a 60 percent commitment with a two-year maximum eligibility, see Patricia M. Wald, Essay: Glass Ceilings and Open Doors: A Reaction, 65 FORDHAM L. REV. 603, 608 (1996). "Flex-time" may be even more demanding, requiring as much as an eighty percent commitment if a female lawyer wanted to continue to be considered as a serious candidate for partnership. See Eve B. Burton, Essay: More Glass Ceilings Than Open Doors, 65 FORDHAM L. REV. 565, 566 (1996).


recover from the professional implications of such perceptions. On the other hand, a single or divorced woman who had primary responsibility for her children's custody might be faced with a challenge to her right to retain custody of her children if she declined to use the "mommy-track."

Female lawyers with caregiving responsibilities thus faced a classic "no-win" situation if they wished to pursue partnership in the large law firms whose experience was reported. Some women gave up that goal completely and opted for a permanently-salaried status, such as permanent associate or staff attorney.

3. Recognition of a "glass ceiling" that effectively limited female lawyers' success

At the same time that traditional professional structures appeared to be failing to accommodate female lawyers with caregiving responsibilities successfully, other observers began to discern a "glass ceiling" that was limiting the success of even those female lawyers who did not use accommodating strategies. A number of states undertook studies that confirmed that "glass ceilings" did indeed exist. Scholars documented the following

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165 Some male lawyers also use such benefits, which then may be referred to as creating a "parenting" or "family" track. See Bender, supra note 147, at 952; see also, Korzec, supra note 164, at 128.
166 See Ronner, supra note 150, at 206.
167 See Deborah L. Rhode, The Profession and Its Discontents, 61 OHIO ST. L.J. 1335, 1344-46, 1349-50 (2000) [hereinafter Rhode, Discontents]; Note, Why Law Firms, supra note 158, at 1375. In addition, the status of "non-equity partner" or "of counsel" has developed so recently that systematic data do not yet exist on its use by female lawyers. See A LOOK AT THE NUMBERS, supra note 11, at 15.
169 See Gellis, supra note 154, at 941.
170 For this section I will draw heavily upon the landmark study prepared for the Committee on Women in the Profession of the Association of the Bar of the City of New York. Cynthia Fuchs Epstein et al., Glass Ceilings and Open Doors: Women's Advancement in the Legal Profession, 64 FORDHAM L. REV. 291 (1995) [hereinafter Glass Ceilings and Open Doors]. One indicator of the
factors that contributed to the creation of "glass ceilings" upon female lawyers' professional success: requirements of high annual totals of billable hours;\textsuperscript{171} a shortage of professional mentors;\textsuperscript{172} the use of stereotypes in evaluating women's appearance and styles of lawyering;\textsuperscript{173} the firms' expectation that all of their associates have "rainmaking" potential;\textsuperscript{174} and the existence of sexual harassment.\textsuperscript{175} The impact of gender bias within the court system was documented separately in studies undertaken by a number of states and by federal circuit courts of appeal.\textsuperscript{176}

\textsuperscript{171} Interviewees reported billing between 1800 and 3000 hours per year, with those in the middle range of the firms reporting between 2000 and 2400 hours. See Epstein, et al., Glass Ceilings and Open Doors note 170 at 382.

\textsuperscript{172} See id. at 343-56.

\textsuperscript{173} See id. at 365-69.

\textsuperscript{174} "Rainmaking" is the label that was developed to describe a lawyer's potential for generating additional business for the firm. In this context, a female lawyer's success may be based upon her colleagues' perception that she is a "finder" instead of a "minder or grinder," the latter two categories describing legal roles providing service to clients that others have brought to the firm. Id. at 332 (quoting ROBERT L. NELSON, PARTNERS WITH POWER: THE SOCIAL TRANSFORMATION OF THE LARGE LAW FIRM 9 (1988)). For the possibility that some law firms also view increasing the business from existing clients as a valuable alternative to developing new business, see Bettina B. Plevan, Personal Reflections on Glass Ceilings and Open Doors, 65 FORDHAM L. REV. 577, 582 (1996).

\textsuperscript{175} See Epstein, et al., Glass Ceilings and Open Doors, supra note 170, at 371-77.

Retrospective studies of female lawyers' professional experiences revealed the persistence of these discouraging conditions for those who graduated since the 1970's. Studies of female law graduates during those years documented a disappointing rate in comparison with their male counterparts in achieving partnership, a high rate of job turnover, and law firms' continuing emphasis on business development as an essential precondition of success.

By the 1990's "rainmaking" was described as "the overarching measure of success" in the effort to achieve partnership in law firm practice. As they had in earlier decades, female lawyers utilized networking skills to overcome the comparative social exclusion of their professional experience and develop that expertise. An example of this kind of outreach is


See A LOOK AT THE NUMBERS supra note 11, at 49.


See Barnett, supra note 156, at 224-25.
the Women Rainmakers’ Interest Group, created within the American Bar Association in 1990.  

The increasing numbers of women serving as in-house counsel may also increase referrals of new business to female lawyers in private practice. The latest statistical report of the American Bar Association’s Commission on Women in the Profession reveals that the number of female lawyers in industry grew by more than 300 percent from 4,083 in 1980 to 17,468 in 1999. One measure of their increasing influence is the fact that between 1994 and 1995, the number of female general counsels who were members of the American Corporate Counsels Association rose from 444 to 528.

A statistical analysis of the recent professional experience of female lawyers from minority groups cannot be undertaken, because data on their career choices are very limited. National statistics on these populations do not exist except in the most generalized Census Bureau data. Faced with this information

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182 By 1997, the group’s membership was approximately 1200. See Sherri Kimmel, Entering the Select Circle: Rainmaker Lawyers Have Traditionally Been Men, 19-JUN PA. LAW. 24 (1997).


184 See THE UNFINISHED AGENDA, supra note 163 at 23 (citing Kathleen D. Hull and Robert Nelson, Divergent Paths: Gender Differences in the Careers of Urban Lawyers, 10 RESEARCHING LAW 1 (Summer 1999)).


186 Among female lawyers and judges, the 1990 U.S. Census reported a total of 11,868 "African-Americans," 6,580 "Hispanic-Americans" and 4,023 "Asian-Americans," respectively, constituting 12% of the total. No counts were reported for Native American or Alaska Native female lawyers. See A LOOK AT THE NUMBERS, supra note 11, at 16-17. A major recent study that describes the comparative professional experience of the University of Michigan’s minority and white law graduates from the classes of 1970-96 is based upon responses to a mailed survey. It does not differentiate its analyses by gender, because in its calculations, the inclusion of gender in an equation did not "change the prior significance of minority status." David L. Chambers et al., Michigan’s Minority Graduates in Practice: The River Runs Through Law School, 25 L. & SOC. INQUIRY 395, 398, 400 (2000).
gap, the American Bar Association's Commissions on Women in the Profession and on Opportunities for Minorities in the Profession created the Multicultural Women Attorneys Network in 1989. The Network convened roundtable discussion groups throughout the country and reported in 1994 that female attorneys from minority groups reported the same kinds of "isolation, hostility and disrespect" that female students from ethnic minorities reported in law school.

Descriptions in individual writings about minority lawyers confirm these reports. The increasing numbers of female attorneys that large law firms hired were usually white, and the turnover among black lawyers who were first hired at elite law firms was high. In the late 1980's, Latino lawyers were also

187 See A LOOK AT THE NUMBERS, supra note 11, at 16.
188 BURDENS OF BOTH, supra note 29, at 17. Female attorneys with disabilities and openly lesbian attorneys report similar disadvantages. See THE UNFINISHED AGENDA, supra, note 163 at 17.
189 See supra text accompanying notes 29 and 30.
190 For examples of the professional experiences of prominent black female lawyers since the 1960's, including the Honorable Constance Baker Motley of the Southern District of New York, see Chapter 6 of THE INVISIBLE BAR, supra note 2, at 161-72.
191 See Elizabeth Chambliss, Organizational Determinants of Law Firm Integration, 46 AM. U. L. REV. 669, 696 (1997). Without differentiating by gender, Professors Kornhauser and Revesz found a very serious underrepresentation of black and Latino lawyers among the associates and partners of elite law firms. Kornhauser & Revesz, supra note 17, at 862-63. Based upon their data, Professor Alex M. Johnson, Jr. argues that traditional theories supporting the existence of such under-representation provide, at best, incomplete explanations. He urges us to use either "destabilizing racial identification" based upon multi-racial categories instead of the current black/white dichotomy or the aggressive use of affirmative action in the context of elite law firm hiring and promotion. Alex M. Johnson, Jr., The Underrepresentation of Minorities in the Legal Profession: A Critical Race Theorist's Perspective, 95 MICH. L. REV. 1005, 1012-21, 1044-49, 1057-61 (1997).
192 See David B. Wilkins & G. Mitu Gulati, Why Are There So Few Black Lawyers in Corporate Law Firms? An Institutional Analysis, 84 CALIF. L. REV. 493, 618 tbl. 1 (1996). Based upon initial data gathered from black graduates of Harvard Law School, Professor Wilkins and Mr. Gulati report that in 1993, none of their respondents who graduated before 1986 remained at the firm where they were first employed, but 44 % of those who graduated in 1986 or later were still

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found to be seriously under-represented in corporate law firms.\textsuperscript{193} Moreover, a retrospective look at the experience of one large law firm in Los Angeles suggested that the absence of senior Latino mentors made it difficult to retain a significant number of the junior Latino attorneys who had managed to overcome barriers to being hired.\textsuperscript{194}

This kind of painstaking work that attempts to document female lawyers' progress within the legal profession continues. Nonetheless, some that are willing to work within the profession as it is presently structured argue that excessive resources have already been allocated to documenting barriers to female lawyers' performance. They believe that the resulting reports largely repeat conclusions about which there can be no further serious doubt.\textsuperscript{195} Decrying the lack of a "sense of urgency" about implementing structural changes, they recommend that effort now be focused on devising effective remedies for removing remaining barriers to women's success within the profession as it is presently structured.\textsuperscript{196}

Simultaneously, other writers assume that the legal profession itself will have to be transformed before female lawyers can expect to reach their full potential within it. Feminist authors pursue research that is a counterpart to the work being undertaken

\textsuperscript{193} See generally Linda E. Davila, The Underrepresentation of Hispanic Attorneys in Corporate Law Firms, 39 STAN. L. REV. 1403 (1987). Although the questionnaires distributed to Latino/a graduates of Stanford's law school requested disclosure of their gender, reports of their responses were based upon the responses of the entire group. See id. app. B at 1441 (showing surveys).

\textsuperscript{194} See James E. Blancarte, Latino Partner’s Perspective on the Need for More Latino Lawyers, 14 CHICANO-LATINO L. REV. 176, 177 (1994).


with a goal of reforming the structure of legal education. They view gender as "more than role and characteristic differences attributed to biological sex." Instead it reflects a hierarchical structure in which one gender's norms dominate. In the case of our society in general and our legal profession in particular, it is male norms that are dominant and privileged. Such norms and structures must be changed in ways that produce gender equality if female lawyers are to reach their full potential.

Such changes may occur systematically only in the long term among elite firms in the profession. In the short term, it may be less expensive to continue a structure that requires lawyers to make a "one-dimensional," overwhelming commitment to professional life. However, firms that maintain structures in which most female attorneys cannot succeed will risk losing talent to competitors that do not require lawyers to sacrifice their personal commitments. Such competitors might include corporate legal departments, public interest or governmental employers or smaller, more flexible firms that the female lawyers could join after leaving the large law firms that have made significant

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198 See Bender, supra note 147, at 948.
200 See Foster, supra note 168, at 1684.
201 One study surveyed law school graduates in the classes of 1976 through 1978 at Columbia University, New York University, the University of California at Berkeley and the University of Pennsylvania. It revealed that the most dramatic changes from first post-graduation (or temporary judicial clerkship) jobs for female lawyers and their employment ten years later were departures from law firms with more than fifteen lawyers and increases in institutional legal positions or solo practice. Fifty percent of the women whose first jobs were with firms of more than 100 lawyers had left those positions within the first ten years. See Linda Liefland, Career Patterns of Male and Female Lawyers, 35 BUFFALO L. REV. 601, 603-07, 624 fig. 1, 627 fig. 4 (1986).
202 See Gellis, supra note 154, at 961-66.
investments in their training. Authors therefore increasingly emphasize the economic and stigmatizing costs of maintaining the status quo as the reality that may be most effective in producing systemic structural change within the legal profession.

III. Conclusion

Research illuminating the experience of female law graduates in the century since the University at Buffalo’s Law School graduated its first women in 1899 reveals a dramatic story of determined efforts to fulfill their potential in their chosen profession. Their ‘playing fields’ often proved to be uneven, beginning with their experience as law students and continuing throughout their professional careers.

The female lawyers’ history is, however, seriously incomplete. Much of the published research emphasizes women’s experience as students in leading law schools and later in the large law firms that customarily provide professional leaders at state and national levels. To complete the picture, significant attention also needs to be given to other settings in which female lawyers have pursued their professional endeavors since 1899. These include smaller firms and solo practice; federal, state and local governmental service, including the judiciary; public interest representation, including legal aid and public defender programs; academia; private industry; and non-profit associations.

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203 See Foster, supra note 168, at 1687-88.

204 See, e.g., Note, Why Law Firms, supra note 158, at 1380-85. The author argues for a compensation model that includes "quality of work product and client satisfaction" as positive performance factors in addition to billable hours if law firms wish to reduce the number of departures among their female colleagues. Id. at 1389; see also Rhode, Gender and Professional, supra note 197, at 71.

205 Reflections upon singular accomplishments by female lawyers throughout the country during this same period of time can be found at Phyllis A. Kravitch, Women in the Legal Profession: The Past 100 Years, 69 Miss. L. J. 57 (1999).

206 In 1991, 36% of the female lawyers were practicing in law firms of two or more lawyers. Almost as many were in solo practice. Female lawyers in private industry somewhat exceeded the 12% who were employed by governmental agencies other than the judiciary. Very small percentages served in the other
In addition, calls for different types of research have existed for some time, including: 1) a focus on the comparative content of legal work that is essentially gender-segregated or on a comparison between large firm practices and public interest pursuits, and 2) a detailed examination of the content of female lawyers' work "in specific historical and social contexts" instead of more generalized theoretical research.

Even less is known about the particular experiences of UB's women in law. Full-scale biographies need to be produced for Helen Z. M. Rodgers and Cecil B. Weiner, the two pioneers whose 1899 graduation was the focus of UB's centennial celebration, and for later female graduates who have become leaders in the profession. Analyses should occur of the various settings in which UB's female law graduates have practiced their profession, with serious attention to the experience of female lawyers from racial and ethnic minorities. Histories should also be written of the development of women's bar associations in western New York and of the female law graduates who have been leaders in those associations and their state counterparts.

While this research is being developed, UB's female law graduates will be attempting to achieve their full potential in the legal profession as they have inherited it. As the preceding analysis suggests, each of them may wish to consider the following questions:

categories mentioned in the text. See A LOOK AT THE NUMBERS, supra note 11, at 16, 21, 34 and 32, respectively.


209 As a prime example of professional leadership, Maryann Saccomando Freedman, of UB's class of 1958, became the first female president of the Erie County Bar Association in 1981-82 and the first female president of the New York State Bar Association in 1987-88. For early examples of judicial leaders, see supra text accompanying notes 5-7.
1. Is breaking through a "glass ceiling" that is impeding her progress in a particular professional context worth the effort that would be required in the profession as it is presently structured?

2. If she has primary responsibility for "family" obligations, however defined, should she try to develop an alternative professional setting that would be more supportive of her combined professional and personal responsibilities? In particular, is her current professional environment toxic, neutral, benign or actively supportive of her values and goals?

3. Has she learned as much professionally as she can reasonably expect in this professional setting so that she should consider moving to another position? How many of her professional hours each week provide satisfying work, which need not be exciting, or path breaking, but which should be consistent with her values?

4. Is she managing her finances and lifestyle in such a way that she has the flexibility to change her professional environment to a more satisfying agenda if she wishes to do so?

5. Does she have colleagues who share her values and goals? Are they also ready to plan a new environment for their professional activities?

6. What is a reasonable time frame for making such a move, allowing for planning, getting one's finances in order, and completing present responsibilities and other similar matters?\textsuperscript{210}

\textsuperscript{210} These questions were adapted from a speech entitled "Looking at Female Lawyers in the 1990's" that I delivered at a joint meeting of the Women Lawyers of Western New York and the Western New York Chapter of the Women's Bar Association in Buffalo on March 13, 1997.
The answers to such questions will not be uniform, obvious or easy. However, with so much talent available among UB's female law graduates, it is critical that their energies not be dissipated, or individuals' health and personal relationships jeopardized, by unexamined attempts to "make it to the top" within traditional professional structures.

For some of UB's female law graduates, traditional structures will prove to be congenial throughout their professional lives. Others will need to take the necessary time to explore creative alternative settings for their professional work. The challenges of identifying and developing supportive professional contexts can be great. The effort remains worthwhile, however, because successful experiments with revised approaches to organizing and evaluating professional performance may ultimately point the way toward transforming the culture of the profession for all of UB's law graduates.