

2003

Gender Voice and Correlations with Peace+

Terry M. Dworkin

Cindy A. Schipani

Follow this and additional works at: <https://scholarship.law.vanderbilt.edu/vjtl>



Part of the [Civil Rights and Discrimination Commons](#)

Recommended Citation

Terry M. Dworkin and Cindy A. Schipani, Gender Voice and Correlations with Peace+, 36 *Vanderbilt Law Review* 527 (2021)

Available at: <https://scholarship.law.vanderbilt.edu/vjtl/vol36/iss2/6>

This Symposium is brought to you for free and open access by Scholarship@Vanderbilt Law. It has been accepted for inclusion in Vanderbilt Journal of Transnational Law by an authorized editor of Scholarship@Vanderbilt Law. For more information, please contact mark.j.williams@vanderbilt.edu.

Gender Voice and Correlations with Peace+

Terry Morehead Dworkin*
Cindy A. Schipani**

ABSTRACT

The statistics regarding violence in today's society are staggering. A newly released study published by the World Health Organization, making headlines in the Wall Street Journal (Oct. 3, 2002), reports that "Violence Took 1.6 Million Lives in 2000." This statistic includes only the data obtained from the 70 countries that report such statistics to the World Health Organization, it does not include reports from many other countries where violence is also high, such as Burundi, Rwanda, Iraq, Liberia and Afghanistan.

This Article seeks to address some of these issues of violence by considering issues of gender. The Authors pose the question whether there may be some correlation between violence and the lack of meaningful involvement of women in the economy. If the countries that appear to be more violent are also countries where women are systematically excluded from business opportunities, perhaps one way to curb some of the societal violence would be to improve the opportunities for women in the economy. Multi-national corporations can play an important role in increasing these opportunities.

TABLE OF CONTENTS

I.	INTRODUCTION	528
II.	DATA.....	531
III.	IMPLEMENTATION.....	538
A.	Laws	538

+ Copyright 2002 Terry Morehead Dworkin & Cindy A. Schipani. All rights reserved.

* Jack R. Wentworth Professor, Business Law, Kelley School of Business, Indiana University.

** Professor of Business Law, University of Michigan Business School and Area Director for Corporate Governance and Corporate Social Responsibility, William Davidson Institute. The Authors would like to gratefully acknowledge the valuable research assistance of Avec G. Gomez Lee, Elizabeth Peirce, and Jill Van Dalen.

B.	<i>What Can Business Add?</i>	542
1.	Nondiscrimination.....	542
a.	Harassment	543
b.	Equal Pay/Comparable Worth.	548
c.	Pregnancy	550
d.	Childcare	552
2.	Training.....	555
3.	Mentoring.....	557
IV.	CONCLUSION	561

I. INTRODUCTION

In developing countries, involving women in the economy as wage earners¹ can “lead to output gains and a reduction in poverty in general.”² As argued elsewhere, a reduction in poverty promotes stability and leads to a more peaceful society.³ As the locus of production shifts away from the home, an initial decline in employment opportunities may occur.⁴ When women transition into the workforce, violence may increase.⁵ However, when women have attained status through economic empowerment, the violence⁶ and lack of employment opportunities disappear, and everyone benefits.⁷

1. The distinction between women working and women as wage earners is important in data analysis. All women work. However, in many parts of the world, work in the fields and work in the home is not compensated through wages. The distinction is largely “socially constructed” and affects a country’s reporting of statistics. For example, when Sweden included agricultural work in its definition of women’s work, the percentage of working women rose from about 8% to 52%. Zafiris Tzannatos, *Women and Labor Market Changes in the Global Economy: Growth Helps, Inequalities Hurt and Public Policy Matters*, 27 *WORLD DEV.* 551, 554-55 (1999).

2. *Id.* at 552.

3. Timothy L. Fort & Cindy A. Schipani, *The Role of the Corporation in Fostering Sustainable Peace*, 35 *VAND. J. TRANSNAT’L L.* 389, 394-99 (2002).

4. Tzannatos, *supra* note 1, at 555.

5. Partner violence is highest when women begin entering the labor force and fill non-traditional roles, challenging norms. See *WORLD HEALTH ORG., WORLD REPORT ON VIOLENCE AND HEALTH* (Oct. 3, 2002), available at <http://www.who.int> [hereinafter *WORLD REPORT*].

6. *Id.* The reason for the increase is that when women are at the low end of society, violence is not needed to demonstrate male superiority. With the attainment of status, gender norms change so that violence is not accepted. *Id.* This, of course, does not mean that it doesn’t occur; it is merely reduced. For much of the 1990s, homicides were the leading cause of death of women in U.S. workplaces. In 2000, 30% of the women who died on the job were homicide victims. *Workplace Violence*, *INDIV. RTS. REP.*, Aug. 6, 2002, at 70.

7. Women entering the workforce does not have merely a redistributive effect; instead, the “size of the pie” grows, and women claim a bigger share. Men’s wages do not necessarily decline in absolute terms. Tzannatos, *supra* note 1, at 560.

A significant factor affecting the participation rate of women in the economy is the nation's dominant religion. Approximately one-third of the variation in participation rates between countries can be explained by religion.⁸ Such statistics have led to a call for secularization of the law in countries such as India because traditional interpretations marginalize the perspective of women.⁹ Secularization is justified as a matter of social utility, logic, and modern values.¹⁰ Additionally, the traditional interpretation is only one possible interpretation, and the "common understanding" is sometimes not the best interpretation.¹¹ For example, depending on which interpretation of Islamic Law governs, girls in Islamic cultures may or may not have a right to education on a par with boys in their family; may or may not have a right to work and earn wages before and after marriage.¹² This dichotomy can be seen in societies in Turkey and Afghanistan in 2000.¹³

The statistics regarding violence in today's society are staggering. A newly released study published by the World Health Organization making headlines in the *Wall Street Journal* found that "Violence Took 1.6 Million Lives in 2000."¹⁴ Notably, this report considers only the data obtained from the 70 countries that report such statistics to the World Health Organization. It does not include

8. *Id.* at 555. In Vietnam, for example, the influence of Confucianism, which is strong in Vietnamese culture, tends to put women in a subordinate position in families and society, and awareness of gender equality issues is relatively low. UNICEF, *The Situation of Women and Children in Viet Nam - 2000*, at <http://www.unicef.org.vn/sitan.htm>. This is despite the fact that Vietnam ratified the Convention on the Elimination of All Forms of Discrimination Against Women in 1982 and instituted a National Plan of Action for the Advancement of Women in 1997. *Id.* All provinces and the central level of government have developed plans of action. *Id.* The 1994 Labor Code mandates equality in the workplace and affirmative action in recruitment. *Id.*

9. Robert D. Baird, *Gender Implications for a Uniform Civil Code*, 28 *LAW & SOC'Y REV.* 145, 147 (1994). "It is a common indictment of many if not most traditional texts, religious and otherwise, that they were written by men for men, that they express a man's point of view, and that the perspectives of women and other marginalized persons are systematically, if not consciously excluded." *Id.*

10. *Id.* at 149.

11. For example, Tahir Mamood, speaking on the Muslim law of *khul'*, states that the law of divorce is not widely understood by Indian Muslims. He states that a wife can dissolve a marriage that is irretrievably broken down, as can a husband. Most think, though, that this right only belongs to the husband. *Id.* at 155.

12. *Id.* at 157.

13. "The Koran is inadequate as a basis for legislation. . . . There are too many places where it would conflict with the civil law [of Turkey]." Dexter Filkins, *Can Islamists Run a Democracy?*, *N.Y. TIMES*, Nov. 24, 2002, § 4, at 1.

14. *WORLD REPORT*, *supra* note 5; Rachel Zimmerman, *Study Finds Violence Took 1.6 Million Lives in 2000*, *WALL ST. J.*, Oct. 3, 2002, at D5.

reports from many other countries where violence is high, such as Burundi, Rwanda, Iraq, Liberia, and Afghanistan.¹⁵

There are other studies of violence throughout the world. The Heidelberg Institute for International Conflict Research, for example, studies conflicts and compiles data comparing how various types of conflicts are resolved.¹⁶ The data identifies four types of conflict: (1) latent conflicts; (2) crisis conflicts that are mostly nonviolent; (3) severe crisis conflicts where there is some use of force; and (4) war.¹⁷ Previous research has compared the Heidelberg Institute's data of how conflicts are resolved with an index prepared by Transparency International.¹⁸ Transparency International ranks countries throughout the world based on the perception of corruption in business.¹⁹ This research showed a direct correlation between corruption and violence.²⁰ That is, countries that the Heidelberg Institute reported to have addressed conflict in peaceful, or mostly nonviolent means, were the same countries that were perceived as least corrupt according to the index prepared by Transparency International.²¹ Conversely, those countries that the Heidelberg Institute reported as mostly violent in their conflict resolution were also found by Transparency International to be perceived as the most corrupt.²²

This Article seeks to address questions of violence by considering issues of gender. We pose the question whether there may be some correlation between violence and the lack meaningful involvement of women in the economy. If countries that appear more violent are also countries where women are systematically excluded from business opportunities, perhaps one way to curb some of the societal violence would be to improve the opportunities for women in the economy.

To address this question, this Article is organized as follows. Part II examines data compiled by the United Nations and the Heidelberg Institute, and finds that many violent nations do not rate positively on gender-related indices. Conversely, the more peaceful nations tend to have more positive gender-related scores. Pushing the results in Part II a step further, Part III considers how some of these gender imbalances might be corrected. In this Section, the Article notes that laws are only partially successful and suggests that

15. Zimmerman, *supra* note 14.

16. See Heidelberg Inst. for Int'l Conflict Research, *Conflict Barometer 2002*, at http://www.hiik.de/en/index_e.htm.

17. *Id.*

18. Fort & Schipani, *supra* note 3.

19. Information on Transparency International can be obtained at <http://www.transparency.de>. See also Fort & Schipani, *supra* note 3, at 394-399.

20. Fort, *supra* note 18.

21. Fort & Schipani, *supra* note 3, at 398.

22. *Id.*

business might play a role by granting social rights and by adopting policies on nondiscrimination, providing mentoring and training programs, and implementing child care and other “family friendly” policies. Part IV follows with our concluding remarks.

II. DATA

Previous research has compared the Heidelberg Institute’s work on conflicts throughout the world with Transparency International’s data on the perception of corruption, finding an interesting correlation between violence and corruption.²³ This Article utilized the same data from the Heidelberg Institute and compared it to the Gender Development Index (GDI) published by the United Nations.²⁴ Here, too, there were significant correlations between countries that resolve disputes by peaceful, or mostly nonviolent means, and more positive rankings on the GDI. Similarly, countries that ranked in the violent or mostly violent tiers of the Heidelberg Index had poorer rankings in gender development.

In undertaking this analysis, 144 countries for which the United Nations collects data on gender development were ranked. Each year, the United Nations publishes a human development index (HDI) as a composite measure of human development.²⁵ The HDI measures a nation’s achievements in three basic dimensions of human development: longevity, knowledge, and a decent standard of living.²⁶ These categories are measured using life expectancy; adult literacy and combined primary, secondary, and tertiary enrollment; and adjusted income per capita in purchasing power parity in U.S. dollars.²⁷ Because the HDI assesses only average achievements, it disguises gender differences in human development. To reveal these differences, the United Nations extrapolates data from the HDI to compile the GDI.²⁸ This Article uses the latter measure, the GDI, in its statistical comparison. The GDI uses the same components as the HDI, but “captures inequalities in achievement between women and men.”²⁹ If a state had achieved gender equality in human development, its GDI and HDI would be the same.³⁰ The U.N. study

23. Fort & Schipani, *supra* note 3, at 398.

24. *See supra* Part I.

25. *See* U.N. DEV. PROGRAMME, HUMAN DEVELOPMENT REPORT 141-44 (2001) [hereinafter HUMAN DEVELOPMENT REPORT].

26. *Id.*

27. *Id.*

28. *Id.* at 210-13.

29. *Id.* at 14.

30. *Id.* at 15.

indicated, however, that for all countries studied, the GDI was lower than the HDI, indicating the presence of gender inequality everywhere.³¹ Therefore, as the report describes, the GDI is “simply the HDI adjusted downward for gender inequality.”³²

Analysis began with each country’s GDI ranking. For the 2001 study, the GDI was estimated for 144 countries, measuring: (1) the female and male life expectancy at birth; (2) the female and male adult literacy rates and the female and male combined primary, secondary, and tertiary enrollment rates; and (3) the estimated female and male earned income.³³ The last category reflects each gender’s command over resources.³⁴ Australia, Norway, Belgium, and Canada ranked at the top of the U.N. GDI index, indicating the lowest levels of gender inequality.³⁵ At the other end of the spectrum, Burkina Faso, Burundi, and Niger ranked the lowest, indicating the highest levels of gender inequality.³⁶

Next, each country’s GDI ranking was compared to its ranking on the Heidelberg Institute’s violence index, to the extent data were available.³⁷ The data used are detailed in Table 1 below. The Heidelberg Institute’s violence index, commonly known as the “Kosimo database,” uses a variety of sources and 28 variables³⁸ to define the types of conflict involved and the methods used by parties to those conflicts to resolve them.³⁹ The index defines “conflict” as:

[t]he clashing of overlapping interests (political differences) around national values and issues (independence, self-determination, borders and territory, access to or distribution of domestic or international power); the conflict has to be of some duration and magnitude of at

31. *Id.*

32. *Id.* at 14. In relation to the World Development Report, the greater the disparity in basic human development, the lower the country’s GDI compared with its HDI. *Id.*

33. *Id.* at 210-13.

34. *Id.* at 14.

35. *Id.* at 213. The United States ranked fourth of 144 countries in its GDI. It fell behind Norway, Australia, and Canada because of income disparity. In comparison, the United States had the greatest income disparity between men and women. *Id.* at 211.

36. *Id.* at 213.

37. Unfortunately, data was not available from the Heidelberg Institute for all countries for which we obtained a gender development index ranking. In total, we had 86 data points from the Heidelberg Institute data. See Table 1, *infra*.

38. Among the 28 variables used to measure and rank countries by their levels of conflict are: region; participants; external parties; number of participating parties; initiator; political systems of the conflict initiator; political systems of the affect party; economic and political stage development; disputed issues in conflict; and political, territorial, and military outcomes. Further information regarding these variables may be found at Heidelberg Institute for International Conflict Research. *Conflict Barometer 2002*, *supra* note 16.

39. Fort & Schipani, *supra* note 3, at 397.

least two parties (states, groups of states, organizations or organized groups) that are determined to pursue their interests and win their case. At least one party is the organized state. Possible instruments used in the course of a conflict are negotiations, authoritative decisions, threat, pressure, passive or active withdrawals, or the use of physical violence and war.⁴⁰

The database was used to rank the countries according to the number of conflicts resolved violently and the total number of conflicts between 1975 and 2000.

Then the countries were divided into six groups of approximately 25 countries, comparing the country's GDI rank to its Kosimo rank. The comparison showed that there is a linear progression of the percentage of violent resolution of conflicts ranging from 11 percent in the first group of 25 countries, to 71 percent in the last group. These results are reported in Table 2.

In the first group, the only countries that report violent conflicts are the United States, the United Kingdom, Ireland, and Israel. Israel is the anomaly in the group, reporting three out of the six total violent conflicts in that group, while the other countries report only one violent conflict each. The total percentage of violent resolution in this group is 11 percent.

In the second group, the percentage of conflicts resolved violently increases to 35 percent. Eleven of the seventeen violent conflicts in this group involve Latin American countries. Middle Eastern countries account for the remaining six conflicts.

In our third group, violent resolution of conflict goes up to 38 percent. The figure increases to 58 percent in the fourth group, remaining at 58 percent in the fifth group, and increasing again to 71 percent in the sixth and final group.

In addition to grouping the data according to GDI rankings, correlation statistics were computed between a country's ranking on the GDI and its Kosimo ranking. The correlation coefficient between these variables is .73, with a Spearman rank correlation of 767.8. These numbers indicate a correlative relationship between a country's ranking on the GDI and the level of violence involved in resolution of disputes. Of course, correlation does not necessarily indicate causation. For example, it may be that in countries with weak, corrupt, or ineffective legal systems, citizens will tend to resolve disputes outside of the courtroom, often violently. These same countries also may not have laws or practices promoting gender development. Nevertheless, it is worth noting that these figures seem to run in tandem.

40. See *Conflict Barometer 2002*, *supra* note 16.

Table 1

Country	GDI Rank	Heidelberg Rank	Conflicts resolved violently	Total number of conflicts between 1975-2000
Australia	1	13	0	1
Belgium	2	25	0	1
Norway	3	6	0	2
Sweden	4	3	0	2
Canada	5	5	0	3
USA	6	14	1	8
Iceland	7	6	0	1
Finland	8	1	0	2
Netherlands	9	9	0	1
United Kingdom	10	10	1	7
Japan	11	23	0	1
France	12	21	0	9
Denmark	13	2	0	3
Switzerland	14	11	-	-
Austria	15	15	-	-
Germany	16	17	0	3
Ireland	17	19	1	1
New Zealand	18	3	0	1
Luxembourg	19	11	-	-
Italy	20	39	0	1
Spain	21	20	0	1
Israel	22	22	3	5
Hong Kong	23	15	-	-
Singapore	24	6	0	0
Greece	25	35	0	3
Cyprus	26	-	0	1
Slovenia	27	28	-	-
Portugal	28	23	0	1
South Korea	29	48	0	1
Malta	30	-	0	1
Brunei Darussalam	31	-	-	-
Czech Republic	32	42	0	1
Argentina	33	52	2	6
Slovakia	34	52	0	0
Hungary	35	32	0	2
Poland	36	43	0	2
Uruguay	37	-	3	6

Country	GDI Rank	Heidelberg Rank	Conflicts resolved violently	Total number of conflicts between 1975-2000
Bahamas	38	-		
Chile	39	18	0	3
Bahrain	40	-	1	3
Costa Rica	41	30	3	4
Lithuania	42	43	0	1
Croatia	43	51	2	2
Kuwait	44	-	4	6
Trinidad and Tobago	45	-	-	-
Latvia	46	57	0	1
United Arab Emirates	47	-	0	1
Qatar	48	-	1	4
Mexico	49	59	1	1
Belarus	50	43	0	1
Panama	51	-	1	2
Russian Federation	52	82	2	9
Bulgaria	53	52	-	-
Malaysia	54	36	0	2
Romania	55	68	-	-
Colombia	56	60	-	-
Venezuela	57	71	0	2
Belize	58	-	1	3
Mauritius	59	37	0	2
Thailand	60	60	0	2
Libya	61	-	0	1
Armenia	62	76	1	2
Philippines	63	69	2	2
Brazil	64	49	0	2
Fiji	65	-	-	-
Ukraine	66	87	0	2
Jamaica	67	-	-	-
Maldives	68	-	-	-
Lebanon	69	-	9	10
Sri Lanka	70	-	3	3
Turkey	71	50	1	6
Saudi Arabia	72	-	1	3
Peru	73	-	5	11
Albania	74	-	0	2
Paraguay	75	-	0	1
Uzbekistan	76	79	2	2

Country	GDI Rank	Heidelberg Rank	Conflicts resolved violently	Total number of conflicts between 1975-2000
China	77	63	5	6
Oman	78	-	0	2
Dominican Republic	79	-	-	-
Ecuador	80	74	3	5
Tunisia	81	32	2	3
Cape Verde	82	-	-	-
Iran	83	-	7	18
Jordan	84	39	0	1
Guyana	85	-	0	1
Moldova	86	74	-	-
El Salvador	87	43	1	2
South Africa	88	34	2	4
Vietnam	89	76	1	4
Algeria	90	-	3	3
Indonesia	91	85	4	5
Syria	92	-	-	-
Equatorial New Guinea	93	-	-	-
Tajikistan	94	-	3	3
Mongolia	95	-	-	-
Bolivia	96	71	0	1
Nicaragua	97	-	3	4
Honduras	98	-	3	3
Egypt	99	63	3	3
Guatemala	100	-	2	4
Namibia	101	-	0	1
Morocco	102	37	2	4
Swaziland	103	-	-	-
Botswana	104	26	0	1
India	105	69	5	7
Myanmar	106	-	1	2
Zimbabwe	107	65	1	2
Ghana	108	52	1	2
Cambodia	109	-	1	2
Papua New Guinea	110	-	1	3
Lesotho	111	-	1	2
Kenya	112	82	2	4
Congo	113	-	3	3
Comoros	114	-	1	2
Cameroon	115	84	-	-

Country	GDI Rank	Heidelberg Rank	Conflicts resolved violently	Total number of conflicts between 1975-2000
Sudan	116	-	6	7
Togo	117	-	2	2
Laos	118	-	0	2
Nepal	119	-	0	1
Pakistan	120	-	5	6
Bangladesh	121	-	1	3
Haiti	122	-	1	1
Madagascar	123	-	-	-
Nigeria	124	90	1	4
Uganda	125	80	4	6
Tanzania	126	76	1	1
Mauritania	127	-	1	1
Yemen	128	-	5	9
Zambia	129	57	1	3
Senegal	130	52	2	2
Congo, Dem Repub	131	-	-	-
Côte d'Ivoire	132	71	-	-
Eritrea	133	-	2	4
Benin	134	-	-	-
Rwanda	135	-	2	2
Gambia	136	-	-	-
Malawi	137	43	0	1
Mali	138	-	2	2
Central African Republic	139	-	0	1
Chad	140	-	7	9
Guinea Bissau	141	-	1	1
Ethiopia	142	60	5	7
Burkina Faso	143	65	2	2
Mozambique	144	81	3	3

Table 2

Country's Gender Development Index Rank	Composite Percentage of violent resolutions of conflict
1-25	10.7
26-50	35.4
51-75	38.0
76-100	58.0
101-125	58.0
126-144	71.0

III. IMPLEMENTATION

A. Laws

Discrimination against women in the workforce is economically inefficient.⁴¹ As the proportion of women in the workforce rises, the effects of the inefficiency rise.⁴² Thus, it makes economic sense for countries to pass nondiscrimination laws. There is also broad global support for nondiscrimination.⁴³ Many international treaties and conventions call for the elimination of discrimination against women.⁴⁴ As countries become signatories, they begin to change their laws.⁴⁵ Examples of international anti-discrimination policy include the ratification of the International Labour Organization (ILO) Convention 156 on Workers with Family Responsibilities, the U.N. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW),⁴⁶ and the Organisation for Economic Cooperation and Development (OECD) Guidelines for Multinational Enterprises.⁴⁷ Groups and individuals increasingly appeal to the norms of international law to oppose state laws.⁴⁸

41. Tzannatos, *supra* note 1, at 559-60.

42. *Id.* at 563.

43. *See* CEDAW, *infra* note 46.

44. *See infra* notes 43-47 and accompanying text.

45. *See, e.g.*, CEDAW, *infra* note 46.

46. Convention on the Elimination of All Forms of Discrimination Against Women, G.A. Res. 34/180, U.N. GAOR, 34th Sess., Supp. No. 46, U.N. Doc. A/34/46 (1980) (adopted Dec. 18, 1979, entered into force Dec. 3, 1981) [hereinafter CEDAW].

47. Org. for Econ. Co-operation and Dev., *Clarification on Environmental Concerns in OECD Guidelines for Multinational Enterprises*, 25 I.L.M. 494 (1986).

48. David Engel, *Concepts of Rights: Introduction*, 28 LAW & SOC'Y REV. 489, 490 (1994).

Various kinds of laws may need to be enacted to effectively address discrimination against women in the workforce. These can range from equal access to education to tax laws that do not unduly penalize a second income in a household, and from family leave to adequate childcare. The most obvious are laws that ban discrimination in the workplace. One example is a law banning discrimination against married women. In Indonesia and Korea it is permissible to discriminate against married women.⁴⁹ Such discrimination not only prevents married women from getting jobs, it also affects the types of jobs an employer is willing to offer women and the type of training women receive. Employers who hire single women tend to channel them into dead-end jobs, pay them lower wages, and lay them off first. Because most women will marry and employers assume a married woman will leave the workforce, there is little incentive to invest much in them.⁵⁰ Additionally, this discrimination affects the kind of education a family is willing to provide a girl.

Legislation, however, is only the beginning of a long road toward a solution. Several studies by social scientists in developing countries indicate that legislation mandating equality is not sufficient, at least in the short term, to change social norms.⁵¹ For example, a study conducted in Indonesia after a "Western" legal system was implemented showed that the system operated at the formal, state level in "a thin layer at the top," but that the traditional processes operated below that.⁵² This lower layer of interactions includes most of the issues faced by women on a daily basis.⁵³ Asserting rights was considered "impolite" because it disturbed the harmonious communal life by putting the individual before the community.⁵⁴ One of the results was that Toba Batak married women did not assert their right to inherit from their fathers' estates.⁵⁵ In India, women are

49. *Id.* at 564.

50. While it is permissible to discriminate against married women in hiring in Korea, it is now illegal to discriminate against them in promotions and dismissal. *Id.*

51. See, e.g., T. Omas Ihromi, *Inheritance and Equal Rights for Toba Batak Daughters*, 28 LAW & SOC'Y REV. 525, 527 (1994).

52. Satjipto Rahardjo, *Between Two Worlds: Modern State and Traditional Society in Indonesia*, 28 LAW & SOC'Y REV. 493, 494 (1994).

53. *Id.* Rahardjo further found that development did not proceed in the traditional way Weber's theory hypothesized, e.g., progressing from the stage of traditional authority to charismatic authority to rational legal authority. The development of new nation-states in the second half of the 20th century experienced "simultaneous waves of development." *Id.*

54. *Id.* at 500. Rahardjo asserts that this is true of Southeast Asian countries in general.

55. See Ihromi, *supra* note 51. Ihromi cites Sally Falk Moore's theory of semiautonomous social fields. Falk argues that these fields generate internal rules,

dissuaded from asserting their legal rights.⁵⁶ Traditional legal rights are as interpreted by men from traditional texts.⁵⁷ The main property right of women emanates from marriage—labor markets are only a secondary source.⁵⁸

Singapore and Malaysia have tried to address the resistance issue in implementing laws that conflict with cultural norms.⁵⁹ Before adopting laws, an attempt is made to change people's perceptions, in preparation for the change.⁶⁰ Then, if laws have not become generally accepted after passage, implementation is deferred until the community accepts the laws.⁶¹ Consequently, Malaysia has not adopted the CEDAW,⁶² and although various civil rights are mentioned in the Constitution, no such right is mentioned with respect to gender equality.⁶³ In Thailand, women and family-related issues are considered outside the realm of the law.⁶⁴ Women, however, have been seen as good workers, obedient, and non-demanding,⁶⁵ but they are hindered from achieving greater parity with men because of their historical place as appendages to men, the cultural devaluation of manual labor, and the religious definition of women as polluting.⁶⁶ Women tend to restrain themselves when competing with men.⁶⁷ These issues will be difficult to change through legislation.⁶⁸

customs, and symbols. However, they are also vulnerable to forces coming from the surrounding world. *Id.* at 527.

56. See SRIMATI BASU, *SHE COMES TO TAKE HER RIGHTS: INDIAN WOMEN, PROPERTY AND PROPRIETY* 71-74 (1994).

57. *Id.*

58. *Id.* at 59-63.

59. See generally Scott L. Goodroad, *The Challenge of Free Speech: Asian Values v. Unfettered Free Speech: An Analysis of Singapore and Malaysia in the New Global Order*, 9 *IND. INT'L & COMP. L. REV.* 259 (1998).

60. See Basu, *supra* note 56.

61. *Id.*

62. *Id.*

63. *Id.*

64. Juree Vichit-Vadakan, *Women and the Family in Thailand in the Midst of Social Change*, 28 *LAW & SOC'Y REV.* 515, 515 (1994).

65. *Id.*

66. *Id.*

67. *Id.*

68. See Tzannatos, *supra* note 1, at 568-69. Ethiopia presents another example where "tradition and culture often prevail over civil and criminal law, and in practice women do not enjoy equal status with men." See AFROL, *Gender Profiles: Ethiopia*, at <http://www.afrol.com>. Discrimination is worst in the rural areas where 85% of the population lives. They cite the abduction of women for marriage despite its banning in the penal code. "Culturally-based abuses including wife beating and marital rape are pervasive social problems." *Id.* In 1997, the government adopted a National Program of Action to enhance the status of women. This includes education and work opportunities for women. *Id.*

In addition to laws not being obeyed by individuals, governments may also ignore them, and employers may purposely avoid them. For example, Mexico prohibits discrimination against women under the Mexican Federal Labor Law⁶⁹ and the Mexican Constitution.⁷⁰ These laws are commonly ignored though.⁷¹ In another example, when equal pay legislation was implemented in Canada, employers avoided the intended result by reclassifying jobs so that they were not comparable or changed the wage rates for “female” and “male” jobs to “light” and “heavy” work.⁷² Despite these barriers to effectiveness, laws can play an important symbolic role⁷³ and can “educate a population to expect new forms of participation.”⁷⁴

Protective legislation, however, can be counterproductive in terms of women’s employment. China’s labor legislation is illustrative in its emphasis on the biological differences between men and women, treating women differently on the basis of differences such as menstruation, pregnancy, and nursing.⁷⁵ Protective legislation reinforces traditional stereotypes, puts the burden of child rearing entirely on women, and leads to a preference for male workers.⁷⁶ It also hinders women’s movement into nontraditional work roles.⁷⁷

Influences other than the law, such as non-governmental organizations (NGOs),⁷⁸ the media, and the Internet,⁷⁹ can also lead to change.⁸⁰ However, the change may only occur in certain classes.

69. L.F.T., D.O., arts. 3, 5, 56, 86, 164, 166 (1970) (Mex.).

70. Charles Hollon & Kathryn Culbertson, *Employment Discrimination Law in the U.S., Canada, and Mexico: A Comparative Overview*, 6 INT’L HUM. RESOURCES J. 39, 42 (1997) (citing CONST. art. 123 (Mex.)).

71. See, e.g., Baird, *supra* note 9, at 157-58 (discussing the Islamic law as it is practiced “on the ground” in India regarding women’s rights, and as interpreted by scholars, and its relation to a civil code granting women’s rights).

72. Tzannatos, *supra* note 1, at 566.

73. Law in Indonesia has been said to be an “expression of national aspiration,” rather than an instrument of social change. Ihromi, *supra* note 51, at 527.

74. Joel Handler, *Legal Rights and Social Inclusion*, 28 LAW & SOC’Y REV. 504, 505 (1994).

75. See *infra* notes 154-59 and accompanying text.

76. See generally Charles J. Ogletree & Rangita de Silva-de Alwis, *When Gender Differences Become a Trap: The Impact of China’s Labor Law on Women*, 14 YALE J.L. & FEMINISM 69 (2002).

77. *Id.* It also leads to women being seen as more expendable in economic downturns. This is reinforced by legislation requiring earlier retirement for females.

78. Symposium, *The Multinational Enterprise as Global Corporate Citizen*, 21 N.Y.L. SCH. J. INT’L & COMP. L. 1, 2 (2001) [hereinafter Symposium]; see also Kathleen Peratis et al., *Markets and Women’s International Human Rights*, 25 BROOK. J. INT’L L. 141 (1999).

79. See Engel, *supra* note 48, at 491.

80. Tourists can also be an agent for change toward global norms. See *id.* at 490.

For example, newspapers are influential,⁸¹ but tend to reflect the concerns of the middle- or upper-classes.⁸² Education can also play a role. Rights-focused education at the elementary school level may eventually lead to a transformation.⁸³ Multinational corporations (MNCs) operating within countries, however, may have the greatest potential to change existing norms through the labor policies they implement in their large and generally desirable workplaces.⁸⁴

B. What Can Business Add?

MNCs can help by implementing *social rights*, such as the right to work and the right to a decent income.⁸⁵ MNCs can be particularly influential in developing countries that are anxious to enjoy the developmental benefits of the MNC's presence.⁸⁶

1. Nondiscrimination

Probably the most essential element a company must have in order to successfully integrate women into the workforce is a nondiscrimination policy. As mentioned above, many international treaties and compacts call for such policies.⁸⁷ Additionally, MNCs operating in the United States are required to have a nondiscrimination policy. This policy must comport with the U.S.

81. The media has been important as a change agent in Southeast Asia,

Governments fear and respect the media and are sometimes inclined to capitulate rather than risk adverse publicity. The media are thus able to empower those groups within states whose causes they choose to report. . . . Indirectly, the media also play a significant role in disseminating ideas about law and politics across state boundaries.

Id. at 491.

82. Akin Rabibhadana, *Custom, State Law, and the Problem of Selective Enforcement*, 28 LAW & SOC'Y REV. 503, 504 (1994) (speaking of Thai society).

83. Handler, *supra* note 74, at 505 (citing Myrna Feliciano speaking of the Philippines' experience); Baird, *supra* note 9, at 147 (citing a study showing a lack of knowledge of the areas of law most significantly affected by a uniform civil code in India).

84. Engel, *supra* note 48, at 490. As states lose some of their predominance, the influence of multinational organizations including corporations becomes greater. See Dworkin, *infra* note 96, at 485-86.

85. Handler, *supra* note 74, at 506-07 (citing T.H. Marshall). Marshall posited three types of rights important to the development of citizenship in Western society – civil rights (legal recognition of contracts, property rights, etc.), political rights (enfranchisement), and social rights. He viewed these as occurring by century, from the 18th to the 20th.

86. See Symposium, *supra* note 78, at 15.

87. See *supra* notes 43-47 and accompanying text.

federal nondiscrimination laws such as Title VII,⁸⁸ the Americans with Disabilities Act,⁸⁹ and the Age Discrimination Act,⁹⁰ and thus may be broader than the international law mandates. The policies of MNCs in the United States therefore would also largely be consistent with the international treaties in regard to their treatment of women. Clearly, in order for women to be hired in nontraditional workplaces, employers must begin with equal opportunity.

In many instances, as a practical matter, a nondiscrimination policy will not be enough. The organization will need to create incentives and oversight to make sure the policy is implemented effectively. One important way to encourage compliance is to evaluate managers and supervisors in part based on whether they bring qualified women into the workplace at appropriate levels and whether these women receive appropriate training and promotion opportunities.⁹¹ The evaluations should also be tied into pay raises. In economies where women are largely untrained to enter the workforce, the employer may need to make certain its training and educational efforts outside the workplace are nondiscriminatory, as discussed below.⁹²

a. Harassment

Once women join the workplace, an essential component of a nondiscrimination policy is a ban on harassment. Harassment is a way to show the person being harassed that they are not welcome. Harassment has typically been a tool used by the majority group to send this message and to protect their territory.⁹³ For example, when women entered nontraditional jobs after passage of Title VII, harassment commonly followed.⁹⁴ In the United States today, harassment is believed to be more about power than about sex.⁹⁵ In harassment law, it is an abuse of economic power to force demeaning

88. See Civil Rights Act of 1964, Title VII, 42 U.S.C. § 2000(e) (1994).

89. See Americans with Disabilities Act, 42 U.S.C. § 12101(A)(5) (1995).

90. See Age Discrimination in Employment Act of 1967, 29 U.S.C. § 621 (1994).

91. Some developing countries such as Viet Nam have instituted affirmative action requirements as a way to increase the number of women in the workplace. Labor Code of the Socialist Republic of Vietnam, ch. X, art. III, available at <http://www.ivietnam.com/eng/business/laws/labourcode/basic/chapterX.asp>.

92. See *infra* notes 93-122 and accompanying text.

93. See, e.g., *Robinson v. Jacksonville Shipyards, Inc.*, 760 F. Supp. 1486 (M.D. Fla. 1991); see also *Horne v. Press Clough Joint Venture*, EOC ¶ 92-556 (W. Austrl. 1994).

94. See *Robinson*, 760 F. Supp. at 1486.

95. Note, *Sexual Harassment Claims of Abusive Work Environment Under Title VII*, 97 HARV. L. REV. 1449, 1449-52 (1984).

and unwelcome behavior on women.⁹⁶ Besides reducing workers to sex objects, harassment reinforces sexual stereotypes, assaults individual dignity, and fosters a sense of degradation that can result in a loss of productivity and physical and emotional problems.⁹⁷ It can also involve violence.⁹⁸

In developing countries such as China, where women are moving from rural areas to growing commercial centers to get jobs, women must often be willing to have sex with the person doing the hiring or the supervisor to get or keep a job.⁹⁹ This is seen by many as the dues one must pay to earn a living.¹⁰⁰

MNCs operating in the United States and other parts of the West are likely to have an anti-harassment policy. There are problems, though, with global application of a program developed to meet U.S. law.¹⁰¹ Two forms of sexual harassment are recognized in the United States: quid pro quo harassment and hostile environment sexual harassment. Quid pro quo harassment occurs when a supervisor offers or withholds a job or job benefit in exchange for sexual favors.¹⁰² A hostile environment occurs when unwelcome sexual conduct from a supervisor or coworker unreasonably interferes with individual job performance or creates an intimidating, hostile, or offensive work environment.¹⁰³ These same theories have been

96. Terry M. Dworkin et al., *Theories of Recovery for Sexual Harassment: Going Beyond Title VII*, 25 SAN DIEGO L. REV. 125, 127 (1988).

97. *Id.* at 127-28.

98. See, e.g., *Meritor Sav. Bank v. Vinson*, 477 U.S. 57 (1986); *Hunt v. State of Missouri*, 89 Fair Empl. Prac. Cas. (BNA) 867 (8th Cir. 2002); *Gaines v. Bellino*, 89 Fair Empl. Prac. Cas. (BNA) 886 (N.J. 2002).

99. In 1995, approximately 25 million Chinese were employed by foreign-owned export-processing firms, and the great majority of these workers were young female migrants from rural areas. Lesley J. Wiseman, Note, *A Place for "Maternity" in the Global Workplace: International Case Studies and Recommendations for the International Labor Policy*, 28 OHIO N.U. L. REV. 195, 198 (2001) (citing *Women Workers in China*, U.N. Official Report 3 (1995)).

100. Young women working in the *maquiladoras* also feel compelled to tolerate harassment in order to keep their jobs. Elvira R. Arriola, *Voices from the Barbed Wires of Despair: Women in the Maquiladoras, Latina Critical Legal Theory, and Gender at the U.S.-Mexico Border*, 49 DEPAUL L. REV. 729, 781-83 (2000).

101. See Terry Morehead Dworkin, *Whistleblowing, MNCs, and Peace*, 35 VAND. J. TRANSNAT'L L. 457, 478 (2002); *Highlights, Global HR*, 89 Fair Empl. Prac. (BNA) 108 (Aug. 29, 2002) [hereinafter *Highlights*].

102. See, e.g., *Vinson*, 477 U.S. at 57.

103. *Id.* The Supreme Court has recognized a defense to this type of harassment if the employer makes a reasonable effort to prevent and correct it, including effective policies and complaint procedures. The employer must also prove that the employee unreasonably failed to take advantage of employer-provided procedures. See, e.g., *Faragher v. City of Boca Raton*, 524 U.S. 775, 807 (1998); *Burlington Indus., Inc. v. Ellerth*, 524 U.S. 742, 744 (1998). Employers are strictly liable for quid pro quo harassment when a job benefit is denied. *Ellerth*, 524 U.S. at 744.

adopted by other countries and trade organizations.¹⁰⁴ Cultural and legal differences, however, have resulted in the concept having different meanings and legal outcomes.¹⁰⁵

The differences in the approaches of Japan, the Czech Republic, Australia, and the European Union are illustrative. In Japan, there is no law specifically addressing sexual harassment, but courts have recognized harassing environment claims, and women have formed pressure groups to force organizations to address the problem.¹⁰⁶ In the Czech Republic, women have been reluctant to raise the issue,¹⁰⁷ but as the Czech Republic prepares to join the European Union, changes may need to be made because the European Union has taken an official position against sexual harassment¹⁰⁸ and has adopted a program on gender equality.¹⁰⁹ There is currently no mechanism, however, to enforce the EU policy against harassment.¹¹⁰ Australia statutorily bans both the creation of a harassing environment and quid pro quo sexual harassment,¹¹¹ but if companies implement

104. See generally Michael Starr, *Who's the Boss? The Globalization of U.S. Employment Law*, 51 BUS. L. 635 (1996); Beverly H. Earle & Gerald A. Madek, *An International Perspective on Sexual Harassment Law*, 12 LAW & INEQ. 43 (1993).

105. See Dworkin, *supra* note 101; *Highlights*, *supra* note 101.

106. See Nancy Patterson, Recent Development, *No More Naki-Neiri? The State of Japanese Sexual Harassment Law: Judgment of April 16, 1992, Fukuoka Chiho Saibansho, Heisei Gannen (1989)(wa) No. 1872, Songai Baisho Jiken (Japan)*, 34 HARV. INT'L L.J. 206 (1993) (discussing a successful sexual harassment claim that occurred at a time when harassment was dismissed as trivial by companies and businessmen). See also Daniel Niven, *The Case of the Hidden Harassment*, HARV. BUS. REV., Mar.-Apr. 1992, at 12.

107. See Dworkin, *supra* note 101, at 479.

108. The European Commission prepared a Code of Practice after the Council of Ministers passed a resolution, *The Protection of the Dignity of Men and Women at Work*, which defined harassment in the same terms as those used in the United States. It did so after finding that harassment was a serious problem for many working women. See generally MICHAEL RUBENSTEIN, HOW TO COMBAT SEXUAL HARASSMENT AT WORK: A GUIDE TO IMPLEMENTING THE EUROPEAN COMMISSION CODE OF PRACTICE (1993); MICHAEL RUBENSTEIN, THE DIGNITY OF WOMEN AT WORK: A REPORT ON THE PROBLEM OF SEXUAL HARASSMENT IN THE MEMBER STATES OF THE EUROPEAN COMMUNITIES (1987).

109. In 2000, in response to a proposal from the European Commission, the Council issued a decision that established a program for a Community framework strategy on gender equality. It does not specifically mention sexual harassment. 2001 O.J. (L17/22) 19.1.

110. The Code is nonbinding on Member States and has no enforcement mechanism. Anita Bernstein, *Law, Culture, and Harassment*, 142 U. PA. L. REV. 1227, 1232-33 (1994). Bernstein posited that the lack of sanctions resulted from the fact that sexual harassment was not widely viewed as a legal wrong in the EU Member States. *Id.* Since the Code was nonbinding, the Member States were free to establish or maintain their own laws, and these vary from country to country. See Dworkin, *supra* note 101, at 478-79.

111. Sex Discrimination Act of 1984, 20 F.C.R. 217, Div. 3, §§ 28A-28B (Austl.). In addition to the federal legislation, Australia's six states and two territories have anti-discrimination legislation. See, e.g., Equal Opportunity Act 1984, § 87 (S. Austl.).

effective training programs, they cannot be sued.¹¹² The differences mean that MNCs must adjust their policies to meet local requirements. They would be legally safe and ethically correct, however, to have a policy banning quid pro quo harassment no matter where they operate.¹¹³

No country approves of the idea of a woman being forced to trade sexual favors for the right to employment and its benefits. No state sanctions threats to a woman's personal security. No country endorses the intentional undermining of a woman's human dignity. A number of global and regional declarations reflect this consensus, including the 1948 Universal Declaration of Human Rights,¹¹⁴ CEDAW,¹¹⁵ OECD Guidelines for Multinational Enterprises,¹¹⁶ the Council of Europe's 1996 Social Charter,¹¹⁷ and European Community Directives and Codes of Practice.¹¹⁸ Additionally, the laws, tenets, and philosophies of particular countries and religions support a ban on such behavior.

Ethically, the pervasiveness of coverage suggests there are three general rules, or *hypernorms*, that justify a ban on quid pro quo harassment. Hypernorms, principals "so fundamental to human existence that they serve as a guide [to] evaluating lower level moral norms," are usually reflected in global principles that are generally recognized in a variety of ways.¹¹⁹ They are often cast in the language of rights. An examination of the global and regional declarations above suggests quid pro quo harassment involves the

Acts & Ord.) (Austl.); Anti-Discrimination Act 1991, § 118 (Queensl. Stat.) (Austl.). See generally Jeffrey Minson, *Second Principles of Social Justice*, 10 LAW IN CONTEXT 1 (1992).

112. "In any proceedings brought under this Act . . . it is a defence to prove that the person exercised all reasonable diligence to ensure that the agent or employee would not act in contravention of the Act." Equal Opportunity Act 1984, § 91 (3) (S. Austl. Acts & Ord.) (Austl.). The U.S. Supreme Court has created a defense for hostile environment sexual harassment. See Civil Rights Act of 1964, Title VII, 42 U.S.C. § 2000(e) (1994).

113. Dana Deane, in-house counsel at Abbott Laboratories, argues for a global harassment and anti-discrimination policy so that the organization can articulate a uniform policy and corporate culture. See *Highlights*, *supra* note 101.

114. U.N. GAOR, 3d Sess., 67th plen. mtg., at 1, U.N. Doc. A/811 (1948). This document was part of the International Bill of Human Rights, U.N. GAOR, 3d Sess., Supp. No. 1, at 71, U.N. Doc. A/565 (1948).

115. CEDAW, *supra* note 46.

116. *Clarification on Environmental Concerns in OECD Guidelines for Multinational Enterprises*, *supra* note 47.

117. European Social Charter, Oct. 18, 1961, 529 U.N.T.S. 89, *reprinted in* 36 I.L.M. 31 (1997).

118. See RUBENSTEIN, *supra* note 108.

119. Thomas Donaldson & Thomas R. Dunfee, *Toward A Unified Conception of Business Ethics: Integrative Social Contracts Theory*, 19 ACAD. MGMT. REV. 252, 265 (1994).

hypernorms of personal security,¹²⁰ respect for human dignity,¹²¹ and nondiscrimination.¹²² Professors Thomas Donaldson and Thomas Dunfee, in their integrative social contracts theory, recognize macrosocial and microsocial contracts.¹²³ They argue that hypernorms can be used to border or limit the cultural relativism of micronorms.¹²⁴ If nonharassment is a hypernorm, then an MNC can ethically justify a global ban on harassment. This means that although quid pro quo harassment may be tolerated in China, for example, it is appropriate for a company operating there to ban it.

It is harder to justify a global ban on environmental sexual harassment. This type of harassment seldom involves personal security and there is no general consensus—even in the United States—as to what is included within the concept.¹²⁵ Staring, verbal comments, jokes, and similar actions are not perceived as harassment of women in many countries.¹²⁶ To the extent that such harassment erodes human dignity and is discriminatory, it violates two of the hypernorms. Thus, organizations can ban demeaning and discriminatory treatment. What constitutes such treatment, though, should be determined on a microsocial basis. Cultural *imperialism* should also be avoided.¹²⁷

It is appropriate for an MNC to have a uniform corporate culture¹²⁸ that stresses respect for individuals and equal opportunity. It would be necessary, however, to have training and possibly some form of mentoring to effectively implement it. This is where cultural differences can be taken into account.¹²⁹ Exploration of what constitutes a harassing environment in a particular location should be addressed through seminars, focus groups, and through other

120. W.C. Frederick, *The Empirical Quest for Normative Meaning: Introduction and Orientation*, 2 BUS. ETHICS Q. 91 (1992).

121. Donaldson & Dunfee, *supra* note 119, at 267.

122. THOMAS DONALDSON, *THE ETHICS OF INTERNATIONAL BUSINESS* 87 (1989).

123. See Donaldson & Dunfee, *supra* note 119. See also THOMAS DONALDSON & THOMAS R. DUNFEE, *TIES THAT BIND: A SOCIAL CONTRACTS APPROACH TO BUSINESS ETHICS* 49-81 (1999).

124. See Donaldson & Dunfee, *supra* note 119.

125. See, e.g., Sandra Orihuela & Abigail Montjoy, *The Education of Latin America's Sexual Harassment Law: A Look at Mini-Skirts and Multinationals in Peru*, 30 CAL. W. INT'L L.J. 323 (2000).

126. See *id.* at 325.

127. See Richard T. DeGeorge, *International Business Ethics*, 4 BUS. ETHICS Q. 1 (1994); Derek G. Barella, Note, *Checking the "Trigger-Happy" Congress: The Extraterritorial Extension of Federal Employment Laws Requires Prudence*, 69 IND. L.J. 889, 913 (1994). Cf. Mark Granovetter, *Economic Action and Social Structure: The Problem of Embeddedness*, 91 AM. J. SOC. 481 (1985) (arguing that contractarianism and other business ethics arguments have a Western bias).

128. See *Highlights*, *supra* note 101, at 108.

129. GEERT HOFSTEDE, *CULTURE'S CONSEQUENCES: INTERNATIONAL DIFFERENCES IN WORK RELATED VALUES* 276 (1980).

means.¹³⁰ It is unrealistic to expect that the U.S. standard for a harassing environment would be accepted elsewhere. Respecting cultural differences, however, does not mean respecting the lowest common denominator. A minimum standard should be set by the MNC, and a chance to appeal outside of the local organization should be provided.¹³¹

b. Equal Pay/Comparable Worth

Another important part of a nondiscrimination policy is equal pay. Worldwide, no more than one-fifth of wages go to women.¹³² This is partly due to the concentration of women in low-paying jobs, but it is also attributable to the fact that women are often paid less than men for the same work.¹³³ At a minimum, a company should have a policy of paying women the same wage as men for the same work. This would represent a significant change in some developing countries where women are sought as workers because they are willing to work harder for less.¹³⁴ A more problematic issue is that of comparable worth. Although "women's" jobs are often lower paying than those where men are concentrated, the jobs that are predominately female are not necessarily of lesser value to the organization. Comparable worth is a means of addressing this inequity.

One basis for the doctrine of comparable worth is the CEDAW, which was adopted by the U.N. General Assembly on December 18, 1979.¹³⁵ It entered into force on September 3, 1981, when it had been ratified by 20 states as provided by Article 27 of the Convention.¹³⁶ It is the most comprehensive Convention dealing with women's rights,

130. See Elletta Callahan et al., *Integrating Trends in Whistleblowing and Corporate Governance: Promoting Organizational Effectiveness, Societal Responsibility, and Employee Empowerment*, 40 AM. BUS. L.J. 11 (2002).

131. The appeal could go to the person doing organizational compliance auditing, who would then be responsible for ensuring that local interpretations are not setting the bar too low. Dworkin, *supra* note 101, at 481. This may be easier now that companies are taking compliance more seriously and instituting oversight. See generally ABA Task Force on Corp. Responsibility, *Preliminary Report of the American Bar Association Task Force on Corporate Responsibility*, 58 BUS. L. 189 (2002); Carol Hymowitz, *Building a Board That's Independent, Strong and Effective*, WALL ST. J., Nov. 19, 2002, at B1.

132. Tzannatos, *supra* note 1, at 551.

133. *Id.*

134. See, e.g., Arriola, *supra* note 100, at 765-82.

135. See CEDAW, *supra* note 46.

136. *Id.* art. 27, at 23.

and as of 1997, it had been ratified by 161 states.¹³⁷ The Convention requires signatories to “embody the principle of the equality of men and women” in their constitutions or appropriate legislations¹³⁸ and to “modify or abolish existing laws, regulations, customs and practices” that discriminate against women.¹³⁹ Article 11 explicitly mandates the doctrine of comparable worth by requiring signatories to “take all appropriate measures to eliminate discrimination against women in the field of employment”¹⁴⁰ and to ensure equality of men and women to “equal remuneration” and “equal treatment [for] work of equal value.”¹⁴¹

In practice, the doctrine of comparable worth requires employers to pay workers in jobs traditionally held by women according to their worth to the employer.¹⁴² Because “male” and “female” jobs are traditionally compared in terms of the skill, effort, responsibility, and working conditions of the job,¹⁴³ under the doctrine, and after a comparative evaluation of the jobs, employers are required to make equity adjustments if they find that jobs in which women predominate are valued by the employer but are not paid according to this value.¹⁴⁴ The idea of comparable worth focuses on the requirement that men and women within the same organization be paid the same salary for work that is judged to be of equal value.¹⁴⁵

Opponents of the comparable worth theory argue that “salaries are determined in large part by an assessment of the demand for, and the supply of, the type of labor needed. Relying on prevailing market rates, they contend, is a neutral, nondiscriminatory wage mechanism based on supply and demand.”¹⁴⁶ In comparison, the doctrine of comparable worth assumes that women will continue to work in female-dominated occupations, but that they should be paid according to their worth to the employer rather than the value an imperfect labor market places on their services.¹⁴⁷

137. Malvina Halberstam, *United States Ratification of the Convention on the Elimination of All Forms of Discrimination Against Women*, 31 GEO. WASH. J. INT'L L. & ECON. 49, 49 (1997).

138. CEDAW, *supra* note 46, art. 2(a), at 16.

139. *Id.* art. 2(f), at 16.

140. *Id.* art. 11(1), at 18.

141. *Id.* art. 11(1)(d), at 18.

142. See Andrea Giampetro-Meyer, *Resurrecting Comparable Worth as a Remedy for Gender-Based Wage Discrimination*, 23 SW. U. L. REV. 225, 226 (1994).

143. *Id.* Value is determined by a detailed evaluation of jobs and considers the factors of skill and knowledge, mental and physical effort, responsibility, and working conditions. *Id.* at 229.

144. *Id.* at 226.

145. *Id.* at 229.

146. SUSAN G. MESEY, IN PURSUIT OF EQUALITY PAY 99 (1992).

147. Giampetro-Meyer, *supra* note 142, at 229.

Comparable worth has limited application in the United States,¹⁴⁸ but it is mandated in many other countries. Australia, Ireland, New Zealand, Switzerland, the United Kingdom, and Canada have implemented pay equity programs in one form or another.¹⁴⁹ As demonstrated by the GDI, the wage gap in Australia is much narrower than the wage gap in the United States and other countries.¹⁵⁰ This narrow gap has been attributed to “deliberate efforts by centralized wage-setting tribunals to promote equality for workers in jobs predominately held by women.”¹⁵¹ State and federal tribunals set minimum wages and other minimum terms of employment.¹⁵² The tribunals, taking mandate from CEDAW, embraced pay equity principals as a natural part of the wage setting process.¹⁵³ Australia’s wage-setting process is not market-based—workers in predominately female jobs benefit from pay equity without having to assert their individual rights, as litigation would require.¹⁵⁴

Especially in developing countries, women who are in the labor force generally work in different sectors and perform tasks different from men.¹⁵⁵ For example, almost two-thirds of garment workers worldwide are female.¹⁵⁶ In some areas, women are the preferred workers because they are considered more submissive, they will work for lower wages, and are easier to fire.¹⁵⁷ Globalization increases the pressures on investment-hungry countries to “race to the bottom.”¹⁵⁸ This type of exploitation must be avoided if women are to become meaningful members of the economy.

c. Pregnancy

Nondiscrimination on the basis of maternity and child care issues is another important component of a nondiscrimination policy. In some countries, women are confronted by sterilization certificate

148. See *id.* at 230-31. Comparable worth has mainly been adopted through union efforts and primarily in the public sector. The primary argument against its adoption is that it does not let the marketplace determine wages.

149. *Id.* at 236. When the European Community was established, France insisted on the adoption of comparable worth because it had already implemented the concept, and it was concerned that it would be at a competitive disadvantage if all of the countries did not adopt it.

150. *Id.* at 238.

151. *Id.*

152. *Id.*

153. *Id.*

154. *Id.*

155. Tzannatos, *supra* note 1, at 555.

156. *Id.* at 556. These female workers account for nearly one-fifth of all women in the labor force in manufacturing. *Id.*

157. See Arriola, *supra* note 100, at 783-87.

158. See Wiseman, *supra* note 99.

requirements, pregnancy tests, and single-status requirements.¹⁵⁹ Such screening devices obviously keep many women outside the workforce.¹⁶⁰ Employer nondiscrimination is particularly important where young women are hired for entry-level jobs in developing countries. These practices are still commonplace, even where prohibited by law. Mexico, for example, prohibits discrimination on the basis of maternity, including against pregnant and nursing women.¹⁶¹ However, these laws are rarely enforced,¹⁶² and pregnancy tests before hiring or firing on determination of pregnancy are common, especially in the border factories, or *maquiladoras*.¹⁶³

The policies of the *maquiladoras* have been challenged by NGOs, the ILO, and lawsuits as being discriminatory and abusive.¹⁶⁴ Many of the *maquiladoras* are operated by MNCs who have policies against such discrimination in their U.S. operations.¹⁶⁵ So far, they have successfully withstood the outside pressures to change their Mexican operations, arguing that reform puts a corporation at a competitive disadvantage vis-à-vis the other organizations and that many companies cannot afford the "substantial financial liabilities in the social security system for maternity benefits."¹⁶⁶ The Mexican government has avoided forcing the issue because it is afraid that companies may move their operations elsewhere.¹⁶⁷ They claim that pregnancy testing of applicants is not illegal because their law speaks in terms of protecting employees, not applicants.¹⁶⁸ Even if this interpretation is accurate, it does not address the problem of the firing or constructive firing of employees who become pregnant. As

159. Tzannatos, *supra* note 1, at 562.

160. In the Arab world, there is often a tension at the national level between a desire to further development and to preserve the traditional family unit. This results in explicitly pro-natalist policies such as unavailability of effective contraception which, of course, inhibits women in becoming members of the labor force. Valentine M. Moghadam, *The Political Economy of Female Employment in the Arab Region*, in *GENDER AND DEVELOPMENT IN THE ARAB WORLD: WOMEN'S ECONOMIC PARTICIPATION: PATTERNS AND POLICIES* 6, 12 (Nabil F. Khoury & Valentine M. Moghadam eds., 1995).

161. Hollon & Culbertson, *supra* note 70.

162. Chinese labor laws protecting women are also commonly not enforced. Ogletree & Silva-de Alwis, *supra* note 76.

163. See Human Rights Watch, *No Guarantees: Sex Discrimination in Mexico's Maquiladora Sector* (Aug. 1996), at <http://www.hrw.org>; Arriola, *supra* note 100, at 784; Reka S. Koerner, Note, *Pregnancy Discrimination in Mexico: Has Mexico Complied with the North American Agreement on Labor Cooperation?*, 4 TEX. F. ON C.L. & C.R. 235 (1999).

164. See Koerner, *supra* note 163; Wiseman, *supra* note 99, at 213-15.

165. See Wiseman, *supra* note 99, at 214-15. General Electric is one of the companies cited.

166. See Arriola, *supra* note 100, at 785 (quoting Zenith Corporation's policy on pregnancy screening).

167. Wiseman, *supra* note 99, at 215.

168. Koerner, *supra* note 163, at 247.

the challenges to such policies continue to grow, and as does the publicity, it becomes harder for MNCs to maintain such inconsistent policies. A feasible step in the right direction would be to ban firing of employees on the basis of pregnancy.

Protective legislation based on women's reproductive abilities presents a barrier to equal treatment in some countries. China, for example, has regulations that limit a woman's work during menstruation and menopause.¹⁶⁹ During menstruation the level of physical exertion is regulated and work in cold water, low temperatures, and high altitudes is prohibited.¹⁷⁰ More generally, Chinese labor law prohibits women from working in especially strenuous or dangerous jobs,¹⁷¹ which are often the most highly paid, because such work is believed to increase the risk of dislocating the uterus.¹⁷² Protective legislation in the United States was seen as a barrier to equal treatment decades ago and, as such, has generally been eliminated.¹⁷³ China is a signatory to the CEDAW, and the protective legislation is arguably in violation of this convention.¹⁷⁴

Protective legislation based on pregnancy is more common, as is maternity leave. More than 120 countries have laws providing for paid maternity leave.¹⁷⁵ This does not solve the problem of, and indeed may contribute to,¹⁷⁶ discrimination against women "due to their reproductive roles"¹⁷⁷ because it is more expensive to hire women.

d. Childcare

One of the hardest cultural norms to change is the idea that women should bear the responsibility for children. Companies can address this by providing a more comprehensive system of parental leave rather than only maternal leave. Even in the United States, however, where parental leave is mandated by the Family and Medical Leave Act,¹⁷⁸ men seldom avail themselves of this option.

169. Margaret Y. K. Woo, *Biology and Equality: Challenge for Feminism in the Socialist and the Liberal State*, 42 EMORY L.J. 143, 157 (1993).

170. *Id.* at 157-58.

171. Labor Law of the People's Republic of China, art. 58-65, *translated in CHINA L. & PRAC.* 21 (1994).

172. Woo, *supra* note 169, at 158.

173. *See, e.g.*, UAW v. Johnson Controls, Inc., 499 U.S. 187 (1991).

174. Wiseman, *supra* note 99, at 206.

175. Press Release, Int'l Labor Org., More than 120 Nations Provide Paid Maternity Leave: Gap in Employment Treatment for Men and Women Still Exists (Feb. 16, 1998), at <http://www.ilo.org/public/english/bureau/inf/pr/1998/7.htm>.

176. Wiseman, *supra* note 99, at 195.

177. *Id.*

178. 29 U.S.C. § 2601-47 (1993).

Yet men also need childcare. More than two million workers are single fathers; one in every six single parents is a dad.¹⁷⁹ Rather than fight against this norm, companies can better address the issue by providing childcare. Studies have indicated that providing childcare is not unduly expensive because it cuts down on absenteeism, increases employee loyalty, and contributes to a more stable workforce.¹⁸⁰ The Families and Work Institute's (FWI) National Study of the Changing Workforce found that employees of companies that have implemented family-friendly programs were more likely to have "higher levels of job satisfaction, more commitment to their companies' success, greater loyalty to their companies, and a stronger intention to remain with their companies."¹⁸¹

Employee-sponsored childcare enables employees to better integrate their work and personal lives. Research has shown that the difficulty of juggling work and personal lives can result in stress and fatigue, complaints about work demands, and, more critically, the loss of valued employees or the sudden change in the performance of people who otherwise had great potential.¹⁸² By providing childcare, companies make "an explicit link between people's personal needs and business goals."¹⁸³ As a result, companies both assist their employees and increase productivity and effectiveness in the business. Childcare "contributes to employees being at work and working productively."¹⁸⁴

According to FWI's 1998 Business Work-Life Study, few companies have evaluated return on investment for work-life programs, including child care assistance.¹⁸⁵ However, the study does note a "perceived return on investment."¹⁸⁶ Two-thirds of

179. See generally BUREAU OF LABOR STATISTICS, HOUSEHOLD AND FAMILY CHARACTERISTICS FROM THE MARCH 1998 CURRENT POPULATION SURVEY (1998).

180. See Ellen Galinsky & James T. Bond, *Executive Summary*, in FAMILIES AND WORK INSTITUTE, THE 1998 BUSINESS WORK-LIFE STUDY: A SOURCEBOOK (1998).

181. *Id.*

182. See Lotte Bailyn et al., *Unexpected Connections: Considering Employees' Personal Lives Can Revitalize Your Business*, 38 SLOAN MGMT. REV. 11 (1997).

183. *Id.* at 15.

184. Phyllis Hutton Raabe, *Constructing Pluralistic Work and Career Arrangements*, in THE WORK-FAMILY CHALLENGE: RETHINKING EMPLOYMENT 129 (Susan Lewis & Jeremy Lewis eds., 1996).

185. Galinsky & Bond, *supra* note 180.

186. Combining Human Resource professionals' personal views with reported findings from evaluations, the study derives the *perceived return on investment*.

Among companies offering any child care benefit, 24 percent perceive negative returns on their investments, seven to eight percentage points higher than the percentages reported for flexible work arrangements and family leave policies. Another 40 percent perceive child care assistance programs to be cost-neutral and 36 percent think the benefits of these programs outweigh their costs.

employers reported that the benefits of childcare programs exceeded the costs or that the programs were cost-neutral.¹⁸⁷

Another study found that “when considering a job change, 93 percent of parents say work-site childcare is an important factor.¹⁸⁸ In addition, 26 percent of management-level employees say they have turned down or failed to pursue a job opportunity because they valued their existing work-site childcare.”¹⁸⁹ According to Women Returners' Network, affordable childcare is still the biggest problem for women going back to work.¹⁹⁰

Other studies have considered the cost of not providing childcare and found that employee absenteeism due to childcare breakdowns is estimated to cost U.S. businesses three billion dollars annually.¹⁹¹ These breakdowns occur when parents are forced to rely on informal arrangements. “Forty percent of employees report missing one to five days of work annually due to child care breakdowns.”¹⁹² This study concluded that better childcare, backed up with effective law, could save business up to 30 percent of the absenteeism and tardiness costs.¹⁹³ For example, one law firm reportedly spent \$170,000 in one year to provide back-up childcare in emergencies, while realizing approximately \$800,000 additional revenues from increased billable hours that the backup childcare provided.¹⁹⁴

Similarly, a review of JP Morgan Chase's backup childcare program “showed that 98% of parents who use the program would have taken unscheduled time off from work to care for their children had the back-up program not been available. In just one year, the back-up program generated more than a 100% return on investment.”¹⁹⁵ JP Morgan Chase tracked the savings from their

Id.

187. *Id.*

188. Lindsay Wood, *Workplace Childcare Centers Increasing in Numbers*, GALT GLOBAL REV., July 17, 2001, available at http://www.galtglobalreview.com/business/workplace_childcare.html.

189. *Id.*

190. Galinsky & Bond, *supra* note 180.

191. Sheri A. Mullikin & Anthony B. Taddeo, Jr., *Balancing a Legal Career and Child Care in a 24/7 World*, available at <http://www.milesstockbridge.com/articles/parenttrap.html>; see also P. Landsman, *Juggling Work and Family*, 28 BUS. INS. 16 (1994); Dana Friedman, *Child Care for Employees' Kids*, 64 HARV. BUS. REV. 28 (1986).

192. Mullikin & Taddeo, Jr., *supra* note 191; see also FAMILIES & WORK INST., NATIONAL STUDY OF THE CHANGING WORKFORCE (1997).

193. Mulliken & Taddeo, Jr., *supra* note 191; see also Landsman, *supra* note 191; Friedman, *supra* note 191.

194. Mulliken & Taddeo, Jr., *supra* note 191; see also *Big Washington Law Firm to Offer On-Site Child Care to Ease Stress for Parents*, CHI. TRIB., Mar. 29, 1995, at C2 (citing increased morale and productivity as additional benefits of its backup child care services).

195. Bright Horizons, *Benefits of Employer-Sponsored Care*, at <http://www.brighthorizons.com>.

program of backup care centers at \$803,000 annually.¹⁹⁶ Moreover, a JP Morgan Chase work-life manager observed that when employees feel less torn between going back to work and staying home with their children, employees were more loyal to the firm.¹⁹⁷ Their work-life manager observed that “free infant care has made a big difference for people, and thus for the company.”¹⁹⁸

Employees’ needs will vary across countries. For example, in societies where there are close, extended families, as in the Philippines and Thailand, childcare may not be much of an issue for the employee.¹⁹⁹ A growing trend in this regard is to provide nursing areas and time off for mothers to nurse their children.²⁰⁰

Some countries mandate that companies provide childcare. In China, for example, regulations were created requiring employers to provide childcare centers and kindergartens.²⁰¹ The change in China from the government provided subsidies for child care due to economic reform and privatization, however, has resulted in many employers ignoring this requirement.²⁰²

2. Training

Training is particularly important for companies to implement for two reasons: (1) to ensure compliance with company policies such as nonharassment, and (2) to ensure a competent workforce, especially in developing countries.²⁰³

Studies of workplace harassment in the United States show that the level of harassment has remained relatively consistent despite companies implementing bans.²⁰⁴ Compliance with legal rules, without training, does not lead to success in fighting harassment. Training, although not required for the “safe harbor” that companies seek through legal compliance, provides the necessary link between

196. Child Care Info. Exch., *JP Morgan Chase Offers Free Infant Care*, EXCHANGE EVERY DAY, Oct. 22, 2002, available at <http://mail.ccie.com>.

197. *Id.*

198. *Id.*

199. Tzannatos, *supra* note 1, at 565.

200. *Id.* Chinese regulations require two 30-minute nursing periods per day. Woo, *supra* note 169, at 159.

201. *Id.* at 159. These were part of a large set of regulations aimed at addressing health and other issues of women workers. The regulations are provincial regulations.

202. Wiseman, *supra* note 99, at 202.

203. Training helps break the vicious cycle of women’s low initial human capital endowments and inferior labor market outcomes compared to men’s. Tzannatos, *supra* note 1, at 551.

204. Joanna Grossman, *Sexual Harassment in the Workplace*, FINDLAW’S WRIT, at <http://writ.corporate.findlaw.com/grossman/grossman4.html>. Grossman is an Associate Professor of Law, Hofstra University.

bans and results. It helps change perceptions and promotes understanding of the rules.²⁰⁵ Social science studies show that training affects different people differently. For example, women tend to be less affected by training than men.²⁰⁶ Also, men with a high propensity to harass are affected more highly than men with a low propensity.²⁰⁷ This suggests that training will be most effective when done in small groups of similar people.²⁰⁸ Training is also likely to be most effective when it is clear that top management strongly supports it. This recommendation is consistent with the recommendation regarding mentoring for corporate norms. Additionally, it will probably be most effective when done by someone who thoroughly understands the cultural milieu.

The Philippines, in attempts to promote equality for women, implemented sensitivity training programs for men *and* women. The latter was considered necessary because women “tend to denigrate their own sex when it comes to making decisions.”²⁰⁹ Among the Toba Batak people, many families are beginning to see value in investing in a girl’s training or education because the family can depend more on their daughters than their sons to be successful when they attend an institute of higher learning.²¹⁰

Employers have an incentive to train women workers. Training makes them “persistent” workers as opposed to casual or secondary workers, which increases the stability of the workforce.²¹¹ An area where there may be less gender bias is in computer work. Training women to be “tech-savvy” not only gives employers a larger core of workers, it also means that women develop portable skills and better chances of advancement and rehiring in times of economic downturn.

Some companies have recently been recognized for their training efforts. Motorola Malaysia, a winner of the Albright Award in the Large Multinational category in 2000, has one of the largest private-sector workforces and a wholly Malaysian management team.²¹² It supports a variety of training and educational opportunities at

205. *Id.*

206. *Id.*

207. *Id.*

208. See Callahan et al., *supra* note 130.

209. Myrna Feliciano, *Legal Rights and Social Inclusion*, 28 LAW & SOC’Y REV. 507, 508 (1994). Cf. Ihromi, *supra* note 51, at 535 (“A convention on an international level, made into law, and equating the rights of men and women in cases of interinheritance . . . cannot work for the Batak people. The women themselves would not be willing to accept such a matter” (quoting the reaction of the Toba people to the U.N. Convention on the Elimination of All Forms of Discrimination Against Women)).

210. Ihromi, *supra* note 51, at 536.

211. Tzannatos, *supra* note 1, at 562. Viewing women as persistent workers means that employers are more likely to invest in them in terms of training.

212. See U.S. Dep’t of State, *2002 Award for Corporate Excellence*, at http://www.state.gov/www/about_state/business/cba_00award_motorola.html.

various levels in cooperation with different institutions.²¹³ If these training programs are open to women as well as men, their efforts will have a significant impact on women in the region. Xerox do Brasil, a winner in 1999, was cited for its significant training and education efforts, particularly at the local community level.²¹⁴ Several programs are aimed at teenagers. To the extent that such early intervention includes girls as well as boys, it can go a long way towards meaningful inclusion of women in the economy.²¹⁵

3. Mentoring

When women enter the workforce, they often enter in jobs that are segregated by sex. One result of this segregation is a limitation in career opportunities.²¹⁶ In the United States, mentoring, "a developmental relationship between an individual and a more senior and influential manager or professional,"²¹⁷ has long been recognized as a way to help individuals in underrepresented groups become successful in an organization.²¹⁸ In comparison to some of the other pro-equality measures mentioned above, such as comparable worth, mentoring is relatively inexpensive for a company to implement.

Mentoring can provide visibility, access to information, and the opportunity to gain experience and show competence that would otherwise not have been available.²¹⁹ In countries where women have traditionally not been a part of the workforce or have only been

213. The company supports programs such as school adoption, local university internships, scholarships, and support for university and industrial training collaboration through joint development of curriculum, research and cross-training. It also hosts an ethical practices workshop. *Id.*

214. See U.S. Dep't of State, *1999 Award for Corporate Excellence*, at http://www.state.gov/www/about_state/business/cba_99award_xerox.html.

215. Much of the training is aimed at high-risk teens and less privileged groups. One of the programs helps teenagers learn in the workplace by combining work with training for personal and professional life and reaches beyond Xerox permanent staff. *Id.*

216. Tzannotos, *supra* note 1, at 556. The segregation also negatively affects wages.

217. George F. Dreher & Taylor H. Cox, Jr., *Race, Gender, and Opportunity: A Study of Compensation Attainment and the Establishment of Mentoring Relationships*, 81 J. APPLIED PSYCHOL. 297, 298 (1996).

218. See, e.g., Ronald J. Burke, *Mentors in Organizations*, 9 GROUP & ORG. STUD. 353 (1984); Ellen A. Fagenson, *The Mentor Advantage: Perceived Career/Job Experiences of Protégés vs. Non-Protégés*, 10 J. ORG. BEHAV. 309 (1989). In one study, employees with extensive mentoring relationships received more promotions, higher income, and experienced more satisfaction with their pay and benefits. See George F. Dreher & Ronald A. Ash, *A Comparative Study of Mentoring Among Men and Women in Managerial, Professional, and Technical Positions*, 75 J. APPLIED PSYCHOL. 539 (1990).

219. Dreher & Cox, Jr., *supra* note 217, at 298. The mentee is referred to as a *protégé*.

involved at the lowest levels, company-provided mentoring programs are particularly important.²²⁰ When women are seen as appendages to men,²²¹ and their decisions are suspect,²²² they cannot succeed in a male-dominated environment.²²³ In addition to the mentoring benefits mentioned above, the relationship can also provide protection and help buffer the mentee from both overt and covert forms of discrimination²²⁴ through "reflected power."²²⁵ Further, mentoring can help the mentee develop a positive and secure self-image,²²⁶ and it helps to alter stereotypical perceptions.²²⁷ In order for mentoring to be successful in an environment where there has been discrimination, however, studies indicate that the mentor needs to be someone who has traditionally been seen as powerful within the organization.²²⁸ In most developing societies, this will be a male, and often a male from a connected family,²²⁹ or an older male.²³⁰

220. Ragins states that mentoring is "essential for women" in order to achieve success within an organization. Ragins, *infra* note 224, at 348. Catalyst reported that 91% of female executives they surveyed had mentors. *Id.* Newcomers to organizations are at a particular disadvantage in interpreting the organizational cues "because they have no history and limited contacts for making sense of the context." Jane E. Dutton et al., *Red Light, Green Light: Making Sense of the Organizational Context for Issue Selling*, 13 *ORG. SCI.* 355, 356 (2002).

221. Vichit-Vadakan, *supra* note 64, at 515, 522-24. Vichit-Vadakan cites Thailand, where women have made gains in entering the paid workforce. However, their advancement toward parity with men is hindered by the "beauty culture" and the traditional notion of their being appendages to men.

222. See Feliciano, *supra* note 209.

223. They are also at greater risk when trying to raise potentially controversial issues such as gender-related issues. Dutton et al., *supra* note 220, at 356.

224. Belle Rose Ragins, *Gender and Mentoring Relationships*, in *HANDBOOK OF GENDER & WORK* 347, 348 (Gary N. Powell ed., 1999). "Cultural patterns of interaction influence every aspect of an organization and give information about what is collectively valued and how people typically behave and react." Dutton et al., *supra* note 220, at 365.

225. *Id.* at 348.

226. Dreher & Cox, Jr., *supra* note 217, at 298.

227. Ragins, *supra* note 224, at 348. They help women overcome the "male managerial model." *Id.*

228. See Dreher & Cox, Jr., *supra* note 217. In a study conducted by Dreher and Cox, mentees mentored by white males earned an average of \$16,840 more than those who had women or minorities as mentors. In another study of African-American graduates of traditionally black colleges, the graduates with white male mentors had higher pay. See George F. Dreher & Josephine A. Chargois, *Gender, Mentoring Experiences, and Salary Attainment among Graduates of an Historically Black University*, 53 *J. VOCATIONAL BEHAV.* 401 (1998).

229. There is very little research on mentoring outside North America. Ragins, *supra* note 224, at 369. Ragins cites Hofstede's work on cultural differences to note that effective mentoring relationships in cultures which have collectivist orientations may differ from the Western model. *Id.* at 369-70.

230. Older males may be more persuasive in societies where age rather than a youth culture is valued. *Id.* at 370.

Studies done in the United States suggest that male mentors can better confer organizational legitimacy because they are seen as having more power.²³¹ This includes both formal power and informal power. Informal power gives holders better access to information and the social networks of organizations.²³² Psychosocial mentoring, however, may be better provided by someone who more closely matches the mentee.²³³ Having a successful woman mentor provides a junior woman mentee a model to emulate²³⁴ and enables her to see that success is possible and how to achieve it. Additionally, peer mentoring may be successful if “pioneers” who have successfully worked in the organization mentor newer female employees. This implies that there is not one model that will succeed in all settings and that multiple mentoring relationships or programs may need to be established by a company.²³⁵

Some scholars have suggested that in collectivist societies, the mentoring relationship would likely be more focused on socializing mentees to the norms of the organization, whereas in societies that have greater tolerance for individual differences, the mentoring relationship could foster career paths that could extend beyond the organization.²³⁶ These studies rely on Gert Hofstede’s work in which he divided cultures along four dimensions including individualism, power, distance, and whether a society tends to be dynamic or tradition-bound and resistant to change.²³⁷ In situations where great emphasis is placed on organizational conformity and loyalty to the organization, support from leaders in the organization becomes critical if cultural norms are to change to include women as important

231. Dreher & Cox, Jr., *supra* note 217, at 298 (citing Belle Rose Ragins, *Barriers to Mentoring: The Female Manager’s Dilemma*, 42 HUM. REL. 1, 355 (1989)).

232. Ragins, *supra* note 231, at 357.

233. Dreher & Cox, Jr., *supra* note 217, at 299. Ragins found that women may provide more psychological or supportive mentoring functions. Ragins, *supra* note 224, at 357. Additionally, there is some evidence that same gender mentoring serves psychosocial and career development functions. *Id.* at 362.

234. See Belle Rose Ragins & Dean B. McFarlin, *Perceptions of Mentor Roles in Cross-Gender Mentoring Relationships*, 37 J. VOCATIONAL BEHAV. 321 (1990).

235. Ragins notes that mentoring can take a variety of forms, but identifies three as particularly relevant to the effects and outcomes of mentoring women. The most important of these is the distinction between formal and informal mentoring. In formal mentoring, mentors are matched with or assigned to their mentee, and the relationship typically lasts about a year. Informal mentoring arrangements happen spontaneously and tend to last two to five years. Ragins, *supra* note 224, at 349.

236. See Harry C. Triandis, *The Self and Social Behavior in Differing Cultural Contexts*, 96 PSYCHOL. REV. 506 (1989). Triandis described “tight” cultures with clear norms and low tolerance for deviation, and “loose” cultures with greater tolerance for individual differences.

237. HOFSTED, *supra* note 129, at 11.

members of the workforce.²³⁸ A large number of the societies that have traditionally excluded women from the workforce fit within this profile.

In the United States, mentoring programs often were established as part of a formal affirmative action plan.²³⁹ In societies where unattached men and women do not normally mix, a formal program is probably essential. It can be a part of a corporate nondiscrimination policy (discussed previously). The company-sponsored mentoring activities should take place primarily, if not exclusively, in the workplace. This can help overcome negative connotations of cross-gender mentoring.²⁴⁰ MNCs that operate in the United States are likely to have mentoring programs. Thus, they have an established base of experience to call on in establishing mentoring programs in their non-U.S. operations.

For example, several of the companies that have received the Albright Award have mentoring programs. Ford Motor Company, which received the award for its innovative HIV/AIDS program in South Africa,²⁴¹ has company-sponsored resource groups such as the Professional Women's Network (PWN) and the Women In Finance Network (WIFN).²⁴² PWN focuses on the professional development of women through promoting an environment that attracts, develops, retains, and advances talented women. An important part of this is mentoring programs.²⁴³ WIFN works to support diversity, among other goals.²⁴⁴ Another winner is Xerox do Brasil. In the United States, Xerox U.S.A. has a reputation as a good place for women to work, and it has a variety of programs to foster this atmosphere,

238. Dworkin et al., *supra* note 101, at 474. One U.S. study indicates that the most crucial cue that women relied on regarding whether to push a gender-related issue within their organization was the openness of male managers to the raising of issues. This was more important than the number of women in management positions and changes in demographic composition. Dutton et al., *supra* note 220, at 366-68.

239. Dutton et al., *supra* note 220, at 366-68.

240. In the United States, the negative image is usually due to the perception of a romantic relationship. See James G. Clawson & Kathy E. Kram, *Managing Cross-Gender Mentoring*, 27 BUS. HORIZONS 22 (1984). Of course, the incidence of intimate relationships may also increase. Conversely, woman-woman mentoring can have the negative consequence of being viewed as "plotting a revolution." Ragins, *supra* note 224, at 359.

241. The award was given to Ford Motor Co. South Africa in 2001. The CEO of this organization is a woman, and two of the six members of the board of directors are women. See Press Release, Under Secretary of State Marc Grossman Presents the 2001 Awards for Corporate Excellence (Jan. 16, 2002), at <http://www.state.gov/r/pa/prs/ps/2002/7288.htm>.

242. See Ford Motor Co., *Leadership Through Diversity*, at <http://leadership.monster.com/diversity/#pwn>.

243. *Id.*

244. *Id.*

including mentoring programs.²⁴⁵ In the U.S operation, 21 percent of the people at the vice-presidential level and above are women.²⁴⁶

There is virtually no information on cross-cultural mentoring. Thus, it is unclear whether mentors from the United States who are sent overseas to work would be successful in mentoring women in that milieu. Some emerging work suggests that the relationship is especially susceptible to "conflicts in cultural values, work values, and gender expectations."²⁴⁷ It would seem that the individual would be less successful at psychosocial mentoring and mentoring to the norms of the (local) organization. If that person is seen as having power within the organization, however, she or he is more likely to be successful in terms of women advancing within the organization.

IV. CONCLUSION

Jeffrey Garten, the Dean of the Yale School of Management and a columnist for *Business Week*, argues that it is time for corporate officials to reassert their influence to work for global stability and peace.²⁴⁸ He visualizes this happening as part of the effort by companies to dig themselves out of their "reputational hole."²⁴⁹ It may be a byproduct of the increased vigilance of corporate America by the public, Congress, and more aggressive legislators.²⁵⁰ Additionally, the heads of some MNCs have articulated the notion of an affirmative civic duty, the "duty to be doing good as opposed to avoiding doing bad."²⁵¹ Implementing these goals in conjunction with policies designed to better integrate women into the workforce as wage earners can have many positive effects. These include the

245. For example, Xerox has an Assent Management Program that includes mentoring. The CEO of Xerox, Anne Mulcahy, has been identified by *Fortune* as one of the "Most Powerful Women" in business. See Xerox Corporation Executive Biography, Anne M. Mulcahy, Chairman and CEO, at <http://www.xerox.com>. Another company cited for its employee development efforts, especially with minority Maori, is Rayonier New Zealand. See Press Release, Building and Wood Products Exporter of the Year—Rayonier MDF New Zealand (May 16, 2002), at <http://www.tradenz.govt.nz>.

246. See *Most Powerful Women in Business*, FORTUNE, Oct. 18, 2002, available at <http://www.fortune.com>.

247. Ragins, *supra* note 224, at 370.

248. Jeffrey E. Garten, *A Foreign Policy Harmful to Business*, BUS. WK., Oct. 14, 2002, at 72-73. Garten cites a long history of companies influencing foreign policy. He argues that the national policy pendulum has swung too far in the direction of force of arms and needs to swing back to a focus on long-term economic and social issues.

249. *Id.*

250. *Id.*

251. Symposium, *supra* note 78, at 14 (quoting James L. Gunderson, Secretary and General Counsel of Schlumberger Limited).

ability to attract top people,²⁵² output gains and a reduction in poverty, and social stability.

Often more than law, corporations can most consistently create change and bring women into the economy as wage earners. Being a wage-earner leads to real power within the family. According to the World Report on Violence and Health, women becoming educated and economically empowered decreases the likelihood of violence within the family.²⁵³ This power can also “expand out”²⁵⁴ and create conditions that socialize and empower women outside of the workplace and “give them tools to interact more successfully in their society.”²⁵⁵ As indicated at the beginning of this Article, there seems to be a correlation between involving women in the workforce and peace. The benefits to women, the employer, society, and global stability call for companies to implement inclusion policies.

252. *Id.*

253. *See* WORLD HEALTH ORG., WORLD REPORT ON VIOLENCE AND HEALTH (2002).

254. *See* Dworkin, *supra* note 101, at 486.

255. *Id.*