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WOMEN AND THE NEW CORPORATE GOVERNANCE: PATHWAYS FOR OBTAINING POSITIONS OF CORPORATE LEADERSHIP

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Evidence abounds in the business press that women have stormed the bastions of the economic elite, at least in developed nations.¹ Unfortunately, relatively few women have scaled the walls successfully and climbed over them onto major board directorships and top executive positions.² Women corporate officers hold only 9.9% of line jobs—

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1. See, e.g., *Britain's 50 Most Powerful Women: The Definitive List*, MGMT. TODAY (London), July 1, 2004, at 38; Unmesh Kher et al., *Women Are Winning*, TIME, Jan. 28, 2002, at B2; *Majority of Women Executives Want to Be CEOs*, 17 MARKETING TO WOMEN 7, 7 (2004) (citing to a Catalyst survey finding that "[w]omen and men are, in fact, equally likely to aspire to top jobs . . ."); *More Women in the Boardroom*, FUTURIST, Mar.-Apr. 2004, at 2, 2 (2004) (noting that ninety percent of the top twenty firms in the United Kingdom have women on the board of directors); see also CATALYST INC., 2004 CATALYST CENSUS OF WOMEN CORPORATE OFFICERS AND TOP EARNERS OF CANADA (2005) [hereinafter CATALYST CANADA]; CATALYST INC., BREAKING THE BARRIERS: WOMEN IN SENIOR MANAGEMENT IN THE U.K. (2000), available at <http://www.catalystwomen.org/files/full/Breaking%20the%20Barriers.pdf>; CATALYST INC., WOMEN IN U.S. CORPORATE LEADERSHIP: 2003 (2003).

2. See CATALYST CANADA, *supra* note 1, at 29 (stating that the progress of women in advanced corporate leadership is "changing very slowly"); Alexander H. Tullo, *Women in Industry*, CHEM. & ENG'G NEWS, Aug. 4, 2003, at 18 (finding that not one chief executive officer, chief operating officer, or chief financial officer in the forty-two U.S. chemical companies examined was a woman); Charles P. Wallace, *Germany's Glass Ceiling*, TIME EUROPE, Apr. 10, 2000, available at <http://www.time.com/time/europe/magazine/2000/0410/glass.html>; William Baue, *Women Directors Rare Even in Developed Economies, According to*

those positions with direct budget and client responsibility from which promotions are made to the highest positions.³ Nearly eighty percent of Fortune 500 companies have no women among their highest-earning officers.⁴ The racial disparity is even greater; most female corporate officers are white.⁵ Women are underrepresented in important areas, such as engineering, the sciences, and the mining, computer, and transportation industries.⁶ Female investment professionals make substantially less money than males.⁷ In Internet businesses—seen as the “great equalizer” and as a relatively new “industry” supposedly wide open to everyone—women and people of color are woefully absent at the top.⁸

Women’s earnings in every field are below those of men in the same fields, and even in management and the professions, women remain concentrated in fields such as family law and medicine, and personnel and labor relations—gender-defined fields. According to a Catalyst survey of managers in thirty leading U.S. companies, “women of color face a ‘concrete ceiling,’ not a glass one . . . earning as little as 60 percent of what white women earn, even when they are senior managers.”⁹ Women hold most of the low-paying service jobs, a sector of the economy that was virtually untouched by the economic expansion of the 1990s.¹⁰ Among the reasons for these discrepancies are longstanding assumptions about appropriate work for women and men, the relatively late entrance of women into management and executive positions, racism and sexism, lack of mentoring, the dual labor market, punitive attitudes toward the poor, corporate culture’s hard-

First Global Study, SOCIALFUNDS.COM, Apr. 20, 2004, <http://www.socialfunds.com/news/article.cgi/article1399.html>; News Release, Ethical Inv. Research Serv., *Less Than One in Ten Company Directors Are Women* (Apr. 6, 2004), <http://www.eiris.org/Files/PressReleases/WoB%20Global%20Mar%2004.pdf>.

3. CATALYST INC., 2002 CATALYST CENSUS OF WOMEN CORPORATE OFFICERS AND TOP EARNERS OF THE FORTUNE 500, at 11 (2002) [hereinafter 2002 CATALYST CENSUS].

4. *See id.* at 8 (indicating that 107 companies in the Fortune 500 have a top-earning officer who is a woman).

5. *Id.* at 7.

6. *Id.* at 14 & tbls. 6, 7.

7. BUREAU OF LABOR STATISTICS, U.S. DEP’T OF LABOR, *WOMEN IN THE LABOR FORCE: A DATABOOK 57 tbl.19* (2005), available at <http://www.bls.gov/cps/wlf-databook-2005.pdf> [hereinafter *WOMEN IN THE LABOR FORCE*].

8. Catherine C. Yang, *The Great Equalizer? Not by a Long Shot*, *BUS. WK.*, Sept. 27, 1999, at EB54.

9. Julianne Malveaux, *Women at Work*, *IN THESE TIMES*, Nov. 28, 1999, at 14, 14 (citing CATALYST INC., *WOMEN OF COLOR IN CORPORATE MANAGEMENT: OPPORTUNITIES AND BARRIERS* 7, 13 (1999)).

10. *Id.*

driving expectations about the place of careers in people's lives, as well as work/family choices women themselves have made.¹¹

A comprehensive study of how women managers perceive the pathways and obstacles to economic and business leadership would inform the strategic planning of both business organizations and individuals. Such a study should be sensitive to the complex nature and history of the issue, and, to be comprehensive, it should employ analytical tools from disciplines that address different perspectives on how and why women succeed in business. The focus of this Article is to begin that study by identifying some of the major pathways for women to obtain positions of leadership in business and corporate governance. In Part I, we provide some of the historical background relating to women in business. Part II focuses on the extant sources of data and theory associated with the phenomenon of women in the global workforce and, more specifically, that of women in positions of economic and business leadership. Part III follows by examining the role of mentoring as a pathway to success for women in the corporate hierarchy. In Part IV, issues of gender and ethics, specifically involving whistleblowing, are considered. Conclusions are provided in Part V.

I. WOMEN IN BUSINESS: HISTORICAL BACKGROUND

Gender has been a category of organization and experience from the beginning of incorporation as a business form in the nineteenth century, and women are integral to the history of corporate enterprise and organizational evolution.¹² Women were among the earliest corporate employees, managers, and customers, as well as some of the earliest entrepreneurs.¹³ However, assumptions about womanhood commonly held by many women and men have circumscribed women's business experience. An assertion of women's difference from men, and arguments about whether women were better than or not as good as men, have fueled debates over corporate workplaces and theories of how corporations make money since the nineteenth cen-

11. See, e.g., MARGARET FOEGEN KARSTEN, *MANAGEMENT AND GENDER* 14 (1994) (explaining subtle sexism in middle management); Malveaux, *supra* note 9, at 14 (discussing why women face corporate concrete ceilings); Beth Brophy & Nancy Linnon, *Why Women Execs Stop Before the Top*, U.S. NEWS & WORLD REP., Dec. 29, 1986/Jan. 5, 1987, at 72, 72 (same).

12. See ANGEL KWOLEK-FOLLAND, *ENGENDERING BUSINESS: MEN AND WOMEN IN THE CORPORATE OFFICE, 1870-1930* (1994) [hereinafter KWOLEK-FOLLAND, *ENGENDERING BUSINESS*]; ANGEL KWOLEK-FOLLAND, *INCORPORATING WOMEN: A HISTORY OF WOMEN AND BUSINESS IN THE UNITED STATES* (1998) [hereinafter KWOLEK-FOLLAND, *INCORPORATING WOMEN*].

13. KWOLEK-FOLLAND, *INCORPORATING WOMEN*, *supra* note 12, at 97-100.

tury.¹⁴ Women's corporate role has evolved in an ideological and structural environment that is sex-typed and gender specific. Some corporate jobs were earmarked as female: secretaries, typists, and stenographers.¹⁵ Women managers filled female-defined niches, such as personnel or "women's departments," or predominated among staff rather than line positions.¹⁶ As entrepreneurs, they were most successful in industries characterized as female, such as food preparation, cosmetics, certain retail sales areas, and women's clothing.¹⁷

The gender-typed world created in the nineteenth century held sway well into the twentieth century. World War II often is touted as a watershed for working women because more married women worked at better-paying (that is, male-defined) jobs than ever before.¹⁸ Indeed, the percentage of employed married women has continued to rise ever since, from 25.9% of the labor force in 1940, to 30.5% in 1960, to 60.5% in 2004.¹⁹

However, until recently, these gains simply added more women without challenging labor-force gender segmentation. The structural position of women in the workforce began to change with the advent of the women's movement of the 1960s and 1970s. That movement emerged in unionization efforts, corporate caucuses, the Equal Employment Opportunity Commission (EEOC), the courts, corporate responses, and the ongoing struggles of the 1980s and 1990s over such issues as sexual harassment, family leave, and wage inequities.²⁰ Ob-

14. Gender-typing in office work was a complex process based on the historical emergence of modern gender roles, new information technologies, and the growth of white-collar workplaces. MARGERY W. DAVIES, *WOMAN'S PLACE IS AT THE TYPEWRITER* 169-71 (1982); see also CINDY SÓNDIK ARON, *LADIES AND GENTLEMEN OF THE CIVIL SERVICE: MIDDLE-CLASS WORKERS IN VICTORIAN AMERICA* 91-92 (1987) (describing women's entry into traditionally male jobs in the late nineteenth century); accord SUSAN PORTER BENSON, *COUNTER CULTURES: SALESWOMEN, MANAGERS, AND CUSTOMERS IN AMERICAN DEPARTMENT STORES, 1890-1940* (1986); LISA M. FINE, *THE SOULS OF THE SKYSCRAPER: FEMALE CLERICAL WORKERS IN CHICAGO, 1870-1930* (1990); KWOLEK-FOLLAND, *INCORPORATING WOMEN*, *supra* note 12.

15. DAVIES, *supra* note 14, at 49-50.

16. KWOLEK-FOLLAND, *INCORPORATING WOMEN*, *supra* note 12, at 110; see SHARON HARTMAN STROM, *BEYOND THE TYPEWRITER: GENDER, CLASS, AND THE ORIGINS OF MODERN AMERICAN OFFICE WORK, 1900-1930*, at 6, 93 (1992); REGINA LEE BLASZCZYK, *IMAGINING CONSUMERS* 192 (2000) (describing one company's strategy of using female sales representatives and advertising them as experts on "the woman's viewpoint").

17. KATHY PEISS, *HOPE IN A JAR: THE MAKING OF AMERICA'S BEAUTY CULTURE* 62-63 (1998).

18. D'ANN CAMPBELL, *WOMEN AT WAR WITH AMERICA* 103-04 (1984).

19. *Id.* at 239 tbl.1; *WOMEN'S BUREAU, U.S. DEP'T OF LABOR, EQUAL PAY: A THIRTY-FIVE YEAR PERSPECTIVE* 53 tbl.1 (1998); *WOMEN IN THE LABOR FORCE*, *supra* note 7, at 12 tbl.4.

20. JOAN HOFF, *LAW, GENDER, AND INJUSTICE: A LEGAL HISTORY OF U.S. WOMEN* 238-44 (1990); ALICE KESSLER-HARRIS, *OUT TO WORK: A HISTORY OF WAGE-EARNING WOMEN IN THE UNITED STATES* 314-15 (20th anniversary ed., 2003).

servers and EEOC administrators were astonished when women were among the first and most insistent EEOC claimants, filing sex-based complaints.²¹ More than two thousand women filed such claims in 1965, totaling one-third of the total cases brought to the agency during its first year of operation.²² These women complained of, among other things, unequal wages, health and pension coverage, sex-segregated seniority lists, and recruitment and promotion policies biased toward men.²³ Nancy MacLean, in her study of responses to Title VII of the 1964 Civil Rights Act, charted the evolution of widespread collective actions in the 1970s.²⁴ MacLean argues that these collective actions constituted a decentralized mass movement of working women who “took hold of the new ideas in circulation about gender, applied them to their own situations, and agitated for change.”²⁵

The shortcomings of the EEOC—some of them caused by the unplanned size of the case-load—led, in fact, not only to the inadvertent birth of its most famous offspring, the National Organization of Women, but also to the creation of caucuses of women within over 100 American corporations, such as the National Broadcasting Company’s Women’s Committee and the *New York Times* Women’s Caucus (NYTWC). The NYTWC, for example, successfully brought EEOC charges of sex-discrimination in promotions.²⁶

These efforts seem to have had tangible results. The percentage of women employed in managerial, executive, administrative, and professional positions rose (although not steadily) between 1900 and 2003 from 10.9% to 50.5%.²⁷ Between 1986 and 2000, the percentage of African-American and Hispanic-origin women in these positions increased slightly.²⁸ The percentage of female corporate officers went from 8.7% to 15.7% in Fortune 500 companies between 1995 and 2002, while the percentage of women in the top wage earner category

21. KESSLER-HARRIS, *supra* note 20, at 314.

22. Equal Employment Opportunity Comm’n, Shaping Employment Discrimination Law, <http://www.eeoc.gov/abouteeoc/35th/1965-71/shaping.html> (last visited Mar. 1, 2006).

23. *Id.*

24. Nancy MacLean, *The Hidden History of Affirmative Action: Working Women’s Struggles in the 1970s and the Gender of Class*, 25 FEMINIST STUD. 43 (1999).

25. *Id.* at 48.

26. *Id.* at 53.

27. See Equal Employment Opportunity Comm’n, *supra* note 22.

28. U.S. DEPT. OF LABOR, SUMMARY DATA ON EMPLOYMENT OF WOMEN (1948), available at <http://cisweb.lexis-nexis.com/histuniv>; U.S. CENSUS BUREAU, U.S. DEP’T OF LABOR, U.S. DEP’T OF COMMERCE, STATISTICAL ABSTRACT OF THE U.S., 2004-05, at 385 tbl.1 (2004), available at <http://web.lexis-nexis.com/statuniv/>.

advanced from 1.2% to 5.2%.²⁹ Women with titles evidencing authority within the organization increased from 6.2% in 1997 to 7.9% in 2002; in 2002, 7.1% of CFOs and 16.1% of general counsel were women.³⁰ Women of color increased from 1.3% in 1999 to 1.6% of corporate officers in 2002.³¹ Slightly more companies have female corporate officers now than in 1995.³²

These are important gains. The corporate world of today does not have the same gender and ethnic composition as did the world of 1900. One of the most powerful leaders of the current media industry is a black woman (Oprah Winfrey), and highly-talented women, such as Paramount Pictures' Chairman Sherry Lansing, Linda Wachner of Warnaco Assocs. Inc., Heidi Miller of Citigroup Inc., and Meg Whitman of eBay Inc., are leaders in corporate America.

However, in important ways women's corporate experience remains unchanged. A labor department study of compliance reviews in the late 1980s found the glass ceiling still existed and "at a much lower level than first thought."³³ The study identified the usual structural problems: the importance of networking, while women and people of color are outsiders; the absence of "advanced education programs and career-enhancing assignments"; and company leadership's failure to support equal opportunity.³⁴ This report contributed to the passage of the Civil Rights Act of 1991, with additional guidelines for the Office of Federal Contract Compliance Programs that included extensive management reviews.³⁵

In addition, essentialist notions about female management skills have had surprising longevity. Business wisdom holds that women are superior to male managers in any area where dealing with other people is critical.³⁶ The myth of female supremacy in management began around 1900 among the first women managers, who argued for their place in business by pointing to women's allegedly more nurturing character.³⁷ This argument was reinforced in the 1980s and 1990s in the popular, scholarly, and business press. For example, the essential-

29. 2002 CATALYST CENSUS, *supra* note 3, at 1.

30. *Id.* at 12-13.

31. *Id.* at 7.

32. *Id.* at 4.

33. ANN M. MORRISON ET AL., *BREAKING THE GLASS CEILING: CAN WOMEN REACH THE TOP OF AMERICA'S LARGEST CORPORATIONS?*, at xiii (updated ed. 1992).

34. *Id.*

35. *Id.*

36. See generally Roslyn H. Chernesky, *Women Managers Are Better: No They're Not, Yes They Are!*, 11 *AFFILIA* 356 (1996).

37. KWOLEK-FOLLAND, *ENGENDERING BUSINESS*, *supra* note 12, at 189-90.

ist strain of modern feminism, best exemplified by Carol Gilligan's 1982 blockbuster book, *In a Different Voice*, used psychology, anthropology, sociology, and women's history to argue that women's "ways of knowing" and acting grow out of their unique female experience.³⁸ The best-selling *Feminine Leadership or How to Succeed in Business Without Being One of the Boys*,³⁹ articles in magazines such as *Newsweek*⁴⁰ and *Working Woman*,⁴¹ and articles in mainstream business journals like the *Harvard Business Review*⁴² all advanced the wisdom that men and women had different management styles. By the mid-1990s, the notion of women's different approach to management had been embraced as a positive good for business.⁴³

Countering this essentialist notion of managerial skills, studies have shown that "[w]hen matched by age, education level, and experience, female and male executives are more alike than different. In fact, executive women are more similar to their male peers than to females in occupations historically dominated by women, such as nursing."⁴⁴

An important artifact of the historical position of women as corporate workers, and the evolution of corporate organization as gendered, is that issues that affect all workers often have a sex-specific formulation. For example, despite the similarities in outlook, background, and managerial competence noted earlier, there are systemic differences in women's and men's experience. A Canadian study "found that despite lower performance ratings than women, men receive more promotions," in part because men rely on informal networks, while women go through formal channels—a less effective

38. CAROL GILLIGAN, *IN A DIFFERENT VOICE: PSYCHOLOGICAL THEORY AND WOMEN'S DEVELOPMENT* (1982); see also SALLY HELGESEN, *THE FEMALE ADVANTAGE: WOMEN'S WAYS OF LEADERSHIP* (1995); Mary Billard, *Do Women Make Better Managers?*, *WORKING WOMAN*, Mar. 1992, at 68; Harris Collingwood, *Women as Managers: Not Just Different—Better*, *WORKING WOMAN*, Nov. 1995, at 14; Jan Grant, *Women as Managers: What They Can Offer to Organizations*, *ORGANIZATIONAL DYNAMICS*, Winter 1988, at 56.

39. MARILYN LODEN, *FEMININE LEADERSHIP OR HOW TO SUCCEED IN BUSINESS WITHOUT BEING ONE OF THE BOYS* (1985).

40. E.g., Ann Hughey & Eric Gelman, *Managing the Woman's Way*, *NEWSWEEK*, Mar. 17, 1986, at 46.

41. E.g., Tom Peters, *The Best New Managers Will Listen. Motivate. Support. Isn't That Just Like a Woman?*, *WORKING WOMAN*, Sept. 15, 1990, at 142.

42. E.g., Judy B. Rosener, *Ways Women Lead*, *HARV. BUS. REV.*, Nov.-Dec. 1990, at 119.

43. See, e.g., Peters, *supra* note 41.

44. KARSTEN, *supra* note 11, at 14 (citations omitted); accord FAMILIES & WORK INST., CATALYST INC. & THE CTR. FOR WORK & FAMILY, *LEADERS IN A GLOBAL ECONOMY: A STUDY OF EXECUTIVE WOMEN AND MEN 4-5* (2003), available at <http://www.catalystwomen.org/files/exec/GlobalLeadersExecSumm.pdf> [hereinafter CATALYST LEADERS]; see also *infra* note 192 and accompanying text.

strategy.⁴⁵ Similarly, a U.S. Department of Labor study suggested that “men are assumed capable of a higher level assignment unless they have performed poorly in their current position. Women are not automatically presumed capable; their past track record is scrutinized to determine whether or not they can handle a promotion.”⁴⁶ Some women may allow the glass ceiling to discourage them from even trying. Most CEOs believe that women have the aggressiveness needed to be top managers.⁴⁷ A fair number, however, believe that strains associated with balancing personal lives and family obligations make promotion more difficult for women.⁴⁸ This comes from the belief that women have primary responsibility for maintaining family relationships, a belief to which many women and men adhere.⁴⁹

Two widely held notions about the inevitable crumbling of the glass ceiling have not proven accurate. First, according to the “pipeline theory,” there have been fewer women in high corporate office because they were not entering the stream at lower levels.⁵⁰ The 1973 class of Harvard MBAs “was the first to include a solid number of women—4.4%,” for example.⁵¹ Thus, if it takes twenty to twenty-five years to become a CEO, and women began entering management in some numbers in the 1970s, we should see more women at the CEO level.⁵² But we are not, as the numbers cited earlier suggest. Second, in the 1970s, it was widely argued that younger men would be more receptive to female CEOs because they would be more familiar with managerial women.⁵³ As Margaret Karsten has observed, however, “[i]t may be incorrect . . . to assume automatically that a younger generation will be more open-minded than their elders. Some younger men have worked productively with women as peers, but others may have viewed them as competitors for scarce mid-management jobs.”⁵⁴

45. KARSTEN, *supra* note 11, at 14; accord LYNN MARTIN, U.S. DEP'T OF LABOR, A Report on the Glass Ceiling Initiative 19-20 (1991).

46. KARSTEN, *supra* note 11, at 16.

47. Only eight percent of 201 CEOs surveyed in 1992 thought women were not aggressive enough. *Id.* at 14.

48. Twenty-nine percent of 201 CEOs surveyed in 1992 connected women's poor performance to family obligations. *Id.*

49. *Id.* at 14-15. But see Ronald J. Burke, *Benefits of Women on Corporate Boards of Directors as Reported by Male CEOs*, 75 PSYCHOL. REP. 329 (1994).

50. KARSTEN, *supra* note 11, at 15.

51. Betsy Morris, *Tales of the Trailblazers: Fortune Revisits Harvard's Women MBAs of 1973*, FORTUNE, Oct. 12, 1998, at 106.

52. KARSTEN, *supra* note 11, at 15.

53. *Id.*

54. *Id.*; see also KWOLEK-FOLLAND, INCORPORATING WOMEN, *supra* note 12, at 206-07 (noting the mixed views of men regarding female peers).

Responses to gender and racial inequities in the workplace take several forms. In the excellent economic climate of the 1990s, many women left corporate work in favor of entrepreneurship. Thirty-seven percent of the women in Harvard's MBA class of 1983, for example, started their own businesses by the 1990s.⁵⁵ Another eighteen percent took up part-time work.⁵⁶ Other women used federal agencies and the courts to reshape corporate gender relations.⁵⁷

One way corporations have addressed inequities is by making gender-blind adjustments to corporate expectations about the balance between private life and work.⁵⁸ Another response has taken the opposite tack, by embracing the notion that gender and ethnic diversity can serve corporate ends and enhance the bottom line.⁵⁹ The diversity management movement builds on concepts of corporate culture, multiculturalism, and the historical emphasis on corporations as promoters of progressive social relations.⁶⁰ As Wayne Hedien, chairman and CEO of Allstate Insurance Co. put it in 1992, the new corporate workforce shifts its "emphasis from conforming to contributing, from limiting our aspirations to leveraging our assets, from concentrating on obstacles to capitalizing on our opportunities."⁶¹ As sociologist Avery Gordon has observed, however, diversity management's emphasis on using employees' social identities to motivate performance hides hierarchical power relations and puts the onus squarely on the individual, leaving structural inequities unrecognized and unacknowledged.⁶²

Given that American corporate culture is an increasingly global culture, it is difficult to talk about gender equity and discrimination without being aware of its international dimensions and implications. In fact, as in the United States, women's business situation globally

55. Anne Faircloth, *The Class of '83*, FORTUNE, Oct. 12, 1998, at 126.

56. *Id.*

57. Workers brought suits against Mitsubishi Motors Corp. and Chevron Corp. for sex discrimination, Texaco Inc. and Southern California Edison Co. for racial discrimination, and Lockheed Martin Corp. for age discrimination. Sally Roberts, *Rising Discrimination Exposure Demands Risk Manager Attention*, BUS. INS., Dec. 23, 1996, at 1; Frank Swoboda, *Bridging a Cultural Divide*, WASH. POST, Dec. 1, 1996, at H1. For a feminist reading of the legal importance of sex discrimination to women's position, see HOFF, *supra* note 20, at 364-70.

58. This was the case at Hewlett-Packard Dev. Co. in the 1990s under the leadership of Lewis E. Platt. Reed Abelson, *A Push from the Top Shatters a Glass Ceiling*, N.Y. TIMES, Aug. 22, 1999, at 1.1.

59. Avery Gordon, *The Work of Corporate Culture: Diversity Management*, SOC. TEXT, Fall/Winter 1995, at 3, 7.

60. *Id.* at 3.

61. *Id.* at 7.

62. *Id.* at 18.

displays many areas of positive change, but the overall picture remains one of stubborn inequities. Women's share of administrative and managerial positions in most countries increased between 1985 and 1997, some more dramatically than others. Switzerland, Peru, Spain, and Belize, for example, enlarged women's share of these positions as much as thirty percent.⁶³ France and Japan had the lowest rates of change in the developed world, around 1.5%.⁶⁴ In some nations, such as the Islamic Republic of Iran, Syria, and Botswana, women suffered a net loss.⁶⁵

In every nation of the world, women continue to earn less than men.⁶⁶ In 1990, women in full-time manufacturing jobs in the U.S. earned sixty-eight percent of men's wages; in Japan, they earned forty-one percent.⁶⁷ Among the most equitable, but still not equal, nations are Myanmar at ninety-six percent, Sweden at ninety percent, Norway at eighty-seven percent and Denmark at eighty-five percent.⁶⁸

In both developed and developing nations around the world, women workers have increasingly called on unions, businesses, and governments to address issues of gender inequity and particularly sexual harassment, as well as created their own women's organizations to publicize the failures of the international human rights movement to address women's workplace issues.⁶⁹ In addition, groups like the Korean Women Workers Association and the Committee for Asian Women have exposed the use of rape, sexual assault, and sexual harassment by government police called in to break up employee meetings.⁷⁰ Workers in China have used human rights awards for production standards in Reebok factories to publicize the failure of those standards to protect women from sexual intimidation.⁷¹ In Indonesia, women form women's unions to demand equal rights in the workplace in spite of managers who tape workers mouths shut and threaten them with rape or worse.⁷²

63. U.N. Dev. Fund for Women [UNIFEM], *UNIFEM Biennial Report: Progress of the Worlds' Women 2000*, at 91 chart 4.3 (2000).

64. *Id.*

65. *Id.*

66. U.N. Dep't of Econ. & Soc. Affairs, *The World's Women 2000: Trends and Statistics*, 131-32, U.N. Doc.ST/ESA/STAT/SER.K/16 (2000).

67. *Id.* at 132 chart 5.23.

68. *Id.* (between 1992 and 1997).

69. Angel Kwolek-Folland, *The Personal Is International: Gender Rights, Glocalization, and Sexual Harassment*, Paper Presented at Ass'n of Bus. Historians Annual Conference, Nottingham, England (June 2004) (on file with authors).

70. Cynthia Enloe, *The Globetrotting Sneaker*, Ms., Mar./Apr. 1995, at 10, 12.

71. *Id.* at 13.

72. *Id.* at 14.

With this historical backdrop, we now turn to the current data and theory regarding the role of women in the global workplace. The focus of the next Section is on the extant sources of data and theory associated with the phenomenon of women in the global workforce and more specifically that of women in positions of economic and business leadership.

II. WOMEN IN THE GLOBAL WORKFORCE: DATA AND THEORY

Several major international nongovernmental organizations conduct ongoing studies of the women in the workplace, globally and in the United States. For example, the World Bank cites general progress in the position of women in world labor markets, including access to nonagricultural sector jobs and revisions of labor codes to create greater equity between men and women in the workforce.⁷³ The United Nations Development Fund for Women collects and publishes extensive data on women's participation in the workforce in various regions of the world.⁷⁴ The Organisation for Economic Cooperation and Development (OECD) collects and provides quarterly labor force statistics that track, among other items, employment rates by gender in twenty-seven OECD countries.⁷⁵ In addition, many private and academic research organizations study trends in women's role in the workplace, on corporate boards of directors,⁷⁶ and in economic development.⁷⁷ In general, the demographic data confirm an increase in women's participation in economies globally, except in

73. GENDER & DEV. GROUP, WORLD BANK, IMPROVING WOMEN'S LIVES: WORLD BANK ACTIONS SINCE BEIJING 11 (2005), available at <http://siteresources.worldbank.org/INTGENDER/Resources/Beijing10Report.pdf> [hereinafter IMPROVING WOMEN'S LIVES]. Nonetheless, gender wage gaps persist that cannot be explained by gender differences in education, work experience, and job characteristics. *Id.* at 15.

74. *E.g.*, U.N. Dev. Fund for Women [UNIFEM], E. & Se. Asia Regional Office, *Technical Paper: Women and Economic Development and Cooperation in APEC*, U.N. Doc. 98/MM/WOM/003 (Oct. 15-16, 1998) (prepared by Lorraine Corner), available at <http://www.unifem-eseasia.org/resources/techpapers/APEC98womecodvpt.pdf>.

75. ORG. FOR ECON. CO-OPERATION & DEV., OECD EMPLOYMENT OUTLOOK (2005), available at <http://www.oecd.org/dataoecd/36/30/35024561.pdf>; ORG. FOR ECON. CO-OPERATION & DEV., OECD FACTBOOK 2005: ECONOMIC, ENVIRONMENTAL AND SOCIAL STATISTICS (2005).

76. *See, e.g.*, Baue, *supra* note 2 (noting a study from Ethical Investment Research Services (EIRIS), a United Kingdom-based research firm, analyzing participation of women on the boards of 1817 companies in developed countries).

77. *E.g.*, RUTH DIXON MUELLER, INT'L UNION FOR THE SCIENTIFIC STUDY OF POPULATION, POLICY & RESEARCH PAPER NO. 18, WOMEN AND THE LABOUR MARKET IN CHANGING ECONOMIES: DEMOGRAPHIC ISSUES (2000), available at http://www.iussp.org/Publications_on_site/PRP/prp18.php; Susanne E. Jalbert, *The Global Growth of Women in Business*, ECON. REFORM TODAY, 1999, at 8, available at http://www.cipe.org/publications/fs/ert/e33/e33_4.pdf; Briefing Paper, Heidi Hartmann et al., Inst. for Women's Policy Research, Women and the

those nations and among those peoples whose culture severely restricts such participation. However, such increases say very little about the prospects of women in top management. The next Section summarizes the economic and sociological literature on the rise of women in top management.

A. *Economic Approaches*

A variety of economic approaches to the phenomenon of women in the workplace appear in economics literature. Gary Becker, for example, has done path-breaking work in analyzing the family as an economic unit of production, needing to make decisions about the allocation of time and resources for maximum well-being of the unit.⁷⁸ Without denying the value of sociological, biological, and psychological understandings of gender behavior, classical microeconomic analysis contributes to knowledge by making it possible to employ a human capital model of human capital investments, time investments, and value-maximizing strategies in a manner analogous to other capital investments.⁷⁹ This approach provides a structured way of thinking about the myriad decisions faced by members of different genders as economic actors. There appears to be little extension of this work directed specifically at the phenomenon of women who are among the world's economic and business elite, that is, among the highest earning women in business. On the other hand, promising new work in experimental economics addresses the relationship of gender and competitive behavior as a factor in women's achievement and differential performance in organizations.⁸⁰ Both strands of economic research appear ripe for development.

At a macroeconomic level, a substantial body of work relates political and economic globalization and gender participation in the workforce, relationships between economic development and gender equity in the workforce, and relationships between gender equity and

Economy: Recent Trends in Job Loss, Labor Force Participation, and Wages (Oct. 2004), available at <http://www.iwpr.org/pdf/B245.pdf>.

78. E.g., GARY S. BECKER, A TREATISE ON THE FAMILY (enlarged ed. 1991); see also Marianne A. Ferber & Bonnie G. Birnbaum, *The "New Home Economics": Retrospects and Prospects*, J. CONSUMER RES., June 1977, at 19, 19 (criticizing Becker's analysis and reaching a different conclusion about household economic efficiency).

79. See generally FRANCINE D. BLAU ET AL., THE ECONOMICS OF WOMEN, MEN, AND WORK 35-80, 155, 200 (4th ed. 2001).

80. E.g., Uri Gneezy et al., *Performance in Competitive Environments: Gender Differences*, 118 Q.J. ECON. 1049 (2003).

firm performance.⁸¹ The body of work contributes to an understanding of women business elites.

1. *Globalization.*—Some scholars attribute the rise of women managers to globalization, to global competitiveness, and to the imperative for transnational efficiency. In a globalized economy, argues Nancy J. Adler, “[t]he opportunity cost of prejudice—of rejecting women and limiting selection to men—is much higher than in previous economic environments.”⁸² Moreover, the competitive behavior of the transnational firms in hiring women managers, she posits, serves as a model for local firms reluctant to hire women managers, helping to break down local barriers based on prejudice and serving as an agent for efficiency-producing change.⁸³

Critics would observe that it is difficult to infer causation from correlations as mediating factors, such as rapid growth of the most profitable companies, may exist. Nonetheless, it is plausible to theorize that globalization of international commerce, trade, and communication will serve to reduce barriers for women to top managerial positions.

The theoretical competitive advantage of nondiscrimination is further advanced by the apparent correlation between gender diversity and profitability that Catalyst observed in a four-year study of 353 Fortune 500 companies in eleven industry sectors:

[C]ompanies with the highest representation of women on their top management teams experienced better financial performance than the group of companies with the lowest women’s representation. This finding holds for both financial measures analyzed: Return on Equity (ROE), which is 35.1 percent higher, and Total Return to Shareholders (TRS), which is 34.0 percent higher.

Financial performance was also analyzed by industry, and in each of the five industries analyzed, the group of companies with the highest women’s representation on their top management teams experienced a higher ROE than the group of companies with the lowest women’s representation.

81. See *infra* notes 121-132 and accompanying text.

82. Nancy J. Adler, *Competitive Frontiers: Women Managing Across Borders*, in *COMPETITIVE FRONTIERS: WOMEN MANAGERS IN A GLOBAL ECONOMY* 22, 23 (Nancy J. Adler & Dafna N. Izraeli eds., 1993).

83. *Id.* As an aside, Adler reports that transnational firms also have found greater success in transplanting expatriate women to more gender-traditional cultures than in attempting to hire local women; the women expatriates are “given a pass” and are better received as managers than would be women functioning within the society and cultural constraints of their own culture. *Id.* at 29-36.

In four out of the five industries analyzed, the group of companies with the highest women's representation on their top management teams experienced a higher TRS than the group of companies with the lowest women's representation.⁸⁴

That theory must be considered, however, in the context of other aspects of globalization that may affect women elite differently than they affect men or than they affect women in non-elite positions.⁸⁵ For example, the enhanced time demands of a 24/7 global business affects the balance of personal and career interests. It is possible that women in committed relationships and women with families are affected more adversely by that aspect of globalization than similarly situated men. Moreover, changes in social and public policy may affect men and women differentially. The effect of globalization, and the concomitant move toward neoliberal global economic policy, may not be adequately appreciated because economic models fail to capture the value of women's economic activities.⁸⁶ In addition, international assignments are more problematic with two-career couples. It may be difficult if not impossible for trailing spouses to find suitable employment or qualify for visas.

Another aspect of globalization concerns the opportunities posed for women in entrepreneurial business, a form of work participation that in high-income countries may lead to economic power. The role played by women in early-stage entrepreneurial activity globally is a potentially fruitful area of development, and significant data has been collected and analyzed.⁸⁷ Entrepreneurship also is seen as a key form of work participation in low income countries, where studies find it essential to economic development and critical to developing coun-

84. CATALYST INC., *THE BOTTOM LINE: CONNECTING CORPORATE PERFORMANCE AND GENDER DIVERSITY* (EXECUTIVE SUMMARY) 2 (2004).

85. See Corner, *supra* note 74 (noting the different impact of globalization on women-owned business and on male-owned business in developing countries).

86. See Kerry Rittich, *Transformed Pursuits: The Quest for Equality in Globalized Markets*, 13 HARV. HUM. RTS. J. 231, 254-55 (2000) (arguing that this failure distorts data about the impact of structural and policy change as nations move to more market-driven economies); accord UNIFEM Asia-Pacific and Arab States, Regional Programme for Engendering Economic Governance, Demystifying Economics and Empowering Women: Key Issues to Be Addressed, <http://www.unifem-ecogov-apas.org/ecogov-apas/EEGAboutProject/EEGkeyissues.htm> (last visited Mar. 1, 2006).

87. For a cross-national assessment on women's entrepreneurial activity in thirty-four countries, see MARIA MINNITI ET AL., *GLOBAL ENTREPRENEURSHIP MONITOR: 2004 REPORT ON WOMEN AND ENTREPRENEURSHIP* (2005).

tries' ability to maximize the potential benefits of globalization.⁸⁸ In short, the relationship between economic globalization and women in elite economic and business positions, including the net costs and benefits to elite women, appears ripe for scholarly study.

2. *Gender and Economic Development.*—Most of the macro-economic work on gender and economic development has addressed the relationship between women's participation at all levels in the paid workforce and measures of increased national economic well-being. This inquiry is related to the effect of economic development on gender equity and of gender equity on economic development. Although the mechanism may not be well understood, most economists and demographers observe a close relationship. In her classic economic history of women and work in the United States, Claudia Goldin concludes that "economic progress over the long run has generated a move to economic equality."⁸⁹ She acknowledges the "ambiguous" benefits of economic progress to women, but posits that they have far more to do with public policy with respect to family support and with the division of labor in the home than with gender equity in the workplace, at least in American history.⁹⁰ Over the broad course of two hundred years of American history, Goldin found a U-shaped pattern of participation of women in the paid labor force with economic development, with highest and lowest levels of development associated with high levels of participation.⁹¹ She posits that the United States is currently in the rising portion of the U, and that the entry of the married cohort accounts for the rise.⁹² This is consistent with Kwolek-Folland's findings discussed above.⁹³ Moreover, Goldin's U-shaped finding appears to be a feature of historical economic development more generally.⁹⁴

The World Bank posits a direct relationship between gender equality—as opposed to women's participation in the paid workforce

88. Corner, *supra* note 74, at 3 (finding that women-led entrepreneurship is necessary if developing economies are "to maximize competitiveness and the potential gains from international trade and investment").

89. CLAUDIA GOLDIN, UNDERSTANDING THE GENDER GAP: AN ECONOMIC HISTORY OF AMERICAN WOMEN 213 (1990).

90. *Id.*

91. *Id.* at 11, 55-57.

92. *Id.* at 55-57.

93. See *supra* Part I.

94. Claudia Goldin, *The U-Shaped Female Labor Force Function in Economic Development and Economic History*, in INVESTMENT IN WOMEN'S HUMAN CAPITAL 61, 63-68 (T. Paul Schultz ed., 1995); accord Kristin Mammen & Christina Paxson, *Women's Work and Economic Development*, J. ECON. PERSP., Fall 2000, at 141, 143-44.

alone—and the reduction of poverty in a nation.⁹⁵ The Bank has created a significant body of data analyzing the relationship between development and gender equality.⁹⁶ In its 2003 research report on gender equality, it found that

[m]any variables are critical for poverty reduction, both on the investment climate side and on the empowerment side. However, one of the key conclusions of recent research is that, other things being equal, general inequality retards both economic growth and poverty reduction.⁹⁷

Furthermore, the World Bank found gender inequality to be a major obstacle to the relief of poverty.⁹⁸

Gender inequality, which remains pervasive worldwide, tends to lower the productivity of labor and the efficiency of labor allocation in households and the economy, intensifying the unequal distribution of resources. It also contributes to the non-monetary aspects of poverty—lack of security, opportunity and empowerment—that lower the quality of life for both men and women. While women and girls bear the largest and most direct costs of these inequalities, the costs cut broadly across society, ultimately hindering development and poverty reduction.⁹⁹

The links between gender inequality and poverty include the idea that women and girls tend to be as productive as, or more productive than, males given access to the inputs and human capital formation necessary to be productive; that females tend to devote resources to educating their children and improving human capital; and that the lowered fertility of women in paid work affects the success and environmental sustainability of a nation's and region's economy.¹⁰⁰ From

95. IMPROVING WOMEN'S LIVES, *supra* note 73, at 17 (“[U]nless inequalities in the capacities, opportunities, and voice of women and men are reduced, the Bank’s poverty reduction agenda will not be achieved.”); *see also* WORLD BANK, GENDER AND DEVELOPMENT IN THE MIDDLE EAST AND NORTH AFRICA: WOMEN IN THE PUBLIC SPHERE 1-4 (2004), available at <http://web.worldbank.org> (search for “women in the public sphere”; then follow “Gender and Development in the Middle East and North Africa: Women in the Public Sphere” hyperlink) (arguing that the region’s economic development depends upon increasing women’s participation in the public sphere); WORLD BANK, GENDER, GROWTH, AND POVERTY REDUCTION (1999) (describing the specific ways in which gender inequality hampers economic development in Africa).

96. *E.g.*, WORLD BANK, ENGENDERING DEVELOPMENT: THROUGH GENDER EQUALITY IN RIGHTS, RESOURCES, AND VOICE (2001); WORLD BANK, GENDER EQUALITY & THE MILLENNIUM DEVELOPMENT GOALS (2003) [hereinafter WORLD BANK, GENDER EQUALITY].

97. WORLD BANK, GENDER EQUALITY, *supra* note 96, at 6.

98. *Id.* at 1.

99. *Id.*

100. *Id.* at 7, 11-12.

a different perspective, scholars observe that even though laws, custom, and social norms impede or prevent the operation of free labor markets, in most societies, economic development brings with it an increase in women's educational opportunities. Education increases the opportunity cost of children as women move into the workforce, fertility rates decline, and economic well-being increases.¹⁰¹

Most of these scholarly studies and theories address the role of women in all sorts of workplaces, not necessarily in the higher ranks of political and business organizations. Nonetheless, a clear pattern emerges from this highly truncated description of the body of work on globalization, economic development, and the role of women in the workplace. Although the phenomenon of elite women in business and economic leadership occurs throughout the world, the phenomenon of a career path for women—one in which significant numbers of women systematically acquire the social and cultural capital and experience to lead a substantial economic organization—is most likely a feature of the developed world. And this is probably true for men as well, although the opportunities for men tend to be greater than those for women across all cultures and economies. However, the competitive process of globalization brings the potential for great benefit to both women and men. That benefit is more likely to be captured by women on a career path to economic power than by women in lower socioeconomic rungs. For them, the U-shaped curve of economic development may actually reduce their level of participation in the workforce through some stages of economic development. Thus, globalization may bring significant opportunity to women throughout the world who have the social and cultural capital, perhaps by virtue of birth in an educated or elite family, to make them attractive to global organizations as managers and able to participate in a world economy in which their mothers and grandmothers could not participate.

B. *Sociological Approaches*

The phenomenon of women in upper executive levels of business and economic organizations is not as well studied, but significant progress has been made in recent work in the sociology literature.¹⁰² The

101. Mammen & Paxson, *supra* note 94, at 150.

102. *E.g.*, COMPETITIVE FRONTIERS, *supra* note 82; GENDERING ELITES: ECONOMIC AND POLITICAL LEADERSHIP IN 27 INDUSTRIALISED SOCIETIES (Mino Vianello & Gwen Moore eds., 2000) [hereinafter GENDERING ELITES]; MARGARET LINEHAN, SENIOR FEMALE INTERNATIONAL MANAGERS: WHY SO FEW? (2000); MINO VIANELLO ET AL., WOMEN AND MEN IN POLITICAL AND BUSINESS ELITES (2004).

subject attracts attention in the business press as well.¹⁰³ Some of the major areas studied include the relationship between career success and decisions about family responsibilities and work/life balance in the United States¹⁰⁴ and internationally;¹⁰⁵ the role of networks, social capital, and mentors;¹⁰⁶ the role of cultural capital, class, and socioeconomic status;¹⁰⁷ the role of cultural and social context in promoting or disrupting gender inequality and discrimination;¹⁰⁸ the course of career paths;¹⁰⁹ the role of values in achieving leadership;¹¹⁰ and public and corporate policies affecting the rise of women in business and economic leadership.¹¹¹ Several major sociological and demographic studies have examined one or more of these concepts in looking at women or at men and women elites throughout the world.

The 2003 Catalyst study *Leaders in a Global Economy: A Study of Executive Women and Men* surveyed 1192 top executives in ten major U.S.-headquartered global companies in various industries.¹¹² Although the study had a North American bias—sixty-two percent of the executives surveyed worked in North America,¹¹³ and only nineteen were born in a non-North American country where they worked at the time of the study¹¹⁴—the data is nonetheless quite valuable for the size of

103. E.g., *Britain's 50 Most Powerful Women*, *supra* note 1; Janet Guyon, *The Global Glass Ceiling; and Ten Women Who Broke Through It*, *FORTUNE*, Oct. 12, 1998, at 102; *Majority of Women Executives Want to Be CEOs*, *supra* note 1; Joe Strupp, *No More Glass Ceiling?*, *EDITOR & PUBLISHER MAG.*, Nov. 3, 2003, at 8.

104. E.g., Mary Blair-Loy & Amy S. Wharton, *Mothers in Finance: Surviving and Thriving*, 596 *ANNALS AM. ACAD. POL. & SOC. SCI.* 151 (2004).

105. E.g., Alison Woodward & Dawn Lyon, *Gendered Time and Women's Access to Power*, in *GENDERING ELITES*, *supra* note 102, at 91; Gwen Moore, *Mommies and Daddies on the Fast Track in Other Wealthy Nations*, 596 *ANNALS AM. ACAD. POL. & SOC. SCI.* 208 (2004).

106. E.g., Rosanna Memoli, *Networks: An Application of Multidimensional Scaling Analysis*, in *VIANELLO ET AL.*, *supra* note 102, at 149; Michal Palgi & Gwen Moore, *Social Capital: Mentors and Contacts*, in *VIANELLO ET AL.*, *supra* note 102, at 129.

107. E.g., Joanna Liddle & Elisabeth Michielsens, *Gender, Class and Public Power*, in *GENDERING ELITES*, *supra* note 102, at 21.

108. E.g., *COMPETITIVE FRONTIERS*, *supra* note 82; Bogdan Kavcic & Marjana Merkač, *Organisational Structure and Gender*, in *GENDERING ELITES*, *supra* note 102, at 131, 139 (concluding that national culture influences organizational culture and structure more than gender); Virginia E. Schein, *A Global Look at Psychological Barriers to Women's Progress in Management*, 57 *J. SOC. ISSUES* 675 (2001).

109. E.g., Paula M. Caligiuri & Wayne F. Cascio, *Can We Send Her There? Maximizing the Success of Western Women on Global Assignments*, 33 *J. WORLD BUS.* 394 (1998); Brigitte Liebig & Silvia Sansonetti, *Career Paths*, in *VIANELLO ET AL.*, *supra* note 102, at 49.

110. E.g., Renata Siemienska, *Values*, in *VIANELLO ET AL.*, *supra* note 102, at 102.

111. See *CATALYST LEADERS*, *supra* note 44.

112. *Id.* at 1. More than half of those surveyed were defined as level one (reporting directly to the CEO) or level two (reporting to the executive who reports to the CEO). *Id.* at 2.

113. *Id.* at 1.

114. *Id.*

the study and the insight it provides into scaling the corporate ladder in globalized firms.

Mino Vianello and Gwen Moore coordinated and edited a book published in 2000¹¹⁵ that provides a compilation of data from a large study that “employ[ed] elements of élite, leadership and gender theories in . . . analyses of economic and political élites in industrial societies.”¹¹⁶ The study contributes to and extends the classic sociological theories of power, the acquisition of power, and the exercise of power by elites.¹¹⁷ Most of the classic literature omitted gender and the study of the relationship between gender and elite. In addition, the theoretical framework of the study builds on concepts advanced in feminist and gender theory.¹¹⁸ The study surveyed male and female elites in business and politics in twenty-seven industrialized countries, focusing primarily on networks and mentoring, career paths, aspirations, perceived aids and obstacles to success, family background and current family arrangements, and attitudes about the gendered distribution of power in society.¹¹⁹ The data were collected between 1993 and 1995.¹²⁰

Using the same data, the authors continued their analysis in a 2004 volume, *Women and Men in Political and Business Elites: A Comparative Study in the Industrialized World*.¹²¹ The papers in this volume develop more fully the implications of the data for work/life balance, career paths, values, social capital, and mentors and networks. Some of the tentative conclusions supported, and to an extent advanced, by these studies include those that follow.

1. *Women elites in both politics and business are more likely to come from a more privileged class background, have more highly educated relatives, and*

115. GENDERING ELITES, *supra* note 102.

116. Eileen Drew et al., *A Theoretical Framework*, in GENDERING ELITES, *supra* note 102, at 3, 9.

117. See generally HAROLD D. LASSWELL, *POLITICS: WHO GETS WHAT, WHEN, HOW* (Peter Smith 1950) (1936); C. WRIGHT MILLS, *THE POWER ELITE* (Oxford Univ. Press 1959) (1956); JOSEPH A. SCHUMPETER, *CAPITALISM, SOCIALISM AND DEMOCRACY* (Harper & Row 1975) (1942); Michael G. Burton & John Higley, *Invitation to Elite Theory: The Basic Contentions Reconsidered*, in *POWER ELITES AND ORGANIZATIONS* 219 (G. William Domhoff & Thomas R. Dye eds., 1987).

118. E.g., *ACCESS TO POWER: CROSS-NATIONAL STUDIES OF WOMEN AND ELITES* (Cynthia Fuchs Epstein & Rose Laub Coser eds., 1981); CYNTHIA FUCHS EPSTEIN, *DECEPTIVE DISTINCTIONS: SEX, GENDER, AND THE SOCIAL ORDER* (1988); ROSABETH MOSS KANTER, *MEN AND WOMEN OF THE CORPORATION* (1977).

119. Silvia Sansonetti et al., *Methodology*, in GENDERING ELITES, *supra* note 102, at 11, 13-14.

120. GENDERING ELITES, *supra* note 102, at xix.

121. VIANELLO ET AL., *supra* note 102, at 191.

have mothers with higher social and economic status than men in comparable positions. Specifically,

women who attain top positions have available additional structural and cultural resources on which they can draw as a replacement for the structural and cultural deficits implicit in their gender. These resources are forms of material, social and cultural capital, which help to explain how and why these women gained access to top leadership positions.¹²²

Social capital encompasses the access to mentors and networks that connects individuals through trust, understanding, and mutual values and that provide conduits for useful information that makes it easier to attain career goals and personal goals.¹²³ Access to mentors is discussed further below. *Cultural capital*, as a sociological paradigm,¹²⁴ includes such elements as the natural aptitude and the learned habits of an individual; the use of cultural goods such as art, books, reference tools and the like; and institutional certification of knowledge that can be converted into economic capital through labor markets.¹²⁵ Certain aspects of cultural capital are related to social class.¹²⁶

2. *The gender disadvantages that women elites face—the cultural, social, familial, and organizational obstacles—manifest themselves primarily in the process of gaining access to an elite position, the path to top leadership, rather than in performing in the leadership position.*¹²⁷ This finding is supported by similar findings in the 2003 Catalyst study.¹²⁸

3. *Elite men and elite women differ in the life decisions they have made to manage both personal and career work.* Both studies compared elite men and elite women in the life decisions made in order to manage career and personal life. The differences between men and women are reflected in marriage rates and family formation, likelihood of having

122. Gwen Moore & Mino Vianello, *General Conclusions*, in *GENDERING ELITES*, *supra* note 102, at 269, 269.

123. Palgi & Moore, *supra* note 106, at 129, 129; *see also* Michal Palgi, *Top People and Mentors*, in *GENDERING ELITES*, *supra* note 102, at 79; *infra* Part III.

124. This concept is developed and defined in the work of Pierre Bourdieu. Pierre Bourdieu, *The Forms of Capital*, in *HANDBOOK OF THEORY AND RESEARCH FOR THE SOCIOLOGY OF EDUCATION* 241, 243-48 (John G. Richardson ed., 1986).

125. María Antonia García de León et al., *The Élités' Cultural Capital*, in *GENDERING ELITES*, *supra* note 102, at 35, 37.

126. Bourdieu, *supra* note 124, at 245.

127. Moore & Vianello, *supra* note 122, at 271.

128. CATALYST LEADERS, *supra* note 44, at v (“Women report facing many more obstacles . . . than men—specifically being excluded from important networks, having a limited number of role models, having limited opportunities for experience in line or in general management positions, facing gender stereotypes, and being in dual-career families.”)

children, the distribution of family work, and the tendency toward a traditional family lifestyle. The forms these differences take are mediated by cultural and structural differences and by public policy with respect to families.¹²⁹ For example, women elites in Scandinavian countries tend to have higher rates of fertility than women elites in West and South Europe.¹³⁰ However, interesting anomalies appear that are not consistent with common wisdom. The Catalyst study, for example, which was a North American-biased study, found that women executives in higher status jobs are more likely to have children than women at lower levels of the organization, even controlling for age, and are no more likely to have delayed or foregone marriage and committed relationships.¹³¹ The hypothesis that across all cultures women undertake more family work than men was borne out.

4. *While women executives tend to have leadership styles that are more democratic, more inclined toward sharing power and communicating in non-competitive ways, those in higher levels of organizational authority exhibit the more "competitive, directive and risky leadership" associated with males.*¹³²

These tentative conclusions are based on data collected more than ten years ago. Yet, the conclusions and the data behind them could provide a baseline for assessing change and progress in gender equity in the organizations and nations studied.

As noted above, social capital, which encompasses access to mentors and networks, is an important resource for women attempting to gain positions of leadership. In the next Section we consider the effect of mentoring on women's career paths and experiences.

III. THE ROLE OF MENTORING

As of 2002, women accounted for only sixteen percent of corporate officers at Fortune 500 companies.¹³³ Lack of mentoring may contribute to this relatively weak representation of women at the top of the corporate hierarchy. In 2001, Catalyst found that the greater the number of mentors female managers and executives had, the

129. Jaana Kuusipalo et al., *Life and Career in North and South Europe*, in *GENDERING ELITES*, *supra* note 102, at 177; Moore & Vianello, *supra* note 122, at 274-75; *see also* *COMPETITIVE FRONTIERS*, *supra* note 82 (examining the societal forces that influence women's opportunities, motivation, and choices).

130. VIANELLO ET AL., *supra* note 102, at 183.

131. CATALYST LEADERS, *supra* note 44, at 33.

132. VIANELLO ET AL., *supra* note 102, at 184.

133. 2002 CATALYST CENSUS, *supra* note 3, at 3.

greater the number of promotions they received.¹³⁴ More than seventy percent of those with multiple mentors were promoted compared to fifty percent of those without them.¹³⁵ According to the Catalyst study, when women of color were asked about career barriers, the number one barrier reported was that they did not have an influential mentor or sponsor.¹³⁶

Another Catalyst study—the *2004 Catalyst Study: Women and Men in U.S. Corporate Leadership: Same Workplace, Different Realities*—found that fifty-six percent of female and fifty-two percent of male executives named having an influential mentor or sponsor as an important success strategy.¹³⁷ Yet only twenty-three percent of women and seventeen percent of men surveyed were satisfied with the availability of mentors at their workplace.¹³⁸ It is interesting that neither group is particularly satisfied and men even less so than women.

But, discouragingly, a study published in the *Journal of Managerial Psychology* found that mentors and exposure to powerful networks did not benefit women's careers as much as men's careers.¹³⁹ Research shows many organizations take steps to ensure that women form relationships and gain access to powerful networks, but "they have not ensured that women equally benefit from such interpersonal relationships."¹⁴⁰ The study found that education and career impatience, that is, willingness to seize every opportunity and the willingness to leave if it means going higher or faster in another organization, directly affected perceived marketability which led to more promotions and greater exposure to powerful networks.¹⁴¹

With respect to gender differences, beliefs regarding the efficacy of mentoring positively influenced a woman's sense of marketability and her exposure to powerful networks.¹⁴² But for women managers, unlike men, it did not affect the number of promotions offered.¹⁴³ This study concluded that "[o]rganizations that are interested in help-

134. CATALYST INC., WOMEN OF COLOR IN CORPORATE MANAGEMENT: THREE YEARS LATER 12 (2002), available at http://www.catalyst.org/knowledge/titles/title.php?page=woc_corpmngt3yrs_01.

135. *Id.* at 13 fig.7.

136. *Id.* at 13.

137. CATALYST INC., WOMEN AND MEN IN U.S. CORPORATE LEADERSHIP: SAME WORKPLACE, DIFFERENT REALITIES? 16 (2004).

138. *Id.* at 10.

139. Kimberly A. Eddleston et al., *Toward Modeling the Predictors of Managerial Career Success: Does Gender Matter*, 19 J. MANAGERIAL PSYCHOL. 360, 378-79 (2004).

140. *Id.* at 380.

141. *Id.* at 378.

142. *Id.*

143. *Id.* at 379.

ing female managers advance should focus on helping them create and utilize interpersonal relationships that will aid their career advancement."¹⁴⁴ As such, organizations need to pay closer attention to their promotional practices if they hope to provide a nondiscriminatory environment where both men and women have equal chances of obtaining promotions and rising in the management ranks.¹⁴⁵ These include considering: (1) how females are being mentored relative to males and (2) the dynamics that occur when lower-level managers interact with top managers.¹⁴⁶

Although mentoring relationships are generally considered important for career advancement, there are some disenchantments today with senior women mentoring junior women.¹⁴⁷ The new generation of women is said to be more vocal about work and family balance than women were ten to twenty years ago.¹⁴⁸ Of course, older women faced similar issues when they were rising through the ranks, but they did not talk about those issues. Junior women do not want to hear things like "you've got to pay your dues" from senior women.¹⁴⁹

Women are also having difficulty finding a mentor with whom they can develop the rapport necessary to take the mentoring relationship beyond that of teacher to the realm of advocate and career launcher.¹⁵⁰ And women are not mentoring women in significant numbers, perhaps because senior women are too busy or too stressed to find time to mentor. A recent survey showed that sixty-two percent of the women who responded reported having a formal or informal mentor.¹⁵¹ However, sixty-four percent of the women reported "that their most important mentors have been male."¹⁵² Only thirty-six percent of these women reported that women had been the most influential in their careers.¹⁵³

144. *Id.* at 381.

145. *Id.* at 380.

146. The study involved in-career MBA students at a large state university requesting individuals from managerial or professional ranks in their company to fill out surveys anonymously. *Id.* at 369.

147. See Marci McDonald, *The Mentor Gap*, U.S. NEWS & WORLD REP., Nov. 3, 2003, at 36, available at <http://www.usnews.com/usnews/work/articles/031103/3mentor.htm>.

148. *Id.*

149. *Id.*

150. Theo Jones-Quartey, *Mentoring—Personal Reflections of a Special Librarian*, INFORMATION OUTLOOK ONLINE, July 2000, <http://www.sla.org/Content/Shop/Information/infoonline/2000/jul00/quartey.cfm>.

151. Press Release, MBACareers.com, *Mentors Play a Key Role in Women's Career Success* (July 7, 2003), http://www.mbacareers.com/pr_mentor070703.jsp.

152. *Id.*

153. *Id.* In a study conducted by George Dreher and Taylor Cox, mentees mentored by white males earned an average of \$16,840 more than those who had women or minorities

Male mentors have helped women “by providing general business training, leadership opportunities, coaching feedback and advice as well as networking and advancement opportunities” and negotiating skills.¹⁵⁴ Female mentors have been found to provide “informal fellowship, guidance within the corporation, motivation and encouragement” by “sharing strategies for women’s career success” on things like “work/life balance, job share, maternity leave, [and] advice on overcoming gender bias.”¹⁵⁵ Both male and female mentors are thus important and each has distinct advantages. However, it is somewhat disturbing that female mentors have not been successful at providing leadership opportunities.

Research supports the notion that women who have a mentor do better as they “gain reflected power, feedback, and access to resources and senior management through their mentor. The mentoring relationship can provide insights into organisational politics and access to otherwise unavailable sources of information.”¹⁵⁶

Many women prefer an informal mentoring relationship because they want someone who can advise them in light of their personal goals, skills, and character.¹⁵⁷ Formal mentoring programs may be less beneficial for both men and women than informal, naturally occurring relationships.¹⁵⁸ Women may be more susceptible to the negative aspects of formal mentoring because of stylistic differences in the way men and women approach conflict, responsibility, and group interactions.¹⁵⁹ If a male mentor does not understand these gender differences he may end up giving impersonal, gratuitous advice that amounts to pointers on how to act more like a man.¹⁶⁰ The problems with formal mentoring are not necessarily solved by pairing junior women with female mentors. Female mentors may see up and coming women as competition for one of the few positions for women at the top.¹⁶¹ Additionally, women are less likely to discontinue an unsuccessful relationship with a mentor, making the inevitable breakup

as mentors. 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, 297 (1996).

154. See Press Release, *supra* note 151.

155. *Id.*

156. Jenny Headlam-Wells, *E-Mentoring for Aspiring Women Managers*, 19 WOMEN MGMT. REV. 212, 212 (2004) (citations omitted).

157. Press Release, *supra* note 151.

158. Peter Kizilos, *Take My Mentor, Please!*, TRAINING, Apr. 1990, at 49, 49.

159. *Id.* at 52.

160. *Id.*

161. *Id.* at 51.

more disruptive and decreasing their chances of finding a mentor who is a better fit.¹⁶²

For many women, an informal mentoring system outside their company may be the most beneficial.¹⁶³ This allows female mentees to discuss openly uncertainties they may hesitate to display in their workplace for fear of appearing weak.¹⁶⁴

One way to develop these kinds of mentoring relationships is e-mentoring. Researchers at the University of Hull Business School in the United Kingdom conducted an interesting study on e-mentoring.¹⁶⁵ This study focused on two groups: “(1) professional women in employment who aspired to higher management levels; and (2) women on career breaks, qualified to degree level or equivalent, who wanted to re-establish their careers as managers.”¹⁶⁶ This study noted that because there are relatively few women in senior-management positions, women must take part in cross-gender mentoring relationships to find senior mentors.¹⁶⁷ It is easy for men to initiate mentoring with someone of the same gender, but “women do not have that luxury, [and] often hav[e] to approach a mentor from the opposite gender. . . . [T]his can be a major problem as the relationship may be misconstrued by others as being sexual,” leading women to avoid approaching men to avoid gossip.¹⁶⁸ Research shows that “women were granted less time than men with their male mentors . . . because of the potential sexual connotations.”¹⁶⁹ This study looked at e-mentoring, using primarily e-mail for the mentoring relationship.¹⁷⁰

The study found that e-mentoring helped overcome feelings of isolation, offered networking opportunities, and was an efficient way of providing management development.¹⁷¹ “Mentees valued the support, guidance, and personal friendship.”¹⁷² E-mentoring took some pressure off the mentor—they did not have to answer questions immediately.¹⁷³ Mentees could take responsibility for initiating contact,

162. *Id.*

163. Andrea Chipman, *Mentoring Helps Women Navigate Career Changes*, WALL ST. J. ONLINE, Mar. 27, 2002, <http://www.hightech-women.com/mentoring.html>.

164. Headlam-Wells, *supra* note 156, at 212.

165. *Id.*

166. *Id.*

167. *Id.* at 213.

168. *Id.*

169. *Id.*

170. *Id.*

171. *Id.* at 214.

172. *Id.* at 215.

173. *Id.* at 216.

thus taking a less passive role in the relationship.¹⁷⁴ Thirty-three percent of the mentees changed career aspirations, one gained a promotion to a managerial position, and two who were on career breaks entered managerial ranks.¹⁷⁵ Sixty-one percent said they will continue the relationship.¹⁷⁶

It is also important for women to be mentor-ready.¹⁷⁷ That is, to be successful in a mentoring relationship, mentees need to “demonstrate a love of the [workplace], actively seek out and incorporate feedback, appreciate the corporation’s political process, and have a professional and confident presence in the workplace.”¹⁷⁸

Thus, from the above-mentioned studies, as well as others, mentoring appears to play a significant role in launching a high-level career in business. Unfortunately, the studies thus far seem to show that women, while attempting to engage in these relationships, are not finding mentoring as useful to their career advancement as do men. And although there are a number of studies on the role of mentoring in the United States, there has been very little research done on issues of cross-cultural mentoring.¹⁷⁹ It seems that both of these issues are ripe for further empirical study.

In the next Section, we consider the role of women in promoting the ethics of an organization and whether this may positively or negatively impact their careers. As demonstrated below, the evidence is mixed.

IV. GENDER AND ETHICS: WHISTLEBLOWING

When *Time Magazine* chose three women to be “Persons of the Year” in 2002,¹⁸⁰ it raised again for public discussion whether women are more likely than men to be whistleblowers. Organizations may view this issue as even more relevant today¹⁸¹ in light of the large numbers of prosecutions of corporate leaders,¹⁸² large fines and bankrupt-

174. *Id.* at 217.

175. *Id.* at 215.

176. *Id.*

177. Maureen Jenkins, *Why You Need a Mentor*, BLACK ENTER., Mar. 2005, available at <http://www.blackenterprise.com/printarticle.asp?source=/Archive2005/03.0305-30.htm>.

178. *Id.*

179. Terry Morehead Dworkin & Cindy A. Schipani, *Gender Voice and Correlations with Peace*, 35 VAND. J. TRANSNAT’L L. 527, 561 (2003).

180. Richard Lacayo & Amanda Ripley, *Persons of the Year: Coleen Rowley, Cynthia Cooper, and Sherron Watkins*, TIME, Dec. 30, 2002, at 30.

181. See *Newly Vigilant Boards Force Change at the Top*, INT’L HERALD TRIBUNE, Mar. 16, 2005, at 16.

182. *E.g.*, Almar Latour et al., *Held Accountable: Ebbers Is Convicted in Massive Fraud*, WALL ST. J., Mar. 16, 2005, at A1.

cies, and the resultant focus on ethics.¹⁸³ Whistleblowers play a prominent role in bringing the wrongdoing to light, and policy-makers are increasingly embracing whistleblowing as a significant tool to use to catch and deter wrongdoers.¹⁸⁴ The Sarbanes-Oxley Act,¹⁸⁵ with its reporting requirements and whistleblowing provisions, has heightened the focus.¹⁸⁶

A. Evidence

1. *Theoretical.*—There are scholarly hypotheses to support a gender-related argument regarding whistleblowing both ways. Some argue that women are more likely to be whistleblowers because they are

183. See *Corporations Must Disclose Ethics Codes, Information on Financial Experts, SEC Says*, 71 U.S.L. WK. (BNA) 2472 (Jan. 28, 2003); Deborah Solomon, *Accounting Rule Exposes Problems but Draws Complaints About Costs*, WALL ST. J., Mar. 2, 2005, at A1 (critiquing the effect of Sarbanes-Oxley on corporate accountability). One manifestation of the increased focus on ethics is the growth of company ethics officers. In 1992, there were just twelve members of the Ethics Officer Association. Keith Darcy, *Ethics Officers Double in Four Years*, BUS. ETHICS MAG., Spr. 2005, at 9, 9. In 2000, the number was 632, and by 2005 it had increased to 1200. *Id.*

Companies have also increased their ethics focus as the result of the Corporate Sentencing Guidelines. Janet P. Near & Terry Morehead Dworkin, *Responses to Legislative Changes: Corporate Whistleblowing Policies*, 17 J. BUS. ETHICS 1551, 1560 (1998). The Guidelines, after passage, were the most important direct cause of adoption of whistleblowing procedures and codes of ethics.

184. Elletta Sangrey Callahan & Terry Morehead Dworkin, *The State of State Whistleblower Protection*, 38 AM. BUS. L.J. 99, 99-100 (2000). The U.S. Supreme Court recently affirmed the importance of whistleblowers in helping to enforce laws in *Smith v. City of Jackson*, 544 U.S. 228 (2005). See also Donna Miles, *Officials Expand Existing Whistleblower Protections*, AIR FORCES LINK, Apr. 19, 2005, <http://www.af.mil/news/story.asp?storyID=123010302>.

185. Pub. L. No. 107-204, 116 Stat. 745 (codified in scattered sections of 11, 15, 18, 28 & 29 U.S.C. (Supp II 2002)). Former Federal Reserve Chairman Alan Greenspan declared the Act to be surprisingly effective despite the fact that it was passed so “rapidly.” David Wessel, *Corporate Overhauls Are Proving to Be Effective, Greenspan Says*, WALL ST. J., May 16, 2005, at C3. However, a backlash against the law is developing. See Scott S. Powell, Letter to the Editor, *Costs of Sarbanes-Oxley Are Out of Control*, WALL ST. J., Mar. 21, 2005, at A17; Solomon, *supra* note 183, at A1; see also Tracey Rembert, *CSR in the Cross-Hairs*, BUS. ETHICS MAG., Spr. 2005, at 30 (“Recent months have seen a fierce and growing counter-attack against corporate social responsibility (CSR) and ethics reform . . .”); Deborah Solomon & Diya Gullapalli, *Auditors Get Sarbanes-Oxley Rebuke*, WALL ST. J., May 17, 2005, at C3.

186. In the first trial of an executive under Sarbanes-Oxley, Richard M. Scrushy, founder and former CEO of HealthSouth Corp., faced criminal charges related to accounting fraud. Chad Terhune & Evelina Shmukler, *Scrushy Jurors Hear Key Tapes in the First Day of Deliberations*, WALL ST. J., May 20, 2005, at C4. The Act is having some surprising outcomes such as causing some public companies to think of going private so the Act will not apply to them and others to delay going public. See Daniel Rosenberg, *Sarbanes-Oxley Slows IPO Rush in Boon to Private-Equity Funds*, WALL ST. J., Mar. 31, 2005, at C6. The law is also blamed by many companies for their late financial report filings. Mohammed Hadi, *Street Sleuth: More Companies Are Filing Late*, WALL ST. J., Apr. 11, 2005, at C3.

more likely to be an outsider in the organization¹⁸⁷ and have less loyalty to the organization because of their relatively "shorter and more intermittent work histories."¹⁸⁸ When gender and position are examined, "women in high-prestige jobs may be more sensitized to unfairness . . . because they may have compared their own situations to those of men in comparable positions" and thus take action against it such as reporting.¹⁸⁹ Finally, one study indicated that women may have higher levels of moral judgment¹⁹⁰ and may "feel a greater public responsibility to speak out against wrongdoing."¹⁹¹

However, each of these arguments can be refuted by other studies of whistleblowers. For example, some studies of women in organizations indicate that as women move higher in the organization, they tend to adopt the norms of those in similar or higher positions.¹⁹² This could be used to refute the argument that women in management are more likely to speak out. Likewise, the fact that women, in general, are at lower levels in organizations, have more intermittent job histories, and have shorter tenures means that they are less likely to know how to respond to wrongdoing and where to report it.¹⁹³ Studies indicate that one of the most positive inducements to reporting wrongdoing is knowing where and how to report within the organization.¹⁹⁴ Finally, there is some evidence that if the observer of wrongdoing is female, she is more likely to blow the whistle if the re-

187. Because they are outsiders, they have less of a stake in the organization and therefore are more willing to turn it in. Terry Morehead Dworkin et al., *Will She or Won't She?: A Theoretical Discourse on Gender and Whistleblowing* 5 (2003) (unpublished manuscript, on file with authors).

188. Patricia A. Gwartney-Gibbs & Denise H. Lach, *Gender and Workplace Dispute Resolution: A Conceptual and Theoretical Model*, 28 *LAW & SOC'Y REV.* 265, 273 (1994).

189. MARCIA P. MICELI & JANET P. NEAR, *BLOWING THE WHISTLE: THE ORGANIZATIONAL AND LEGAL IMPLICATIONS FOR COMPANIES AND EMPLOYEES* 120 (1992).

190. Mary Brabeck, *Ethical Characteristics of Whistle Blowers*, 18 *J. RES. PERSONALITY* 41, 50 (1984).

191. Terance D. Miethe & Joyce Rothschild, *Whistleblowing and the Control of Organizational Misconduct*, 64 *SOC. INQUIRY* 322, 334 (1994); cf. Astrid E. Merget, *Opinion, Women's Paths to Power: Women's Equality Measured by Extent of Government Roles*, *INDYSTAR.COM*, Apr. 10, 2005, <http://indystar.com/apps/pbcs.dll/article?AID=/20050410/OPINION/504100306&SearchID=73205750090007>.

192. See MICELI & NEAR, *supra* note 189, at 121 ("[W]omen tend to conform more to a majority opinion than do men.").

193. MICELI & NEAR, *supra* note 189, at 121.

194. Marcia Parmerlee Miceli & Janet P. Near, *The Relationships Among Beliefs, Organizational Position, and Whistle-Blowing Status: A Discriminant Analysis*, 27 *ACAD. MGMT. J.* 687, 701 (1984); see also Elletta Sangrey Callahan & Terry Morehead Dworkin, *Who Blows the Whistle to the Media, and Why: Organizational Characteristics of Media Whistleblowers*, 32 *AM. BUS. L.J.* 151, 163-65 (1994).

ipient of the report is also female.¹⁹⁵ Because almost all whistleblowers go to someone higher in the organization (because they want the wrongdoing stopped and seek someone they think can affect that), chances are that the person they would most likely go to would be male.

Others argue that men are more likely to report wrongdoing because they in general have higher self-esteem which, in turn, may positively influence prosocial behavior and spark whistleblowing.¹⁹⁶ Higher feelings of self-efficacy, which predominate in men, also positively correlate with likelihood to blow the whistle.¹⁹⁷ Additionally, men are less susceptible to majority opinion because of higher esteem and self-efficacy and are arguably more willing to buck peer norms and blow the whistle.¹⁹⁸ Further, because they occupy more of the professional and executive positions, they have better access to information, including that regarding wrongdoing. This is particularly true of consequential wrongdoing.¹⁹⁹ Additionally, members of professional groups often have codes of ethics which encourage or require the reporting of certain kinds of wrongdoing.²⁰⁰ Because more men are professionals, more may feel a moral obligation to report.²⁰¹ Professional, higher-level positions implicate men in whistleblowing in another regard. Studies report that those who feel they have power within the organization are more likely to report wrongdoing, and these are indicia of power.²⁰²

2. *Statistical.*—When statistical studies are examined, the results are equally murky.²⁰³ Data collected from thousands of federal workers in two (early) studies showed that men were more likely to blow the whistle.²⁰⁴ These were done at a time when men still dominated

195. See MICELI & NEAR, *supra* note 189, at 122 (suggesting that whistleblowers tend to report someone of the same sex).

196. *E.g., id.* at 121.

197. Miethe & Rothschild, *supra* note 191, at 334. See generally Janet P. Near & Marcia P. Miceli, *Whistle-Blowing: Myth and Reality*, 22 J. MGMT. 507 (1996).

198. Miethe & Rothschild, *supra* note 191, at 334.

199. MICELI & NEAR, *supra* note 189, at 120.

200. *Id.*

201. *Id.*

202. *E.g., id.* at 198-200; Janet P. Near et al., *Beyond Enron: Is Personality Associated with Employee Reactions to Organizational Wrongdoing?* 9 (2003) (unpublished manuscript, on file with authors).

203. See MICELI & NEAR, *supra* note 189, at 131-33 (describing the problems with whistleblowing studies); accord Miethe & Rothschild, *supra* note 191, at 334.

204. U.S. MERIT SYS. PROT. BD., *BLOWING THE WHISTLE IN THE FEDERAL GOVERNMENT: A COMPARATIVE ANALYSIS OF 1980 AND 1983 SURVEY FINDINGS* (1984); see also U.S. MERIT SYS. PROT. BD., *WHISTLEBLOWING AND THE FEDERAL EMPLOYEE* (1981). The surveys were done by

the workforce and almost exclusively held the higher positions in organizations. Demographic studies of whistleblowers showed them to most likely be long-term employees,²⁰⁵ fairly high in the organization,²⁰⁶ and loyal to the organization and interested in correcting the problem and returning the organization to its "right" path.²⁰⁷ In one of the most recent and largest studies, there is evidence that women (nonmilitary working on a military base) were more likely to blow the whistle.²⁰⁸ Studies in between showed mixed results.²⁰⁹

B. *Effective Whistleblowing*

The support is equally mixed regarding whether gender affects the effectiveness of whistleblowing. There is evidence to support the argument that women managers may be more effective whistleblowers. Numerous articles and studies argue that women managers tend to have a more inclusive "coalition-building" style, as discussed above.²¹⁰ To the extent that they do, their reports of wrongdoing are more likely to be listened to. Studies show that organizations tend to pay attention to whistleblowers who have more bases of

the Merit Systems Protection Board and were conducted in 1980 and 1983. *BLOWING THE WHISTLE*, *supra*. The 1980 survey collected baseline information; the 1983 survey allowed for comparative analysis. *Id.* A third survey was conducted in 1992. U.S. MERIT SYS. PROT. BD., *WHISTLEBLOWING IN THE FEDERAL GOVERNMENT: AN UPDATE* (1993).

205. Terry Morehead Dworkin & Janet P. Near, *Whistleblower Statutes and Reality: Is There a Need for Realignment?*, 1990 PROC. PAC. SW. BUS. L. ASS'N 73, 75.

206. Marcia P. Miceli & Janet P. Near, *Individual and Situational Correlates of Whistle-Blowing*, 41 PERSONNEL PSYCHOL. 267, 276 (1988). They were also likely to have supervisory or professional status. MICELI & NEAR, *supra* note 189, at 125.

207. Lena Kolarska & Howard Aldrich, *Exit, Voice, and Silence: Consumers' and Managers' Responses to Organizational Decline*, 1 ORG. STUD. 41, 52 (1980); Janet P. Near & Marcia P. Miceli, *Whistle-Blowers in Organizations: Dissidents or Reformers?*, 9 RES. ORG. BEHAV. 321, 337 (1987).

208. *See generally* Near et al., *supra* note 202.

209. *See, e.g.*, Joyce Rothschild & Terance D. Miethe, *Whistle-Blower Disclosures and Management Retaliation*, 26 WORK & OCCUPATIONS 107, 113 (1999) (indicating that internal whistleblowers were more likely to be women). Other studies showed men were more likely to blow the whistle. *E.g.*, Miethe & Rothschild, *supra* note 191, at 334 (external whistleblowers only); Randi L. Sims & John P. Keenan, *Predictors of External Whistleblowing: Organizational and Intrapersonal Variables*, 17 J. BUS. ETHICS 411, 418 (1998); Marcia P. Miceli et al., *Blowing the Whistle on Data Fudging: A Controlled Field Experiment*, 21 J. APPLIED SOC. PSYCHOL. 271, 288-89 (1991).

210. For discussions comparing the ways men and women network and communicate, see DEBORAH TANNEN, *THAT'S NOT WHAT I MEANT! HOW CONVERSATIONAL STYLE MAKES OR BREAKS RELATIONSHIPS* (1987); DEBORAH TANNEN, *YOU JUST DON'T UNDERSTAND: WOMEN AND MEN IN CONVERSATION* (1990); Sue Newell, *Communication, in ORGANIZATIONAL BEHAVIOUR REASSESSED: THE IMPACT OF GENDER* 60 (Elisabeth Wilson ed., 2001); Judy B. Rosener, *Ways Women Lead*, HARV. BUS. REV., Nov.-Dec. 1990, at 119, 120.

social power.²¹¹ Getting employees to “buy in” to decisions and tactics by an inclusive style would tend to support the whistleblower under this theory. Women in high-level positions may also have learned to be more forceful in stating their complaints and thus be more likely to effectively report wrongdoing.²¹²

However, whistleblowing effectiveness is also tied to power within the organization and to role within the organization. If whistleblowing is seen as role-prescribed (e.g., internal auditor or compliance officer), then what the whistleblower reveals is more likely to be accepted.²¹³ To the extent that men predominate in these roles, that would indicate that they would be more effective. Another factor that influences credibility and therefore effectiveness is whether the whistleblower has been harmed by the reported wrongdoing.²¹⁴ If she was, then the whistleblower may be viewed as self-interested, and therefore, less credible. When whistleblowing concerns incidents such as discrimination and/or harassment, women are disproportionately likely to be victims or perceived to be personally involved and therefore not be as readily believed. Mentoring (discussed above) can also affect credibility. If the whistleblower has a powerful mentor, that indirectly gives the whistleblower power. As stated, power is positively correlated with credibility. *If* the mentor backs up the mentee (and that may be a big *if*)²¹⁵ then the whistleblower is likely to be more effective.

C. *How Whistleblowing Affects a Career*

Although the studies do not clearly point to a gender bias in favor of whistleblowing, there is evidence that when they do blow the whistle, women suffer more retaliation.²¹⁶ Some of the explanation for this may be that there is an inverse relation between power in the organization and suffering retaliation.²¹⁷ Other explanations center on women being underrepresented in professional and management

211. MICELI & NEAR, *supra* note 189, at 198-200. See generally John R.P. French, Jr. & Bertram Raven, *The Bases of Social Power*, in *STUDIES IN SOCIAL POWER* 150, 165 (Dorwin Cartwright ed., 1959).

212. MICELI & NEAR, *supra* note 189, at 120. Other important factors are appearing credible, confident, competent, and objective. *Id.* at 208, 213-14.

213. *Id.* at 197.

214. *Id.* at 208.

215. If management is involved in the wrongdoing, whistleblowing is likely to be less effective or not occur because it is seen as futile. *Id.* at 198-99.

216. Michael T. Rehg et al., *Predictors of Retaliation* (2005) (unpublished manuscript, on file with authors).

217. See *id.* at 6.

positions in organizations. An example is social role theory.²¹⁸ This theory holds that women are “outsiders” in the organization and when they blow the whistle they are seen as violating role expectations to a greater degree than male whistleblowers.²¹⁹

Another theory tied to underrepresentation is the social contract theory which predicts that improved relationships happen when groups are less skewed in membership, leading to less visibility and therefore less scrutiny of the women’s task performance and reduced role-casting as men get to know them better.²²⁰ Although numerically skewed, women would tend to have less credibility within the organization. Also, social identity theory argues that men protect their self-image by developing a positive stereotype of their own group and a negative view of women, with challenges to these stereotypes perceived as threatening.²²¹

Two factors previously discussed also implicate women suffering greater retaliation. A whistleblower who is harmed by the wrongdoing is often seen as less credible,²²² but more research is needed to support that conclusion.²²³ Also, if the whistleblower has a powerful mentor who supports her, her power and credibility are increased.²²⁴

Of course, retaliation for raising ethical issues usually effectively stops one’s career within the organization and often, within the field. Also, the less credible the complaint, the more negative the impact on a career even if there is no overt retaliation.²²⁵ If women are more likely to suffer retaliation when they blow the whistle, such action will further inhibit their breaking through the glass ceiling. However, an even greater influence on women’s success may be the *perception* that women are more likely to act ethically and blow the whistle.

218. *Id.* at 9.

219. *Id.*

220. Marcia P. Miceli & Janet P. Near, *What Makes Whistle-Blowers Effective?* 59 HUMAN RELATIONS (forthcoming 2006).

221. Rehg et al., *supra* note 216, at 9. There is consistent evidence that most whistleblowers report internally first and only go externally when nothing is done or when they suffer retaliation. Miethé & Rothschild, *supra* note 191, at 333. It might be expected that more women report externally, as do whistleblowers who lack organizational power, long tenure, or higher position. When wrongdoing is reported externally, it is more likely to reach the media. See Terry Morehead Dworkin & Elletta Sangrey Callahan, *Employee Disclosures to the Media: When Is a “Source” a “Sourcerer”?*, 15 HASTINGS COMM. & ENT. L.J. 357, 360 (1993). This may help explain why there has been increased publicity such as that from *Time* for female whistleblowers.

222. See *supra* notes 214-215 and accompanying text.

223. MICELI & NEAR, *supra* note 189, at 210-11.

224. See *supra* notes 213-215 and accompanying text.

225. Elletta Sangrey Callahan & Terry Morehead Dworkin, *Do Good and Get Rich: Financial Incentives for Whistleblowing and the False Claims Act*, 37 VILL. L. REV. 273, 330-31 (1992).

Several scholars have argued that whistleblowing can be viewed as beneficial for the organization and ought to be embraced. And indeed, the majority of whistleblowers do not suffer retaliation.²²⁶ If companies embraced whistleblowing, then the perception that women will be more ethical and report wrongdoing could be an advantage and enhance one's career. This would especially be true in times such as today when corporate wrongdoing seems to many to be endemic and the penalties for such are increasing. However, with the strong motivation to cover up problems, those with that intent or with the desire to avoid issue-raising and the perception of problems, may be more hesitant to put women on "the fast track" because they won't "play the game" the way those high in the organization do. They may also be less willing to share information and include women in the informal networks that are necessary for advancement.

Women need to seriously examine their corporate culture and support for ethical behavior, as well as their consciences, before deciding to become a whistleblower. Additionally, there is an obvious need for greater research on the effects of gender on ethical behavior and whistleblowing.

V. CONCLUSION

It is important to understand better the factors that advance and impede women's contribution to economic and business leadership. The study of these factors should draw from a variety of analytical frameworks, including sociology, economics, law and public policy, and demographics if it is to adequately inform public policy, corporate practices, and the career decisions of women. Consistent themes emerge from both the sociological and the economic approaches. From the sociological literature, the theme of mentors and networking, career paths and experience, the roles of class and social and cultural capital, the work/life balance, and leadership styles and approaches to work recur. From the economic literature, a better understanding of the implications of the human capital model for decisions made by elite women and their family units, the effect of globalization on women's opportunities for economic and business leadership and the ways in which these opportunities are exploited, and the role of economic development in defining women's opportunities in business and economic leadership emerges.

226. See generally Rehg et al., *supra* note 216. Reprisal was reported by seventeen percent—thirty-eight percent of identified whistleblowers in stratified random samples of federal employees.

This Article has attempted to summarize the current findings from these paradigms as a first step toward articulation of a more complete research agenda. International data collection would seem to be an important next step toward understanding pathways for women to positions of organizational leadership.