

Competitiveness, Gender and Ethics in Legal Negotiations: Some Empirical Evidence

Andreas Feidakis*

Bank of Greece, Athens, Greece¹

Aspasia Tsaoussi**

ALBA Graduate Business School, Athinas Avenue & 2A Areos Street

16671 Vouliagmeni, Athens, Greece

(E-mail: atsaoussi@vivodinet.gr)

Received 6 February 2007; accepted 3 January 2009

Abstract

The role of gender in negotiation has been extensively explored and documented in a now rich body of literature. A main strand of empirical evidence suggests that women, largely due to their gender socialization, tend to be weaker negotiators relative to men and consequently, less effective in pursuing their economic, social or family interests in diverse bargaining settings. We present findings from a Greek setting that paint a different picture, in which gender does not have a strong impact on the negotiating process when the negotiating parties are members of a competitive profession. We selected three different groups (Greek attorneys-at-law, Greek business students and a control group comprised of young employees in public and private organizations) and distributed self-assessment questionnaires to test for negotiating style and gender-specific negotiation behavior. Our findings suggest that differences which may be attributed to gender are less pronounced for Greek legal practitioners. Stronger determinants of successful outcomes in negotiations are negotiators' individual characteristics (competitive negotiating style, persuasion, social and emotional intelligence) and the conformity of Greek lawyers of both sexes to the competitive group norms of their profession. Therefore, the shared norms and values of professional culture play a critical role in how lawyers negotiate. We discuss these findings in the context of a larger social setting, especially by reference to the changing hierarchies and shifts in power in a legal profession increasingly populated by women.

Keywords

Gender and negotiation; negotiation and law; legal profession; Greek lawyers; gender stereotypes in negotiations; personality traits in negotiation; lawyer personality; group norms in negotiation; professional culture; gender norms; competitive professions; Alternative Dispute Resolution

*) Andreas Feidakis is an economist and a financial analyst at the Bank of Greece.

**) Aspasia Tsaoussi (LL.M., Ph.D., University of Chicago) is Visiting Assistant Professor at ALBA Graduate Business School and the Athens University of Economics & Business. She is also an attorney-at-law.

¹⁾ The views expressed in this article do not necessarily represent the views of the Bank of Greece.

Over the past two decades, there has been a surge of scholarly interest in Alternative Dispute Resolution (ADR) as a viable negotiation alternative to the traditional adversarial paradigm in the courts. The delays and costs of adversary proceedings, the loaded court dockets, and the revealed shortcomings and biases that plague the court system have all contributed to the impetus of this form of negotiation as a reasonable option. At the same time, a growing field in the now voluminous negotiation literature centers on sex-based differences, categorizing the disparate bargaining experiences of groups or individuals along the lines of gender. A sizeable body of theoretical and empirical work already exists, which demonstrates that in a variety of settings men and women negotiate differently, because they reason, argue, and behave differently. Explaining these differences has led researchers down two divergent paths: one locates the source of all differences to be biological and innate,² while the other stresses the impact of gender socialization and socially constructed gender roles.

The traditional stereotypical view of women being less confrontational than men has been used to explain pervasive prejudice in a variety of markets, from retail car sales to kidney transplantation (Ayres 2001). In the workplace, women's negotiating style has been identified as a main reason accounting for their lower salaries. For example, Barron (2003) shows that when they negotiate, women are much less likely than men to use self-promoting tactics. Women also make fewer offers and counteroffers. As a result, women end up with lower salaries when they compete with men for the same job. Even in simple competitive environments, as in experiments where women and men were asked to perform under competitive tournament schemes, women were found to shy away from competition, while men were drawn to it (Niederle and Vesterlund 2005: 39). According to the findings of Kaman and Hartel (1994), men get more because they ask for more, are more confident of success, and employ a more active strategy than women employ. Men's greater "urge to win" has also been discussed as one of the reasons accounting for the low numbers of women in top managerial positions.

We wanted to find out more about the negotiating personality of Greek lawyers and test for gender differences. Greece provides an interesting setting for two reasons:

² Since Carol Gilligan's seminal work on women's "ethic of care" and men's "ethic of separation" (Gilligan 1982), there has been a strong wave of research exploring whether there are differences between men and women at the basic cognitive level (see Kimura 1999; Mealy 2000; Rhoads 2004; but also Bazerman and Neale 1992). Research findings show that the gender differences in the cognitive processing of situations and problems begin quite early in a child's development. For example, Sheldon (1993) demonstrated that there are marked differences in the way girls and boys resolve conflict before the age of four. The work of Deborah Tannen (1991) in the area of socio-linguistics is important, because it demonstrates that many communication problems between the sexes are indeed attributable to cognitive differences. Connell (1988: 22–25) argues that if innate differences in temperament or ability between men and women exist, they certainly do not manifest themselves in major social institutions.

- (1) The ADR movement is at an embryonic stage in Greece. Out-of-court settlement is still relatively uncommon, because the law regulating negotiation as a distinct substantive process is relatively recent. In Greece, the possibility of an out-of-court settlement always existed theoretically in procedural law. However, Law 2479/1997 (art. 6) and Law 2743/1999 (art. 18) rendered negotiation a necessary stage of the pretrial process, in alignment with the Council of Europe's Recommendation R (86) 12 (of 16-12-1986). These laws took effect in September 2000, but every indication demonstrates that attorneys have made very limited use of this new institution.³ There is currently a draft law being prepared that aims at correcting many of the weaknesses of previous legislation.
- (2) The legal profession in Greece has been increasingly populated by women, with accelerating rates in the past fifteen years. Law is an undergraduate field of study and the country's three major law schools (all integrated in the public university system) confer law degrees after four years of study. Over 60% of these graduates are women. As a result, in recent years a "power culture" has developed among young female law practitioners. Our work attempts to tap into this new social reality, as all indications show that young women lawyers do not appear to be disempowered by their gender.

Gender Differences in Negotiating Personality

Sex differences in negotiation have been extensively examined over the last three decades. However, this research has continued to yield contradictory findings, with some studies suggesting little or no difference between male and female negotiators (Walters et al. 1998; Stuhlmacher and Walters 1999) and others documenting significant differences between male and female negotiators (Stamato 1992; Whitaker and Austin 2001; Miller and Miller 2002; Babcock and Laschever 2003).

The two major meta-analyses that were published in the late 1990s (Walters et al. 1998; Stuhlmacher and Walters 1999) suggest fewer than expected gender

³ A main reason behind the laws' ineffectiveness is the unfamiliarity of Greek lawyers with alternative dispute resolution methods and their lack of specialized knowledge. Another reason is an inherent flaw in the laws, which do not provide attorneys with sufficient incentives to engage in negotiations with their adversaries. There are no sanctions/disincentives for negotiation deadlock, so attorneys simply "go through the motions;" they arrange the meeting between opposing counsels required by the law but do not prepare to negotiate. Instead, lawyers are fully determined to proceed with litigation, so they hold the meeting only to sign the "no agreement reached" section of the relevant minutes. The result is that, unlike the United States, civil lawsuits in Greece routinely go to trial. Therefore, the success of a lawyer is measured by the number of victories she is able to achieve in court or by the amount of damages she is able to secure for her clients.

differences in negotiation behavior. The first study (Walters et al. 1998) examined the results of 62 research reports on the relationship between gender and competitive behavior in dyadic bargaining interactions. The authors found that women were significantly more competitive than men when faced with an opponent who pursued a “tit-for-tat” bargaining strategy. Men were found to be more competitive than women as measured by their offers and verbal exchanges. The second study indicated that women reached less favorable negotiation outcomes compared to men, but factors such as the relative power between the negotiators and the mode of communication moderated that effect. Finally, there is empirical evidence to suggest that gender affects only self-expectations and not negotiation behavior. In 1994, Watson (1994) analyzed eight studies on negotiation and concluded that gender affected participants’ feelings: women felt less confident when negotiating, and, even when they displayed the same negotiation behavior as men, felt less successful than the men did. The manner in which gender stereotypes are activated in the minds of negotiators has been identified as a situational variable that impacts bargaining outcomes (Kray et al. 2001).

In this strand of research, we set out to capture the gender differences in the negotiating behavior of male and female lawyers in a classroom setting. In previous work (Tsaoussis 2008) we observed the simulated negotiating games conducted in the context of the graduate course on “Negotiations for Lawyers” and then analyzed their outcomes.⁴ Our main finding was that in simulated legal negotiations, the negotiator’s personality is a stronger determinant of successful performance than his or her biological sex. We advanced the thesis that a lawyer’s sex is becoming less important, as the norms of the legal profession adapt to a more gender-neutral model of lawyering. Our conclusions lent support to Susan Daicoff’s thesis about the central role of lawyer personality in the legal system and legal institutions (Daicoff 2004).

In this article, we wanted to further explore the impact of norms permeating the legal profession. To test for differences between lawyers and other professional groups, we distributed a questionnaire to three groups of professionals: lawyers, business executives and a control group made up of employees in banks and insurance companies. As this article follows up on previous research, we also examined the role of gender in these three distinct groups. Our main findings are

⁴ All of the games were role-play exercises where lawyers negotiated in pairs that were selected at random, each in an assigned role. Half of the games involved single issue, zero-sum game negotiations and the other half were multi-issue negotiations, with potential for joint gains. In the single-issue negotiations, the lawyers negotiated in the role of buyer or seller, or of an employee negotiating for a raise in his or her salary. In the multi-issue games, they played the role of legal representative (e.g. acting as legal counsel for a client in a contract such as the sale of a house or the break-up of a company). To resolve disputes effectively, the lawyers in our sample were directed to systematically apply an interest-based approach (see Shell 1999; Lax and Sebenius 1986) and attempt to create value. Only one of the games was a group exercise calling upon the lawyers to claim value, but to do so by working together in small groups and making strategic decisions.

presented in the sections that follow. We discuss them with special emphasis on certain areas of negotiating behavior that warrant further attention in future research.

Method

Subjects

Drawing from the typology of Fisher and Ury (1991) and Shell (2006), we designed a questionnaire⁵ (see Appendix) in order to assess (a) the basic negotiating style of respondents from three different groups (lawyers, business executives, members of a control group), (b) differences between men and women in terms of their negotiating personality and their orientation when handling conflict, and (c) differences between lawyers and other professional groups in terms of their negotiating personality and their orientation when handling conflict. This self-assessment questionnaire was distributed during the first session of the Negotiations course to two different populations of graduate students: the first was composed exclusively of lawyers, and the second was comprised of graduate business students. The questionnaires were distributed during the first class session, with the aim of capturing the instinctive or intuitive negotiating styles of both men and women respondents, before knowledge of the negotiating process “informed” their responses to specific questions. The respondents were given ten minutes in which to complete the questionnaire and return it to the administrator.

Measurements – Statistics

We collected information from questionnaires that were distributed to these two different sets of students and juxtaposed the findings with data collected from a control group population. The simulated negotiations were held in the context of two graduate courses taught by the second-listed author at the ALBA Graduate Business School (in Athens, Greece): (1) the 28-hour core course “Negotiations for Lawyers” offered in the “MSc in Business for Lawyers Program” and (2) the 28-hour course entitled “Negotiations” and offered in the MBA Program. Data from four consecutive years (2001–2004) were collected and analyzed. Our sample size was 136 questionnaires, out of which 84 were women and 52 were men. There is a simple explanation for this asymmetry: the lawyers’ classes were female-dominated. Our MBA class and our control group were better weighted for gender.

⁵ Part One of the questionnaire is a widely-used standard “negotiation style” tool that allows for “hard-or-soft” negotiator classifications. Part Two was designed to elicit responses that more accurately assess negotiating personality traits. Our aim here was to capture differences across genders and professions.

Frequency Tables

Gender	Cases	Percent
Women	84	61.8%
Men	52	38.2%
Total	136	100.0%

Profession	Cases	Percent
Lawyers	49	36.0%
MBA	34	25.0%
Control	53	39.0%
Total	136	100.0%

Gender	Profession					
	Lawyers	Percent	MBA	Percent	Control	Percent
Women	33	67.3%	16	47.1%	35	66.0%
Men	16	32.7%	18	52.9%	18	34.0%
Total	49	100.0%	34	100.0%	53	100.0%

If question deleted	Cronbach's Alpha
TACTICS	0.48
ORG. POWER	0.48
NEG.AS.CONTRACT	0.47
RELATIONSHIP	0.52
PROCESS	0.48
BEST NEGOTIATOR	0.47
INFORMATION	0.43
DISCLOSURE	0.46
FAILURE	0.49
WIN/LOSE	0.48
BASIC ORIENTATION	0.51
PERSONALITY	0.44
CHILDHOOD GAMES	0.45
CONFLICT	0.44
STYLE	0.46

The frequency tables describe the data analytically.

Furthermore, we use Cronbach's Alpha as a measure of the internal consistency of the questionnaire. Cronbach's Alpha is measured on the same scale as Pearson coefficient; it ranges from 0 (zero internal consistency) to 1 (perfect internal consistency). Although a negative value is possible, such a value indicates a scale in which some items measure the opposite of what other items measure. Mathematically, it is based on the mean (absolute value) inter-item correlation for all possible variable pairs. At a more conceptual level, Cronbach's Alpha may be thought of as the correlation between a test score and all other tests of equal length that are drawn randomly from the same population of interest. In our survey, the Cronbach's Alpha for the complete set of the 15 questions is 0.49.

The table above shows possible Cronbach's Alphas depending on which question we exclude from the questionnaire. According to this table, if we want to improve Cronbach's Alpha, questions q14 ["the relationship question"] and q21 ["the basic orientation" question] should be excluded.

The inter-item correlation matrix for the questions (Table 1) illustrates a negative correlation (-0.41) between questions q110 ["win/lose orientation"] and q21 ["basic orientation"]. These questions (q110 and q21) both test whether respondents are predisposed to consider negotiation a win-win process (a positive-sum game, to use game theoretic terms) or a win-lose struggle (a negative-sum game). Because Part One of the questionnaire is designed to evaluate the general attitudes and inclinations of respondents in what concerns their negotiation behavior, the question testing for "win/lose orientation" was deemed better suited as a candidate for evaluation. As a result, we decided to exclude the "basic orientation" question and thus the Cronbach's Alpha of the questionnaire turned out to be 0.51. If we consider that the questionnaire is participant-generated, we can assume that Cronbach's Alpha is quite good.

Moreover, we use Pearson's chi-square test of independence in order to assess whether paired observations on our categorical variables are independent of each other. With the conventionally accepted significance level of 5% ($p=0.05$) or less, we accept that the variables are not independent of each other.

An additional concern addresses the fact that a chi-square statistic is often thought as a test of significance of the association between variables but it says nothing about the strength of the association. To control for this, we compute Cramer's V which is the most popular of the chi-square-based measures of nominal association between variables.

Table 1: Inter-item correlations matrix

	TACT	POWER	CONT	REL	PROC	B.NEG	INFO	DISC	FAIL	W/L	ORIENT	PERSON	GAMES	CONF	STYLE
TACTICS	1.00	0.21	0.07	-0.05	0.04	0.09	0.13	0.10	-0.10	0.12	0.12	0.07	-0.04	0.12	0.10
POWER	0.21	1.00	0.06	0.11	0.00	-0.08	0.10	0.20	-0.18	-0.28	0.07	-0.04	0.03	0.27	-0.02
CONTRACT	0.07	0.06	1.00	0.12	-0.02	-0.03	0.07	0.05	0.05	-0.05	0.07	0.09	0.17	0.10	0.10
RELATION	-0.05	0.11	0.12	1.00	-0.09	-0.16	-0.06	-0.14	-0.05	-0.25	0.21	-0.06	-0.07	-0.07	-0.03
PROCESS	0.04	0.00	-0.02	-0.09	1.00	0.27	0.13	0.01	0.23	0.30	-0.22	0.09	0.11	-0.02	0.05
BEST NEG	0.09	-0.08	-0.03	-0.16	0.27	1.00	0.31	0.18	0.28	0.39	-0.24	0.09	0.06	0.01	0.25
INFO	0.13	0.10	0.07	-0.06	0.13	0.31	1.00	0.25	0.19	0.13	-0.19	0.16	0.16	0.26	0.15
DISCLOSE	0.10	0.20	0.05	-0.14	0.01	0.18	0.25	1.00	0.04	0.00	-0.02	0.08	0.07	0.23	0.02
FAIL	-0.10	-0.18	0.05	-0.05	0.23	0.28	0.19	0.04	1.00	0.31	-0.23	0.07	-0.02	-0.18	0.19
WIN/LOSE	0.12	-0.28	-0.05	-0.25	0.30	0.39	0.13	0.00	0.31	1.00	-0.41	0.26	0.11	-0.08	0.24
ORIENT	0.12	0.07	0.07	0.21	-0.22	-0.24	-0.19	-0.02	-0.23	-0.41	1.00	-0.06	-0.07	-0.01	-0.13
PERSON	0.07	-0.04	0.09	-0.06	0.09	0.09	0.16	0.08	0.07	0.26	-0.06	1.00	0.21	0.16	0.15
GAMES	-0.04	0.03	0.17	-0.07	0.11	0.06	0.16	0.07	-0.02	0.11	-0.07	0.21	1.00	0.25	0.15
CONFLICT	0.12	0.27	0.10	-0.07	-0.02	0.01	0.26	0.23	-0.18	-0.08	-0.01	0.16	0.25	1.00	0.09
STYLE	0.10	-0.02	0.10	-0.03	0.05	0.25	0.15	0.02	0.19	0.24	-0.13	0.15	0.15	0.09	1.00

Results

The Lawyers

We received a total of 49 valid questionnaires from two classes of lawyers. As we noted previously, the MSc in Business for Lawyers Program is routinely female-dominated. This is reflected in our sample: out of 49 respondents, 33 were women and only 16 were men. All the lawyers in our sample were of Greek ethnic origin. This particular population was also homogeneous with respect to age, race, and socio-economic status. The average age of lawyers in our sample was 27 years old. Their common demographic background made their negotiating interactions “culturally homogeneous”. In practical terms, because the participants all come from similar backgrounds, one can more effectively observe and document the impact of gender and professional norms.

When we juxtaposed the answers provided by male and female lawyers, we found that in most questions of Part One gender is a dependent variable. Differences between the sexes are statistically insignificant. We will now present the findings from each particular answer in greater detail:

The first question of Part One [“tactics”] asked respondents to evaluate the tactics that are used in negotiation. Although we expected gender differences to exist, the responses given by the lawyers were surprising: nearly all male and female lawyers (32 of 33 women and 15 of 16 men) replied that when the other party is a hard, aggressive negotiator the proper behavior is to use tough tactics “in self-defense”. Therefore, men and women practicing the law are equally likely to be “retaliators” in their bargaining encounters. This was a first important indication of the power of group norms. We found no significant gender differences when the same topic was applied to an organizational setting in the second question of Part One [“organizational power”] and the lawyers were asked to comment on the use of power to influence deals within large organizations.

Replying to the third question [“negotiation-as-contract”], most lawyers of both sexes (73% of female lawyers and 69% of male lawyers) agreed that negotiation is all about “concluding a contract”. This is an important finding especially for the cultural setting of Greece, where the stereotypical image of the lawyer is that of “lawyer as client’s advocate”. The adversarial model of lawyering is alive and well in the Greek legal world, but our findings indicate that there is an emerging model of “lawyer as deal mediator”. The younger age of the lawyers in our sample and their preference for graduate studies are two factors that explain this trend. In a real world setting, the model of lawyer as deal-facilitator will be more likely to spread and gain popularity as a result of pressures from within. As more lawyers will feel ill-equipped to handle complex business disputes (e.g. interna-

tional cases, cross-border conflicts, etc.), they will become more receptive to alternative paradigms of dispute resolution.

The fourth question of Part One [“relationship”] tests the predisposition of the parties to maintain some kind of relationship with the other side. All mainstream negotiation theories consider relationship issues to be of pivotal importance for negotiation outcomes. Several theorists have proposed classification systems of negotiation situations using the degree of concern about the relationship with the other side as a criterion.⁶ Our goal was to track any differences between respondents in their attitudes towards resolving interpersonal conflict. In response to this question, we observed no disparity between the sexes in their belief that “negotiation is about not harming your relationship with the other side”. Similarly no such disparity occurred among professions, i.e. lawyers, business executives and the control group. This initial finding makes a strong suggestion: a negotiator’s likelihood to embrace one of the fundamental principles of integrative bargaining is not gender-related.

Question five [“process”] asks about the process of reaching agreement. Again, no significant changes were detected in male and female respondents. The overwhelming majority of lawyers of both sexes (94% of female lawyers and 88% of male lawyers) replied that it is not a sign of weakness to be slow and cautious in reaching agreement. Lawyers can appreciate that drafting a good agreement can be an arduous and time-consuming process. In the legal profession, investing the necessary time in preparation is not mistaken for hesitation, but is interpreted as prudence and, vis-à-vis the client, a token of professionalism.

The next question [“best negotiators”] is one more attempt to identify the attitudes of lawyers who have come to age in a legal culture that praises “tough” lawyering. Regardless of their sex, the overwhelming majority of lawyers (91% of women and 88% of men) do not agree that demanding and uncompromising people make the best negotiators. Even before they are introduced to the basic tenets of the ADR philosophy, we discern a clear aversion of the lawyers in our sample to the “tough-as-nails” style of practicing law. There seems to be a shared and expanded understanding that there is much more to legal practice than fierce antagonism and unrelenting tactics.

Moving in the same area of morally disputable tactics, question 7 of Part One [“information”] tests the respondents’ willingness to supply misleading information to the other side in order to win. In response, most lawyers of both sexes take a negative stance towards misrepresentation and believe that there is something wrong with “giving misleading information if it is going to help you get what you want from negotiations”. As there are no detectible gender differences, we can be more confident in drawing inferences about the ethics of younger Greek lawyers.

⁶ See, for example, Shell’s situational matrix (Shell 1999: 120–121). See also Ury’s theory of “a positive no,” applied towards “saving the deal and the relationship” (Ury 2007).

Table 2: Results from the Chi-square test of independence between female lawyers and female MBA students

Question	Pearson Chi-square	Significance level (p)	Cramer's V	N of valid cases
TACTICS	0.085	0.771	0.042	49
ORG. POWER	0.285	0.593	0.076	49
NEG.AS.CONTRACT	2.457	0.117	0.224	49
RELATIONSHIP	0.387	0.534	0.089	49
PROCESS	1.894	0.169	0.197	49
BEST NEGOTIATOR	0.137	0.712	0.053	49
INFORMATION	5.345	0.021	0.33	49
DISCLOSURE	0.9	0.343	0.136	49
FAILURE	2.227	0.136	0.213	49
WIN/LOSE	a	a	a	49
PERSONALITY	3.332	0.189	0.261	49
CHILDHOOD GAMES	2.227	0.694	0.213	49
CONFLICT	1.612	0.657	0.181	49
STYLE	0.985	0.321	0.142	49

a No statistics are computed because the win/lose question is a constant.

The results are reinforced if we compare with the responses given by members of other professions: we found statistically significant differences between female lawyers and female business executives ($p = 0.021$) and Cramer's $V = 0.33$ (very strong association). Table 2 shows all the results from the chi square test of independence between female lawyers and female MBA students. Most female lawyers (82%) denounce the use of deceptive tactics, whereas fewer female business executives (50%) share this opinion. A similar disparity is detected between male lawyers and male business executives ($p = 0.006$) and Cramer's $V = 0.47$ (very strong association), with two-thirds of all male lawyers finding that it is morally questionable to supply misleading information to the other side in order to win compared to less than one third (28%) of male business executives. Table 3 illustrates all the results from the Chi square test of independence between male lawyers and male MBA students.

The next set of questions is an inquiry into the goals of negotiators. The eighth question of Part One ["disclosure"] asks respondents whether it is dangerous to let the other party know what you really want in a negotiation. This is vaguely phrased so that it includes both revealing your bottom line and disclosing your underlying interests.⁷ The most popular answer regardless of gender was that it is

⁷ These were both concepts which had not been introduced to the class of lawyers at the time the questionnaires were distributed.

Table 3: Results from the Chi-square test of independence between male lawyers and male MBA students

Question	Pearson Chi-square	Significance level (p)	Cramer's V	N of valid cases
TACTICS	0.472	0.492	0.118	34
ORG. POWER	1.159	0.282	0.185	34
NEG.AS.CONTRACT	1.229	0.268	0.19	34
RELATIONSHIP	0.216	0.642	0.08	34
PROCESS	0.016	0.9	0.022	34
BEST NEGOTIATOR	0.551	0.458	0.127	34
INFORMATION	7.556	0.006	0.471	34
DISCLOSURE	2.553	0.11	0.274	34
FAILURE	1.159	0.282	0.185	34
WIN/LOSE	a	a	a	34
PERSONALITY	3.319	0.19	0.312	34
CHILDHOOD GAMES	0.952	0.917	0.167	34
CONFLICT	2.892	0.409	0.292	34
STYLE	0.389	0.533	0.107	34

a No statistics are computed because the “win/lose” question is a constant.

dangerous to reveal your goals and wishes in a negotiation. However, a higher number of female lawyers than male lawyers gave the opposite answer (45% compared to 25%).

The ninth question [“failure”] inquires whether failure “to get exactly what you really want in a negotiation” is tantamount to failure in a negotiation. The overwhelming majority of male and female lawyers gave a negative answer. Finding statistically significant differences between the lawyers and the control group in regard to this question allows us to draw optimistic conclusions about lawyers’ expanded understanding of negotiation as a process that is not necessarily a win/lose struggle for dominance.

This optimism is fortified when we turn to the last question [“win/lose orientation”] that asks respondents to assess the validity of the statement that “there can only be one winner in any negotiation.”⁸ All male and all female lawyers unanimously declared that this is false! Although we should not make hyper-assumptions about the general population of lawyers in Greece, this result is very important. First, it dissipates many myths about male lawyers – the main one being that they tend to see all negotiations as competitive zero-sum games. Second, it indicates that Greek lawyers are receptive to the ADR paradigm even before “indoctrination” into

⁸⁾ This question is a constant.

the win/win philosophy. Viewing negotiation as a situation where both sides can win is not the outcome of a single process; it is part intuition and part learning from legal practice.

Next we will present the results of Part Two of the questionnaire, which goes into greater depth to assess the negotiating personality of respondents. As noted previously, Question 1 of Part Two [“basic orientation”] was omitted to improve the Cronbach’s Alpha of the questionnaire. This question was intended to confirm the findings from the last question of Part One. It reiterated the distinction between negotiation as a win/win or win/lose game, asking respondents to reaffirm their allegiance to one or the other paradigm. However, the “win/lose orientation” question proved to be more than adequate for testing the belief that “negotiation is a process in which both sides can gain”, so this question was deemed redundant.

In designing the second question of Part Two [“basic negotiating personality”] we aimed to identify three distinct negotiating approaches: hard (or competitive); soft (or cooperative); and contextual (depending on the circumstances). The question is open-ended and framed in such a way that it merges personal and professional life into one category. It also makes distinct reference to past negotiation experiences to elicit responses that capture the overall “negotiating profile” of the respondents when handling conflict situations. Again, the findings were contrary to our expectations. We anticipated that female lawyers would be tougher than females of the control group and female MBA students, but softer than male lawyers. The former hypothesis was confirmed, but the latter was disproved. Most lawyers of both sexes identified themselves as “hard negotiators” (more particularly, 45% of female lawyers and 50% of male lawyers). Also, a large percentage of lawyers of both sexes described themselves as “soft negotiators” (36% of female lawyers and a surprising 44% of male lawyers). Finally, a small number of male and female lawyers described themselves as negotiators who change their negotiating style depending on the circumstances (the negotiation setting). These self-assessments cannot be properly categorized as hard or soft, since they constitute a third, distinct category that has been explored in the literature.⁹

The third question of Part Two [“childhood games”] checked for the impact of gender socialization. It asked respondents to think back to their childhood and provide an assessment of their behavior in group games, either in the school yard or in the neighborhood. Once more, most lawyers, regardless of their sex, characterized themselves as “rather competitive in group games (wanted to be on the winning team)”. This result confirms that competitive people of both sexes are drawn to the legal profession.

⁹ See, for example, Savage et al. (1989), who developed a model for the selection of negotiation strategy that depends on different responses to relational and substantive concerns.

The respondents were then asked to clarify how they applied their basic negotiating personality in situations of professional and personal conflict [“handling conflict”]. They were provided with four options. Their answers again reveal that the overwhelming majority of male and female lawyers describe themselves as “hard in professional conflict and soft in personal conflict”. When compared to the results from the MBA group and the control group (see below), this finding reinforces the widely held perception that competitive people are drawn to competitive professions.

Responses to the last question [“informal/formal style”] reveal no discernible differences between the sexes’ preferences for an informal or formal negotiating style when negotiating with other lawyers. Most lawyers chose the option on the questionnaire that is related to specific kinds of behavior, like starting the discussion on a first-name basis, seeking to develop a personal, friendly relationship with the other side, and “feeling comfortable enough with the other side to take off my jacket and roll up my sleeves when actual negotiations begin”.

Table 4 demonstrates all the results from the chi square test of independence between male and female lawyers.

The Business Students

Table 4: Results from the Chi-square test of independence between male and female lawyers

Question	Pearson Chi-square	Significance level (p)	Cramer's V	N of valid cases
TACTICS	0.085	0.771	0.042	49
ORG. POWER	0.285	0.593	0.076	49
NEG.AS.CONTRACT	0.084	0.773	0.041	49
RELATIONSHIP	2.63	0.105	0.232	49
PROCESS	0.596	0.44	0.11	49
BEST NEGOTIATOR	0.137	0.712	0.053	49
INFORMATION	0.308	0.579	0.079	49
DISCLOSURE	1.869	0.168	0.197	49
FAILURE	0.116	0.733	0.049	49
WIN/LOSE	a	a	a	49
PERSONALITY	1.273	0.529	0.161	49
CHILDHOOD GAMES	2.812	0.59	0.24	49
CONFLICT	3.49	0.322	0.267	49
STYLE	0.085	0.771	0.042	49

a No statistics are computed because the “win/lose” question is a constant.

The questionnaires were also distributed to the students attending the full-time Master's of Business Administration Program. The class was composed predominantly of young business professionals, working in various executive positions. We distributed a total of 40 questionnaires, but received only 34 valid completed questionnaires. The male respondents outnumbered the female respondents by a narrow margin (18 males as opposed to 16 females).

In this group, we identified a number of differences that can be explained by reference to the growing literature on gender and negotiation. The most interesting disparities between the male and female MBA students were the following:

(a) The responses to the “disclosure” question, showing that male and female business executives adopt a different view of openness in negotiation ($p = 0.05$) and Cramer's $V = 0.336$ (very strong association). More men than women consider it dangerous to reveal their goals/interests in negotiation (94% of men as opposed to 69% of women).

(b) In response to how they view success and failure in negotiation, businessmen and businesswomen again diverge ($p = 0.024$) and Cramer's $V = 0.387$ (very strong association) in their definition of failure in negotiation. “Getting exactly what you want in a negotiation” is more important for men than it is for women (100% of men, 75% of women).

(c) When asked how they handle professional and personal conflict, male and female business executives were shown to be different in their approach to personal and professional conflict ($p = 0.027$) and Cramer's $V = 0.519$ (very strong association). The overwhelming majority of MBA men (83%) turned in a self-description of “hard in situations of professional conflict and soft in personal conflict”. However, MBA women gave self-descriptions that were more evenly distributed across the spectrum of the multiple choice question set. Regardless, the most popular answer for female business executives was “hard in professional conflict and soft in personal conflict” (44%).

The differences between the MBA students and the lawyers were recorded in response to two questions:

- (1) The “information” question showed a statistically important difference between male lawyers and male business students ($p = 0.006$) and Cramer's $V = 0.471$ (very strong association) in what concerns their propensity to supply misleading information to the other side in order to win (discussed above under 4.1). The difference is reinforced when we compare female lawyers with female business students (*supra*).
- (2) The “negotiating personality” question revealed that over half of all female MBA students (56%) characterized their personal negotiating style as soft, in stark contrast with the majority of female lawyers who described their negotiating personality as hard. Here we found statistical support for the

observation (see Tsaoussis 2008) that compared to female MBA students, female lawyers use more competitive tactics during simulated negotiation encounters. This finding is amplified when we juxtapose the responses of female MBA students and female lawyers to the question about “professional and personal conflict”, where nearly one third of female business executives (31%) assess themselves to be soft in professional and hard in personal conflict situations, compared to only one fifth (21%) of all female lawyers. This comparison shows that female lawyers adopt a decidedly tougher approach to negotiations compared to female business executives.

Table 5 maps all the results from the chi square test of independence between male and female MBA students.

The Control Group

We tested the findings in a non-lawyer and non-MBA population mainly comprised of bank and insurance company employees of different ranks. To minimize

Table 5: Results from the Chi-square test of independence between male and female MBA students

Question	Pearson Chi-square	Significance level (p)	Cramer's V	N of valid cases
TACTICS	0.472	0.492	0.118	34
ORG. POWER	1.159	0.282	0.185	34
NEG.AS.CONTRACT	0	1	0	34
RELATIONSHIP	1.655	0.198	0.221	34
PROCESS	0.394	0.53	0.108	34
BEST NEGOTIATOR	0.551	0.458	0.127	34
INFORMATION	1.771	0.183	0.228	34
DISCLOSURE	3.848	0.05	0.336	34
FAILURE	5.1	0.024	0.387	34
WIN/LOSE	a	a	a	34
PERSONALITY	0.554	0.758	0.128	34
CHILDHOOD GAMES	3.38	0.496	0.315	34
CONFLICT	9.156	0.027	0.519	34
STYLE	0.283	0.595	0.091	34

a No statistics are computed because the “win/lose” question is a constant.

heterogeneity, we limited the sample to young adults (aged 20–30). We received 53 fully completed and valid questionnaires in total, with a predominance of female respondents (35 female respondents and 18 male respondents).

The total number of female respondents in the control group (35) is roughly equal to the total number of female lawyers (33). The same holds true for the male respondents (16 male lawyers and 18 men in the control group). This allows for many useful comparisons to be drawn between the two groups. In the first part of the questionnaire, we found four questions that yield statistically significant differences:

- (1) The “organizational power” question, where male lawyers show a greater propensity “to use the power of the company to influence the deal” compared to men in the control group ($p = 0.05$) and Cramer’s $V = 0.334$ (very strong association). Table 6 shows all the results from the chi square test of independence between male lawyers and men in the control group. Similarly, female lawyers are more willing to use organizational power as a bargaining tool compared to women in the control group ($p = 0.008$) and Cramer’s $V = 0.32$ (very strong association). Once again, we find greater uniformity within the legal profession than we had originally anticipated. Table 7 shows all the results from the chi square test of independence between female lawyers and women in the control group.
- (2) The “process” question, where a greater number of women in the control group consider it a sign of weakness to be “slow and cautious in reaching agreement” compared to female lawyers ($p = 0.015$) and Cramer’s $V = 0.295$ (strong association). This shows that female lawyers on average place a higher value on the preparation stage that precedes every negotiation. Female lawyers do not consider being cautious and apprehensive as problematic, but rather as a necessary phase of deal-making. Here again, professional norms and training have conditioned the woman lawyer to think differently compared to the average woman. Expectations are different because the training is different.
- (3) The “best negotiator” question, where female lawyers almost unanimously answer that the best negotiators are not demanding and uncompromising, whereas females in the control group believe otherwise ($p = 0.023$) and Cramer’s $V = 0.276$ (strong association). Here we make a bold statement: female lawyers, in their attempt to “fit in” to a profession that is brutally competitive, find in deal-making and negotiation a niche that allows for other norms, such as careful and meticulous preparation (see previous question) and compromise and fairness, to take over. Combined, these norms could alternatively lead to successful deals.
- (4) The “failure” question, registering a statistically important difference ($p = 0.05$) and Cramer’s $V = 0.334$ (very strong association) between male law-

Table 6: Results from the Chi-square test of independence between male lawyers and males in the control group

Question	Pearson Chi-square	Significance level (p)	Cramer's V	N of valid cases
TACTICS	0.472	0.492	0.118	34
ORG. POWER	3.8	0.05	0.334	34
NEG.AS.CONTRACT	0.624	0.429	0.136	34
RELATIONSHIP	0.216	0.642	0.08	34
PROCESS	0.551	0.458	0.127	34
BEST NEGOTIATOR	1.209	0.271	0.189	34
INFORMATION	1.402	0.236	0.203	34
DISCLOSURE	0.283	0.595	0.091	34
FAILURE	3.8	0.05	0.334	34
WIN/LOSE	1.889	0.169	0.236	34
ORIENTATION	b	b	b	34
PERSONALITY	0.249	0.618	0.086	34
CHILDHOOD GAMES	7.117	0.13	0.458	34
CONFLICT	8.401	0.038	0.497	34
STYLE	0.002	0.968	0.007	34

Table 7: Results from the Chi-square test of independence between female lawyers and females in the control group

Question	Pearson Chi-square	Significance level (p)	Cramer's V	N of valid cases
TACTICS	0.191	0.662	0.053	68
ORG. POWER	6.968	0.008	0.32	68
NEG.AS.CONTRACT	0.391	0.532	0.076	68
RELATIONSHIP	2.811	0.094	0.203	68
PROCESS	5.922	0.015	0.295	68
BEST NEGOTIATOR	5.184	0.023	0.276	68
INFORMATION	0.036	0.849	0.023	68
DISCLOSURE	0.243	0.622	0.06	68
FAILURE	2.374	0.123	0.187	68
WIN/LOSE	9.78	0.002	0.379	68
PERSONALITY	2.667	0.264	0.198	68
CHILDHOOD GAMES	5.216	0.266	0.277	68
CONFLICT	6.269	0.099	0.304	68
STYLE	1.512	0.219	0.149	68

yers and men in the control group in how they define “failure” in negotiation. Nearly all male lawyers disagree that “not getting exactly what you want” amounts to failure in negotiation. Only half of the men in the control group share similar sentiments. This is a clear indication that lawyers have a broader perspective of negotiation compared to the general population. In this sense, they are predisposed (either through their training or professional experience) towards seeking out win/win arrangements.

- (e) The question testing “win/lose orientation”, where women lawyers in unison and in contrast with the women in the control group ($p = 0.002$) and Cramer’s $V = 0.379$ (very strong association) reject the statement that there can only be one winner in negotiation. This provides a very strong indication of their faith that win/win solutions are possible and desirable. As we saw previously, male lawyers also share this belief – in contrast with male members of the control group. This is a finding that cannot be ignored and should be further discussed in this and other papers.

The most striking differences between members of the control group and the lawyers were observed in the area of negotiating personality. Most male and female respondents in the control group describe themselves as soft negotiators, whereas most lawyers of both sexes turned in self-descriptions of hard negotiators (in response to the “negotiating personality” question). Lawyers as a group report more competitive behavior in their childhood games than the respondents in the control group. Finally, male lawyers have proven to be more steadfast about adopting a hard negotiating style in professional conflicts relative to the male control group respondents (when asked to make a professional/personal distinction in how they handle conflict). Over half of the male lawyers describe themselves as hard in professional conflict and soft in personal conflict, whereas nearly half of the men in the control group state that they are soft in both professional and personal conflict situations ($p = 0.038$) and Cramer’s $V = 0.497$ (very strong association).

Intra-Group Comparisons

When all three groups were compared, gender differences were traced in response to four questions. More specifically, women overall were shown to be:

- (a) More concerned about maintaining a good relationship with the other side (in response to the “relationship” question) at a level of $p = 0.036$ and Cramer’s $V = 0.18$ (strong association).
- (b) More hesitant to use ethically questionable tactics like intentionally providing misleading information to the other side (“information” question) at a level of $p = 0.006$ and Cramer’s $V = 0.237$ (strong association).

- (c) More willing to disclose interests to the other side at a level of $p = 0.004$ and Cramer's $V = 0.244$ (strong association), revealing a different perception of what is dangerous in a negotiation in response to the “disclosure” question.
- (d) Better able to draw a distinction between their personal and professional spheres in what concerns conflict situations (when responding to the “handling conflict” question) at a level of $p = 0.028$ and Cramer's $V = 0.258$ (strong association). Overall, more women declared that they are harder as professionals and softer in their personal relationships. Both female lawyers and female business executives come from competitive professions, formerly overpopulated by men and recently in a stage of dynamic transformation because of the mass entry of women.

Table 8 confirms all the results from the chi-square test of independence between men and women for the three groups of our data.

Discussion

This study suggests that the norms of the legal profession are stronger determinants of negotiation behavior than gender. Professional culture has been shown

Table 8: Results from the Chi-square test of independence between men and women for the three groups of our data

Question	Pearson Chi-square	Significance level (p)	Cramer's V	N of valid cases
TACTICS	2.5	0.114	0.136	136
ORG. POWER	0.004	0.951	0.005	136
NEG.AS.CONTRACT	0.83	0.362	0.078	136
RELATIONSHIP	4.384	0.036	0.18	136
PROCESS	0.14	0.709	0.032	136
BEST NEGOTIATOR	0.09	0.765	0.026	136
INFORMATION	7.641	0.006	0.237	136
DISCLOSURE	8.083	0.004	0.244	136
FAILURE	0.458	0.499	0.058	136
WIN/LOSE	2.038	0.153	0.122	136
PERSONALITY	0.256	0.88	0.043	136
CHILDHOOD GAMES	4.282	0.369	0.177	136
CONFLICT	9.065	0.028	0.258	136
STYLE	0.081	0.776	0.024	136

to exert a stronger influence than gender on the negotiating behavior of Greek legal practitioners. Previous research concerning the negotiating performance of young lawyers revealed large areas of “gender-neutral” behaviors (Tsaoussis 2008). Both sexes were equally good (or bad) at overcoming problems based on perception. Through the exchange of information, men and women seemed equally well-equipped to handle the aspects of negotiation which called for an application of basic critical thinking skills. We found that when role-playing in these games, men and women were *equally* likely to exhibit the following traits: taking initiative, being assertive, exhibiting confidence, brainstorming different options, resolving differences by overcoming problems of perception, asking problem-solving questions, goal-setting and searching for areas of shared interest.

On another level, male and female lawyers exhibit a gender-neutral preference for an informal negotiating style. This preference may be closely linked to the age of the lawyers in our sample. Younger lawyers may be more willing to adopt a more relaxed attitude during negotiations. Perhaps they are struggling to form relationships that will be embedded in what Kolb and Williams (2000) characterize as the “shadow negotiation,” that is, the wide array of social relations and perceptions, webs of influence, as well as informal codes of conduct about the system.

Our findings shed more light on gender attitudes, and not actual “real-world” negotiating performance. However, the existing literature on gender in simulated negotiation settings suggests that there is less of a gender split in negotiation performance than was earlier believed. For example, Craver and Barnes (1999) have found that while women and men may not perform identically in negotiation settings, there is no factual basis for assuming that women are weaker or less capable negotiators.

“Die Hard” Lawyering: The Gender Neutralizer

Women lawyers as a group are “tougher” negotiators than both the business students and the general population. Over half of the females in the control group described themselves as soft negotiators. Even more important assessments can be made by contrasting the females of the control group with the female lawyers: nearly half of all females in the control group (40%) assert that they are soft in handling conflicts that arise in both their professional and personal relationships as opposed to only 15% of all female lawyers. The relative percentages for the male lawyers are even more impressive: over two thirds of all male lawyers describe

themselves as hard negotiators in their professional life (63% are hard as professionals but soft in their personal life and 19% are tough in both the personal and professional sphere), whereas men in the control group are predominantly “soft in both professional and personal conflict” (39%).

In assessing competitiveness, do these findings confirm the obvious fact that inherently competitive people of both sexes are drawn to competitive professions? Or is it the prevailing norms of legal culture that shape inherently soft or accommodating people into fierce competitors? We aim to show that although biological inclinations undoubtedly play a role, the norms of the profession are stronger determinants of negotiation behavior. Most “tough” lawyers, regardless of sex, identify with the norms of their profession, yet are careful to draw the line between their professional and personal life.

Law and Ethics: Challenging the Myth of “Lawyer-Liar”

Our questionnaire analysis showed that most lawyers of both sexes disagree with turning their bargaining opponents into victims of misrepresentation in order to win. Of course, the true or false statement on our questionnaire is generally phrased and does not capture the finer nuances of fraudulent statements made during legal negotiations. For example, as noted by Shell (2006: 202–203), there are circumstances in which it may be fraudulent to keep silent about an issue even if the other side does not ask about it, in cases where the law imposes affirmative disclosure duties. But there is little doubt that the statistically significant differences yielded by our findings among lawyers, MBA executives and the general population show that lawyers can draw sharper distinctions about where the truth ends and the lies begin. Their answers reveal a stronger regard for truth and even more importantly, a greater concern for “proving” that lying is not a part of a lawyer’s code of ethics.

It is true that the young age of the respondents plays a decisive role. Young age is a factor that makes adherence to professional ethics stronger. As professionals who have not been fully indoctrinated into the group norms, younger lawyers of both sexes displayed behavior that was quite idealistic. However, this observation should not diminish the importance of our finding. Young lawyers are expressing a clear need to shatter the negative stereotypical image of lawyers-as-liars. These results, if reaffirmed by future research, will contribute towards saving lawyers’ bad reputation by focusing on the positive attributes that lawyers must possess in order to be successful: a good lawyer may be described as an individual who is rather competitive and who has a strong sense of right and wrong.

We had elsewhere shown that equal sharing norms were crucial to lawyers of both sexes. Reciprocity was identified as one of the dominant group norms of the

legal profession (Tsaoussis 2008).¹⁰ In the lawyer's mind, reciprocity is intricately connected with trust issues. Trust becomes the basis of any attempt to consolidate a relationship with the other side. If a lawyer extends a favor to a colleague, plays fairly, and generally displays more allegiance to the expectations arising from "rule-conformity" in the profession, then the other side reciprocates. This leads to benefits for the particular negotiation (the two parties are on their way to consolidating a strong working relationship) and spill-over benefits for the profession (enhancement of group solidarity and adherence to group norms).

Observing lawyers' in-class simulated contract negotiations (*ibid.*), we had reached similar conclusions: the mutual understanding that the parties would adhere to a strict code of ethics was considered by both male and female lawyers to be of crucial importance for the creation of a good negotiating climate leading to a successful outcome. Along the same vein, the invocation of objective criteria such as "moral standards", "precedent", "business ethics", and "widely accepted professional standards" was commonplace for both sexes. Read together, these findings suggest that when both sexes are subjected to the same legal training, they are no more or less likely to stray far from their professional code of ethics. This was confirmed by the present questionnaire analysis.

Very little research to date has been conducted to identify the unwritten norms of the legal profession in Greece (Tsaoussis 2007, 2008). This questionnaire is a first attempt to test for their existence, and our analysis is a first good guess about their content. Individual lawyers may use tactics that are border-line unethical (as, for example, when probing the strength of the other side's position) but an important finding that emerges here is that lawyers are not the Machiavellian types who are prepared to use all means to secure a win in the court-room. In future research, we can probe further and ask a series of questions that will uncover the root of this aversion towards lying. Is it the fear of incurring high reputational costs or is it something else? How about the dilemma that arises when truth-telling is completely inconsistent with accomplishing your client's objectives? If there is an emerging trend among fledgling Greek lawyers toward greater conformity to professional ethics, how can it be explained when the greater culture in the fiercely competitive economic climate of western nations has been characterized (see e.g. Callahan 2004) as a "cheating culture"? Moreover, different professions may give different content and meaning to the terms "deception" and "dishonesty."

It would also be interesting to conduct more research that identifies links between power and gender in the Greek legal profession. Power has been shown

¹⁰ The norm of reciprocity was tested primarily with the Ultimatum Game, revealing no discernible gender differences. An overwhelming number of respondents chose 50/50 divisions as the "fairest of all". These perceptions were amplified by the class discussions that took place while debriefing the Ultimatum game and other simulated games conducted in class. Lawyers of both sexes reaffirmed that reciprocity is crucial and they connected it to trust.

to form a strong interplay with gender, affecting negotiation behaviors and outcomes (Watson and Hoffman 1996). In the legal practice, the implications of gender bias are far-reaching not only for female attorneys, but for female clients who seek access to justice and a fair resolution of their disputes. Deep-seated sex discrimination in the court system accounts for much of the disparate treatment of men and women. Craver and Barnes (1999: 347) conclude that stereotypical perceptions regarding the performance of female negotiators have disadvantaged women in numerous academic and professional settings, including those seeking entry-level associate positions and female associates seeking entrance to firm partnerships. Finally, there is much that needs to be done in the direction of challenging the gender stereotypes that filter their way into the profession. If left in place, these stereotypes can impede female lawyers' progress toward self-actualization.¹¹

Solving the Gender/Culture Dilemma

The bulk of the literature from the social sciences suggests that women are inclined to emphasize relational needs and men individual criteria in their dealings with other people (see generally Gilligan 1982). According to Kolb and Williams (2003: 174), "connection itself is often linked to a 'softer' feminine approach", something they characterize as a common misperception.

Our findings have uncovered some statistically significant gender differences showing that women relative to men have different expectations when entering negotiations. Women do not negotiate with the sole purpose of winning – in fact they have a different perception of winning and failure altogether. Compared to men, the women in our sample were more eager to settle and more likely to be soft negotiators, especially in their personal lives. Finally, our female respondents exhibited a greater concern for maintaining a good relationship with the other side.

But this was not the case with women lawyers. Indeed, the findings show no clear predisposition of women lawyers towards "relational ethics". In response to q14 (see above under 4.1.), male and female lawyers were equally concerned about not harming their relationship with the other side.¹² Furthermore, lawyers of both sexes displayed a penchant for win/win outcomes by rejecting the hypoth-

¹¹ Our private "off-the-record" conversations with highly competent female lawyers provide an indication of this. Commenting on her experience from real-world legal negotiations, a successful female lawyer remarked: "I soon realized that to survive in this profession, I had to appear tougher than I actually am or have been brought up to be. After four years of law practice, I still feel uneasy after 'playing hard ball' and applying all the tactics that the average Greek client has come to associate with male lawyers." Another female lawyer with an impressive in-class performance had observed that male and female colleagues were hasty to label her "shrill" when she was just being argumentative.

¹² The same applies for male and female business students – likewise, for the respondents of the control group.

esis that there can only be one winner in a negotiation (see responses to q110, *supra*). Finally, male and female lawyers proved to be similar in the attitude they adopt towards resolving situations of conflict: they are tough at work and soft at home (see responses to q24, *supra*).

It was elsewhere shown (Tsaoussis 2008) that the ability to connect was a personality trait that greatly increased the chances of a successful outcome for negotiators of both sexes. Observing the negotiating behavior of individual lawyers at the table and evaluating the agreements they reached, we found that both sexes were equally adept at creating value, i.e. at reaching mutually beneficial (*positive-sum game*) agreements.¹³ In real world negotiations, the success of building a collaborative relationship depends on many other factors other than the negotiator's ability to "connect". The availability and flow of information, the asymmetry of power, and the authority to negotiate are likely to influence outcomes just as much as (or even more than) the proclivity for connectedness. Also, individualism is the dominant ethic of the legal profession, populated by competitive men and women who are caught up in a race for a higher income, greater recognition and success.

It is doubtful whether a female lawyer who wants to succeed would come to an all-out clash with the dominant culture merely because she is biologically or socially predisposed to care more about others. Although it would be interesting, at the same time it would be very difficult to assess how individual female lawyers would solve the culture/gender dilemma. The conflicting set of expectations stemming from each one pull them in opposite directions – the legal arena expects them to be tough and outspoken, but the senior partners in their law firms expect them to be deferential and courteous. But in a very real way, women have to choose which path to follow, which set of expectations they want to live up to, and which code of ethics they are willing to adhere to.

Based on findings from our previous work (Tsaoussis 2008) we conjecture that most female lawyers subconsciously choose professional culture over gender. A simple cost-benefit analysis could help us understand why: the benefits of conforming to the widely accepted norms of the profession clearly outweigh the costs. We could argue that these costs are likely to be primarily, if not exclusively, psychological and non-material. We could characterize them as the costs of "gender-disassociation" experienced by many women lawyers when applying tough bargaining tactics in their legal practice (Tsaoussis 2007). The benefits are likely to be material and reputational; greater conformity with the conventional rules of lawyering means a greater likelihood for professional success (more cases/better

¹³ Of course the participants were expressly directed to be attentive to both the relationship issues and the substantive goals of the negotiation.

cases, more clients/better clients, a better reputation, superior networking), higher status and increased solidarity within the profession.

There is evidence from international negotiation literature that lends support to our conclusion about the strong impact of professional culture. In an earlier and influential work on culture and cross-border negotiation (Faure and Rubin 1993), it was observed that professional culture is indeed a more important determinant of negotiation behavior than national culture (Lang 1993). Theoretical perspectives that seek to identify the universal patterns of negotiation indicate that some cultures (for example, the international diplomatic or the international business culture) transcend strictly national ones (Berton et al. 1999). In the same direction, we find recent discussions of lawyer culture in international settings (see e.g. Hafner 2003). Finally, in a human rights context, there is adequate justification for the emergence of new norms of attorney conduct in international tribunals (McMorrow 2007).

Recent theoretical explanations of gender in social behavior predict that gender differences will arise only under certain circumstances and increasingly look for situational variables that may trigger these “gender effects” (see Deaux and Major 1987; Kray et al. 2001; Riley et al. 2003). Perhaps some tough female negotiators will choose to adopt “a masculine sex role orientation” (Greenhalgh and Gilkey 1986).

Women in competitive professions have made remarkable progress on their way to gender equity in recent decades. However, barriers still exist, and exploring the factors that account for such barriers is more difficult today because gender discrimination has taken on more subtle forms. Research has confirmed the continuing sex disparity in income and rank.¹⁴ The wage gap is yet another obstacle for women who are fully employed in the private sector (see esp. Blau and Kahn 2000). Lastly, women continue to be overburdened with domestic responsibilities and child rearing duties (Hochschild 1989). This has been identified as a significant reason explaining why fewer women participate in political life and assume decision-making roles.

Pressured by these and other factors, such as the need to satisfy the demands of their superiors, colleagues, or constituents, women lawyers are more likely to negotiate differently “in the real world” than they do in an artificial laboratory setting.¹⁵ Young professionals in particular would be more likely to negotiate under constraints as junior associates in a law firm: the desire to live up to the

¹⁴ Valian (1998) looked at the earnings and advancement of both men and women in six occupations: sports, law, business, academia, medicine, and engineering. She found that men earn more money and attain higher status than women in each of these professions, where “women are required to meet a higher standard” (*id.*: 214).

¹⁵ Laboratory-based experimental studies conducted by social psychologists have consistently confirmed the impact of gender and racial stereotypes on individuals’ perceptions and evaluations of others (see e.g. Fiske 1998).

standards set by senior partners or the owner of the firm and competition in a market that has long been saturated with an oversupply of law-school graduates could weigh heavily upon the negotiating process.

Similarly, women are called upon to clarify status in situations where others say or do things that inappropriately lower their status (*cf.* Fisher and Shapiro 2005: 106–108). For example, many senior partners mistake young attractive female lawyers for secretaries. Whether this happens intentionally or unintentionally,¹⁶ female lawyers need to handle such situations with grace and determination. It is important to clarify their roles without feeling put down or disempowered or having negative emotions. In any case, female lawyers are engaged in a process of carving out new gender roles in traditionally “male” occupations. However, our findings suggest that these new roles are fluid and have not yet consolidated into discernible changes in the ethics and practices of the profession. To use Menkel-Meadow’s distinction (1987) it appears that the field is female-dominated, but not yet “feminized”.¹⁷

The real issue is whether women who enter the profession will conform to a “male” model of what it means to be a legal professional or whether the profession will innovate and adapt to new, previously excluded entrants who may have novel perspectives to offer on how the practice of law can be conducted (*id.*). The evidence we present suggests that in this transitional period and in this particular social environment, women lawyers who want to succeed in their profession soon learn to play by the rules of the game and accept the dominant values of competition and individualism. Shared values consolidate homogeneity and may facilitate negotiations between male-female legal practitioners (see e.g. Kremenyuk 1993).

We hope to revisit these issues in future research by making finer distinctions, for example, by tracking the differences in negotiating personality between transactional lawyers and lawyers specializing in family law.¹⁸ We could then look within each of these categories. As far as transactional lawyering is concerned,¹⁹

¹⁶ Stereotypical conceptions of men and women are at the heart of many cultural norms across the different “layers of culture” at the gender, generational and social class level. For example, Hofstede (1991: 10) identifies six dimensions of organizational culture: process or results orientation, employee or job orientation, parochial or professional dominance, open or closed system, loose or tight control, normative or pragmatic tendencies.

¹⁷ Menkel-Meadow (1987) notes that a profession becomes feminized not by stereotypic attributions of gender qualities, but by a “feminist” influence on the profession. This influence would include particular substantive changes, not only in the practice of law (i.e., adaptation of work to family), but in law as a structure and an institution, ranging from employment discrimination issues to family law and criminal law. In this context, the feminization of the legal profession would mean more than simply counting the number of female lawyers on the partnership track of large law firms (Menkel-Meadow 1989: 314).

¹⁸ Business/commercial law on the one hand and family/divorce law on the other are the two areas in which ADR procedures such as mediation have scored their greatest success.

¹⁹ For transactional lawyers we borrow the definition given by Schwarcz: lawyers involved in the negoti-

in-house lawyers (who work for the very companies that are their clients) and outside lawyers (working at law firms that are independent from their clients) may display statistically discernable differences in how they settle, what they settle and more generally how they get work done and create value (see recently Schwarcz 2008). Under this perspective, we could identify the multiple connections with ethics and professionalism.

Conclusion

Lawyering is one of the toughest and most competitive professions. In order to succeed in this field of practice, which is no longer male-dominated, women have developed gender-neutral (and not androgynous) patterns of managing and resolving conflicts. This is how women have adapted to the rising rates of female participation in the legal profession. The female lawyers in our sample were not “naturally” weak or willing to compromise. The male lawyers were not “naturally” aggressive or domineering. In our research, gender *per se* was not a firm predictor of negotiation outcomes. Thus, gender remains a variable whose influence in shaping the career trajectories of women in high-powered jobs remains difficult to disentangle from other factors. Furthermore, the increased female participation in the legal profession is a factor of empowerment for Greek women (*cf.* Teitelbaum et al. 1991) in their capacity as prospective candidates for legal study and as young law school graduates exploring different career options in the Greek market for legal services.

We conclude that both sexes are in a process of devising new ways of surviving in an environment where gender is fast losing its significance. We believe that our findings have wider applicability across cultures and state boundaries. With the fast-rising number of women entering the legal profession in Eastern Europe, Asia and the Americas, the implications of changes in professional culture are likely to be critical for practitioners and policy makers. There is evidence from international cross border negotiation to suggest that both sexes are experiencing the emergence of new norms for allocating the exercise of power and authority (Zartman and Rubin 2000). As old notions of masculinity and femininity are being replaced by new ones, “proper” professional conduct needs to be redefined. However, this process is neither smooth nor painless. Highly educated women who are pursuing their ambitions “cannot ignore the messages from every side that it’s risky for women to try to become too successful” (Babcock and Laschever 2003: 98).

ating and contracting process leading to closing a commercial, financial, or other business transaction (Schwarcz 2008: 531).

It has been argued that for many people the core meaning of masculinity is threatened by the improved economic status of women (Faludi 1991: 65). Persistent gender stereotypes continue to permeate the public sphere. Women are expected to be modest and selfless. It is somehow not considered proper for a woman to be preoccupied with money or to attach a monetary value to her work and time. Perhaps overcoming this stereotype is the final frontier for women who aspire to become better integrated into the top ranks of competitive professions. Understanding exactly how women “fit in” has immense consequences for legal education, legal practice and the ethics of the legal profession.

References

- Ayres, Ian (2001). *Pervasive Prejudice? Unconventional Evidence of Race and Gender Discrimination*. Chicago: University of Chicago Press.
- Babcock, Linda and Sara Laschever (2003). *Women Don't Ask: Negotiation and the Gender Divide*. Princeton, NJ: Princeton University Press.
- Barron, Lisa A. (2003). “Gender Differences in Negotiators’ Beliefs.” *Human Relations* 56: 635–662.
- Bazerman, Max H. and Margaret A. Neale (1992). *Negotiating Rationally*. New York: The Free Press.
- Berton, Peter, Hiroshi Kimura and I. William Zartman (1999). *International Negotiation: Actors, Structure/Process, Values*. New York: Palgrave Macmillan.
- Blau, Francine and Lawrence Kahn (2000). “Gender Differences in Pay.” National Bureau of Economic Research Working Paper No. 7732 [available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=232114]
- Bowles, Hannah Riley, Linda Babcock and Kathleen L. McGinn (2005). “Constraints and Triggers: Situational Mechanics of Gender in Negotiation.” KSG Faculty Research Working Paper Series RWP05–051, September 2005.
- Brandenburger, Adam M. and Barry J. Nalebuff (2003 [1995]). “The Right Game: Use Game Theory to Shape Strategy,” in Roy J. Lewicki, David M. Saunders, John W. Minton and Bruce Barry R.J. Lewicki, editors, *Negotiation: Readings, Exercises, and Cases*, 4th ed. New York: McGraw-Hill/Irwin.
- Callahan, David (2004). *The Cheating Culture: Why More Americans Are Doing Wrong to Get Ahead*. Orlando, FL: Harcourt.
- Chambliss, Elizabeth and Christopher Uggen (2000). “Men and Women of Elite Law Firms: Reevaluating Kanter’s Legacy.” *Law and Social Inquiry* 25: 41–68.
- Cohen, Lisa E., Joseph P. Broschak and Heather A. Haveman (1998). “And Then There Were More? The Effect of Organizational Sex Composition on the Hiring and Promotion of Managers.” *American Sociological Review* 63: 711–727.
- Connell, R.W. (1988). *Gender and Power: Society, the Person and Sexual Politics*. Stanford, CA: Stanford University Press.
- Craver, Charles B. and David W. Barnes (1999). “Gender, Risk Taking, and Negotiation Performance.” *Michigan Journal of Gender and Law* 5: 299–352.
- Daicoff, Susan Swaim (2004). *Lawyer, Know Thyself: A Psychological Analysis of Personality Strengths and Weaknesses*. Washington, DC: American Psychological Association.

- Davis, Peggy C. (1991). "Contextual Legal Criticism: A Demonstration Exploring Hierarchy and 'Feminine' Style." *New York University Law Review* 66: 1635–1681.
- Deaux, Kay and Brenda Major (1987). "Putting Gender into Context: An Interactive Model of Gender-Related Behavior." *Psychological Review* 94: 369–389.
- Dinovitzer, Ronit (2006). "Social Capital and Constraints on Legal Careers." *Law and Society Review* 40: 445–480.
- Dixit, Avinash and Barry Nalebuff (1991). *Thinking Strategically: The Competitive Edge in Business, Politics, and Everyday Life*. New York: W.W. Norton.
- Eagly, Alice H. (1987). *Sex Differences in Social Behavior: A Social-Role Interpretation*. Hillsdale, NJ: Erlbaum.
- Epstein, Cynthia Fuchs (1997). "Multiple Myths and Outcomes of Sex Segregation." *New York Law School Journal of Human Rights* 14: 185–210.
- (2001). "Women in the Legal Profession at the Turn of the Twenty-First Century: Assessing Glass Ceilings and Open Doors." *Kansas Law Review* 49: 733–760.
- Faludi, Susan (1991). *Backlash: The Undeclared War against American Women*. New York: Doubleday.
- Farber, Sandra R. and Monica Rickenberg (1999). "Under-Confident Women and Over-Confident Men: Gender and Sense of Competence in a Simulated Negotiation." *Yale Journal of Law and Feminism* 11: 271–304.
- Faure, Guy Olivier and Jeffrey Z. Rubin, editors (1993). *Culture and Negotiation: The Resolution of Water Disputes*. Newbury Park, CA: Sage Publications.
- Fisher, Roger and Daniel L. Shapiro (2005). *Beyond Reason: Using Emotions as You Negotiate*. New York: Viking.
- Fisher, Roger and William Ury (1991). *Getting to Yes: Negotiating Agreement Without Giving In*. 2d ed. New York: Penguin Books.
- Fiske, Susan T. (1998). "Stereotyping, Prejudice, and Discrimination." In Daniel T. Gilbert, Susan T. Fiske, and Gardner Lindzey, editors, *Handbook of Social Psychology*. Boston: McGraw-Hill.
- Gilligan, Carol (1982). *In a Different Voice: Psychological Theory and Women's Development*. Cambridge, MA: Harvard University Press.
- Gilkey, Roderick W. and Leonard Greenhalgh (1986). "The Role of Personality in Successful Negotiating." *Negotiation Journal*, July 1986 (Vol. 2): 245–256.
- Gorman, Elizabeth H. (2005). "Gender Stereotypes, Same-Gender Preferences, and Organizational Variation in the Hiring of Women: Evidence from Law Firms." *American Sociological Review* 70: 702–728.
- Greenhalgh, Leonard and Roderick W. Gilkey (1986). "Our Game, Your Rules: Developing Effective Negotiating Approaches." In Lynda L. Moore, editor, *Not as Far as You Think: The Realities of Working Women*. Lexington, MA: Lexington Books.
- Grillo, Tina (1991). "The Mediation Alternative: Process Dangers for Women." *Yale Law Journal* 100: 1545–1610.
- Hafner, Gerhard (2003). "Lawyer Culture: Negotiations on the Establishment of an International Criminal Court," in Gunnar Sjöstedt, editor, *Professional Cultures in International Negotiation: Bridge or Rift?* Lanham, MD: Lexington Books.
- Hochschild, Arlie Russell (1989). *The Second Shift: Inside the Two-Job Marriage*. New York: Viking Penguin.
- Hofstede, Geert (1991). *Cultures and Organizations: Software of the Mind*. Cambridge, MA: Harvard University Press.
- Kaman, Vicki S. and Charmine E.J. Hartel (1994). "Gender Differences in Anticipated Pay Negotiation Strategies and Outcomes." *Journal of Business and Psychology* 9: 183–197.
- Kimura, Doreen (1999). *Sex and Cognition*. Cambridge, MA: MIT Press.
- Kolb, Deborah M. (2000). "More than Just a Footnote: Constructing a Theoretical Framework for Teaching about Gender in Negotiation." *Negotiation Journal* 16: 347–356.

- Kolb, Deborah M. and Gloria C. Coolidge (1991). "Her Place at the Table: A Consideration of Gender Issues in Negotiation," in J. William Breslin and Jeffrey Z. Rubin (editors), *Negotiation: Theory and Practice*. Cambridge, MA: PON Books.
- Kolb, Deborah M. and Linda L. Putnam (1997). "Through the Looking Glass: Negotiation Theory Refracted through the Lens of Gender," in Sandra E. Gleason (editor), *Workplace Dispute Resolution: Directions for the 21st Century*. East Lansing: Michigan State University Press.
- Kolb, Deborah M. and Judith Williams (2003). *Everyday Negotiation: Navigating the Hidden Agendas in Bargaining*. San Francisco, CA: Jossey-Bass.
- (2000). *The Shadow Negotiation: How Women Can Master the Hidden Agendas That Determine Bargaining Success*. New York: Simon and Schuster.
- Krauskopf, Joan M. (1994). "Touching the Elephant: Perceptions of Gender Issues in Nine Law Schools." *Journal of Legal Education* 44: 311–340.
- Kray, Laura J., Leigh Thompson and Adam Galinsky (2001). "Battle of the Sexes: Gender Stereotype Confirmation and Reactance in Negotiations." *Journal of Personality and Social Psychology* 80: 942–958.
- Kremenjuk, Victor A. (1993). "A Pluralistic Viewpoint." In Guy Olivier Faure and Jeffrey Z. Rubin, editors, *Culture and Negotiation: The Resolution of Water Disputes*. Newbury Park, CA: Sage Publications, pp. 47–56.
- Lang, Winfried (1993). "A Professional's View," in Guy Olivier Faure and Jeffrey Z. Rubin, editors, *Culture and Negotiation: The Resolution of Water Disputes*. Newbury Park, CA: Sage Publications.
- Lax, David A. and James K. Sebenius (1986). *The Manager as Negotiator: Bargaining for Cooperation and Competitive Gain*. New York: Free Press.
- Lewicki, Roy J., David M. Saunders, John W. Minton and Bruce Barry (editors) (2003). *Negotiation: Readings, Exercises, and Cases*. New York: McGraw-Hill/Irwin.
- Lowenthal, Gary T. (1982). "A General Theory of Negotiation Process, Strategy, and Behavior." *Kansas Law Review* 31: 69–114.
- McMorrow, Judy (2007). "Creating Norms of Attorney Conduct in International Tribunals." *British Columbia International and Comparative Law Review* 30, 139.
- Mealy, Linda (2000). *Sex Differences: Developmental and Evolutionary Strategies*. San Diego: Academic Press.
- Menkel-Meadow, Carrie (1983). "Legal Negotiation: A Study of Strategies in Search of a Theory." *American Bar Foundation Research Journal* 1983: 905–937.
- (1984). "Toward Another View of Legal Negotiation: The Structure of Problem Solving." *UCLA Law Review* 31: 754–842.
- (1987). "The Comparative Sociology of Women Lawyers: The 'Feminization' of the Legal Profession." *Institute for Social Science Research. Volume III. 1986–87 – Women at Work: The Conference Papers, May 1987*. Paper 4.
- (1989). "Exploring a Research Agenda of the Feminization of the Legal Profession: Theories of Gender and Social Change." *Law and Social Inquiry* 14: 289–319.
- Miller, Lee E. and Jessica Miller (2002). *A Woman's Guide to Successful Negotiating: How to Convince, Collaborate, and Create Your Way to Agreement*. New York: McGraw-Hill.
- Mnookin, Robert H., Scott R. Peppet and Andrew S. Tulumello (1996). "The Tension between Empathy and Assertiveness." *Negotiation Journal* 12: 217–230.
- (2000). *Beyond Winning: Negotiating to Create Value in Deals and Disputes*. Cambridge, MA: Harvard University Press.
- Niederle, Muriel and Lise Vesterlund (2005). "Do Women Shy Away from Competition? Do Men Compete Too Much?" Working Paper (June 2005).
- Rackham, Neil (1980 [2003]). "The Behavior of Successful Negotiators," in Roy J. Lewicki, David M. Saunders, John W. Minton and Bruce Barry, editors, *Negotiation: Readings, Exercises, and*

- Cases*. New York: McGraw-Hill/Irwin.
- Raiffa, Howard (1982). *The Art and Science of Negotiation*. Cambridge, MA: Harvard University Press.
- Rhoads, Steven E. (2004). *Taking Sex Differences Seriously*. New York: Encounter Books.
- Rhode, Deborah (editor) (2003). *The Difference "Difference" Makes: Women and Leadership*. Stanford, CA: Stanford University Press.
- Riley, Hannah C., Linda Babcock and Kathleen McGinn (2003). "Gender as a Situational Phenomenon in Negotiation." Carnegie Mellon University. Unpublished working paper.
- Riskin, Leonard L., James E. Westbrook, and James H. Levin (1998). *Instructor's Manual with Simulation and Problem Materials To Accompany Dispute Resolution and Lawyers, 2d ed. and Dispute Resolution and Lawyers, Abridged 2d ed.* St. Paul, MN: West.
- Savage, Grant T., John D. Blair and Ritch L. Sorenson (1989). "Consider Both Relationships and Substance When Negotiating Strategically." *Academy of Management Executive* 3: 37–47.
- Schneider, Andrea Kupfer (2002). "Shattering Negotiation Myths: Empirical Evidence on the Effectiveness of Negotiation Style." *Harvard Negotiation Law Review* 7: 143–233.
- Schwarcz, Steven L. (2008). "To Make or to Buy: In-House Lawyering and Value Creation." *The Journal of Corporation Law* 33: 497–575.
- Sebenius, James K. (2002). "Caveats for Cross-Border Negotiators." *Negotiation Journal* 18: 121–133.
- Sheldon, Amy (1993). "Pickle Fights: Gendered Talk in Preschool Disputes," in Deborah Tannen, editor, *Gender and Conversational Interaction*. New York: Oxford University Press.
- Shell, Richard (2006). *Bargaining for Advantage: Negotiation Strategies for Reasonable People*. 2nd ed. New York: Penguin Books.
- Simmons, Wendy W. (2001). "When It Comes to Choosing a Boss, Americans Still Prefer Men." *USA Today*, Jan. 11, 2001. Available from <http://www.gallup.com/content/login.aspx?ci=2128>.
- Sjöstedt, Gunnar (editor) (2003). *Professional Cultures in International Negotiation: Bridge or Rift?* Lanham, MD: Lexington Books.
- Stamato, Linda (1992). "Voice, Place and Process: An Essay on Gender, Negotiation and Conflict Resolution Research." *Mediation Quarterly* 9: 375–383.
- Stempel, John D. (2002). "The American View of Negotiation- Its Virtues and Its Vices." Working Paper: University of Kentucky, Patterson School of Diplomacy (March 2002). Available from <http://www.isanet.org/noarchive/stempel.html>.
- Stuhlmacher, Alice F. and Amy E. Walters (1999). "Gender Differences in Negotiation Outcome: A Meta-Analysis." *Personnel Psychology* 52: 653–677.
- Tannen, Deborah (1991). *You Just Don't Understand: Women and Men in Conversation*. New York: Quill Books/Harper Collins.
- Teitelbaum, Lee E., Antonette Sedillo Lopez and Jeffrey Jenkins (1991). "Gender, Legal Education and Legal Careers." *Journal of Legal Education* 41: 443–481.
- Tsaoussi, Aspasia (2007). "The Role of Gender in the Legal Profession: Findings from Simulated Bargaining Games," in Yiota Papageorgiou, editor, *Gendering Transformations*. Rethymno: University of Crete.
- (2008). "Female Lawyers as Pragmatic Problem Solvers: Negotiation and Gender Roles in Greek Legal Practice," in Trevor Farrow, Colleen Hanycz, and Fred Zemans, editors, *The Theory and Practice of Representative Negotiation*. Toronto: Emond Montgomery Publications (Wordsworth).
- Ury, William (1991). *Getting Past No: Negotiating Your Way from Confrontation to Cooperation*. Revised edition. New York: Bantam Books.
- (2007). *The Power of a Positive No: Save the Deal, Save the Relationship – and Still Say No*. New York: Bantam Books.
- Valian, Virginia (1998). *Why So Slow? The Advancement of Women*. Cambridge, MA: MIT Press.

- Walters, Amy E., Alice F. Stuhlmacher and Lia L. Meyer (1998). "Gender and Negotiator Competitiveness: A Meta-analysis." *Organizational Behavior and Human Decision Processes* 76: 1–29.
- Watkins, Michael (2002). *Breakthrough Business Negotiation: A Toolbox for Managers*. San Francisco: Jossey-Bass.
- Watson, Carol (1994). "Gender versus Power as a Predictor of Negotiation Behavior and Outcomes." *Negotiation Journal* (1994): 117–127.
- Watson, Carol and L. Richard Hoffman (1996). "Managers as Negotiators: A Test of Power Versus Gender as Predictors of Feelings, Behavior, and Outcomes." *Leadership Quarterly* 7: 63–85.
- Weber, Max (1978 [1925]). *Economy and Society: An Outline of Interpretive Sociology*, Guenther Roth and Claus Wittich, editors. Berkeley, CA: University of California Press.
- Whitaker, Leslie and Elizabeth Austin (2001). *The Good Girl's Guide to Negotiating: How to Get What you Want at the Bargaining Table*. New York: Little Brown & Company.
- Williams, Gerald R. (1983). *Legal Negotiation and Settlement*. St. Paul, MN: West.
- Zartman, I. William and Jeffrey Z. Rubin (editors) (2000). *Power and Negotiation*. Ann Arbor, MI: The University of Michigan Press.

Appendix

Negotiating Style Profile Questionnaire

This questionnaire is intended to assist in determining your preferred negotiating style. Based on your self-assessments, you will receive feedback that will provide greater insight into your negotiating behavior, helping you to build on your strengths and to reduce your weaknesses. The results will be tabulated and, together with data collected from other classes at ALBA's Master's Programs, will be used in ongoing research I am conducting.

PART ONE

Please answer True or False to the following statements:

1. If the other party is a hard, aggressive negotiator then we must use the same tactics in self-defense. ____
2. If our organization is large, we should be prepared to use the power of the company to influence the deal. ____
3. Negotiation is about concluding a contract. ____
4. Negotiation is about not harming your relationship with the other side. ____
5. It is a sign of weakness to be slow and cautious in reaching agreement. ____
6. People who are demanding and uncompromising make the best negotiators. ____
7. There is nothing wrong with giving misleading information if it is going to help you get what you want from negotiations. ____
8. It is dangerous to allow the other party to know what you really want in a negotiation. ____

9. We have failed in a negotiation if we do not get exactly what we want. ____
10. There can only be one winner in any negotiation. ____

PART TWO

Please answer the following questions:

1. Which of the following statements do you believe is more accurate?
 - A negotiation is a process in which both sides can gain (win/win).
 - A negotiation is a struggle in which, of necessity, one side wins and the other side loses (win/lose).
2. Thinking about your past negotiation experiences and especially about the ways in which you handled situations of conflict in both your personal and your professional life, would you describe yourself as basically a hard negotiator or soft negotiator?
3. Think back to when you were a child. Which of the following best characterizes your behavior in group games, either in your school yard or in your neighborhood?
 - a. Highly competitive (I wanted to lead; winning was the biggest thrill of all!)
 - b. Rather competitive (I wanted to be on the winning team)
 - c. Indifferent about winning or losing (I just wanted to enjoy myself)
 - d. Cooperative (I didn't want to have a conflict with anyone)
 - e. Other (please explain)
4. Which of the following characterizes you best?
 - Hard in situations of professional conflict/soft in personal conflict
 - Hard in both professional and personal conflict
 - Soft in situations of professional conflict/hard in personal conflict
 - Soft in both professional and personal conflict
5. When negotiating with co-workers, each person has his/her own distinctive style. Which of the following general descriptions best characterizes your style?
 - I like to address others by their titles, I avoid telling personal stories and anecdotes, and I don't like to ask questions touching on the private or family life of the other negotiating party or negotiating team.
 - I like to start the discussion on a first-name basis, I always seek to develop a personal, friendly relationship with the other negotiator(s), and if I feel comfortable enough with the other side, I may take off my jacket and roll up my sleeves when actual negotiations begin.

I am (choose M for Male and F for Female) ____

Thank you for your time!!

Interpreting the Responses to the Negotiating Style Profile Questionnaire

PART ONE

Short variable names are used to identify each question.

1. TACTICS
2. ORGANIZATIONAL POWER
3. NEGOTIATION-AS-CONTRACT
4. RELATIONSHIP
5. PROCESS
6. BEST NEGOTIATORS
7. INFORMATION
 8. DISCLOSURE
 9. FAILURE
10. WIN/LOSE

PART TWO

Short variable names are used to identify each question.

1. BASIC ORIENTATION
2. BASIC NEGOTIATING PERSONALITY
3. CHILDHOOD GAMES
4. HANDLING CONFLICT
5. INFORMAL/FORMAL STYLE

