

USING EVALUATIONS TO BREAK DOWN THE MALE CORPORATE HIERARCHY: A FULL CIRCLE APPROACH

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INTRODUCTION

The culture of corporate America has begun to slowly change as corporations have taken advantage of Internet communication and global interdependence to become more competitive and efficient. One lesson learned from the new economy is that the systems developed to test the effectiveness of a corporate employee are incomplete.

Generally, employees are evaluated to ensure productivity and job satisfaction. These evaluations help make the corporation more competitive, while at the same time, making it more progressive. In an effort to complete the system of employee review, use of full circle evaluation systems has increased.¹ Full circle evaluations are vastly different from the traditional top-down evaluation systems because they retrieve feedback and performance review information from many

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1. This Article uses the term *full circle evaluations* because of the term's clear implication. Often, scholarship on similar topics uses the term full circle feedback. See, e.g., H. JOHN BERNARDIN & RICHARD W. BEATTY, PERFORMANCE APPRAISAL: ASSESSING HUMAN BEHAVIOR AT WORK (1984); MARK R. EDWARDS & ANN J. EWEN, 360° FEEDBACK: THE POWERFUL NEW MODEL FOR EMPLOYEE ASSESSMENT & PERFORMANCE IMPROVEMENT (1996); JOHN E. JONES & WILLIAM L. BEARLEY, 360° FEEDBACK: STRATEGIES, TACTICS, AND TECHNIQUES FOR DEVELOPING LEADERS (1996); RICHARD LEPSINGER & ANTOINETTE D. LUCIA, THE ART AND SCIENCE OF 360 DEGREE FEEDBACK (1997); ORGANIZATIONAL SURVEYS: TOOLS FOR ASSESSMENT AND CHANGE (Allen I. Kraut ed., 1996); WALTER W. TORNOW ET AL., MAXIMIZING THE VALUE OF 360-DEGREE FEEDBACK: A PROCESS FOR SUCCESSFUL INDIVIDUAL AND ORGANIZATIONAL DEVELOPMENT (1998).

sources—supervisors, peers, and subordinates.² Full circle evaluations have a dual purpose. They help companies succeed in the new economy. They also ensure that all employees, regardless of their gender, are properly reviewed, compensated, and promoted.

Full circle evaluations promise to assist women in their struggle to break down the glass ceiling. While women are well represented in the workforce, they continue to have difficulty breaking into the male corporate world because of entrenched gender bias. In contrast to top-down performance evaluations that rely only on supervisor feedback, full circle evaluations depend on data from many people of different experience levels throughout the corporation, weakening the extent to which any one viewpoint dominates the viewpoints of the traditionally less powerful voices within the corporation. Increasing the participation of the entire organization in the appraisal process helps to change the strict corporate hierarchy by allowing for merit and performance to prevail as the criteria for choosing managers.

This Article explores full circle evaluations in detail, arguing that corporate boards should implement such systems. Part I details full circle evaluations and explains the benefits associated with the use of such systems. Part II describes the potential legal duty to implement full circle evaluation systems. Part III argues that full circle evaluations consider the input of all persons in the corporation, thereby increasing the extent to which decisions concerning promotions are based on objective factors of merit and facilitating the advancement of women in the workplace. Part IV concludes that in light of all of the aforementioned considerations, the use of full circle evaluations serves as a positive asset to any corporation seeking a way to increase the efficiency and effectiveness of management and of the corporation overall.

2. In an innovative approach, Vitality Alliance has expanded its full circle evaluation to include the impact of an evaluatee's performance as it affects the firm's stakeholders. They have also fine-tuned their approach to isolate, for example, an evaluatee's communication style, or a firm's "cultural vitality." See Vitality Alliance, at <http://www.sandboxmanagement.com/vitality.cfm> (last visited Oct. 7, 2001).

I. THE FULL CIRCLE APPRAISAL SYSTEM IN CORPORATE AMERICA

Full circle appraisals were initially championed in the late 1970s by the Center for Creative Leadership³ in Greensboro, North Carolina, which referred to the systems as “developmental-only feedback.”⁴ Full circle evaluations steadily gained acceptance in corporate America throughout the 1980s and 1990s, not only as a decision-making tool, but as a means for evaluating management. The widespread popularity of these systems is due primarily to the success firms have enjoyed after implementing them. Employees often laud full circle systems as an important component of their feeling of investment in the corporation, while managers are equally pleased with the improvement of their personal managerial skills that comes with an increased amount of quality feedback. Full circle evaluations thus provide benefits at multiple levels of the corporation. Increased employee job ownership and higher-skilled management yields lower employee turnover, greater efficiency, and higher profits.

A. *Critiques of Top-Down Performance Appraisal Systems*

Full circle evaluations grew out of the failures of the previous systems. Although top-down performance appraisals are the conventional employee performance indicators, systems of supervisor-only review have been attacked throughout the years. The idea of these appraisal systems has been described as “alluring,” but when implemented, “the organization becomes the loser.”⁵ For example, one commentator described top-down appraisal programs as follows:

[A top-down employee appraisal program] nourishes short-term performance, annihilates long-term planning, builds fear, demolishes teamwork, nourishes rivalry and politics. It leaves people bitter, crushed, bruised, battered, desolate, despondent, dejected, feeling inferior, some even depressed,

3. The Center's homepage contains valuable information on implementing full circle programs, at <http://www.ccl.org> (last visited Oct. 25, 2001).

4. Mark R. Edwards & Ann J. Ewen, *How to Manage Performance and Pay with 360-Degree Feedback*, COMPENSATION & BENEFITS REV., May/June 1996, at 41, 42.

5. W. EDWARD DEMING, *OUT OF THE CRISIS* 102 (1986).

unfit for work for weeks after receipt of rating, unable to comprehend why they are inferior. It is unfair, as it ascribes to the people in a group differences that may be caused totally by the system they work in.⁶

The impact on management has been described in unfavorable terms as well:

Appraisal systems are disappointing to management for the following reasons: grades or scores are likely to be invalid because everyone gets basically the same scores; the scores are distorted when they have to be discussed with employees; they can widen the differences between people who have to work together; and they reflect bias. These are rating difficulties which are basically the result of human tendencies, and limitations and attempts to overcome them with a system or a form are likely to end in frustration.⁷

The traditional appraisal systems do have their support; they are used in the majority of corporations. It is clear, however, that the creation of an alternative program, especially one with the benefits of the full circle program, would be welcomed by a firm that has struggled with a more traditional program.

B. The Full Circle Structure

The concept of full circle systems is simple: instead of traditional top-down information collection methods, full circle systems retrieve data from as many sources as possible. For example, traditionally, a low-level manager's superior(s) reviewed her performance, whereas in a full circle evaluation system, the low-level manager is reviewed not only by her supervisor(s), but also by her subordinates and peers. The most obvious value of full circle evaluations is the variety of perspectives taken into consideration. Instead of receiving an evaluation based solely on a supervisory perspective, a manager is now evaluated from multiple perspectives: not only as a subordinate, but as a leader, and as a peer by individuals who likely have more daily contact with the manager than her

6. *Id.*

7. Kenneth E. Richards, *A New Concept of Performance Appraisal*, 32 J. BUS. L. 229, 232 (1959).

supervisors. Each manager, then, is reviewed from multiple perspectives, and in turn reviews others in a corresponding role as reviewer.

Several major American corporations have been using full circle evaluations for a number of years. IBM may be the most notable example. IBM has successfully used full circle subordinate appraisals since the 1960s, when it began including questions about management in its annual employee survey.⁸ At IBM, subordinates are asked a variety of questions about their supervising managers, including how well their managers set performance plans, provide feedback, emphasize quality, and explain key business decisions.⁹ Over ninety percent of IBM employees complete these surveys voluntarily and anonymously every year, and the personnel research department carefully analyzes the results.¹⁰ The analysis focuses on average ratings, variability of responses, norms for similar managerial situations, and any relevant, open-ended responses.¹¹ Based on the analysis, every manager receives an action plan specifically developed for that manager, as well as feedback from highly trained personnel.¹² IBM links major personnel decisions to its full circle evaluation system, maximizing the utility of the system whenever possible.¹³

RCA has also placed a heavy emphasis on subordinate appraisals for personnel decision-making since the 1970s.¹⁴ RCA uses a Talent Inventory based on a multiple assessment approach to evaluate its managers.¹⁵ In the RCA system, five to seven individuals within a manager's network are selected to evaluate the manager.¹⁶ First, the manager-evaluated submits a list of potential evaluators including a number of subordinates and at least one supervisor.¹⁷ The actual evaluators are then selected from this group based on the frequency and significance of contact between each potential

8. H. John Bernardin, *Subordinate Appraisal: A Valuable Source of Information About Managers*, 25 HUM. RESOURCE MGMT. 421, 425 (1986).

9. *Id.*

10. *Id.*

11. *Id.*

12. *Id.*

13. *Id.*

14. *Id.*

15. *Id.*

16. *Id.*

17. *Id.*

evaluator and the employee to be evaluated.¹⁸ At least two of the selected evaluators chosen are subordinates. Like IBM, RCA keeps the evaluators anonymous.¹⁹ As part of the evaluations, subordinates are asked to indicate how well the manager (1) performs several critical functions, including the extent to which the manager uses subordinates' input; (2) looks for ways to improve existing systems; (3) establishes timetables and goals to measure the success of projects; (4) delays taking action on urgent requests; and (5) over-delegates to the point of losing control.²⁰ Survey data at RCA indicates that managers prefer these multiple assessments and consider the feedback from the system to be preferable to traditional supervisor-only feedback.²¹

One of the newest trends in full circle systems is to utilize the Internet to administer the feedback instruments. In its simplest form, an Internet-based full circle process consists of a survey typically loaded at a website maintained by an outside consultant. A corporate performance management systems administrator communicates with the consultant to customize the surveys to the corporation's individual needs. Once the system is functional, employees are able to access the website and fill out the survey. The administrator then sorts and organizes the results and distributes those results to employees and managers via electronic mail. A supervisor will often follow up the e-mail with a personal conference, providing in-depth analysis of the results and advice on how to develop an action plan for the evaluated employee. The effectiveness of full circle evaluations is improved by using the Internet. Those improvements include administrative ease, decreased evaluator overload, increased evaluator reliability, independence of survey administrators, positive behavior change, and reduced costs.²²

18. *Id.*

19. *Id.*

20. *Id.* at 425-26.

21. *Id.* at 426.

22. David W. Bracken et al., *High-Tech 360*, TRAINING & DEV., Aug. 1998, at 42, 42-43.

C. *The General Benefits of Full Circle Evaluations*

Over the last two decades, the corporate world has steadily increased its use of full circle evaluations as a tool for evaluating and developing managers. While debate still rages over the advantages and disadvantages of full circle evaluation systems,²³ more and more companies have instituted and expanded their use.²⁴ In fact, a survey of American Management Association (AMA) member companies revealed that twenty-two percent of those surveyed used at least a partial full circle system for appraising managers.²⁵ In a recent survey of *Fortune* 1000 firms, ninety percent of those surveyed indicated that they had "implemented some form of multisource assessment for career development, or performance management, or both."²⁶ In fact, many high-profile companies such as Walt Disney, General Motors, American Airlines, Intel, and DuPont use full circle evaluations.²⁷

These giant corporations use full circle evaluations because they increase employee morale, develop better management, and improve lines of communication. These benefits increase corporate efficiency, resulting in higher profits, less turnover, and more market share, all of which benefit shareholders. In fact, full circle systems yield so many improvements for such a relatively low cost that a manager would arguably be acting irrationally by choosing not to implement a full circle system.

User surveys at organizations such as Hewlett-Packard, Disney, Monsanto, Intel, Samaritan Health Services, and the University of Minnesota show that full circle systems are

23. These systems are also known as multisource feedback (MSF) or multirater assessment systems.

24. Although this Article stresses the implementation of full circle evaluation systems in American corporations, it is interesting to note that many "of the freshest ideas for evaluating employees are coming from an unexpected source: the public sector." Dick Grote, *Performance Appraisal Reappraised*, HARV. BUS. REV., Jan.-Feb. 2000, at 21, 21. Grote explains that public sector employers have improved their evaluation systems by taking new approaches to the traditional top-down evaluations, including involving "team members" in defining more clearly what an employee ought to do instead of merely evaluating what an employee is doing. *Id.*

25. Don L. Bohl, *Minisurvey: 360-Degree Appraisals Yield Superior Results, Survey Shows*, COMPENSATION & BENEFITS REV., Sept./Oct. 1996, at 16, 16.

26. Edwards & Ewen, *supra* note 4, at 41.

27. *Id.* at 46.

generally regarded as more fair, accurate, credible, valuable, and motivational than traditional evaluation methods.²⁸ The use of employee evaluators from multiple layers of the organization is often perceived as evidence to employees that the organization values their opinions, observations, and evaluations.²⁹ As a result, employees are often more willing to "buy-in" to corporate initiatives at a quicker rate.³⁰ Full circle evaluations are viewed as a limiting influence on inflated ratings and bias and are seen as a positive force on diversity, balance, respect, and specificity of feedback.³¹

In the aforementioned AMA poll, respondents using full circle systems showed higher levels of satisfaction than those with traditional systems.³² Respondents using full circle evaluations felt that the systems improved employee understanding and self-awareness, promoted communication between supervisors and staff, promoted positive changes in work behavior, and promoted better performance and results.³³

Managers tend to have similar positive responses to the feedback they receive from full circle evaluations.³⁴ Full circle systems, which include subordinate appraisals, provide managers with an opportunity to find out what image they project to their peers and their subordinates.³⁵ The full circle system also plays a developmental function because the results often translate into promotion and marketability. Although some managers bristle at the introduction of full circle evaluations, they are often converted when they realize how much the systems open the lines of communication with their subordinates and peers and clarify the weaknesses in their own style and skills.

In addition to the benefits discussed thus far, full circle evaluations can also help reinforce total quality management and continuous process improvement programs by emphasizing customer service, promoting team-building, decreasing

28. *Id.* at 43.

29. See Robert Hoffman, *Ten Reasons You Should Be Using 360-Degree Feedback*, HR MAG., Apr. 1995, at 82, 84.

30. See *id.*

31. See Edwards & Ewen, *supra* note 4, at 43.

32. Bohl, *supra* note 25, at 17.

33. See *id.*

34. See Bernardin, *supra* note 8, at 426.

35. See *id.* at 427.

hierarchies, and shifting accountability from few to many.³⁶ Full circle evaluations also help to expose previously undetectable weak links in management, provide clearer assessments of developmental needs, reduce bias and subjectivity by using multiple evaluators instead of a single evaluator, and personalize action plans more than traditional appraisal systems.³⁷ Further, full circle systems are easy to implement, requiring only a human resource staff or an outside consultant to complete a feedback instrument, evaluate the results, and communicate the results to employees and managers.³⁸ For these and other reasons, full circle programs are often considered beneficial for the firm.

D. The General Problems with Full Circle Evaluations and Their Solutions

Full circle evaluations produce some of the same problems that are inherent in every evaluation system. These problems, however, can often be alleviated by fairly simple solutions. One particularly frequent concern about full circle systems is the reliability of appraisals conducted by subordinates of their supervisors, especially when compensation and career advancement are at stake. The potential negative effects on validity include inflated ratings, less useful data for developmental purposes, and manipulation of the system.³⁹ In response to these critics, some companies use full circle systems only for developmental purposes and completely divorce decisions regarding performance, pay, or promotion from the system.⁴⁰ In the 1990s, however, experts have found ways to combat this potential problem with new methods of system implementation.

In order to decrease the inflation of ratings, companies should use safeguards including trimmed mean scoring and respondent feedback.⁴¹ Often used in Olympic events, trimmed mean scoring discards the high and low scores. Respondent feedback also attempts to decrease ratings inflation by holding

36. Hoffman, *supra* note 29, at 83–85.

37. *Id.*

38. *Id.* at 85.

39. Edwards & Ewen, *supra* note 4, at 43.

40. *Id.* at 44.

41. *Id.* at 43.

respondents accountable for providing ratings that are not uniformly at the top or bottom of the rating scale.⁴² Studies at DuPont, Current, Intuit, and Arizona State University found that, generally, score distribution did “not change . . . when an organization move[d] from a developmental-only [full circle system] to the use of feedback for performance management.”⁴³ In fact, two companies making the switch recently reported that average scores actually decreased, indicating a higher level of accountability on the part of respondents.⁴⁴

Full circle evaluations have been criticized for use in performance management because they can encourage evaluators to manipulate the system. Evaluators motivated by friendship, hostility, peer pressure, or collusion may provide consistently high or low ratings, hindering the effectiveness of the system. Research shows, however, that manipulative responses are just as likely to occur in developmental-only systems as in performance management systems. Further, safeguards can be put in place to combat these effects.⁴⁵ Respondent feedback is a primary solution to the problem, giving evaluators an incentive to be honest.

Perhaps some of the common problems associated with full circle systems can be prevented by carefully managing the way feedback is handled.⁴⁶ Feedback about competence and behavior should be linked to development decisions, but not to pay decisions, to avoid undermining trust in a 360-degree system and the corporation itself.⁴⁷ Results data, obtained from satisfaction surveys, should, however, be linked to personnel and pay decisions because there is a distinction between competence and results.⁴⁸ And finally, confidentiality should be strictly maintained by limiting the amount of full circle data available to supervisors.⁴⁹ The supervisor “should know the individual’s average scores for various categories and how those scores compare to group norms. But the manager

42. *Id.*

43. *Id.*

44. *Id.*

45. *Id.* at 43–44.

46. For more information on a company that sells feedback management software, see <http://www.2020insight.net> (last visited Oct. 25, 2001).

47. Dennis E. Coates, *Don't Tie 360 Feedback to Pay*, TRAINING, Sept. 1998, at 68, 70.

48. *Id.* at 72.

49. *Id.* at 76.

does not need to see specific ratings or comments from the individual's 360-degree feedback report."⁵⁰ Corporations benefit from the information provided by the evaluations to help employees set developmental goals, but evaluators are discouraged from misusing the system.⁵¹ Keeping developmental feedback confidential enhances trust while linking developmental feedback to pay and personnel decisions tends to destroy it.⁵²

A company can decrease or eliminate the effectiveness of full circle systems as a performance management tool when it spends too little for a poorly organized full circle system, touts a full circle system as a cure-all, or inadequately introduces and explains a full circle system to employees and managers. Additionally, the effectiveness of a full circle evaluation system is compromised if the corporation changes the way feedback is used after the system is implemented, uses the system only for certain employees, conducts all evaluations at the same time, or fails to adhere to a rigid schedule for distribution, collection, and debriefing of information. Finally, a full circle evaluation system is less effective if the company provides feedback without also providing solutions or suggestions for problem areas or allows a system to completely replace personal, face-to-face coaching and direct communication.⁵³

As with every corporate decision, the best way to maximize the potential benefits and minimize drawbacks of full circle evaluations is to devise a well-formulated implementation plan in advance.⁵⁴ When designing and implementing full circle systems a company should consider several questions. First, how will the new process be communicated to team leaders, managers, and employees? Second, should full circle feedback be the only type of evaluation system used, or should the process be combined with other appraisal systems? Third, how will staff be trained to use the feedback instrument effectively? Fourth, should an outside consultant be hired? Fifth, can a program be purchased off-the-shelf or should the process be

50. *Id.* at 78.

51. *Id.*

52. *Id.*

53. Susan Haworth, *The Dark Side of Multi-Rater Assessments*, HR MAG., May/June 1998, at 106, 114.

54. See Hoffman, *supra* note 29, at 85.

customized for the organization? And finally, is a computer-based evaluation or a paper-and-pencil form more practical?⁵⁵

II. A PLACE FOR FULL CIRCLE EVALUATIONS IN THE FRAMEWORK OF CORPORATE LAW

Shareholders continue to search for cost-effective ways to restrict management from exploiting corporate wealth. Agency costs stemming from management's small capital investment in a corporation may be alleviated by the implementation of full circle evaluation systems. Furthermore, if a full circle evaluation in fact increases the economic performance of a corporation, corporate directors may be required to implement full circle evaluations in order to fulfill their duties of care and loyalty to shareholders.

A. *Bridging the Gap Between Ownership and Control*

The problem associated with the separation of corporate ownership and control has been a popular topic in the corporate law area since the 1930s, when Berle and Means brought the issue to the fore.⁵⁶ They observed that because management often has little, if any, of its own capital invested in the corporation, an incentive exists to exploit the shareholder wealth in the form of higher management salaries, bonuses, and perquisites.⁵⁷ Other modern scholars have viewed the corporation as an agency relationship in which the shareholders are the principals and management personnel are the agents. Shareholders receive the firm's profits, growth, and capital appreciation while managers are often paid handsomely for their expertise.⁵⁸ This agency relationship is beneficial to both parties because shareholders have capital but lack

55. *Id.*

56. ADOLF A. BERLE, JR. & GARDINER C. MEANS, *THE MODERN CORPORATION AND PRIVATE PROPERTY* (1932).

57. *Id.* at 119-25; see also Edward S. Adams, *Governance in Chapter 11 Reorganizations: Reducing Costs, Improving Results*, 73 B.U. L. REV. 581, 600 (1993); Jim Chen & Edward S. Adams, *Feudalism Unmodified: Discourses on Farms and Firms*, 45 DRAKE L. REV. 361, 421-22 (1997).

58. Michael C. Jensen & William H. Meckling, *The Theory of the Firm: Managerial Behavior, Agency Costs and Ownership Structure*, 3 J. FIN. ECON. 305, 309 (1976); see also Adams, *supra* note 57, at 600; Chen & Adams, *supra* note 57, at 421-22.

management expertise, while the managers do not have the requisite capital but possess the necessary management skills.⁵⁹

The risk of management exploitation of shareholder wealth remains great, however. Shareholders have developed strategies to help reduce the risk of agency costs.⁶⁰ The problem of agency costs has been addressed in a variety of ways, including corporate law fiduciary duties of loyalty and care owed by boards of directors to shareholders, market forces, and contractual arrangements between management and shareholders that aim to align management's financial interests with those of the shareholders.⁶¹ Contractual arrangements have been made primarily through structured management salary packages that offer high proportions of stock options in the corporation and tie bonuses to the corporation's balance sheet.

While these methods have made a noticeable impact, shareholders are still trying to find cost-effective ways to further restrict management from exploiting corporate wealth. Implementation of a full circle system is one way shareholders can come closer to fully accomplishing this goal. Even though shareholders and the board of directors may not be directly involved in the full circle appraisal process, management behavior is shaped directly by this process. Further, the improved environment created by 360-degree evaluations resulting from increased communication and a sense of job ownership has an overall positive effect on a corporation's efficiency, talent pool, and morale. All of these factors increase a corporation's profitability, which in turn benefits shareholders. In short, full circle systems are a low-cost part of the solution to the corporate agency costs problem.

59. See Eugene F. Fama, *Agency Problems and the Theory of the Firm*, 88 J. POL. ECON. 288, 290-92 (1980); Eugene F. Fama & Michael C. Jensen, *Separation of Ownership and Control*, 26 J.L. & ECON. 301, 302 (1983) [hereinafter Fama & Jensen, *Ownership and Control*]; Eugene F. Fama & Michael C. Jensen, *Agency Problems and Residual Claims*, 26 J.L. & ECON. 327, 330 (1983); see also Adams, *supra* note 57, at 600; Chen & Adams, *supra* note 57, at 422.

60. See Fama & Jensen, *Ownership and Control*, *supra* note 59, at 304; Jensen & Meckling, *supra* note 58, at 305; see also Adams, *supra* note 57, at 600-02; Chen & Adams, *supra* note 57, at 422.

61. Adams, *supra* note 57, at 601-02; Chen & Adams, *supra* note 57, at 422.

B. Full Circle Evaluations and Their Utilitarian Effect on the Stakeholder

The principle of stakeholder theory is that managers owe fiduciary duties to stakeholders as well as shareholders.⁶² Stakeholders are "any group or individual who can affect or is affected by the achievement of the organization's objectives."⁶³ For example, employees of a corporation, product suppliers, and consumers of a corporation's products are all stakeholders of a corporation. Management must consider these groups when implementing strategies for the organization.⁶⁴

Traditionally, only the interests of shareholders, managers, and the board of directors were considered when making corporate decisions. This has slowly begun to change, however, since legislators and courts are increasingly becoming concerned with the effect that corporations and corporate decisions have on stakeholders.⁶⁵ The emergence of environmental regulations and constituency statutes are two practical examples of the development of stakeholder theory. Environmental regulations and consumer protection laws force corporations to acknowledge their responsibility to stakeholders by paying for environmentally hazardous decisions and unsafe products. Additionally, corporate constituency statutes, now enacted in approximately half of the states, allow corporate managers to take into consideration the impact of a decision on non-shareholder stakeholders of the corporation.⁶⁶ The use of full circle appraisal systems builds on

62. R. EDWARD FREEMAN, STRATEGIC MANAGEMENT: A STAKEHOLDER APPROACH 46 (1984).

63. *Id.*

64. *Id.*

65. *Id.* at 25.

66. See, e.g., ARIZ. REV. STAT. § 10-2702 (West 1996); CONN. GEN. STAT. ANN. § 33-313(e) (West Supp. 1991); FLA. STAT. ANN. § 607.0830 (West 2001); GA. CODE ANN. § 14-2-830 (1994); HAW. REV. STAT. § 415-35 (1993); 805 ILL. COMP. STAT. ANN. 5/8-85 (West 1993); IND. CODE ANN. § 23-1-35-1 (Michie 1999); IOWA CODE ANN. § 491.101B (West 1999); KY. REV. STAT. ANN. § 271B.12-210 (Michie Supp. 2000); LA. REV. STAT. ANN. § 12:92 (West 1994); ME. REV. STAT. ANN. tit. 13-A, § 716 (West Supp. 2000); MASS. GEN. LAWS ANN. ch. 156B, § 65 (Law. Co-op. Supp. 2001); MINN. STAT. ANN. § 302A.251 (West Supp. 2001); MISS. CODE ANN. § 79-4-8.30 (2001); MO. ANN. STAT. § 351.347 (West 2001); NEB. REV. STAT. § 21-2035(1)(c) (1997); N.J. STAT. ANN. § 14A:6-1 (West Supp. 2001); N.M. STAT. ANN. § 53-11-35 (Michie 1978); N.Y. BUS. CORP. LAW § 717 (McKinney Supp. 2001); OHIO REV. CODE ANN. § 1701.59 (Anderson 2001); OR. REV. STAT. § 60.357 (1999); 15 PA. CONS. STAT. ANN. § 1715-1716 (West 1995); R.I. GEN. LAWS § 7-

this trend by providing a vehicle to understand and consider the opinions and evaluations of non-shareholder employee stakeholders.

Another recent version of stakeholder theory views the corporation as a “mediating institution,” responsible for socializing its members in place of traditional mediating institutions such as churches, family, schools, neighborhoods, and self-help groups.⁶⁷ By playing this role in the community, corporations are forced to emphasize the impact of corporate decisions on individual stakeholders. When managers view the corporation as a mediating institution, they often realize that their identities and place in the community are tied up with those who are lower on the corporate hierarchy.⁶⁸ Full circle appraisal systems help managers nourish their relationships with employees while also benefiting shareholders by yielding increased productivity.

By improving communication and constructive feedback, full circle systems can help organizations identify more qualified candidates for promotion.⁶⁹ Full circle systems thus provide a direct benefit to employee stakeholders of a corporation by allowing them to contribute to the important corporate decisions of hiring, firing, and promoting management. Surveys of corporations using full circle systems confirm this assertion, as employees surveyed tend to exhibit a more positive attitude about their jobs and a feeling of personal investment in the corporation.⁷⁰

Consumers also stand to benefit from the increased quality of corporate management provided by full circle systems. Consumers will benefit from the overall rise in the level of quality and the lower cost of products that are associated with improved management. In the view of the corporation, consumers may be the most important stakeholders because their consumption is vital to a corporation’s survival. Further, full circle evaluations may benefit environmental stakeholders

5.2-8 (1999); S.D. CODIFIED LAWS § 47-33-4 (Michie 2000); TENN. CODE ANN. § 48-103-204 (1995); WIS. STAT. ANN. § 180.0827 (West 1992); WYO. STAT. ANN. § 17-16-830 (Michie 2001).

67. Timothy L. Fort, *The Corporation as Mediating Institution: An Efficacious Synthesis of Stakeholder Theory and Corporate Constituency Statutes*, 73 NOTRE DAME L. REV. 173, 175–76 (1997).

68. *Id.* at 176.

69. See Bohl, *supra* note 25, at 19.

70. See *id.*

as a result of the recent trend wherein consumers often favor corporations that are responsible and respectful of the environment. And finally, employees reviewing management will also often be residents of the community in which the corporation is located and therefore may tend to favor management whose behavior tends to protect the surrounding environment.

C. A Potential Legal Requirement for Full Circle Evaluations

Corporations may eventually have a legal duty to implement full circle evaluations, assuming that further studies are conducted that make the benefits of full circle evaluations even clearer. The basis of such a requirement lies in the duty of care and duty of loyalty owed by corporate directors and executives to the corporation and its shareholders. If an evaluation system, such as the full circle system, is proven to increase the economic performance of a corporation, the board of directors may be required to implement such a system in order to fulfill its duty of care. Moreover, in certain situations the duty of loyalty may also conceivably require corporate boards to implement a full circle system. Arguably, if a board or the corporate officers refuse to implement a full circle system despite empirical studies that demonstrate their economic benefit, solely out of a desire to maintain or preserve their own positions, the board may violate its duty of loyalty.

1. The Duty of Care

The duty of care requires a director to discharge his duties and to make business decisions with the care of a "reasonable person" in like circumstances. The Model Business Corporation Act § 8.30(a) states:

[a] director shall discharge his duties as a director, including his duties as a member of a committee: (1) in good faith; (2) with the care an ordinarily prudent person in a like position would exercise under similar circumstances;

and (3) in a manner he reasonably believes to be in the best interests of the corporation.⁷¹

Courts have interpreted the standard of care to be a relatively low threshold for the board of directors to meet.⁷²

Moreover, so long as a conflict of interest is not apparent, the business judgment rule often insulates the board from potential liability for business decisions. Under the business judgment rule, courts generally defer to the judgment of the corporate directors.⁷³ The rule includes a “presumption that in making a business decision the directors of a corporation acted on an informed basis, in good faith, and in the honest belief that the action taken was in the best interests of the company.”⁷⁴ The rationale for the rule is that a board should be able to exercise full managerial discretion without the threat of an impending lawsuit for a poor decision.⁷⁵ Courts reason that corporate directors, not judges, are in the best position to weigh the risks and benefits of a specific decision. Thus, the business judgment rule creates a rebuttable presumption in favor of the board.⁷⁶

In order to succeed in a claim against the board of directors for the breach of the duty of care, the plaintiff must show a breach of the board’s duty rather than merely a poor business decision.⁷⁷ To rebut the presumption of the business judgment rule, the plaintiff must show that the board did not make an informed decision.⁷⁸ An informed decision requires that the directors inform themselves, “prior to making [the] business decision, of all material information reasonably available to them.”⁷⁹ The board’s process of informing itself is generally of vital importance in a court’s determination.⁸⁰ The applicable standard for showing a breach of the duty of care can generally

71. MODEL BUS. CORP. ACT § 8.30 (1998).

72. *See, e.g., Shlensky v. Wrigley*, 237 N.E.2d 776 (Ill. App. Ct. 1968) (discussing generally the duty of care and the corresponding legal standard).

73. *See, e.g., Aronson v. Lewis*, 473 A.2d 805, 812 (Del. 1984).

74. *Id.* (citing *Kaplan v. Centex Corp.*, 284 A.2d 119, 124 (Del. Ch. 1971) and *Robinson v. Pittsburgh Oil Refinery Corp.*, 126 A. 46 (Del. Ch. 1924)).

75. *See Zapata Corp. v. Maldonado*, 430 A.2d 779, 782 (Del. 1981).

76. *Aronson*, 473 A.2d at 812.

77. *Id.*

78. *Id.*

79. *Smith v. Van Gorkom*, 488 A.2d 858, 872 (Del. 1985) (quoting *Aronson*, 473 A.2d at 812).

80. *See id.*

be described as one of gross negligence.⁸¹ Absent a showing of gross negligence, courts defer to the board's decisions and assume that the board acted in the best interests of the corporation.

For a plaintiff to show that the board has violated its duty of care, the plaintiff must overcome the business judgment rule and show that the board's conduct constitutes gross negligence.⁸² Usually the duty of care is raised when the board of directors has undertaken a major corporate decision such as whether to enter into a merger or purchase another corporation. The board, however, is still required to fulfill its duty of care when making these less important and more routine decisions.

The director has four "relatively distinct duties:" (1) to reasonably monitor or oversee the conduct of the corporation's business, and, as a corollary, to take reasonable steps to keep abreast of the information that flows to the board as a result of monitoring procedures and techniques; (2) to follow up reasonably on information that has been acquired and should raise cause for concern; (3) to employ a reasonable decision-making process; and (4) to make reasonable decisions.

The duty to employ a reasonable decision-making process has both a procedural and a substantive element. Procedurally, directors must use reasonable care to inform themselves before making a decision about a proposed action. Substantively, the rule is based on a special protective rule—the business judgment rule. But, in order for a director to claim a safe-harbor within the rule, the decision has to have been already made.⁸³

The director approached with the opportunity to implement a full circle program is obliged by her duty of care to properly inform herself of the benefits of the proposed program before she can decide to not implement the program. The director cannot have safe-harbor in the business judgment rule

81. Aronson, 473 A.2d at 812.

82. *Id.*

83. See *Van Gorkom*, 488 A.2d at 872. See generally A.L.I. PRINCIPLES OF CORPORATE GOVERNANCE § 4.01(c), cmt. c (stating that to be afforded protection a decision must have been consciously made and judgment must, in fact, have been exercised); see also S. Samuel Arsht, *The Business Judgment Rule Revisited*, 8 HOFSTRA L. REV. 93, 111 (1979) (arguing that the business judgment rule should not be available to directors who do "not exercise due care to ascertain the relevant and available facts before voting").

if she was not informed prior to making her decision. Thus, it would be a violation of her duty of care to act prematurely.

A board faced with the decision of whether or not to implement a full circle evaluation system must make an informed business decision. A plaintiff filing a derivative suit against a corporation that failed to implement a full circle system would need to show, that in making the decision, the board failed to consider information that was both material and reasonably available to the board. In the existing corporate and legal climate, it seems unlikely that a court would find the failure on the part of the board of directors to implement a full circle evaluation system to constitute a breach of the duty of care. Currently, there are an insufficient number of studies that demonstrate the benefits of full circle evaluations, but there will certainly be more comprehensive studies undertaken in the future showing the benefits of these evaluation systems. If these studies continue to show increased worker productivity, more effective feedback information for managers, and more satisfied employees, a board may be hard pressed to avoid converting to full circle evaluations. To do otherwise would be to ignore information that is clearly material to making an informed business decision as well as information that is relatively easily available to corporate officers. As the business judgment rule does not protect unintelligent or uninformed decisions, such a decision by the board may come perilously close to violating the duty of care, amounting to an "uninformed business decision." At best, the decision would be imprudent and detrimental to the corporation in the long run.

Committees consisting of members of the board of directors are frequently appointed to manage specific affairs of the corporation. Typical committees include a nominating committee, which recommends nominees to the board to fill board vacancies, a compensation committee which deals with compensation agreements for senior management, and a management development committee which focuses on issues of management succession at the highest levels of the corporation. These three committees are most likely to deal with the implementation, maintenance, and use of the results of full circle evaluations.

The Revised Model Business Corporation Act specifically allows for the appointment of such committees by the board, unless the articles of incorporation or bylaws specifically

prohibit such committees.⁸⁴ Generally, the committees act with the full authority of the board of directors.⁸⁵ The committee members, however, may be held to different and higher standards of knowledge and care than the board as a whole.⁸⁶ This distinction is based on the specialized responsibility of the committee members.⁸⁷

Few cases have addressed the issue of committee member liability for breach of a fiduciary duty. The leading case is *Syracuse Television, Inc. v. Channel 9*.⁸⁸ In *Syracuse Television*, the court stated that "[h]aving injected themselves into the more detailed management of the corporation and thereby acquired additional knowledge, [committee members] are charged with that knowledge in judging their conduct."⁸⁹ Additionally, the comments to the 1974 amendment of the Model Business Corporation Act indicate that directors sitting on a committee likely assume increased responsibility and are consequently subject to greater liability.⁹⁰ At least one commentator has also argued that serving on a board committee "appears to impose automatically a higher standard of care" for that director.⁹¹

It is plausible that any of the committees mentioned above (nominating, compensation, management development) would face the issue of whether the corporation should implement full circle evaluations. For example, it would seem entirely reasonable for the management development committee, in attempting to improve the management skill and style in the corporation, to consider switching to a full circle evaluation system. Because of the specific nature of the management development committee, the board members on the committee would likely be responsible for staying updated on trends and innovations in current management styles and approaches. Accordingly, the committee members should be aware of studies and articles relating to the benefits of full circle

84. MODEL BUS. CORP. ACT § 8.25(a) (1998).

85. *Id.* at § 8.25(d).

86. *Syracuse Television, Inc. v. Channel 9*, *Syracuse, Inc.*, 273 N.Y.S.2d 16, 27 (N.Y. Sup. Ct. 1966).

87. *Id.*

88. *Id.*

89. *Id.*

90. MODEL BUS. CORP. ACT. § 8.3, cmt. (1984) (amended 1998).

91. Charles E.M. Kolb, *The Delegation of Authority to Committees of the Board of Directors: Directors' Liabilities*, 9 U. BALT. L. REV. 189, 201 (1980).

evaluations. As a result, failure of the management committee or a similar committee to implement a full circle evaluation system could be viewed as a breach of the duty of care in light of this higher standard. An informed decision by members of the management development committee would require more specific information than would an informed decision made by the entire board.

2. The Duty of Loyalty

The duty of loyalty is implicated where a conflict of interest question has arisen. These situations often involve transactions that are potentially self-dealing in nature. The duty of loyalty demands that any decision made by the board of directors or executives be made in the best interests of the company.⁹² The duty of loyalty thus requires each director and corporate executive to protect the interests of the shareholders and the corporation and prohibits bad faith, fraud, or any type of self-dealing.

It is conceivable that corporate decisions not to use full circle evaluations could violate the duty of loyalty. Questions concerning the duty of loyalty could arise in a situation where the board of directors is cognizant of the benefits that full circle evaluations provide. This once again assumes that further studies have been conducted that make it even more clear that full circle evaluations provide great benefits with correspondingly few costs. The scenario also posits a situation in which the board believes objectively that implementation of a full circle evaluation system in that particular situation would result in a clear benefit to the corporation. Despite this information, the board chooses not to institute full circle evaluations for the sole purpose of self-preservation. Directors faced with this situation could very well feel that implementing full circle evaluations may result in the promotion of more productive, efficient, and progressive managers who may eventually threaten the directors' jobs. Basing a corporate decision on such a rationale might amount to a conflict of interest and consequently a breach of the duty of loyalty.

Full circle evaluation systems have the potential to provide significant benefits to those corporations choosing to implement

92. See *Cede & Co. v. Technicolor, Inc.*, 643 A.2d 345, 361 (Del. 1993).

them.⁹³ These evaluations tend to increase employee morale, better develop corporate managers, and improve the lines of communication throughout the corporation. These benefits, of course, promote efficiency and profitability.⁹⁴ They may also decrease the separation between ownership and control while potentially providing a benefit for both shareholders and stakeholders.⁹⁵ Not surprisingly then, many of America's most successful corporations have chosen to implement these systems, including Walt Disney, GM, and Intel.⁹⁶ As a result of the significant upside associated with implementing these evaluation systems and the correspondingly few costs, it is possible that in the near future, corporations will have a legal duty to implement these systems. To do otherwise might at best be viewed as irrational and at worst a violation of the board's duty of care or duty of loyalty.

III. A FULL CIRCLE CHANGE TO THE MALE-DOMINATED CORPORATE STRUCTURE

The implementation of full circle evaluations will assist women in their advancement within American corporations. A "glass ceiling"⁹⁷ still exists which prevents women from reaching their full corporate potential. The glass ceiling will only be shattered by incremental changes in the corporate culture, instead of the revolutionary changes that helped put women into key management roles over the past three decades.⁹⁸ To transform organizations "a persistent campaign of incremental changes that discover and destroy the deeply embedded roots of discrimination" must be established.⁹⁹

93. See, e.g., Bohl, *supra* note 25, at 17.

94. See *id.*

95. See *id.*

96. See Edwards & Ewen, *supra* note 4, at 46.

97. According to Corporate Woman, *The Glass Ceiling Revisited*, www.corporatewoman.com/a002.html, the term "glass ceiling" was coined by two Wall Street Journal reporters (citing Carol Hymowitz & Timothy D. Schellhardt, *The Glass Ceiling: Why Woman Can't Break the Invisible Barrier That Blocks Them from Top Jobs*, WALL ST. J., Mar. 24, 1986, § 4, at 1).

98. Debra E. Meyerson & Joyce K. Fletcher, *A Modest Manifesto for Shattering the Glass Ceiling*, HARV. BUS. REV., Jan.-Feb. 2000, at 127, 127. ("[M]ost of the barriers that persist today are insidious—a revolution couldn't find them to blast away.")

99. *Id.* at 131.

Women will only shatter the glass ceiling with a series of "small wins."¹⁰⁰

The "small wins" metaphor is consistent with the effects made possible with the implementation of full circle evaluations. Obviously, it would be best if *all* of the positive effects would occur with every implementation of a full circle program; realistically, implementation could be successful if it produces a number of small wins along the way. "Each small win is a trial intervention and a probe for learning, intended not to overturn the system but to slowly and surely make it better."¹⁰¹

Generally, feminist theory views hierarchies as oppressive, rigid, autocratic, and inherently male-dominated institutional structures.¹⁰² Theoretically, an organization arranged around feminist principles would be less hierarchical and therefore more open to those less able to participate in the traditional organization. Full circle evaluations would be a particularly suitable evaluation system for an organizational structure founded upon liberal feminist principles. By collecting input from many people of different experience levels throughout the corporation, full circle evaluations dilute the extent to which any one viewpoint overpowers the viewpoints of other less traditionally powerful voices within the corporation.

In practice, full circle evaluations have shown a tendency to promote the advancement of women within corporations.¹⁰³ This section shows how full circle evaluations dilute the importance of traditional, male-dominated hierarchical structures found in most corporations. Then, this section examines the place women currently hold in these corporate hierarchies and shows how the use of full circle evaluations will improve the opportunities for women to rise within these organizations.

100. *Id.* at 132.

101. *Id.*

102. See KATHY E. FERGUSON, *THE FEMINIST CASE AGAINST BUREAUCRACY* 7 (1984).

103. See, e.g., Robert L. Kabacoff, *Gender Differences in Organizational Leadership: A Large Sample Study*, Management Research Group, at http://www.mrg.com/articles/Gender_Paper_1998.pdf (last visited Oct. 9, 2001) (analyzing nine hundred pairs of male and female managers who were selected based on work-related characteristics such as organization, management level, job function, and management experience).

A. *Basic Liberal and Radical Feminism*

Feminist theory deconstructs allegedly neutral principles to show how women have been excluded by traditional male theory.¹⁰⁴ There are many different schools of feminist thought—for example, liberal, socialist, radical, relational, and analytical.¹⁰⁵ Liberal feminists tend to support the equal rights of all individuals, but do not focus on challenging the underlying patriarchal culture.¹⁰⁶ Liberal feminists believe that “[s]ituations can be modified. The net of rewards and constraints can be rewoven. New tools can be provided. The people who are stuck can be offered challenges. The powerless can be given more discretion, more influence over decisions.”¹⁰⁷ Modification of the hierarchy, not its destruction, is the primary goal of liberal feminist theory.¹⁰⁸

The other strands of feminist theory, which for the purposes of this Article will collectively be called “radical” feminism, more forcefully challenge the underlying patriarchy.¹⁰⁹ While liberal feminism seeks to work within the mainstream, the other more extreme types of feminism challenge mainstream thought and question the value of the

104. See Ronnie Cohen, *Feminist Theory and Corporate Law: It's Time to Find Our Way Up From the Bottom (Line)*, 2 AM. U. J. GENDER SOC. POL'Y & L. 1, 2 (1994); Deborah Sheppard, *Women Managers' Perceptions of Gender and Organizational Life*, in GENDERING ORGANIZATIONAL ANALYSIS 151, 152 (Albert J. Mills & Peta Tancred eds., 1992) (noting that “in a male-dominated organizational world, the expectation is that women's experiences can be adequately understood through the filter of the dominant gender culture, and thus the reality of gender is not addressed”).

105. See, e.g., KATHLEEN P. IANNELLO, DECISIONS WITHOUT HIERARCHY: FEMINIST INTERVENTIONS IN ORGANIZATIONAL THEORY AND PRACTICE 39–41 (1992); Cohen, *supra* note 104, at 2–6; Theresa A. Gabaldon, *The Lemonade Stand: Feminist and Other Reflections on the Limited Liability of Corporate Shareholders*, 45 VAND. L. REV. 1387, 1417–24 (1992); Kathleen A. Lahey & Sarah W. Salter, *Corporate Law in Legal Theory and Legal Scholarship: From Classicism to Feminism*, 23 OSGOODE HALL L.J. 543, 544–57 (1985).

106. See FERGUSON, *supra* note 102, at 4; Cohen, *supra* note 104, at 3.

107. ROSABETH MOSS KANTER, MEN AND WOMEN OF THE CORPORATION 11 (1977).

108. This is consistent with the “incrementalist” argument presented in Meyerson & Fletcher, *supra* note 98, at 127–32.

109. See, e.g., CAPITALIST PATRIARCHY AND THE CASE FOR SOCIALIST FEMINISM (Zillah R. Eisenstein ed., 1979) (attacking the economic system of capitalism from a socialist feminist perspective).

continued existence of the corporate form itself.¹¹⁰ Because full circle evaluations are intended to work within the framework of a corporate structure, this Article will focus mainly on liberal feminist theory.

B. Full Circle Evaluations and Feminist Theory

An organization arranged around feminist principles would feature the modification of hierarchy, the opening of opportunity, the broadening of participation in decisions, and the increase of worker discretion.¹¹¹ This is consistent with the effect full circle evaluations tend to have on organizations.

Bureaucracies are by nature pyramidal and feature hierarchical gradations of authority manifested in top-down supervision and control.¹¹² More specifically, a modern bureaucracy has been described as having the following characteristics:

[A] complex rational division of labor, with fixed duties and jurisdictions; stable, rule-governed authority channels and universally applied performance guidelines; a horizontal division of graded authority, or hierarchy, entailing supervision from above; a complex system of written record-keeping, based on scientific procedures that standardize communications and increase control; objective recruitment based on impersonal standards of expertise; predictable, standardized management procedures following general

110. See FERGUSON, *supra* note 102, at 189–92 (comparing liberal feminism with radical feminism); *id.* at 94 (“Women will not be liberated by becoming ‘like men’ but rather by abolishing the entire system that allocates human potential according to gender.”).

[Liberalism] proceeds as if women were already free and self-constituting beings, when the entire force of the feminist critique is to show precisely the opposite. Part of the perniciousness of femininity in our society is that it produces people who claim to choose what they are supposed to want, and claim to want what they have.

Id. at 177.

111. KANTER, *supra* note 107, at 263, 267–70, 273, 276–81; see also Marion Crain, *Feminism, Labor, and Power*, 65 S. CAL. L. REV. 1819, 1866 (1992) (stating that feminist organizations “are explicitly organized around feminist principles of participatory democracy, decentralized power, and grass-roots control; they practice nonhierarchical, noncompetitive ways of organizing their work.”).

112. Crain, *supra* note 111, at 1829.

rules; and a tendency to require total loyalty from its members toward the way of life the organization requires.¹¹³

Rather than advising women of ways in which they can attempt to assimilate into male-dominated corporations,¹¹⁴ modern liberal feminism has developed a structural critique of the corporate form.¹¹⁵ It is widely theorized that corporate organizations have institutionalized the sexual hierarchy to the extent that the structure itself holds widespread attendant advantages for men.¹¹⁶ Since women tend to be clustered toward the bottom of the corporate hierarchy, they are subject to a higher level of bureaucratic regulation than are their corporate supervisors.¹¹⁷ Women tend to be "excluded as equal organizational participants by patriarchal structures and processes."¹¹⁸ The typical modern corporate structure was forged at a time when males tended to comprise the almost exclusive majority of corporate membership.¹¹⁹

Liberal feminists acknowledge that bureaucracies will probably not die out in our lifetime.¹²⁰ As a result, male values,

113. FERGUSON, *supra* note 102, at 7 (restating the traits of bureaucracies explained by sociologist Max Weber in MAX WEBER, *THE THEORY OF SOCIAL AND ECONOMIC ORGANIZATIONS* (A.M. Henderson & Talcott Parsons trans., 1964)); see Deborah L. Rhode, *Ethical Perspectives on Legal Practice*, 37 STAN. L. REV. 589, 631 (1985) (stating that Weber associated the following traits with bureaucracies: "fixed jurisdictional areas, generally ordered by rules; allocation of duties to those with specialized training; firmly ordered systems of hierarchy; and an ethos mandating institutional loyalty."); see also FROM MAX WEBER: ESSAYS IN SOCIOLOGY 215-16 (H. H. Gerth & C. Wright Mills eds., 1958) ("[Bureaucracy's] specific nature . . . develops the more perfectly the more the bureaucracy is 'dehumanized,' the more completely it succeeds in eliminating from official business love, hatred, and all purely personal, irrational, and emotional elements which escape calculation. This is the specific nature of bureaucracy, and it is appraised as its special virtue."), quoted in KANTER, *supra* note 107, at 22.

114. See Lahey & Salter, *supra* note 105, at 546-47 (discussing the popular press's contribution to women's attempt to succeed in management); FERGUSON, *supra* note 102, at 94. "Career advice to upwardly mobile women directs them to retain the form of feminine interactional skills but to abandon the content." *Id.*

115. The seminal text in the area is KANTER, *supra* note 107.

116. See, e.g., BARBARA F. RESKIN & IRENE PADAVIC, *WOMEN AND MEN AT WORK* (1994); GENDERING ORGANIZATIONAL ANALYSIS (Albert J. Mills & Peta Tancred eds., 1992); Joan Acker, *Hierarchies, Jobs, Bodies: A Theory of Gendered Organizations*, 4 GENDER & SOC'Y 139 (1990).

117. See Karen Ramsay & Martin Parker, *Gender, Bureaucracy and Organizational Culture*, in GENDER AND BUREAUCRACY 253, 259-260 (Mike Savage & Anne Witz eds., 1992).

118. *Id.* at 259.

119. See *id.* at 253, 260.

120. See KANTER, *supra* note 107, at 284-87.

associated with hierarchical structures, will remain embedded within the corporate structure.¹²¹ “[C]ompetition, hierarchy, aggression, and [the] strict classifications of roles” are cornerstones of corporate law.¹²² Traditional feminine values, such as the nurturing of others and the maintenance of relationships, have generally been excluded from core corporate values. Corporate structure depends on self-interest, and the resulting profits of such self-interest, for its continued existence.¹²³

An organizational structure based on liberal feminist principles would not be structured in such a strict hierarchical manner.¹²⁴ Whereas hierarchies lead to the fragmentation of groups,¹²⁵ feminism challenges alienation and the compartmentalization of different spheres of existence.¹²⁶ A feminist organizational structure would stress flexibility and allow for “shared or alternating leadership,”¹²⁷ decentralized decision-making, a flatter hierarchy, the wide dispersal of formal authority, and a reversal of the bureaucratization¹²⁸ of the management structure.¹²⁹

Traditional performance evaluations tend to mimic institutional structures. The traditional performance evaluation is strictly a top-down affair where the supervisors evaluate their subordinates. The top-down performance evaluation is based on the organization’s underlying hierarchical structure. But with full circle evaluations, the hierarchy of the organization does not drive the structure of the evaluation system; each person has a chance to be an evaluator regardless of his or her position in the underlying corporate

121. See Gabaldon, *supra* note 105, at 1415.

122. Cohen, *supra* note 104, at 11 (supporting the argument that corporate law embodies these values).

123. See *id.* at 10 n.57; Melvin Avon Eisenberg, *The Structure of Corporation Law*, 89 COLUM. L. REV. 1461, 1461 (1989) (describing the common belief that profit is the goal of a corporation).

124. See Gabaldon, *supra* note 105, at 1429.

125. See KANTER, *supra* note 107, at 264–66.

126. See *id.*

127. Gabaldon, *supra* note 105, at 1429.

128. “Bureaucratization” has been defined as “the invasion of disciplinary technique into both the discursive and the institutional practices of a particular realm of human relations (for example, production, education, medicine), reshaping both the roles and the events available to people, and the language commonly used to describe those roles and events, along bureaucratic lines.” FERGUSON, *supra* note 102, at 37.

129. See KANTER, *supra* note 107, at 273–78.

hierarchy. Full circle evaluations force all employees to demonstrate their effectiveness to one another, rather than only to their supervisors.¹³⁰ In this way, full circle evaluations further the decentralization process.

Radical feminists take the argument a step further than liberal feminists. Radical feminists believe that celebrating the differences between men and women may reinforce stereotypes and perpetuate female subordination.¹³¹ Radical feminist theory contends that the "corporation is a perfection of the masculinist vision of self—existence as property, separation of accountability and enjoyment, abstract rules as justice, domination as ownership."¹³² Accordingly, a radical feminist perspective maintains that a corporate bureaucracy is an inherently male concept that should be eradicated.¹³³ Bureaucratization breeds isolation and takes power from the most vulnerable persons within the organization, usually women and minorities.¹³⁴

Because radical feminists believe that "the property of power is synonymous with the ability to coerce, dominate, or control others who occupy lower positions in the hierarchy,"¹³⁵ all subordinates, including women, must rely on feminine skills

130. TAYLOR COX JR. & CAROL SMOLINSKI, *MANAGING DIVERSITY AND GLASS CEILING INITIATIVES AS NATIONAL ECONOMIC IMPERATIVES* 40–41 (Jan. 31, 1994), at <http://www.ilr.cornell.edu/library/e-archive/gov-reports/glassceiling/papers/managingdiversity.pdf>.

131. See generally CATHERINE MACKINNON, *FEMINISM UNMODIFIED: DISCOURSES ON LIFE AND LAW* 33 (1987) ("A built-in tension exists between this concept of equality, which presupposes sameness, and this concept of sex, which presupposes difference. Sex equality thus becomes a contradiction in terms, something of an oxymoron, which may suggest why we are having such a difficult time getting it.").

132. Lahey & Salter, *supra* note 105, at 555; see also FERGUSON, *supra* note 102, at 191 ("Feminists may survive in bureaucracies with their personal integrity and commitment intact, but they will probably not succeed within the organization, on the terms of the organization, and they certainly will not be able to alter the organization's power structure in a radical feminist direction. Many people resist organizational demands for conformity; if done with skill, one can resist and survive, but one seldom both resists and prospers."); CATHERINE A. MACKINNON, *TOWARD A FEMINIST THEORY OF THE STATE* 80 (1989) ("[S]o long as women are excluded from socially powerful activity, whatever activity women do will reinforce their powerlessness, because women are doing it; and so long as women are doing activities considered socially valueless, women will be valued only for the ways they can be used.").

133. See FERGUSON, *supra* note 102, at 191–92.

134. See *id.* at 13–14.

135. Crain, *supra* note 111, at 1829.

like the ability to support and depend on others to survive in the corporate world.¹³⁶ Within the typical corporate structure, male traits are prized because they are representative of those traits held by the most powerful in the hierarchy; alternatively, feminine traits are considered of little value as they are representative of the traits found in subordinate positions.¹³⁷

Radical feminists view attempts at decentralization and the promotion of diversity as inadequate to change the innately patriarchal nature of the corporate form.¹³⁸ In the eyes of a radical feminist, attempts to merely modify the hierarchy tend to be ineffective and preserve power within the male-dominated structure.¹³⁹ Radical feminists also fear that the values of persons working within a bureaucratic organization are easily co-opted and prior personal values tend to be submerged beneath the patriarchal structure and its conception of power.¹⁴⁰

Despite the revolutionary views of radical feminists, the corporate form will probably continue to exist, but a change in corporate bureaucracy is possible. Women have more opportunities for promotion in organizations with full circle evaluation programs. By reducing barriers to a woman's advancement within the corporation, full circle evaluations help to level the employment playing field. A corporate environment that facilitates equality benefits not only women, but also other marginalized groups within the corporation. And, equally important for the decision-makers deciding to implement a full circle evaluation system within their corporation, such an environment benefits the health of the corporation itself. In a global economy, a corporation respectful of diverse viewpoints will clearly have an increased ability to prosper.

136. See FERGUSON, *supra* note 102, at 92-93 (terming this process the "feminization" of subordination).

137. *Id.* at 93-99.

138. *Id.* at 191-92; KANTER, *supra* note 107, at 286-87 (noting that "reform is seen as counter to the goals of fundamental social change, especially if fundamental social change is required to reduce the dominance of giant organizations, break up managerial monopolies on decision-making, and redistribute material rewards. So the revolutionary would argue against strategies that temporarily alleviate distress, emphasizing the positive value of present suffering in heightening radical consciousness."); Lahey & Salter, *supra* note 105, at 555.

139. See Crain, *supra* note 111, at 1863-65.

140. See *id.* at 1863-64.

Liberal feminism maintains that corporations systemically constrain the participation of women. A structure based on feminist principles would incorporate more diverse points of view and life experiences, leading to better, more contextualized decision-making and wider access to information.¹⁴¹ Feminists believe that the values of participation and responsibility should replace the passivity that the corporate culture often encourages.¹⁴²

Clearly, one of the greatest advantages of full circle evaluations is that they broaden participation in the running of the corporation. Through the use of full circle evaluations, previously unheard voices are given direct access to the decision-making process. In corporations implementing full circle evaluations, the voices of subordinates (who are disproportionately women) are being considered in personnel decisions, sometimes for the first time. In these organizations, information flows in every direction—to and from the subordinates, peers, and supervisors of performance evaluatees. Employees in corporations with full circle evaluation systems often find the system more appealing than traditional performance evaluations which tend to discourage the participation of others within the corporation, especially those on the bottom rungs of the ladder.¹⁴³

Full circle evaluations directly increase worker empowerment by allowing employees to provide their input. Indirectly, full circle evaluations increase worker discretion by increasing the autonomy of employees. Employees, especially young professionals, are likely to value their autonomy highly.¹⁴⁴ Thus, subordinates tend to respond favorably to managers who allow their subordinates to exercise autonomy. Accordingly, a full circle evaluation rewards managers who are willing to let subordinates exercise discretion and autonomy. This creates a cycle of innovation within the corporation. If the corporate culture is exposed to the innovation of full circle evaluations, then the corporation may establish other employment and managerial practices that increase worker

141. See KANTER, *supra* note 107, at 273, 276, 278.

142. See Gabaldon, *supra* note 105, at 1431–38 (arguing for the constructive involvement of women within corporations).

143. See Edwards & Ewen, *supra* note 4, at 44.

144. See Judy B. Rosener, *Ways Women Lead*, HARV. BUS. REV., Nov.–Dec. 1990, at 119, 124–25.

empowerment and, not coincidentally, lead to better financial performance.

C. The Problem for Women in the American Workforce

The glass ceiling facing women in management has often proven to be a formidable obstacle for women attempting to enter upper management. Studies show that full circle evaluations may be an effective tool for eradicating these glass ceilings because female managers generally receive higher ratings from other members within the organization than male managers when full circle evaluations are used. The possible reasons for the results of these studies will be examined below, as well as the other positive aspects that full circle evaluations have for women.

Numerous studies have examined the status of women in the American workforce. The studies show that women are well represented in the workforce. For instance, as of 1997, women constituted 46% of employed workers.¹⁴⁵ The studies, however, also show a very slow movement of women into the upper managerial and executive levels of corporations. To properly evaluate the significance of the figures concerning the number of women in management, we must keep in mind that the impact of the figures is directly related to how broadly the term "management" is defined. When the category of managerial workforce is defined very broadly, women make up a significant portion of the managerial workforce. In 1970, women held 18.5% of "executive, administrative, and managerial occupations;" in 1980, women accounted for 30.5% of this category.¹⁴⁶ Women comprised 39.3% of those in "executive, administrative and managerial occupations" in 1988.¹⁴⁷ In 1992, women constituted 41.5% of this category,¹⁴⁸

145. U.S. DEP'T OF LABOR, WOMEN'S BUREAU, PUB. NO. 98-2, FACTS ON WORKING WOMEN: 20 FACTS ON WOMEN WORKERS 1 (1998) [hereinafter 20 FACTS].

146. BUREAU OF THE CENSUS, U.S. DEP'T OF COMMERCE, DETAILED OCCUPATION OF THE EXPERIENCED CIVILIAN LABOR FORCE BY SEX FOR THE UNITED STATES AND REGIONS: 1980 AND 1970, at 7 (1984); see also Jaclyn Fierman & Alison Sprout, *Why Women Still Don't Hit the Top*, FORTUNE, July 30, 1990, at 40.

147. BUREAU OF LABOR STATISTICS, U.S. DEP'T OF LABOR, EMPLOYMENT AND EARNINGS, JANUARY 1989 AND JANUARY 1997 (1997) [hereinafter EMPLOYMENT AND EARNINGS], cited in WOMEN'S BUREAU, U.S. DEP'T OF LABOR, LEAFLET NO.

and in 1996, women held 43.8% of these positions.¹⁴⁹ These figures, however, are somewhat misleading. The Department of Labor defines the "executive, administrative and managerial occupations" category very broadly. The category "includes fast food restaurant managers, CEOs of large corporations, accountants, underwriters, administrators and officials, financial managers, medicine and health managers, and other occupations."¹⁵⁰ Therefore, the statistics do not illustrate the rather low percentage of comparatively high paying managerial positions that women hold.

This disparity is also reflected in the relative pay female managers receive compared to the salaries male managers receive. In 1996, the women reported to hold managerial positions earned only 67% of what their male counterparts earned.¹⁵¹ Thus, while the issue of whether women can be managers has been answered affirmatively, the problem of the glass ceiling still exists. "[T]he positions of greatest power, prestige, and economic reward"¹⁵² are not yet widely held by women. The focus of the issue today has shifted to examining the barriers that prevent female managers from reaching the executive suite.¹⁵³ In order to examine these barriers, it is important to first examine the extent to which the glass ceiling exists in corporate America.

The statistics demonstrate the stark reality that women have had difficulty breaking into the male corporate world. In

97-3, FACTS ON WORKING WOMEN: WOMEN IN MANAGEMENT 1 (1997) [hereinafter FACTS ON WORKING WOMEN].

148. Ellen A. Fagenson & Janice L. Jackson, *United States of America: The Status of Women Managers in the United States*, in COMPETITIVE FRONTIERS 388, 389 tbl. 23.1 (Nancy J. Adler & Dafna N. Izraeli eds., 1994).

149. FACTS ON WORKING WOMEN, *supra* note 147, at 3 (restating data from U.S. Department of Labor, Bureau of Labor Statistics).

150. *Id.* at 1.

151. *Id.* at 8. Only 34% of these women believed that they were well paid. *Id.* at 9.

152. Deborah L. Rhode, *Gender and the Law: Perspectives on Professional Women*, 40 STAN. L. REV. 1163, 1163 (1988).

153. See Ella Louise Bell & Stella M. Nkomo, *Re-Visioning Women Manager's Lives*, in GENDERING ORGANIZATIONAL ANALYSIS 235, 236-37 (Albert J. Mills & Peta Tancred eds., 1992) (discussing women in upper-level management positions); see also CATALYST, 1998 CATALYST CENSUS OF WOMEN BOARD DIRECTORS OF THE FORTUNE 500 1 (1998) available at <http://www.catalystwomen.org/press/factsheets/facts1998wbd.html> (finding that women hold 11.1% of Fortune 500 board positions, and only 1.1% of inside directorships); KORN/FERRY INT'L, 24TH ANNUAL BOARD OF DIRECTORS SURVEY 11 (1997) (finding that 71% of all companies have at least one woman on their board).

1991, women comprised 37.2% of the total employees at the corporate headquarters of *Fortune* 1000 companies, but occupied only 16.9% of management positions.¹⁵⁴ Furthermore, at the executive level,¹⁵⁵ women constituted only 6.6% of the executive make-up of these companies.¹⁵⁶ As for *Fortune* 1000 industrial companies, *Fortune* 2000 industrial and service companies, and *Fortune* 500 companies, women constituted only three to 5% of senior managers.¹⁵⁷

In 1990, women constituted only 4.3% of corporate officers for *Fortune* Service 500 companies, even though they comprise 61% of all service workers.¹⁵⁸ This was an increase from 0.8% in 1976.¹⁵⁹ In those companies, women constituted 2.7% of the top-earning corporate officers and 3.8% of the highest officer positions (chairman, vice chairman, CEO, president, COO, senior executive VP, and executive VP).¹⁶⁰

In *Fortune* 50 companies, women constituted a mere 2.2% of corporate officers.¹⁶¹ Sixty-eight percent of *Fortune* 50 companies had no female executives at the vice-presidential level and up.¹⁶² In 1995, it was reported that women comprise

154. U.S. DEP'T OF LABOR, A REPORT ON THE GLASS CEILING INITIATIVE 6 (1991) [hereinafter GLASS CEILING] (defining "management" positions as ranging "from the supervisor of a clerical pool to the CEOs and Chairmen."). The Glass Ceiling Commission was created under the Civil Rights Act of 1991. Glass Ceiling Act of 1991, Pub. L. No. 102-166, 105 Stat. 1081 (1991) (codified at 42 U.S.C. § 2000e (1991)). The Commission's purpose is "to conduct a study and prepare recommendations concerning—(1) eliminating artificial barriers to the advancement of women and minorities; and (2) increasing the opportunities and developmental experiences of women and minorities to foster advancement of women and minorities to management and decisionmaking positions in business." Glass Ceiling Act § 203.

155. GLASS CEILING, *supra* note 154, at 6 (defining "executive level" as "assistant vice president and higher rank or their equivalent").

156. *Id.*

157. See GLASS CEILING COMM'N, U.S. DEP'T OF LABOR, GOOD FOR BUSINESS: MAKING FULL USE OF THE NATION'S HUMAN CAPITAL, at iii-iv (1995) [hereinafter GOOD FOR BUSINESS].

158. MARY ANN VON GILNOW & ANNA KRZYCKOWSKA, THE FORTUNE 500: A CAST OF THOUSANDS (1988), available at http://www.feminist.org/research/ewb_your.html (last visited Oct. 7, 2001).

159. PR NEWswire, Sept. 17, 1986, available at LEXIS, News Library, PR Newswire File (reporting a study by social scientist Jane Trahey).

160. CATALYST, 1998 CATALYST CENSUS OF WOMEN CORPORATE OFFICERS AND TOP EARNERS (1998), available at <http://www.catalystwomen.org/press/factsheets/factsote98.html>.

161. *Id.*

162. *Id.*

40% of managers, but comprise only a mere 5% to 7% of top executives.¹⁶³

In companies that reported to the EEOC in 1992, women occupied less than one-third of the managerial positions.¹⁶⁴ In 799 major companies, women comprised less than 0.5% of the highest-paid officers and directors in 1990.¹⁶⁵ In the largest one hundred United States companies in 1990, women constituted only 0.5% of the 4000 highest-paid officers and directors.¹⁶⁶ In 1996, only 8% of Wall Street's major investment banking and brokerage firms' managing directors were women.¹⁶⁷ In 1992, women comprised 9% of persons holding the title of "executive vice president,"¹⁶⁸ and 23% of persons holding the title of "senior vice president."¹⁶⁹ Similarly, only two women were atop *Fortune* 500 companies in 1998.¹⁷⁰

The foregoing illustrates slow progress in the status of women in corporate America. At the present pace the Feminist Majority Foundation has estimated that women will be equally represented within high-level executive suites in 475 years.¹⁷¹ Such statistics are especially alarming considering that each year an increasingly large number of women enter the workplace. From 1996 to 2006, women will comprise 59% of total labor force growth¹⁷² and by 2006, women are expected to account for 47% of the workforce.¹⁷³ The number of "executive, administrative, and managerial" workers is expected to increase by 17% from 1996 to 2006,¹⁷⁴ while women will likely

163. GOOD FOR BUSINESS, *supra* note 157, at 3.

164. Rochelle Sharp, *The Waiting Game: Women Make Strides, But Men Stay Firmly in Top Company Jobs*, WALL ST. J., Mar. 29, 1994, at A1.

165. Fierman & Sprout, *supra* note 146, at 40 (examining the top 799 companies on *Fortune's* list).

166. COX & SMOLINSKI, *supra* note 130, at 18.

167. Peter Truell, *Success and Sharp Elbows: One Woman's Path to Lofty Heights on Wall Street*, N.Y. TIMES, July 2, 1996, at D1, D4.

168. KORN/FERRY INT'L & UCLA ANDERSON GRADUATE SCHOOL OF MGMT., *DECADE OF THE EXECUTIVE WOMAN 2* (1993) [hereinafter *DECADE*], *cited in* GOOD FOR BUSINESS, *supra* note 157, at 14.

169. *Id.*

170. Ginia Bellafante, *It's All About Me!*, TIME, June 29, 1998, at 54.

171. FEMINIST MAJORITY FOUND., *EMPOWERING WOMEN IN BUSINESS 2* (1991), *cited in* ANN MORRISON ET AL., *BREAKING THE GLASS CEILING: CAN WOMEN REACH THE TOP OF AMERICA'S LARGEST CORPORATIONS?* 7 (2d ed. 1992).

172. 20 FACTS, *supra* note 145, at 1.

173. Howard N. Fullerton, Jr., *Labor Force 2006: Slowing Down and Changing Composition*, MONTHLY LAB. REV., Nov. 1997 at 23, 33.

174. George T. Silvestri, *Occupational Employment Projections to 2006*, MONTHLY LAB. REV., Nov. 1997, at 59.

occupy only 13% of president, COO, SEVP, and EVP positions in 2000, and 17% in 2005.¹⁷⁵ The projected influx of women into the workforce in the next decade makes it vitally important that barriers to the advancement of women be eliminated. If efforts are not taken to break down these barriers, women will become even more entrenched in low-level management and employee positions.

D. Using Full Circle Evaluations to Help Remedy Corporate Subjugation of Women

The statistics cited in the preceding section cannot be dismissed with allegations that women are unqualified for managerial positions, or that women choose "unfortunate" career paths.¹⁷⁶ It is much more likely that discrimination and institutional structures play major roles in relegating women to non-managerial or lower management positions.¹⁷⁷ Biased

175. CATALYST, *supra* note 160.

176. See, e.g., BETTE WOODY & CAROL WEISS, U.S. DEPT OF LABOR, BARRIERS TO WORK PLACE ADVANCEMENT: THE EXPERIENCE OF THE WHITE FEMALE WORK FORCE 35-45 (1993); Tracy Anbinder Baron, *Keeping Women Out of the Executive Suite: The Courts' Failure to Apply Title VII Scrutiny to Upper-level Jobs*, 143 U. PA. L. REV. 267, 270 (1994).

177. For further information on the unequal treatment of women in the workplace, see VIRGINIA VALIAN, WHY SO SLOW?: THE ADVANCEMENT OF WOMEN (1998). The U.S. Department of Labor's Glass Ceiling Commission is also a good resource. Their publication GOOD FOR BUSINESS, *supra* note 157, is particularly noteworthy. Other good surveys of the barriers facing women are DEBORAH L. RHODE, SPEAKING OF SEX: THE DENIAL OF GENDER INEQUALITY 141-76 (1997) and Rhode, *supra* note 113, at 1178. For an examination of the problem of sexual stereotyping, see Mary F. Radford, *Sex Stereotyping and the Promotion of Women to Positions of Power*, 41 HASTINGS L.J. 471 (1990). For an examination of how corporate restructuring and downsizing impacts female employees, see NANCY R. HAMLIN ET AL., U.S. DEPT OF LABOR, THE IMPACT OF CORPORATE RESTRUCTURING AND DOWNSIZING ON THE MANAGERIAL CAREERS OF MINORITIES AND WOMEN: LESSONS LEARNED FROM NINE CORPORATIONS (1994); LOIS B. SHAW ET AL., U.S. DEPT OF LABOR, THE IMPACT OF THE GLASS CEILING AND STRUCTURAL CHANGE ON MINORITIES AND WOMEN (1993). For research comparing the glass ceiling in the government, non-profit organizations, and for-profit organizations, see LYNN C. BURBRIDGE, U.S. DEPT OF LABOR, THE GLASS CEILING IN DIFFERENT SECTORS OF THE ECONOMY: DIFFERENCES BETWEEN GOVERNMENT, NON-PROFIT, AND FOR-PROFIT ORGANIZATIONS (1994). For a look at obstacles that keep women in low-paying occupations, see SHARON L. HARLAN & CATHERINE WHITE BERHEIDE, U.S. DEPT OF LABOR, BARRIERS TO WORKPLACE ADVANCEMENT EXPERIENCED BY WOMEN IN LOW-PAYING OCCUPATIONS (1994). To examine formal barriers to women's employment in predominantly male jobs, see Patricia A. Roos & Barbara F. Reskin, *Institutional Factors Contributing to*

performance evaluations and biased promotional decisions are two barriers that prevent women from reaching senior-management levels.¹⁷⁸ Full circle evaluations have been cited as an effective means of breaking down these barriers and promoting the advancement of women in the corporation.¹⁷⁹ Indeed, a report commissioned by the Glass Ceiling Commission has identified full circle evaluations as a proven means of achieving greater diversity in senior management.¹⁸⁰

Studies show that female managers tend to receive better scores than male managers on full circle evaluations. The organizational and human resources consulting group Lawrence A. Pfaff and Associates has conducted three studies supporting this tendency.¹⁸¹ The Pfaff studies measured male and female managers in twenty skill areas: goal setting, planning, technical expertise, performance standards, coaching, evaluating performance, facilitating change, delegation, recognition, approachable, directive, participative, strategy, communication, teamwork, empowering employees, trust, resourcefulness, self-confidence, and decisiveness. The studies employed a full circle evaluation testing device that uses eighty-five items to measure these twenty skill areas.

The first Pfaff study reported that in every category tested, each evaluating group rated female managers higher than male managers when full circle evaluations were used.¹⁸² The

Sex Segregation in the Workplace, in SEX SEGREGATION IN THE WORKPLACE: TRENDS, EXPLANATIONS, REMEDIES 235 (Barbara F. Reskin ed., 1984).

178. See WOODY & WEISS, *supra* note 176, at 7-8, 58-59, 67-69.

179. See Sherwood Ross, *Survival Guide/Small Fix-its for Work's Frustrations/When Stereotypes Stand in Your Way*, NEWSDAY, Nov. 16, 1998, at C2 (recommending full circle evaluations to promote the advancement of women); see also KANTER, *supra* note 107, at 269 (describing a performance evaluation system "in which managers and subordinates or groups of work peers and colleagues would periodically meet").

180. See COX & SMOLINSKI, *supra* note 130, at 43.

181. See generally LAWRENCE A. PFAFF & ASSOCS., STUDY REVEALS GENDER DIFFERENCES IN MANAGEMENT AND LEADERSHIP SKILLS (1995) [hereinafter PFAFF 1995] (reporting study that included 1,059 managers (676 males, 383 females) from 211 organizations); LAWRENCE A. PFAFF & ASSOCS., LATEST STUDY AGAIN SHOWS GENDER DIFFERENCES IN MANAGEMENT AND LEADERSHIP SKILLS (1996) [hereinafter PFAFF 1996] (reporting two-year study (1994 to 1996) of different subjects from the first study that included 941 managers (672 men, 269 women) from 204 organizations); LAWRENCE A. PFAFF AND ASSOCS., FIVE-YEAR STUDY SHOWS GENDER DIFFERENCES IN LEADERSHIP SKILLS (1999) [hereinafter PFAFF 1999] (reporting five-year study (1993 to 1998) that included 2,482 managers (1727 men, 755 women) from 459 organizations).

182. See PFAFF 1995, *supra* note 181, at 1.

second Pfaff study had similar results.¹⁸³ Overwhelmingly, women were rated more highly than their male counterparts by their subordinates, peers, and supervisors.¹⁸⁴ Subordinates scored female managers higher than male managers in eighteen of the twenty areas.¹⁸⁵ Men and women scored equally in the remaining category, technical expertise.¹⁸⁶ Women rated other women higher in fifteen skill areas, while men rated other men higher in only four areas: technical expertise, directive, strategy, and self-confidence.¹⁸⁷ Supervisors rated women higher than men in eighteen areas; men scored higher in one area, directive, and there was a tie in another area—technical expertise.¹⁸⁸

The third Pfaff study supported the results of the prior studies.¹⁸⁹ Once again, women were rated more highly than men by their subordinates, peers, and supervisors.¹⁹⁰ Subordinates scored female managers higher than male managers in seventeen of the twenty areas; men and women scored equally in the remaining three areas.¹⁹¹ Women rated other women higher than their male counterparts in skill areas; men and women scored equally in the other six areas.¹⁹² Supervisors rated women higher than men in sixteen areas; men were scored higher in only one area, directive.¹⁹³

Similarly, a Management Research Group (MRG) study also found that full circle evaluations result in stronger evaluation for female managers than for male managers.¹⁹⁴ Most importantly, peers and subordinates viewed women as slightly more effective managers than men; in contrast, supervisors did not report any difference in effectiveness between male and female managers.¹⁹⁵ This study suggests that allowing a wider range of evaluators significantly affects the rating of women, as the additional voices not normally

183. See PFAFF 1996, *supra* note 181, at 1.

184. *Id.* at 3.

185. *Id.*

186. *Id.*

187. *Id.* at 1.

188. *Id.*

189. See generally PFAFF 1999, *supra* note 181.

190. *Id.* at 1.

191. *Id.*

192. *Id.*

193. *Id.*

194. See Kabacoff, *supra* note 103.

195. *Id.*

heard in traditional evaluations tended to give women higher ratings.¹⁹⁶

The evaluators in the MRG study found that female managers worked with more energy, intensity, emotional expression, and with a greater ability to keep others enthusiastic and involved than their male counterparts.¹⁹⁷ Based on these traits, the women in the MRG study had a tendency to be considered better managers, as evidenced by the higher scores attributed to the women in the study.¹⁹⁸ Moreover, supervisors, peers, and subordinates all rated women higher than men on relational skills, including willingness to listen, the capacity to get people involved, enthusiasm, and credibility among peers and subordinates.¹⁹⁹ Subordinates rated women more highly than men on business-oriented skills, including financial understanding, effective decision-making, and knowledge of organizational dynamics, while supervisors and peers rated men higher in these areas.²⁰⁰

A Hagberg Consulting Group study that used full circle evaluations reached similar conclusions.²⁰¹ Women scored higher than men in thirty-seven of forty-seven critical management qualities, including communicating with others, inspiring others, and providing clear directions.²⁰² The traditional male managerial style is that of command-and-control.²⁰³ Persons using this style rely upon "formal authority" derived from their place in the corporate hierarchy.²⁰⁴ Hence, the typical male managerial style is hierarchical in nature and relatively inflexible—male managers use top-down decision-making methods, emphasizing rationality.²⁰⁵ According to a Korn/Ferry-sponsored survey of senior executives, the five most

196. *Id.*

197. *Id.*

198. *Id.*

199. *Id.*

200. *Id.*

201. Helen Peters, *Risk, Rescue and Righteousness: How Women Prevent Themselves From Breaking Through the Glass Ceiling*, Hagberg Consulting Group, at <http://www.hcgnet.com/html/articles/female-executives.html> (last visited Oct. 9, 2001) (discussing a three-year study that included over three hundred senior managers and executives).

202. *Id.*

203. See Rosener, *supra* note 144, at 119–20.

204. See *id.*

205. See *id.* at 120.

prevalent traits of male managers were risk-taking, self-confidence, competitiveness, decisiveness, and directness.²⁰⁶

The typical male managerial style stresses self-interest and rewards success more than the typical female managerial style does. A male manager is less likely to share information than a female supervisor and also more likely to take an individual rather than a team approach to situations.²⁰⁷ Further, male managers are more likely to see unexpected events as interruptions and are less likely to try to use such events to bring the team closer together.²⁰⁸

Under a full circle evaluation system, a hard-charging, unyielding manager is much less likely to receive a high rating than a manager primarily exhibiting other characteristics, like cooperativeness, approachability, and trustworthiness. While supervisors of the manager may characterize the former type of management style as "decisive," the subordinates of such a manager are likely to see and feel the very real costs associated with this management style: weariness, defeat, repression, and conformity. Subordinates are less likely to see such an unyielding manager as an effective leader. A management style that fosters a culture of isolation and domination does so at the expense of strong team dynamics. Full circle evaluations reveal these tendencies more than traditional performance evaluation systems because they gather data not only from supervisors, but also from peers and subordinates, who are more likely to understand the day-to-day effects of this management style.

In contrast to the typical male managerial approach, the typical female managerial style is more concerned with building relationships.²⁰⁹ A style that values relationship-building tends to be viewed as an interactive leadership style that encourages participation, adopts win-win strategies, shares power, and is concerned with subordinate training.²¹⁰ A

206. See THE ECONOMIST INTELLIGENCE UNIT & KORN/FERRY INT'L, DEVELOPING LEADERSHIP FOR THE 21ST CENTURY 8 (1997) [hereinafter 21ST CENTURY].

207. See NORMA CARR-RUFFINO, THE PROMOTABLE WOMAN: 10 ESSENTIAL SKILLS FOR A NEW MILLENNIUM 11 (3d ed. 1997); see also Jaclyn Fierman & Laurie Kretchmar, *Do Women Manage Differently?*, FORTUNE, Dec. 17, 1990, at 115, 116.

208. See CARR-RUFFINO, *supra* note 207, at 11.

209. See Rosener, *supra* note 144, at 125.

210. See *id.* at 120.

typical female manager is seen as having a genuine ethic of care: nurturing, supportive, participative, and cooperative.²¹¹ According to a Korn/Ferry-sponsored survey of senior executives, the top five perceived traits of female managers are empathy, supportiveness, the ability to nurture, relationship-building, and the sharing of power and information.²¹²

Women are more likely than their male counterparts to schedule time to share information,²¹³ and women are more likely to be accessible to team members.²¹⁴ The female managerial style tends to breed loyalty because, generally, subordinates appreciate having decision-making information shared with them, being asked for their input, and having the support of their supervisors for their decisions.²¹⁵ Thus, the typical female managerial style is more likely to foster the self-worth and enthusiasm of her subordinates.²¹⁶

In a study that examined how managers responded to poor subordinate performance, women were more likely to train their subordinates who perform poorly, rather than just punish them.²¹⁷ Also, women were less punitive and more supportive of female subordinates.²¹⁸ On a somewhat related note, another recent survey found that women tend to be less cynical than men. Forty-seven percent of males express cynical attitudes, while only thirty-nine percent of females express

211. See *id.* at 125. But see SHAW, *supra* note 177, at 20 (reporting one study that showed only slight managerial differences between the sexes and another study showing no differences).

212. See 21ST CENTURY, *supra* note 206; see also Cynthia Berryman-Fink, *Male and Female Managers' Views of the Communication Skills and Training Needs of Women in Management*, 14 PUB. PERSONNEL MGMT. 307 (1985) (examining perceptions that women have unique communication skills). Another survey of male and female executives asked the following question: "If the majority of CEOs of the top 1,000 companies were women, how would business change?" Seventy-one percent of female respondents said that employee relations would improve, compared to thirty-six percent of male respondents. Thirty-seven percent of female respondents said that general communications would improve, compared to twenty-seven percent of male respondents. See HARRISON, *supra* note 164, at 93.

213. See Rosener, *supra* note 144, at 120-22; CARR-RUFFINO, *supra* note 207, at 11.

214. See Rosener, *supra* note 144, at 120-22.

215. See *id.* at 122-23.

216. See *id.* at 123.

217. See GARY N. POWELL, *WOMEN AND MEN IN MANAGEMENT* 166 (2d ed. 1993).

218. See *id.*

those attitudes.²¹⁹ Further, men are more likely than women to believe that dishonesty is a facet of human nature and that people are motivated primarily by self-interest.²²⁰

Perhaps the female managerial style is partly the result of the status women tend to hold in society. Women have often been relegated to the position of subordinate, and thus have developed the skill of making others happy.²²¹ In this way, a nurturing, supportive style arguably became natural to women over time.²²² The experience of mothering may further contribute to an enhanced sense of responsibility toward others.²²³ The fact that women have historically held less formal authority in society than men may tend to account for the existence of women's typically more nurturing and supportive approaches to gaining credibility.²²⁴

The typical female managerial approach appears to find its root in the feminist conception of power. The feminist conception of power does not entail domination; rather, it demands a responsibility for others.²²⁵ The result is that compulsion is disfavored in lieu of persuasion.²²⁶ The connectedness of the group—the community—is the basis for feminist power.²²⁷ Generally, where women value a connection or interdependence with others, men tend to value a separation or independence from others.²²⁸ As a result, women tend to have an ethic of care for others and men tend to have an ethic of autonomy-preserving rights.²²⁹ Consequently, women generally form webs of values with vertical equality, while men generally form hierarchies of values when evaluating possible approaches to situations.²³⁰

Women prefer to operate within webs, or "centrarchies," rather than hierarchies. A "centrarchy" is a non-hierarchical

219. DONALD L. KANTER & PHILIP H. MIRVIS, *THE CYNICAL AMERICANS: LIVING AND WORKING IN AN AGE OF DISCONTENT AND DISILLUSION* 154 (1989).

220. *Id.* at 147.

221. FERGUSON, *supra* note 102, at 98.

222. Rosener, *supra* note 144, at 124; Crain, *supra* note 111, at 1854–55.

223. Crain, *supra* note 111, at 1854 (noting the connection between nurturing and the feminist conception of power).

224. Rosener, *supra* note 144, at 124–25.

225. CAROL GILLIGAN, *IN A DIFFERENT VOICE* 30 (1982).

226. *Id.* at 30–31.

227. Crain, *supra* note 111, at 1852.

228. GILLIGAN, *supra* note 225, at 164.

229. *See id.* at 164, 173–74.

230. *See id.* at 32.

organization with the leader at the center of a web of relationships. In such a structure, a manager is available to all within the web.²³¹ The web/hierarchy dichotomy is central to the different managerial styles.

The images of hierarchy and web, drawn from the texts of men's and women's fantasies and thoughts, convey different ways of structuring relationships and are associated with different views of morality and self. But these images create a problem in understanding because each distorts the other's representation. As the top of the hierarchy becomes the edge of the web and as the center of a network of connection becomes the middle of a hierarchical progression, each image marks as dangerous the place which the other defines as safe. Thus the images of hierarchy and web inform different modes of assertion and response: the wish to be alone at the top and the consequent fear that others will get too close; the wish to be at the center of connection and the consequent fear of being too far out on the edge. These disparate fears of being stranded and being caught give rise to different portrayals of achievement and affiliation, leading to different modes of action and different ways of assessing the consequences of choice.²³²

The concept of the web emphasizes a willingness to receive input from any source, thereby making others in an organization more involved in decision-making.

A female manager is not likely to view decision-making processes as bounded by traditional management rationality. Rather, her sense of power is more likely to be derived from within, rather than from a formal allocation of power. Female managers are more apt to allow their subordinates and peers to help make decisions and to seek input and information from all sources. These traits tend to be more conducive to team-building and to appreciation for the talents of team members. Organizational goals become more important than individual goals. By empowering subordinates, the typical female manager gains respect and inspires better work performance.

While the traditional, top-down method of performance evaluation attempts to make objective measurements, the top-down method's ability to do so is inhibited by its very structure.

231. See Fierman & Kretchmar, *supra* note 207, at 115.

232. GILLIGAN, *supra* note 225, at 62.

A person higher up on the corporate hierarchy often does not have as much daily access to the operations of the manager evaluatee as does the manager evaluatee's peers and subordinates. This lack of availability limits the potential objectivity of the evaluation. Any observations the supervisor evaluator makes of the manager evaluatee tend to be weighted disproportionately because the supervisor tends to have relatively few instances of observation on which to base the evaluation.

Full circle evaluations, on the other hand, are better equipped to make objective measurements of delegation, cooperation, and team-building. By gathering input regarding these skills from a variety of sources, the evaluation system is likely to be more objective and accurate. Further, full circle evaluations are more likely to exhibit recognition of the strengths traditionally associated with a female managerial style. It is reasonable to assume that a less cynical, more trusting and supportive manager will be evaluated positively by subordinates and peers. Thus, an evaluation system which also gathers input from a manager's subordinates and peers is more likely to reveal a typical female manager's strengths than an evaluation system which uses a traditional top-down method of information gathering. Three hundred sixty degree evaluations allow subordinates to communicate a preference for a more nurturing style of management to the corporation's decision-makers through positive evaluation of managers exhibiting such a style. As the studies in the preceding section exhibit, this often translates into higher ratings for female managers.

The largest perceived barrier to the advancement of women in corporate America is gender prejudice.²³³ In fact, in lawsuits charging sex discrimination, an employee's direct supervisor is often the "discriminating official."²³⁴ Full circle evaluations fight discrimination in two ways. First, full circle evaluations, which incorporate the views of many raters, allow

233. See GOOD FOR BUSINESS, *supra* note 157, at 28; ANN M. MORRISON, THE NEW LEADERS: GUIDELINES ON LEADERSHIP DIVERSITY IN AMERICA 34-39 (1992). One study reports that while only two percent of male supervisors thought their female subordinates were victims of sex-based hindrances or hostilities, two-thirds of the women reported such experiences. RHODE, *supra* note 177, at 5.

234. See ROSABETH MOSS KANTER, ROSABETH MOSS KANTER ON THE FRONTIERS OF MANAGEMENT 143 (1997).

for a general balancing of views. Second, by allowing opportunities for peers and subordinates to expose managers who discriminate against and harass women (and to praise managers who are free of biases), full circle evaluations work to diminish discrimination in the workplace. For this reason, a typical top-down evaluation system cannot expose as many kinds of discrimination as a full circle evaluation system can.

Without full circle evaluations, female subordinates or peers with discrimination complaints are forced to proceed through more formal channels. With full circle evaluations, however, some women would feel free to air grievances regarding bias, even though they would be reluctant to press forward through more formal channels.²³⁵ This type of reluctance often stems from fear of reprisal, fear of being blamed, and a feeling of powerlessness.²³⁶ Indeed, women are often transferred or fired as a result of filing a formal complaint.²³⁷ It is distressing to note that most women who report harassment are not satisfied with the results.²³⁸ Many feel that their complaints are not handled justly, that their

235. Ronni Sandroff, *Sexual Harassment (Survey Results)*, WORKING WOMAN, June 1, 1992, at 47 (reporting that only 25% of women who experienced harassment actually reported it), cited in Amy M. Rubin, *Peer Sexual Harassment: Existing Harassment Doctrine and Its Application to School Children*, HASTINGS WOMEN'S L.J. 141, 148-49 (1997); see also WOODY & WEISS, *supra* note 176, at 50 (citing DECADE, *supra* note 168, at 8) (reporting that although 59% of females encountered sexual harassment in the workplace, only 14% filed a formal complaint); Mike Truppa, *Sexual-Harassment Awareness Up, But Employers Slow to React*, CHI. DAILY L. BULL., Oct. 2, 1992, at 2 (reporting that up to 95% of incidents of sexual harassment may go unreported), cited in Barry S. Roberts & Richard A. Mann, *Sexual Harassment in the Workplace: A Primer*, 29 AKRON L. REV. 269, 271 n.18 (1996).

236. BARBARA A. GUTK, SEX AND THE WORKPLACE 46 (1985) (reporting that 60% of women who declined to report harassment feared being blamed for the incident); Anita F. Hill, *Sexual Harassment: The Nature of the Beast*, S. CAL. L. REV. 1445, 1446 (1992) (citing fear of reprisal, blaming of oneself, threats from coworkers, and powerlessness as reasons why women often do not report instances of harassment).

237. See B. Glenn George, *The Back Door: Legitimizing Sexual Harassment Claims*, 73 B.U. L. REV. 1, 25 n.126 (1993).

238. See Sandroff, *supra* note 235, at 47, 50 (reporting that 20% of formal complainants believed their complaints were handled justly, while 60% believed the charges were ignored or that only "token reprimands" resulted); U.S. MERIT SYS. PROTECTION BD., SEXUAL HARASSMENT IN THE FEDERAL GOVERNMENT: AN UPDATE 25-27 (1988), cited in George, *supra* note 237, at 25 n.125 (reporting a survey of federal employees that showed most women who complained found the result unsatisfactory).

charges are ignored, or that mere “token reprimands” are dispersed.

In these matters, the full circle evaluations—especially those in which the raters remain anonymous—would alleviate concerns associated with filing in person. Further, under a full circle evaluation system, not only would the manager in question be apprised of his or her offending behavior, but that manager’s supervisors would receive the information as well. Thus, full circle evaluations will help hesitant subordinates to expose discrimination.

In situations where offending behavior is invidious, exposing the behavior to the offending manager’s supervisor is critical to curbing the behavior. Thus, full circle evaluations are particularly helpful in discovering instances of invidious discrimination. Where a traditional evaluation system would not reveal many of these instances of discrimination, full circle systems cause the situations to be identified and managed. Confronted with allegations of discrimination, upper management is forced to take some type of action to curb the behavior, not only to avoid legal liability, but also to address the behavior’s effect on overall productivity within the organization.

E. Full Circle Evaluations to Combat Discriminatory Systems

Full circle evaluations are also beneficial in cases of a more benign kind of discrimination. Even the most well-intentioned supervisors can fall prey to subconscious biases.²³⁹ For example, a woman may view certain treatment as demeaning or harassing, while a man could see the same treatment as mere “misplaced gallantry” or “harmless flirtation.”²⁴⁰ Such managers, upon being apprised of the effects of such behavior, are likely to be more amenable to changing their behavior than are managers accused of invidious discrimination. Corporate supervisors are also made aware of the problem and can ensure that it is resolved. Thus, full circle evaluations can also help to extinguish more benign—yet nevertheless harmful—sexist behaviors in the workplace.

239. See WOODY & WEISS, *supra* note 176, at 54.

240. RHODE, *supra* note 177, at 5.

Supervisors are usually older than their subordinates, and are also likely to be males.²⁴¹ Supervisors are often products of earlier generations, and their view of gender roles are, at times, out of date because their mentality reflects that of earlier generations. They may also have stereotypical notions about how women should behave.²⁴² After all, some of these older male supervisors never routinely encountered women as peers in the classroom or the office. Because the upper management tends to be made up of a large number of older males, the "old boys" network still exists. "New" male employees find the "old boys" network conducive to gaining information, visibility, and favor with senior management.²⁴³ Female executives are generally excluded from these informal networks,²⁴⁴ often because certain social activities are traditionally male dominated.²⁴⁵

By participating in these social activities, the male executive is able to develop essential relationships with his supervisors and other key employees. These relationships are then used throughout his career to climb the corporate ladder. Women, as well as men who choose not to participate in the activities, are at a distinct disadvantage in furthering their careers.²⁴⁶

241. See FERGUSON, *supra* note 102, at 106-07 (noting that there tends to be a difference in age between superiors and subordinates as well as in racial and sexual patterns).

242. Compare B. Rosen et al., *Stemming the Exodus of Women Managers*, 28 HUM. RESOURCES MGMT. 475 (1989) (finding that 55% of managers believe sex stereotypes were a significant barrier to women), cited in COX & SMOLINSKI, *supra* note 130, at 13, with Linda Putnam & J. Stephen Heinen, *Women in Management: The Fallacy of the Trait Approach*, MICH. ST. U. BUS. TOPICS 47 (1976), reprinted in WOMEN IN MANAGEMENT 322-23 (Bette Ann Stead ed., 2d ed. 1985) (arguing against use of sex-based models of leadership behavior). See generally VALIAN, *supra* note 177, at 102-23 (summarizing sex-based models and their effects); Tracy L. Bach, *Gender Stereotyping in Employment Discrimination: Finding a Balance of Evidence and Causation Under Title VII*, 77 MINN. L. REV. 1251 (1993).

243. See WOODY & WEISS, *supra* note 176, at 58.

244. See CATALYST, WOMEN IN CORPORATE LEADERSHIP: PROGRESS AND PROSPECTS 1 (1996) available at <http://www.catalystwomen.org/press/infobriefs/infocorpleadership.html>. (reporting that 49% of female executives cite their exclusion from informal networking opportunities as a barrier to advancement to top management).

245. See WOODY & WEISS, *supra* note 176, at 50.

246. For a comprehensive exposition of the psychology underlying the social structure of the workplace, see ROBERT JACKALL, MORAL MAZES: THE WORLD OF CORPORATE MANAGERS (1988).

Similarly, supervisors tend to promote people with traits similar to their own and with whom the supervisor feels comfortable.²⁴⁷ The senior male executive is unlikely to feel comfortable interacting with a female in work situations, especially given the historical female absence from many roles in the workplace. Where there is a demographic similarity between the supervisor and the subordinate, the similarity tends to favorably influence the supervisor's evaluation of the subordinate's performance.²⁴⁸ This can be a significant limitation to female advancement in the corporate structure, especially under top-down systems of performance evaluation.

Managers generally want to be able to predict their subordinates' and peers' behavior and to have their own behavior be immediately understood. This phenomenon further perpetuates the existence of masculine corporate culture and prevents "unknown" groups from advancement.²⁴⁹ This tendency is even stronger in upper management where managers are given more discretion.²⁵⁰ Executives tend to have relatively narrow criteria and tend to demand a high degree of social homogeneity.²⁵¹ This behavior preserves the glass ceiling because female candidates are overlooked as the executive searches for more comfortable, traditional matches.

An example of the tendency to promote only those with whom one feels comfortable is found in a survey that was conducted by The Center for Creative Leadership.²⁵² The survey analyzed the promotion process in three *Fortune* 500 manufacturing companies. When promoting a male, the decision-makers alluded to feeling comfortable with the male

247. See, e.g., COX & SMOLINSKI, *supra* note 130, at 20–23; KANTER, *supra* note 234, at 47–48; MORRISON, *supra* note 233, at 125; Carol Hymowitz & Timothy D. Schellhardt, *The Glass Ceiling: Why Women Can't Seem to Break the Invisible Barrier that Blocks Them from the Top Jobs*, WALL ST. J., Mar. 24, 1986, § 4, at 1 ("[T]he biggest obstacle women face is also the most intangible: men at the top feel uncomfortable with women beside them.").

248. See Anne S. Tsui & Charles A. O'Reilly, III, *Beyond Simple Demographic Effects: The Importance of Relational Demography in Superior-Subordinate Dyads*, 32 ACAD. MGMT. J. 402 (1989).

249. See FERGUSON, *supra* note 102, at 106–07; GOOD FOR BUSINESS, *supra* note 157, at 34; KANTER, *supra* note 234, at 47–48, 58, 63 (terming this concept "homosexual reproduction"); Ramsay & Parker, *supra* note 117, at 265–66.

250. KANTER, *supra* note 107, at 52.

251. See *id.* at 53–54, 264.

252. See Michelle Martinez, *How Gender Changes the Promotion Process*, HR MAG., Apr. 1, 1997, at 85.

candidate as being a main factor in the promotion approximately seventy-five percent of the time. In contrast, when promoting a female, the decision-makers focused on a personal strength of the female candidate as a main factor in the promotion twenty-three percent of the time; comfort was not generally a positive factor in the decision.

Full circle evaluations tend to attack the "old boys" network. By incorporating the views of the subordinates and peers of the manager evaluatee, full circle evaluations broaden the scope of inquiry and diversify the basis for making a promotional decision. The view of an individual supervisor is no longer the sole, subjective voice heard in the performance evaluation. Rather, the importance of the "old boys" network and of social homogeneity diminishes as full circle evaluations broaden the basis for decision-making. As a result, this broader basis increases the likelihood that women will be promoted.

Subordinates are usually younger than their managers. The younger a person is, the more likely that person has encountered a woman as a peer in classrooms and offices.²⁵³ Younger generations generally do not have entrenched stereotypes concerning women in the workplace. The young worker's exposure to women in the workplace tends to deflate such stereotypes if they exist. Young subordinates have fewer preconceived notions about both the types of jobs a woman can and should hold and how a woman is supposed to act once she attains a position in an organization. For these reasons, younger subordinates are less likely to evaluate a woman poorly strictly because of her sex and are more likely to evaluate her based on merit, resulting in more objective evaluations.

The relatively younger age of subordinates makes them more likely to value a more progressive and participative structure that favors promotions based on merit rather than traditional criteria such as years of experience or gender.²⁵⁴ In short, subordinates tend to value empowerment and do not

253. See GEORGIANNA MCGUIRE & SIOBHAN NICOLAU, *HISPANIC POL'Y DEV. PROJECT, IN THEIR OWN WORDS: CEO VIEWS OF DIVERSITY AT THE TOP 4* (1994). This is a study commissioned by the Department of Labor's Glass Ceiling Commission.

254. See Rosener, *supra* note 144, at 119.

want to be held back by static factors such as age or gender or membership in the "old boys" network.

The typical feminist managerial style is conducive to a progressive workplace in which subordinates are not hindered by age. The typical feminist managerial style emphasizes and nurtures the input of all voices and welcomes innovation and participation. Subordinates appreciate the benefits of such a style, since it enhances the likelihood that their ideas will be heard and implemented. In this way, the feminist managerial style facilitates the rapid promotion of subordinates. Thus, the feminist managerial style tends to prosper in full circle evaluation systems where subordinate voices are heard because subordinates tend to rate managerial traits exhibited by the typical feminist manager very favorably.

In 1997, women constituted forty-six percent of employed workers.²⁵⁵ Yet these women were and are generally confined to non-management positions. Therefore, the subordinates and peers of manager evaluatees are more likely to be female than the supervisors of manager evaluatees. These subordinates and peers tend to give female manager evaluatees higher ratings than they would receive in a typical top-down evaluation system.²⁵⁶

Another reason female subordinates or peers are likely to grade a female manager favorably is due to their desire for self-preservation. If women are supported when attempting to climb the corporate ladder, it may make it easier for their successors to succeed. Women may realize that advancement can be especially difficult for women and support another woman making her upward journey.

Women also may have an enhanced ability to empathize with minority groups, making women more skilled than men at communicating with minorities. This skill may translate to higher ratings by minority groups of female managers in full circle evaluation systems. Evaluations by employees from cultural minorities may be more significant in the future because the American workforce is becoming increasingly diverse. For instance, the white, non-Hispanic share of the labor force is projected to grow only 0.7% per year (from 1996 to 2006), which is slower than the projected growth of the overall

255. See 20 FACTS, *supra* note 145, at 1.

256. See, e.g., Kabacoff, *supra* note 103.

labor force.²⁵⁷ During this time frame, the black labor force is expected to grow slightly more than the overall labor force, while the Hispanic share of the labor force will increase more than that of any other demographic group.²⁵⁸ The Asian labor force is expected to increase 41% from 1996 to 2006.²⁵⁹ Notably, 84% of senior executives believe that diversity will increase among the top 100 management positions at corporations.²⁶⁰

This increasing diversity of the American workforce may benefit female managers. Women tend to empathize with workers from minority cultures for a number of reasons. First, women and minorities tend to have trouble advancing up the corporate ladder. Second, the dual role women possess, of primary care giver within the home and of worker outside the home, is understood by the overburdened and under-appreciated members of society. Studies show that the majority of women have felt personally limited by society's negative stereotypes at different times in their careers.²⁶¹ These experiences help women to empathize with the experiences of minorities in confronting stereotypes.²⁶² This ability to empathize generally allows the typical female manager to more sensitively manage a diverse workforce. For these reasons, female managers often stand to benefit substantially when workers of minority cultures act as their evaluators.

Women are often subjected to higher standards than their male counterparts in both performance evaluations and promotions. Studies report that successful female managers are not viewed as favorably as successful male managers.²⁶³ Men tend to receive much higher ratings on average than women.²⁶⁴ This tendency holds especially true in workplaces

257. Fullerton, *supra* note 173, at 23, 35.

258. *Id.*

259. *Id.*

260. See 21ST CENTURY, *supra* note 206, at 22.

261. See CATALYST, *supra* note 244, at 1 (asserting that 52% of female executives cite negative stereotypes as a barrier to advancement to top management).

262. See FERGUSON, *supra* note 102, at 177-78 ("[T]hose who are marginal in the dominant society, who experience life in more than one 'world,' have access to more than one point of view. Thus those who stand on the fringes of established roles can offer insights less available to individuals more thoroughly and consistently integrated into the established categories.").

263. VALIAN, *supra* note 177, at 125-26.

264. See *id.* at 127-29 (summarizing numerous supporting studies).

where women comprise a small minority of the workforce²⁶⁵ or where the rater is preoccupied with other tasks, or otherwise subject to time pressures.²⁶⁶

Where, however, the supervisor and the subordinate share a similar demographic background, the similarity tends to correspond with a more favorable evaluation of the subordinate's performance.²⁶⁷ For example, when the evaluator is a man, female evaluatees tend to have comparably lower ratings than males holding similar jobs. Yet when the evaluator of a female evaluatee is a woman, the evaluatee tends to receive an assessment more balanced with that of her male peers.²⁶⁸

Women who attempt to take leadership roles in organizations often face at least three unique problems relating to that role. First, they have a more difficult time than men obtaining and maintaining the attention of others. Second, they are viewed more negatively than men as presenters, even when the content and manner of the presentation are identical with that of a man's presentation. And third, these negative reactions ultimately influence others who originally held a more gender-neutral bias.²⁶⁹

In short, females are more likely than males to perceive a constant pressure and a need to prove their worth to a corporation.²⁷⁰ Further, women are more likely to find themselves disadvantaged when organizations use "social credentials" as a proxy for measuring performance. When organizations lack specific criteria for measuring performance, social credentials such as a good family background,

265. *Id.* at 139–42.

266. See Richard F. Martell, *Sex Bias at Work: The Effects of Attentional and Memory Demands on Performance Ratings of Men and Women*, 21 J. APPLIED SOC. PSYCHOL. 1939 (1991).

267. See Tsui & O'Reilly, *supra* note 248, at 402.

268. See Ann C. McGinley, *¡Viva La Evolucion!: Recognizing Unconscious Motive in Title VII*, 9 CORNELL J.L. & PUB. POL'Y 415, 435, 442–45 (2000); see also B. Rosen & T.H. Jerdee, *Effects of Applicant's Sex & Difficulty of Job on Evaluations of Candidates for Managerial Positions*, 59 J. APPL. PSYCHOL. 511, 511–12 (1974).

269. VALIAN, *supra* note 177, at 129–33.

270. See JUDY B. ROSENER, *AMERICA'S COMPETITIVE SECRET: UTILIZING WOMEN AS A MANAGEMENT STRATEGY* 99 (1995).

prestigious education, and membership in social clubs,²⁷¹ tend to play a part in perceptions involving the performance of managers. When these "social credentials" are used, women are often disadvantaged because they often do not participate in many male-dominated activities which tend to be traditionally valued. As a result of these and other factors, women find that as a whole they receive fewer promotions than do men with comparative levels of talent and experience.²⁷² Full circle evaluations reduce the importance of "social credentials." In lieu of social credentials, full circle evaluation systems attempt to make performance evaluations based on objective factors of merit.

Corporations value a manager's ability to nurture the growth of their subordinates. In a study commissioned by the Glass Ceiling Commission, 72.7% of the corporations surveyed reported that they use the ability to develop subordinates as one of the factors when evaluating managers, and 58.3% used that factor when establishing levels of compensation for managers.²⁷³ Because information is gathered directly from the subordinates of manager evaluatees in full circle evaluations, such evaluations are effective in revealing the actual thoughts of subordinates regarding their own performance and development. Because women appear to be more able than men to develop subordinates, women evaluatees stand to benefit from the use of full circle evaluations. And because a female manager tends to add to the voice of her subordinates, she is rated highly in this area when she is evaluated by her subordinates.

As a woman moves up the corporate ladder, she is more likely to find herself to be one of a very small number of women in her new peer group. The term "tokenism" has been used to

271. See KANTER, *supra* note 234, at 61 (providing examples of "social credentials" such as a good family background, prestigious education, and membership in social clubs).

272. See Kathy Cannings, *Managerial Promotion: The Effects of Socialization, Specialization and Gender*, 42 INDUS. & LAB. REL. REV. 77 (1988), cited in COX & SMOLINSKI, *supra* note 130, at 18-19; Craig A. Olson & Brian E. Becker, *Sex Discrimination in the Promotion Process*, 36 INDUS. & LAB. REL. REV. 624 (1983) (using data from the Quality of Employment Panel). But see G.B. Lewis, *Gender and Promotions: Promotion Chances of White Men and Women in Federal White-Collar Employment*, 21 J. HUM. RESOURCES 406 (1986) (finding no sex-based difference in promotion decisions in federal government).

273. WOODY & WEISS, *supra* note 176, at 77.

refer to the phenomenon often encountered by underrepresented members in a highly skewed group.²⁷⁴ Victims of tokenism often feel that they are perceived as gratuitous representatives of their minority group and often feel an enhanced pressure to perform.²⁷⁵ Women who make it to the upper management positions of their organizations where few women preside often feel that they are perceived as "tokens." A woman in this position is sometimes falsely stereotyped,²⁷⁶ and often finds that her actions are more closely scrutinized than the actions of her male counterparts.²⁷⁷

When tokenism occurs, the victim is often isolated from the group and excluded from social gatherings. When a woman is perceived or treated as a token, her performance ceases to be evaluated on merit, and efforts are made to exclude her ideas and contributions from among those considered.²⁷⁸ There are many negative effects of such treatment on an individual's ability to function within the organization. This may also lead to a decrease in the level of satisfaction she has in her job. Thus, tokenism serves as a severe limitation for women attempting to achieve equality in the workplace. But as more and more women advance, and as a result, the disparity between the number of men and women holding similar positions narrows, the problem of tokenism should decrease.²⁷⁹

Full circle evaluations tend to have a favorable effect on the promotion of women into upper-management positions. Because full circle evaluations involve input from multiple levels within the corporation, they diminish the importance of the "clubby atmosphere" of the executive suite. Further, full circle evaluations provide a rather significant means of making sure that a female manager's talent for dealing effectively with her peers and subordinates is brought to light. Overall, full

274. POWELL, *supra* note 217, at 112.

275. See KANTER, *supra* note 107, at 210-11.

276. See *id.* at 230-33 (terming this occurrence "role encapsulation"); see also POWELL, *supra* note 217, at 114.

277. See generally CATALYST, BARRIERS TO WOMEN'S UPWARD MOBILITY: CORPORATE MANAGERS SPEAK OUT (1983).

278. See Marjorie A. Lyles, *Strategies for Helping Women Managers or Anyone*, in WOMEN IN MANAGEMENT 16, 19 (Bette Ann Stead ed., 2d ed. 1985).

279. See Patricia Yancey Martin et al., *Advancement for Women in Hierarchical Organizations: A Multilevel Analysis of Problems and Prospects*, 19 J. APPLIED BEHAV. SCI. 19, 26 (1983); Anne Fisher, *A Delicate Question: Why Are Women Bosses So Nasty to Me?*, FORTUNE, Apr. 14, 1997, at 165.

circle evaluations will decrease the incidence of tokenism and its detrimental effects on women and organizations.

F. The Queen Bee Syndrome

The "queen bee" syndrome describes the alleged tendency for a female manager, who is insecure in her position, to not support women below her on the corporate ladder.²⁸⁰ If this tendency is believed to be true, female subordinates might resent having such a "queen bee" as a supervisor and would therefore evaluate her more negatively than would a male subordinate.

The large number of professional women who take part in efforts to support younger female employees belies the existence of this phenomenon. Eighty-three percent of female executives proclaim that they "feel responsible for helping younger women advance in business."²⁸¹ In 1992, 87.9% of female executives in large United States companies mentored a junior female employee.²⁸² Since so few women presently preside in senior management positions, women's groups often attempt to provide a substitute means of mentoring lower-level female managers.²⁸³ While some women report feeling afraid of joining corporate women's groups due to a fear that upper management distrusts the aims of such groups,²⁸⁴ 41% of female executives nevertheless belong to women's groups,²⁸⁵

280. LAURA TRACY, *THE SECRET BETWEEN US: COMPETITION AMONG WOMEN* 178-79 (1991).

281. See FEMINIST MAJORITY FOUND., *EMPOWERING WOMEN IN BUSINESS*, available at http://www.feminist.org/research/ewb_myths.html (last visited Oct. 7, 2001).

282. See Fisher, *supra* note 279, at 165 (reporting a Korn/Ferry International survey of 1,554 female executives in large American companies); see also Bell Rose Ragins, *Diversified Mentoring Relationships in Organizations: A Power Perspective*, 22 ACAD. MGMT. REV. 482 (1997) (noting a Catalyst study that found that female executives often seek out female protégés to mentor). But see Amy Saltzman, *Woman Versus Woman*, U.S. NEWS & WORLD REP., Mar. 25, 1996, at 50 (reporting a 1992 Korn/Ferry survey that found that only fifteen percent of women had been mentored by another woman). The importance of mentoring is well known—not only does it help the junior employee with performance advice, but also with navigating the organization itself. See generally ELLEN D. WERNICK, U.S. DEP'T OF LABOR, *PREPAREDNESS, CAREER ADVANCEMENT, AND THE GLASS CEILING* 10 (1994).

283. See FELICE N. SCHWARTZ, *BREAKING WITH TRADITION: WOMEN AND WORK, THE NEW FACTS OF LIFE* 275 (1992).

284. See *id.*

285. See DECADE, *supra* note 168, at 20.

and 56% of female executives report that they network with other women.²⁸⁶ The alleged existence of the “queen bee” is most likely over-reported and largely anecdotal. Where the “queen bee” syndrome does exist, full circle evaluations would help to expose “queen bee” managers for the detriment that they bring to the organization by curbing the development of their female subordinates.

CONCLUSION

For women in corporate America, full circle evaluations offer a less bumpy route to higher managerial positions. Full circle evaluations change the strict corporate hierarchy, and allow women to bypass many of the institutional problems that work against them. Also, by allowing for the recognition of the many advantageous traits of typical female managers, full circle evaluations facilitate the rise of women into higher positions within the corporation.

Consistent with feminist principles, full circle evaluations remove obstacles to the advancement of women in the workplace, not by excluding the participation of men, but by increasing the participation of the entire organization.²⁸⁷ Under full circle evaluations, merit and performance prevail as the criteria for choosing managers.²⁸⁸ Full circle evaluations minimize the impact of the personal and subjective opinions of any one decision-maker, thereby increasing the likelihood that the evaluation is objective and merit-based.²⁸⁹

In light of the benefits associated with full circle evaluations and the extent to which full circle evaluations eliminate obstacles to female advancement, corporations are wise to incorporate such evaluations into their own evaluation systems. Corporations should implement such evaluations systems not simply out of a fear that the use of full circle evaluations may someday be considered legally required, but because there is relatively no downside to their use. For good reason, full circle evaluations are becoming a very popular tool for corporations making a concerted effort to become more competitive and efficient. By taking into consideration the

286. See FEMINIST MAJORITY FOUND., *supra* note 281.

287. See *id.*

288. See *id.*

289. See *id.*

voices of all persons working within a corporation, corporations using full circle evaluations are able to make very informed decisions regarding the well-being of both the corporation and its members.