

GENDERED EXPERTISE

MARIA J. AZOCAR

University of Wisconsin-Madison, USA

Universidad Diego Portales, Chile

MYRA MARX FERREE

University of Wisconsin-Madison, USA

Based on in-depth interviews with policymakers and archival data, we examine the policy debates over court reform in family law and criminal law in Chile after the democratic transition. We introduce the concept of “gendered expertise” to capture the set of competences and claims organized around perceived gender differences and mobilized through gendered networks that we found in these debates. We show how gender structured and valorized lawyers’ expertise and shaped the differing outcomes in these two reforms. In the power struggles among law reformers, both men and women lawyers used gendered expertise as a resource for characterizing themselves and their opponents. In the end, criminal law reform not only received far more political and economic support for its implementation than any other Chilean judicial reform, but defined the appropriate political reforms in relation to gendered meanings of law and political reconciliation.

Keywords: gender; expertise; legal profession; Chile; political transition

In 2000, a major reform of criminal courts took place in Chile. Unlike family court reforms officially proposed as part of the transition to democracy in 1990, criminal court reform was not part of the government’s agenda. Its promoters fought for six years to convince state officials it was necessary, even as opponents torpedoed the family court proposal. We take these protracted legal debates as an opportunity to examine how gender relations were used to help define the political tran-

AUTHORS’ NOTE: *We are grateful to Sida Liu and Jessica Kirstein for their comments on previous drafts of this article. We are especially grateful to Joya Misra, Adia Harvey Wingfield, and four anonymous reviewers for their comments that helped us to improve the article in several important ways. This research received no specific grant from any funding agency in the public, commercial, or not-for-profit sectors. Correspondence concerning this article should be addressed to Maria Azocar, University of Wisconsin-Madison, 1180 Observatory Drive, Madison WI 53706; e-mail: mazocar@ssc.wisc.edu.*

GENDER & SOCIETY, Vol XX No. X, Month, XXXX 1–22

DOI: 10.1177/0891243215602104

© 2015 by The Author(s)

sition, the expertise of lawyers, and the role of courts in responding to the population's needs.

We argue that the promoters of the criminal reform gendered their expertise as a specific kind of masculine one in order to better position themselves in this policy debate. The lawyers advocating reform subordinated the expertise of their critics by gendering it not merely as male but as that of "old gentlemen," and their own as a modern, technologically rational masculinity, characterizations that their elite opponents unsuccessfully resisted. They also devalued the expertise of family lawyers working in the new democratic government as feminine, a framing that most family lawyers accepted, although they contested the devaluation of their professionalism. Their successful battle for the political recognition of their expertise resulted in criminal law reform receiving far more political and economic support for its implementation than any other legal reform in Chile, and becoming defined by Chilean politicians as "the reform of the century" (Duce 2010, 192)

Taking lessons from this Chilean case, our aim is twofold. First, we aim to extend understanding of struggles over knowledge to include practices of "gendered expertise." By gendered expertise, we mean practices of doing competence and making claims that are organized around perceived gender differences and mobilized through gendered networks. Rather than differences between women and men enacting masculinity or femininity as persons, differences in gendered expertise describe the claims, competences, and networks that connect gender, knowledge, and power in a relational field. Further, in the specific case of Chile, we find that the gendering of expertise by lawyers with particular interests in reform was an expression of an underlying discourse of crisis in the legal profession. Thus, the gendering of expertise as a practice of knowledge production redefined hegemonic discourses around professional identities. Lawyers' practices of identity-making and self-affirmation took time, were unstable, and were in flux, and gender offered a grammar that marked difference and consolidated hierarchies of privilege.

Second, we aim to examine these discourses on gendered legal expertise that articulated and incorporated a sexist logic with effects that went beyond the legal profession. The practices of gendering expertise created distinctions between appropriate and inappropriate political reforms. These practices of knowledge production ended up in widely shared gendered understandings of political reconciliation, the significance of law, and the performance of courts. By stressing the value of reconciliation while placing feminine expertise in the private sphere and giving mascu-

line expertise a new meaning as scientific and disinterested, criminal law reform was affirmed as being fundamental to the public interest while family law, family courts, and women seeking redress through the law were disempowered.

We first present our definition of gendered expertise and we explain how it matters especially in moments of contested policy making. We particularly focus on transition politics in Latin America, where claims and counterclaims about gender have been noted before. We then describe the Chilean political context under which the family and criminal reform were discussed. We next describe the methods and data used and present the empirical findings about the actors and struggles that took place between 1991 and 2000, the year when the criminal reform was implemented. We conclude by drawing out the broader significance of understanding gendered expertise as a particular form of empowered knowledge production done by and for institutions in a particular time and place.

GENDER POLITICS OF PROFESSIONS IN TRANSITIONAL PERIODS

Gal and Kligman (2000), looking at Eastern Europe in the 1990s, argue that democratic transitional periods are key moments in which gender relations are used to define the very terms of citizenship and political participation. Feminist scholars of the Latin American transitions to democracy also note how contestations over gender relations figure strongly into the outcomes of these struggles (e.g., Baldez 1999; Haas 2006; Htun 2003; Jelin 1996; Rios-Tobar 2003). Waylen (2010), for example, describes the Chilean transition as negotiated by a small elite, with the Catholic Church permanently opposed to the feminist agenda. Htun (2003) compared marriage legislation in Argentina, Brazil, and Chile under military governments and in democratizing periods and concluded that the ability of the lawyers who participated as experts on state commissions to successfully enact a “technical” expertise was crucial in these outcomes. Following up on Htun’s insights on the Chilean transition, we explore where and how legal expertise was presented by lawyers in gendered terms, shedding light on both who had the chance to participate in such expert locations and how lawyers’ claims to “technical” expertise became effective or not.

Expertise reflects a successful claim to intra-professional status. As many studies have shown, gender has been a key mechanism for the

allocation of status in professions, occupations, and organizations (Acker 1990; Ridgeway 1997; Williams 2013). Men are considered more valuable workers than women and seen as more competent and more worthy of reward; women are usually segregated to jobs considered less skilled, reinforcing the idea that women have different and less important skills (Leidner 1991, 151). While women may be more readily admitted into the sectors of a profession or organization that is declining in status or autonomy (Reskin and Roos 1990; Skuratowicz and Hunter 2004), there is also evidence that when women enter into male-dominated occupations, the status of these occupations may decline (Lincoln 2010). In the United States, when lawyers are asked to rank areas of specialty by prestige, men are usually overrepresented in high-prestige areas, such as corporate law, while women are overrepresented in low-prestige areas, such as divorce law (Heinz and Laumann 2005, 86-95). Moreover, the effects of these practices of status allocation can be seen in the androcentric depiction of professions. For example, legal firms expect their litigators to develop a “Rambo” style (Pierce 1995, 60), but women are punished when they assume this intimidating and angry style. This androcentric definition of legal expertise has also been recognized as part of U.S. law schools’ organizational culture (Alexander-Floyd 2010).

These gender-aware studies of democratic transitions and organizational and professional norms together show that changes in status hierarchies reflect gendered institutional rules, not only individual roles. Moments of contested policy reform offer invaluable opportunities to explore how active gender negotiation establishes certain truths about professional identities. Gender relations contribute to defining distinctions within professions by conferring status on some types of work, some sorts of networks, and some sorts of knowledge claims. Moreover, gender relations help to establish the meaning and social value of a profession as a whole. In short, in moments of policy reform, gender is used to create boundaries (Gieryn 1983) and signify power relationships (Scott 1986).

ENGENDERING EXPERTISE

In general, expertise is defined as knowledge that people have to accomplish a given task (Abbott 1988; Freidson 2001; Larson 1979). Thus, we commonly find expertise studied in the form of epistemic

communities, schools of thought, or issue networks because these are the sites where knowledge is produced and institutionalized (Hecló 1978; Mertz 2007). But expertise is not limited to producing scholarly forms of knowledge. “Expertise is something that people do, rather than something people have” (Carr 2010, 18); thus, expertise is related to competences certified by educational credentials, by positions in employment, and also by a recognizable linguistic repertoire mastered in the process of professional socialization.

Moreover, as a social competence, the construction of expertise is conditioned by the arrangements in place for its recognition. Expertise, then, is also a network that links together objects, actors, techniques, devices, and institutional and spatial arrangements (Eyal 2013, 864). After all, the ability to enact competence successfully necessarily implies cooperation between expert and nonexpert groups in a specific social location, giving those recognized as experts more chances to obtain resources, organize future opportunities, and signify power relationships. Through expert networks, both national and transnational (Fourcade 2006; Keck and Sikkink 1998), problems are identified and specific diagnostic claims and judgments about solutions are mobilized. Expertise makes claims that indicate how “to classify a problem, to reason about it, and to take action on it” (Abbott 1988, 40).

In a nutshell, we identify expertise that is gendered as expertise organized by perceived gender differences to signify relations of power. It operates in and through gender relations by three essential social mechanisms: diagnostic and treatment claims that identify a problem and its solution; social competences that define ways to accomplish tasks in the workplace; and networks that link those claims and competences with each other as well as to objects, technologies, institutions, and actors. Each of these mechanisms—claims, competences, and networks—can be gendered independently of the individuals who make use of them to advance their relative position, but each also has consequences (intended or not) for social power relations.

In the context of a political transition, where status distinctions of various sorts are being renegotiated, the opportunities for gendered expertise to shape institutional outcomes will matter for how the interests of women and men will be defined and served. Thus, we expect the gendering of legal expertise in the Chilean struggle over court reforms to have consequences not only for professionals but also for how the institutions of law and courts are evaluated and how these institutions respond to social needs of the population.

THE HISTORICAL CONTEXT

The criminal court reform was implemented in the year 2000 and the family court reform in the year 2005. But the discussion of these reforms took place throughout the 1990s, just after the end of 17 years of dictatorship (1973-1990). During the 1990s, the new government, which was supported by a coalition of center-left parties, proposed several judicial reforms, most importantly the creation of a National Judicial Council. The Council's purpose was to monitor judges' performance and democratize their culture, a political response to their outright collaboration with the dictatorship (Correa 1999; Hilbink 2007; Huneus 2010). However, right-wing politicians and the Supreme Court fiercely opposed the creation of the Council. The tone of the debate became so contentious that the government dropped the project in 1992. The reform itself failed and the idea spread that the government had a "Marxist revolutionary agenda" to attack the judiciary (Hilbink 2007, 183). As a result, reconciliation of the right and left became a utopian discourse for the new democratic government (Hiner and Azocar, forthcoming; Lira and Loveman 1999, 343).

Amid these tensions, a group of young scholars at a small private university (*Universidad Diego Portales*) started a discussion in 1991 about reforming the criminal courts (Palacios 2011, 52). Even though these young legal scholars had political affinities with the center left, their proposal was not part of the government's agenda and they were subjected to fierce attack by the right wing, Supreme Court magistrates, and certain segments of academia. Opponents argued for more efficient use of resources in existing courts instead (Biblioteca del Congreso Nacional 1997, 178). As we demonstrate below, the young reformers' strategy made creative use of gender to overcome these criticisms.

Additionally, feminists played a role in mobilizing judicial reform proposals during the 1990s. After all, their movement had been an important ally in opposition to the dictatorship (Baldez 1999; Haas 2006; Htun 2003; Rios-Tobar 2003; Waylen 2010). In response to feminist pressure, the government created a national commission on "family matters" and instructed the commissioners to make policy recommendations, urging them to embrace the ideal of neutrality and common interests. But as other scholars have noted (Haas 2006; Hiner and Azocar, forthcoming; Htun 2003), it was difficult during these years to reach an agreement on the problems affecting Chilean families. Sending divorce or domestic violence cases to the courts and accepting the existence of non-heteronormative families caused a fierce reaction from some actors on the commission, the ruling party, the right wing, and the Catholic Church.

But the creation of Family Courts nonetheless emerged as the Commission's central recommendation. Commissioners stressed conflict between men and women in the heterosexual family and expected new family courts would advance the reconciliation of family members and induce the "fortification of the family" (Centro de Estudios y Gestion para el Desarrollo 2002, 21; Htun 2003, 109). These new family courts aimed to replace juvenile courts and concentrate issues previously dealt with in several courts into one jurisdiction. Following the model of U.S. family courts, the Commission proposed an oral procedure for litigation and a family mediation system. In 1994, the former head of the national Office of Women's Affairs was appointed as the new Secretary of Justice, and reform of family courts became a government priority.

The new democratic government had a stake in reform but so did lawyers. In 1990 8,410 people were studying law. Twenty years later, there were 36,610 law students. By 1994, just four years after the end of the Pinochet regime, women represented 40 percent of the first year enrollment in law schools.¹ For these newcomers, the judiciary was particularly attractive because judicial posts secured a stable income and career, even though judgeships had low professional prestige and were relatively poorly paid (Hilbink 2007).² This shift in the composition of the profession was contested during the transition. In the 1990s, the increasing numbers of women and less elite men among lawyers and law students became a focus for a discourse of professional crisis that gained a special force among elite lawyers (De la Maza 2001).

Further, this status crisis was aggravated by the presence of economists in the government, who represented a threat to elite lawyers' social position. As Dezalay and Garth (2002) have explained, "gentlemen lawyers" entered into a struggle against "technopols," iconically represented during the dictatorship by the image of the "Chicago Boys" (Chilean neoliberal economists who studied at the University of Chicago). Montecinos (1997) showed how economists gained power in the Chilean state under Pinochet and how the democratic transition enhanced it. Economists based their claims to expertise in the use of numbers as apolitical technologies of governance and on international networks formed through U.S. education (Dezalay and Garth 2002). The "gentlemen lawyers" based their power claims in their familial capital and local knowledge of Chilean law, and were discursively defined as having parochial interests and aristocratic ambitions (*ibid.*, 30). The political transition offered a crucial moment in which "gentlemen lawyers" had an opportunity to recover the power they had lost to economists.

In sum, the transition from dictatorship to democracy in Chile was a moment at which Chilean courts and lawyers faced multiple demands for reform in the practice of law. External competition with economists and internal competition with women and middle-class lawyers gave rise to a pervasive discourse of crisis among the notables of the legal profession. The idea of crisis in the judiciary was also associated with party competition between left and right and feminist challenges to Catholic definitions of family rights. Crisis and reconciliation set the parameters of the policy debate. In this contestation over professional and political power, opportunities abounded for lawyers to gender expertise for leverage in shaping the outcomes both for themselves and for Chilean society.

METHODS

This research was not originally designed to analyze gendered expertise but to compare the policy-making processes of criminal and family court reforms in Chile between 2000 and 2008. The study included three sources of data: archival material from the parliamentary debates over the reforms; secondary sources for statistics on the gender stratification of the legal profession in Chile; and in-depth interviews with the policymakers involved in the design and implementation of the two court reforms.

Over the course of the study, we realized that the recognition of expertise was crucial to the process of policy making and that the active making of expertise was gendered. Thus, the analysis is inductive rather than deductive. We went back to the parliamentary debates and the interview transcripts and reexamined the 38 interviews conducted with participants in the discussion, design, and implementation of the two court reforms. Using a snowball sample, the first author personally conducted all the interviews between 2010 and 2011. She interviewed judges, academics, think-tank lawyers, practitioners, and politicians who participated in the policy-making processes for both reforms. Six people who were interviewed were involved in the design and implementation of both reforms (all men); 11 were involved only in the Criminal Court Reform (all but one were men); and 21 were involved in the Family Court Reform (18 women and three men). We identify the interviews by number for transparency, and also refer to the gender and occupation of each respondent. Our inductive approach explored lawyers' professional biographies and how they defined which contests and professional boundaries were at stake during the policy debate. We conducted interviews with economists and psychologists who generated information to test some claims. In addition, the first

author's workshop with informants in December 2010 in Santiago generated feedback that served as a validity check on our interpretations.

The parliamentary discussions of the family law and criminal law proposals are available online (www.bcn.cl). They provided us with an overview of the arguments publicly raised by the reformers and congressional representatives, the points of conflict among politicians, and the groups and organizations invited to congressional roundtables to speak to each reform. The transcripts and interviews were analyzed with the qualitative software NVivo. The codes created to organize the evidence allowed us to check quotations against our interpretations. We paid attention also to which proposals were actually enacted into law and when.

Finally, the first author collected statistical information on the gendered stratification of the legal profession in Chile from secondary sources: the Ministry of Education and the official webpage of the University of Chile (www.derecho.uchile.cl). Additional evidence on the outcome of the two reforms was provided by the first author's participant observation of the courts in the postreform period.

THE BATTLE FOR EXPERTISE

We begin by showing how gender made a difference in the way criminal lawyers strategically presented their competences, networks, and claims to gain leverage in the policy debate and to confront the attacks coming from academia, the Supreme Court, and family lawyers working in the government.

Gendering Competences

The criminal court reform was not part of the government's agenda; thus, those who promoted it needed to make a collective effort to gain influence in the political field. To do this, the intellectual authors of the criminal court reform identified their competences as that of law professors. Their strategy was to use university forums to enact the expertise of legal scholars dealing with the "most intellectually sophisticated" branch of the profession (i.e., criminal law), a "complex jurisprudence" (male lawyer #33), questioning the state and its power, "connected to a long-standing European tradition" and to contemporary developments on human rights law (male lawyer #35, male lawyer #37).³

But the position of criminal lawyers as experts in law was highly contested by sectors within the largely male legal academy. For gentlemen

lawyers, some of them procedural law professors, the criminal law reformers were too young and lacked local knowledge. They saw the reformers as recently graduated students “who came from the U.S.” and were “too young to understand law” (male lawyer #29). These lawyers were “too pragmatic” and “too policy-oriented” (male lawyer #33). One reformer said, “We are treated as lacking dogmatism. It is a name for us . . . almost as if we are dedicated to the design of public policy. They [procedural law professors] accused us of not doing law” (male lawyer #16). Moreover, echoing the divisive atmosphere of those years, procedural law scholars accused criminal law policymakers of being co-opted by a “leftist ideology of penal lawyers” mobilized in global and local networks (male lawyer #16, male lawyer #29, male lawyer #33).

To confront these attacks, criminal lawyers (the majority of them men) presented their claims as embedded in a middle-class male ethos of competitiveness, intelligence, and meritocracy. It was a positive redefinition that paradoxically emerged from their class marginalization within the profession. Indeed, one gentleman lawyer declared, “[Criminal court reformers] did not have too much space outside academia; they are important in seminaries, but that’s it” (male lawyer #8). But as “just” professors, criminal lawyers used the institutional channels of university forums to enact a meritocratic ideal of workaholic students with the gift of intelligence and the erudition of academia.

Moreover, these criminal lawyers presented themselves as modern scholars having the excitement and ambition of youth. As “recently graduated students” they devalued the expertise of Supreme Court magistrates, procedural law professors, and gentlemen lawyers as too parochial and conservative. One criminal lawyer stated, “The reform was very attractive to us because everything that our professors wrote or said in class was outdated. They did not read anything from the last fifty years. It was like the medieval ages” (male lawyer #16).

Their ambition and innovation was also framed by claims to managerial competence. Their expertise was “less dogmatic” than that of their law professor colleagues because their networks incorporated the input of other professions in order to understand law in “contextual terms” (male lawyer #37). This expertise went beyond law and included their attention to “organizational aspects” of the administration of justice (male lawyer #33). In line with the idealized masculinity of managerial competence described by Connell and Wood (2005), they presented their work as integrated and performed with complex computer systems. One interviewer explained how they were so effective: “We built a computational model

of simulation to get different scenarios; it was a mathematical model, key for the negotiation with the government, we surprised everyone” (male lawyer #37). Indeed, the language of numbers was considered a “path-breaking innovation within legal circles,” something that “no other group did before” (male lawyer #5, male lawyer #12, male lawyer #16, male lawyer #33, male lawyer #37).

Criminal court reformers also wanted to convince state authorities that their proposal was more important than the one promoted by the Ministry of Justice on family law. Hence, they reintroduced the distinction between theory and practice to compare themselves with family law competitors in the government. They claimed family lawyers did not have a “dogmatic criteria” of justice and “maybe [their practice] is challenging from a humanitarian point of view, but it lacks what we as lawyers call ‘dogmatic value’” (male lawyer #1, male lawyer #8).⁴ With this strategy, the family lawyers as competitors were devalued because their expertise was based on competences acquired in practical experience rather than theoretical skill.

In fact, family lawyers commonly criticized law schools for refusing to include family legal doctrine in their curricula. One family litigator declared, “All the lawyers who are working here are self-taught, everyone. Maybe some of them took some courses in [she named the universities], but these courses have poor quality, the level is really bad” (female lawyer #22). The symbolic distinction between the law of professors and the law of practitioners (Bourdieu 1987) adopted and reproduced a gendered division of labor where family lawyers were feminine practitioners who did the “dirty” work of litigation and facilitated “men’s work” on abstract and complex doctrinal issues.

This division became even more gender-delineated by the discourse among women family lawyers who presented their competence as the result of a natural calling and special sensibility to the family. Some declared that as women they had the tendency to prioritize agreements and reconciliation among family members, claiming that family law practice gave them special emotional compensations: They worked to “reconcile broken families,” to “help” in moments of crisis, and to be recognized as something more than “just” a lawyer (female lawyer #7, female lawyer #9, female lawyer #20, female lawyer #38).⁵ Another woman lawyer declared: “[Family law] is an area that men do not like. It is too complicated for them. They do not know how to manage family conflicts. They do not know what to do when the client cries. So this is an area of 95 percent women” (female lawyer #15).

The apparent superiority of criminal lawyers' competences in doctrine over family lawyers' competences in practice was gendered and permitted the former to devalue the expertise of the latter. In addition, criminal lawyers used their own age and class marginalization in legal academia to claim innovative masculinized competences, which, in turn, permitted them to devalue the expertise of their older male colleagues. They had erudition as law professors; but in contrast to old gentlemen lawyers and procedural professors they had ambition, quantitative skills, and modern managerial competences.

Gendering Networks

The enactment of these masculine forms of competence needed to be collectively ratified. As others have noted (Palacios 2011), the Chilean criminal court reformers used transnational networks to strengthen their claims of expertise. Indeed, criminal lawyers organized academic forums to which well-known international penal lawyers were invited and where the work of international jurists and international human rights lawyers were discussed.⁶

But criminal law reformers also located themselves in alliance with the nongovernmental organization Citizen Peace Foundation (*Fundacion Paz Ciudadana*). Agustín Edwards, a prominent businessman and media magnate with close ties to the dictatorship, founded this NGO in 1992. In his effort to present his think tank as a "neutral" space, Edwards included well-known figures from the center-left coalition on its board. For criminal court reformers, this NGO provided access to the media, enabling them to enact their expertise through *El Mercurio*, one of Chile's most influential newspapers. Moreover, the NGO contributed ex-ministers from the dictatorship to lobby right-wing politicians about the need for this reform.

In a context where the discourse of "reconciliation" was pervasive, the alliance with this NGO provided important legitimation. The image of center-left young lawyers working hand in hand with right-wing lobbyists had resonance. One gentleman lawyer observed:

[The reform] was something wonderful. Socialists, liberals, and the right anguished over crime control, believed that they would find the solution. The Virgin Mary and the reform were untouchables . . . , an example of how the right and the left were able to work together and modernize themselves." (male lawyer #13)⁷

The alliance offered another advantage by providing economists on the staff of the NGO to study the impact, cost, and organizational design of the new criminal courts. Their expertise, based on the technology of numbers and appeals to evidence-based knowledge, enacted the masculinity of science. By sharing in the economists' forms of scientific expertise, the young academic lawyers gained innovative legal power. They formed a network where technologies, institutions, and enactments of expertise were mobilized on the economists' own masculine terms (Fourcade, Ollion, and Algan 2015; Montecinos 2001).

In contrast, the family law reformers mobilized support for their proposal from psychologists and social workers. These professionals lacked the aura of masculine rationality that lent authority to economists. Knights and Richards (2003, 225) argue that social work and psychology as "soft" sciences do not present themselves with the technical rationality and impersonal and aggressive ability of the "hard" sciences to pursue mastery over nature but claim abilities that pertain to "the need to relate, to enter into dialogue, receptivity (listening/empathy), and the validation of and involvement in simple domestic concerns" (Knights and Richards 2003, 225). Having feminized experts in the family law reform network devalued the quality of the lawyers' expertise.

Moreover, the criminal lawyers and gentlemen lawyers negatively framed the participation of family lawyers in the government. Rather than conferring a superior position by virtue of being at the top of the state apparatus, criminal lawyers described family lawyers as officeholders, receiving orders from the Secretary of Justice, and lacking political ambitions; an opinion that policy makers from other professions also shared (male economist #6, male lawyer #8, male lawyer #16, male lawyer #33, female psychologist #21). Interestingly, to explain their position within the government, some informants declared that family reformers had a personal friendship with the Secretary of Justice (male economist #6, male lawyer #8, male lawyer #16). Feminists both outside and inside the government also harshly criticized family lawyers for their alliance with the Minister of Justice, Soledad Alvear. Although she had been Secretary of the National Office for Women's Affairs, she lacked feminist support (Htun 2003, 135-40). Even if the court reform proposal's strategic appeal to conservatives was a positive attribute, there was no "reconciliation" with feminists on offer.

Criminal lawyers reinforced their theoretical and managerial competences highlighting their ties to international legal scholars and local economists. They successfully devalued their family law competitors'

feminine-centered networks in “softer” scientific practice and in government. The interdisciplinary and international networks that brought criminal lawyers recognition as experts with theoretical, managerial, and technical skills also ratified their maleness and prestige and allowed them to take advantage of discursive opportunities generated by the political transition to discredit the ties to government that had initially given family court reform its priority.

Gendering Claims

The practices of gendered expertise include not only competences and networks but also claims about the diagnosis and solutions of problems. Lawyers in both reform movements gendered their claims in terms of a public and private binary. For this tactic, it mattered that the transitional rhetoric of “reconciliation” permeated contemporary political debate. Criminal law reformers used this framework to promote the idea that the approval of their project was an opportunity for reconciliation of left and right in Congress. The goal of reform was to introduce neutral procedures and create new judicial institutions to indirectly transform the judges’ antidemocratic ideology. In that sense, “[The reform] was not against the judiciary, against the past, because that hurt too much; instead it was a project supported by the right wing, a strong support, because it was a possibility to continue with the transition to democracy . . . in a comfortable manner” (male lawyer #33). As criminal law reform was “looking to the future” it could claim support from right-wing economists, international human rights lawyers, and ex-ministers of the dictatorship who had conflicting interests in almost all other matters of public debate. As a result, congressmen exalted the “historical” and “transcendental” dimension of the reform” (Biblioteca del Congreso Nacional 1997, 194); they praised its advocates as being “flexible in the superficial aspects,” showing their “maturity,” “will for change,” and “seriousness” (ibid., 311-16).

The rhetoric of reconciliation also mattered for family court reform, but differently. Rather than reconciliation of past political divisions, the reform claimed to reconcile existing divisions among ordinary citizens as gendered members of the domestic realm. For politicians, family law was a special law and it offered a “harmonious” solution to conflict. Law in its “traditional” sense was framed as inherently contentious and therefore unsuitable for family cases. In the words of the Minister of Justice: “[Family conflicts] constitute realities with an intimate and emotional emphasis and law as a social mechanism is limited [. . .] the traditional

view of jurisprudence is formal and legalistic, exhibiting a force that is incompatible with this pacific idea of justice" (Biblioteca del Congreso Nacional 2004, 662). Such claims of "exceptionality" have historically marginalized family law within the legal profession (Halley and Rittich 2010), and by apparently claiming that family lawyers could induce altruism and solidarity among family members, family law expertise became equated to the expertise of therapists. In parliamentary debate, as one informant explained, family lawyers were treated as "therapists rather than lawyers," so "congressmen ended up expecting that your neighbor, the priest or whoever could mediate in courts" (male lawyer #4). Politicians and reformers also mobilized gendered diagnoses over the performance of family judges. Indeed, it was common to hear in legal circles that the problem with family courts was attributed to family judges who were "difficult women" with "difficult natures" and who lacked a work ethic; who "made pro-women decisions"; who were "spinsters, old, ugly, bitter women" "knitting in courts"; who were "intellectually lazy"; and whose "destiny" was to deal with "family gossips" (male lawyer #1, male lawyer #4, male lawyer #10, female lawyer #3, female lawyer #17, female lawyer #22, female lawyer #38).

Criminal court reform sought to reconcile the positions of men of different generations and political leanings in Congress. Family court reform, on the other hand, sought to reconcile family members in the domestic realm. As a result, claims to expertise for resolving divisions in the "public" and "private" spheres respectively were highly gendered. Family law was claimed to encompass therapeutic expertise, affective warmth, and altruism. It rested on informal mechanisms of conflict resolution, allowing men in families to avoid contact with "intractable female judges." In contrast, criminal law reform professed to offer a rational and objective solution to political conflicts among men in Congress that would transcend events of the past to rebuild the polity.

CONCLUSION

Moments of policy reform are invaluable opportunities to connect policymakers as gendered subjects with the discursive opportunities through which they redefine, incorporate, or subvert gender relations. Taking lessons from the Chilean court reform debates, we draw two general conclusions. First, gender offered a grammar with which to identify true expertise in law. Gendered legal expertise was negotiated in terms of

competences ascribed to men and women and to certain fields of law, networks between lawyers and other gendered professions, and normative claims about the legitimate and illegitimate exercise of power by lawyers, courts, and judges. Expertise that was gendered as male offered advantages to those looking for recognition from state authorities, but these claims, competences, and networks were diverse and contested. In contrast, female gendered expertise was confined to family law, devalued even when associated with the political power of ministers and judges, and connected to other feminized professions whose expertise was considered due more to temperament than training. In this context, gender created opportunities for advancing political projects of court reform that particularly advantaged the male newcomers. Located in law schools, the new experts in law were young men with ambition who were innovative but politically neutral and had economist allies and managerial skills. Their success in claiming expertise was made possible through devaluations of expertise developed in practice rather than academia, expertise associated with “old gentlemen” as well as women lawyers, and expertise exercised in domestic rather than political conflict resolution.

Second, since individual enactments of expertise are important to this story, our work extends the insights from the literature on hegemonic masculinity and the varieties of masculinities in organizations (Connell 2008; Connell and Messerschmidt 2005; Hearn and Collinson 1998; Martin 2001). However, recognition of the importance of expertise itself as being gendered suggests looking beyond the embodied enactments of individuals to the networks, competences, and claims that interlock to produce differential advantage. While we present the practices of gendering expertise as strategically and purposively designed by lawyers, this might not be as pronounced in situations not defined as “crises.” Even in these cases, the young lawyers’ innovative use of gender was enabled by gaps and conflicts created by the intersecting effects of class, gender, age, and professional membership that made certain competences, claims, and networks more legible than others.

Put in other terms, criminal lawyers purposively devalued the expertise of family lawyers but the latter also contributed to their own marginalization by reproducing the general idea that family law was therapeutic law. Criminal lawyers made a monumental effort to engender their expertise to gain recognition from state authorities but the effects went beyond their specific strategic intentions. The court reforms themselves articulated gendered meanings of reconciliation as political/public or familial/private. Regardless of lawyers’ embodiment and

intentions, gender showed a stubborn power to create truth claims around law and the political transition.

The practices of gendering expertise studied here are those of a specific moment and location. Further research is needed to understand other domains and temporalities. Gendered enactments of expertise need not always appear in moments of transition or crisis. They can be considered internal to the state, part of its own constitution. They can be racialized or classed. Different conflicts among class-specific types of hegemonic masculinity can emerge. Moreover, further research is needed to understand how and when women adopt masculine enactments of expertise. Following the work of Fourcade (2001, 2006; Fourcade, Ollion, and Algan 2015), we might expect that among economists, a masculinist posture of confidence and superiority are widely shared, particularly in moments of policy reform when economists need to validate their expertise in front of other professions. In general, we suggest science and technology studies might add gendered expertise to its considerations of networks, competences, and claims in the interaction between experts and lay-persons. Since science so powerfully figures in contemporary gendered hierarchies, addressing gender expertise across its many subfields may prove especially useful.

NOTES

1. By 2013, women represented half of the students at the law schools (3,986 female vs. 3,983 male students) (Ministry of Education 2014).

2. Women in Chile represent fewer than 10 percent of partners in private firms (ADIMARK GfK 2011; Mery 2004). They represent 56 percent of the judiciary, but only 25 percent in the Supreme Court. Female judges are overrepresented in family courts (82 percent) and underrepresented in criminal agencies such as the prosecutor's offices (31 percent) (Erazo and Salvo del Canto 2007). Women's participation on law school faculties is also highly segregated. In the University of Chile in 2012, for example, women comprise 32 percent of the entire faculty but only 20 percent in the law school, where they are overrepresented at the lowest levels of the faculty hierarchy and underrepresented in fields such as economic law and criminal law (see www.derecho.uchile.cl).

3. For those readers interested in the original Spanish, one informant expressed this as “[*derecho penal*] *Es un área que es muy intelectual, tradicionalmente, muy fuerte teóricamente, muy conectada históricamente con la dogmática europea, los penalistas son muy prestigiosos, pero en un área muy de nicho porque es muy específica [. . .] entonces es un área de nicho muy importante, muy especializada y con un bagaje teórico muy potente y con mucha conexión a debates que son muy fundamentales, por ejemplo, el sentido de la pena*” (male lawyer #37).

4. In Spanish, “[*La justicia de familia*] es un mundo intelectualmente menos desafiante, humanamente muy desafiante, pero los problemas jurídicos no tienen en torno a ellos una riqueza que nosotros los abogados llamamos dogmática, donde tú tienes un conjunto de conocimientos acumulados [. . .] En el derecho de familia la cosa es mucho más arbitraria. Por ejemplo, el mejor interés del niño, qué significa el interés del niño” (male lawyer #8).

5. In Spanish, “Yo creo que en general a mí me regalaron, de alguna manera, como habilidades o condiciones naturales que hacen que ser perfectamente capaz de orientar [. . .] para mí es una compensación que se produce por el hecho de poder ayudar, en general, yo tengo que decirte que yo soy una abogada que la mayor parte de los casos llega a acuerdo [. . .] en general esta es un área que a los hombres les complica, no les gusta, no saben cómo manejar el conflicto de familia. Les complica mucho esto de que, no cierto, el cliente se les ponga a llorar, se quiebre, no saben cómo manejar estas situaciones” (female lawyer #9). Another informant said:

I always liked family law, because of my character. Sometimes lawyers avoid it because it does not have a schedule, sometimes your client calls you at midnight so you have to tell your husband, “I am sorry, but this woman is desperate.” Being like that, it can be exhausting, but you get through it. At the beginning you are more like a psychologist [. . .] I always liked this area, I do not know, it relates to your natural character” (female lawyer #7).

The Spanish original text is: “*A mí, el área de familia siempre me gustó por mi personalidad, a veces los abogados como que le hacían el quite a esto porque no tiene horario, de repente te llama el cliente a las 12 de la noche y una le tiene que decir al marido ‘lo siento, pero esta mujer está desesperada’ es un poco así, tiene un desgaste más personal, pero uno lo va asumiendo. Al principio uno se lleva la carga de sicólogo a lo mejor [. . .] siempre me gustó el área, siempre, no sé, era una cosa como con los caracteres que una tiene naturalmente*” (female lawyer #7).

6. Other scholars also attributed these characteristics to this group of lawyers. See, e.g., Palacios 2011 and Langer 2007.

7. In Spanish, “*Se da allí una cosa maravillosa entre los socialistas, los liberales y la derecha angustiados por la seguridad ciudadana y que creyeron que aquí iban a encontrar la condición de la panacea. La Virgen María y la Reforma Procesal Penal son intocables [. . .] se galopa en este caballo y genera un consenso que se transforma en un ejemplo de cómo la derecha y la izquierda logran unirse y modernizarse*” (male lawyer #13).

REFERENCES

Abbott, Andrew. 1988. *The system of professions: An essay on the division of expert labor*. Chicago: University of Chicago Press.

- Acker, Joan. 1990. Hierarchies, jobs, bodies: A theory of gendered organizations. *Gender & Society* 4:139-58.
- ADIMARK GfK. 2011. *Resultados estudios abogados* [Results of lawyers research]. <http://www.adimark.cl/es/index.asp> (accessed June 6, 2012).
- Alexander-Floyd, Nikol G. 2010. Critical race Black feminism: A "jurisprudence of resistance" and the transformation of the academy. *Signs* 35:810-20.
- Baldez, Lisa. 1999. La política partidista y los límites del feminismo de Estado en Chile. In *El modelo Chileno: Democracia y desarrollo en los noventa*, edited by Paul Drake and Ivan Jaksic. Santiago: LOM Ediciones.
- Biblioteca del Congreso Nacional. 1997. Historia de la ley que crea el Ministerio Público. Santiago: Congressional Record.
- Biblioteca del Congreso Nacional. 2004. Historia de la ley que crea los Tribunales de Familia. Santiago: Congressional Record.
- Bourdieu, Pierre. 1987. The force of law: Toward a sociology of the juridical field. *Hastings Law Journal* 38:805-53.
- Carr, E. Summerson. 2010. Enactments of expertise. *Annual Review of Anthropology* 39:17-32.
- Centro de Estudios y Gestión para el Desarrollo. 2002. Tema del mes: Nueva ley sobre matrimonio civil. Santiago: Agenda Pública.
- Correa, Jorge. 1999. Cenicenta se queda en la fiesta: El poder judicial Chileno en la década de los 90. In *El modelo Chileno: Democracia y desarrollo en los noventa*, edited by Paul Drake and Ivan Jaksic. Santiago: LOM Ediciones.
- Connell, Robert W. 2008. A thousand miles from kind: Men, masculinities and modern institutions. *Journal of Men's Studies* 16:237-52.
- Connell, Robert W., and James W. Messerschmidt. 2005. Hegemonic masculinity: Rethinking the concept. *Gender & Society* 19:829-59.
- Connell, Robert W., and Julian Wood. 2005. Globalization and business masculinities. *Men and Masculinities* 7:347-64.
- De la Maza, Iñigo. 2001. Lawyers: From the state to the market. M.A. thesis, Law School, Stanford University.
- Dezalay, Yves, and Bryant Garth. 2002. *The internationalization of palace wars: Lawyers, economists, and the contest to transform Latin American states*. Chicago: University of Chicago Press.
- Duce, Mauricio. 2010. *Diez años de reforma procesal penal en Chile: Apuntes sobre su desarrollo, logros y desafíos*. Santiago: Ministry of Justice.
- Erazo, Mariela Infante, and Paula Salvo del Canto. 2007. *Iguales en méritos, desiguales en oportunidades: Acceso de mujeres a los sistemas de administración de justicia (informe nacional)*. Santiago: Corporación Humanas Chile.
- Eyal, Gil. 2013. For a sociology of expertise: The social origins of the autism epidemic. *American Journal of Sociology* 118:863-907.
- Freidson, Eliot. 2001. *Professionalism, the third logic: On the practice of knowledge*. Chicago: University of Chicago Press.
- Fourcade, Marion. 2001. Politics, institutional structures, and the rise of economics: A comparative study. *Theory and Society* 30:397-447.

- Fourcade, Marion. 2006. The construction of a global profession: The transnationalization of economics. *American Journal of Sociology* 112:145-94.
- Fourcade, Marion, Etienne Ollion, and Yann Algan. 2015. The superiority of economists. MaxPo Discussion Paper 14/3, Max Planck Sciences Po Center on Coping with Instability in Market Societies.
- Gal, Susan, and Gail Kligman. 2000. *The politics of gender after socialism: A comparative-historical essay*. Rutgers, NJ: Princeton University Press.
- Gieryn, Thomas F. 1983. Boundary-work and the demarcation of science from non-science: Strains and interests in professional ideologies of scientists. *American Sociological Review* 48:781-95.
- Haas, Liesl. 2006. The rules of the game: Feminist policymaking in Chile. *Política* 46:199-225.
- Halley, Janet, and Kerry Rittich. 2010. Critical directions in comparative family law: Genealogies and contemporary studies of family law exceptionalism. *American Journal of Comparative Law* 58:753-75.
- Hearn, Jeff, and David L. Collinson. 1998. Men, masculinities, managements and organisational culture. *Zeitschrift für Personalforschung/German Journal of Research in Human Resource Management* 12:210-22.
- Heclo, Hugh. 1978. Issue networks and the executive establishment. In *The new American political system*, edited by Anthony King. Washington, DC: American Enterprise Institute.
- Heinz, John P., and Edward Laumann. 2005. *Urban lawyers: The new social structure of the bar*. Chicago: University of Chicago Press.
- Hilbink, Lisa. 2007. *Judges beyond politics in democracy and dictatorship: Lessons from Chile*. Cambridge, UK: Cambridge University Press.
- Hiner, Hillary, and Maria J. Azocar. Forthcoming. Irreconcilable differences: Political culture and gender violence during the Chilean transition to Democracy. *Latin American Perspectives*.
- Htun, Mala. 2003. *Sex and the state: Abortion, divorce, and the family under Latin American dictatorships and democracies*. Cambridge, UK: Cambridge University Press.
- Huneus, Alexandra. 2010. Judging from a guilty conscience: The Chilean judiciary's human rights turn. *Law & Social Inquiry* 35:99-135.
- Jelin, Elizabeth. 1996. Women, gender, and human rights. In *Constructing democracy: Human rights, citizenship and society in Latin America*. Boulder, CO: Westview.
- Keck, Margaret E. and K. Sikkink. 1998. *Activists beyond borders: Advocacy networks in international politics*. Cambridge, UK: Cambridge University Press.
- Knights, David, and Wendy Richards. 2003. Sex discrimination in UK academia. *Gender, Work & Organization* 10:213-38.
- Langer, Máximo. 2007. Revolution in Latin American criminal procedure: Diffusion of legal ideas from the periphery. *American Journal of Comparative Law* 55:617-76.

- Larson, Magali. 1979. *The rise of professionalism: A sociological analysis*. Berkeley: University of California Press.
- Leidner, Robin. 1991. Serving hamburgers and selling insurance: Gender, work, and identity in interactive service jobs. *Gender & Society* 5:154-77.
- Lincoln, Anne E. 2010. The shifting supply of men and women to occupations: Feminization in veterinary education. *Social Forces* 88:1969-98.
- Lira, Elizabeth, and Brian Loveman. 1999. Derechos humanos en la transición "modelo": Chile 1988-1999. In *El modelo Chileno: Democracia y desarrollo en los noventa*, edited by Paul Drake and Ivan Jaksic. Santiago: LOM Ediciones.
- Martin, Patricia Yancey. 2001. Mobilizing masculinities: Women's experiences of men at. *Organization* 8:587-618.
- Mertz, Elizabeth. 2007. *The language of law school: Learning to "think like a lawyer."* Oxford, UK: Oxford University Press.
- Mery, Rafael. 2004. Investigación estudios jurídicos en Chile. Unpublished paper. Universidad Diego Portales, Santiago.
- Ministry of Education. 2014. Consejo Nacional de Acreditación de Chile. <http://cned.cl>. March 19, 2014.
- Montecinos, Verónica. 1997. El valor simbólico de los economistas en la democratización de la política Chilena. *Revista Nueva Sociedad* 152:108-26.
- Montecinos, Verónica. 2001. Feminists and technocrats in the democratization of Latin America: A prolegomenon. *International Journal of Politics, Culture, and Society* 15:175-99.
- Palacios, Daniel. 2011. Criminal procedure reform in Chile. In *Lawyers and the rule of law in an era of globalization*, edited by Yves Dezalay and Brian Garth. New York: Routledge.
- Pierce, Jennifer L. 1995. *Gender trials: Emotional lives in contemporary law firms*. Berkeley: University of California Press.
- Reskin, Barbara F., and Patricia A. Roos, eds. 1990. *Job queues, gender queues: Explaining women's inroads into male occupations*. Philadelphia, PA: Temple University Press.
- Ridgeway, Cecilia L. 1997. Interaction and the conservation of gender inequality: Considering employment. *American Sociological Review* 62:218-35.
- Rios-Tobar, Marcela. 2003. Chilean feminism(s) in the 1990s paradoxes of an unfinished transition. *International Feminist Journal of Politics* 5:256-80.
- Scott, Joan Wallach. 1986. Gender as a useful category of historical analysis. *American Historical Review* 91:1053-75.
- Skuratowicz, Eva, and Larry W. Hunter. 2004. Where do women's jobs come from? Job resegregation in an American bank. *Work and Occupations* 31: 73-110.
- Williams, Christine L. 2013. The glass escalator: Revisited gender inequality in neoliberal times. *Gender & Society* 27:609-29.
- Waylen, Georgina. 2010. Gendering politics and policy in transitions to democracy: Chile and South Africa. *Policy & Politics* 38:337-52.

Maria Jose Azocar is a PhD student in Sociology at the University of Wisconsin-Madison. She is also an investigative affiliate at the Universidad Diego Portales in Chile. Her research interests are related to the sociology of law and gender.

Myra Marx Ferree is the Alice H. Cook Professor of Sociology and Director of the European Union Center of Excellence at the University of Wisconsin-Madison. She has written numerous articles about feminist organizations and politics in the United States, Germany, and internationally. She is the author of Gender: Ideas, Interactions, Institutions (W.W. Norton and Co., 2014), with Lisa Wade.