

## Gendered Lawyering: Difference and Dominance in Lawyer-Client Interaction

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This article addresses the debate about the significance of gender differences by analyzing patterns of interaction between lawyers and clients. It examines features of the language of lawyers and clients associated with the dominance and difference paradigms that are at the center of feminist theory. Talk characterized by dominance includes the control of discourse space, interruptions, topic control, and challenges. Features associated with a particular female "voice" include cooperative responses, affiliative requests, indirection, politeness, and the expression of emotion. Results show that women lawyers' talk is role behavior rather than gendered behavior, with little difference between men and women lawyers. Clients' speech is tempered by gender considerations, with both men and women clients expressing greater deference to men lawyers and women clients expressing cooperation and solidarity with all lawyers. It was mainly in reference to the occasional willingness to grant legitimacy to the clients' emotional concerns, as well as the stress on professional identity, that marked women lawyers' specific style of lawyering.

**T**he increasing presence of women in the workforce in general and in the professions in particular has galvanized the debate about the meaning and significance of gender differences. In fact, the controversy over the nature, extent and relevance of sexual "difference" (Binion 1993; Rhode 1990a) has become the most divisive issue in feminist theory. Those of the "gender-blind" school claim that there are no basic and immutable differences between men and women (Lorber 1991, 1994)

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and that to maintain male power and advantage, the overwhelming similarity between the sexes is often obscured. Others (e.g., Gilligan 1982) have claimed that common feminine experience leads to gender-specific modes of behavior and reasoning. Adherents of the “difference” approach maintain that “sameness” theorists have co-opted male notions as the standard of gender neutrality. In addition, they warn of the policy implications of ignoring sex as a legal distinction and pretending an equality that just does not exist (Littleton 1993; Scales 1993). Critics of the “difference” approach have claimed that it ignores issues of power, dominance, and the social undermining of the feminine experience by (usually male) gatekeepers (Jaggar 1990; MacKinnon 1990; Rhode 1990a); that it ignores the variation of within-gender experiences, such as the experience of women of color (Bartlett 1991; Harris 1991), and that it tends to reinforce stereotypes and portray differences as irreversible or insurmountable (Epstein 1988).

Scholars of both approaches have turned to empirical research to strengthen their cause. Studies of professional women are particularly relevant in the context of this debate. On the one hand, all professionals undergo common socialization in their training period. Typically this training has addressed a male trainee, has conveyed male norms of expected professional behavior, and has constructed and reinforced sexist ideologies about women (Epstein 1988; Graycar & Morgan 1990; Menkel-Meadow 1988). Accordingly, we should expect female professionals to behave like their male counterparts. Indeed, some studies of female managers (e.g., Hearn & Parkin 1988), doctors (Lorber 1984), and lawyers (Morello 1986) have found that there is no gender-specific style of professional behavior. Alternatively, some have claimed that when females internalize male professional norms, they become more aggressive, competitive, and combative than their male colleagues (e.g., Jack & Jack 1994). As Worrall (1987) found in her study of female magistrates, “women who invade the public space of the courtroom in positions of power and authority are expected to emulate the qualities of reason, ‘objectivity’ and *sexism* demonstrated by their male colleagues” (p. 119). On the other hand, others have found support for the claim that the particular experience of being female, the emphasis on cooperation rather than hierarchy, and the importance of relationships versus abstract rules lead to more satisfactory relationships with patients (Weisman & Teitelbaum 1985), more liberal legal judgments (Sherry 1986; but see also Davis, Haire, & Songer 1993), more mediation-oriented lawyering (Menkel-Meadow 1985), and more participatory styles of management (Adler 1986). Most of these studies have been based on

reports by women professionals themselves<sup>1</sup> or on perceptions or predictions of women's potential professional impact. I seek here to contribute to the "same-difference" debate by using socio-linguistic methods to assess the behavior of men and women lawyers in a legal aid office and the behavior of men and women clients toward the lawyers. I seek to discover, indeed, whether women lawyers speak in a "different voice" by examining the conditions under which the language of professionals is gendered and by comparing the contributions of role and gender to the language behavior of professionals and clients.

### **Language and Social Interaction**

#### *Sociological Interest in Language Data*

For several decades now, sociologists have increasingly directed their attention to studies of language use in social interaction, in order to shed light on a variety of cultural and socio-structural patterns (Corsaro 1985; Maynard 1988; Mumby & Stohl 1991). These studies view talk itself as social action, so that the ways in which talk is used by interactants in the construction and maintenance of role relationships has become a central issue in sociological research. By looking at the language strategies that (1) create the context in which relationships are negotiated and that (2) are at the same time constrained by the sociocultural context within which the encounter takes place, talk becomes the empirical site for studying the constitution of ideology and social inequalities.

### **Language and Power**

Increasingly it has become clear that the study of power must also take account of the ways in which power is communicated. As Van Dijk (1988:148) has said: "Discourse in our society is the essential communicative dimension of power . . . . Through discourse . . . [we] develop and communicate the ideologically framed social cognitions that legitimate power."

Several seemingly conflicting notions about the realization of power in discourse have emerged in the various disciplines that have investigated the link between verbal behavior and power relationships (Kedar 1988; Kramarae, Schulz, & O'Barr 1984; Ng & Bradac 1993). On the one hand, certain forms and features of language are said to be associated with powerful talk, for example, turn allocation, fluency versus hesitation markers, certain speech acts, forms of address (Dingwall 1980; Ervin-Tripp 1976; O'Barr 1982; Mulac & Bradac 1995). On the other hand, some

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<sup>1</sup> Studies of judges' behavior (e.g., Sherry 1986; Davis, Haire, & Songer 1993) were based on analysis of judicial decisions.

hold that there is no isomorphism between particular linguistic structures and social functions and that the same feature may serve different functions, even in the same culture (e.g., Harris 1984). For example, hesitations and pauses have been related to perceptions of speaker weakness and uncertainty, as well as to thoughtfulness and expertise (Walker 1985). Recently, researchers have concluded that the meaning of the various linguistic forms is negotiated by the speakers during the interaction, so that the language forms and actions both reflect and create social structures and institutions (Drew & Heritage 1992). Of course, the negotiation does not take place in a vacuum. Not only is the negotiation process affected by the asymmetrical resources that actors bring to their encounters (Matoesian 1993), but the societal institutions themselves are not neutral contexts for talk. They are organized to grant legitimacy and authority to the linguistic strategies used by one gender (or social group) while denying it to other, less powerful groups (Gal 1991, 1995). In other words, the meanings that emerge as dominant during the negotiation often rearticulate the ideologies of the privileged and powerful.

A variety of research approaches have been used for investigating the ways in which language encodes and enforces power differences (Fowler & Kress 1979). This study relies on insights from conversational analysis (e.g., Lee 1987), discourse analysis (e.g., Burton 1980; Labov & Fanshel 1977), pragmatics (e.g., Levinson 1983; Thomas 1985), and speech act theory (Austin 1970a, 1970b; Searle 1970) to analyze the marking and maintaining of power in lawyer-client relations.

### *Language and Gender*

Issues of gender neutrality, difference, and dominance that are at the heart of the theoretical feminist debate have proved to be equally divisive in studies of language and gender.<sup>2</sup> Within the dominance perspective, Lakoff (1975) and O'Barr & Atkins (1980) found that a characteristic register consisting of features associated with tentativeness, deference, and lack of authority, such as hesitations, hedges, and indirection marked the speech of women and/or the powerless. Others, among them Zimmerman and West (1975) and Fishman (1978), found that in mixed-sex conversations, men dominated women by interruptions and topics shifts, while women supported male conversational moves by acknowledgments and approval.<sup>3</sup> Scholars of the difference approach (e.g., Coates 1986; Holmes 1986; Tannen 1990) main-

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<sup>2</sup> I have based the classification of the research on language and gender on Cameron 1992.

<sup>3</sup> Both the methods and results of studies examining gender and interruptions have been challenged (e.g., Dindia 1987; James & Clarke 1993; Murray 1987).

tain that men and women have been socialized to focus their talk on separate interactional processes: Women's conversational moves seek to establish cooperation and support, while men's moves are competitive and hierarchical. In this view, it is not so much a matter of the subordination of women by men but of two distinct conversational cultures, with different sets of norms for the production and interpretation of conversational interaction (Makri-Tsilipakou 1991; Winter 1992). Thus, women are said to use a variety of forms that mitigate the directness of their requests so that the hearer can interpret the requests in a non-threatening, face-saving way (Levinson 1983; Brown & Levinson 1987). Women are more likely than men to invite confirmation of their statements by tag questions (Holmes 1986); to support the conversational moves of their interlocutor (Coates 1986; Goodwin 1988); to avoid direct challenges to or disagreements with the hearer (Makri-Tsilipakou 1991; Winter 1992); and to express emotions (Smith 1985; Togeby 1992) and affiliation.

Johnson (1994) tested these two feminist perspectives by varying the sex of students playing the roles of superiors and subordinates and examining the effect of authority and gender on a number of verbal and nonverbal features. She found that on verbal measures, dominance rather than gender explained the results, while gender, especially the sex composition of the dyad, influenced only the nonverbal measures of smiling and laughing. Additional experimental studies have upheld the view that gender affects the interaction between men and women only in power situations (Molm & Hedly 1992) or in contexts where gender is particularly salient (Smith-Lovin & Robinson 1992). Similarly, Scudder & Andrews (1995) found that students playing powerful roles in negotiations used threats more often than those playing nonpowerful roles, regardless of gender,<sup>4</sup> while Freed and Greenwood (1996) found that there was little difference between men and women in same-sex dyads in the use of "you know" or questions. However, these results were not always confirmed by studies of interactions in real-life settings. For example, Bogaers (1992) found that in middle-management job interviews, women superiors did not use the same dominant style as men in comparable positions did, while men in lower positions used fewer features associated with a subordinate style than did women.

*Language, Gender and the Professions.* Studies of the language of professionals has largely focused on doctor-patient interaction.<sup>5</sup> Most studies of gender and discourse in professional settings have explored the consequences for women patients and

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<sup>4</sup> It should be noted that Scudder and Andrews (1995) studied only same-sex interactions.

<sup>5</sup> At a 1992 conference on discourse and the professions in Upsala, of those talks that dealt with spoken expert-lay communication, 8 were of doctors and patients, 5 of

women's health care of the asymmetry in doctor-patient interaction (Fisher 1984; Fisher & Groce 1990; Paget 1983; Todd 1989). Two studies (West 1984; Ainsworth-Vaughn 1992) explicitly compared the language of male and female physicians in interactions with patients. Both found that patients were less deferent to female doctors and that the master status of gender took precedence over other power relations. In addition, this research supported the notion that women bring their own style to professional client interaction. West (1990) found that women doctors were more indirect than men doctors in their requests of patients, and these more mitigated requests were more likely to achieve patient compliance. Ainsworth-Vaughn (1992) found that female doctors were more willing to share topic control with the patient than were male doctors. She concluded that unlike characteristic male physician-patient relations, female doctors did not view the medical encounter as a power struggle.

The largely symbolic content of lawyer client interaction,<sup>6</sup> compared with the more physical aspects of doctor-patient encounters, would suggest that language plays an even greater role in the legal sphere. Indeed, the importance of language in the legal context has been widely recognized (Danet 1980, 1990; Maley 1994; Shuy 1986) not only because lawyers regard mastery of language as a critical skill for the performance of professional tasks (Gibbons 1994a) but also because in a special sense there is the realization that words *count* in the legal sphere and can have enormous implications for the life and liberty of the individual (Danet 1980). While most studies of spoken language in the legal process have analyzed communication in the courtroom (Levi 1990; Danet 1990), the public, rule-bound setting of the court is not the main or typical arena of interaction between clients and legal professionals. Rather, it is in the lawyer's office that the initial creation and transformation of legal reality takes place (Danet 1980) and where a certain ideology of the written law is transmitted to the client (Sarat & Felstiner 1995). Moreover, "lawyer-client interaction . . . is an example of social construction and legal operation under conditions of unequal power generated by unequal knowledge and experience" (Sarat & Felstiner 1988:739). Thus lawyer-client interaction is a strategic site for studying both how professional power is embedded in discourse and how it is constructed within social interactions. Nonetheless, relatively few studies observe and analyze actual lawyer-client in-

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social workers, 2 of journalists, 2 of teachers, 2 lawyers in the courtroom, 1 lawyer-client, and 1 each from various other professions.

<sup>6</sup> Cain 1994 refers to lawyers as symbol traders.

teraction<sup>7</sup> either in the context of language studies or in a general sociological frame.

In Israel, the study of lawyer-client interaction is of particular interest. Not only does Israel have one of the highest ratios of lawyers per person of any country in the world (Bogoch 1991), but women there have achieved prominence in the profession, particularly in the public sphere (Raday 1996).<sup>8</sup> Thus, it might be expected that the image of the profession would be less gender-specific than it is in most Western countries and that clients would behave in the same way with either men or women lawyers. Israel also has prided itself as being a society in which egalitarian, informal relationships prevail even between strangers. The myth of comradeship that makes ordinary social distinctions irrelevant has a strong hold on the public self-image, despite widening socioeconomic gaps (Blum-Kulka, Danet, & Gerson 1985; Katriel 1986). Thus, both gender and status may afford less power to professionals than has been evident elsewhere. The study of lawyer-client interaction in law offices thus contributes to the study of an important professional group in a setting that on the surface appears to be more egalitarian than comparable Western locales.

## Procedure

To determine whether the language of professionals and their clients reveal specific gender patterns, 19 initial conversations between 7 lawyers and their clients were recorded<sup>9</sup> and transcribed; every utterance was coded for those indications of power and cooperation said to distinguish male and female registers. These interactions took place in the only legal aid office in the Israeli city where the research was conducted, and of course Hebrew was the language of the interviews.

In all, 8,750 utterances were analyzed in conversations of the following sex composition: 7 female lawyer-female client; 6 female lawyer-male client; 5 male lawyer-female client; 1 male lawyer-male client. Although the disproportionate number of conversations with female lawyers and, even more problematic, the lack of male-male interactions, pose limitations for the analysis, the sample does, in fact, approximate the composition of the law-

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<sup>7</sup> Studies of lawyer-client interaction include Berends 1984; Bogoch 1994; Cain 1979; Griffiths 1986; Hosticka 1979; McFarland n.d.; Sarat & Felstiner 1995; Schumann 1984.

<sup>8</sup> Today, there are 3 women among the 14 justices on the Supreme Court. Also, with the growth in the legal profession and the movement of male lawyers to the more lucrative private sphere, women began filling positions in the public sphere and a few have made it to the highest echelons (Israeli 1991).

<sup>9</sup> Permission was of course obtained from both the lawyers and clients. I was present at all the interviews.

yers and clients at legal aid.<sup>10</sup> The sample included every available interview with a male lawyer, and conversations with women lawyers were chosen so that every lawyer at the legal aid office would be represented in the analysis. In addition to the quantitative analysis, a qualitative analysis of the data was conducted to enrich and illustrate the coded results and to take account of what was *not* said, when these omissions or particular choices seemed interactionally meaningful.

The conversations dealt with the two areas most frequently handled by legal aid—family law (e.g., divorce, maintenance, and custody claims) and labor law, usually appeals against decisions by the Israeli social security agency—National Insurance—regarding pension rights, work injuries, etc. Appeals of decisions made by the National Insurance required no financial eligibility criteria, so that clients represent a range of educational and professional strata. Family law cases required proof that family income was not more than 25% higher than the amount they would have received on welfare.<sup>11</sup>

I present the results of the analysis according to the dominance and difference paradigms. Within the dominance paradigm, we would expect men to control the conversation by the amount of talk, the use of interruptions, topic initiations, abrupt topic shifts, and challenges to the interlocutor. Within the difference paradigm, we would expect women to show affiliation and cooperation, to use more intimate forms of address, to mitigate direct requests, to be more polite, and to express emotions. The analysis addresses two issues: (1) Does the professional woman adopt features associated with the dominance or difference mod-

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<sup>10</sup> At the time of the study, four lawyers interviewed clients at the legal aid staff office, three females and one male. As has been noted elsewhere (Israeli 1991; Epstein 1981; Menkel-Meadow 1992), women tend to concentrate in the lower levels of the profession, and perhaps it is not surprising that most of the lawyers working at legal aid were women. We only succeeded in taping the single male lawyer with four clients because he was also acting as assistant administrative head of one legal aid office at the time of the study and thus had cut back on the number of clients he saw. We decided to use four conversations we had taped with the female lawyers, trying insofar as possible to balance the sex and status of the client. In addition, we taped two interviews with male lawyers who did not work at the legal aid office but were often hired by legal aid and one interview between a female lawyer (who had just replaced a lawyer at legal aid) and a male client, in order to redress to some extent the sex imbalance in our sample of lawyers and clients. In fact, these 19 conversations overrepresent the proportion of male clients who use legal aid (about 40% in our sample), although they are typical of men clients for type of case and social status.

<sup>11</sup> On the basis of client responses to forms filled out when they applied for legal aid, we divided the sample into two socioeconomic groups: middle class, roughly equivalent to white-collar job and /or some high school education; and lower class, roughly equivalent to blue-collar job and/or less than high school education. Not surprisingly, more of the sample was lower class; there were 11 conversations with lower-class clients and 8 with middle-class clients. In addition, middle-class women who present claims for support or divorce may have no income of their own and thus may be eligible for legal aid on these matters. Employed middle-class men, however, would by definition be ineligible for legal aid on family law matters, although they do receive aid for appeals against decisions by the National Insurance.



els? (2) What interactional work is accomplished by the participants when these features are used. The discussion focuses on the extent to which the two statuses of gender and profession interact and produce different styles of lawyering.

## Results

### The Dominance Paradigm

#### *1. Amount of Talk*

Dominance in conversational settings has often been associated with control of the floor, on the assumption that talk is a scarce resource to be shared by the conversational participants. Thus, to be dominant in a dialogue is to control a major part of this interactional space (e.g., Adelsward et al. 1987; Dingwall 1980; Edelsky & Adams 1990). In mixed-gender settings, it is commonly held that the men will dominate the discourse space, even when their partners are more knowledgeable and have greater expertise on the particular topic (Leet-Pellegrini 1980). While this linkage of power with talkativeness has been supported empirically in studies in a wide variety of settings (e.g., Johnson 1994; Ng & Bradac 1993), it has been also been challenged by various researchers (e.g., Tannen 1993a). In some instances, it is claimed, the ability to make another talk is also a sign of power (Cameron, McAlinden, & O'Leary 1989), and the person who talks a lot is at the same time dependent on the continued listening behavior of the conversational partner. In an extensive review of studies of gender and the amount of talk, James and Drakich (1993) have suggested that differing cultural expectations about women's and men's abilities and areas of competence can explain the difference in how much women and men talk in different contexts.

To measure the amount of talk, we counted the utterances by each interlocutor and calculated the ratio of lawyer to client utterances in each type of dyad. The results are presented in Table 1. First, in terms of the total number of utterances, it appears that conversations are longer when the lawyers are male. For now, let us set aside the single male-male conversation. In five conversations with male lawyers, there were more utterances than there were in seven conversations between female lawyers and clients of either sex; there were about 700 utterances per conversation between male lawyers and clients but fewer than 400 between female lawyers and clients. It is true that the male lawyers' conversations were always with the client of the opposite sex, and thus it may be argued that mixed-sex conversations are longer than same sex ones. But in conversations of women law-

yers with clients, the length of the conversation was similar for men and women clients.

**Table 1.** Percentage of Total Utterances in Same-Sex and Mixed-Sex Conversational Dyads by Role of Speaker

Role of Speaker	Dyads			
	Male–Male	Female–Female	Male–Female	Female–Male
No. of conversations	1	7	5	6
Lawyer	55%	46%	47%	54%
Client	45%	54%	53%	46%
Total	100%	100%	100%	100%
<i>N</i>	295	2,514	3,509	2,399
Mean number of utterances per conversation	295	359	701	399
Ratio of lawyer/client utterances <sup>a</sup>	1.22	.844	.893	1.17

NOTE: In all tables, the sex of the lawyer appears first, then that of the client.

<sup>a</sup>Significance of distribution of ratio of lawyer to client utterances in dyads was calculated by a nonparametric  $\chi^2$  (goodness of fit) measure:  $\chi^2 = 15.3357$ , d.f. = 3,  $p < .005$ .

More interesting are the results for the division of the amount of talk between lawyers and clients. Here, the difference between the amount of talk by lawyers and clients is smaller than previous studies would indicate. Moreover, with female clients, both male and female lawyers produce about 47% of the utterances, whereas with male clients, both male and female lawyers speak more than the clients (about 55%). If the amount of talk is a sign of control, then it appears that both men and women lawyers are more controlling with men clients, and that women clients are even more controlling than the professionals who interact with them.<sup>12</sup> This finding is contrary to most of the results of previous studies, where measures of the amount of talk indicated that women were more likely than men to be dominated (e.g., Ng & Bradac 1993). Thus it seems that correlation of power with the quantity of talk may not apply in this context. Indeed, the greater amount of talk by lawyers with male clients may indicate that lawyers of both sexes believe that male clients are more worth speaking to, that they are owed explanations for the lawyer's decisions, and that men are more likely than women to understand the lawyer's explanations.<sup>13</sup> In other words, rather than indicating that lawyers are more dominating with male clients than with female clients, these results may reflect the lawyers' greater respect for the male client. This interpretation gains

<sup>12</sup> Again, the fact that there is only one male-male conversation must be taken into consideration in evaluating these results.

<sup>13</sup> This explanation was suggested by Prof. Dafna Izraeli of the Department of Sociology of Bar-Ilan University.

credence when seen in the context of the other results of dominance presented below.

## 2. Intrusions

Breaking into another's turn to talk and trying to take over the floor have been used to measure dominance in a variety of experimental and natural settings, including studies of gender and conversation (Dindia 1987; Zimmerman & West 1975). The coding of intrusions has been problematic, in that sometimes simultaneous speech involves a display of cooperation and solidarity or a mistaken turn-transition point rather than a violation of the other's turn to talk and competition for floor (James & Clarke 1993; Murray 1985; Roger, Bull, & Smith 1988; Tannen 1984). In these conversations, only clear instances of attempts to stop the other from talking and to take over the floor were coded as intrusions, including those instances when the first speaker did not actually relinquish the floor. Simultaneous talk that occurred at or very close to turn transition points, backchannel cues, cooperative overlaps, and minor overlaps were not coded as intrusions.<sup>14</sup> Table 2 presents the distribution of intrusions between lawyers and clients by the sex of the speaker, and the ratio of lawyer-client interruptions in the various conversational dyads.<sup>15</sup>

As has been noted elsewhere (Smith-Lovin & Brody 1989), interruptions are rare; there were only 770 interruptions out of a total of 8,750 utterances. Looking first at the speech of lawyers versus clients, we can see that, as expected, and in accordance with other studies, lawyers in general were more likely to intrude on clients than vice versa, in all same-sex and mixed-sex combinations. However, the contrast between the two is not as great as might be expected, given the legal aid context, in which the lawyer not only represents the privileges and power of the professional but in which differences in social status may be greater than in ordinary lawyer-client settings. The contrast is much less than the contrast between doctors and patients in West's (1984) study, in which doctors initiated two-thirds of the interruptions. It is difficult to say whether this finding can be attributed to the

<sup>14</sup> Reliability between two judges who coded 15 of the conversations separately (the first four were coded jointly by the two coders) was high on this variable—86% agreement. On other variables, the reliability was lower, but the lowest was .68 for the variable "type of challenge."

<sup>15</sup> The literature on intrusions has usually presented the proportion of each speaker's intrusions of the total number of intrusions in the conversation, as has been presented here (James & Clarke 1993). Other studies (e.g., Smith-Lovin & Brody 1989) have presented each speaker's interruptions out of his/her total number of utterances or of the total number of the other speaker's utterances. We decided to use the first method of presentation here (although we have analyzed the results of the total number of individual utterances elsewhere; Bogoch 1991) because the large number of utterances in the sample would increase the statistical significance of the differences.

**Table 2.** Intrusions in Same-Sex and Mixed-Sex Dyads by Role of Speaker

Role of Speaker	Dyads			
	Male–Male	Female–Female	Male–Female	Female–Male
Lawyer	[75%]	60%	54%	52%
Client	[25%]	40%	46%	48%
Total	[100%]	100%	100%	100%
No. of intrusions	4	179	337	250
Ratio of intrusions lawyer/client <sup>a</sup>	3.00	1.49	1.19	1.10

NOTE: Values in brackets indicate percentages based on fewer than 20 cases.

<sup>a</sup>Significance of distribution of the ratio of lawyer to client intrusions in dyads was calculated by a nonparametric  $\chi^2$  (goodness of fit) measure:  $\chi^2 = 148.5$ , d.f. = 3,  $p < .001$ . Another test of significance was calculated without the male-male interaction to reduce the effect of the single idiosyncratic conversation:  $\chi^2 = 9.95$ , d.f. = 2,  $p < .01$ .

differences in the professions studied or to the cultural context. While both lawyers and doctors are similarly located at the top of scales rating the prestige of professionals,<sup>16</sup> in Israel as elsewhere there is greater ambivalence inherent in the role of lawyers than doctors, whose dedication to good health is less problematic than the lawyer's dedication to justice (Rueschemeyer 1973). Thus, it may be that clients are less deferent with lawyers than with doctors and are less reluctant to interrupt. It may also be that interrupting is culturally more acceptable in Israel than elsewhere.<sup>17</sup> Another explanation, which parallels other findings in this study that point to the relative strength of the Israeli client vis-à-vis the lawyer, may lie in the generally informal, solidary relationships in Israel, even among strangers and even in inherently hierarchical situations. This results in a smaller gap between the behavior of the superior and the inferior in Israel than elsewhere.

However, this lack of dominance by the professional does not apply equally to all situations. In particular, when the lawyer is a female and the client is a male, the rate of intrusions is only slightly higher for the lawyer than for the client (1.10). In other words, it appears that the male client is more powerful vis-à-vis the female lawyer than the client in any of the other sex and role combinations. Unlike West's (1984) study, in which gender *reversed* the asymmetry of doctors and patients (there were more interruptions by the patients than by female doctors), here the basic dominating effect of professional status persists but is *mitigated* by gender.

<sup>16</sup> Vered Kraus, personal communication, regarding her survey of professional prestige in Israel.

<sup>17</sup> Tannen (1981) describes the New York Jewish style of conversation in which involvement and interest are shown by cooperative overlaps. However, these types of overlaps—i.e., when the overlap completed the thought of the speaker or expressed agreement or repeated what was said—were not coded as intrusions.

### 3. *Topic Control*

The ability to determine the topics of a conversation has been recognized as the right of a superior in asymmetric relations as well as the prerogative of professionals, who can determine the scope of their service and the information they require (Abel 1986; Johnson 1972; Mishler 1984). Conversational moves that introduce a topic set up the expectation that the conversational partner not only will respond by relating to the topic of the initiating move but also will reply in the appropriate form. Thus topic initiations provide speakers with powerful tools with which to dominate the conversation (Fisher 1984; Drew & Heritage 1992; Mehan 1987). Moreover, in ordinary conversations, people don't usually jump without warning from topic to topic but will signal when they want to change conversational direction (Mishler 1984; Sacks, Schegloff, & Jefferson 1974). In fact, unexplained and abrupt topic shifts are often used in cross examinations in the courtroom to disorient the witness and obtain damaging admissions (Walker 1988). In the office, this strategy enhances the mystique associated with professionals: If lawyers bring up topics that appear completely unrelated to the matter under discussion, it must be that clients do not have the specialized knowledge to appreciate their relevance (Bogoch & Danet 1984). Maltz and Borker (1982) claim that abrupt topic shifts are typical of male conversational style, while Henley and Kramarae (1991) see such shifts as part of the male prerogative of power to define and control interaction. The following example, in which a male lawyer interviews a female client, illustrates abrupt topic shifts in context. The client wanted to obtain a court order preventing her husband from entering their home and to initiate divorce proceedings. In response to the lawyer's question, she told him why her parents could not help her (i.e., her mother was in a mental hospital), and then the lawyer asked about her ethnic background. Her ethnic background has no bearing on the case or on the information the client had provided about her mother ending up in a mental hospital. It is not the sort of "agenda-based" question (Heritage & Sorjonen 1994) that is part of the routine bureaucratic practice at legal aid. In fact, most officials in Israel would be reluctant to ask a direct question about ethnic background, and if the information were required for whatever reason (e.g., for sociological surveys), it would be phrased as a question about a parent's country of birth.

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Client: My mother due to the circumstances ended up in a mental hospital. She was a holocaust survivor and due to the circumstances she ended up in a hospital.

<sup>18</sup> These numbers refer to the location of the quote in our corpus. The first number is the conversation number; the following set of numbers are the utterance numbers in

Lawyer: Eh, what's your ethnic background?

Client: I'm from a mixed marriage.

In the following example, the female lawyer uses an abrupt topic shift and suddenly asks the client what his name is, in order to defuse his anger. It is interesting that in reply to the request for his name, the client only gives his first name. He obviously realized that her question was not for official purposes and that the information per se was not the point.

<13-162-170>

Client: When you speak nicely it doesn't help (there's no choice)

Lawyer: (but it doesn't make  
a difference)

Client: (there's no choice). If you get there they make (a person)

Lawyer: (What's  
your name?) What's your name?

Client: Eli.

In our data, there was no relationship between the sex of either the lawyer or the client on abrupt topic shifts. In all cases, in all combinations of dyads, about half the initiating moves involved abrupt topic shifts. However, there were differences in the results for the number of initiating moves. Table 3 presents the distribution of topic initiations by speakers in various combinations of sex and role.

Perhaps the most surprising finding is not that lawyers are more likely to initiate conversational sequences but the extent to which clients do so. Compared with studies of doctor-patient conversations in the United States, in which doctors were responsible for more than 90% of the initiations (Frankel 1984), Israeli lawyers are unusually noncontrolling, in that they are responsible for "only" about two-thirds of the initiating moves. As with intrusions, however, the relative power of the client is mitigated by gender. Although differences are small, the client is *most* likely to initiate topics when the client is male and the lawyer is female and *least* likely when the client is female and the lawyer is male (37% vs. 30% client initiations). Thus, just as we saw in the results for intrusions, whether in the role of lawyer or client, the

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that conversation. Thus, in this case, the conversation number is 3, and the quotes are from utterance no. 239 to no. 242. In addition to ordinary uses of comma, period, and question mark to indicate intonation, the transcription symbols are as follows:

- ( ) Simultaneous speech. Indicates where the simultaneous talk started in the words of the original speaker, and the words of the second speaker that were spoken while the first continued speaking.
- / The second speaker does not wait for the usual between-turn pause before starting to speak (latching)
- [ ] Comments. These were not part of the speech of the interlocutors, but indicate comments by the coders or transcribers, i.e., [inaudible speech].

We defined utterance as the amount of talk in the transcript between two end-of-sentence notations or interruption signs.

**Table 3.** Distribution of Initiating Moves by Role of Speaker in Same-Sex and Mixed Sex Dyads

Role of Speaker	Dyads			
	Male–Male	Female–Female	Male–Female	Female–Male
Lawyer	83%	66%	70%	63%
Client	[17%]	34%	30%	37%
Total	[100%]	100%	100%	100%
<i>N</i>	110	732	1,130	740
Ratio of lawyer/client initiations <sup>a</sup>	4.79	1.94	2.33	1.70

<sup>a</sup>Significance of the distribution of the ratio of lawyer to client initiating moves in dyads was calculated by a nonparametric  $\chi^2$  (goodness of fit) measure, using the more stringent test of eliminating the single male-male interaction:  $\chi^2 = 10.5$ , d.f. = 2,  $p < .01$ .

male is more powerful when the conversational partner is female.

#### 4. Challenges

Labov & Fanshel (1977:64) define challenges as “any reference (by direct assertion or more indirect reference) to a situation, which if true, would lower the status of the other person.” Thus, challenges are often phrased as criticism of an assertion, or of the right to make an assertion, that is considered to be within the realm of competence associated with a particular role. In lawyer-client interactions, competence in the role of client assumes that s/he is knowledgeable about his/her own affairs and can recount events in a trustworthy manner. The lawyer is assumed to be knowledgeable about facts of law and legal procedure and able to offer reliable assessments of the client’s legal position. Utterances that call into question appropriate performance of these roles constitute challenges. For example, in the following excerpt, the lawyer defines the problem the client had presented as being a criminal matter and thus outside the jurisdiction of legal aid. The client corrects the lawyer, contesting her diagnosis of the problem and thus challenging the lawyer’s professional competence. The lawyer’s reaction indicates that she indeed heard the client’s correction as a challenge to her professional status. Her request for the client to show her evidence that her own evaluation is mistaken is very direct and forceful. She heightens the force of her request by using “maybe” [*ulay*] which in Hebrew functions as an aggravator (Blum-Kulka et al. 1985), while the phrase “what you’re talking about” is very close to the idiom used for “nonsense.”

<1-71-74>

Lawyer: The problem is, we don’t handle criminal cases.

Client: It’s not a criminal case, it’s a civil case.

Lawyer: Maybe you'll show me what you're talking (about)

Client: (Yes yes)

In addition, challenges include statements that dispute the sincerity, credibility, manner, or relevance of what was said by the conversational partner (Blum-Kulka 1983), because these are contrary to the assumptions and rules of conversational cooperation (Grice 1975). In the following excerpt, the lawyer challenges both the client's competence in her role and her adherence to the rules of conversational cooperation by doubting the information she provides.

<3-463-469>

Lawyer: So I have to see the file at the rabbinat to see if it is closed or not because as (you know).

Client: (Yes it's closed)

Lawyer [continues] (you can't)(go to the )

Client [continues] (there's a )

Lawyer: (to the) District (Court)

Client: (no, there's a)  
note there that it's closed.

Lawyer: All right. I have to see it.

Although the client claimed that she had closed a file at the rabbinical court, the lawyer did not consider the client's report to be trustworthy. Despite her efforts to convince him that she had indeed closed the file, the lawyer insisted that he must see it with his own eyes.<sup>19</sup>

Challenges are rarely used in conversations,<sup>20</sup> because they are very face-threatening acts and because they articulate a competition for dominance that clearly asymmetric interactions do not require or allow. However, despite their rarity, we can clearly see in Table 4 the difference the sex of the interlocutors makes in the use of challenges in lawyer-client interaction.

<sup>19</sup> Note that a document indicating that the file had been closed was not necessary for any legal procedure. Later the client produced a copy of the note indicating that the file was indeed closed, and the lawyer glanced at it and did not take it from her. In other words, the request for proof that the file was closed was only necessary because the lawyer was not satisfied that the client knew what she was talking about, a clear challenge to her competence as a client. It may be argued that if the lawyer did not check on the client's information, his own competence could be called into question; this, however, does not take away from the fact that the lawyer did challenge the client's performance of her role. It only demonstrates that challenges of the client are part of the traditional model of professional-client interaction.

<sup>20</sup> Kotthoff's (1993) research has demonstrated a preference for disagreement in some contexts that are very different from the asymmetrical encounters analyzed here.



**Table 4.** Challenges in Same-Sex and Mixed-Sex Dyads by Role of Speaker (% Challenges of Total No. of Utterances by Speaker)

Role of Speaker	Dyads							
	Male–Male		Female–Female		Male–Female		Female–Male	
	%	<i>N</i>	%	<i>N</i>	%	<i>N</i>	%	<i>N</i>
Lawyer	11	(162)	14	(1,151)	11	(1,656)	15	(1,291)
Client <sup>a</sup>	4	(133)	4	(1,363)	2	(1,853)	6	(1,108)
All challenges	7	(295)	9	(2,514)	7	(3,509)	13	(2,399)

<sup>a</sup>Differences significant,  $p < .001$ . Significance was calculated separately for lawyers and clients.

Table 4 reveals that the most antagonism between the two sides was displayed in the female lawyer-male client combination, with almost twice as many total challenges as in the male lawyer-female client dyad. Moreover, while the proportion of lawyer challenges was fairly constant for each of the dyads, the client's behavior was affected by the sex of the professional. Female clients were least challenging in the interviews with male lawyers (2%), while the highest rate of challenges by clients occurred when male clients interacted with female lawyers (6%). Women clients appear to be at a double disadvantage in interactions with men lawyers, whose status both as men and as professionals combines to mute the voice of women clients. The gender of male clients, on the other hand, appears to mitigate their subordinate status when interacting with women, and with women lawyers adopt the type of language behavior that subordinates rarely use.

Thus, the various indices of the dominant model support the view that the superior status of the professional is reinforced by the male gender, while the inferior status of the client is mitigated by the male gender. Although the "voice" of Israeli clients is more powerful than their American counterparts, it is always less dominant than that of the professional. However, male clients are less deferent than female clients, and male clients are least deferent to female lawyers. Gender appears to provide the male clients with the power to dominate or, at least, to attempt to do so.

## The Difference Paradigm

### 1. Cooperative Moves

One way to examine the extent to which conversational partners support each other is within the framework of what Grice (1975) calls the cooperative principle. This view assumes that when people engage in the joint enterprise of a conversation, each speaker will coordinate his or her contribution with that of the previous speaker. Thus, a question is replied to, a remark is

commented on, a greeting is returned, and so on.<sup>21</sup> Of course, cooperation is not the only alternative. As Burton (1980), Edmondson (1981), and others have noted, the second part of the pair does not always correspond to the sequence set up by the initiator. For example, instead of answering a question, the interlocutor may question the assumptions of the initiating move, or may ignore the question, remain silent, or go on to another topic. Moves which provide the response in accordance with the sequence set up by the initiating move are called cooperative moves, while those that do not are called noncooperative moves. The following excerpt between a female lawyer and female client will clarify the difference.

<7-3-12>

Lawyer: Who are you?

Client: I'm his wife

Lawyer: You're his wife. Why didn't he come.

Client: He was injured in the Yom Kippur war in (his head and)

Lawyer: (I'm asking a question)

Why didn't he come and I want (an answer)

Client: (That's it, I'm telling) you all all  
(about)

Lawyer: (No I want an) answer. Why didn't he come (today?)

While the first reply by the client was a cooperative move, the next two client contributions did not provide the information the lawyer expected. In our coding scheme, they are coded as noncooperative because they do not conform to the sequential expectations set up by the initiating move. The lawyer herself indicated this very clearly.

This excerpt shows that although clients often feel they have no choice but to cooperate, they do occasionally use strategies of noncooperation and, perhaps, of resistance. Studies of male-female interaction have suggested that men tend to resist providing the expected response to initiating moves by women, as a form of control (Tannen 1990; Fishman 1978). Others (Ariel & Giora 1992) maintain that both men and women cooperate more with members of their own sex. Table 5 shows what proportion of a speaker's opening moves invoked cooperative responses by the conversational partner in each role and sex combination.

<sup>21</sup> All formulations based on the sequencing of talk originate from the notion of adjacency pairs introduced by conversation analysts Lee 1987 and Sacks, Schegloff, & Jefferson 1974.

**Table 5.** Cooperative Responses in Same-Sex and Mixed-Sex Dyads by Role of Speaker (% Cooperative Responses of Other Speaker's Total Opening Moves)

Role of Speaker	Dyads							
	Male–Male		Female–Female		Male–Female		Female–Male	
	%	<i>N</i>	%	<i>N</i>	%	<i>N</i>	%	<i>N</i>
Lawyer	[32]	(19)	34	(246)	29	(338)	24	(271)
Client	69	(91)	82	(486)	89	(792)	71	(469)
All responses	63	(110)	65	(732)	71	(1,130)	59	(740)

<sup>a</sup>Differences between dyads were not significant for either lawyer or client.

Clearly, clients are more cooperative with the opening moves of lawyers than vice versa, with two and a half to three times as many cooperative responses by the client than by the lawyer in each of the dyads. Although the differences between the dyads were not statistically significant, if we look at the cooperative moves of the clients in the two mixed-sex dyads, we see that the male lawyer is at an advantage. Compare the 71% cooperative responses by the male client to the female lawyer with the 89% cooperative responses by the female client to the male lawyer. Thus, the male client not only is more dominant with female lawyers, as indicated by the previous features, but also is less cooperative with them. The finding that the gender of the professional affects the linguistic behavior of the client rather than the behavior of the professionals themselves has so far emerged both in the dominant and cooperative models.

## 2. *Forms of Address*

The study of address forms has been one of the most popular topics in research on the power and solidarity dimensions of social relations (e.g., Ariel 1989; Brown & Gilman 1960; Ervin-Tripp 1976). In most Western cultures, mutual first-name address is associated with solidarity and casualness, whereas the deferent form (e.g., title and last name) is used reciprocally in formal, egalitarian situations. In hierarchical situations, the superior uses the intimate form, and the inferior, the deferent form (Brown & Gilman 1960; Yaeger-Dror & Sister 1987). A commonly cited example is the use of title and last name by doctors when they introduce themselves to patients, whom they address by first name, particularly if the patient is a woman (Cicourel 1983). Results of the current study support a solidary interpretation of the use of address forms and suggest that bureaucratic pressures may add another dimension to discussions of addressing in interpersonal interaction.

First, neither lawyers nor clients tended to address each other either by name or by title during the interviews at legal aid.

Moreover, addressing was never reciprocal: in no case did the lawyer use the same form to address the client as the client did to the lawyer. In the entire corpus of 8,750 utterances, there were altogether 12 occurrences of any form of address at all, 8 by clients and 4 by lawyers. All of the client uses of terms of address were by female clients—not once did a male client address a lawyer by a name or title. In addition, 6 of these 8 client-initiated address forms were directed to male lawyers. Of the 4 lawyer-initiated address terms, 3 were to female clients and only 1 to a male client. Thus, 11 of the 12 uses of named address forms involved female clients as either initiators or recipients. In addition, while it has been generally accepted that nonreciprocal last name and title expresses the hierarchical rather than the solidary dimension of relationships, it has been suggested elsewhere (Bogoch 1994) that in a bureaucratic encounter, any named address is a form of personalization. It transforms the client from an anonymous, nameless player of a role to a specific, named individual. Thus the two uses of last name address and title by lawyers to female clients appear to be associated with solidary moves rather than expressing dominance or formality, especially when compared with the typical unnamed and unaddressed form.

The most surprising finding, which seems to be contrary to studies elsewhere, is that of the seven occurrences of first-name address, five were by female clients to male lawyers, whereas only two were by lawyers to clients (one male and one female lawyer to the opposite sex client). While it is true that in Israel first-name address is used even in situations that might call for more deferent forms in other countries, the use on the part of the client is unusual. The explanation may be found in the nature of client processing in legal aid. The lawyer's first name may be the only name the client knew. The notices the clients received informing them of the date and time of their appointment usually identified the lawyers by first name only. At the office, if lawyers were addressed by colleagues or by the secretarial staff, it was also by first name, as is common among co-workers even of different ranks. It appears that these women used the first name to personalize the interaction, to establish some sort of solidarity, by using the only name they knew. In fact, on one occasion, the client used the highly unusual strategy of combining a title with the first name *mar eli* (Mr. Eli) at the beginning of the interview, although she changed it later on in the interaction to "Eli." These results indicate that women clients appear to be more concerned with establishing solidarity than men, particularly with male lawyers.

### 3. *Affiliative Requests*

One of the features commonly attributed to women is that they seek empathy and understanding of their conversational partner (Smith 1985; Tannen 1990), and a variety of features of talk are associated with achieving this end. For example, it is said that women tend to use questions for conversational maintenance rather than mainly to seek information (Fishman 1990). Five types of requests were identified in these conversations on the basis of the type of response they sought to elicit. Responses included giving information, confirmation, or clarification, where the informational content of the answer is important, and requests for evaluation or agreement (affiliative requests) that minimally demand evidence of the hearer's attention and participation rather than specific information or reactions to it.<sup>22</sup> Table 6 presents the proportion of a speaker's affiliative requests out of his/her total requests for verbal responses.

**Table 6.** Affiliative Requests in Same-Sex and Mixed-Sex Dyads by Role of Speaker (% Affiliative Requests of Total Requests by Speaker)

Role of Speaker	Dyads							
	Male–Male		Female–Female		Male–Female		Female–Male	
	%	<i>N</i>	%	<i>N</i>	%	<i>N</i>	%	<i>N</i>
Lawyer	2.7	(72)	5.6	(413)	5.8	(613)	4.9	(327)
Client <sup>a</sup>	[10]	(10)	29.0	(86)	30.2	(129)	14.5	(76)
All requests	3.7	(82)	9.6	(499)	9.3	(742)	6.7	(403)

<sup>a</sup>Differences between dyads significant:  $p < .005$ .

Results show that while there is no difference between the lawyers, who devote about 5% of their questions to affiliative needs,<sup>23</sup> women clients behave differently from male clients. With lawyers of both sexes, female clients were twice as likely as male clients to pose questions aimed at maintaining the conversation and seeking cooperation rather than focusing on the information dimension. Again, it appears that the distinct conversational style attributed to women is more apparent in client behavior and disappears when the woman is a professional.

### 4. *Indirection and Politeness*

One of the most widely held stereotypes about women's language is that women are more polite than men (Lakoff 1975; Romaine 1994) and that when they ask their partner to do some-

<sup>22</sup> These do not include requests to perform a specific action other than answering, which were subjected to a different analysis.

<sup>23</sup> I have ignored the results of the single male-male conversation in most of the analyses.

thing, they tend to make these requests more indirectly. Because requests explicitly seek to determine the other's behavior, they are considered as highly face-threatening acts (Brown & Levinson 1987)<sup>24</sup> and in all societies, linguistic strategies have evolved which minimize the imposition inherent in the act. Stating such a request indirectly, so that instead of saying, "Give me your identity card," we would say, "Could you give me your identity card?" is one such strategy. Indirection of this sort phrases the command as a question of ability, ostensibly allowing the hearer the option of replying to the question rather than performing the act. Women are said to use indirect requests because they do not want to impose on their hearer (Romaine 1994) and because this strategy minimizes the social distance between the participants and creates an impression of solidarity (Tannen 1993a; West 1990). While politeness involves many different linguistic features, often including indirection in requests (Brown & Levinson 1987), and is highly dependent on culture and context (Blum-Kulka 1990), the addition of conventional politeness markers (e.g., "please") to requests for a specific act ("come in") or item ("give me your identity card") is an easily identifiable and generally accepted indicator of politeness.

**Table 7.** Indirect Requests and Requests with Politeness Markers in Same-Sex and Mixed-Sex Dyads by Role of Speaker (% of Total Requests by Speaker)

Dyads	Role: Lawyer			Role: Client		
	% Indirect Requests <sup>a</sup>	% Politeness Markers <sup>a</sup>	No. of Requests	% Indirect Requests <sup>a</sup>	% Politeness Markers <sup>a</sup>	No. of Requests
Male-male	[20]	—	([10])	—	—	(0)
Female-female	11	9	(99)	30	19	(32)
Male-female	22	—	(113)	42	—	(24)
Female-male	21	11	(71)	[39]	[23]	([13])
All requests	18	6	(293)	36	9%	(69)

<sup>a</sup>Differences between dyads significant:  $p < .005$ .

Given the potential face-threat involved in making requests for action or goods, it is not surprising that there are so few requests (69) on the part of the client or that clients were twice as likely as lawyers to make these requests in an indirect manner (Table 7). What is difficult to explain is the fact that the *lowest* occurrence of indirect requests—the conversations in which lawyers and clients both were most direct—are those where both lawyer and client were women. Previous studies have found that both girls and women are more indirect in their requests and

<sup>24</sup> There is an extensive literature on requesting in different social contexts. Studies of direct and indirect requests in Hebrew can be found in Blum-Kulka, House, & Kasper 1989; Yaeger-Dror & Sister 1987; Bogoch 1991.

tend to avoid speech forms associated with the blatant display of power (Tanz 1987). Studies comparing same-sex and mixed-sex interaction have come to contradictory conclusions: some (e.g., Goodwin 1990) claim that girls are more indirect in same-sex encounters but adopt boys' style of greater direction in mixed interaction, while others (e.g., Tanz 1987) claim that women are more indirect when making requests of men. Nevertheless, in most studies, all female groups were characterized by more indirection than all male ones. One explanation for the results reported here may be that women feel a solidary bond, even when there are differences in status between them, so they can dispense with indirection and use forms that are typical of other intimate relationships (Blum-Kulka & House 1989; Ervin-Tripp 1987). For example, Weisman & Teitelbaum (1985) found evidence of greater rapport between same-sex doctor-patient interactions than in any mixed-sex combination, and the more direct form of requests for action may be an expression of this type of rapport. Of course, the lack of indirection may also indicate a lack of deference—women clients don't regard their same-sex lawyers as "real" professionals with whom one must interact with a certain level of deference, while women lawyers may also feel most powerful vis-à-vis their women clients.

While indirection is associated with politeness, results for the use of specific politeness markers differed from those on indirection. Politeness markers were rarely used, although they appeared more often in client requests than in lawyer requests, and only appeared in conversations with female lawyers. Only female lawyers used politeness markers; clients of both sexes used such markers *only* in conversations with female lawyers. It may be that some of these politeness markers are used to mitigate the greater directness in female-female conversations. However, it may also be that the presence of a female professional promotes a more polite conversational style by clients—that this is a sign of the impact of a woman's voice in professional-client interaction.

##### 5. *The Expression of Emotion*

While displays of emotion by men have become increasingly legitimate, women are still viewed as more willing to express emotion and as being more involved and interested in the emotional and personal lives of others. However, according to the traditional model of professional-client interaction, a professional must maintain a distant, neutral stance toward the client (Drew & Heritage 1992). Even *client* expressions of emotion are frowned upon in these settings: at best they are associated with the irrelevant social "lifeworld" of the client (patient) rather than the medical world (Fisher 1991; Hein & Wodak 1987; Mishler 1984) and often are considered a hindrance to the proper treat-

ment by the professional (Sarat & Felstiner 1995; Schumann 1984). This is true both in private practice settings, where lawyers may have problems billing time spent on emotional work and/or may fear its destabilizing effect on the interaction,<sup>25</sup> and in bureaucratic practice, where organizational constraints of time and resources combine with professional ideology to exclude emotional issues (Bogoch 1994; Strong 1988). In this study, we documented all lawyer or client references to either their own or the conversational partners' emotional state, as well as all nonverbal signs of emotion, such as tears and shouting. (There was no laughter in these data.)

*Lawyer reactions to client expressions of emotion.* In general, both male and female lawyers tended to avoid, ignore, or undermine the client's expressions of emotions. For lawyers of both sexes, the most common tactic was to change topics, and simply ignore the outburst.

<7-127-130> (female lawyer-female client)

Client: I'm also sick and tired of this life, I already wanted to commit suicide several times from all these troubles.

I (want)

Lawyer: (All right). What is the phone number of the outpatient clinic?<sup>26</sup>

<2-641-646> (male lawyer-female client)

Client: I want to listen to whatever music I like. You can't tell me what I like and what I don't like so in the morning I turn on music so he turns it off, he just gets up off the bed and closes the music. In this house we don't hear music. What sort of thing is this. [*voice raised in anger*]

Lawyer: [*3-second pause*] All right ok. Sign here for me.

Women lawyers tended to deny the legitimacy of the client's emotional outburst by classifying the client's emotional agenda as outside their realm of competence. Thus, for example:

<7-309-312> (female lawyer-female client)

Client: Look I'll tell you the truth. I'm also sick of this life. You think that that it's so good to live with him? The (children)

Lawyer: (I definitely)

Client: and I and my children all are like how do you say ([*inaudible*])

Lawyer: (Look) Madam. I am not a social worker. I'm a lawyer and I can't, I don't have time to hear this whole story from the beginning.

<sup>25</sup> I thank an anonymous reviewer for raising this point.

<sup>26</sup> The phone number the lawyer was seeking was the one for the clinic where the client's husband had been treated. Some documents were needed from that clinic for dealing with the legal problem the client brought to the legal aid office. It was not related to the client's emotional outburst.



Male lawyers did not use this strategy when denying the legitimacy of the client's emotional agenda. They simply deemed it irrelevant, without reference to their professional role.

<16-270-273> (male lawyer-female client)

Client: I'll tell you the truth. I want to take him for all we can.  
He has given us enough troubles (that person)

Lawyer: (It's not) related, it's  
not related to the troubles it's related to how much the woman  
needs.

It may be that the female lawyers at legal aid were less confident of the clients' perception of their professional role than the male lawyers, who did not feel they might be mistaken for social workers. In fact, on one of the few occasions when a lawyer responded to the client's expression of emotion, she made certain that the client knew she was going outside her professional role.

<19-148-156> (female lawyer-female client)

Lawyer: Look, I'm straying now from my job as lawyer because I could be formalistic and tell you that there is nothing for a lawyer to do. It's your problem and not our problem which is a legal problem. Your problem is a personal problem. Speak to your sister or your friend and decide what you want. I understand and I would be right. But over and above all I just want to tell you that you can't live under illusions that the court or rabbinical court will make a person into another person. From the person he is today to another person. It won't happen.

However, the very fact that the lawyer was willing to "stray" from her role, particularly in a female-female encounter, may hint at a different kind of lawyering on the part of women lawyers.

The following example was the most supportive reaction by a male lawyer to a client's emotions. His reaction to the client's anger is to question it and to remind the client that she really has no alternative but to do what he has suggested, despite her obvious revulsion. While he does not deny or ignore her anger, he treats it as irrelevant to the issue at hand.

<18-418-434 > (male lawyer-female client)

Client: I can't, you know what that is. You only tell that to me and I already feel that my blood going to my head/

Lawyer: /Why/

Client: /Just because. I,  
I ate so much already and I vomited and I vomited and I ate  
all of it. I can't anymore. I can't any more. I really feel that I  
have my fill of that topic. It's gone past all limits. I can't any-  
more, I have already (used so much)

Lawyer: (yes, but you must think about it)

Client: (strength ) that I can't. Enough/

Lawyer: /You must think  
about what's your (alternative)

Compare this with the following response of the female lawyer who had to convince a male client to take an unwanted course of action. She obviously takes her client's anger more personally than did the male lawyer, and several times reiterates her understanding of his emotion and her recognition of its legitimacy.

<13-177-185> (female lawyer-male client)

Lawyer: (All right) it's not a (question of)

Client: (Here) now he has to  
undergo another operation again. So what's (the)

Lawyer: (So) I  
accept that his condition is very bad. I understand the anger but you don't have to be angry at me. I accept that his condition is difficult. I, I accept that he suffered an injustice, I accept that according to the medical material I read they shouldn't have refused his claim. But today we have no course of action other than to go to court.

<13-260-264>

Client: (It hurts ) all this business

Lawyer: Right/

Client: /It hurts a lot.

Lawyer: I accept that, I accept that. But everyone knows the legal system is complicated.

It is not clear, however, to what extent the legitimating of the client's feelings of anger and frustration is related to the fact that the client is male. Weismann and Teitlebaum (1985) have discussed a variety of studies in which doctors have dismissed women's emotional complaints but have sought to discover the medical source of similar complaints by men. It may be that lawyers share a similar bias, and grant legitimacy to male clients' anger, while ignoring or undermining similar feelings by women. More comparisons are needed of lawyer-client interaction in a variety of cases and with clients of both sexes.

*Lawyer expressions of emotion.* The notion of professional neutrality appears to have been internalized by six of the seven lawyers in this sample. However, the exception, a woman who had worked at legal aid for about seven years and would leave about three months after the taping, did get very angry at her clients, and showed it. In both cases, the object of her anger was another woman.

<7-296-300>

Lawyer: OK Madam. I heard the whole (story)

Client: (But when) it's a  
high percentage then they really give them support. Why are you angry?

Lawyer: Because I told you that you should come on the 19th and if he doesn't come, we'll think some more.

<12-201-208>

Client: Altogether he has suffered from this. It is not simple to go through an operation at his age.

Mother: He's right (he)

Lawyer: (Madam) if you continue to talk I'll throw you out. You are simply bothering me. Definitely bothering me.

These results raise more questions than they answer. Is this behavior by a female lawyer an exception and a result of the particular circumstances in which this lawyer found herself? Or is her willingness to bluntly reveal her feelings to female clients another side to the greater rapport or lack of deference between them. It is obvious that, in general, lawyers of both sexes are reluctant to become involved in the emotional aspects of the client's problem, and this is true for both family and labor law cases. However, our data do seem to indicate that women may occasionally be willing to step out of their professional conception of themselves and to relate to the lifeworld of the client. Moreover, although emotional needs were dismissed by lawyers of both sexes, there were a number of examples when women lawyers granted legitimacy to the emotions of male clients,

## Discussion

There has been a growing realization in sociolegal studies of the importance of studying lawyer-client interaction as a way of understanding how law emerges from the playing out of power in these asymmetric relationships. At the same time, theories about the societal significance of gender have increasingly focused on women professionals and the implications of gender on the expression of power and cooperation in professional behavior. This study sought to contribute to the debate about the significance of gender differences by using linguistic features associated with the difference and dominance paradigms to study lawyer-client interaction in a legal aid office in Israel. We asked whether women lawyers display a gender specific form of interaction, or do they adopt dominant modes of behavior like those of men lawyers. In addition, we examined the client's language, to discover whether the sex of the lawyer makes a difference to client behavior. In more general terms, we were interested in determining the extent to which the verbal behavior of professionals and clients is role behavior as opposed to gendered behavior and to find out under what conditions language is gendered. Moreover, we asked whether the general Israeli antipathy to hierarchical relationships and the achievements of women in the legal profession would mitigate the expression of dominance by lawyers, as well as

the challenges by clients to the professional status of women that has been noted in other settings.

West (1984) has used the concept of “master status” to explain the reversal of role asymmetry she found when the physician was female. In her study, she found that with female doctors, patients interrupted more often, but with male doctors, the doctors were the ones who interrupted more often. Thus, she maintains that gender has primacy over the status of professional in doctor-patient encounters, that is, that patients related to the woman rather than to the professional. In fact, a number of other interpretations are possible. It may be, for example, that women doctors do not seek to control their patients and prefer to hear them speak and explain their problem without interruption. This may be a way in which women professionals bring their “different voice” to their interactions with clients.

While our results do not support the “master status” thesis, there is also little evidence for a gender-specific mode of interaction by women professionals. Female lawyers were more similar in their linguistic behavior to male lawyers than to clients of either sex. The features associated with dominance in conversation—amount of speech, interruptions, topic control and challenges—were all used more often by both men and women professionals than by clients. This favors a role, rather than gendered, interpretation of the data, although there was less of a difference between the use of these features by clients and lawyers in Israel than had been reported in other settings. This may be a remnant of the egalitarian ideology that still maintains its hold on Israelis’ self-image. However, the lowest difference between the professional’s and client’s use of dominance markers occurred when male clients interacted with female lawyers. By and large, this was due to the greater use of dominant features by male clients rather than to differences between male and female lawyers. In other words, the subordinate status of clients was mitigated when the client was male and the professional was female. Women clients, on the other hand, were most deferent with male lawyers. Thus while gender did not have primacy over professional status, it did affect the relative distance between the speakers, enhancing the displays of dominance by male clients. Male clients appear to view interaction with female lawyers as a power struggle, even when institutional constraints determine their subservient position, and are more likely to interrupt and challenge women lawyers than men. Of course, since we had only one male lawyer-male client interaction, these conclusions are tentative. However, the fact that even women clients were less deferent with women lawyers seems to underline the greater power of male professionals in the eyes of their clients. Thus, despite the fact that one third of the lawyers in Israel are women, clients appear to distinguish between the deference due “real” men profes-

sionals and what is due to women professionals.<sup>27</sup> It may be that the machismo that is also very much part of the Israeli ethos allows male clients to adopt dominant conversational characteristics when interacting with women lawyers. The use of politeness markers by all participants only in conversations with women lawyers may reflect a cultural bow to the presence of a professional woman, a form of chivalry that does not alter the advantages enjoyed by males in conversations with females.

If women professionals do not differ from men in the use of the controlling mode, is there a difference in their use of the cooperative, solidary features? Here, again, there is little evidence of a particular feminine approach. Women lawyers did not provide more cooperative responses than male lawyers, nor were they more likely to devote their conversational turns to seeking or maintaining rapport. Women clients, however, did exhibit features commonly associated with the feminine approach, and even in these asymmetric impersonal, bureaucratic conversations, women clients used strategies stressing connection and involvement. They were more cooperative than male clients, they used affiliative requests, and only women clients tried to personalize the interaction by addressing their lawyers by name. It may be that in the interviews with lawyers, these women used the strategies of cooperation and solidarity they generally used in conversational behavior. The women lawyers, however, whether as a result of professional socialization or their perceptions of their role in the interaction, by and large were indistinguishable from their male colleagues. The main exception—the relative lack of indication in requests in conversations between women professionals and women clients—may be an expression of mutual solidarity or alternatively, a mutual lack of deference. While it is impossible to state with certainty which explanation applies, on the other indices women professionals were less deferent with women clients than with men clients, and women clients were less deferent with women lawyers than with men lawyers. This favors the lack of deference thesis.

Part of the explanation for the absence of a distinct feminine voice by women lawyers may be found in the results presented on the expression of emotion. Again, women did not generally react to the lifeworld of the client but retained their stance of professional neutrality and domination. They explained their dismissal of the client's emotional concerns on the basis of the scope of their professional services. Lawyers at legal aid were well aware that their clients often had had experience with social workers—indeed, many came to legal aid on the advice of social workers. While men would be unlikely to be mistaken for social workers,

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<sup>27</sup> I found similar results when I analyzed witnesses' remarks to lawyers in open court. During examination, some witnesses uttered highly unusual directives and challenges to women lawyers. These results are currently being prepared for publication.

women lawyers suspected (probably correctly) that clients might not differentiate between the two when interviewed by a woman professional. In the context of an interview in a government office, without any credentials displaying their field of competence (as opposed to the courtroom, for example) the specific professional identity of the lawyer must be socially constructed and reproduced through talk with clients.<sup>28</sup> While men also must use talk for the building of professional identity, women had to be more explicit in proving their professional selves, especially in a profession whose image is still largely male. The all powerful ex officio authority that is taken for granted by professionals in bureaucratic settings (Strong 1988) could not be assumed by women lawyers in legal aid. Thus, not only did they adopt the male standard of professional-client interaction, but they specifically delineated and emphasized their legal role to the client. This is particularly evident in the example cited above in which the lawyer marks her concern with the client's lifeworld as a radical departure from her professional role. It is the woman lawyer's occasional willingness to address the lifeworld of the client and give legitimacy to a client's emotional concerns, as well as her stress on her professional identity, that marked the feminine voice of lawyers in these interactions.

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