

AN EMPIRICAL STUDY OF VALUES OF LAW STUDENTS IN SOUTH KOREA: DOES ‘AMERICANIZED’ LEGAL EDUCATION IMPACT THEIR CONFUCIAN ETHICS?

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ABSTRACT

This article empirically examines the values of law students in South Korea educated under the new three-year US-style JD programme with the use of a questionnaire survey. Around 300 Korean law students studying the JD programme were surveyed. Our findings suggest that the JD program has enhanced such professional values like “obedience to the law,” “professional integrity,” and “access to legal justice.” Female law students are found to be more motivated by “morality of care,” “ethic of care,” and “ethic of justice.” Finally, the results show that the US-style legal education has not undermined their Confucian ethics like “filial piety,” “face-saving,” “diligence and hard work,” “obedience to authority,” “commitment to public interest and common good,” “compassion,” “self-sacrifice,” “family harmony,” and “Gong (public).” Based on the findings, we argue that Korean law schools should strengthen value education to nurture a unique ethical identity grounded in both Confucian ethics and professional values offered by US-style legal education.

Keywords: Law Students; Ethical Identity; Professional Values, Confucian Ethics; South Korea

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I. INTRODUCTION

In most countries over the last decades, legal professions have experienced significant changes and growth in size. Legal practice has also been significantly transformed. These trends are particularly pronounced in South Korea.¹ In 2009, twenty-five law schools, which run an US-style post-graduate three-year JD program, began to operate in major cities throughout South Korea. Establishing these law schools was a part of the decade-long campaign of law reform. Article 2 of the Law School Act provides that the goal of the new law schools is to produce not only legally competent but also professionally ethical lawyers. To accomplish this goal, all law schools must offer at least one legal ethics course as a required one. Those who want to sit for the bar examination must first pass the national legal ethics examination administered by the Ministry of Justice.

Looking at the Korean legal education system and its programs, they look quite similar to those of the United States, after which South Korea has modeled.² A careful look, however, reveals a critical difference between these two countries, both in the norms

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¹On the change and growth of the legal profession in South Korea in the last decades, see Carole Silver, Jae-Hyup Lee & Jeeyoon Park, *What Firms Want: Investigating Globalization's Influence on the Market for Lawyers in Korea*, 28 COLUM J. ASIAN L. 1, 4–40 (2014).

²Historically, American legal methods and practices have a profound influence on South Korea. See Neil Chisolm, *Legal Diffusion and the Legal Profession: An Analysis of the Processes of American Influence on South Korea's Lawyers*, 26 COLUM J. ASIAN L. 267, 268–98 (2013).

and the mindset of the legal profession. The difference is mostly the outcome of the history-long influence of Confucianism on Korea. Many intellectuals and leaders in Korea had believed that the main reason why Korea was reduced to a Japanese colony was due to the Confucian cult of the Chosun Dynasty (1392–1910). They have thus stressed that the foremost task for Korea to develop is to wipe out Confucian remnants. But it turned out that they have underestimated the enduring influence of Confucianism.

Article 151 of the South Korean Criminal Law defines the exceptional circumstances of kinship concerning the concealment and aiding the escape of criminals. The law provides that it shall not be punishable when a relative or family member residing in the same house commits such a crime for the criminal. Article 148 of the Criminal Procedure Act stipulates that a person may refuse to testify when such testimony may be the cause of criminal prosecution or public action for him/her, a near relative, or legal guardian. These provisions remind the famous part of the Analects of Confucius. When a duke said that one upright man in my town testified against his father who stole sheep, Confucius replied that respectable men in my town might behave differently.

In 2014, the Korean Bar Association adopted the new Legal Ethics Code.³ Two salient features of the new code are adding new provisions on in-house counsels, and more specific regulations of legal practice which has been substantially changed and sophisticated over the last half-century.⁴ A scrutiny of the revision shows the conscious effort to erase the spirit and tones of the Confucian legacy. Due to this effort, the new code no longer has the provision, such as emphasizing uprightness or being clean-handed⁵ for all Korean lawyers. However, there still exist some remnants not completely wiped out. The mission of the lawyer, stipulates Article 1 of the Attorney-at-Law Act, is to vindicate fundamental human rights and realize social justice. The Ethics Code continues to emphasize the lawyer's duty to uphold and

³ *Legal Ethics Code Undergoes Comprehensive Reform After 14 Years*, KOR. B. ASS'N NEWS (Mar. 3, 2014), <http://news.koreanbar.or.kr/news/articleView.html?idxno=10454>.

⁴ *Id.*

⁵ Byunhosayoonrijangjeon [Legal Ethics Code] art. 2 para. 1–2, amended Feb. 24, 2014.

maintain honor and dignity.⁶ The sheer majority of disciplinary sanctions of Korean lawyers are related to the failure of the duty to maintain decency.⁷ Although the law and code do not mention it explicitly, they seem to continue preserving the ideal model of modern Korean lawyers as the old Confucian aristocrat who led and educated people for over five centuries before the Korean Republic.

This study investigates empirically the impact of US-style legal education in the form of Juris Doctor (JD) on the professional and personal values of law students in South Korea, the latter of which is shaped by Confucian ethics. To some scholars, Confucian ethics include face-saving, sense of community and harmony and respect for hierarchy.⁸ Many pieces of research on values also suggest that Confucian ethics shape the personal values of Koreans. For example, Hofstede found Korea to be “strongly collectivist.”⁹ Other scholars pointed out the influence of Confucian ethics, like submission to family and peer pressures, on Koreans’ value orientations.¹⁰

Our study is based on the conceptual framework that the new legal education experience of students trained under the three-year US-style JD program may impact their professional and personal values, the latter of which is heavily influenced by Confucian ethics. In this article, we first examine the legal education reform in South Korea. We then consider the findings of a value survey of law students conducted in the country. Specifically, we explore whether students educated under the US-style JD program are motivated by professional or personal values and also investigate any gender differences in the findings. We then reflect on the implications of the findings on the impact of US-style legal education on the values of law students in South Korea, particularly their Confucian ethics. In the final section, we conclude with a general discussion of the ethical challenges for legal education in South Korea.

⁶ Byunhosayoonrijangjeon [Legal Ethics Code] art. 5.

⁷ Sun-Ah Park, *Lawyer’s Duty of Dignity Maintenance and Non-Professional Misconduct*, 34 HANYANG L. J. 188, 185–202 (2017).

⁸ Lien Le Monkhouse, et al., *Measuring Confucian Values Among East Asian Consumers: a Four Country Study*, 19 ASIA PAC. BUS. REV. 320, 322–24 (2013).

⁹ Geert Hofstede, *National Cultures Revisited*, 18 BEHAV. SCI. RES. 285, 299 (1983).

¹⁰ Ja Hyun, Kyoung, *Sociocultural Change and Traditional Values: Confucian Values Among Koreans and Korean Americans*, 25 INT. J. INTERCULT. RELAT. 203, 206 (2001).

II. OVERVIEW OF LEGAL EDUCATION REFORM IN SOUTH KOREA

Historically speaking, the development of the legal education system in South Korea can be divided into two stages. The first stage was the LLB program, which was a “four-year Japanese style” undergraduate law program taught in the faculty of laws within universities. The LLB program, like other university programs, was one of “Confucian-based education.”¹¹ As a result, it provided academic and theoretical training to its students only.¹² The LLB curriculum comprised both general studies and law courses. There was no consensus among different stakeholders like law schools and the legal profession on the educational goal of the LLB program. The major criticism against the LLB program was its neglect of professional training.¹³ Moreover, law was taught as an undergraduate degree and many non-law subjects were taught.¹⁴ As a result, many law graduates might only take a limited number of credits in law courses while studying for a law degree.¹⁵

Starting from the 1970s, law professors and their national association in South Korea called for reform of legal education. In the early 1990s, Kim Young-Sam became the President of South Korea and established the Presidential Commission on the Promotion of Globalization (PCPG). The latter adopted a plan to reform Korean society in accordance with “global” standards. The PCPG plan involved the adoption of a three-year US-style JD law degree to train students to become lawyers with a higher standard of professional ethics.¹⁶ Such plan was opposed by both the legal profession and law schools and failed to take off at the end.¹⁷ When

¹¹ See Qi Sun, *Confucian Educational Philosophy and its Implication for Lifelong Learning and Lifelong Education*, 27 INT’L J. LIFELONG EDUC. 559, 559-78 (2008) (arguing that traditionally speaking, the objective of “Confucian-based” education was to nurture students into people of high character).

¹² Jasper Kim, *Socrates v. Confucius: An Analysis of South Korea’s Implementation of the American Law School Model*, 10 ASIAN PAC. L. & POL’Y J. 322, 322-53 (2009).

¹³ Youngjoon Kwon, *Recent Reform in Korean Legal Education*, 13 J. KOR. L. 4, 1-39 (2013)

¹⁴ *Id.*

¹⁵ Sang-Hyun Song, *Legal Education in Korea and the Asian Region*, 51 J. LEGAL EDUC. 398, 398-402 (2001).

¹⁶ Haesook Kim, *In Search of the Soul of Professionalism: The Case of Legal Education Reform Efforts in South Korea*, 5 LEGAL ETHICS 27, 27-33 (2002).

¹⁷ *Id.*

Kim Dae-jung took power in late 1990s, he established a Presidential Commission on Education Reform, which again recommended curriculum reform to a US-style graduate law program. The proposal was supported by the Department of Education, which announced the commencement of a three-year JD degree program in 2003.¹⁸ However, the proposal was abandoned, due to the resistance of the Supreme Court.¹⁹ It was not until Roh Moo-hyun became President in the early 2000s that the US-style JD program became a reality. Roh took a personal interest in judicial reform and was instrumental in the passage of the Law School Act in 2007.²⁰

In contrast to the LLB program, the curriculum of the JD program concentrates on professional training of lawyers and its educational goal is to prepare students to become professional lawyers. The curriculum and educational goals of legal educations of LLB and JD programs are therefore very different from each other. Moreover, the JD program focuses on the inculcation of professional values.

III. VALUE SURVEY OF LAW STUDENTS IN SOUTH KOREA

In this section, we draw on the data collected in a questionnaire survey conducted in South Korea in 2016 to analyze how the values of law students were related to different law degrees that they undertook. We collected a total of 286 questionnaires from law students at three universities in South Korea.²¹ The questionnaires focus on several scenarios that examine law students' choices in dilemmas they may encounter in future. The dilemmas involve practice-related issues like client confidentiality, conflict of interest, pro bono work and work-life balance. In addition, these law students were required to rank their motivating values, which

¹⁸ JaeWon Kim, *The Ideal and the Reality of the Korean Legal Profession*, 2 ASIAN PAC. L. & POL'Y J. 45, 45–68 (2001).

¹⁹ JaeWon Kim, *South Korea: Reshaping the Legal Profession*, in 1 LAWYERS IN 21ST-CENTURY SOCIETIES: NATIONAL REPORT 790, 789–800 (Richard L. Abel et al. eds., 2020).

²⁰ For a discussion of the Law School Act 2007, see Jootaek Lee, *The Crisis and Future of Korean Legal Education: Compared with the American Legal Education System*, 21 KOR. U. L. REV. 41, 41–58 (2017).

²¹ Law students in three Korean universities participated in this study: Yonsei University, Ewha Womans University and Sungkyunkwan University.

were classified into “professional values”²² and “personal values.”²³ The former include such values as “professional integrity” and “obedience to the law,” while the latter included such values as “family loyalty” and “family members’ well-being.” In the questionnaire, the law students were required to decide whether they would take certain course of action. In addition, they had to rate the values that motivated their decisions by assigning a number from 1 to 5 to each of the values listed under different scenarios (where 1 represented “unimportant” and 5 represented “very important”). We then undertook a statistical analysis of the data collected with SPSS v23, Pearson’s Chi-squared test and Welch Two Sample t-tests to determine the empirical relationship between the decisions and their motivating values.

IV. SCENARIOS AND FINDINGS

In this section, we set out several scenarios in the survey instrument with their accompanying questions, followed by findings showing the answers given by law students in South Korea and their motivating values. In particular, we compare the responses of male and female law students to evaluate any gender differences in the findings.

Scenario A

“You are a partner of a local law firm. Your nephew (the son of your elder sister) is an associate in the firm. You discover your nephew has taken money paid by his client to the law firm to cover his debts. Fortunately, you discover the problem in its very early stages. The amount missing is small, and it is

²² In this article, “professional values” refers to the values relating to conduct commonly shared by members of a profession. See Anusorn Singhapakdi & Scott J. Vitell, *Personal and Professional Ethics Underlying the Ethical Judgments of Marketers*, 12 J. BUS. ETHICS 525, 525–33 (1993) (exploring the relative influences of personal and professional values underlying the judgments of marketing practitioners).

²³ In this article, “personal values” refers to the values and priorities that form the bedrock for each person’s beliefs and attitudes. See ADRIAN EVANS, *ASSESSING LAWYERS’ ETHICS: A PRACTITIONER’S GUIDE* 188 (2010) (advocating for a variety of peer-administered testing mechanisms as having the potential to reverse damaging behaviors within the legal profession).

possible that the amount could be reimbursed without attracting any attention. You are aware that the law requires mandatory reporting of such conduct. Would you report the matter to the local law society?"

This scenario tested the students' responses to a conflict between the duty to report a colleague's misconduct and the obligation to protect a family relative. It involved a struggle between professional values like "professional integrity" and "obedience to the law" and personal values like "family loyalty" and "family members' well-being."

For Scenario A, 57% indicated that they declined to report the matter to the local law society (Figure 1). Those who declined to report rated "family loyalty" and "family members' well-being" higher than other values like "professional integrity" and "obedience to the law" (see Figure 2). In addition, 61.59% of the female students and 52.6% of the male students declined to report the case to the local law society (Table 1). It suggests a higher proportion of female law students was more likely to decline reporting the matter to the local law society than their male counterparts. This may be explained by the female law students attaching more importance to the value of "family loyalty" while their male counterparts are more motivated by value of "obedience to the law" (Figure 3).

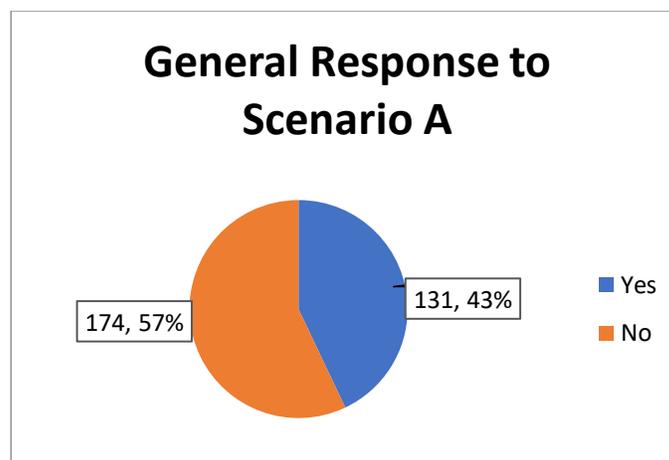


Figure 1 General response to Scenario A

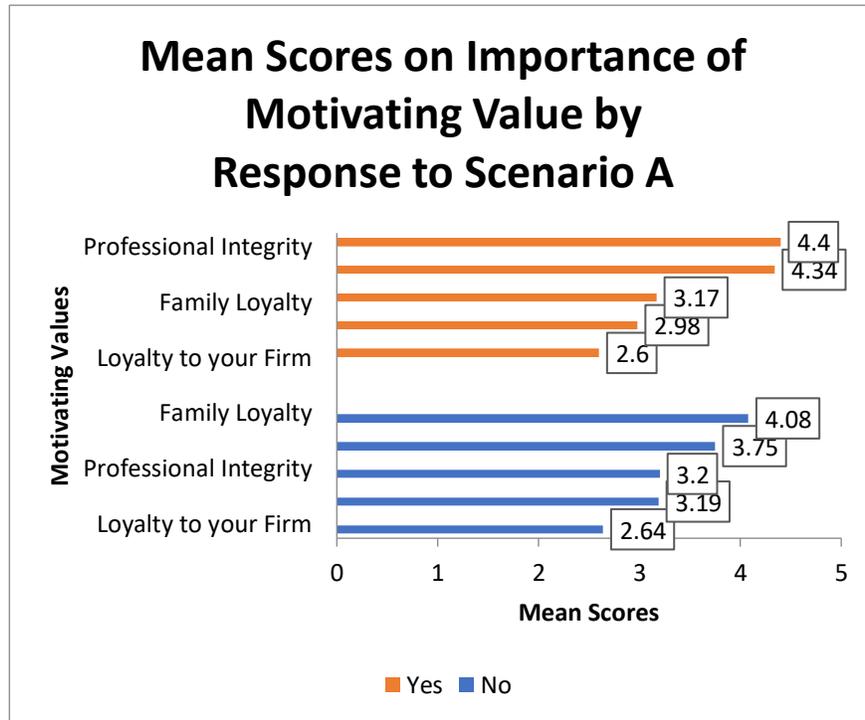


Figure 2 Mean Score on the Importance of Motivating Value by Response to Scenario A

Gender	Response	Frequency	Percentage
Male	Yes	73	47.40
	No	81	52.60
Female	Yes	58	38.41
	No	93	61.59

Table 1 Response categorized by Gender to Scenario A

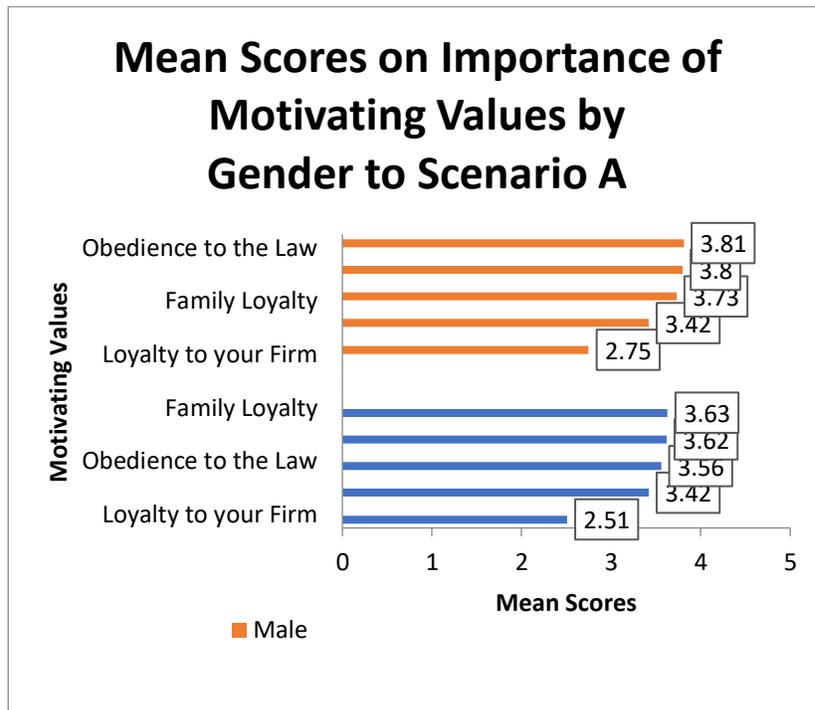


Figure 3 Mean Score on the Importance of Motivating Value by Gender to Scenario A

Scenario B

“You are a government prosecutor who has concentrated on teenager drug abuse cases. You believe that every case of teenager drug abuse harms society and must be reported and dealt with by the police. You discover that your daughter has been using a hard drug with other students at her school. Your spouse implores you not to report the matter as it may lead to possible criminal prosecution against your daughter. Your spouse also threatens to end your relationship if you do. Would you report the matter to the police?”

Similar to Scenario A, this fact pattern investigated the students’ responses to a struggle between professional values like “professional integrity” and “obedience to the law” and personal values like “family loyalty” and “family members’ well-being.”

Similar to Scenario A, 71% of the respondents declined to report the matter to the police. (Figure 4). Those who declined to report rated personal value of “family members’ well-being” higher than professional values like “obedience to the law” and “professional integrity” (Figure 5).

When confronted with a question, “*Do you think your parent(s) would report the matter to the police if they encounter a situation similar to the above question?*” most respondents (90%) think their parent(s) would not report the matter to the police (Figure 6). This suggests the law students may have been shaped by their legal education to develop professional values like “obedience to the law.”

Interestingly, 73.86% of the male law students and 68.67% of the female law students declined to report the case to the police (Table 2). The findings suggest a slightly higher percentage of male law students was more declined to report the matter to the police than their female counterparts. This may be explained by the male law students attaching a slightly higher degree of importance to the value of ‘family members’ well-being than their female counterparts (Figure 7).

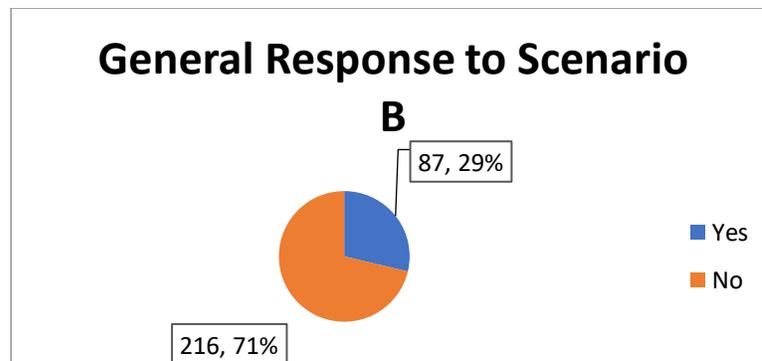


Figure 4 General response to Scenario B

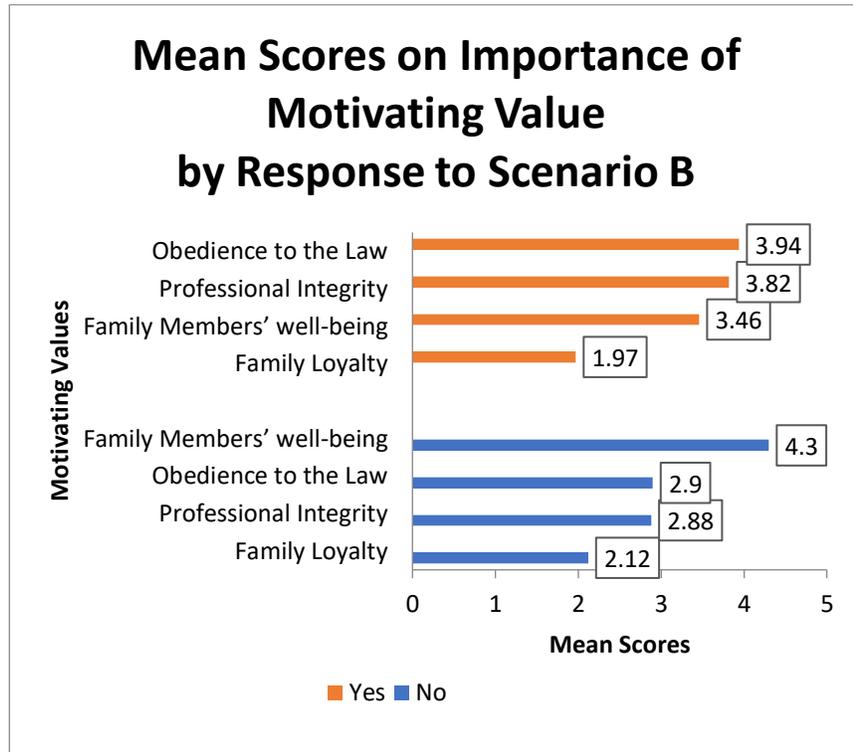


Figure 5 Mean Score on the Importance of Motivating Value by Response to Scenario B

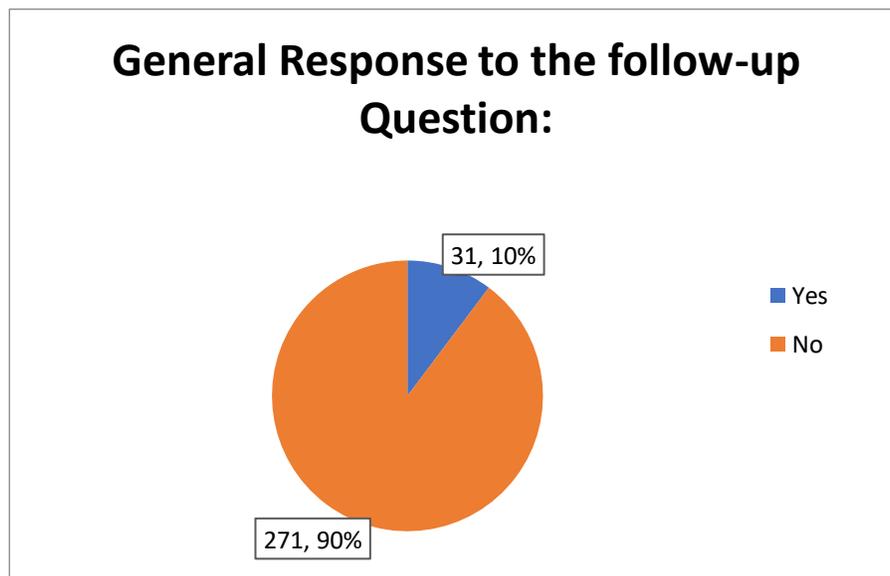


Figure 6 Response to the follow-up question of Scenario B

Gender	Response	Frequency	Percentage
Male	Yes	40	26.14
	No	113	73.86
Female	Yes	47	31.33
	No	103	68.67

Table 2 Response categorized by Gender to Scenario B

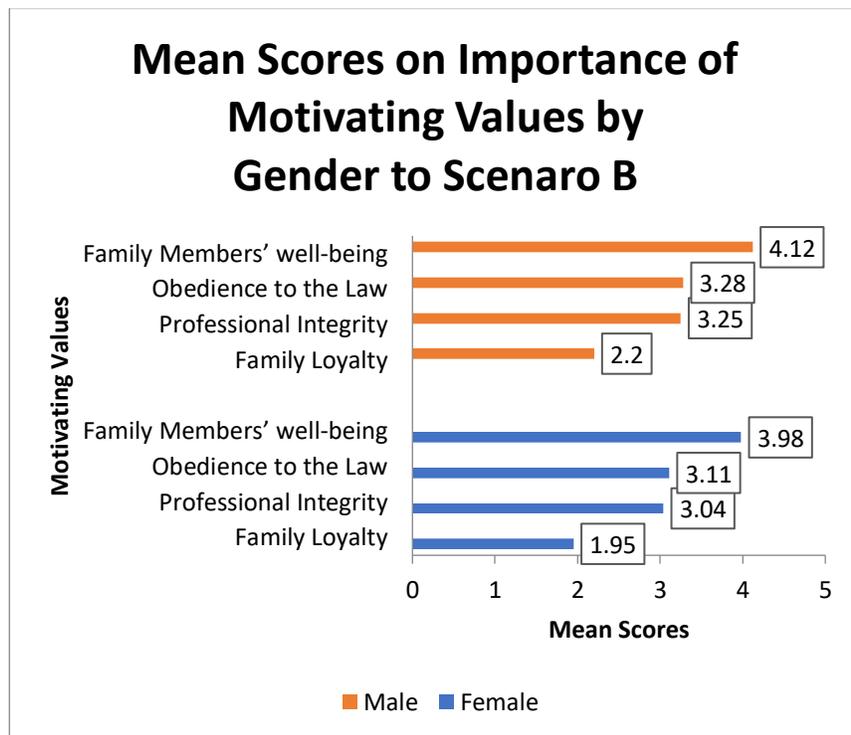


Figure 7 Mean Scores on the Importance of Motivating Value by Gender to Scenario B

Scenario C

“You are an associate working for a highly renowned firm. The long working hours are causing a lot of pressure at home with your spouse and your young children. Your children have behavior problems and your spouse has been warning you to spend more

time with your children. Meanwhile, the firm's senior partner asks you to show commitment to a project. This would involve even longer hours than usual with many late nights for at least the next half year. The senior partner also intimated that if you perform well in this project, it could lead to your promotion to be a partner of the firm. Would you take on the extra hours in order to work for the project?"

This scenario investigated the students' responses to an interest conflict between advancing professional career and promoting family well-being. It represented a conflict between the professional value of 'professional ambition' and personal values of "family loyalty" and "family members' well-being."

For scenario C, 59% agreed to take on the extra hours to work for the project (Figure 8). Those who agreed to work extra hours rate the professional value of "professional ambition" more than the personal values of "family loyalty" and "family members' well-being" (Figure 9).

Interestingly, 61.59% of the female law students indicated their willingness to work extra hours while only 56.77% of the male law students agreed to do so (Table 3). The findings suggest a slightly higher percentage of female law students was more willing to work extra hours. Such finding is consistent with a marginally higher rating of the value of "professional ambition" by female law students than their male counterparts. (Figure 10).

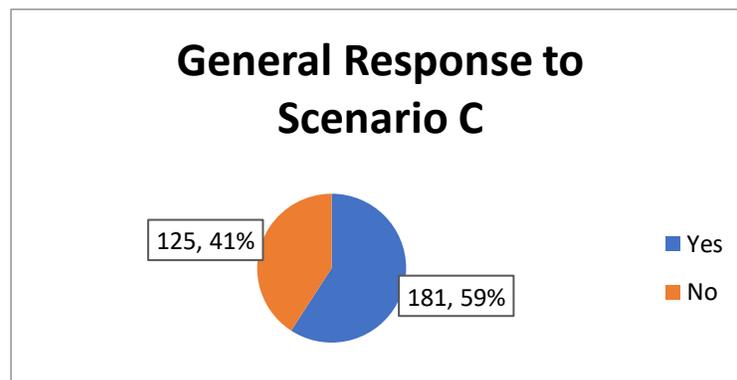


Figure 8 General Response to Scenario C

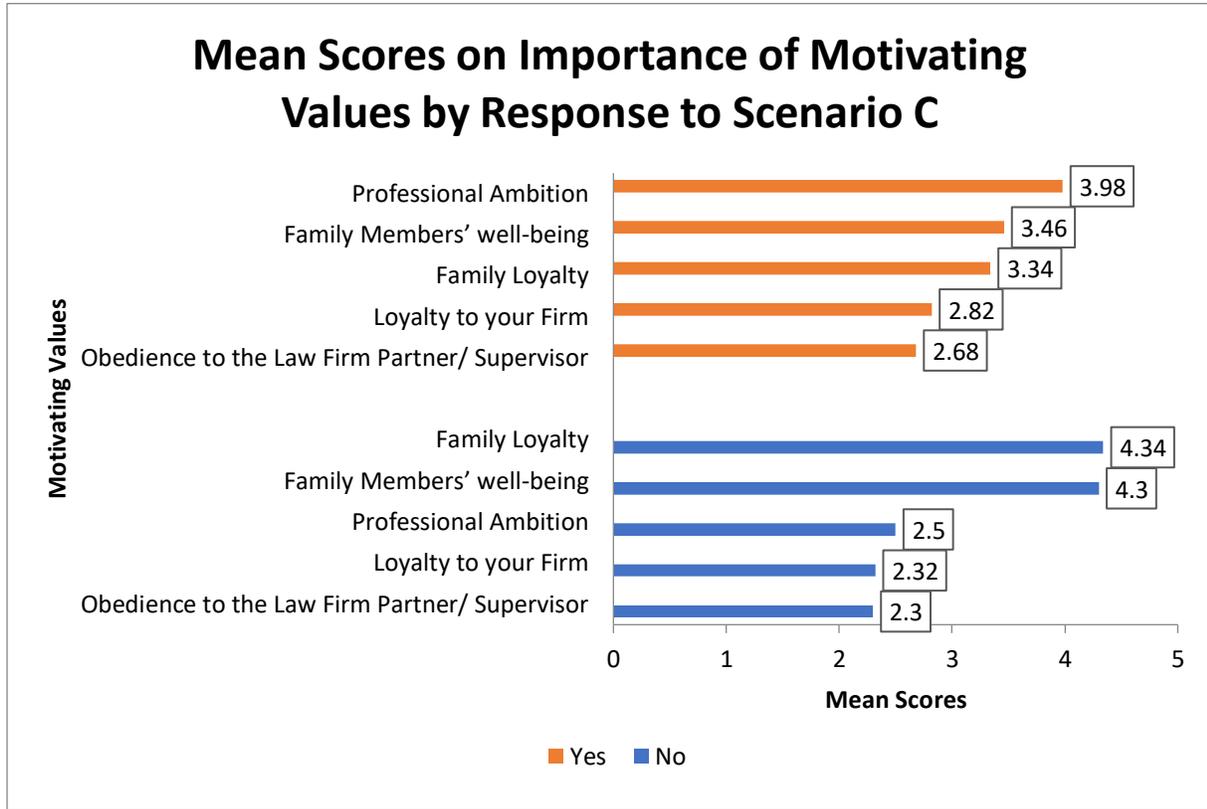


Figure 8 Mean Scores on the Importance of Motivating Value by Response to Scenario C

Gender	Response	Frequency	Percentage
Male	Yes	88	56.77
	No	67	43.23
Female	Yes	93	61.59
	No	58	38.41

Table 3 Response categorized by Gender to Scenario C

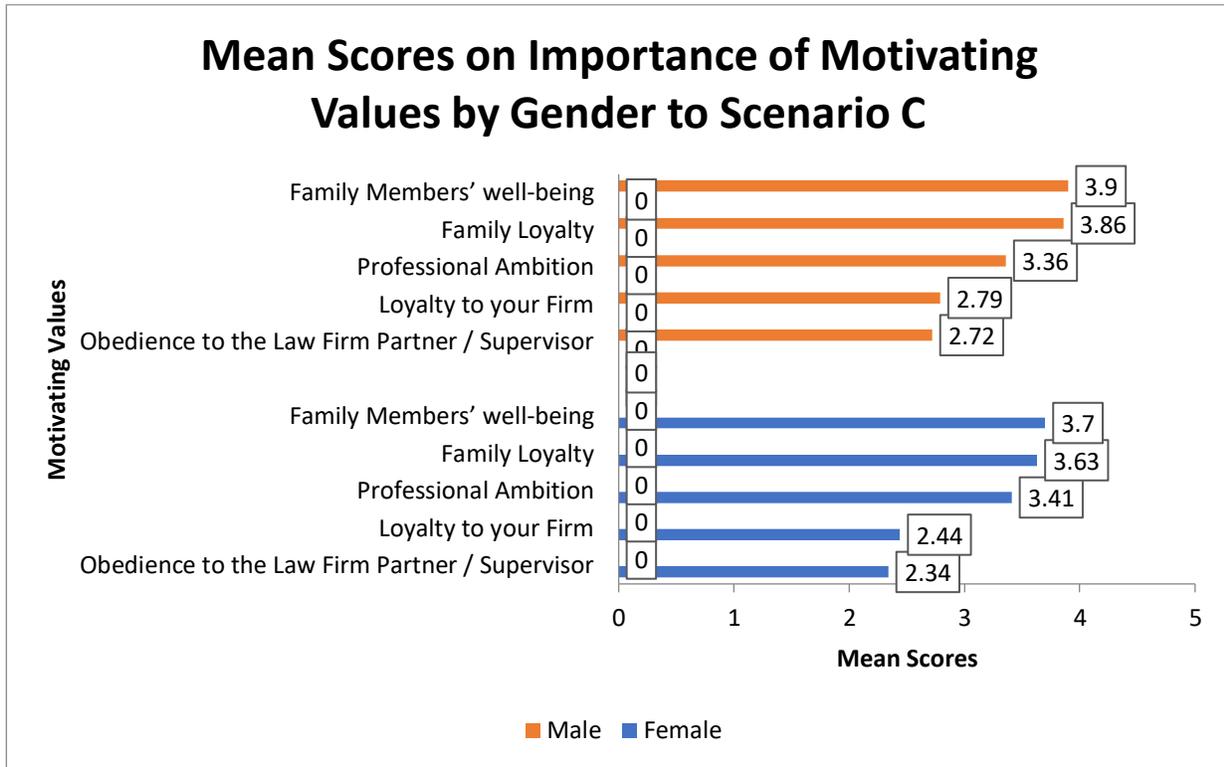


Figure 9 Mean Score on the Importance of Motivating Value by Gender to Scenario

Scenario D

“As a young lawyer aged 30, you and your partner are eager to purchase an apartment of your own so that you can get married. Despite long hours and a great deal of work, you still lack enough money for a down payment. A construction company which is a listed company and a long-term client of your firm, for whom you have done some legal work, is grateful and wants to recognize your contributions. At a private dinner with the client CEO, the former hints about more legal work and speculates offhandedly that the price of the company’s shares is likely to rise as the company has just succeeded in bidding for a major public housing project from the government. You realize that the share price should reflect the win

once the bidding news is announced. However, you are aware that this may constitute insider trading and contravene the law. Would you purchase shares in the company before the public announcement of the successful bid?"

Scenario D investigated the law students' responses to conflicts between an obligation to avoid insider trading and interest to advance family well-being. It represented a confrontation between professional values of "obedience to the law" and "loyalty to the firm" and personal values like "commercial advantage" and "comfortable life."

For Scenario D, 90% indicated that they would not purchase shares (Figure 11). Those who declined to purchase shares rate "obedience to the law" and "professional integrity" higher than "commercial advantage" and "comfortable life" (Figure 12). In addition, 90.26 % of male law students and 88.74% of the female law students stated that they would not purchase the shares (Table 4). The findings suggest there is no significant gender difference between male and female law students in their refusal to purchase shares before the public announcement of the successful bid. This may be explained by the similar rating of male and female law students to the value of 'obedience to the law' (Figure 13).

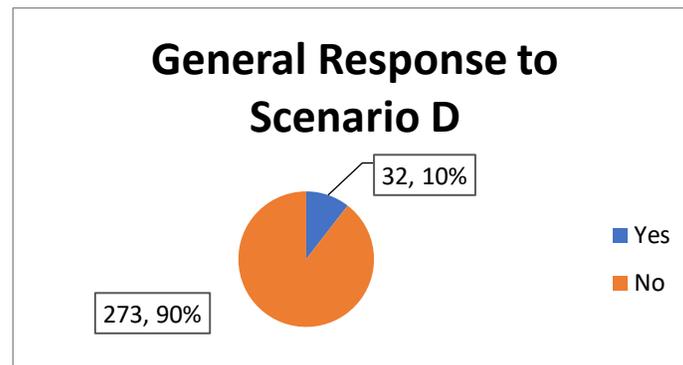


Figure 10 General response to Scenario D

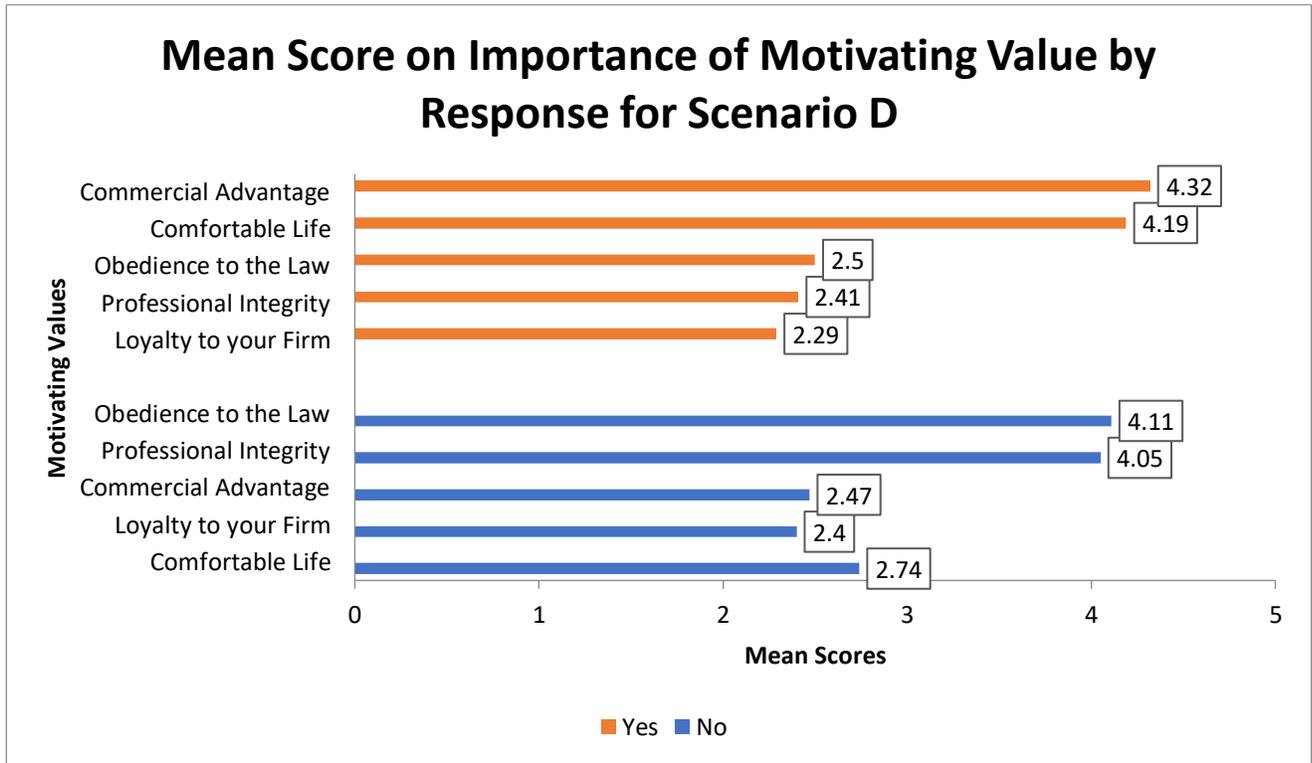


Figure 11 Mean Score on the Importance of Motivating Value by Response for Scenario D

Gender	Response	Frequency	Percentage
Male	Yes	15	9.74
	No	139	90.26
Female	Yes	17	11.26
	No	134	88.74

Table 4 Response categorized by Gender to Scenario D

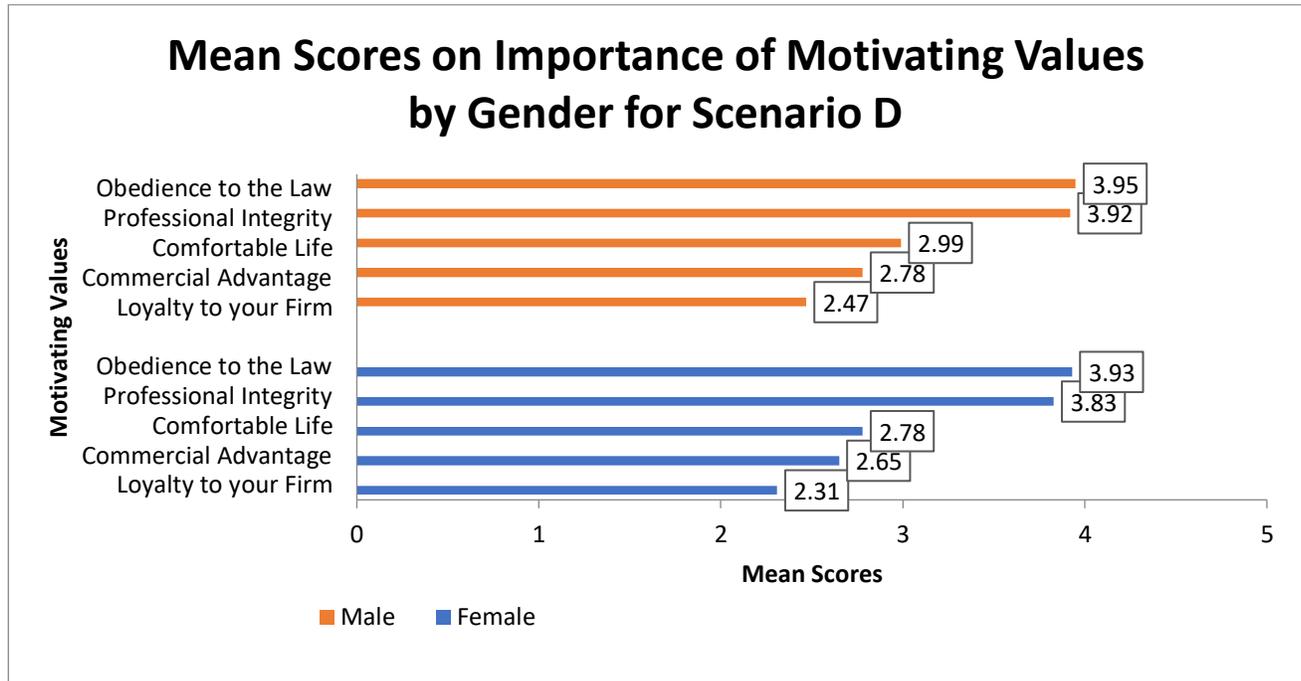


Figure 12 Mean Score on the Importance of Motivating Value by Gender for Scenario D

Scenario E

“While on a summer clerkship with a large and well-respected commercial firm, you are concerned to make a good impression as it would be your last year of law school and you are desperate for this job. The partner supervising you decides to give you some of her files to get ready for billing. She asks you to determine the amount of legal fee chargeable for each file and, from her expression, it is pretty clear that she wishes more legal fees. She asks you to double the legal fee that is justified for the files, saying that clients are willing to pay because their primary concern is quality work. You know that these clients are entirely satisfied with the firm service. Would you double the legal fees for the files?”

Scenario E investigated the law students' responses to a conflict between a duty to avoid overcharging clients and an interest to advance a professional career. It created a value conflict between "professional integrity" and "employment prospects."

For scenario E, 63% indicated that they would double the legal fees (Figure 14). Those who chose to double the legal fees rated the values of "employment prospects" and "obedience to law firm partner/supervisor" higher than "professional integrity" (Figure 15).

In addition, 66.8% of the male law students and 58.94% of the female law students agreed to double the legal fees (Table 5). The findings suggest a higher percentage of male law students are more inclined to double the legal fees. Such findings are consistent with the higher rating of the value of "obedience to the law firm partner" by male law students than their female counterparts. (Figure 16)

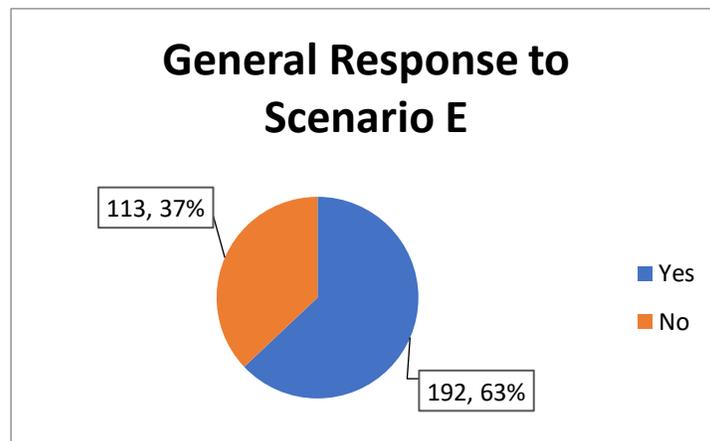


Figure 13 General response to Scenario E

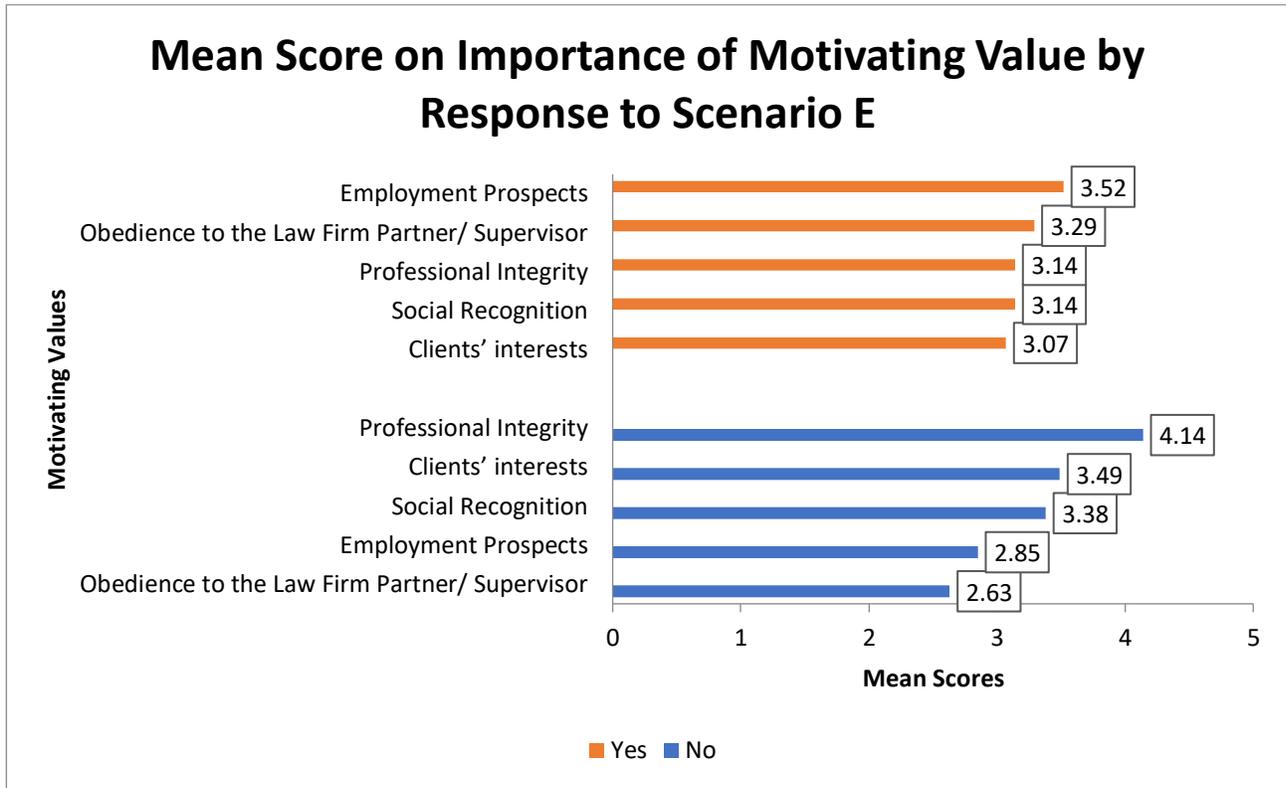


Figure 14 Mean Score on the Importance of Motivating Value by Response to Scenario E

Gender	Response	Frequency	Percentage
Male	Yes	103	66.88
	No	51	33.12
Female	Yes	89	58.94
	No	62	41.06

Table 5 Response categorized by Gender to Scenario E

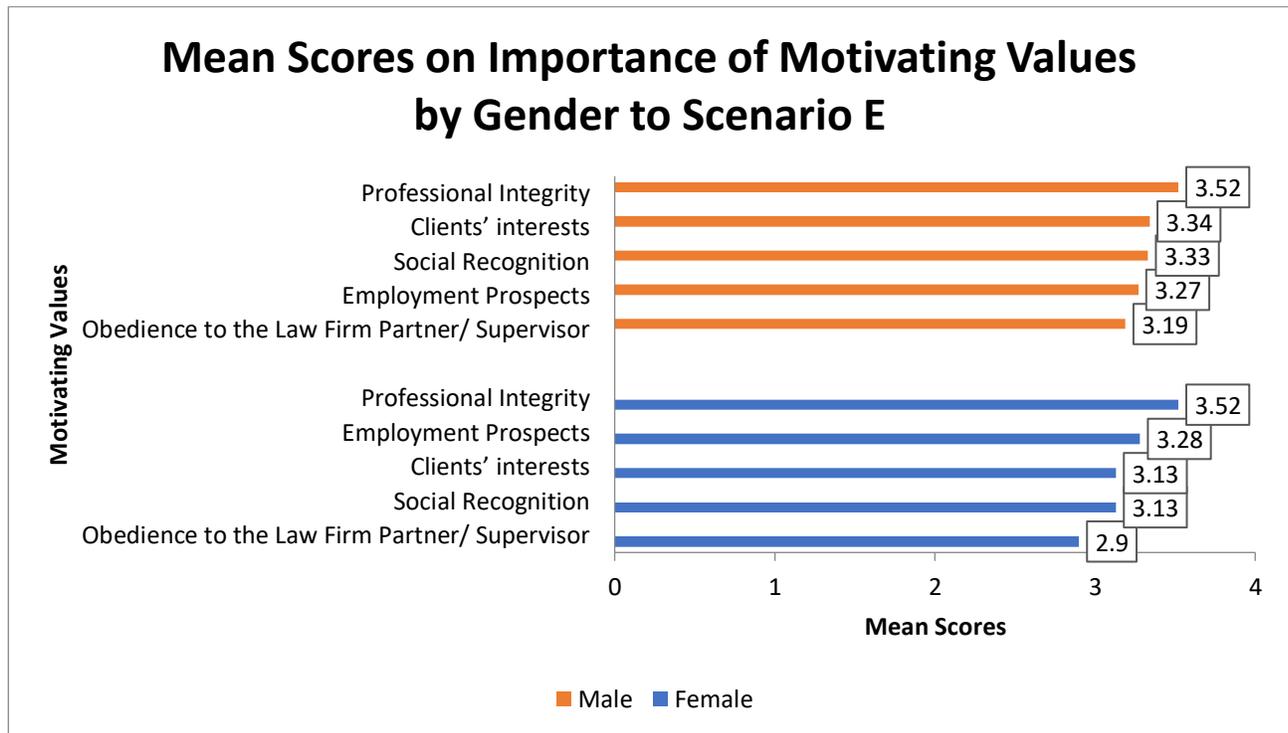


Figure 15 Mean Scores on the Importance of Motivating Value by Gender to Scenario E

Scenario F

“You are acting for a client who is the mother of three small children in a divorce and non-molestation order proceedings. Your client has previously shown you some old photographs of bruises and marks on the children, which she claims were inflicted by their father. One of the children now has blurred vision. Your client now instructs you to stop all legal proceedings as she intends to return to the children’s father with her children. You believe the children will be at risk, but you are also aware of lawyers’ duty of confidentiality to their clients. Would you inform the relevant government welfare authorities of your fears?”

Scenario F tested the law students’ responses to a conflict between an obligation to observe the duty of confidentiality and

interest to protect a client's well-being. It led to a clash between such professional values like "client confidentiality" and "professional integrity" and professional values like "civic duty" and "personal integrity."

For scenario F, 76% indicated that they would inform the relevant government welfare departments of their fears (Figure 17). Those who chose to inform rated "civic duty" and "personal integrity" higher than "professional integrity" and "client confidentiality" (Figure 18). In addition, 83.33% of the female law students chose to inform the relevant government welfare departments while only 69.74% of the male law students chose to do so (Table 6). The findings suggest a higher percentage of female law students was inclined to inform the relevant welfare departments of their fears than their male counterparts. Such findings are consistent with the higher rating of the value of "civic duty" by female law students than their male counterparts. (Figure 19).

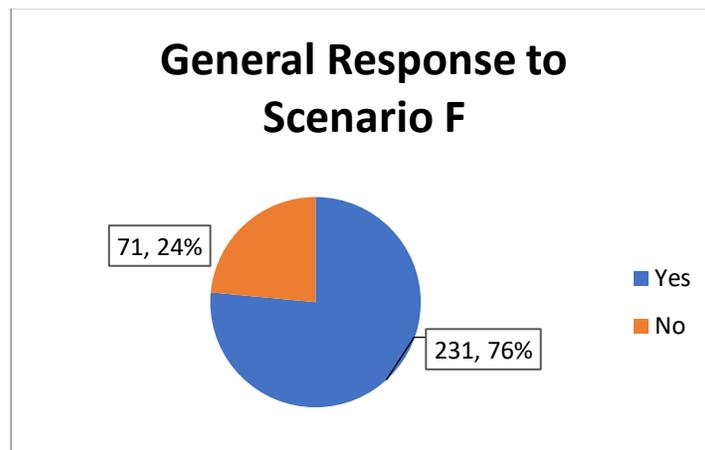


Figure 16 General response to Scenario F

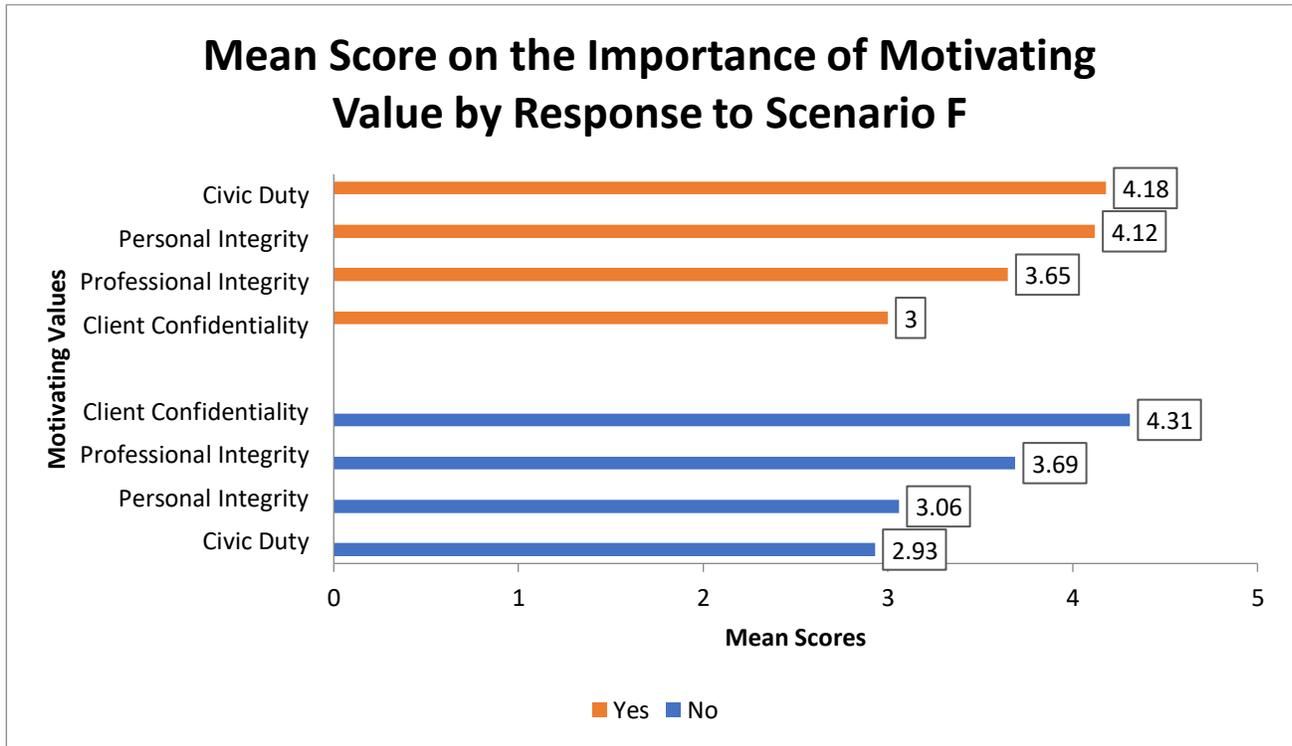


Figure 17 Mean Score on the Importance of Motivating Value by Response to Scenario F

Gender	Response	Frequency	Percentage
Male	Yes	106	69.74
	No	46	30.26
Female	Yes	125	83.33
	No	25	16.67

Table 6 Response categorized by Gender to Scenario F

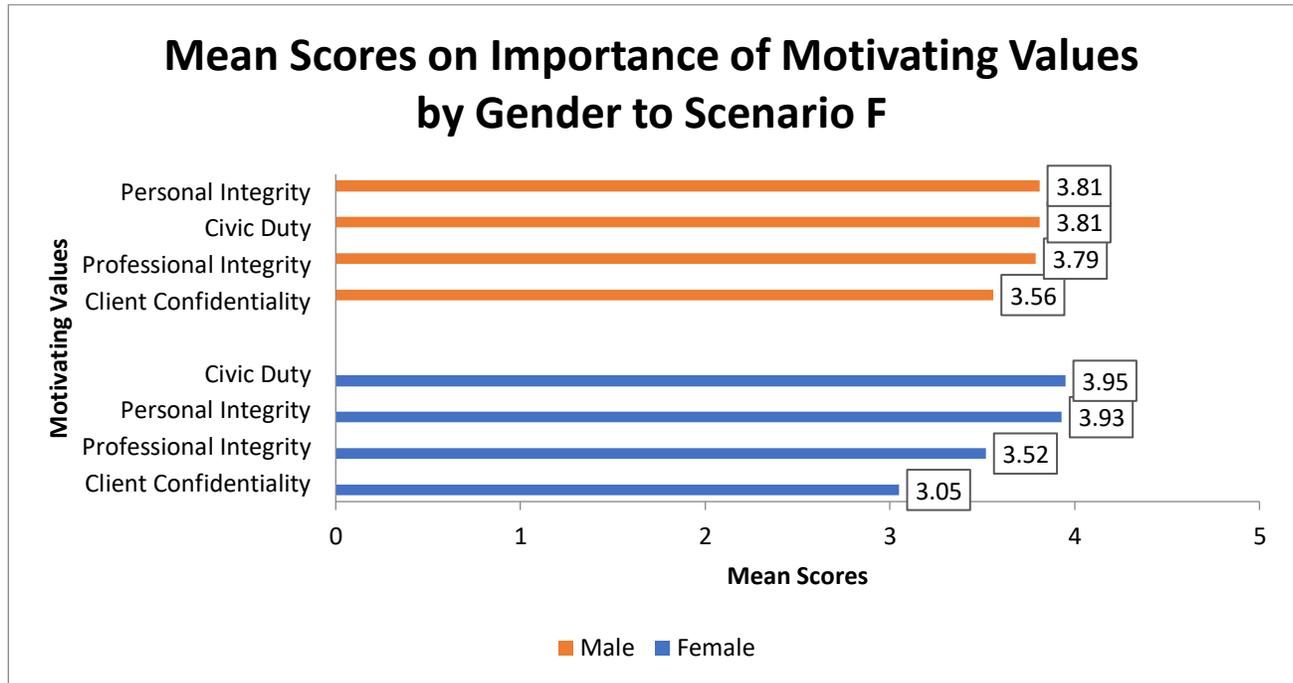


Figure 18 Mean Scores on the Importance of Motivating Value by Gender to Scenario F

Scenario G

“You are a new lawyer working in a large commercial law firm. A voluntary public-interest organization approaches you to work on a prominent test case about women who kill in self-defense. The work would be pro bono and very high profile for you personally, but of little interest to your firm. Although there is no actual policy against it, your firm does not usually do any pro bono work. At the same time, your senior partner wants you to work on another profitable case for the firm. The pro bono work requires a lot of time and work, but your time is currently so limited you could only realistically do one or the other. Would you agree to work on the public interest case?”

For Scenario G, 61% would agree to work on the public interest case (Figure 20). Those who chose to work for the public

interest case rated the value of ‘access to legal justice’ higher than the value of “employment prospects” (Figure 21). In addition, 67.5% of the female law students chose to work for the public interest case while only 55.19% of the male law students chose to do so (Table 7). The findings suggest a higher percentage of female law students was inclined to work on the public interest case than their male counterparts. Such findings are consistent with a marginally higher rating of the value of “access to legal justice” by female law students than their male counterparts (Figure 22).

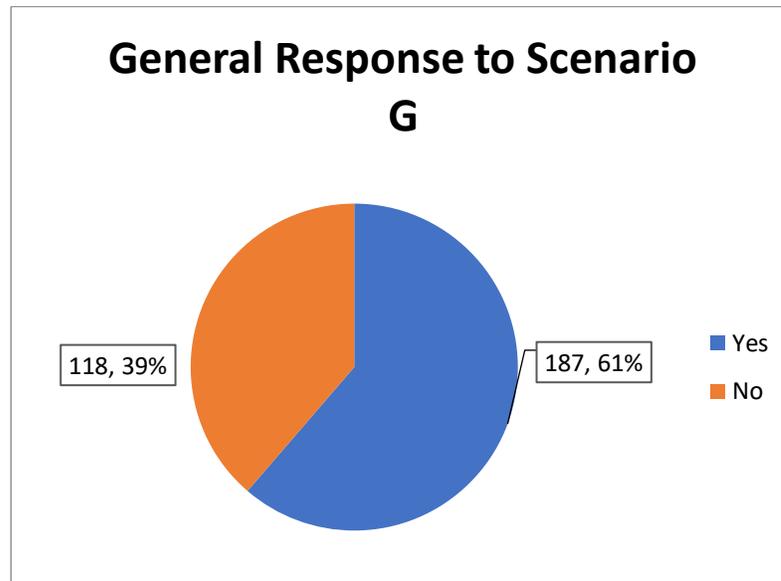


Figure 19 General response to Scenario G

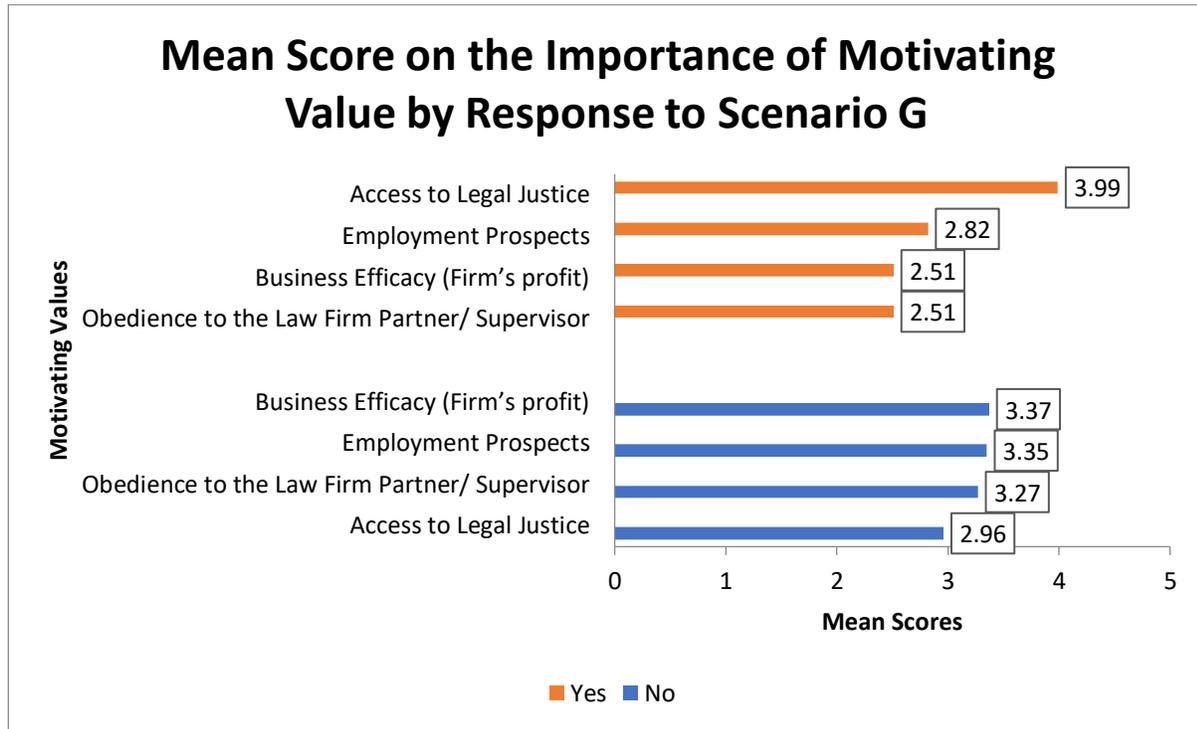


Figure 20 Mean Score on the Importance of Motivating Value by Response to Scenario G

Gender	Response	Frequency	Percentage
Male	Yes	85	55.
	No	69	44.
Female	Yes	102	67.
	No	49	32.

Table 7 Response categorized by Gender to Scenario G

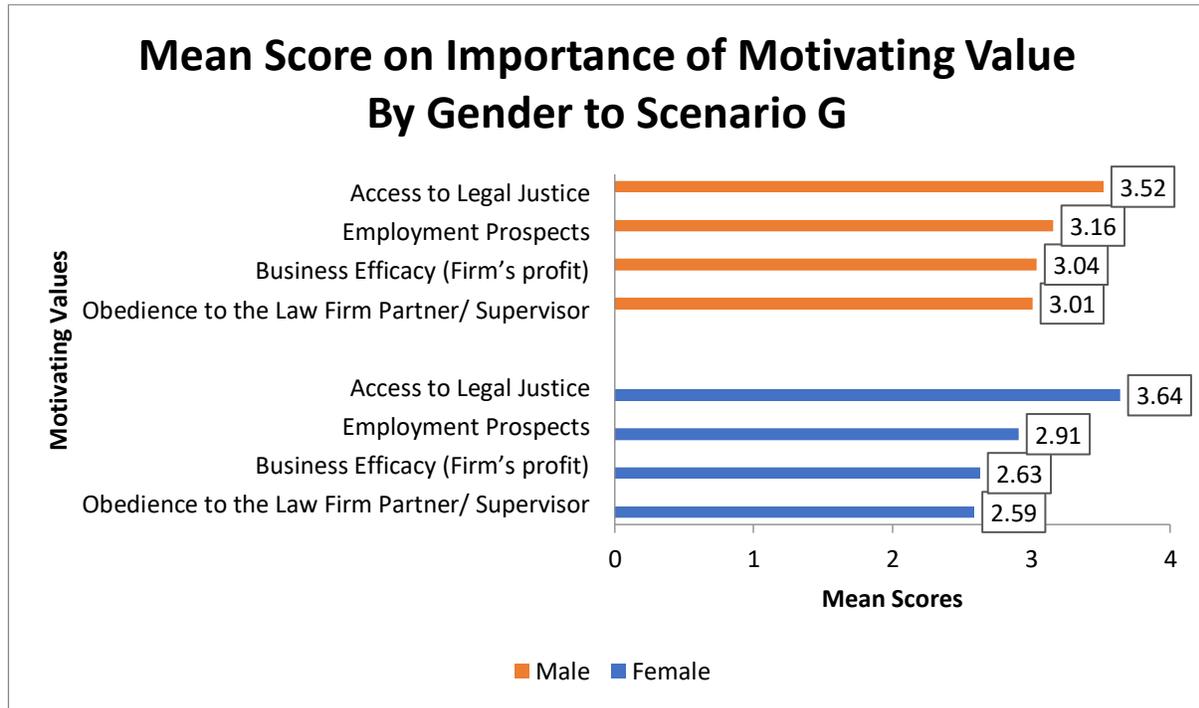


Figure 21 Mean Score on the Importance of Motivating Value by Gender to Scenario G

V. Discussion

This study contributes to the scholarship on legal education by presenting original evidence that demonstrates the empirical relationship between the values of Korean law students and their ethical decision making as well as their gender differences. The results reveal the impact of American style legal education on the value development of these future Korean lawyers brought up in the Confucian tradition.

On professional value development of Korean law students, our findings reflect that the latter were motivated by professional values in three scenarios (C, D and G). The results suggest that US-style legal education has succeeded in inculcating upon Korean law students such professional values as “obedience to the law,” “professional integrity” and “access to legal justice.” To a certain extent, such findings reflect the effective implementation of the Law

School Act,²⁴ as well as successful adoption of US-style legal education.²⁵

In addition, the findings suggest that these Korean law students were more motivated by personal values in four scenarios (A, B, E and F). The results revealed these Korean law students were motivated by such personal values like “family loyalty” and “family members’ well-being.” For example, more than one-half (57% in Scenario A and 71% in Scenario B) of the respondents rated such personal values like “family loyalty” and “family members’ well-being” higher than such professional values as “professional integrity” and “obedience to the law.” Such results suggest that American style legal education has not undermined the personal values of Korean law students like their counterparts in the United States.²⁶ This may be explained by the Korean educational system which is deeply embedded in the Confucian tradition. As a result, it places a lot of emphasis on such values as filial piety and family loyalty.²⁷ The system has succeeded in instilling strong Confucian ethics into Korean law student before they embark on JD studies. It probably explains why US-style legal education has not diminished personal values of Korean law students in the same way as it does to their American counterparts.²⁸

Moreover, the findings suggest a higher percentage of respondents declining to report the wrongdoing of their relative (71% in Scenario B and 57% in Scenario A). As Scenario B involved the daughter, while Scenario A was concerned with the nephew, the findings reflect the proximity of the blood relationship has an effect on the extent to which personal values prevail over

²⁴ Under Art 2 of the Law School Act, the goal of the American style legal education was to produce lawyers with professional ethics that take into account the Korean culture, a thorough understanding of humanity and such values as freedom, liberty and justice. See Young Cheol Jeong, *Korean Legal Education for the Age of Professionalism: Suggestions for More Concentrated Curricula*, 5 EAST ASIA L. REV. 174, 174–75 (2010).

²⁵ On the implementation of US style legal education in South Korea, see Kim, *supra* note 12.

²⁶ For a study of the negative effects of American style legal education on the personal values of law students in the United States, see Kennon M. Sheldon & Lawrence S. Krieger, *Does Legal Education have Undermining Effects on Law Students? Evaluating Changes in Motivation, Values, and Well-Being*, 22 BEHAV. SCI. & L. 261, 261–86 (2004).

²⁷ For a discussion of “filial piety” in the Korean Confucian culture, see Sirin Sung, *Women Reconciling Paid and Unpaid Work in a Confucian Welfare State: The Case of South Korea*, 37 SOC. POL’Y ADM’ 346, 346–47 (2003).

²⁸ On a similar explanation for little negative effect of higher education on traditional values of Koreans, see Kyoung, *supra* note 10, at 223.

professional values in the event of value conflict. This may be explained by the Confucian ethic of face-saving.²⁹ Reporting the wrongdoing of a daughter to the police would be more difficult, as two “faces” were involved, namely moral face and social face.³⁰ The respondents might feel they lost “moral face” as their own daughter committed a drug-related crime about which they felt morally indignant in the past. At the same time, they might feel a loss of “social face,” as their status as government prosecutor was jeopardized by their daughter committing a drug-related crime liable to prosecution. In contrast, the respondents might only feel a little loss of “social face” in Scenario A, namely, having a nephew engaging in minor professional misconduct. They did not, however, feel any loss of “moral face” as their own moral or integrity was not questioned. Consequently, the respondents might be more reluctant to report their daughter than their nephew.

The results also show more than one-half (59%) of the Korean law students indicate their willingness to take on extra hours to work on the project and seek promotion as a partner (Scenario C). This finding can be explained by the Confucian ethic of “diligence and hard work,” as work is invariably given priority over family and personal life in South Korea.³¹ In fact, such work ethic of Koreans has contributed to the rapid industrialization of their country in the past few decades.³²

One significant finding of this study is the high proportion of Korean law students (63%) indicating their willingness to double the legal fees upon request by their law firm partners (Scenario E). At first sight, this finding is counter-intuitive as one would have expected these Korean law students to act ethically by declining to overcharge their clients. However, such finding is again explicable

²⁹ See Monkhouse et al., *supra* note 8, at 322–24.

³⁰ “Moral face” is attained by securing a positive peer evaluation of one’s moral values or integrity, while “social face” is gained through acquiring one’s status in society or through the status ascribed by one’s family members, particularly one’s children. See Kwang-Kuo Hwang, *Moral Face and Social Face: Contingent Self-Esteem in Confucian Society*, 41 INT’L. J. PSYCH. 276, 277 (2006).

³¹ For a discussion of diligence and hard work as a Confucian ethic in Korean workplace, see Hak Chong Lee, *Transformation of Employment Practices in Korean Businesses*, 28 INT’L. STUD. MGMT. & ORG. 26, 28 (1999).

³² See Andrew Eungi Kim & Gil-sung Park, *Nationalism, Confucianism, Work Ethic and Industrialization in South Korea*, 33 J. CONTEMP. ASIA 37–49 (2003) (presenting a study on the relationship between work ethic, Confucianism and industrialization in South Korea).

by Confucian ethics in the workplace, which involve subordinates displaying obedience to seniors. As a result, employees exhibit submissive behavior in Korean firms that usually operate on principles of “centralized authority” and “vertical hierarchical order.”³³ Thus, Confucian ethics provide a plausible cultural understanding of such unethical decisions by these future Korean lawyers.³⁴

In addition, the results reveal the willingness of Korean law students to act for public interest (Scenarios F and G). A high proportion of them (76%) indicated their willingness to break their professional duty of client confidentiality and inform the relevant authorities of a child abuse case (Scenario F). What is more, more than half of them (61%) agreed to take up a public interest case in the event of a conflict arising between the public interest case and taking up a profitable case as demanded by senior partners (Scenario G). Such findings can again be explained by their Confucian ethics, which include a commitment to public interest and the common good,³⁵ as well as the virtues of compassion and self-sacrifice.³⁶ Thus, most of these Korean students decided to report the child abuse in Scenario F as they had developed compassion for the abused children and put less emphasis on their professional duty of client confidentiality. Likewise, a majority of them were willing to sacrifice a more profitable case and take up the public interest case in Scenario G.

Finally, results from our study indicate that gender differences exist in the ethical decision making of the Korean law students. For example, a higher proportion of the female law students in Scenario A declined to report the matter to the local law society than their male counterparts. Such findings may be explained by the gender difference in orientations towards personal morality. Generally speaking, male lawyers that are more driven by a “morality of right” focus more on the resolution of conflicts based on laws, while female lawyers that are motivated by a “morality of

³³ Lee, *supra* note 22, at 26–39.

³⁴ See Craig P. Ehrlich & Dae Seob Kang, *Independence and Corruption in Korea*, 16 COLUM. J. ASIAN L. 1, 21 (2002) (noting that some scholars actually argued that Confucian ethics like “friendship and loyalty” gave rise to other unethical behavior like corruption in South Korea).

³⁵ Betty Yung, *In what way is Confucianism linked to Public Service Motivation*, *Philosophical and Classical Insights*, 37 INT. J. PUBL. ADMIN. 281, 284 (2014).

³⁶ *Id.* at 285.

care” concentrate on the outcome of their decisions based on the harm caused to the parties concerned and the impact on the relationships involved.³⁷ This explains why the female law students who were more motivated by “morality of care” declined to report the wrongdoing of their nephews to the law society.

However, the findings also show a slightly higher percentage of male law students declining to report the misconduct of their daughter to the police than their female counterparts (Scenario B). This finding is again counter-intuitive as male law students should be more motivated by the “morality of right” and not the “morality of care”. Such findings may, however, be explained by the Confucian ethics that put a strong emphasis on family harmony in Korean society.³⁸ As a result, the concerns for maintaining the integrity of family bondage and relationship with their daughter may have caused these male law students in Korea to be more motivated by the “morality of right” in comparison with their American counterparts.

The results also show that a slightly higher percentage of female law students was more willing to work extra hours (Scenario C). This finding is revealing particularly as South Korea has the lowest employment rate of female colleague graduates among OCED countries with the widest gap between male and female college graduates in the employment rate.³⁹ As the education system and job market are not friendly to women, it is plausible that these female law students who have the opportunity to pursue the US-style legal education are more ambitious and more motivated to work long hours for career advancement than their male counterparts.⁴⁰

Finally, the findings show that a lower percentage of female law students agreeing to double the legal fees (Scenario E). This result reflected the female law students having “an ethic of justice”

³⁷ RAND JACK & DANA CROWLEY JACK, *MORAL VISION AND DECISION MAKING: THE CHANGING VALUES OF WOMEN AND MEN LAWYERS* 51–94 (Cambridge University Press 1989).

³⁸ See Kyu Taik Sung, *Comparison of Motivations for Parent Care Between Koreans and Americans: A Cross-Cultural Approach*, 25 *KOREA J. POPUL. DEV.* 83, 92–93 (1996).

³⁹ Hyounju Kang, *Creating Their Own Work-Life Balance: Experiences of Highly Educated and Married Female Employees in South Korea*, 34 *ASIA WOMEN* 1, 2 (2018).

⁴⁰ For a similar conclusion on the effect of education on achievement of working women in South Korea, see Moonju Seong, *Gender Comparison of the Effect of Education on Occupational Achievement in South Korea (1960s-1990s)*, 23 *TAPER* 105, 114 (2014).

as a justice perspective drives them to address a conflict scenario with the criteria of equality and seek a “just” solution.⁴¹ At the same time, a higher percentage of these female law students was willing to report the child abuse case in breach of their professional duty of client confidentiality (Scenario F), and work on a public interest case (Scenario G). Such results demonstrated that the female law students displayed “an ethic of care” as a care perspective motivates these female law students to assume social responsibility to serve others in need, and protect them against physical and psychological harm.⁴²

Moreover, the above results show that female law students in South Korea are driven by *both* the “ethic of justice” *and* “ethic of care”. In contrast, their American counterparts were found to be motivated by the “ethic of care.”⁴³ Such discrepancy in findings may be explained by the concept of “*Gong*” (public) existing in Confucian ethics, which require *all* Koreans to adhere to justice and impartiality.⁴⁴ As a result, the female law students in South Korea may have developed a stronger “ethic of justice” than their American counterparts.

VI. CONCLUSION

This article provides original insights into how US-style legal education has impacted the values of Korean law students. Our study demonstrates that the JD program has enhanced the professional values of Korean law students like as “obedience to the law,” “professional integrity,” and “access to legal justice.” Moreover, this study indicates that gender differences exist in the findings and female law students in South Korea are motivated by “morality of care,” “ethic of care,” and “ethic of justice.” In the future, Korean law schools should reform their JD curriculum to strengthen legal ethics education. In fact, one common criticism of

⁴¹ For a discussion of “ethics of justice,” see Judith White & Chris Manolis, *Individual Differences in Ethical Reasoning Among Law Students*, 25 SOC. BEHAV. PERS. 19, 30 (1997).

⁴² For a discussion of “ethics of care,” see *id.* at 28–29.

⁴³ *Id.* at 41.

⁴⁴ For a discussion of the Concept of *Gong* and its value impact on South Korea and Koreans, see Seung Hwan Lee, *The Concept of Gong in Traditional Korea and Its Modern Transformations*, 43 KOREA J. 137, 137–63 (2003).

US-style legal education was their failure to advance professional values.⁴⁵

This study also shows that US-style legal education has not undermined the Confucian ethics of Korean law students. Such Confucian ethics like “filial piety,” “face-saving,” “diligence and hard work,” “obedience to authority,” “commitment to public interest and common good,” “compassion,” “self-sacrifice,” “family harmony,” and “Gong (public)” are discussed in this study which may have influenced the ethical decisions of Korean law students. It appears from our study that Confucian ethics still plays an important role in the ethical identity of Korean law students.⁴⁶

Currently, Korean law schools have not paid adequate attention to integrating Confucian ethics and legal ethics education in their JD program. In the long run, law schools in South Korea should not only focus on nurturing professional skills but should also help their students incorporate Confucian ethics into their ethical decision making. In particular, they should not let Confucian ethics *adversely* affect their ethical decision making, like overcharging their clients in compliance with their law firm partners’ requests. In doing so, they will nurture a new generation of responsible and ethical Korean lawyers with a unique ethical identity grounded in both Confucian ethics and professional values offered by US-style legal education.

⁴⁵ On a criticism of the failure of US style legal education to advance professional values, see Russell G. Pearce, *MacGrate’s Missed Opportunity: The MacCrate Report’s Failure to Advance Professional Values*, 23 PACE L. REV. 575, 575–98 (2003).

⁴⁶ For a study of ethical identity of law students in the United States and the United Kingdom, see Richard Moorhead, et al., *The Ethical Identity of Law Students*, 23 INT’L J. LEGAL PROF. 235, 235–75 (2016).