Legal Discrimination? Reasons Behind Low Levels of Female Partnership in Law Firms and How to Correct It

Jeffrey L Gower
ABSTRACT

As the legal profession gradually reaches equality in numbers among male and female practitioners, the percentage of female law firm partners remains at relatively low levels. Equity partnership in a law firm remains the last bastion of male dominance, shutting the door on sharing the wealth within the profession. As stated by Reichman and Sterling, compensation disparity is clearly the foundation of gender disparity. However, the increase in female attorneys has also brought about a critical mass of women who do not want to participate in the years of long hours and high billable hours that many firms require on the partnership track. In an attempt to keep institutional knowledge, many law firms have designed retention programs for young female lawyers that include part-time work that allows time for raising small children, and non-equity partnership tracks that do not require the arduous hours required for an equity partnership. But does this solve the problem of low levels of female partnerships? This article looks at historical basis and current trends of law firm partnerships, the use of two-tier partnership structures, and gives suggestions on how to increase levels of female partnerships.
# TABLE OF CONTENTS

Abstract………………………………………………………………………………………………………1

Table of Contents……………………………………………………………………………………………………….2

Introduction……………………………………………………………………………………………………………………3

PART I ……………………………………………………………………………………………………………….6

    Gender Issues Within the Legal Profession……………………………………………………………6

    Partnership and Career-Track Expectations………………………………………………………….10

    Work and Family Balance………………………………………………………………………………..12

    Disgruntled Lawyers = Economic Costs to the Firm………………………………………………16

PART II ……………………………………………………………………………………………………………..18

    A Modified Partnership Structure: the Two-Tier System…………………………………………18

PART III ………………………………………………………………………………………………………………20
Suggestions on the Road to Higher Levels of Partnership for Women Lawyers……..20

A Reduction in Billable Hours…………………………………………………………………………………22

Law School Experiences and Apprenticeships…………………………………………………………..22

Comparative Research Against Other Professions…………………………………………………..23

Addressing Women’s Concerns Within the Profession………………………………………………….23

Conclusion…………………………………………………………………………………………………………………………24

Bibliography…………………………………………………………………………………………………………………..27

Money alone sets all the world in motion.

Publius Syrus, ~ 100 B.C.

Introduction

One, if not the most prized career positions in the legal profession is the law firm equity partnership. ¹ Partnership status denotes prestige as well as a high income. Partnerships in large law firms, however, remain a predominantly male position, despite the greater number of women

graduating from law schools and entering the legal profession. An obvious question then becomes: if there are so many women lawyers why are there so few women partners?

Nancy Reichmen and Joyce Sterling bluntly state the problem: compensation disparity is clearly the foundation of gender disparity.² A literature review on employment trends in the legal profession finds that many women lawyers never get the chance to vie for the opportunity to become a partner in law firm because of various barriers. Some of these barriers are a result of gender bias, but other are the unintended consequences that resulted from attempts to balance a profession that often has time-pressured work demands with competing quality of life issues. The removal of these barriers is necessary to promote the access to employment equality for both genders in the legal profession. Equality is equity partnerships for women lawyers may create opportunities for others to utilized programs for quality of life issues, such as male lawyers taking part-time legal positions to share in home childcare duties.

Gender equality in law firm partnerships remains one of the final milestones in making the legal profession an inviting one to all practitioners. Equality in law firm partnerships by definition requires an equal opportunity for the asset most protected by the traditional male-dominated law firm: sharing the wealth.

Reichmen and Sterling further note:

“…it is only ‘a matter of time’ before women make it to the top of the law firm hierarchy; before women can make as much money as men in the profession; and before we can move past questions of gender bias in the law profession.”

Gender equity has reconfigured the legal profession. As stated by Cynthia Fuchs Epstein, it was anticipated that women would change the legal profession by their mere presence; what was not anticipated, however, was how change would appear.

Women have earned an equal amount, and in certain cases, a majority, of law school admissions. An increase in the number of women lawyers has proven the “no-problem problem” wrong: the mere presence of women lawyers will not going to affect gender equity change in law firms. The inclusion of both men and women as equity partners, the power loci of a law firm, will help to ensure that attorneys of both genders find a level playing field in navigating employment opportunities and advancement in the legal profession.

As greater numbers of women become attorneys, the large law firm by necessity has been altered to reflect the career and social choices made by them as they attempt to balance personal lives and the demands of the profession. Employment schemes such as part-time positions, flexible scheduling, telecommunicating, job sharing, and non-equity partnerships are among the mechanisms devised in an attempt to retain associates that have lifestyles incompatible with the traditional large law firm partnership track.

Many of these modifications and accommodations reflect the responses by law firms to retain valued associates, both male and female, who attempt to find a balance between work and family or other personal interests. Although working long hours and the ability to bill those

---

3 Id. at 27.
4 Epstein, CF. Women in the Legal Profession at the Turn of the Twenty-First Century: Glass Ceilings and Open Doors. 49 KANSAS L. REV. 733, 734 (2001)
5 Rhode, D. Gender and the Profession: The No-Problem Problem. 30 HOFSTRA L. REV. 1001, 1001
hours to clients has long been the “golden ticket” to firm partnership, many firms have had to find ways to reverse the drain of the firm’s intellectual capital that is lost when a trained associated leaves.

Equity partnership status within a large law firm has always been the “brass ring,” or ultimate reward, of the legal profession. Despite the influx of women lawyers hired into firms, there has not been a corresponding increase in partnership for female associates. Reichman and Sterling argue that equality in law firm partnerships will not occur until law firms acknowledge the gendered nature of the organization, and equip women lawyers to gather the requirements necessary for the promotion to firm partnership. The access to resources that equip women associates to become partnership candidates, however, is a source of great dissatisfaction among female attorneys.

Women lawyers tend to leave the partnership track quicker and at a higher percentage than male lawyers, often before they can be assessed for partnership by their law firm. The primary reason stated for the high turn-over of women lawyers at large law firms is dissatisfaction with the work environment. Efforts to raise the quantity of women lawyers reaching partnership candidacy must first at the form and reasons for job dissatisfaction among women attorneys in law firms, how this dissatisfaction may be corrected, and possible alternatives to partnerships that could retain female attorneys that may serve to resolve these employment problems in the profession. As barriers are removed that impede women associate

---

7 Id.
8 Epstein, supra, at 932.
9 Id
from staying at a law firm, uninterrupted periods of employment will increase, and more females will be considered for firm partnerships.

Part I of this paper reviews the traditional linear law firms partnership track, and some of the historical and modern barriers facing women associates in large law firms. Part II of this paper discuss alternatives to the traditional linear law firm partnership track. Part III of this paper notes suggestion made by commentators on how to improve access to equity partnership by women lawyers through improved working conditions at large law firms.

Part I

Gender Issues within the Legal Profession

The demographics of the practitioners with the legal profession has changed dramatically within the past few decades. Many law schools denied the entrance of women well into the 20th Century, and the State of Alaska did not admit the first female to its State Bar until 1950.10 In the early 1960’s, female lawyers comprised a mere 3.3% of the profession, and the numbers of female law school students were equally low.11

As noted by Epstein, the only thing holding women back in the legal profession was opportunity.12 In the 1970’s, the American Association of Law Schools ordered member institutions to eliminate discriminatory gender-based admission standards, and female law school matriculates rapidly increased.13 By the year 2000, the percentage of female law students

11 Id. at 12.
12 Epstein, supra, at 736.
13 Rikleen, supra, at 11.
reached 52%, and 30% of all practicing attorneys were women.\textsuperscript{14} In 2004, Boalt Hall Law School reported an entering 1L class that was 63% female.\textsuperscript{15} A study by Marc Galanter estimated that the legal profession will be equal represented by gender around 2050 if current law school admissions and graduation trends continue.\textsuperscript{16} Steve French argues that as older male law firm partners retire and are replaced by women partners, new female graduates will face fewer barriers to being hired by those firms, and the changing dynamics of law firms composition will result in an eventual equality in law firm partnership positions.\textsuperscript{17}

The employment search for women lawyers in the mid-20\textsuperscript{th} century was often dismal as well. Sandra Day O’Connor, the first female U.S. Supreme Court Justice, noted that she could not find employment as a lawyer upon her graduation in 1952, despite finishing third in her graduating class.\textsuperscript{18} As large law firms eventually hired more women lawyers, the term “glass ceiling” was often used to describe the linear partnership track in law firms that denied them the opportunity to reach the highest level of the organization, and the highest paychecks that followed the ascension to those positions within the law firm.\textsuperscript{19} Some authors, such as Debra Meyerson and Joyce Fletcher, write that “it is not just the ceiling that’s holding women back; it’s


\textsuperscript{16} Galanter, M. “Old and in the Way”: The coming Demographic Transformation of the Legal Profession and Its Implication for Legal Services. 1999 WIS. L. REV. 1081, 1084


\textsuperscript{18} Biskupic, J. Sandra Day O’Connor; How the First Woman on the Supreme Court Became Its Most Influential Justice. New York: HarperCollins. (2006) at 28. The author writes that Ms. O’Connor was offered a secretarial position by one law firm an interview for a lawyer position, which she refused.

the whole structure of the organization in which we work; the foundation, the beams, the wall, the very air.”

The percentage of partnerships in large law firms and executive positions in corporate positions has not corresponded with the increase in the number of female law school graduates. In 1998, while approximately 30% of practicing attorneys were women. Only 14.5% of all law firm partners were women. Later studies, such as Reichman and Sterling study of women lawyers in Indiana in 2004, have found a similar percentage. Reichman and Sterling note that women lawyers seem to be suffering from the “50/15/15 conundrum: 15 years since women comprised 50% of the law students, but the amount of women partners was stuck at 15%.”

This figure indicated only a slight increase from 1991, when women lawyers comprised only 10.8% of all law firm partnerships. The American Bar Association noted that figure to be only 60% of the number expected if women lawyers were fully represented in law firm partnerships.

Although effective legislation and cultural change may have erased obvious forms of gender discrimination, Epstein argues that an institutionalized gender discrimination remains within law firms. Employment practices such as an emphasis on billable hours to clients, the responsibility for the development of new business connections outside office hours, and the advancement of new telecommunication devices that can keep associates in touch with the

---

22 Reichman and Sterling, supra, at 101.
23 Id.
25 Epstein, supra, at 436.
office while at home create disadvantages for lawyers of both genders that want to maintain boundaries between home and work responsibilities.

Many recent female law school graduated are acclimated to a post-feminist environment where many barriers to employment in the legal profession have been removed. The employment expectation of these new associates created tensions among experienced women lawyers that had to create their own career paths with the law firm, and did not have the chance or the resources available to them to take advantage of gains in equal opportunities with the profession.26 Deborah Rhode remarks in her interviews with law firm partners that there remains a faction among some lawyers, both men and women, that does not believe that the law is a suitable profession for women with the children.27 The “cult of domesticity,” the normative American view that contend an incompatibility between motherhood and work, maintains a foothold in some firms.28

Partnership and Career Track Expectations

27 Id.
Partnership in a large law firm can be extremely lucrative.¹⁹ In 2006, the median salary for male equity partners in large law firms was $510,000, compared to $429,000 for female equity partners in similar firms.³⁰

The practice of law has historically been a male profession, and the study and practice of the law was designed by men.³¹ Even as women lawyers entered the profession, new male lawyers found it easier to bond with men in partnership positions that would facilitate relationships for promotion.³² Delossantos further argues that men are more likely to surround serves to perpetuate gender discrimination within a law firm.³³

The route to a law firm partnership runs along a linear track. For either gender, the pursuit of an equity law partnership can be a long and arduous ordeal. Partnership tracks may take ten years or more, and often mandate that junior associates bill clients a high number of hours per year.³⁴ Billable hour requirements vary by firm and by firm size; smaller firms tend to have lower billable-hour expectations and maintain shorter partnership tracks. However, even a relatively low (by law firm standards) billable hour requirement of 2000 hours per year requires

²⁹ Large law firms in most studies used in this paper are comprised of 5 or more attorneys, but the number of lawyers in a single firm may reach into the thousands. It usually holds that partners in firms that have higher number of lawyers make more money through their equity partnerships.
³³ Id.
³⁴ The conventional wisdom is that the associate that bills more hours is more loyal than those associates that do not bill as many hours, and this generates an internal competition between associates to bill more hours than other associates that are up for partnership consideration. Of course, more billed hours means more revenue for the law firm, and higher bonuses for the equity partners.
a significant amount of work on a daily basis.\textsuperscript{35} As Patrick Schlitz remarked, “[T]here’s no mystery why lawyers are unhappy. They work too much.”\textsuperscript{36}

The time-consuming aspects of many partnership requirements often lead to job dissatisfaction for women lawyers, and many leave the partnership track or take lateral or regressive job changes within their firm or with another firm.\textsuperscript{37} One study by Fiona Kay on lawyers in Toronto found that women associates left their law firm jobs 60% faster than men in similar positions.\textsuperscript{38} The intellectual capital drain required many law firms to reassess their entry-level associate programs to interpret the reasons given for leaving the firm and implement initiatives to create work environments that will retain women lawyers.\textsuperscript{39}

Reichman and Sterling conducted a longitudinal study of 100 Denver women lawyers in large law firms with over 5 partners. Their study found four main conclusions that separated the careers of male and female lawyers along the career track:

1) Female lawyers change jobs more often than male lawyers;
2) Female lawyers change jobs earlier in their careers than male lawyers;
3) Gender is the primary predictor of changing jobs as opposed to any other attribute;
4) Female lawyers are more likely than male lawyers to make a downward career move than male lawyer.\textsuperscript{40}

\textsuperscript{35} The standard rough estimate to reach 2000 billable hours for a work year is a five-day work week that is comprised of a twelve-hour work days.
\textsuperscript{36} Schlitz, PJ. On Being Happy, Healthy, and an Ethical Member of an Unhappy, Unhealthy, and Unethical Profession. 52 VAND. L. REV. 871, 895 (1999).
\textsuperscript{37} Epstein, CP., Sauté, R., Oglensky, B. and Gever, M. Glass Ceilings and Open Doors: Women’s Advancement in the Legal Profession. 64 FORDHAM. REV. 291, 300. (1995).
\textsuperscript{38} Kay, FM. Flight from Law: A Competing Risks Model of Departures form Law Firms. 31 LAW & SOC’Y REV. 301, 301 (1997).
\textsuperscript{39} Epstein, supra, at 738.
\textsuperscript{40} Reichman and Sterling, supra, at 929.
Reichman and Sterling further discovered that 46% of new women associates in their study switched jobs in their second years of law practice, compared to 14% of male associates.\textsuperscript{41} The authors also note that the point of departure for female associated leaving the firm is usually before a point where experienced firm partners are able to assess the long-term success of the lawyer.\textsuperscript{42}

Reichman and Sterling also found additional direction aspects related to the movement of lawyers based on gender. Women lawyers are more likely to leave large law firms for small ones compared to male associates, who are more likely to go from small firms to large ones\textsuperscript{43} further, the authors note that women lawyers are more likely to move from large law firms to positions in government. Male lawyers are more likely to move from government positions to one in a large law firm.\textsuperscript{44}

Work and Family Balance

Deborah Rhode argued that the legal profession has not come to terms and adapted to the needs of the women lawyers and their children.\textsuperscript{45} Citing a Women’s Bar of Massachusetts study she argues that the increase in billable hours by a law firm associate has increased from an expectation of 1300 hours

\begin{itemize}
\item \textsuperscript{41} Id. at 932.
\item \textsuperscript{42} Id. at 933.
\item \textsuperscript{43} Reichman and Sterling, supra, 30.
\item \textsuperscript{44} Reichmen and Sterling, supra, at 933.
\item \textsuperscript{45} Rhode, supra, at 2208.
\end{itemize}
per year in 1960, to 2000 hours per year in 2000.

The end result of these excessive expectations, along with technologies that keep associates in constant contact with the firm office, has led to increased job dissatisfaction among many new associates. This job dissatisfaction has led many associates, women and men, to alter their career plans and expectations.

The act of leaving a law firm, however, results in a disruption of activities and access to resources that are necessary to complete the journey to a firm partnership.

Women lawyers who leave law firm jobs are not usually leaving the law itself, but often seek another position that has more flexibility to allow for the involvement of other factors in their lives.

A 1995 study by Foster found that 93% of women who resign law firm jobs leave for child care reasons or other interruptions along the partnership track, intend to return to the law at a later date.

Rikleen, however, found that while the women lawyers leaving private law firm jobs are not dissatisfied with the legal profession, but they are dissatisfied with their jobs at their firm.

A 1990 study by the American Bar Association found that women lawyers reported a much higher job dissatisfaction level than men.

______________________________

46 Id. at 2210.
47 Id.
49 Rikleen, supra, at 177.
51 Rikleen, supra, at 177.
the report listed the following primary sources of job dissatisfaction among women lawyers:

1) Lack of confidence in opportunities for advancement;
2) The prevalence of political intrigue and backbiting;
3) A work atmosphere that is impersonal;
4) Not having enough time for themselves;
5) Not being respected and treated as professional colleagues by their superiors;
And
6) Lower compensation than male colleagues.\(^{53}\)

Women lawyers often note that one of the primary reasons that they change jobs or leave the legal profession is family obligations.\(^{54}\) Women on the traditional law school to – law firm linear track find that their optimum childbearing years correspond with the years expected by the law firm to work long hours generating a high amount of revenue from a large amount of billable hours and be available to the firm when away from the office. To balance these goals, many women lawyers facing traditional childcare situations require a position other than what is found in the traditional law firm. Several studies have concluded that women lawyers with children

\(^{53}\) Id.
\(^{54}\) Reichman and Sterling, supra, at 26
would give up some portion of their income for increased family time. The significant time and stress pressures brought by the traditional law firm is often incompatible with family goals. Many lawyers that have family obligations will seek other positions in the firm that will accommodate these needs, or leave a firm to attend to her new demands. Rikleen noted one study of Atlanta women lawyers found that the primary driver for switching law jobs was a better work schedule. As women lawyers that leave law firms tend to take lower-paying positions in government and small law offices, providing for an increased income disparity for women lawyers. In 2004, 42.7% of all women lawyers made under $59,000 per year, compared to an 22.1% composition of all male lawyers in the identical income bracket.

Gender schemas in many law firms force women lawyers to accommodate their work to the unique time pressures found within legal profession. Many firms ascribe higher status to those lawyers with the ability to bill greater amounts of hours to clients and use that figure to measure the associate’s commitment to the firm. The modern phenomenon of globalization has the ability to bring in work around the clock, and along with the development of communication technologies to facilitate an increased workload add further time pressures for an associate. Epstein noted that an

---

55 Carter, T. Your Time or Your Money. A.B.A. J. 6 (Feb. 2001)  
56 Rikleen, supra, at 187.  
57 Epstein, supra, at 932.  
58 Epstein, supra, at 750.  
59 Id. at 751.
associate is expected to be available for potential work on a “24/7” basis, and remain perpetually available around-the-clock to the needs of the law firm workload.\textsuperscript{60}

Certain segments of professional lawyers may face difficult choices in response to these time pressures. Some lawyers that are parents may find it necessary to make difficult decisions that lessen the amount of time they are available for either their law firm or their family. Other lawyers that are also parents have forced themselves to be more productive in the legal office to avoid taking work home at night and on the weekend.\textsuperscript{61} However, despite many parents working harder during office hours, many law firm, giving an added perception of loyalty to single attorneys and those parents that opt for off-hours work that displaces family interaction. The “symbolic meaning of time,” as noted by Epstein, is often weighed against the female lawyer parent.\textsuperscript{62}

Male lawyers, however, are rarely seek out or are given work concessions to see to child care.\textsuperscript{63}

\textbf{Disgruntled lawyers = Economic Cost to the Law Firm}

As the cost of replacing a lawyer in a firm is often estimated at twice the annual salary, law firms developed flexible employment alternatives as a new

\begin{footnotes}
\item[60] Id.
\item[61] Id. at 752.
\item[62] Epstein, supra, at 752.
\item[63] Epstein, supra, at 84.
\end{footnotes}
associate recruitment tool.\textsuperscript{64} Epstein, in her study of part-time legal professionals, found that 95\% of all law firms had some kind of part-time employment status available to its attorneys.\textsuperscript{65} The integration of part-time lawyer positions within law firms appeared, at first glance, to be an effective compromise for women lawyers between the demands of law firm employment and family obligations.\textsuperscript{66} However, the perception of a part-time woman lawyer within a firm that chooses parenting over work is often that the employee is neither a good mother or a good lawyer.\textsuperscript{67} A personnel move that involves a part-time position is often viewed by a female associate as one that will have severe consequences within a firm.\textsuperscript{68} It is not surprising to find that despite the prevalence of available potential part-time programs, these positions are infrequently used.\textsuperscript{69} A 1997 National Association of Law Placement report stated that only 3\% of all attorneys practiced part-time.\textsuperscript{70} Rikleen argues that the bias against part-time lawyers at law firms is often a form of gender bias, as the majority of part-time lawyers are women.\textsuperscript{71}

\textsuperscript{64} Rhode, supra, at 2209
\textsuperscript{66} Rikleen, supra, at 176.
\textsuperscript{67} Epstein, supra, at 752.
\textsuperscript{68} Id.
\textsuperscript{69} Rhode, supra, at 179.
\textsuperscript{70} Gorman, EH. Moving Away from “Up or Out”: Determinants of Permanent Employment in Law Firms. 33 LAW & SOC’Y REV. 637, 645; citing the report by the National Association of Law Professors, (1997).
\textsuperscript{71} Rikleen, supra, at 253.
The part-time position designation, by many accounts, has had mixed results, and remains ill-defined within legal employment practices.\textsuperscript{72} An associate who desires to reduce her schedule to a part-time position within a firm often must draw up a proposal on her own, and then negotiate those terms with the firm partners.\textsuperscript{73} Deborah Epstein Henry’s survey of women lawyers in Utah in 2001 found that 94\% of them believed that working part-time or taking a leave of absence from their associate position would be detrimental to their career advancement opportunities.\textsuperscript{74}

A main theme in the part-time position discussion is that there are discrepancies between what law firm policies promise and what they actually deliver.\textsuperscript{75} Many women lawyers in part-time positions state that the positions tend to be comprised of the more mechanical aspects of the law, and usually does not have any components that would lead to advancement at a later date, such as developing “rainmaking” contacts with potential new clients.\textsuperscript{76} Many women find that the law firm’s expectation of a part-time position is almost equal in the time commitment compared to a full-time position.\textsuperscript{77} The difficulties associated with part-time employment in law firms are often because

\textsuperscript{72} Epstein, CF et al., supra, at 393.
\textsuperscript{73} Rikleen, supra, at 135.
\textsuperscript{74} Henry, DE. The Case for Flex-time and Part-time Lawyering. 23 PENN. LAW. 42, 44 (2001).
\textsuperscript{75} Rikleen, supra, at 135.
\textsuperscript{76} Rikleen, supra, at 75-76.
\textsuperscript{77} Rikleen, supra, at 133, 141.
law firms judge successes and failures of associates by the amount of billable hours to clients.\textsuperscript{78}

The assumption of a part-time legal position by a women attorney appears to have an adverse effect on any attempt at attaining a partnership within a law firm. As reported by Epstein, less than one-percent of part-time lawyers become partners in a law firm.\textsuperscript{79}

Part-time designation, although designed to aid in the retention of women lawyers and increase their level of job satisfaction, may have promoted an unintended consequences in erecting an additional barriers to a women lawyer seeking partnership at her firm.

\textbf{PART II}

\textbf{A Modified Partnership Structure: The Two-Tier System}

In the 1970s, several law firms created a two-tier system for partnership that would provide for an alternative to the traditional model. The new two-tier design added a second level of partnership that did not participate in the law firm’s equity-sharing program among full partners. Its original stated intent was to provide a mechanism to retain valued associates that had been with a firm for a considerable period but had not accumulated that correct human capital

\textsuperscript{78} Rikleen, supra, at 133.
\textsuperscript{79} Epstein, CF, et al, supra, at 56.
within the firm, according to the in-house partnership committee, to be made a fully equity partner. However, the secondary non-equity partnership has been accused by many to be used to achieve other rewards for lawyers, such as demoting equity partners that do not bill enough hours to the satisfaction of the managing partners.

Assessment of a senior associate for the traditional equity partnership involves a weighing of many factors valuable to the firm, including that associate’s human and social capital, billable hours and quality work product, personality, pro bono activities, reputation, and firm needs, among many others. Once partnership status is granted, the new equity partner now owns a portion of the firm, and has the benefit of taking a share of the firm’s profits and having a say in the firm’s decision-making process. This decision-making process may include the addition of incentives, if desired by new women lawyer partners, to attract women lawyers to law firms and guide the next generation through the vagaries of equity partnership through various female partner-based committees, or additional representation of compensation and firm governance committees.

---

80 Silverbrand, I. Modified Partnership Structures and Their Effect Associate Satisfaction. 21 GEO. J. LEGAL ETHICS 165, 166 (2008).
82 Id. at 167.
Non-equity partners, on the other hand, by definition do not own any part of the firm, and therefore are not entitled to any of the firm’s profits. Although non-equity partners are usually paid at the same level as a regular associate, they are eligible for a “super-bonus” at the end of the year and are allegedly provided a higher status within the firm than non-partners. Galanter and Palay argue that this second tier, with its increase bonus over other associates, allows firms to give the non-equity partner an incentive to avoid engaging in opportunities behaviors (such as founding a new law office and stealing clients) and stimulating additional revenues for the firm. The total annual compensation for the non-equity partner, however, rarely comes close to that of the equity partner.

The non-equity partner level allowed law firms to offer enhanced status to talented associates that the firm did not believe was worthy of equity partnership, but remained profitable to employ. The two-tier system, in theory, allows the law firms to optimize its human capital and maintain stability by maintaining associates that normally would leave when equity partnerships were not offered.

---

86 Id. at 12.
88 Id. at 1708.
Rikleen argues that a tiered system may be beneficial for some women lawyers, as it allows a form of partnership to those that do not wish to be bound by the travails of equity partnership.\(^8^9\) She states that the problem with the non-equity tier lies in how the firm views the partnership, whether as a permanent position, or as one stage in a career.\(^9^0\) Many women lawyers, therefore, worry that once they accept a non-equity partnership, they will never have the opportunity to advance into an equity partnership at a later point in their career.\(^9^1\)

**PART III**

Suggestions on the Road to Higher Levels of Partnership for Women Lawyers

Parts I and II of this paper noted several issues that prevent women lawyers from advancing to the partnership level in a law firm. The problem remains in the application of potential adaptations of the law firm structure. Some ideas that appeared to be reasonable accommodations in their face, such as the creation of part-time lawyer equity partnerships and placed further career barriers in front of women attorneys.

\(^8^9\) Rikleen, *supra*, at 164.
\(^9^0\) *Id.*
A study by Reichman and Sterling surveyed two thousand licensed attorneys in the State of Indiana.\textsuperscript{92} From these statistics, the authors suggestions and strategies to promote opportunities for women lawyers to aid in their advance through the ranks of law firms through higher workplace satisfaction levels creating higher firm retention rates.

These recommendations include:

1) Changes in the law firm work culture: billing, evaluation, and hours;

2) Encourage law schools to educate students about the realities of law firm practice;

3) Continue the work of task forces and Bar Associations to assist in bringing out change through further research and analysis, including comparative research and that of other profession;

and

4) Renew the commitment to addressing the concerns raised regarding women in the legal profession.\textsuperscript{93}

A Reduction in Billable Hours

A high billable hour requirement within a law firm only allows the law firm to evaluate an associate based on comparisons to other associates.\textsuperscript{94}

\textsuperscript{92} Reichman and Sterling, \textit{supra}, at 60

\textsuperscript{93} \textit{Id.} at 101.
Reichman and Sterling suggest that law firms change to a per project basis, which would promote the efficiency of lawyers using their talents on projects and would allow the saving of excess hours to be used for other projects or work week reduction. This may also reduce the stigma of part-time hours, as there is no connotation to a monetized unit, only a product for a client.

The authors also note that this system would promote greater transparency in the career evaluation and advancement process. Further, associates could be considered for promotions and partnerships based on the number of projects completed. The project-based system also would allow law firms to give a higher degree of predictability for associates, giving greater certainty to plan for family demands or other obligations. This predictability would also eliminate the need to be constantly wired to the firm to be available to new urgent incoming work. It would also avoid the “burn-out” factor that results in higher associates turn-over and raises hiring cost for the firms.

Law School Experiences and Apprenticeships

A particular complaint for new associates at a law firm is that is unrealistic expectations of the law firm work environment. Reichman and Sterling argue that this problem should addressed at the law school level. The authors report

---

94 Id. at n98.
95 Rikleen, supra, at 118.
96 Reichman and Sterling supra, at 98.
97 Id.
98 Id. at 99.
99 Id.
several comments made to them during their study that women lawyers “wish they had been warned” about the workload expected of them at a law firm before they were hired. An increased use of apprenticeships may result in graduates having a better idea about what they are getting into when they sign on to a law firm. Some law students may even choose to alter their course of study to enter a law area that has an associated lifestyle more to their requirements.

Comparative Research Against Other Professions

Reichman and Sterling also suggest that comparative studies and analyses be completed that compare the plights of women lawyers to those in other professions and in other countries. Practices already in place in other professions or countries that work well and promote gender equality should be considered for adoption, or if certain policies and practices work well here but not elsewhere. In particular, the authors note, that any commission doing this type of study must address if there are policies and programs elsewhere that reduce or eliminate the disparity of financial compensation between the genders.

Addressing Women’s Concerns Within the Profession

100 Id.
101 Id.
102 Id. at 100.
103 Id. at 101
Reichman and Sterling renew a call for commitment to addressing concerns on issues that limit the full participation of women in the legal profession.\textsuperscript{104} The authors state:

“The legitimacy of our legal system depends on its inclusiveness and ability to integrate the views of all that play a part in it by allowing them the opportunity to reach the highest levels of achievement. Women have offered much to the legal profession so far in the little over a century that they have been admitted to practice. It is breathtaking to imagine how much more they can offer with an increased presence at all levels of the practice, with equal pay and opportunities and with a voice which can be heard in leadership positions with the professions.”\textsuperscript{105}

**Conclusion**

The key to increased numbers of women equity partners in law firms is that women associates must be able to remain employed for long periods of time by one law firm. During this time, law firms must make a concerted effort to devote resources directly into the retention and development of women lawyers, and recognize that many partnerships track.

The increased numbers of women lawyers in the past few decades changed the landscape of the legal profession. Women lawyers, after a long period of historical discrimination based on gender, have made substantial inroads into creating equal opportunities in most areas of the legal employment.

\textsuperscript{104} \textit{Id.}
\textsuperscript{105} \textit{Id.}
The initial waves of women law school graduates eventually succeeded in removing many barriers to employment in large law firms, often at great personal cost. The female law school graduate today faces few of the employment obstacles that were common only a few years ago.

An exception in equality for women lawyers in the legal profession remains in the area of equity partnerships in large law firms. Despite an increasing number of women attorneys practicing in the profession, the percentage of women partners in these firms had made minimal growth in the past decade.

The nature of the process of becoming an equity partner in a law firm is often at odds with the realities of life for many women attorneys. A new female associate on the partnerships track in a large law firm is often expected to invest long hours, nights, and weekends to work so the firm can bill large amounts of hours to clients that make profits for the current equity partners. Many new associates accept this path as a necessary action for deferred wealth at a later date when they become an equity partner. Others do not, or cannot, do so for varying reason. Many women lawyers (and the occasional male lawyer) decide not to defer childbearing to a later point in their career, but then face career obstacles when they must alter their career choice so they can balance work and family obligations. This attempt to have both a career and a family often leads to job dissatisfaction for the female lawyer, and may lead to the decision to leave the law firm for a position (usually at a smaller law firm or in a
government legal position) that has the time flexibility required to juggle family needs.

If the woman lawyer moves to another firm, often they must start at the beginning of the partnership track again. Many law firms attempted to rectify the loss through internal changes, such as the creation of part-time lawyer positions (although these often involve a 40-hour per week schedule) or the implementation of a non-equity partnership tier, to slow the valuable human capital that was leaving the firm. However, these programs in many cases were not valued by firm stakeholders, and have not had the intended impact. In many instances, the use of these programs have been a death knell for the woman lawyer that makes use of it.

For gender equality to come to equity partnerships, a concentrated effort must be made by law firm stakeholders to create opportunities for women lawyers that seeks to attain equity partner status. In many cases, this means that the perception of second-class status by women lawyers that choose to reduce their workload as they raise children, or similar quality of life reasons, must be removed. Resources for lawyer training and improvement must be kept open to associates that are not on the traditional linear partnership track.

It is only through the removal of this barrier that alternative law firm opportunities may be utilized by both genders on an equal basis, such as the availability of part-time law positions for men without stigma.
BIBLIOGRAPHY


Epstein, CF. Women in the Legal Profession at the Turn of the Twenty-First Century. 49 KANSAS L. REV. 733 (2001).


Hull, KE and Nelson, R. Divergent Paths: Gender Differences in Careers of Urban Lawyer. 10


Schlitz, PJ. On Being, Healthy, and an Ethical Member of an Unhappy, Unhealthy, and Unethical Profession. 52 VAND. L. REV. 87 (1999).

Silverbrand, IJ. Modified Partnership Structures and Their Effects on Associate Satisfaction. 21 GEO. J. LEGAL ETHICS 165 (2008).


