



NAWL's First Annual Survey on Retention and Promotion of Women in Law Firms

**ABA Commission on Domestic
Violence Essay Contest: Gender
Bias in Asylum Law**

**What are the Informal Rules of
Practice?**

**Seeking Balance and Small
Progress at Home and in the
Office**

**Managing "The New Gig"
as a Minority Female**



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— Margaret Mead

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ARTICLES Book reviews or articles about current legal issues of general interest to women lawyers are accepted and may be edited based on the judgment of the editor. Editorial decisions are based upon potential interest to readers, timelines, goals, and objectives of the association and the quality of the writing. No material can be returned unless accompanied by a self-addressed, stamped envelope.

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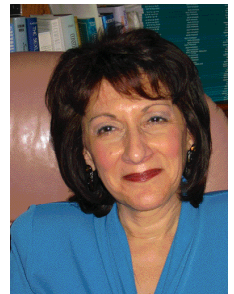
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Dr. Ellen Ostrow is the founder of Lawyers Life Coach LLC, a firm providing professional development, career, business development and executive coaching services to attorneys and consultation to legal employers. Known for her expertise on issues of particular concern to women lawyers, her email newsletter Beyond the Billable Hour™ has been reprinted by 25 different bar association publications and many other print and electronic legal publications. She has addressed the ABA, NAWL, NALP, the ABA Commission on Women in the Profession and numerous state and women's bar associations. To contact Ostrow, visit <http://Lawyerslifecoach.com> or write to Ellen@lawyerslifecoach.com.



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Editor's Note

While all the articles in this edition of the *Journal* are excellent, and I rarely would tell you that any one article has to be consulted first, this time I will make an exception: go straight to the NAWL Survey article. We at NAWL are very proud of producing our first survey on the retention and promotion of women in law firms. This survey measures – for the first time, to our knowledge – the levels of women equity partners versus non-equity partners, comparative compensation as between male and female lawyers, and women's participation on high-level governance committees in law firms.

And of course this is only the first survey. Every year we will build on this baseline survey to better track women's progress and success in the law. Over 100 firms chose to participate this year and we look forward to many more participating in the future. We are very excited at this fine piece of work and I commend you to reading the summary of the research.

Along with the Survey, I can recommend all the other articles for your interest. Christine Ovald-Mruz, a partner at Lowenstein Sandler in New Jersey, chronicles her life as a partner – with three young boys at home – with grace and insight. Ellen Ostrow, a super coach to attorneys based in Maryland, writes about how difficult women attorneys sometimes find it to divine the governing “rules” to getting ahead. And Jennifer Bancroft DaSilva, inhouse with Schering Plough, provides some tips for minority females as they attempt to adapt to a new job.

We also have two special articles. One is the winner of the ABA Commission on Domestic Violence Essay Contest, which is held every year. This year's winner, Amanda Knief, a recent graduate from Drake University Law School, has written comprehensively about gender bias in asylum law. We also have a superb book review, by Professor of Law Jennifer Martin of Western New England College, of a new edition of *Presumed Equal*, a survey of many of the nation's law firms in terms of their policies and practices with respect to women.

Lastly, I want to spotlight a change that you may already have noted in picking up this edition of the *Journal*: our graphic redesign. Thanks to a new member of the NAWL Staff, Erin Shanahan, we have redesigned our look so that it is more accessible and attractive. We hope that it makes your experience reading the *Journal* even more enjoyable than it has been in the past.

As always, we would like to hear from our readers, so email us and let us know what you think about the *Journal's* content, its new look, about articles you would like to see, what you like and don't like. This *Journal* is for you, our members, and our aim is to make it as engaging and informative as possible.

Warm wishes,

Holly English, Editor, *Women Lawyers Journal*
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President's Message

In a historic action, NAWL published its First National Survey on the Retention and Promotion of Women in Law Firms this month. The survey focused on benchmarking women in the upper reaches of law firms as measured by the responses from more than 100 of the country's largest firms.

There is good news and there is bad news.

The good news is that women are making progress and are achieving parity in position with their male counterparts, particularly at the associate, of counsel and non-equity partnership levels.

The bad news is that women continue to be disproportionately underrepresented at the highest echelons: equity partnership and firm governance. Indeed, only 5% of law firms are managed by women partners. Compensation is significantly lower for women equity partners than their male counterparts.

We know law firms are putting effort and funds into attracting and retaining women lawyers. We hope the firms recognize the leadership potential and management skills women possess. However, the numbers cast doubt on that hope.

Here at NAWL we see firsthand the commitment of some firms – they are our sponsors and our members. Their support of NAWL is a clear expression of their belief that women can and should be acknowledged as leaders in the profession.

One of the core goals of the women's movement was and continues to be equal pay for equal work. This is no less desirable among highly paid professionals as it is for any other job.

Compensation systems are tricky for law firms. In general and in theory they reflect three components: origination, monies collected from billed time, and "other" contributions to the firm. It is time for law firms to reexamine their compensation systems to be sure that women are being paid their fair share. Law firms need to reassess how they assess credit and how they choose the leaders who get credit for "other things" and preferential marketing support.

Origination is, in many firms, the single most important aspect of a partner's value to the firm. Historically, the first person bringing in the client gets the origination credit. These days corporations are demanding diversity at their law providers. RFPs and selection processes all have questions about gender and ethnic composition. In 2006, it is not only right but also good business for firms to have women and attorneys of color in order to retain and obtain business. Do law firms assign credit to the diverse lawyers who make such business retainable and obtainable? Corporations – the clients – who support diversity should not only ask what the numbers are at a firm, they should ask how work assignments and compensation are calculated.

There are methods to ensure that women keep up their end of the bargain, and trust us, we will. Women seek to be more than window dressing at a business beauty contest. Firms should see to it that women are put in relationship positions and given responsibility for matters that they helped to originate. The women will excel. Management should reward the white male partners who willingly include women on existing business and business credit: this not only assures diversity, it provides for the institutionalizing of a client.

We have come a long way, but we have a long way to go. Each of us needs to think about what this survey shows and what it teaches. The NAWL Survey is only a measure of where we are. More importantly, it is a guidepost pointing to where we must go.

Cathy Fleming
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Taking Charge

BOSTON, MA
SEPTEMBER

On September 15, 2006, NAWL presented another installment of its hallmark series, *Taking Charge of Your Career: Best Practices for Women Lawyers and Their Firms*. Over 100 people came to the luxurious Colonnade Hotel in Boston to learn and share their insights about how to advance in the profession. The event, which was designed

to provide women lawyers with the information needed to achieve career success and advance to leadership roles within the profession while also fostering a sense of personal achievement, featured fifteen accomplished speakers from private practice, government, academia, and corporate life. The panel discussions were outstanding,



NAWL President Cathy Fleming with U.S. Army Colonel Maritza S. Ryan, head of the Department of Law at the United States Military Academy at West Point and longstanding member of NAWL.



Associate Professor Renée M. Landers of Suffolk University Law School makes a point during a panel discussion.



Program participants enjoy conversation and an excellent luncheon at the Colonnade Hotel



Program participants Kara E. Fay, Debbie Evans and Kimberly A. Simpson at the luncheon at the Colonnade Hotel.

of Your Career

MASSACHUSETTS
15, 2006

as was the camaraderie among the diverse group of participants who came from New York, New Jersey, New Hampshire, and Maine, as well as from Massachusetts.

This year, NAWL has made the retention and promotion of women in the practice of law a major priority. The theme

was also addressed by the program's keynote speaker, Lauren Stiller Rikleen. Rikleen, a partner at Bowditch & Dewey, LLP, and Executive Director of the Bowditch Institute for Women's Success, is the author of *Ending the Gauntlet: Removing Barriers to Women's Success in the Law*.



Sarah Camougis of Edwards Angell Palmer & Dodge LLP moderates the panel entitled "Not What You Learned in Law School: The Skills and Information You Need to Progress."



Keynote speaker Lauren Stiller Rikleen (clockwise from top left), with program chair and NAWL Vice President Lisa Horowitz, NAWL President Cathy Fleming, and NAWL member Betsy Munnell.



Program participants Melissa D'Alelio and Courtney A. Queen at the luncheon at the Colonnade Hotel.



Professor Landers speaks to two program participants.

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"The LL.M. program allowed me to make real three of my most cherished dreams: to work for the UN; to work in Africa; and to work in the field within the area of human rights."

- Miréya Peña Guzman, LL.M. IHR 2003

A Colombian lawyer and Doctor of Law from the University of Paris (Sorbonne), who has served as Human Rights Officer with the United Nations Mission in Ethiopia and Eritrea (UNMEE) in Addis Ababa.

"The LL.M. Program in Intercultural Human Rights has been a great addition to my career. I now understand how international law and the different mechanisms to protect human rights can be used domestically. I also know better how to exercise political pressure to change policy. It has helped me refine my arguments in asylum cases, especially those focusing on gender persecution. Its intercultural dimension was a great segue into my current practice of providing culturally sensitive advocacy for victims of domestic violence, sexual assault, and modern-day human slavery,"

- Ana Vallejo, LL.M. IHR 2002 & J.S.D. Candidate

An American lawyer who now serves as supervising attorney of the federally funded LUCHA project of the Florida Immigrant Advocacy Center. She is now also writing a J.S.D. thesis on victim orientation as a new paradigm of international law.

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Seeking Balance and Small Progress

Christine Osvald-Mruz • Member, Lowenstein Sandler, PC

There are mornings when, deep in thought or distracted, I get 10 minutes into my commute after dropping off the kids before I realize that I am still listening to “The Wiggles.” As a partner in a law firm and a mother of three small children (ages 6, 3 and 1), I am never bored. The velocity of my life at present is challenging. I am constantly striving for balance. My driving principle is the conviction that there must be a way to be devoted to my career and to my family – to be the kind of lawyer I want to be and the kind of mother I want to be.

My driving principle is the conviction that there must be a way to be devoted to my career and to my family – to be the kind of lawyer I want to be and the kind of mother I want to be.

Moving between the world of work and the world of home and children presents challenges. Billing time in six-minute increments, coupled with trying to work as efficiently as possible, is about as far as one can get from “kid time.” My kids really would prefer to play trains/cars/buses/rockets on the bathroom floor than brush their teeth, and see no particular urgency to getting dressed, fed and out of the house in the morning. I have to make adjustments when I am switching between the worlds, such as clearing my purse in advance of a client meeting so that an errant pacifier does not drop out when I reach for my business cards.

At the same time, there are parallels between how I manage my work and how I manage my home life. In each case, I first take stock of what needs to be done, prioritize, deal with the emergencies, and take care of things in the “critical path” (that otherwise would block forward movement). I then seek to make progress on other items. In my work on corporate transactions, such as mergers and acquisitions, the “emergency” may be a phone call that must take place that day to resolve an open issue. Critical path items may be following up with my team and/or the client to enable them to move forward on tasks ranging from tax analysis to document production. In the case of my home life, “emergencies” may be that tomorrow’s show-and-tell must be “something that grows” and that we are dangerously behind on laundry. Critical path items may be that we have to make an appointment with the dentist (or doctor, vet, or car repair shop – fill in the blank for your own situation) and place an online order for a birthday gift.

I also consciously decide in each case where to make trade-

offs. I work a reduced schedule (compared to the staggering number of hours many lawyers work), trading some potential income for time. “Part time” is a misnomer; rather, there is flexibility and fluidity to my schedule, which is still substantial. To manage my workload, I limit the number of matters I take on at one time, and more frequently play the role of supervisor than of draftsman. I also seek matters that will not inexorably require incessant, prolonged, round-the-clock attention. This stage of my career does not lend itself to running IPOs, but I can and do lead other sophisticated transactions.

The “Compromise” Question

I am unwilling to compromise on the quality of my work. It is important to me to bear real responsibility at work and to be diligent, thorough and effective. I enjoy the intellectual stimulation of my work and feel inspired to develop relationships with clients and to learn and grow professionally. I also make it a priority to contribute to the life of the firm, including serving on committees, mentoring colleagues, and organizing networking events.

In our dual career household, my husband and I have decided to allow ourselves some room for imperfection. Our home is “decorated” with toys, interspersed with inside-out boys’ socks. Some nights we have cereal for dinner; other nights we join the kids in eating dinosaur-shaped chicken nuggets. By the end of each week, we typically have a giant collection of mail, newspapers and kids’ art projects to face.

In the case of my home life, “emergencies” may be that tomorrow’s show-and-tell must be “something that grows” and that we are dangerously behind on laundry.

One area in which we do not compromise at home, however, is in our attention to and affection for our children. The kids have a relatively elaborate bedtime routine, in which we reserve time for reading, talking, hugging, occasional tantrums and the inevitable trucks/airplanes/construction vehicles on the bathroom floor. We relish the differences in our kids’ personalities and delight in the funny things they say and do. We become excited as they reach developmental milestones and seek ways we can teach them, encourage them and comfort them.

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The New Gig

Jennifer Bancroft DaSilva • Senior Legal Director and Chief Counsel, Schering-Plough Animal Health Corporation

You are a little nervous. But you have on your new pantsuit and pumps and are ready for action. It's the first day of your new job. You are nice and early and you proceed to the receptionist who happens to be a middle-aged white woman. She looks at you quizzically: "Do you need an application?" Application, you think to yourself; what is she talking about? Does she think that I am here to apply for another job? "Miss, do you need an application? We have lots of positions for the file room and secretaries, open right now."

I can't believe my ears. After all, I am wearing Ferragamos!

Now I'm angry. "No," I respond. "My name is Ashley Whitney and I am an attorney. Today is my first day."

"Oh," she says, "You are Ashley Whitney? Please, come right this way..."

I can't believe my ears. After all, I am wearing Ferragamos!

If you are a minority female attorney, this is not a new scenario. Somewhere along the way, perhaps multiple times, you have had a case of, let's call it, mistaken identity. You are the only brown face around, except perhaps the cleaning ladies, file room women and/or secretaries and assumed to be someone other than an attorney.

How do you adapt to your new environment? Here are a few tips:

1. Say hello to everybody and anybody. Even if it is not your natural inclination, make an effort to meet as many people as you can in your early months of work. Certainly, get to know the colleagues in your group. Also, don't ignore the secretaries, paralegals and cleaning ladies. They are not invisible. They know everything that is going on and could help you to gain a better understanding of the company. A friend of mine at one of the oldest and most prestigious New York law firms found out that he made partner from, guess who? The janitor who he had befriended during the many evenings

when he was burning the midnight oil in the office.

2. Network before you show up. Our communities are small. Does anyone know anyone who works there? Ask around. When you arrive, if you are fortunate enough to meet a professional of color at your new job, play the name game. Where did you go to school? Where are you from? Where do you live? Where do your children go to school? Chances are good that you know someone that he or she knows. One of my colleagues-of-color who recently joined my company is in a book club with one of my dear friends of over 20 years. She also happened to begin her law practice in Los Angeles with one of my law school buddies. It turns out that we both attended our mutual friend's wedding several years ago and didn't even know it! There are less than two degrees of separation in the minority bar and the minority community in general. Making a connection makes everyone feel more comfortable.

3. Focus on commonalities, not differences. When I started my position at Schering-Plough Corporation, there were very few women attorneys and no African-American female attorneys with children. But, almost all of the male attorneys were married with children. So, when our group lunch conversations turned to lighter topics, I tried to steer the conversation away from the latest professional football or baseball game (of which I could offer limited opinion) and instead discussed what happened at the latest extracurricular activity that our children were involved in over the weekend. Since some of them coached their children's team and certainly all attended the games, this was a topic we could all relate to. You would be surprised at how much mileage you can get out of soccer and Little League!

While the indignity of a "mistaken identity" is unpleasant, using network techniques such as those listed above can help you to brush off those incidents like fleeting footnotes in your professional life and focus on the satisfaction and pleasure that you derive from your work and colleagues. •

Don't Follow These Laws!

Ellen Ostrow • Founder, Lawyers Life Coach, LLC

When you live in a world of contract law, tort principles and civil procedure, it's easy to expect that there must be a rule for most things in life. Certainly, living can seem simpler when there is a clear-cut "right" and "wrong" to guide you. Ambiguity creates discomfort. Conventions allow us to feel more in control and to make the world seem more orderly.

But sometimes our wish to find "the right way" to do something can steer us off course. Often, the women lawyers I coach describe their experience of the legal workplace as akin to having entered a milieu where everyone else knows the rules – and they don't have a clue. Their confusion is more complex than finding out how to get copies made or where the mail room is.

Rather, they have a sense that there are particular ways to successfully negotiate the system and someone forgot to give them the code of conduct. It's an experience most people have when they are members of a minority group trying to navigate through the majority culture.

It reminds me of the first time I attended a Catholic mass. Not having been raised Catholic, I froze when the person next to me tried to steer me toward the priest to receive communion. What should I do? If I "faked" it, wasn't that sacrilegious? On the other hand, trying to sit quietly in my pew made me painfully conspicuous.

There's plenty of lore about women pioneers who "acted like men" to succeed professionally. Younger women don't view them as role models.

But my situation was a short-lived challenge. I wasn't trying to convert – and if I had been, they would have given me a rule book.

In contrast, women attorneys have to adapt to a culture designed by men. The behavioral norms reflect traditional male mores. There's plenty of lore about those women pioneers who learned to "act like men" in order to gain acceptance and succeed professionally. Younger women don't view the women who forged the way as models they want to follow.

Consultants vs. Coaches

In an effort to help women advance, many legal workplaces now hire coaches and consultants to assist them in adapting

to the culture. But exactly what are women lawyers learning from us?

I became concerned with this when the members of a panel on which I participated asked me if I didn't agree with the "rule" that women lawyers should not be "too nice or empathic." Of course, I knew exactly what they meant – women who come across as warm, sensitive to others' feelings, who manage indirectly rather than by issuing directives, and who often follow their well-informed statements with tag questions like "don't you agree?" do not match the stereotype of a law firm leader. The adjectives that "leader" bring to mind overlap with the male gender stereotype: strong, dominant, competitive, assertive, independent. Leaders, like men, ostensibly speak with authority. They get down to business rather than attending to a subordinate's feelings. They give direct orders. There is no tentativeness in their speech.

Of course there is merit to this argument. Women – and even more so women of color – typically do not benefit from the presumption of competence that male lawyers – particularly white ones – receive. They need to prove that they are smart, strong and tough enough, based on the belief that these are necessary traits for competent legal practice. I'd agree with the "smart" part – we all want the people who help us, be they our doctors, lawyers, or other advisors, to be knowledgeable and incisive problem solvers.

But are "strong" and "tough" truly job requirements? During my last physical my physician told me I was his last appointment before he was scheduled for surgery. He'd been biking cross country and had fallen and broken a finger. Not wanting to lose time, he decided to forego medical care. Naturally, the bone had re-set itself in a very odd position and now he needed surgery to re-break and then re-set the bone. "You know how it is," he said, speaking to me as a colleague. "Your patients need to see you as invulnerable." I told him that I certainly didn't need that from him and that he might want to reconsider that assumption.

Similarly, assumptions about how lawyers should act and speak often reflect the fact that men have been behaving this way for many years more than they reveal some true requirement for competent legal practice.

In our efforts to promote diversity in the profession, we need to take care not to inadvertently promote conformity and

(continued on page 27)

2006 Report: NAWL's First National Survey on Retention and Promotion of Women in Law Firms

Summary

The NAWL National Survey on Retention and Promotion of Women in Law Firms ("Survey") was designed to collect accurate data concerning the leadership status of women lawyers in private practice. This Survey differs from existing research in that it measures (1) the comparative role of women lawyers at all levels of law firm seniority, including as equity partners; (2) different types of partnership opportunities in law firms and where women stand in relation to men; (3) women's roles in the governance of firms; and (4) women's compensation relative to men's compensation at similar levels of seniority.

The Survey shows that women lawyers are well-represented at the lowest level of the profession, constituting 45% of associates, but not at the top of the profession. While women account for close to half of law firm associates, they account for 28% of of-counsel lawyers and 26% of non-equity partners. At the top level of law firm partnership, women account overall for 16% or 1 out of every 6 equity partners. Representation in the equity partnership during prime earning years (between 10 and 25 years experience in the profession) is a little better; in that group, women account for about 20% or 1 out of every 5 equity partners. Among the most junior equity partners, women account for about 24% or 1 in 4. Whether these differences represent an upward trend of an increasing number of women as equity partners is one issue, among several, that we plan on tracking over time.

Even when women lawyers achieve the formal status of equity partner, preliminary information indicates a gap in compensation between male and female equity partners. Moreover, women's role in the governance of law firms is far less extensive than men's. Women hold on average only 16% of the seats on their firm's highest governing committee. Only about 5% of managing partners are women. To the extent that gender diversity matters for decisions that large firms make about such critical firm-wide issues as long-term strategy and growth, business development, partner compensation and advancement, and policies and practices related to the retention and promotion of women lawyers, it appears that, at the highest level, these decisions are still being made in a decidedly male environment.

Impetus for the NAWL Survey and its Uses

The Survey is NAWL'S first national study about the role of women lawyers in law firms – to our knowledge, the only current national study that offers a statistical overview of the careers of women lawyers at all levels of private practice, including their roles as equity partners and law firm leaders.

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The impetus for the Survey grew from the now familiar "50/15/15" conundrum: for over 15 years, 50 percent of law school graduates have been women yet for a number of years, only about 15 percent of law firm equity partners and chief legal officers have been women. The partnership pipeline is actually richer than these numbers suggest because, for over two decades, law schools have graduated women in substantial numbers and law firms have recruited women at the entry level in about the same ratio as men.

In an era when partnerships are made within 7 to 10 years of law school graduation, many in the legal profession had expected that, by now, there would be gender parity at all but the most senior levels of law firm partnerships. At the same time, a lack of national data has prevented both a clear picture of and benchmarks for how women progress in law firm hierarchies. Existing surveys on women in law firms focus disproportionately on women associates, too frequently ignore the important distinctions between non-equity and equity levels of partnership and largely ignore the role of women partners in law firm governance and relative compensation.² The data have not been amenable to benchmarking, on an objective, national basis, the progression of women into the upper ranks of firms.³ While the past year has spawned a number of reports based on information from individual lawyers about retention and promotion of women into the senior levels of law firms,⁴ the studies have limited ability to provide a systematic profile of the status of women and men in the upper echelons of law firm practice and leadership.

The NAWL Survey aimed to fill these gaps. The Survey was designed to provide easily understood and measured indicators of career status at the national level, and the extent to which women are achieving senior roles in law firm practice and governance. NAWL also hopes that state and local bar associations will take up the mantle of this Survey; and NAWL would be pleased to work with such organizations to extend the Survey to local arenas.

The Survey is one of several initiatives being taken as part of the NAWL 2015 Challenge – a challenge issued in July 2006 for law firms to double the number of women equity partners and for corporations to double the number of women chief legal officers by 2015. As the data below suggest, there is work to be done.

Survey Methodology

The NAWL Survey questionnaire was sent to the 200 largest firms in the U.S. as defined by *American Lawyer* in 2005.⁵ Although most practitioners work in smaller settings, we

chose to focus on these larger firms because they compose an easily defined sample on a national basis and their results would more readily be viewed as benchmarks for the larger profession.

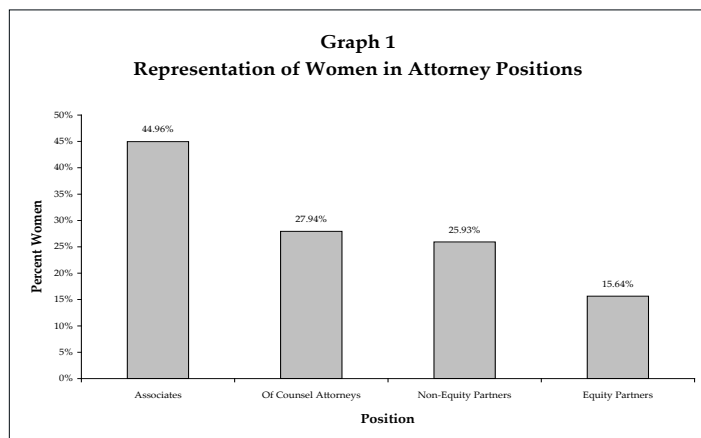
The Survey solicited information about each firm as a whole, as of March 1, 2006, regarding the firm's U.S.-based lawyers. The questionnaire asked about total law firm size; number of male and female associates, of-counsel, non-equity and equity partners; whether the firm was a one-tier or two-tier partnership⁶; median compensation and highest compensation by gender; representation on the firm's highest governing committee; and gender of the managing partner. There were additional breakdowns by level of seniority as defined by year of graduation from law school. One hundred and three firms responded to the Survey in time for publication.⁷

As part of the Survey, NAWL committed not to publish individual law firm data, which was secondary to our goals of finding out how women were doing in the aggregate and setting overall benchmarks.

The Survey was developed and administered by NAWL. The analysis was assisted by Navigant Consulting, Inc.,⁸ which generously contributed its time and resources to this project in validating the statistical calculations and developing the accompanying charts. It should be noted that the analyses, conclusions and opinions expressed in this report are solely the views of NAWL.

Are Women Progressing into Higher Levels of Law Firm Partnership?

We asked firms to identify the number of associates, of-counsel, non-equity partners and equity partners and also to identify the gender breakdown in each category. On average, as shown in Graph 1, women represent 45% of associates, 28% of of-counsel, 26% of non-equity partners, and almost 16% of equity partners.

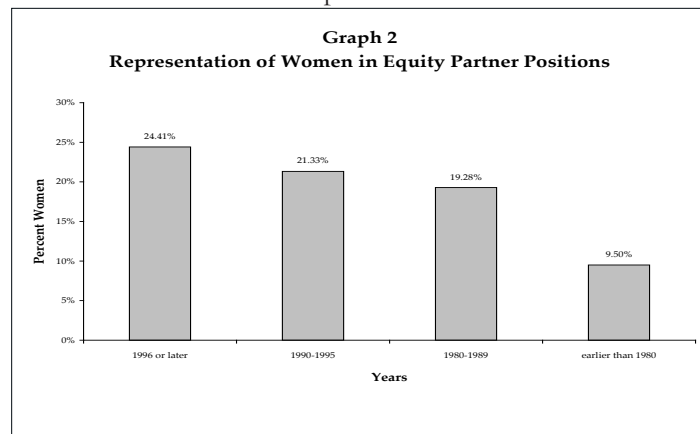


The lowest reported percentage of women equity partners by any firm was 5%; over 75% of the sample reported that at least 13% of their equity partnerships were women partners. That said, only one firm reported a percentage of women

equity partners that was higher than 25%. Overall, the firms show a remarkably consistent pattern: the vast majority report that between 10% and at most 25% of their law firm equity partners are women. These results are consistent with other, local studies and large amounts of anecdotal evidence.

The numbers overall also show fewer and fewer women lawyers at each transition point, from associate to of-counsel to non-equity partner to equity partner. There is a dramatic difference between the lowest and highest lawyer positions: while close to 1 out of 2 law firm associates is a woman, only 1 out of 6 equity partners is a woman. Considering that for most firms, equity partnership decisions are made between 8 and 10 years after graduation, it appears that the vast majority of firms have a large bunch of women associates, a little more than half again the number of of-counsel and non-equity partners and an even less robust number of women in equity roles. This phenomenon has broader implications for increased numbers of women in firms given the positive effect that such practices as senior-to-junior mentoring and role modeling have, as generally believed, on the movement of women into senior roles in firms.

Even when women are promoted beyond the associate level, their movement into the highest levels of firms has been limited. Looking at promotion into equity partnership by seniority as defined by class of law school, of the relatively small number of persons who graduated from law school in 1996 and have become equity partners, women represent roughly 24% of them. For graduates from 10 to 15 years ago (classes of 1990 to 1995) – a timeframe when virtually all firms have decided whether their lawyers will be promoted to equity partner – women represent 21% of equity partners. Among graduates of the classes of 1980 to 1989 – a time when partners traditionally would be expected to be in high gear for productivity and earnings – women occupy roughly the same level, at 19% of equity partners. For graduates of the class of 1979 or earlier, women comprise between 9 and 10% of equity partners, although these numbers are not much different than might be expected given the low rates at which women attended law school before the late 1970s. These results are illustrated in Graph 2.



If we look only to those classes where women graduated

from law school in large numbers, women occupy equity positions at about 20% the level of men, or at a 1 to 5 ratio. This number is consistent throughout the classes of equity partner from 1980 to 1995. For the more junior equity partners, those who achieved that position in less than 10 years out of law school and where classes were roughly 50% female, the number is somewhat higher (24%).

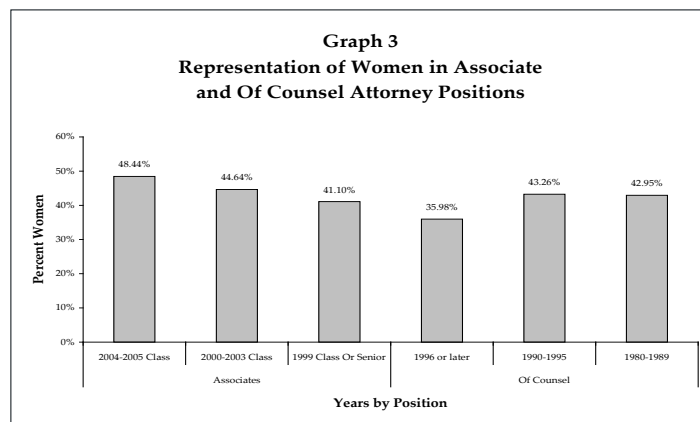
At this point, the results are both encouraging and disheartening. While there has been marked improvement in the number of women equity partners from the last generation of lawyers to this one – comparing women who graduated before 1980 with those who graduated between 1980 and 1995 – there is a considerably lower percentage of equity partners than the number of women law school graduates would predict. This is an especially striking finding given that the number of women and men who start out as associates in the large law firms is roughly the same, and has been for a number of years.⁹ In addition, these data cannot tell us whether the somewhat higher number associated with the most junior level of equity partner represents a meaningful increase in the rate at which women lawyers are currently achieving and maintaining the position of equity partner or whether, as these younger women progress in their legal careers, there will be a noticeable loss of women from the ranks of equity partnerships. One reason why NAWL intends to complete its Survey on an annual basis is to be able to address such questions with meaningful trend data.

At the level of non-equity partner (and looking only at two-tier firms, where there are large numbers of non-equity partners¹⁰), the gender differences are also notable. Overall, women represent 26% of non-equity partners. For people who graduated from law school 10 years ago or less, women represent 27% of non-equity partners. For graduates from 10 to 15 years ago (classes of 1990 to 1995), women represent 30% of non-equity partners. Among graduates of the classes of 1980 to 1989, women occupy the non-equity positions in about the same proportion, 31%. For graduates of the class of 1979 or earlier, women comprise about 11% of non-equity partners.

Thus, in prime partnership years at the nation's largest law firms, women occupy roughly one-fifth of equity partner positions and, in two-tier firms, just under one-third of non-equity positions.

The of-counsel data show a parallel picture: the percentage of women of-counsel is far greater than the percentage of women in either equity or non-equity partnerships. The numbers are especially pointed looking at graduates from the classes of 1980 to 1995. Women represent 43% of lawyers who are of-counsel in each of those classes, although they represent only some 20% of equity partners and 31% of non-equity partners in the same cohorts. Equally striking, the percentage of women in of-counsel positions during the years when partnership would most likely be expected – 1980 to 1995 – is about the same as the percentage of women associates in firms. These results are

shown in Graph 3.



Traditionally, of-counsel positions were given to partners nearing retirement, who wanted to maintain a practice but not on a full-time basis and without the business responsibilities of equity partnership. It is unclear, however, what factors are influencing the percentage of women who occupy of-counsel positions. Are women more likely to seek less visible roles as partners? Are these of-counsel positions a place for women lawyers who are denied partnership status for legitimate reasons? Or are women in large firms disproportionately directed into of-counsel positions instead of promoted to partner level work and compensation? Because NAWL anticipates conducting this survey on an annual basis, we hope to accumulate data amenable to answering at least some of these questions.

Does Law Firm Structure Have an Impact?

Law firm structure – whether the firm has a one-tier or two-tier partnership – impacts whether women progress to the level of equity partner. First, as a threshold matter, the percentage of associates in one-tier firms who are women is the same percentage as in two-tier firms (45%). The percentage of of-counsel lawyers who are women is also roughly the same in single-tier versus two-tier firms (31% versus 26%).

At the level of equity partner, there are some differences. In single-tier firms, women comprise 17% of equity partners. In two-tier firms, where women may occupy either an equity or non-equity position, 15% of equity partners are women. This difference between one-tier and two-tier firms is sufficiently large enough to be statistically significant at the 95% confidence level.¹¹ There are also a substantial number of women non-equity partners in two-tier firms (26% on average); that position has negligible numbers in one-tier partnerships for either men or women.

These statistics raise the question, is the one-tier or two-tier structure more amenable to promoting women into senior positions as equity partners? One-tier firms have a lower percentage of women “partners,” if we count both equity and non-equity positions, than two-tier firms. On the other hand, the point of most two-tier firms is to stratify the partnership. That is why in most two-tier firms, non-equity partners are denied authoritative input into the governance of the firm,

receive substantially lower compensation and benefits, and frequently need to follow an “up or out” track within a few years of becoming a non-equity partner, which limits the number of years in which they may occupy partnership positions.

A similar point is made when we disentangle the data by seniority, where we find differences by law school classes. In the most junior group of equity partners, the percentage of women equity partners is about the same whether in one-tier or two-tier partnerships, about 24%. That group consists of law school recruits from classes that were divided about equally between men and women graduates. In looking at more senior classes, a greater percentage of women equity partners is found in one-tier firms. In the classes of 1990-1995, where women graduates account for close to 50% of classes, women account for 25% of equity partners in one-tier firms and 19% of equity partners in two-tier firms.¹² In the classes 1980-1989, where women graduates account for roughly 40% of graduates, women account for 22% of equity partners in one-tier firms and 18% of equity partners in two-tier firms.¹³ In the most senior classes, those graduating from law school earlier than 1980, women account for about 11% of equity partners in one-tier firms and 8% of equity partners in two-tier firms, numbers that are not significantly different and are roughly consistent with the level of law school graduates before 1980.¹⁴

Do Women Lawyers Participate at the Highest Level of Law Firm Governance?

We surveyed the gender of the managing partner and also the composition by gender of the highest governing committee in the firm.

Firms reported an average of 12 members on their highest governing committee. As shown in Graph 4, on average, the membership of the highest governing committee in a firm is about 16% women – about the same gender ratio as is found in equity partnerships. About 15% of the firms report as many as 25% female members of the highest governing committee. However, roughly 10% of the firms report no women members on their highest committee; and one fifth of the firms report that fewer than 10% of the members of the highest governing committee are women.

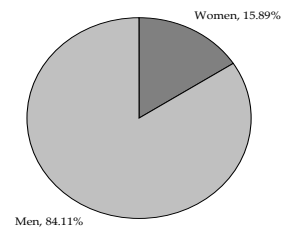
As shown in Graph 5, only 5% of managing partners are women, a much lower percentage than would be expected on the basis of equity partnership levels.¹⁵

These statistics suggest, among other things, that women occupy lower positions within the firm’s equity partner ranks, as it is our impression that selection of the firm’s managing partners and members of the highest governing committee typically comes from the top half of the equity partnership.

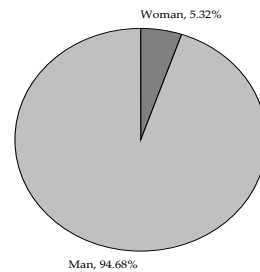
Is There Gender Parity in Compensation?

Questions on compensation were the only ones that our sample of law firms frequently did not answer and the overall

Graph 4
Representation of Women on
Firm's Highest Governing Committee



Graph 5
Gender of Firm's Managing Partner



response rate, therefore, is lower than on the other questions.¹⁶ That said, there were a sufficient number of responses to provide suggestive data and some significant findings.

Of the 62 firms that reported whether a male or female lawyer earned the most compensation in the firm, 57 firms – or roughly 92% – reported that their highest paid lawyer was a man.

Twenty-seven firms reported male and female median compensation for the non-equity partner position. Among these firms, the average median compensation for men is \$239,000 and for women is \$207,400. The male compensation advantage of \$31,600, however, is not statistically significantly different from zero at any reasonable confidence level.

Thirty-five firms reported male and female median compensation for the equity partner position. Among these firms, the average median compensation of a male equity partner is \$510,000. The comparable figure for a female equity partner is \$429,000. The difference, a compensation premium of \$81,000 for men, is statistically significant at the 95% level. However, it is also the case that there are substantially more men at the most senior levels of partnerships and this difference may account for the income disparity.

Twenty-nine firms reported male and female median compensation for the of-counsel position. The average median compensation for men of-counsel is \$202,000, and the figure for women is \$184,000. This difference of \$18,000 is significantly different at the 99% confidence level.

Conclusion

The NAWL Survey confirms that in American law firms, women are well-entrenched at the associate and of-counsel levels but do not occupy senior positions in the number many expected based on the large number of women law school graduates over the past 25 years. Women are not represented in large numbers as equity partners, on the highest management committee of their firms or in the role of managing partner. The data on compensation, while more sparse, are consistent with the overall view that women, on the whole, are not on a par in law firms with their male colleagues.

On the more positive side, we continue to see a large number of women lawyers practicing in private firms at all levels. The evident commitment of women to careers in private practice combined with the desire of firms to retain and promote women lawyers provide a solid foundation for advancing women into leadership positions in greater numbers. The pipeline is filled with women lawyers capable of occupying positions as equity partners, law firm managers and members of the highest governing committees in firms. The challenge for the profession – individual women, their firms and other interested stakeholders, such as law firm clients – is what policies and practices will work best to open that pipeline and advance women quickly into roles they have earned and will occupy with distinction.

NAWL conducted the Survey to provide initial benchmarks and stimulate discussion on the general issue of the status of women in private firms. We intend to repeat the Survey on an annual basis and look forward to seeing continued progress towards gender parity in private practice. We also have planned, as part of the NAWL Challenge, a number of initiatives to assist law firms in developing effective policies and practices that will enhance the progress of women in private practice. We know from our experiences in collaborating on diversity programs with private law firms around the country that there is a desire to implement meaningful, concrete steps that proactively increase the number of women lawyers at the more senior levels. We thank our Law Firm Members and Sponsors for their support of initiatives like the NAWL Survey and their cooperative efforts to enhance the role of women in the profession.

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²At the national level, “NALP” annual surveys provide very interesting data at the more junior levels of practice but do not focus on equity/non-equity distinctions or measure other indicators of success at the partnership level and law firm governance. Census data do not provide easily accessed distinctions among lawyers and focus more broadly on members of the legal profession, which includes many non-lawyer personnel, and also do not provide data on professional status or progression. The EEOC has conducted some research on women lawyers with a focus on compensation but only on an occasional basis.

³A number of local law news media have published surveys of

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the status of women lawyers in firms in a given geographic locale, although none of them have systematically studied the progression and role of women into senior levels of partnership and governance. In addition, there are validity issues with many of the surveys of women in equity partnerships because sponsors routinely allow a firm at its own discretion to obliterate the distinction between equity and non-equity partner by reporting all partners as “equity” partners. The result is a statistical sleight of hand, at two levels. First, firms treating non-equity partners as equity partners report a much higher number of “equity” partners than if they reported the two separately. In addition, the data from such firms put the overall group average into question, because it reflects the inflated number of equity partners that exists in the reports by individual firms. Not surprisingly, the firms who refuse to report gender statistics for equity and non-equity partners are, by our observation, typically the firms that have the worst records on promoting women to equity partner. What is surprising is that law publications have allowed this practice to continue without sanction.

⁴See, e.g., L. Blohm and A. Riveria, PRESUMED EQUAL: WHAT AMERICA’S TOP WOMEN LAWYERS REALLY THINK ABOUT THEIR FIRMS (Authorhouse 2006); American Bar Association Commission on Women in the Profession, *Visible Invisibility: Women of Color in Law Firms* (September 2006)(preview available at <http://www.abanet.org/women/perspectives>); L.S. Rikleen, *Ending the Gauntlet: Removing Barriers to Women’s Success in the Law* (Glasser Legalworks 2006). See also, e.g., T. O’Brien, *Why Do So Few Women Reach the Top of Big Law Firms?* New York Times, March 10, 2006.

⁵See “The AmLaw 100” for 2005, *American Lawyer* May 2005, and “The AmLaw 200” for 2005, *American Lawyer* August 2005.

⁶A one-tier firm was defined in the Survey as a firm where at least 95% of the partners are equity partners. Of the 101 firms that responded to this particular question, 39 reported a one-tier partnership structure and 62 reported a two-tier structure.

⁷An analysis of the non-responding firms showed that responding firms were larger in terms of revenue, total number of lawyers, and total number of partners than non-responding firms. In addition, a greater fraction of firms from Northeast and Midwest regions than South or West regions responded to the Survey, reflecting the regional distribution of the larger firms. The overall results are thus weighted toward the larger firms that were surveyed and the regions where the larger firms are located.

⁸Navigant Consulting, Inc. (NYSE:NCI) is an international consulting firm providing dispute, financial, regulatory and operational advisory services to government agencies, legal counsel and large companies facing the challenges of uncertainty, risk, distress and significant change. Information about Navigant Consulting, Inc. may be found at www.navigantconsulting.com.

⁹See, e.g., Women and Minorities in Law Firms at <http://www.nalp.org/content/index.php?pid=157>.

¹⁰By Survey definition, fewer than 5% of partners in one-tier firms are non-equity partners. See note 6, *supra*.

¹¹We did not include in our analysis four firms that chose not to distinguish their equity and non-equity partners. These firms treated all of their partners as “equity” partners when in fact they have substantial numbers of partners at the non-equity level. As reported to us anecdotally by members of those firms, they have a much lower proportion of women equity partners than women non-equity partners. In one such firm, as an example, we were informed that fewer than 10% of the equity partners are female, although, because of the large proportion of women at the non-equity level, the firm reported that over 20% of its “equity” partners were women. The

(continued on page 40)

Gender Bias in Asylum Law: Recognizing Persecution Against Women and Girls

Amanda Kneif

Editor's Note: The ABA Commission on Domestic Violence holds a writing competition each year for law students to submit essays on issues relating to domestic violence. This year's essay contest winner is Amanda Kneif, a recent graduate of Drake University Law School.

Nations grant asylum to citizens of other countries when those citizens are no longer safe in their home country. We traditionally think of granting asylum for political or religious reasons. We grant asylum for what people think, for what they believe. We grant asylum to people for who they are. Race and nationality are both internationally recognized reasons for granting people asylum.¹ But increasingly, asylum is being sought by those who are persecuted not for what they believe or think and not for their race or nationality, but simply because they are female.

Across the globe, women and girls are trying to escape gender persecution in their native lands. Because they are female, women and girls in some societies are subject to persecution, including female genital mutilation (FGM), domestic violence as an accepted part of the culture, and abuses based on their advocacy of women's rights.² The United States has struggled to address these types of asylum claims.³ The U.S. system, like most Western countries, is based on the United Nation's refugee status and protocol conventions, which do not have a category that recognizes gender persecution.⁴ However, while not categorically recognizing gender persecution, the United States has recognized FGM as the basis for a claim of asylum⁵ and the U.S. Department of Justice has proposed that domestic violence be considered as a basis for asylum.⁶

This paper examines how U.S. courts struggle under the current asylum system⁷ to address claims that fall under gender persecution without a gender category and suggests ways to correct the problems while still helping those seeking refuge at U.S. borders. Parts A and B explore U.S. asylum law and the world's slow recognition of gender persecution. Parts C and D explain why the current U.S. system is ill-suited to handle gender-based asylum claims. Part E weighs the arguments for and against a gender category. Part F looks at how far other Western countries have gone in recognizing gender persecution. Finally, Part G suggests how the U.S. can better address gender-based asylum claims, both legislatively and with reforms aimed at the beginning of the asylum process.

A. What Is Asylum—And How Does It Work?

"Asylum offers protection when that of the home state, for whatever reason, has failed."⁸ Asylum is a claim of last resort for a person who, although not forcibly removed, is compelled to leave his or her home because of fear of persecution.⁹ Under the U.N. Convention Relating to the Status of Refugees¹⁰ and U.S. asylum law,¹¹ a person claiming asylum must first meet the definition of a refugee. The basic criteria for qualifying

as a refugee are (1) persecution or a well-founded fear of persecution (2) in the person's homeland or country of last residence (3) based on race, religion, nationality, membership in a particular social group, or political opinion.¹²

The basic criteria for qualifying as a refugee are (1) persecution or a well-founded fear of persecution (2) in the person's homeland or country of last residence (3) based on race, religion, nationality, membership in a particular social group, or political opinion.

Additionally, in order to be eligible to apply for asylum, a person must be arriving in the United States or already physically present.¹³ An asylum applicant is interviewed by an Asylum Officer (employed by the U.S. Citizenship and Immigration Services), who determines whether the applicant meets the definition of a refugee and whether the asylum claimed can be granted.¹⁴ If the Asylum Officer does not grant the applicant's claim, it goes to an immigrant judge in the Executive Office for Immigration Review.¹⁵ "The immigration judge may grant the claim or may issue a denial and an order of removal."¹⁶ The decision of the immigration judge may be appealed to the Board of Immigration Appeals, then to the federal U.S. Courts of Appeals, and finally to the U.S. Supreme Court.¹⁷

B. Western Nations Acknowledge Gender Persecution

Though there is a long history of violence toward women, few conventions or treaties directly address the violence as a human rights violation.¹⁸ Even The Women's Convention does not call violence against women a form of discrimination.¹⁹ However, as women's issues garnered attention through the 1970s and 1980s in Western nations, the public began to look at other nations' policies towards women. In the 1980s and 1990s, international developments brought the issue of gender into the definition of refugee.²⁰ "Gender-specific forms of human rights violation[s] such as rape, domestic violence and coerced female circumcision were gradually considered to be forms of persecution."²¹ Both FGM and domestic violence received attention due to the more intimate nature of the abuse. "The physical and mental damage that women who are abused by their partners experience and the environment of terror in which they often live clearly constitute a form of persecution or torture."²²

After there was recognition of gender persecution, there came

the argument for inclusion of this kind of persecution in asylum law. Advocates compared gender persecution to recognized standards of persecution. “The physical and mental abuse that these primarily female applicants have endured makes their plight poignant. Admitting them seems necessary to realize the humanitarian ideal underlying the doctrine of asylum.”²³ “[D]omestic violence meets the legal requirements that an applicant show that she was subject to persecution. It subjects women to cruel and inhuman treatment and places their lives at risk... [T]he plight of abused women meets the humanitarian requirements that underlie the doctrine of asylum.”²⁴

C. Why Current Asylum Laws Can’t Address Gender Persecution Adequately

The calls to include gender persecution also raised arguments that women faced different obstacles from men that were not addressed by asylum law. “[W]omen and girls, as opposed to males, often suffer violence at the hands of family members.”²⁵ This in turn led to arguments for a new gender category for these kinds of persecution. Yet countries hesitated; the United States in particular seems determined to fit all asylum claims into its current system. Proponents of the gender category argue that women are excluded from the traditional asylum system because the asylum claims they are most likely to make are not likely to be granted without a gender category.²⁶

Although the U.S. courts now recognize FGM as a form of persecution and the Department of Justice has proposed that domestic violence also be recognized as such, a woman must still fit her claim into one of the five accepted categories – which has proven troublesome for many applicants.

The key to making a successful asylum claim for any applicant is proving a well-founded fear of persecution that is based on one of the five accepted categories: race, religion, nationality, membership in a particular social group, or political opinion. These are the sticking points in gender persecution claims. Although the U.S. courts now recognize FGM as a form of persecution²⁷ and the Department of Justice has proposed that domestic violence also be recognized as such,²⁸ a woman must still fit her claim into one of the five accepted categories – which has proven troublesome for many applicants. Those seeking asylum for gender persecution “have difficulty showing that they are persecuted for the legally acknowledged reasons required by the asylum doctrine. They are forced to fit their situation to a set of criteria that were adopted without giving much thought to the needs of their situation.”²⁹ Gender persecution is based on being male or female, and does not intuitively fit into race, religion, nationality, or political opinion.

So many U.S. courts try to fit gender persecution into the social

group category. But “courts have struggled with the boundaries of the social group definition.”³⁰ “U.S. refugee law has yet to grapple adequately with the fact that gender can form the basis of a ‘particular social group,’ and, as a result, some gender claims have been allowed but only through convoluted legal logic, while others have simply been denied.”³¹

For example, in the *Matter of Kasinga*,³² the Board of Immigration Appeals (BIA) established that FGM can be the basis for an asylum claim.³³ But while doing so, the BIA had to fit the applicant, a Togolese woman, into a social group in order to grant the asylum. Forcible FGM, although recognized by the BIA as persecution,³⁴ is not recognized as persecution based on race, nationality, political opinion, or religion. That only leaves social group – the BIA’s determination of the applicant’s social group was “a member of a social group consisting of young women of the Tchamba-Kunsuntu Tribe who have not had [FGM], as practiced by that tribe, and who oppose the practice.”³⁵

Yet just this summer in *Gichema v. Gonzales*,³⁶ the Tenth Circuit upheld both the BIA and the immigration judge’s rejection of an applicant’s asylum claim partly due to her failure to identify a recognizable social group.³⁷ The applicant, a young woman from Kenya, was fleeing tribal members determined to subject her to FGM.³⁸ She argued she belonged to a social group of “members of the same family who are uncircumcised Kikuyu women who have been specifically identified and thus targeted by the Mungiki for forcible [FGM].”³⁹ What is the difference between the convoluted social group definition the BIA used to grant asylum in *Matter of Kasinga* and the convoluted social group definition the applicant developed in *Gichema*? Wouldn’t it be simpler if the courts could just find that because FGM is recognized as persecution and because the women’s fears were well-founded that each of them should be granted asylum based on gender persecution?

For a few asylum claims, relief has been granted by U.S. courts to women fleeing gender persecution because they were able to frame their claims on grounds of “political opinion” or “religion.”⁴⁰ *In re of S-A*,⁴¹ involved a young Moroccan woman who was physically abused by her father because of her more liberal view of Islam.⁴² The abuse by her father qualified the applicant for a domestic violence claim; the fact that her two brothers were not abused similarly suggested gender persecution, and her liberal view of Islam versus her father’s strict interpretation set up a claim of religious persecution.⁴³ The BIA chose to grant the claim based on religious persecution rather than gender or domestic violence.⁴⁴ In *Fatin v. INS*,⁴⁵ the Third Circuit upheld the BIA’s rejection of an Iranian woman’s petition to be considered part of a “social group of the upper class of Iranian women who supported the Shah of Iran, a group of educated Westernized free-thinking individuals.”⁴⁶ The BIA stated “that there was no evidence that she would be ‘singled out’ for persecution,”⁴⁷ and that she would be “subject to the same restrictions and requirements as the rest of the population.” However, the woman had also declared herself

to be a feminist and to hold feminist views.⁴⁹ The Third Circuit recognized feminism as a political opinion.⁵⁰ Unfortunately for the applicant, the court also held that her political views would not subject her to persecution and denied her application.⁵¹

Another oddity that has shown up in traditional asylum law is the domestic violence issue. “Despite the apparent applicability of traditional asylum doctrine, it has proved to be an inconsistently successful method to obtain the physical protection that victims of domestic violence are seeking. Gender-related asylum claims must be proved on a case-by-case basis.”⁵²

The Ninth Circuit granted the asylum petition of a young woman from Mexico in *Aguirre-Cervantes v. INS*.⁵³ The persecution she was fleeing was the extreme physical abuse she suffered at the hands of her father,⁵⁴ making it a domestic violence claim. She claimed her social group was “immediate family members being abused” and the Ninth Circuit agreed – but noted that this designation would be applied case-by-case.⁵⁵

But in June 1999, the BIA caused an uproar when it denied asylum to a Guatemalan woman who fled horrific and repeated domestic abuse.⁵⁶ The BIA held that she failed to establish membership in a recognizable social group and failed to produce evidence that she was abused by her husband because of membership in any particular social group.⁵⁷ As a direct result, the Department of Justice proposed a new rule for gender-based asylum claims in 2000.⁵⁸ The proposed rule still has not yet been adopted.⁵⁹ The rule is meant to recognize “the longstanding principle that gender can be the basis for membership in a particular social group[,]” including “victims of domestic violence.”⁶⁰ The Department of Justice released a series of questions and answers to accompany its press release about the proposed rule,⁶¹ including these statements explaining why domestic violence was being included in asylum claims:

“[The Department of Justice] believes certain forms of domestic violence may constitute persecution despite the fact that they occur within familial or intimate relationships. Domestic violence centers on power and control over the victim. The proposed rule recognizes that such patterns of violence are not private matters, but rather should be addressed when they are supported by a legal system or social norms that condone or perpetuate domestic violence.”⁶²

D. Persecution on Account of Membership in a Particular Social Group⁶³

As the U.S. government struggles with how to change the laws, the courts continue to work with the laws they have. Thus far, persecution on account of social group membership is still the most often-used category for gender-based asylum claims. It is here that the courts have had the most trouble and the most inconsistency,⁶⁴ and here perhaps the best argument exists for creating a sixth category for gender-based abuses.

In the *Matter of Acosta*, the BIA set the standards for what a

“particular social group” means.⁶⁵ The BIA established that membership in a particular social group was based on an “immutable characteristic,” which might be innate, such as “sex, color, or kinship ties, or in some circumstances it might be a shared past experience.”⁶⁶ This was a significant decision in U.S. asylum law, and showed promise of an expansion to the legal definitions of a particular social group, “especially in recognizing gender as a potential basis of this category.”⁶⁷

Acknowledging that what constituted a particular social group category would have to be defined on a case-by-case basis, the BIA in *Acosta* stated that a particular social group “could be circumstantially specific, as in a shared experience or voluntary status that unites group members. More significantly, however, the legal reasoning in *Acosta* expressly allowed for recognition that a ‘particular social group’ can be organized around fundamental characteristics essential to a person’s identity, which obviously includes such fundamental attributes as gender.”⁶⁸

Consistency is the major problem that plagues social group membership as the solution to finding a place for gender-based claims.

In the *Matter of A-N-*, a woman who fled abuse from her husband in Jordan was granted asylum on the basis that she was part of the particular social group of “married, educated, career-oriented, Jordanian women.” Thus indicating recognition of gender-based persecution but with a series of major qualifications attached to narrow the ground significantly.⁶⁹ “More problematic than the cases in which ‘particular social groups’ have been constructed extremely narrowly are those cases in which courts have simply refused to recognize gender as forming even part of the group identity, leading to the denial of asylum.”⁷⁰ For example in *Matter of R-A-*, the BIA denied asylum to a Guatemalan woman who had been subjected to extreme physical and sexual abuse by her husband, “abuse which the [BIA] has no trouble identifying as constituting persecution.” But her asylum application was denied because the BIA found her persecution was not on account of her social group of “Guatemalan women who have been involved intimately with Guatemalan male companions, who believe that women are to live under male domination.”⁷¹ Consistency is the major problem that plagues social group membership as the solution to finding a place for gender-based claims.

The BIA and the courts have too much discretion and not enough guidance with the current laws to decide what is or what is not a particular social group and what besides gender qualifies as an immutable characteristic. But perhaps there is change in the wind. In the courts, “[t]here has been a potentially significant recognition that gender can form the basis, or, more accurately, part of the basis of membership in a ‘particular social group.’”⁷² Of significant note: In March 2005, the Ninth Circuit flat out accepted gender as a basis for asylum: “Although we have not previously expressly recognized

females as a social group, the recognition that girls or women of a particular clan or nationality (or even in some circumstances females in general) may constitute a social group is simply a logical application of our law.”⁷³

In the Ninth Circuit’s case, *Mohammed v. Gonzales*, a young Somali woman was seeking asylum on the basis of being subjected to involuntary FGM and fear of future persecution based on her membership in the Benadiri clan.⁷⁴ The court found that there were “at least two ways in which... [to] define the social group Mohammed belongs [to].”⁷⁵ The court said that Mohammed could either be determined to be persecuted on account of her membership in the “social group of young girls in the Benadiri clan” or “because the practice of [FGM] in Somalia is not clan specific, but rather is deeply imbedded in the culture throughout the nation and performed on approximately 98 percent of the females,” her membership could be that of Somalian females.⁷⁶

The court relied on a previous holding that a particular social group is “one united by a voluntary association...or by an innate characteristic that is so fundamental to the identities or consciences of its members that members either cannot or should not be required to change it.”⁷⁷ The court stated “we conclude that Mohammed’s claim that she was persecuted ‘on account of’ her membership in a social group, whether it be defined as the social group comprised of Somalian females, or a more narrowly circumscribed group, such as young girls in the Benadiri clan, not only reflects a plausible construction of our asylum law, but the only plausible construction.”⁷⁸ The U.S. Immigration and Naturalization Agency’s guidelines, which provide its agents guidance for dealing with women’s asylum claims, have also been updated so that gender is now listed as an immutable trait that can qualify under the rubric of a “particular social group.”⁷⁹

E. Gender Persecution as an Asylum Category – Pros and Cons

Despite the ample evidence that the current asylum system does not adequately address gender-based persecution,⁸⁰ critics attack both the need for a gender category and the effects such a category would have. One of the strongest voices against the need for a gender category has been Dan Stein, the Executive Director of the Federation for American Immigration Reform. He strongly believes that a gender category would move the United States from the murky area “of rendering judgments about the actions of foreign governments to the even murkier area of judging social and cultural practices. If the United States has sometimes been viewed as the world’s policeman, these recent expansions of political asylum are moving us toward the role of the international nanny.”⁸¹ However, Stein does claim that “violence of any kind perpetuated against women is an evil itself to be avoided if possible.”⁸² But he still believes that asylum is not the place to combat these atrocities. “While all these practices are reprehensible, they hardly fit the definition of political persecution.”⁸³ He mostly focuses his arguments on how the need for a gender category

stems from a social consciousness to right the world’s wrongs. “I would argue that asylum policy is not the place to battle the world’s cultural, political, and ethnic fault lines. We should try to spread our Western values through cultural exchange, mass exchanges, and diplomatic pressure. But we cannot save the world through immigration.”⁸⁴ Asylum is designed to provide people protection from governments, not prevailing social norms – no matter how much we may dislike them.⁸⁵ A criminal offense, rape for example, does not become political merely because the local political system fails to prosecute the offense – even for political reasons.⁸⁶ [W]e unfortunately must pick and choose [to] who[m] we will offer protection.⁸⁷ Political asylum must not become social asylum, or it will destroy our ability to help anyone.”⁸⁸ Supporters fire back that opponents such as Stein miss the problem at the heart of gender persecution. “Women are impacted differently and adversely by certain practices and traditions than men.”⁸⁹

Critics who argue against creating the gender category do so based on two main objections. The first, and by far of the most concern, is the floodgate theory: “Opponents of gender-based asylum argue that opening up the doors for women to seek asylum on account of their gender would overwhelm our immigration system.”⁹⁰ Stein agrees: “Virtually everyone who is subjected to any injustice, whether perpetuated by a government, social group, or a relative, [could] seek protection by the United States.”⁹¹

Asylum is designed to provide people protection from governments, not prevailing social norms – no matter how much we may dislike them.

In 1996, in the Matter of Kasinga, the BIA recognized FGM as a persecution basis for a claim of asylum.⁹² Despite FGM being a common practice around the world, the U.S. immigration authorities have not seen “an appreciable increase in the number of claims based” on FGM in the years following the decision.⁹³ Similarly, Canada in 1995 issued guidelines about treating domestic violence as the basis for a claim of asylum.⁹⁴ Instead of receiving an increasing flood of applications, the Immigration and Refugee Board of Canada reported gender-based asylum claims steadily dropped from a peak in 1995 through 1999 (the last year data was available in the report).⁹⁵

Irena Lieberman in *Women and Girls Facing Gender-Based Violence, and Asylum Jurisprudence* explains why the numbers of gender-based asylum claims remain low despite their growing recognition in the West:

“It is extremely traumatic for a refugee to flee his or her country, let alone for the most disenfranchised members of a society to do so. Flight requires, among other things, financial and other resources, some degree of physical and emotional health, assistance from others, and opportunities. It will be a long time before most women who face severe violence and degradation on a daily basis in their countries are able to

escape. In short, the women who need us the most might never even know they have a place to escape to.”⁹⁶

Another argument is that asylum claims are handled individually, and though the number of claims might increase, the number granted would not necessarily go up. “[T]he ‘floodgates’ concern misses the essential nature of the refugee remedy, which is a case-by-case individual one.”⁹⁷ “[C]laims based on gender, as claims made under other enumerated grounds, only stipulate the reasons for the persecution in any individual case and do not suggest that this renders large segments of the population eligible for asylum.”⁹⁸

The second objection that critics voice against a gender category is the legitimacy of the claims. Stein again makes the best argument for opponents: “Many gender-based claims appear to have fact patterns that make it difficult for the trier of fact to verify the claim.”⁹⁹ [H]ow does the United States monitor what is taking place in every village square and in every bedroom around the world?¹⁰⁰ Credibility is an issue in every asylum claim – not just one based on gender persecution. Courts have not addressed this issue any differently in gender-based claims. They rely on State Department reports to tell them what is going on in the area¹⁰¹ and the claimant’s testimony and credibility.¹⁰²

F. Other Nations’ Recognition of Gender Persecution

The awareness of gender-persecution has become increasingly recognized by the international community. The 1993 Declaration on the Elimination of Violence Against Women condemns domestic violence as one of the “crucial social mechanisms by which women are forced into a subordinate position compared with men.”¹⁰³ Individual nations, however, have been slow to address how to deal with gender persecution in asylum claims. Canada was the first country to recognize gender persecution as a basis for asylum in 1993.¹⁰⁴ In 1995, Canada also issued guidelines about treating domestic violence as a claim for asylum.¹⁰⁵ By 2000, Canada, the United Kingdom, Australia, and New Zealand all recognized domestic violence as a basis for an asylum claim.¹⁰⁶ As of Nov. 1, 2005, Argentina, Ireland, Romania, Spain, and Hungary had also granted asylum claims based on FGM and/or domestic violence.¹⁰⁷

In the United Kingdom, what a “social group” is defined as has been largely expanded due to one case in particular. In *Islam (A.P.) v. Secretary of State for the Home Department*,¹⁰⁸ Lord Steyn found that “women in Pakistan seem to be a logical application of the seminal reasoning of *Acosta*.”¹⁰⁹ This means that women were a recognizable social group. Lord Hoffman in that same case stated that “while persecutory conduct cannot define the social group, the actions of the persecutors may serve to identify or even to cause the creation of a particular social group.”¹¹⁰

The United States needs to get in line with other countries such as Canada, Australia, New Zealand, and the United Kingdom, all of whom have taken more steps to recognize gender persecution.¹¹¹ Canada, in particular, has recognized

gender-based asylum claims for a decade without seeing the floodgate effect in applications.¹¹²

G. How Could the Current U.S. System Be Reformed?

The inherent promise in *Acosta* of recognizing gender as an immutable characteristic in social group membership has remained largely unrealized in U.S. asylum law.¹¹³ The law still lacks a consistent message that persecution suffered by many women based on their gender is grounds for asylum.¹¹⁴ There are judicial and administrative decisions on the books and proposed rules that would ease the burden on women and girls fleeing gender persecution if they were consistently applied.¹¹⁵

However, “[t]he United States must begin to take responsibility for those women who have a well-founded fear of persecution and cannot be properly categorized within one of the five enumerated classes of a refugee.”¹¹⁶ The abuses women face are unique from men, and so too should be the asylum process that recognizes the abuses against them. Therefore, “[t]he United States should amend its current asylum laws in order to formally recognize a category for gender specific crimes.”¹¹⁷ In order to address critics’ concerns about the legitimacy of gender-based asylum claims, an applicant would have to not only fulfill all the asylum law requirements, but also “prove that the harm she faces rises to the level of persecution encompassing more than threats to life or freedom.”¹¹⁸ The United States can do this by simply changing the statutory definition of who can be a refugee to include gender persecution as a viable reason for asylum.

But the United States will have to do more than just change the law, however. It will also have to amend the process of interpretation and analysis for handling gender-based claims, “such as using gender sensitive techniques to analyze an applicant’s claim.”¹¹⁹ These techniques include making female asylum officers and interpreters available to women who will be required to recount abuses both physical and sexual against them in order to qualify for asylum. In order to get the truth, an applicant must be as comfortable in telling her story as the circumstances allow. “[I]t may be necessary to provide these women with counselors or cultural experts in order to fully comprehend their grounds for asylum and the seriousness of the claims.”¹²⁰ By taking these steps the United States can bring itself in line with its world peers in terms of asylum law.

Conclusion

An asylum of mankind is certainly what the countries of the United Nations thought they were creating in 1951. The five categories of asylum were not meant to be exclusionary, but rather to open the door to recognizing oppression and tyranny in many forms. Now, more than fifty years later, a newly recognized form of oppression presents itself to the countries of the West. Recognizing gender persecution is as important as recognizing political or racial persecution. Though gender persecution worries critics that fifty percent of the world’s population would suddenly have an asylum claim simply

because they are female, the numbers just do not support this. Canada has recognized gender-based claims for a decade and has not seen a “flood” of gender-based asylum applications.

However, being forced to fit gender persecution into social group membership has led to convoluted legal decisions and inconsistent outcomes for applicants as well as a pattern of reversals through the appeals process. Recognizing gender persecution as a separate claim for asylum will clean up the legal mess the courts have made trying to make this category fit where it was never meant to, and it will put the United States back on equal footing with its contemporaries, rather than a step behind in asylum law.

¹The United Nations passed two instruments from which the basis of most refugee law can be traced: Convention Relating to the Status of Refugees, art. I A(2), July 28, 1951, 189 U.N.T.S. 137 (defining refugee); Protocol relating to the Status of Refugees, Jan. 31, 1967, 19 U.S.T. 6223, T.I.A.S. No. 6577 (signing countries included United States, which then also included 1951 convention as part of its signing).

²Irena Lieberman, *Women and Girls Facing Gender-Based Violence, and Asylum Jurisprudence*, 29 HUM. RTS. 9, 9 (Summer 2002).

³Melanie Randall, *Refugee Law and State Accountability for Violence Against Women: A Comparative Analysis of Legal Approaches to Recognizing Asylum Claims Based on Gender Persecution*, 25 HARV. WOMEN'S L.J. 281, *7 (2002).

⁴Tanya Domenica Bosi, *Yadegar-Sargis v. INS: Unveiling the Discriminatory World of U.S. Asylum Laws: The Necessity to Recognize a Gender Category*, 48 N.Y.L. SCH. L. REV. 777, 780-81 (2004).

⁵Matter of Kasinga, 21 I. & N. Dec. 357, 358 (B.I.A. 1996).

⁶U.S. Dept. of Justice, *News Release: Proposed Rule Issued for Gender-Based Asylum Claims*, Dec. 7, 2000, <http://uscis.gov/graphic/publicaffairs/newsrels/gender.htm> (last visited Oct. 24, 2005).

⁷Because of the complexity of U.S. asylum law and international asylum laws and for space considerations, the U.N. Convention Against Torture will not be discussed. For an excellent analysis of how this convention affects asylum, see K. Rosati, *The United Nations Convention Against Torture: A Viable Alternative for Asylum Seekers*, 74 Interpreter Releases 1773-1784 (Nov. 21, 1997).

⁸Michael G. Heyman, *Asylum, Social Group Membership and the Non-State Actor: The Challenge of Domestic Violence*, 36 U. MICH. J.L. REFORM 767, 772 (2003).

⁹*Id.* at 772.

¹⁰Convention Relating to the Status of Refugees, art. I A(2), July 28, 1951, 19 U.S.T. 6223, 189 U.N.T.S. 137.

¹¹8 U.S.C. § 1158(b)(1) (2000); 8 C.F.R. § 208.13(a).

¹²8 U.S.C. § 1101 (42)(A) (2000); INA § 101(a)(42)(A).

¹³INA § 208(a). (Other criteria not relevant to this discussion is omitted but is listed in the statute.)

¹⁴U.S. Dept. of Justice, Immigration and Naturalization Service, *The Affirmative Asylum Process at a Glance*, <http://uscis.gov/graphics/services/asylum/flowchart.htm> (last visited Oct. 24, 2005).

¹⁵U.S. Dept. of Justice, Immigration and Naturalization Service, *2003 Yearbook of Immigration Statistics*, ch. 5: Asylees, 46.

¹⁶*See supra* note 14.

¹⁷*Id.*

¹⁸DAVID WEISSBRODT ET AL., *INTERNATIONAL HUMAN RIGHTS: LAW, POLICY, AND PROCESS*, 851 (3d ed. 2001).

¹⁹*See id.*

²⁰Jacqueline Bhabha, *Demography and Rights: Women, Children and Access to Asylum*, 16 INT'L J. REFUGEE L. 227, 230 (2004).

²¹*Id.*

²²Amanda Blanck, *Domestic Violence as a Basis for Asylum Status: A Human Rights Based Approach*, 22 WOMEN RTS. L. REP. 47, 69 (Fall/Winter 2000).

²³*Id.*

²⁴*Id.* at 69-70.

²⁵Lieberman, *supra* note 2, at 9.

²⁶Randall, *supra* note 3, at *7.

²⁷*See supra* note 5.

²⁸*See supra* note 6.

²⁹Blanck, *supra* note 22, at 70.

³⁰Heyman, *supra* note 8, at 767.

³¹Randall, *supra* note 3, at *7.

³²Matter of Kasinga, 21 I. & N. Dec. 357 (B.I.A. 1996).

³³*Id.* at 358.

³⁴*Id.*

³⁵*Id.*

³⁶Gichema v. Gonzales, 139 Fed. Appx. 90 (10th Cir. July 6, 2005).

³⁷*Id.* at 95.

³⁸*Id.* at 91.

³⁹*Id.* at 95.

⁴⁰Randall, *supra* note 3, at *9.

⁴¹In re S-A-, 22 I. & N. Dec. 1328 (B.I.A. 2000).

⁴²*Id.* at 1329.

⁴³*Id.* at 1336-37.

⁴⁴*Id.* at 1336.

⁴⁵Fatin v. INS, 12 F.3d 1233 (3d Cir. 1993).

⁴⁶*Id.* at 1237.

⁴⁷*Id.*

⁴⁸*Id.*

⁴⁹*Id.*

⁵⁰*Id.* at 1242.

⁵¹*Id.*

⁵²Blanck, *supra* note 22, at 70.

⁵³Aguirre-Cervantes v. INS, 2423 F.3d 1169 (9th Cir. 2001).

⁵⁴*Id.* at 1172-73.

⁵⁵*Id.* at 1175-76.

⁵⁶*See* Matter of R-A-, Int. Dec. #3403, BIA June 2000.

⁵⁷*See id.*

⁵⁸U.S. Dept. of Justice, *News Release: Proposed Rule Issued for Gender-Based Asylum Claims*, Dec. 7, 2000, <http://uscis.gov/graphic/publicaffairs/newsrels/gender.htm> (last visited Oct. 24, 2005).

⁵⁹*Id.*

⁶⁰*Id.*

⁶¹U.S. Dept. of Justice, *Questions and Answers: The R-A-Rule*, Dec. 7, 2000, <http://uscis.gov/graphis/phbpublicaffairs/questsans/rarule.htm> (last visited Oct. 24, 2005).

⁶²*Id.*

⁶³WEISSBRODT, *supra* note 18, at 869.

⁶⁴*See supra* Part C.

⁶⁵Matter of Acosta, 19 I. & N. Dec. 211, 233 (B.I.A. 1985).

⁶⁶Randall, *supra* note 3, at *7.

⁶⁷*Id.*

⁶⁸*Id.*

⁶⁹*Id.*

⁷⁰*Id.*

⁷¹*Id.* at *9 (footnotes omitted).

⁷²*Id.* at *7.

⁷³Mohammed v. Gonzales, 400 F.3d 785, 797 (9th Cir. 2005) (footnote omitted). [Note: Mohammed's name is spelled alternatively in all court documents with both one and two “m”s; for consistency and following case name, this paper will use two “m”s.]

⁷⁴*Id.* at 789, 791 (applicant filed second motion raising female genital mutilation claim and also claiming ineffectual counsel because her first attorney did not do so).

⁷⁵*Id.* at 796.

⁷⁶*Id.* at 797.

⁷⁷*Id.* (citation omitted).

⁷⁸*Id.* at 800 (footnote omitted).

⁷⁹INS Office of International Affairs, *Gender Guidelines, Considerations for Asylum Officers Adjudicating Asylum Claims From Women*, 4 (May 26, 1995).

(continued on page 33)

Presumed Equal: What America's Top Women Lawyers Really Think About Their Firms

Reviewed by Jennifer S. Martin • Associate Professor
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"At some firms, it is apparent that female partners work together to create an environment where women are more likely to feel comfortable and successful. Unfortunately, there were not nearly enough firms that fell into this category."

Even as firm leadership, government leaders, and advocacy groups applaud the inroads made by women lawyers as a result of women's initiatives or diversity committees, authors Lindsay Blohm and Ashley Riveira seek to remind us that the work is not yet done. Many law firms used the first two editions of *Presumed Equal* to instigate change. Brandeis' oft-quoted statement "[s]unlight is said to be the best of disinfectants; electric light the most efficient policeman" is appropriate here.² *Presumed Equal* has become a crucial guide for women attorneys "seeking candid observations about a particular firm's culture and advice about how to succeed in the profession." The newest edition of *Presumed Equal* does not fail to deliver. The result is a collection of personal experiences and a picture of the trends in top law firms based on nearly four thousand responses from women lawyers at over 150 legal offices. This book is a must read-for any woman lawyer looking to assess her own firm or join another.

Blohm and Riveira begin their book with a description of the survey process and methodology. The authors conducted their own research on women in the law through a double-blind processed survey distributed through the internet to over 16,000 women attorneys. Their survey included a wide range of categories important to women attorneys: training and advancement; attitudes and atmosphere; work and family: flexible work arrangements; work and family: impact of firm's billable hour requirement; diversity; business development and networking; mentoring and firm leadership. Though the *Presumed Equal* survey parameters allowed respondents to remain completely anonymous, the authors expressed some doubt that the data is always a complete and accurate picture of firm conditions. Certainly, some women partners might not be open to a critique of the firm leadership of which they are a part and some women associates who are unsuccessful might not admit that adverse decisions are merit, rather than gender, based. Nevertheless, Blohm and Riveira believe that the results do "accurately reflect the general state of women at top firms."

Overall Findings

Presumed Equal continues with some "General Survey Observations," which tackles giving meaning to the breadth of women's responses given to the survey. While the bulk of the 700-page book contains firm-specific detail on an individual firm basis, the authors provide a short overview about the successes and roadblocks affecting the career paths of women attorneys across firms generally. Of course, Blohm and Riveira caution that women's experiences at law firms are not singular and that women are not one homogenous group. Yet the results do indicate the spectrum of concerns of women lawyers at big firms. The overall results reported by the authors contain some hopeful areas, but are disappointing at times:

- **Training and Advancement.** With respect to advancement, the results were varied. At some firms women reported a "dearth of opportunities," while at others the women reported their chances of making partner equal to that of men. Family restraints, particularly women's desire to raise children, were overwhelmingly noted as the root of attrition preventing women from obtaining partnership.

Blohm and Riveira report that "[t]he vast majority of women indicated that they are as likely as their male counterparts to receive the appropriate training opportunities necessary for advancement."

- **Attitudes and Atmosphere.** Blohm and Riveira report that many women attorneys had encouraging comments about the atmosphere at their firm, including opportunities for mentoring, training, and client development. While most women found their firm a comfortable place to work, subtle gender discrimination was prevalent, with women reporting comments made about women with families and exclusion from traditionally male outings, such as sporting events.

- **Work and Family: Flexible work arrangements.** Not surprisingly, the authors conclude that the availability of alternative work arrangements varies by firm.

- **Work and Family: Impact of Firm's Billable Hour Requirement.** Blohm and Riveira report mixed response on

this topic, with some women reporting being content with the requirements while others find that achieving balance is “difficult if not impossible.” However, there does seem to be agreement that this challenge is present not merely at specific firms, but across the legal profession as a whole. Immense challenges persist for women attorneys trying to raise a family and have a career.

“A more common trend is that even though there may be women in positions of leadership and power, associates often perceive these women as tough, demanding, and unconcerned with the difficulties young women face in modern legal practice.”

- **Diversity.** The legal profession still seems to be dominated by white men. Retention of a diverse attorney base remains a problem for big law firms. Partner role models are lacking and some observed that there is still a white “boys’ club.”
- **Business Development and Networking.** Women differed on the cause of the disparity, citing as contributing factors personality differences of the genders, the “boys’ club” nature of some firms, and the predominance of male clients who are more comfortable with male attorneys.
- **Mentoring.** Most law firms have formal mentoring programs, but the success of these programs seems to vary significantly amongst firms and even amongst women at the same firm. A sizeable number of firms, though, continue to only have informal mentoring programs that rely on partners and associates to form their own mentoring relationships. Women reported that male partners are often reluctant to take on women as mentees due to the appearance of impropriety or simply because the partners have more in common with the male associates.
- **Firm Leadership.**

Firm Specific Results

Blohm and Riveira assigned each individual firm a score between 25 and 100 based on a compilation of responses. Surprisingly, the authors report that some firms refused to distribute the survey so the authors had to distribute the survey to the women at these firms directly. The scores received by responding attorneys yielded firm scores ranging from 90.34 to 57.25. The authors do a superb job of organizing the survey responses to give a genuine picture of what it might be like to practice at these firms.

The Rankings

Presumed Equal’s top five firms were: Sonnenschein Nath & Rosenthal LLP (90.34); Freshfields Bruckhaus Deringer LLP (87.00); Baker & Daniels LLP (86.15); Williams & Connolly LLP (85.80); and Bracewell & Giuliani LLP (85.62).³

Not surprisingly, at Sonnenschein Nath & Rosenthal, of the ninety female attorneys, 46 (including 22 women partners) responded to the survey and had positive comments about advancement for women at the firm. The firm is seen as very receptive to alternative work arrangements and has a progressive maternity policy. Though the 1950 billable hours requirement is challenging, there is an absence of a “face time” requirement at this firm, the firm has emergency childcare available (even in other cities), and balance (while challenging) is easier to achieve at this firm than others. The firm has also taken steps to provide networking between female clients and attorneys and instituted a Women’s Business Development Committee to create specialized business development training for women attorneys. Likewise, mentoring was uniformly praised amongst attorneys at this firm and has become a recruiting tool for the firm. Finally, women hold positions of power and leadership at Sonnenschein, with women on firm committees and acting as chairs or co-chairs to practice group sections.

Women attorneys at Sonnenchein reported “the factors central to the advancement of women within the firm are the same as the factors central to advancement of men or any other group at the firm. The firm does not distinguish between the sexes or races in terms of allocating work or reviewing opportunities.”

Yet, the *Presumed Equal* survey suggests that more work remains to be done not only at Sonnenschein, but across the legal market as a whole. Some women reported that perceptions persisted that men need partnership more than women. Several women voiced doubts about the ability of women to advance to the rank of equity partner, given the need for “rainmaking” and strong billable hours. Some women noted that subtle gender bias is present whereby the work that women do is perceived to be less complex than that done by men. One counsel commented, “I think women are generally seen as less capable and as weaker advocates. I think that women are also affected by the large number of women who leave to raise children – I think after awhile, one might reasonably expect that to occur and there may be reluctance to rely on women in general for that reason.” While women taking reduced hours arrangements can progress to of-counsel or non-equity partner, “[c]learly it kills any opportunity for advancement to equity partnership, at least until you resume ‘full-time’ status.” Others criticized the type of work given to reduced hour attorneys and described such arrangements as merely “tolerated.”

The Rules of This Game...

Presumed Equal includes a chapter by Jane DiRenzo Piggot containing her top ten rules for succeeding in practice which reflect the challenges of the landscape that Blohm and Riveira’s survey describes: (1) exceeding expectations and doing high

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Lifestyle: Seeking Balance

(continued from page 11)

To the extent that I have balance, it is a fragile one. My husband and I have grown accustomed to the 3:00 a.m. comparison of schedules as we discover that one of the kids is sick. ("What does your day look like? I could cover the morning but have a meeting in the afternoon.") My husband has grown accustomed to the 4:00 p.m. phone call/email in which I ask, "Could you possibly pick up the kids today in case I need to work late?" All it takes is one feverish child or one abrupt issue in a deal to shake up our routine and force us into "crisis mode." With three kids, illnesses are often staggered, resulting in greater cumulative disruption. The exigencies of corporate transactions result in intense crunch times at work during which I rely on my tireless but tired husband to pick up the slack at home. While even our "crisis mode" has become somewhat routine (an alternate, non-preferable routine), we depend upon these periods being relatively short-lived.

I could not even try to lead my life as it is currently structured without support. My husband is a full partner in all that we do. Our extended family and friends provide help in various ways, from weekend visits by the grandparents to emotional support. Teachers at day care, school and an after-school program help care for our sons. We rely on others to help clean our house, walk the dog, deliver the dry cleaning and mow the lawn. My firm has seen me through three maternity leaves (making me a partner shortly after my second maternity leave) and has enabled me to work a reduced schedule for the last six years. My colleagues help serve clients as a team and my secretary helps facilitate my work.

Within the framework of the busy life I have chosen, I find that the one quality I need most is patience. Often, at work or at home, I have to be satisfied with small progress in lieu of major accomplishments. Sometimes I feel conflicted, sometimes I feel just plain exhausted, and sometimes, in a justifying moment, I feel triumphant. •

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Coaching: Don't Follow!

(continued from page 13)

homogeneity. A significant part of my coaching practice is devoted to coaching women attorneys who feel uncomfortable about marketing to discover and develop their business development strengths. A number of the participants in these coaching groups have already participated in "coaching" programs provided by their firms. They blame themselves for failing these programs because they couldn't follow the "laws."

What are the "rules" for success?

"I just couldn't call three people a week. The phone is not my best way of connecting with people. I'm shy – I don't just call people I haven't seen in a long time and ask them for business," confessed one woman lawyer. Another said that she'd followed the rule to "just ask for the business" from an in-house attorney with whom she'd been friends for years and her friend felt so offended she ended their relationship.

Women lawyers need clear information about whether the person hired to train them is a coach or a consultant. Consultants present themselves as experts – they have "the answers." Coaches, in contrast, encourage their clients to develop their own answers. And women lawyers may find that resisting the urge to find out "the right way" to talk to their assistants, to develop business, to chair a meeting, or to negotiate a contract, although uncomfortable, may actually allow them to discover their own way.

After all, whether you're dealing with a client, a subordinate or a manager, you're dealing with a relationship. There are no "one size fits all" rules for relationships. Some people respond better to direct instructions; others cooperate more when their input is solicited. Some friends would love to give you business; others find the idea of mixing business and friendships an affront.

If you can tolerate the ambiguity, listen carefully to the person with whom you have the relationship, and know and use your own unique strengths, you're likely to be successful. And then we might actually achieve the ideal of a diverse profession. •

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NAWL News

Recent NAWL Meetings

NAWL's hallmark series, *Taking Charge of Your Career: Best Practices for Women Lawyers and Their Firms*, returned to the East Coast on September 15, 2006, with a program held at the Colonnade Hotel in Boston, Massachusetts. As always, the room was packed with women lawyers eager to learn and share their experiences about how to advance in the profession. The speakers were outstanding, as was the camaraderie among the participants.

September also saw NAWL initiate a new program called *Her Place at the Table: Negotiating Skills for Women Lawyers, Accountants & Business Executives*. This event, which was held on September 28 at the law firm of Wolf, Block, Schorr & Solis-Cohen LLP in Philadelphia, Pennsylvania, not only provided NAWL members and guests with important skills and information, it allowed participants – who came from several different professional groups – to interact and network with other businesswomen. The program, which was a sell-out success, will soon be offered in other cities around the country.

NAWL co-sponsored several programs recently. For example, on October 17, 2006, NAWL partnered with the University of Chicago Women's Business Group (UCWBG) for *The Women's Summit: Creating a Shared Vision*. Held at the Inter-Continental Hotel in Chicago, Illinois, the Summit featured former NAWL President Stephanie Scharf as a panelist and Cherie Booth, QC, a leading human rights barrister and wife of British Prime Minister Tony Blair, as the keynote speaker. UCWBG President Barbara Flom is also a member of NAWL. On October 20, NAWL co-sponsored a networking tea held at The Catholic University of America in Washington D.C.

Recent Program News

Women Lawyers General Counsel Institute
October 27-28, 2006
New York, New York

Co-sponsored by the American Corporate Counsel (ACC) (Michigan Chapter), American Corporate Counsel (ACC) (Dallas/Fort Worth Chapter), American Corporate Counsel (ACC) (Delvacca Chapter), American Corporate Counsel (ACC) (Greater New York Chapter), American Corporate Counsel (ACC)

(New Jersey Chapter), American Corporate Counsel (ACC) (South./Central Texas Chapter).

Please join NAWL for its second annual *Women Lawyers General Counsel Institute*, targeted to senior corporate counsel who have the goal of advancing to the role of chief legal officer. The Institute faculty counts a broad array of directors, CEOs and general counsels of major public corporations, professional consultants, and search consultants who assist corporations in filling top legal positions. The Institute provides a unique opportunity for women corporate lawyers to build top-tier professional and management skills in a supportive and interactive learning environment; and to learn from experienced officers and directors about the points of pressure and success for general counsels. Plenary and workshop sessions foster frank discussions about what it takes to be promoted and provide the means to improve skills and knowledge in a collegial atmosphere. The NAWL *Women Lawyers General Counsel Institute* promises to be an engaging and innovative CLE program with opportunities to learn and network with other senior legal and business professionals.

Upcoming Program News

NAWL is planning a number of in-person programs in early 2007, including events in Washington, D.C., Miami, Chicago, and San Francisco. Watch the Events page on our website, www.nawl.org, for more information

NAWL also continues to co-sponsor exciting new programs. On December 4-5, 2006, NAWL is co-sponsoring *Women in Professional Service Firms: Retaining & Advancing a Diverse Team* at The Villas of Grand Cypress Resort in Orlando, Florida. See the NAWL Events page at www.nawl.org for more information.

Publications

NAWL is now accepting listing applications, renewals, corporate, and law firm sponsorships and advertisements for the 8th Edition of *The National Directory of Women-Owned Law Firms & Women Lawyers*. All applications can be submitted on the NAWL website.

NAWL Thanks 2006 Program Sponsors

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McDermott Will & Emery LLP

Jones Day

Holland & Knight LLP

Latham & Watkins LLP

Powers & Frost, LLP

Wolf, Block, Schorr and Solis-Cohen LLP

Membership

Lynn Cole recently returned from Jordan where she served as an ADR Specialist with USAID/ABA. She worked to create a court-referred mediation program in the Court of First Instance in Amman. This is the first such mediation program in the Middle East. She also taught mediation to women judges, attorneys, and legal professors from Oman, Saudi Arabia, Jordan, Lebanon, and Iraq.

August S. Dowd, managing partner at White Arnold Andrews & Dowd P.C., was named one of Birmingham Business Journal's "Top Birmingham Women of 2006." Ms. Dowd was also featured in a Birmingham News' Mother's Day article, where she shared her thoughts on the benefits women bring to the workplace.

Sheila Finnegan, a partner at Mayer, Brown, Rowe & Maw, was recently inducted into the American College of Trial Lawyers.

Sari Gabay-Rafiy and **Anne Marie Bowler** are pleased to announce their partnership Gabay-Rafiy & Bowler LLP in New York, New York.

Founding partner of the Delaware Counsel Group, **Ellisa Opstbaum Habbatt** was a panelist discussing "Good Faith in Delaware Alternative Entity Law" at the Third Annual Symposium on the Law of Delaware Business Entities. The symposium, *Good Faith After Disney: The Role of Good Faith in Organizational Relations in Delaware Business Entities*, was a day-long conference featuring members of the Delaware Court of Chancery, the Supreme Court of Delaware and other national speakers.

Sara Holtz, who trains women to become successful rainmakers, has launched a new blog focusing on helping women partners build their books of business. Her blog can be found at www.womenrainmakers.com. Ms. Holtz's blog provides business development tips for women lawyers while encouraging members to share information and make connections.

Jessie Liu has left the United States Attorney's Office for the District of Columbia to become Deputy Chief of Staff to the Assistant Attorney General for National Security at the United States Department of Justice.

Anna M. Maiuri, a principal and managing director of Miller, Canfield, Paddock and Stone, P.L.C., was selected by her peers for inclusion in the Environmental Law Section of the preeminent legal referral guide, *The Best Lawyers in America® 2007*. Additionally, she was recognized as one of the Top 50 Women, Top 100 Lawyers, and included in the Environmental Law section of the Michigan Super Lawyers 2006. Only the top five percent of attorneys in Michigan were chosen by their peers and through independent research of Law & Politics.

Denver lawyer **Karen J. Mathis** became the president of the American Bar Association in August. She is a business, commercial and estate planning lawyer with McElroy, Deutsch, Mulvaney & Carpenter, a law firm based in Morristown, New Jersey.

Laura Beth Miller of Brinks Hofer Gilson & Lione has been named Chair of the firm's International Trade Commission Group. This Group represents clients in Section 337 proceedings before the International Trade Commission.

Betty Southard Murphy received the 2006 American Inns of Court Professionalism Award for the United States Court of Appeals for the District of Columbia Circuit. The award honors a lawyer or judge who displays "unquestionable integrity and dedication to the highest standards of the legal profession and the rule of law."

Julie A. Pace recently joined the Phoenix office of labor and employment law firm Ogletree Deakins as a shareholder. Ms. Pace, along with four other female attorneys, joined the law firm in August, substantially increasing the number of female attorneys to over half of the lawyers employed by the Phoenix firm.

Megan Phillips was recognized by Missouri Lawyers Weekly as one of the state's Up & Coming Lawyers. Ms. Phillips was also honored this year for outstanding service to the Missouri Bar Young Lawyers' Section.

Evelt L. Simmons was reappointed by Karen Martin, President of the American Bar Association, to serve as Chair of the President's Council on Diversity in the

Profession. The Council addresses issues on expanding diversity in the pipeline to the legal profession. Ms. Simmons is Chief Diversity Officer and partner in the Florida-based law firm of Ruden McClosky. She is also the first attorney of color to serve on its management committee.

Selma Moidel Smith, honoree of NAWL's annual law student writing competition, has conceived and organized the annual State Bar MCLE program of the California Supreme Court Historical Society, of which she is a board member. The panel program, "California—Laboratory of Legal Innovation," was presented on October 7, 2006. It featured Associate Justice Kathryn M. Werdegarr, former justices, and leading academics. Ms. Smith is the author NAWL's Centennial History and recipient of its Lifetime of Service Award.

The American Bar Association recently published *A Lawyer's Guide to Networking* by **Susan R. Sneider**. An internationally recognized management consultant in the legal industry, Ms. Sneider is the founder of New Vistas Consulting. Her hands-on workbook is an invaluable tool for lawyers at all stages of their professional life, from law students to high-level professionals transitioning careers.

Mary G. Wilson was elected president of the League of Women Voters of the United States in June. As the seventeenth president of the national organization, she will serve a two-year term. Ms. Wilson, an attorney for thirty years, is managing partner with Aungier & Wilson, P.C. She has worked to promote civic participation in the League for over twenty years.

Julie R. Yarzebinski has joined Goldberg, Gruener, Gentile, Horoho & Availi, P.C. as an associate attorney. She will be specializing in family law.

HOLLAND & KNIGHT LLP

Maria T. Currier, a prominent health care lawyer, has joined the firm's Miami office as a partner. Ms. Currie has extensive experience representing top-tier health care clients in transactional and regulatory matters, including corporate mergers, mergers and acquisitions, joint ventures, commercial transactions, and international business ventures.

Laurie Webb Daniel, a partner at the firm's Atlanta office, has been named a Fellow of the American Academy of Appellate Lawyers. The Academy was founded in 1990 to advance the highest standards and practices of appellate advocacy and to recognize outstanding appellate lawyers.

Christine Fuqua, Georgianna "Annie" Gaines, and Sarah Stoddard Toppi, three associates in the Jacksonville office, were officially sworn in as lawyers by Supreme Court Justice Ruth Bader Ginsburg in September.

JENNER & BLOCK LLP

Associate **Ginger D. Anders** spoke at the NAACP Legal Defense and Education Fund's Annual Capital Punishment

Training Conference in July in Warrentown, Virginia. Ms. Anders discussed the major legal and medical issues that are common in lethal injection claims. She also addressed the "nuts and bolts" of lethal injection litigation, including discovery techniques and use of expert witnesses.

Partner **Debbie L. Berman** was recently named a 2007 Fellow of Leadership Greater Chicago, a nonprofit organization dedicated to helping "Chicago's most promising leaders" develop community awareness among leaders in the Chicago metropolitan area. As a fellow, Ms. Berman will join other corporate and civic leaders in a ten-month study of the challenges facing Chicago-area communities.

Partners **Kali N. Bracy, Patricia A. Bronte, E. Lynn Grayson, and Terri L. Mascherin** were named to Lawdragon magazine's list of "new stars" chosen for their role in carving "the path to the new heights of the legal profession." The 500 attorneys honored in "New Stars, New Worlds" were selected by Lawdragon's editorial staff after extensive research and interviews with legal professionals across the country.

Associate **Debra M. Doyle** spoke at a panel discussion entitled, "Beyond the Billable Hour: Pro Bono Practice in Large Law Firms," held at the University of Notre Dame Law School in September. The discussion addressed why attorneys take on pro bono work and what kinds of pro bono opportunities are available to attorneys in large law firms, among other topics.

Partner **Jill Sugar Factor** joined a select group of corporate secretaries and in-house counsel and discussed today's most pressing corporate governance, risk and compliance issues at the 2006 Corporate Secretary Chicago Think Tank, held in September in Chicago.

Partner **E. Lynn Grayson** introduced the kick-off meeting of the Chicago Bar Association Alliance for Women for its Women's Leadership Institute "Taking Action, Achieving Results!" This was the first of a four-part seminar series on women in the legal profession co-developed by Ms. Grayson. The series focuses on the skills vital to women who want to take on leadership roles in their law firms and organizations, including communication, networking, self-promotion, and positive visibility.

Partner **Linda L. Listrom** was recently appointed as Co-Chair of the American Bar Association Section of Litigation's Trial Evidence Committee for the 2006-07 term. Over the next year, Ms. Listrom will help the committee to monitor developments in the law of evidence, examine timely evidence issues and update its members on significant state and federal evidence cases.

Partner **Lorelie S. Masters** spoke at the 2006 International Bar Association Annual Conference. Ms. Masters, a member of the Firm's Litigation Department, spoke at the session entitled "Damages Calculations – Cross-border Aspects." During the session, lawyers from both common law and civil law systems reviewed current trends and developments concerning damages calculations.

Partner **Gail H. Morse** spoke to employees of The Northern Trust on tax and estate planning issues facing married and unmarried members of the LGBT community in Chicago. Ms. Morse, Chair of the Firm's State and Local Tax Practice, participated in a panel discussion entitled, "Wills & Estate Planning for LGBT Individuals."

Associate **Kathryn C. Newman** spoke at the 2006 International Bar Association Annual Conference at a session entitled "The Trials and Tribulations of Being a Young Litigator: Your Questions Answered," which offered tips on proper court etiquette, how to gain respect from more experienced lawyers and clients, how to handle last-minute court appearances, and how associates can get the most out of their mentoring experience.

Partner **Suzanne J. Prysak** co-authored "New Developments on the Standard for Finding 'Evident Partiality,'" Bloomberg Law Reports, Vol. 2, No. 7, discussing the conflicting judicial interpretation of so-called 'evidence partiality,' which is a justification for vacating arbitration awards under the Federal Arbitration Act (FAA) when an arbitrator's failure to disclose prior dealings is an issue.

Partner **Carla J. Rozycki** co-authored "Employer Violates FMLA by Terminating Employee Who Requested Leave Extension," Law.com, discussing the difficulties employers face in administering their leave of absence policies in compliance with the Family and Medical Leave Act and examining common pitfalls highlighted by the 6th Circuit Court of Appeals in *Killian v. Yorozu Automotive Tennessee, Inc.*

Partner **Stephanie A. Scharf** spoke at the University of Chicago Women's Business Group program entitled "Creating a Shared Vision." Ms. Scharf led a session entitled "Negotiations Hone Your Skills: Negotiate!," which addressed the elements of negotiation and issues surrounding career development and changes.

Partner **Lisa T. Scruggs** was honored by the Chicago Bar Association Alliance for Women with its 2006 Alta May Hulett Award, which recognizes lawyers that promote positive change and have contributed to the advancement of women in the legal profession. Ms. Scruggs was lauded for her two years of service as Senior Policy Advisor to the Chicago Public School's Chief Executive Officer and for her work as Vice President of the Board of Directors and founding Board Member of the Young Women's Leadership Charter School.

Partner **Lise T. Spacapan** spoke at the American Bar Association Section of Litigation Products Liability Committee's program Contamination Examination: A Workshop on the Changing Face of Chemical Product Liability Claims. Ms. Spacapan served as a panelist at a discussion entitled "Exposing Exposure: Developing Novel Theories of Recovery in Toxic Tort Litigation."

Associate **Michelle Speller-Thurman** was recently profiled

in the inaugural edition of *Who's Who in Black Chicago*, a publication celebrating the achievements of "Chicago's most remarkable African-American citizens."

Partner **Tanya J. Stanish** spoke at an Illinois State Bar Association Family Law Section seminar entitled "Property Issues in Family Law." Ms. Stanish presented a session entitled "Commingle and Transmuted Property; Reimbursements Owed Between Marital and Non-Marital Estates."

Partner **Catherine L. Steege** presented a panel entitled "KERPs Compensation and Bonus Issues under the New Code, Including Pension Benefits and Union Contract" at the American Bankruptcy Institute's 4th Annual Southwest Bankruptcy Conference.

Partner **Barbara S. Steiner** shared her experiences in crafting a successful legal career at a prominent law firm and offered advice on how the larger legal profession can broaden career opportunities for women everywhere in Vault, Inc.'s "View From the Top: Q&A With Legal Women Leaders."

Partner **Charlotte L. Wager** spoke at a Black Women Lawyers' Association seminar entitled "How to Navigate the Mysterious Web of Legal Writing." The program provided first-year minority law students with tips on successful legal writing in law school and practice.

RIKER DANZIG SCHERER HYLAND & PERRETTI, LLP

Affiliate firm Riker Danzig London, LLP, has opened a London office focusing on International Insurance and Reinsurance, Banking, and Commercial Litigation. Eleni Iacovides has joined the firm as resident partner in London.

Associate **Tiffany M. Williams** has been named Young Lawyer of the Year by the New Jersey State Bar Association. This award is presented annually to a lawyer under 36 years of age whose personal and professional achievements merit special recognition and who has made unique community and public service contributions, actively participated in the organized bar, and stood out in the areas of professional knowledge, skill, integrity, and courtesy.

STEPTOE & JOHNSON LLP

Steptoe & Johnson LLP was ranked #12 in the country in *Presumed Equal: What America's Top Women Lawyers Really Think About Their Firms*, a survey conducted by members of the Women's Law Association at Harvard Law School.

STRICKLER SACHITANO & HATFIELD, P.A.

Omolade R. Akinbolaji was awarded the Maryland State Bar Association's 2006 Edward F. Shea, Jr. Professionalism Award. The Award recognizes young lawyers who best exemplify professionalism, civility and compassion while adhering to the highest standards of integrity.

Jennifer A. Forquer was named partner. She joined the firm as an associate in July 2001, and practices family law litigation.

Heather Q. Hostetter was included in the Washington Magazine article “Young Guns – 40 Top Lawyers Under 40” in July. Ms. Hostetter ranked 14th among her peers on the list and had the distinction of being the list’s only family law attorney.

UNIVERSITY OF ARKANSAS

The University of Arkansas Women’s Law Student Association presented **Sharon Bernard** ’69 with the Gayle Pettus Ponce Award in September. Ms. Bernard was the first African-American woman to graduate from the Arkansas Law School and was honored for her pioneering spirit and excellence in the legal profession.

Nichole Manning, a third-year law student and a law clerk for the Rogers City Attorney’s Office, successfully assisted on the 8-month process of filing an H1b visa petition to allow Multilingual Intake Clerk, Giedre Tarnauskaite, return to her work for the office after her visa expired.

WOLF BLOCK SCHORR AND SOLIS-COHEN LLP

Jenny Carrol was elected to the Board of Trustees of the Diabetes Foundation, Inc.

Carolyn Maddaloni, Elizabeth Kearney, Kimberly Chainey, Natasha Harris, Carol Broderick, Carol Facenda, Debbi Rappaport, Ellen Samel, and Diana Liu were all members of the core Wolf Block team managing the closing of the real estate portfolio in the Comcast/Time Warner buyout of Adelphia Communications.

Renee Mattei Myers was named one of the “2006 Forty Under 40” movers and shakers by the Central Penn Business Journal.

Heather Pare and **Beth Zoller** worked as members of a team to successfully represent Yellow Book USA, Inc. in a lawsuit against a former employee who published negative statements on the Internet.

Judith Siegal-Braun was named a “2006 New York Super Lawyer.” This selection process included peer nominations, a blue-ribbon panel review process, and independent research.

Shari Solomon was recently appointed to the executive committee of the Women’s MBA Network, a collaboration among Philadelphia university professional women’s networks dedicated to providing networking and business development among executive women, as well as increasing women’s business leadership in Philadelphia and the Delaware Valley.

NAWL Recognizes Law School Members

Lewis & Clark Law School
Saint Louis University School of Law
Seattle University School of Law
Stetson University College of Law
Suffolk University Law School
The John Marshall Law School

University of Denver College of Law
University of Idaho College of Law
University of Louisville School of Law
University of Washington Law School
Valparaiso University School of Law
Villanova University School of Law
Wake Forest School of Law
Washburn University School of Law
Western New England School of Law

NAWL Recognizes Law Firm Members

A. Kershaw PC, Attorneys & Consultants
Alston & Bird LLP
Anderson Law Group
Arent Fox PLLC
Butler Snow Omara Stevens & Cannada, PLLC
Chester Wilcox & Saxbe, LLP
Cox & Osowiecki, LLC
Davis & Gilbert LLP
Dickstein Shapiro Morin & Oshinsky LLP
Duane Morris LLP
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Holland & Knight LLP
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Jones Day
Kirkland & Ellis LLP
Kirkpatrick & Lockhart Nicolson Graham LLP
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Lowenstein Sandler PC
Mayer Brown Rowe & Maw, LLP
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Wolf Block Schorr and Solis-Cohen LLP •

Domestic Violence Essay

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⁸⁰See discussion *supra* Parts C & D.

⁸¹Dan Stein, "Political Asylum Should Not Be Turned Into Social Asylum," *Bloomsburg Press-Enterprise*, May 6, 2001.

⁸²*Id.*

⁸³Dan Stein, "Political Asylum Should Not Be Turned Into Social Asylum," *Bloomsburg Press-Enterprise*, May 6, 2001.

⁸⁴Dan Stein, "Gender Asylum Reflects Mistaken Priorities," *The Human Rights Brief* (1996).

⁸⁵*Id.*

⁸⁶*Id.*

⁸⁷Dan Stein, "Political Asylum Should Not Be Turned Into Social Asylum," *Bloomsburg Press-Enterprise*, May 6, 2001.

⁸⁸*Id.*

⁸⁹Blanck, *supra* note 22, at 69; see also discussion *supra* Part C.

⁹⁰Lieberman, *supra* note 2, at 9.

⁹¹Dan Stein, "Political Asylum Should Not Be Turned Into Social Asylum," *Bloomsburg Press-Enterprise*, May 6, 2001.

⁹²Matter of Kasinga, 21 I. & N. Dec. 357, 358 (B.I.A. 1996).

⁹³U.S. Dept. of Justice, *Questions and Answers: The R-A- Rule*, Dec. 7, 2000, <http://uscis.gov/graphics/publicaffairs/questsans/rarule.htm> (last visited Oct. 24, 2005).

⁹⁴*Id.*

⁹⁵*Id.*

⁹⁶Lieberman, *supra* note 2, at 9.

⁹⁷Randall, *supra* note 20, at *10.

⁹⁸*Id.*

⁹⁹Dan Stein, "Gender Asylum Reflects Mistaken Priorities," *The Human Rights Brief* (1996).

¹⁰⁰Dan Stein, "Political Asylum Should Not Be Turned Into Social Asylum," *Bloomsburg Press-Enterprise*, May 6, 2001.

¹⁰¹See *Fiadjoe v. Attorney General of the United States*, 411 F.3d 135, 138 (3d Cir. 2005) (relying on State Department report of human rights practices about violence against women in Ghana).

¹⁰²See *Mohammed v. Gonzales*, 400 F.3d 785, 789 (9th Cir. 2005) (using credibility as part of the process to assess validity of asylum claim).

¹⁰³Declaration on the Elimination of Violence Against Women, G.A. Res. 48/104, U.N. GAOR, 48th Sess., Supp. No. 49, at 217, U.N. Doc. A/48/49 (1993).

¹⁰⁴Canadian Immigration and Refugee Board., *Guidelines Issued by the Chairperson Pursuant to Section 65(3) of the Immigration Act: Women Refugee Claimants Fearing Gender-Related Persecution* (Mar. 9, 1993).

¹⁰⁵See *supra* note 63.

¹⁰⁶See *supra* note 6.

¹⁰⁷Melita Sunjic, *Abused Woman Granted Refugee Status in Hungary*, UNHCR, Nov. 1, 2005, www.unhcr.ch/cgi-bin/texis/vtx/news/opendoc.htm?tbl=N-EWS&id=436788c94

¹⁰⁸*Islam (A.P.) v. Sec'y of State for the Home Dep't*, [1999] U.K.H.L.

¹⁰⁹*Id.*

¹¹⁰*Id.*

¹¹¹See *supra*, note 125.

¹¹²See *supra*, note 123.

¹¹³Randall, *supra* note 20, at *7.

¹¹⁴*Id.*

¹¹⁵See *supra* notes 123 & 125.

¹¹⁶See Bosi, *supra* note 4, at 803.

¹¹⁷*Id.*

¹¹⁸*Id.* at 804.

¹¹⁹*Id.*

¹²⁰*Id.* at 805. •

Book Review: Presumed Equal

(continued from page 26)

quality work are the prices of admission, not the keys of success; (2) create and maintain effective mentoring relationships; (3) construct and maintain an effective network; (4) effectively self promote; (5) create positive visibility; (6) games are fun; (7) it's not personal; (8) your professional presentation matters; (9) become an effective agent for change; and (10) utilize reciprocity. Perhaps we really do want to believe that women are fully equals in the legal profession and that the greatest challenges lie behind us. But then again, numbers don't lie. While women make up 44.12% of associates and just 17.20% of partners nationwide, we must recognize that much work remains to be done in the legal profession. Women have been graduating at the top of law school classes for some time. Piggott comments aptly: "[i]t's time for law firms to look and act differently."

¹Lindsay Bohm and Ashley Riveira, *PRESUMED EQUAL: WHAT AMERICA'S TOP WOMEN LAWYERS REALLY THINK ABOUT THEIR FIRMS* (2006).

²Louis D. Brandeis, *OTHER PEOPLE'S MONEY AND HOW THE BANKERS USE IT*, 92 (1914).

³Some firms had higher scores for individual offices, but when combined with scores for the firm overall, yielded a lower firm-wide total. For instance, Kirkpatrick & Lockhart Nicholson Graham LLP received a score of 85.80 for its Washington office, but ranked firm-wide 13th with a score of 82.46. The same is true for some other offices of large law firms which scored high in some offices (such as Morrison & Foerster LLP's Silicon Valley office (86.78); the San Francisco office of Pillsbury Winthrop Shaw Pittman LLP (89.42), and the New York office of Orrick, Herrington & Sutcliffe LLP (87.63)), but had lower overall scores when combined with firm-wide scores. •

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2006 Report

(Continued from page 18)

effect of reporting all partners as equity partners inflates a firm's progress on advancing women into equity partnerships and misreports the real state of the partnership. See also note 2, above.

¹²This difference between one-tier

and two-tier firms is sufficiently large enough to be statistically significant at the 95% confidence level.

¹³This difference between one-tier and two-tier firms is sufficiently large enough to be statistically significant at the 95% confidence level.

¹⁴This difference between one-tier and two-tier firms is not statistically significant at the 95% confidence level.

¹⁵The vast majority of the firms (95) reported a managing partner position.

¹⁶In addition, the firms that responded to the compensation questions were larger in terms of gross revenue, net operating income, and total number of lawyers when compared to the participating firms that chose not to report compensation data. Also, while the response rate varies widely, firms with AMLAW rank 1-50 or 151-200 had lower response rates. However, there do not appear to be systematic differences in geographic distribution.

¹⁷Compensation values are rounded to the nearest \$100.

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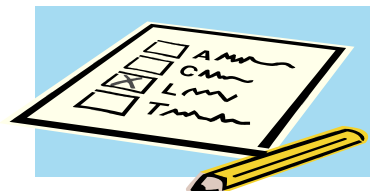
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