national association of women lawyers

Women Lawyers Journal

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Dallas Midyear Meeting

International Law Reports

Secrets of Success from Edith Osman

In this issue of

Women Lawyers Journal

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About NAWL

Founded in 1899, NAWL is a professional association of attorneys, judges, law students and nonlawyers serving the educational, legal and practical interests of the organized bar and women worldwide. *Women Lawyers Journal*®, National Association of Women Lawyers®, NAWL®, and the NAWL seal are registered trademarks.

How to contact NAWL

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About Women Lawyers Journal

EDITORIAL POLICY *Women Lawyers Journal* is published for NAWL members as a forum for the exchange of ideas and information. Views expressed in articles are those of the authors and do not necessarily reflect NAWL policies or official positions. Publication of an opinion is not an endorsement by NAWL.

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, timeliness, goals and objectives of the association and quality of writing. Unsolicited articles by nonmembers will not be published. No material can be returned unless accompanies by a self-addressed, stamped envelope.

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PRESIDENT'S MESSAGE

You Can Change the Legal Profession

During the years 1985 to 1995, the percentage of women lawyers increased 77 percent, from 13 percent to 23 percent. As of 1997, women lawyers comprise 14 percent of law firm partners, 19 percent of full professors at law schools, and 8 percent of law school deans. Although women were not admitted into the ABA until 1918 (see member Selma Moidel Smith's article in this issue), 22 percent of the ABA House of Delegates are women and 32 percent of the ABA Board of Governors are women. These statistics are encouraging when compared to percentages for earlier years, but they reflect a continued power imbalance between women and men in the legal profession. Men continue to control private practice, law schools, and the legal profession itself.

Both women and men bear a responsibility to eradicate this imbalance. If you are a partner at a law firm, take the time to nurture the careers of junior women. Show interest in their careers. Encourage women lawyers to participate in appropriate firm activities. Assign significant matters with high visibility to deserving women lawyers and encourage your colleagues to do the same. Include women lawyers in presentations to clients and ensure that they play a substantive role and are not present just for "show." Speak up on issues of importance to women in your firm at partnership and committee meetings.

If you are a professor or a dean at a law school, you bear a special responsibility, because your actions affect aspiring women lawyers at the beginning of their careers. What you say and do can dramatically impact those women when they are making choices that could define their careers. Do you ensure that women have an equal voice in your classrooms? Are women actively involved in all academic and extracurricular activities at your law school? Are women recommended for clerkships and other prestigious appointments at a rate commensurate with their skills and abilities? If the answer to any of these questions is "no," what are you doing to correct the situation?

You need not engage in these efforts alone. As a member of the National Association of Women Lawyers, you have the opportunity to share ideas and success stories with other lawyers interested in women's continued achievement in the law. You can do so through the pages of this Journal, through service on any of NAWL's many committees, and through attendance at NAWL's meetings and programs. You can also share your ideas and success stories with me at Henryk@dsmo.com. I look forward to hearing of your ideas and successes in the coming months. Together we can and should continue NAWL's efforts to ensure that all women have the opportunity to attain the highest reaches of the legal profession.

Katherine Henry, NAWL President

Before succeeding to NAWL's Presidency this August, Katherine J. Henry served on NAWL's Board of Directors and chaired numerous NAWL committees. Most recently, she led NAWL's effort to modernize its Constitution and By-Laws. Ms. Henry also serves on NAWL's Rainmaking Committee, which unveiled the inaugural edition of The National Directory of Women-Owned Law Firms and Women Lawyers during NAWL's annual meeting this past August.

A partner in the Insurance Coverage Practice of the Litigation Group at Dickstein Shapiro Morin & Oshinsky LLP in Washington, D.C., Ms. Henry specializes in complex insurance coverage litigation on behalf of policyholders. She graduated with honors from the University of Chicago Law School, where she served as associate editor of the University of Chicago Law Review and won the law school's prestigious Hinton Moot Court competition. After law school, Ms. Henry interned in the U.S. Solicitor General's office in Washington, D.C. She then clerked for the well-known civil rights jurist, the Honorable Irving L. Goldberg, on the United States Court of Appeals for the Fifth Circuit. Ms. Henry resides in Reston, Virginia with her husband, William Thomas Welch, who is also a NAWL member and staunch supporter. When she isn't working, Ms. Henry devotes her time to riding her horse, running, and playing with her two Maltese dogs.

Dallas

Mid-Year Meeting

Charlye Farris and Louise Raggio to Receive President's Awards

The National Association of Women Lawyers® will recognize two outstanding women lawyers, Charyle Farris and Louise Raggio, at its mid-year meeting in Dallas, Texas, February 10-11, 2000. Both women blazed trails for women in Texas when women could not own property or sign their own names without their husbands' permission.

Charlye Farris, a native of Wichita Falls, Texas, graduated from Booker T. Washington High School and received a Bachelors Degree in Political Science from Prairie View A & M University. She received her Law Degree from Howard University in Washington, D.C. in May of 1953. She was admitted to the Texas Bar in November of the same year, as the first African American female licensed to practice law in the State of Texas. Early in her career, Ms. Farris served as Wichita County Judge Pro Tem and was subsequently appointed as acting District Judge Pro Tem in the 70's, making her the first black woman judge in the south. In addition to her solo law practice, Ms. Farris has championed children's causes. A member of the West Texas Children's Aid Society, she also served on the Professional Advisory Board of the Wichita Mental Health Association and is currently a member of the Board of Directors of Child Care Incorporated, a non-profit agency operating four day care centers for children of low-income families. Ms. Farris is a member of the Texas State Bar Association, the American Bar Association, National Bar Association and the Texas Trial Lawyers Association.

Louise Raggio

Louise Raggio graduated from Southern Methodist University Law School in 1952, when married women could not sign their names without their husbands' permission and could not serve on a jury in Texas. She was the only woman in her law school class at SMU. While a law student, Ms. Raggio raised the three sons with whom she now practices law. She currently practices with Grier, Jr., Thomas and Kenneth at Raggio and Raggio, PLLC in Dallas, Texas.

Ms. Raggio has been called "legendary" and "a trailblazer." She was the first female Assistant District Attorney in Dallas County in 1954. She participated in rewriting the Texas Marital Property Rights Bill in 1967 and helped create the Texas Family Code. The Marital Property Act granted Texas women the right to own and sell property, own businesses and obtain their own bank loans. Ms. Raggio is also the first women elected to the Board of Directors of the State Bar of Texas and has been inducted in the Texas Women's Hall of Fame. The Dallas Bar Association has named her Outstanding Trial Lawyer. SMU in Dallas found a lecture series in her name. She is a past recipient of the

prestigious Margaret Brent Award from the American Bar Association. (Other past recipients of the Margaret Brent Award are U.S. Supreme Court Justice Ruth Bader Ginsberg, U.S. Attorney General Janet Reno, and late U.S. Legislator, Barbara Jordan.)

All-Star Speakers Each a Heavy Hitter in His or Her Own Right

The mid-year meeting also features all-star speakers. Gerald H. Goldstein and Cynthia Hujar Orr apply current technology to a cutting edge law practice. Gerry Goldstein is a past president of the National Association of Criminal Defense Lawyers and twice received the Henry Falk Award from the ACLU as Distinguished Advocate for Civil Liberties. Among other things, Gerald and Cynthia both wrote the amicus brief on behalf of General Noriega to prevent CNN's broadcast of the General's privileged attorney client phone conversations. Ilene Smoger, solo practitioner with offices in Oakland, California and Dallas, Texas, will provide the "skinny" on hot case management programs and Web Page secrets. Stephanie Ertel, First General Counsel for Coca-Cola in Texas, will reveal the differences in gender communication techniques. Louise Raggio has graciously agreed to provide a snapshot of equality in our profession. Judy Clarke, past-president of NACDL and a trial lawyer for both Ted Kazinski and Susan Smith, winning life sentences for both, will also speak. Judy exposes unfair treatment of persons in the Criminal Justice System. The President of the Texas Chapter of the NAACP, Gary Bledsoe, will give inside information about the *Hopwood* case and the status of minorities in education and the business world. Charlye Farris will offer her perspective on her years practicing law in Texas.

NAWL, in Conjunction with the NASD, Will Offer Arbitrator Training

On February 10th, NAWL and the NASD Regulation, Inc. will again offer the NASDR's Alternate Dispute Resolution training for Securities Arbitrators. This training has been a smashing success at previous NAWL meetings in Dallas and Los Angeles. If you are not qualified as a NASD arbitrator, now is your chance! ■

INTERNATIONAL TRENDS IN THE JUDICIARY

An international study published by the International Bar Association publication, the International Legal Practitioner reports:

- **Women comprise less than 25% of the world's judges.**
- **Women judges generally hold positions at the bottom of the judicial hierarchy.**
- **Women are better represented in countries with developing legal systems than in those with long-established (or entrenched) legal systems. For example, the percentage of women judges in judiciary of:**
  - **Hungary, 69%**
  - **Czech Republic, 63%**
  - **Kenya, 49%**
  - **as compared with England and Wales, 9.75%**

REGISTRATION FORM

DALLAS MID-YEAR MEETING

February 10-11,

REGISTRATION & RESERVATIONS MUST BE RECEIVED NO LATER THAN JANUARY 31, 2000.

Name: _____ **Telephone:** _____

Address: _____

Prepaid registration: $55.00 **On-site registration will be: $75.00**

Registration fee includes General Assembly and program materials, refreshments, name tags and conference administrative expenses.

Awards Luncheon, Friday February 11: $45.00

You may charge your registration and luncheon reservations. The charge on your billing statement will appear as American Bar Association II.

VISA/MC or American Express are accepted.

☐ **Check** ☐ **VISA/Mastercard/AmEx**

Account No: _____ **Expiration Date:** ____/ ____/ ____

Signature required if mailing your registration _____

Checks should be made payable to the National Association of Women Lawyers and sent to:

NAWL
American Bar Center, 12.4
750 N. Lake Shore Drive
Chicago, IL 60611

Alternative Dispute Resolution training fees should be sent to:

Phillip Lenihan
NASD Regulation, Inc.
525 Market Street, Ste. 300
San Francisco, CA 94105-2711

Networking Directory

The National Directory of Women-Owned Law Firms and Women Lawyers® Debuts in Atlanta

NAWL proudly introduced a new publication at the Atlanta Conference: the first edition of The National Directory of Women-Owned Law Firms and Women Lawyers®. An exceptional communication and marketing tool for women lawyers, the Directory® has been an immediate success.

NAWL is now taking new orders from women lawyers and law firms clamoring to secure a listing in the second edition (2000-2001). NAWL member Nancy Peterson, of Philadelphia, PA, is the new Chairperson of the Rainmaking Committee, which supervises publication of the Directory each year. nancy can be reached via email at peterson@blankrome.com.

The Directory® creates a professional referral network between women lawyers and in-house counsel and, of course, connects those lawyers who list in the Directory® to potential clients. NAWL has circulated the Directory® at no cost to in-house counsel across the country. NAWL members receive one complimentary copy of the Directory® as a member benefit; nonmembers may order a copy for a fee.

The Directory® has four sections: Section 1 lists law firms that are 50% or more women-owned. Each firm listed in Section 1 must certify that it meets the eligibility requirement. Entry in this section requires a nominal listing fee of $25 per firm. In addition to a firm listing, firms may list individual women lawyers for $25 per lawyer.

Section 2 lists women lawyers who are not eligible for Section 1. A fee of $100 per lawyer is required to list in this section. (Individual law firms are not listed in this section.)

Section 3 indexes all the attorneys in Sections 1 and 2 by practice and geographic area, and separately indexes advertisers.

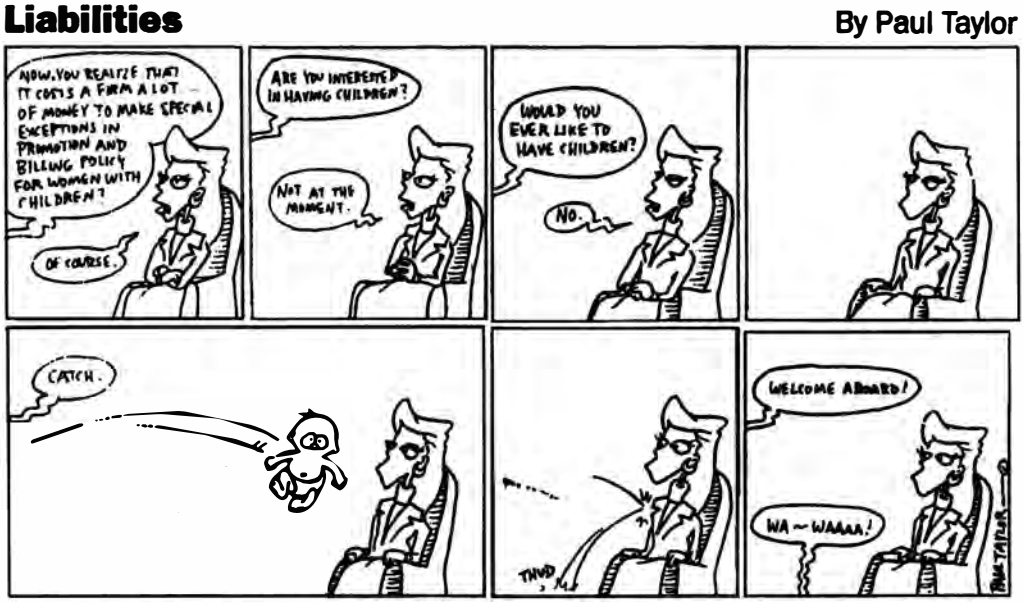
Section 4 indexes all attorneys by their law firm affiliation.

The efforts of the Rainmaking Committee and generous firm sponsors created the Directory®—but key to its continued success is wide distribution. You can help circulate the Directory® to in-house counsel. Members may request extra Directories for distribution to in-house counsel by sending NAWL the names and addresses of in-house counsel recipients and $4.50 per Directory® for postage. NAWL will send you one Directory® for each in-house counsel's name that you supply. For more information or a fast, e-mail application, contact Lisa Smith at NAWL headquarters. ■

Nancy Peterson is the Rainmaking Committee Chair and an associate at Blank Rome Cominsky & McCauley, LLP

Family Conflict as Discrimination Against Women

by Joan Williams



We often hear of mothers who choose to quit the partnership track, or the law altogether, as an expression of their own priorities. As we all know, all adults have to make hard choices and take the consequences.

Note how this way of talking about work/family conflict locates the conflict in women's heads, as a psychological dilemma they need to work through as individuals. But work/family conflict is not simply a matter of individual priorities. Instead it reflects a clash between two societal ideals. The first involves the way we define the ideal worker, as someone who takes no time off for childbearing or childrearing, works full time and is available for overtime. This definition means that an ideal worker who leaves home at 8 a.m. will not return home until 6 or 7 p.m. (depending on the length of the commute) — or later, for those who work substantial overtime can easily be away from home from 8 a.m. until 8 p.m. or even later.

Very few parents would consider ideal a situation where both parents are away from home from 8 a.m. until 6, 7, or 8 p.m. Most people feel that children "should be raised by parents, not by strangers." Let's bracket the odd, if common, formulation (a child's nanny is hardly a stranger) and call this the norm of parental care.

This analysis shows that work/family conflict is not just a matter of individual priorities; instead it involves a clash a social ideals. This means that resolving work/family conflict lies not in having individual women make hard choices but in changing one of these ideals. One alternative is to shift our notion of what parents owe to children — but this solution, I suspect has limited appeal. In middle class families, parents typically feel that a parent should be available to help with homework, attend school conferences and other activities, drive kids of lessons, spend some time after school and during the evening. Said one associate in a large law firm:

The biggest problem as I see it for both men and women is how to balance children in a large-firm environment. I plan to go part-time when I have children and I hate the idea. If the firm had a 24-hour day care or nursery, I would not work part-time — I would stay full-time. Obviously, even this is no solution: kids can't grow up in a day care center.

The only alternative to abandoning the norm of parental care is to change the way we define the ideal worker. One important tool for accomplishing this change is to point out that employers' current inflexibility costs them a lot of money. Responsible estimates are that it costs between 75 percent and 150 percent of a professional's salary to replace her; using

this and other data, Deloitte, Touche — a leader in this arena — estimates that its flexible policies save $14 million a year. As law firms become increasingly concerned about high rates of attrition, they will begin to look more seriously at flextime, telecommuting, compressed workweeks, part-time tracks, sabbaticals and other flexible work arrangements.

Many firms already do offer "family friendly" policies, but flexibility now typically occurs at the price of career advancement: in many firms part-timers are permanently taken off partnership track, either de facto or as a matter of official policy. Some firms disadvantage part-timers in other ways, as when contracts specify that lawyers working 80 percent of the hours of a full-time attorney will receive 60 percent of the pay. Many part-timers also feel that they no longer get the most interesting and challenging assignments. Indeed, some mothers feel that the quality of their assignments decreases when they return from maternity leave regardless of whether or not they return full time. One New York attorney, protesting that the assignments she received after her return from maternity leave were more like those of a paralegal than a lawyer, protested that she'd "had a baby, not a lobotomy."

"Nearly half of all married male attorneys are married to housewives."

What's a mother to do? The solution lies in reevaluating the gold standard of an ideal worker takes no time off for childbearing or childrearing. Note that this way of defining our work ideals means that they are framed around men's bodies — after all, it's men who need no time off for childbirth. The ideal worker norm also is framed around men's life patterns, for American women still do 80 percent of the child care and two-thirds of the housework.

An ideal framed around men's bodies and biographies creates "built in headwinds" and so discriminates against women. We can readily see that treating women the same in the face of an ideal framed around men is not an offer of equality — it's simply one way of disadvantaging women. Treating women the same as men in the face of an ideal worker norm is not an offer of equality; neither is treating women differently while leaving the ideal worker norm intact, co for example, by offering a marginalized mommy track. To eliminate the built in headwinds currently at work within the legal profession, we need to change our definition of the ideal worker so that it reflects the bodies and biographies of women as well as of men.

Current data show that only 7 percent of mothers aged 25 - 45 work substantial amounts of overtime. In other words, the current mandatory overtime requirements wipe mothers out almost completely. An ABA survey found that at least 55 percent of all lawyer bill over 2,400 hours per year. At least 13 percent work even more, billing up to 2,880 hours a year, or nearly 60 hours a week. One influential report concludes that "legal work makes dramatic demands on the practitioner's time and makes it difficult or nearly impossible to have a life in which family obligations or other non-work activity may be experienced in a conventional way." Said one New York lawyer:

I couldn't come home at nine three nights a week after my kids have gone to bed. . . . It's not something I could have done all their infancies and it would be even harder now with my daughter in first grade, having homework, to say, "See you tomorrow; see you in the morning if I happen to be around when you're up."

This helps explain certain strong patterns among lawyers. Nine out of ten men in high-powered positions have children and a nonworking spouse. Most women lawyers have neither. Ninety-three percent of married women lawyers have spouses who work full-time, many as high-level professionals, whereas nearly half of all married male attorneys are married to housewives. In other words, to each the top of their profession, women lawyers still have to make choices between work and family that most men do not have to make.

The result is the hemorrhaging of women lawyers out of the law. By the 1990s, women were nearly half of the new recruits of the top law firms in New York City but 89 percent of the partners still were men.

"Virtually every associate who works with me works on cases for other partners and is therefore a part-time lawyer as far as my cases are concerned."

An American Bar Association study found that men still were 86 percent of the partners in firms with two or more lawyers. In the fifteen years after 1970, twice as many men as women hired by large New York law firms were promoted to partner.

This clearly is not gender equality. What, then, does equality require? A floor (not a ceiling) is the principle of proportional pay, benefits and advancement for "part-time" workers — remembering that in many cities "part-time" means a forty hour week. A principle of proportional pay, benefits and advancement would mean that

part-time workers would be paid the same per hour rate as full time workers. It also would end the common practice of cutting part-time workers off from benefits.

> "The notion that employers should be required to measure productivity in terms of output cannot be seen as a radical claim."

Finally, it would end the equally common practice of giving part-time lawyers low-quality assignments and precluding them forever from the partnership track. The result would be to avoid what one commentator called the "frightening possibility" that law firms will evolve into institutions "top-heavy with men and childless women, supported by a pink-collar ghetto of mommy lawyers."

To avoid this specter, we need to start measuring productivity not on the basis of face time but on the quality of the work completed. A large and growing management literature details how methods of supervision should change to accommodate the new workplace realities. Lotte Bailyn, head of the Sloan School of Management at MIT, argues that supervisors need to be less concerned with how things get done and more with whether they get done. In response to managers' question, "How do I know he's working if I don't see him?" she asks, "How do you know he's working when you do see him?"

A common perception is that lawyering is not the kind of work that can be done part-time. Andy Marks, former head of the D.C. Bar, explains this way of thinking and how he abandoned it. Marks, who currently has two part-time lawyers working with him in litigation, explained, "Both of these extremely talented and experienced attorneys were in the process of leaving their existing firms and were looking for a new firm that would enable them to spend more time at home with their young children than a full-time commitment would permit. We decided that we could and would hire them on a less than full-time basis." Marks recalled an incident several years earlier.

We had an outstanding woman associate who had been working with me on a piece of major litigation and who became involved in a second matter that required her to work two days a week outside the office for a different partner. I was faced with a choice of whether to have her continue to work on my case three days a week or to find a different associate who could devote full time to my case. I decided to take three days a week. And then I realized: Virtually every associate who works with me works on cases for other partners and is therefore a part-time lawyer as far as my cases are concerned.

> "Although they are entitled to parental leave . . .any man who opts for those benefits is considered a "wuss"

In fact, most lawyers work part-time on a variety of different matters. This insight is a crucial breakthrough in challenging the common knowledge that law in particular and litigation in particular, "just isn't the kind of job that can be done part-time."

In many cases, policies that systematically disadvantage women may give rise to actionable sex discrimination. In one leading case, a federal district court of the Southern District of New York held that Joann Trezza had stated a cause of action under Title VII when she was passed over for promotion, despite the fact that the person who ultimately was promoted was a woman. Trezza, a lawyer in the legal department of The Hartford, Inc. insurance company and the mother of two young children, was passed over for promotion in late 1991 or early 1992 in favor of a woman lawyer without children. When she asked why, she was told that the reason she was not considered was that, since she was a mother, management assumed she would not be interested. She told them she was.

In 1993 she was passed over again, this time in favor of a father and an unmarried woman. She contacted a senior vice president and told him she believed that the failure to promote her reflected sex discrimination. Two months later she received a promotion.

Finally, in 1997, she was not considered for the position of senior managing attorney despite the fact that she had asked to be considered and had consistently received excellent job evaluations. Instead the company considered two men with children and then offered the job to a woman without children with less experience than Trezza.

Trezza sued and her attorneys took particular care to point out that the employer was treating mothers differently than fathers. This placed the case under the "sex plus" theory articulated in the 1971 case of *Phillips v. Martin Marietta*, which challenged a rule forbidding mothers but not fathers of school-age children from applying for certain desirable jobs. The *Trezza* court followed the lead of the Martin Marietta court in holding that the fact that men and women without children are treated the same does not excuse discrimination against mothers; *Trezza* explicitly rejected The Hartford's contention that no sex discrimination existed because the job in question was filled by a woman. Trezza pointed out that only seven of the

forty-six managing attorneys were women and that none were mothers of school-age children. In contrast, many of the male managing attorneys were fathers.

Trezza, which is currently at the discovery stage, is a disparate treatment Title VII suit. Suits are also possible under the Equal Pay Act (EPA). Take a situation where there are two lawyers in a highly technical specialized field that does not ordinarily require travel, say a Washington lawyer involved in agency litigation, or a lawyer with a trust and estate, or specialized tax practice. A promising plaintiff would be an employee with excellent job evaluations who had worked full time for a significant period, then switched to part-time work, where she continued to get excellent evaluations but found herself making less per hour than full-time attorneys doing similar work.

The key in an EPA suit is to establish that the plaintiff is doing substantially equal work. The key here is to dislodge the sense that someone who is working part-time is not equally "committed" to the job. Again, the management literature urging that employers define productivity in terms of productivity per hour may well prove crucial to success. Surely the notion that employers should be required to measure productivity in terms of output cannot be seen as a radical claim.

In addition, the possibility exists for pattern and practice disparate impact suits and suits based on sexual harassment theories. Perhaps the most important of the latter type address the very common situation where men find that, although they are entitled to parental leave and other benefits, any man who opts for those benefits is considered a "wuss" who is not serious about his job. Studies indicate that this pattern in extremely common. Professor Martin Malin of Chicago-Kent Law School had argued that men in this situation should file sexual harassment suits alleging a hostile work environment based on discrimination against them as men. Sexual harassment claims also may be useful for women in situations where partners make statements that reflect a sense that mothers should not be working. For example, in *Trezza* the attorneys asserted such a claim based on disparaging remarks about working mothers and the statement that if *Trezza's* husband (also a lawyer) won another big verdict, she "would be sitting at home eating bon bons." The *Trezza* court dismissed the claims and the plaintiffs did not appeal but Steven Eckhaus of New York, Trezza's attorney, feels that such claims have a future.

Instead of further detailing the legal issues, further let me conclude with some guidance about how to design a nonmarginalized part-time policy for law firms. The first important point is that a schedule that guarantees a fixed number of hours/week will almost certainly lead to career marginalization. What law firm lawyers need are part-time policies that guarantee a fixed number of hours per year. That way, the part-timer can make herself available when a work crunch hits, with the assurance that when the crunch is over she will be free to take off "comp time."

A second important principle is that the number of hours contracted for should include not only billable hours but also hours for firm committee work, attending local bar functions and business development. All of these activities are important to lawyers who wish to remain in the mainstream of the firm; setting up a part-time track without them is a sure road to career marginalization. Full-time lawyers get credit for these activities. So should part-time lawyers.

A final important component of a nonmarginalized part-time track is to designate a respected and influential partner to serve as an ombudsman responsible for overseeing the firm's work/family policy. This partner should receive printouts each month of the number of hours actually worked by each part-time attorney, compared with the number promised. For any part-time attorney who consistently works more than the number of hours agreed upon, the ombudsman should have a talk with the supervising partner(s) involved to express concern over the firm's failure to live up to its obligations under its work/family policy and to develop a strategy for achieving the goals set by that policy. Firm policy should make it mandatory, not optional, for the work/family ombudsman to discuss the matter, in order to further diffuse and depersonalize the issue. Requiring a third-year associate to confront a senior partner is not a very practical arrangement.

These simple steps would go a long way to stopping the hemorrhaging of women out of legal practice. Women should not have to drop the baby in order to be successful lawyers. If mothers earned more, fathers would feel under less economic pressure to be the sole provider. Fathers, too, would find themselves freer to opt to work fewer hours, particularly if this meant only slowing their career progress instead of consigning themselves permanently to career marginizalization. Thus, eliminating discrimination against women lawyers would also redound to the benefit of male lawyers.

This article is based in part on material from Joan Williams, ***Unbending Gender: Why Family and Work Conflict and What To Do About It*** (Oxford University Press, 1999). *All of the data presented are footnoted there.* ■

Read her New Member Profile

DIVERSITY

The Impact of Race & Ethnicity on the Justice System

ABA Council on Race & Ethnicity's National Conference in Los Angeles

By Joy Kellogg, CRE Consultant

One of the most important and difficult challenges facing this country at the turn of the millennium is the issue of the impact of race and ethnicity on the justice system. In 1992, the American Bar Association created the Council on Racial & Ethnic Justice ("the Council") in response to the Rodney King incident in Los Angeles, California. It is the Council's mission to develop and implement action plans designed to eradicate existing bias and to improve the justice system.

On October 7-10, 1999, the Council on Racial & Ethnic Justice held its National Conference on the Impact of Race & Ethnicity on the Justice System at the Westin Airport, Los Angeles, California. The conference was the visionary dream of Paulette Brown, Partner at Brown & Childress in East Orange, NJ, currently Special Advisor and Past Chair of the Council. The journey began more than a year ago with two think tank sessions held in Philadelphia and Los Angeles. Out of those sessions came the realization that there are four major issues facing us today. These were the core issues addressed at the conference.

Racial and Color Profiling — The practice of targeting members of the public for greater scrutiny by the media and law enforcement and/or security principally because of their race and ethnicity. This results in a disproportionate number of law abiding citizens being drawn into the criminal justice system for traffic stops, drug enforcement, detainment at airports and security scrutiny at retail stores. It also results in punitive public policy against people of color.

Consumer Access to the Justice System — In the 21st Century, ensuring fair and effective access to justice by people of color and the underrepresented will be a key element to a strong foundation in a democratic society. Such issues include, for example, the issue of how a global community of people can surmount language barriers to access the courts, and how underfunded juvenile justice systems can include creative remedies to turn potential adult offenders into law abiding citizens who will make a positive contribution to society.

Joy Kellogg

Inclusion in the Justice System — The Council's definition of the justice system includes the courts, police departments, prosecution and defense agencies, correctional departments, law firms that provide representation in courts and the law schools that produce lawyers. In order for the justice system to become free from racial and ethnic bias, it must be diverse and it must be bilingual. To accomplish these goals, responsibility lies with the law schools, justice system employers and professional groups to diversify and enlighten the justice system's work force. Law schools must enlarge the pool of minority attorneys; the work force must be culturally diverse and bilingual; and professional groups must increase minority representation at all levels.

Education and Justice — Require these 2 issues engaging the community in an interactive exercise that looks at how different professions can make a stronger case to the public as a whole about the value of diversity. The central themes revolve around the interdependence of education and the justice system. Educational institutions must teach society as a whole the importance of providing equal opportunity for all ethnic and racial groups, because failing to provide equal justice under the law threatens all citizens, not just those who suffer specific discrimination.

In his address to the conference, Bill Lann Lee, Acting Assistant Attorney General for Civil Rights, U.S. Department of Justice, noted the recent string of hate crimes in the nation and drew parallels to the civil rights era of Dr. Martin Luther King and President Kennedy:

A *couple of weeks ago, President Clinton called in the profession ... and made a similar call to action. It's not that glamorous time when we're talking about going to the South and standing in the face of apartheid and standing in the face of police dogs. It's a time when our profession has to grapple with those hard questions about how to translate that dream into reality.*

One way to do the hard work of bringing the dream of racial justice into reality is through education. The highlight of the conference was in fact the students, whose roles as facilitators, reporters and participants, rose to the challenge. The following is a brief sampling of actions and commitments from the cumulative report generated from 30 breakout sessions.

Realizing equal K-12 education and the development of enriched curriculum for children of all races;

Redistribution of economic resources among schools;

Redefining the concept of Affirmative Action so that it is a more effective and efficient system;

Commit to fundraising through partnerships with organizations that share our concerns surrounding social injustice;

Implement minority push programs to facilitate interest in clerkships;

> "In order for the justice system to become free from racial and ethnic bias, it must be diverse and it must be bilingual."

Support and conduct more research within the social sciences on the effects and outcomes of affirmative action for all racial, ethnic, class, sexual orientation and gender groups;

Take action and risks that combat injustice, even if it challenges your own position in the system.

All walked away with a sense of accomplishment and a strong commitment to make the changes in their work environment, as well as their personal lives, to ensure that these issues will be tackled head-on with visible results.

A summary of the proceedings, recommendations and panel presentations will be published on the Council's website: HYPERLINK *http://www.abanet.org/r&ejustice www.abanet.org/r&ejustice*, in the next few weeks. In addition, papers from the speakers will be made available in a publication that will be published in February 2000.

Additional information regarding the conference may be obtained from Rachel Patrick, ABA Council on Racial & Ethnic Justice, 750 N. Lake Shore Dr., Chicago, IL 60611, 312/988-5408. E-mail: Patrickr@staff.abanet.org. ■

Attendees at ABA Council on Race & Ethnicity's National Conference in Los Angeles

From left to right: **Gregory Prince Jr.,** President Hampshire College and Vice-Chair CREJ, **Paulette Brown,** Special Advisor CREJ and Past President CREJ, **Bill Lann Lee,** Acting Assistant Attorney General for Civil Rights U.S. Dept. of Justice, Washington, D.C., **Lonnie A. Powers,** Executive Director of the Massachusetts Legal Assistance Corporation

NAWL Member Zoe Sanders Nettles Fights to Save Children From Execution

NAWL member Zoe Sanders Nettles, an partner at NELSON, MULLINS, RILEY & SCARBOROUGH, LLP, has been named chair of the South Carolinians for Alternatives to the Execution of Children (SCAEC) committee. "The firm has always supported my pro bono projects," Nettles said. "Last year I defended a battered wife charged with murder. This year my goal is to end the execution of children by the State of South Carolina." Nettles explained that the objective and mission of the Committee is (1) to raise public awareness of the legal, moral and public policy issues concerning imposition of the execution of children; and (2) to work to abolish the practice of executing children in South Carolina.

"Last year I defended a battered wife charged with murder. This year my goal is to end the execution of children by the State of South Carolina."

South Carolina has a pressing need for visible moral leadership concerning this issue of juvenile executions. The state has the highest percentage of juvenile offenders on death row in the country. Of the sixty-nine men on death row in the state, five - i.e., more than seven percent - are juvenile offenders. Of those five, three were only 16 years old at the time they were sentenced to death. Two of the three 16-year-olds are African American.

South Carolina executes its juvenile offenders even though the practice is almost universally condemned. The international community generally views the practice of executing minors as a violation of basic human rights. Only five countries in the world—the United States, Iran, Pakistan, Nigeria and Saudi Arabia—even permit the execution of juvenile offenders. Moreover, virtually every major religious denomination in the United States has officially condemned the death penalty as an affront to human dignity.

A recent series of media exposés have turned the spotlight on cases where judicial mistakes, injustices and incompetence resulted in the death penalty. However ghoulish and self-serving such media attention may at times seem, the atmosphere of heightened awareness and concern makes this the most opportune time to educate a more receptive public to alternative punishments of juvenile offenders.

"South Carolina has the highest percentage in the country of juvenile offenders on death row."

To that end, representatives from the Roman Catholic Church, Christian Action Council and the state NAACP have agreed to serve on SCAEC's committee. The Committee expects to have representatives from most major religious groups in South Carolina, a number of child advocacy groups, state professional organizations, mental health organizations and civil and human rights organizations. The Committee will encourage the news media and churches to call attention to the legal, moral and policy dimensions of the death penalty for juvenile offenders.

Ms. Nettles took on this mission when she learned the following facts:

- The United States has executed more juvenile offenders than any other country in the world;
- One hundred sixty children have been sentenced to death in the United States since 1973; and
- South Carolina holds the infamous distinction of having executed the youngest person in the United States in the last 50 years. George Stinney was only 14 when he was convicted and executed in 1944. He was so small his mask fell off during his electrocution.

Nationally and internationally however, the trend is to abolish the death penalty for juvenile

offenders, especially 16-year-olds. For example:

- Twenty of the 38 states that currently have death penalty statutes forbid the execution of 16-year-olds.
- In July 1999, the Florida Supreme Court held that the Florida Constitution did not permit 16-year-olds to be executed.

Montana's Governor Marc Racicot recently signed House Bill 374, which abolished the death penalty for juveniles.

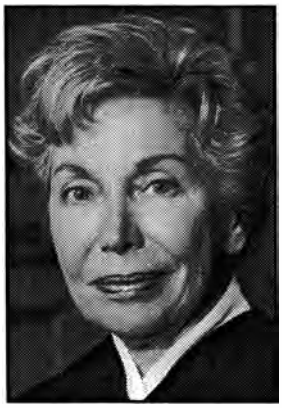
Every major international human rights treaty, e.g., the International Covenant on Civil and Political Rights, expressly prohibits executing people for crimes committed before the age of 18. Some European countries are currently considering economic sanctions against states that permit child execution.

The Committee will expose these facts to South Carolinians in an effort to eliminate the execution of juveniles.

For more information about the juvenile death penalty in South Carolina, contact Zoe Sanders Nettles, Tel: (803) 799-2000. ■

CORRECTION

Judge Beasely



Judge Kravitch

The publisher wishes to apologize for the misidentification of Judge Phyllis A. Kravitch and the Honorable Dorothy Toth Beasley. They were reversed in the Summer issue and are correctly identified here.

Experts on the Leading Edge Discuss Changes in the Juvenile Courts

NAWL's Atlanta Panel on "Juvenile Justice at the Crossroads"

NAWL's annual meeting in Atlanta included a panel discussion, developed under the direction of Past President Susan Fox Gillis, that addressed a topic of increasing urgency to the public, courts and lawmakers throughout the nation—juvenile violence. The panelists, all leading experts in the field, were celebrating the founding of the first juvenile court by Jane Addams in Chicago, Illinois 100 years ago. That moment was historic because it was the first time a court viewed children as young people who could be changed, rather than as small adults who could only be punished.

PANELISTS:
Judge Sophia H. Hall, Administrative Presiding Judge of the Resource Section Juvenile Justice and Child Protection Department, Circuit Court of Cook County, Illinois; Catherine Ryan, Deputy State's Attorney for Cook County, Illinois, head of the Juvenile Bureau; and Nancy Hablutzel, faculty member at Northern Illinois University, educational advisor to IDCFS.

Cheryl Cesario, long-time NAWL member and General Counsel of the Illinois Department of Children and Family Services, moderated the panel. As former counsel in the juvenile division of the State's Attorney's office, Cheryl has seen juveniles as both offenders and victims. Panelists Judge Sophia Hall, Catherine Ryan and Nancy Hablutzel shared their insights and experiences resulting from designing and working in some of the most cutting-edge, innovative programs in juvenile justice.


Illustration by Matt Adams

The panel first discussed the new Illinois Juvenile Justice Reform Act, which attempts a return to the more rehabilitative model originally envisioned by Jane Addams and her followers. Ms. Ryan described the program, "In My Shoes," as one example of the Act's approach to juvenile crime. Developed by a survivor of the Chicago projects, Lee Allen Jones, "In My Shoes" seeks to balance the rights and duties of all the parties involved and, as far as possible, to restore them to the state they were in before the incident. In practice, the program works because it restores the dynamics of small-scale communities and face-to-face personal interactions.

Ms. Ryan explained that by "putting a face" on victims and offenders, such mediations also keep the response to violence and crime inside the community, rather than "outside" in the judicial system. She believes that children are less likely to continue their criminal behavior if required to confront their victims and make restorative amends, rather than if they are punished by incarceration in a juvenile facility.

The legislature hopes that the new law will result in lower recidivism and less juvenile crime by providing early, positive intervention for first-time juvenile offenders, rather than relying on severe punishment as a deterrent.

Ms. Ryan offered an example of how the diversions works: First, children will no longer have unlimit-

ed numbers of "station adjustments" whereby the state intervenes due to a juvenile's misbehavior. Adjustments will now be recorded and tracked on a computer system so that all counties will know of previous adjustments for any individual child. Children must attend counseling and other services beginning with the first serious problem and, after a certain number of station adjustments, the juvenile must be brought before the Court, rather than allowing unlimited numbers of station adjustments, as before. Those minors currently in the system must now be considered for diversionary programs such as evening reporting centers and work programs rather than only punitive programs.

Ms. Hablutzel described her experience with a very new, innovative program initiated and jointly run by Northern Illinois University and IDCFS. Ms. Hablutzel became involved in the program after serving as Supervising Hearing Officer in the Cook County Court for three years. Prior to that, she had an extensive career in special education law, and earned a Ph.D. in educational psychology as well as her law degree. Like Ms. Hablutzel, all of those chosen for this project were selected because of their extensive backgrounds with both the child welfare system and the education system.

Ms. Habluztel pointed out that a number of faculty from Northern Illinois University are permanently assigned to IDCFS offices throughout the state to advise caseworkers, foster families and others on specific issues impacting the education of children who are wards of the state.

Those involved in the program work to help children stay in school and try to offer them the resources and encouragement that they need to complete their educations. Supporters of the program hope that it will result in less violence, even among children who are at highest risk because they were themselves abused. The panelists discussed the research that shows that children who have been abused or exposed to abuse are most at risk for becoming violent themselves. Another benefit of the program is more stable foster-care placements, because children who do well in school are more likely to have successful foster family relationships. So far, the program has been extremely successful, the panelists reported.

The program is training all foster parents in the basics of special education, an approach no other state has ever taken. The training prepares foster parents to work with the schools to ensure that children and families are given appropriate services earlier, rather than later.

Judge Hall spoke about the innovative "Council of Three"* program that she developed in Cook County—one that has been so successful that it is likely to serve as an model elsewhere. The Council is comprised of Judge Donald O'Connell, Chief Judge of Cook County, Paul Vallas, the CEO of the Chicago Public Schools and Jess McDonald, Director of the Illinois Department of Children and Family Services.

The Council has instituted training programs in both the Juvenile Justice and Child Protection systems. Judge Hall's program offers a panel of speakers for in-service programs and training for all principals, guidance counselors, social workers and special education case managers in the Chicago schools.

The Council's panel has also developed a training book that includes all the forms that are used by IDCFS and the Probation Department in working with the schools, lists of contact persons and rules for dealing with the children in the State's care. In addition to these resources, the Chicago Public School System has hired an Information Officer to appear in court in every juvenile case; and the Juvenile Justice system provides Court Appointed Special Advocates for juveniles.

As lawmakers and the public are confronted by the increasing and macabre occurrences of juvenile violence, the issue of how minors should be treated under the law becomes more urgent and controversial. Even now, Congress is considering bills that would turn back the clock by treating juveniles as adults. The panelists are convinced, however, that cooperative efforts among all agencies working with children can help reverse the trend toward violence in the most vulnerable children. They urged the audience to replicate in other cities the innovative programs like those being tried and tested in Cook County so that juvenile violence ends its seemingly upward spiral. ■

For more information on the current status of bills currently before Congress, check the Juvenile Justice Center web site (www.juvenilejustice.com) or the ABA Criminal Justice Section's Committee on Juvenile Justice site (www.abanet.org/crimjust/juvjus/hillwatch.html.)

* Usually represented by the three Presiding Judges of the Juvenile Justice and Child Protection Section, and coordinated by Judge Hall.

Report from the U.N. Committee on Elimination of Discrimination Against Women

By Eva Herzer

In January of this year, NAWL endorsed and submitted a "shadow report" on Violence and Discrimination against Tibetan Women to the UN Committee on the Elimination of Discrimination against Women ("the Committee").

The Committee, which is charged with reviewing states' compliance with the UN Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), reviewed China, Algeria, Colombia, Krygystan, Liechtenstein, Greece and Thailand during its 20th, session which took place at UN headquarters in New York from January 19 through February 5, 1999.

CEDAW requires ratifying states to submit periodic reports every four years to summarize and explain their progress and continuing problems with the implementation of the Convention. Unfortunately, all too often these state reports gloss over or do not even address the real problems faced by women and instead emphasize the state's progress, real or imagined. Treaty compliance committees therefore depend very much on NGO shadow reports, which are produced by non-governmental organizations to "shadow" the state's party's report. It is these shadow reports that usually provide the crucial facts to the Committee. Committee members expressed great appreciation for the report submitted by NAWL in collaboration with the Women's Commission for Refugee Women and Children, the Tibetan Center for Democracy and Human Rights and the International Committee of Lawyers for Tibet.

The expertise of the 23 Committee members, all women, representing all continents, was impressive. Ms. Goonesekere, an accomplished jurist from Sri Lanka, provided excellent recommendations on how problems faced by women can be addressed by changing the constitutional and legal framework.

Dr. Shalev, director of ethics in an Israeli hospital, focused her suggestions on health care system reform and on issues of medical and mental health care dimensions of women's needs as well as on the importance of enhancing human dignity. Other experts included judges, prosecutors, domestic violence and women's rights experts, sociologists and educators.

While CEDAW members are considered "experts," rather than political delegates, they unfortunately often appear beholden to the political views of their governments, which of course undermines the very purpose of expert bodies who are supposed to make recommendations based on objective review of facts, rather than politics. Yet the tone of the review, the nature of the questions posed and the concluding Committee comments very much depend on the political power of the state under review.

CHINA

China arrived in New York for the review hearing with a 30-member high-level delegation, headed by its ambassador to the UN (most state's delegation consist of 3-5 members). China's report highlighted the state's accomplishments and had no references to its grave reproductive rights violations, nor to the ongoing use of torture and serious discrimination against Tibetan women. For example, China's report asserted that all of its population control measures are entirely voluntary. It failed to explain the coercive nature of high monetary fines imposed on individuals who violate the state policy of one-child per family. Nor did it discuss the pervasive practice of severe harassment of pregnant women, their physical detention, occasional destruction of their property and forced and coerced abortion and sterilization practices.

While the Tibet NGO Report focused the Committee's attention on the continued torture in prisons in Tibet, the abysmal health care services and discriminatory employment practices, such as virginity testing, China's report was silent on these issues. The Tibet NGO Report charged China with genocide,

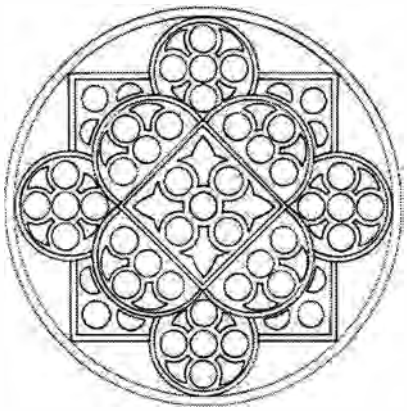
defined, in part, as "imposing measures intended to prevent births" within a national, religious or ethnic group with the intent of destroying the group in whole or in part. The NGOs argued that China's genocidal intent could be inferred from the coercive population control policies China imposes on the tiny Tibetan population — while at the same time moving millions of Chinese into Tibet.

During the two-day review process, many of the 23 UN experts expressed their displeasure with the quality of China's report which, in its vagueness and its lack of detailed information, failed to meet CEDAW reporting requirements. As pointed out in the Tibet NGO report, China's report did not provide disaggregated information by region, nor information on Tibet, as requested by the Committee in its last session on China. Such non-compliance with Committee requests is an affront to the Committee in and of itself. In its Concluding Comments, the Committee politely reminded China's ambassador of its previous request for information on Tibet and asked that the information be included in China's next report.

On substantive matters, the Committee was much less forthright. China's economic might was tangibly felt in the room and resulted in a tense and shameful silence on the part of many members. Although many Committee members privately expressed their concern and support for Chinese and Tibetan women, many chose not to make any statements critical of China in public.

Four of the 23 experts, however, addressed the real problems, albeit in the most diplomatic terms. Dr. Shalev of Israel, the Committee's rapporteur for the China review expressed a number of serious concerns that were echoed by other committee members. To start with, she questioned why the most senior body in charge of women's rights in China is the National Council on Women and Children and expressed her view that a separate state body should focus on women's rights. She noted that China's report consistently spoke about the "protection" of women, rather than about their empowerment.

Dr. Shalev suggested that China increase women's knowledge of their human rights and distribute



the CEDAW convention widely as a tool of raising awareness about the concept of women's rights. She questioned China on the high suicide rate of rural women and the state's lack of responsive action. With male participation in contraception at only 14%, she said there was no reason why men should not be equally involved in family planning.

Countering China's claim that all population control measures are strictly voluntary, Dr. Shalev pointed to consistent reports of coercive measures. She charged that China is engaged in a consistent pattern of human rights abuses, including coerced and forced abortions and sterilizations. She spoke of cases where women who insisted on giving birth—in violation of state policy—were held in custody by authorities or their homes demolished. The state needs to make it very clear that these practices are prohibited, she said.

She also voiced a deep concern for the "illegal" children, those born without birth permits. She stressed that population policies should be based not on coercion, but on choice, education and economic security. She also pointed out that many of the serious complaints of reproductive rights violations originate from "minority" regions. If there is one purpose of human rights, she argued, it is to decrease suffering. Development of humanity, she said, cannot be at the expense of more human suffering.

While Dr. Shalev argued for a human rights approach in general, the German expert, Hanna Schoepp Schilling, addressed the situation in Tibet more directly. Violence against women, she stated, whether domestic, custodial or political, destroys human dignity. She strongly suggested to China to invite the UN Special Rapporteur on Violence against Women to China. She specifically suggested that the rapporteur be asked to visit Tibet. Such an invitation would indicate that government was serious about addressing its human rights violations.

Sri Lanka's expert, Savitri Goonesekere, asked China to address the situation of custodial violence in its prisons in its next report. She specifically asked for information about the treatment of women in prison, about human rights monitoring processes and about complaint procedures. She asked for a description of detainees and their crimes and a response to the reports of torture in prisons.

By and large, China's response was cavalier. China's ambassador

The Committee's 12-page written report and concluding comments on China, on the one hand, extensively lauded China for its economic achievements and the progress of women and, on the other hand, critically assessed China's human rights violations. The report's critical comments and recommendations state in part:

The Committee is concerned about the diverse forms of violence against women in China, including custodial violence, including sexual abuse. . . . The Committee requests the Government to provide information in its next report on procedures for ensuring the rights of women in custody to protection from sexual abuse and for sanctioning prison officials responsible for such abuse.

The Committee . . . expresses concern about various aspects of the implementation of China's population policy. The Committee notes with concern that only 14% of men use contraceptives. . . . In the light of the fact that vasectomy is far less intrusive and costly than tubal ligation, targeting mainly women for sterilization may amount to discrimination.

Notwithstanding the Government's-clear rejection of coercive measures, there are consistent reports of abuse and violence by local family planning officials. These include forced sterilizations and forced abortions, arbitrary detention and house demolition, particularly in rural areas and among ethnic minorities. The Committee expresses particular concern about the status of "out-of-plan" and unregistered children, many of them girls, who may be officially non-existent and thus not entitled to education, health care or other social benefits. . . . The Government should. . . remove all legal disabilities from "out-of-plan" and unregistered children.

probably best expressed the Chinese attitude to the review process in his concluding remarks. First, he thanked the experts for their information and many of their suggestions. Although he acknowledged that women's rights are an important part of human rights, he practically insulted the Committee by stating that CEDAW is not a major forum for the discussion of human rights. He advised the Committee to refrain from engaging in a human rights discourse because such discussions lead to confrontation and are thus not conducive to the Committee's work and that of member states.

Germany's expert retorted sharply that the Committee has full jurisdiction to address human rights violations and that human rights concerns go to the heart of the Committee's work.

ALGERIA

The other controversial state review involved Algeria where women are oppressed under the guise of religion. Many Committee members openly criticized Algeria for its many reservations to the Convention, which in effect, "suspend" the Convention's application.

The Committee urged Algeria, in no uncertain terms, to withdraw its reservations as they reinforce the discriminatory provisions of the country's family code under which women have virtually no rights.

Discussions on Algeria were outspoken and apparently less hampered by political concerns. The experts suggested that invoking religious principles and cultural practices to justify why Algerian women had not kept pace with the overall advancement of society was not helpful.

If government advanced the status of women, they proposed, a "dynamic interpretation of religious texts" would follow. Further suggestions centered on the need to eliminate discriminatory legislation and to rid school curricula of stereotypes and negative images of women.

The Committee was particularly concerned with the large numbers of women who have been murdered, raped and abducted by terrorist groups in recent years and requested Algeria to take legislative and structural steps to shelter women from such attacks. It also called on Algeria to assist the wives of disappeared persons through simplified legal procedures for obtaining custody of their children and marital property

KYRGYSTAN

The Committee commended Kyrgystan for ratifying the Convention without reservations. It expressed concern with the patriarchal culture and its strong, if not coercive, emphasis on women's traditional roles as wives and mothers. The experts noted with grave concern the classification of lesbianism as a criminal offense. The Committee urged the government to reconceptualize lesbianism as a sexual orientation and to remove all criminal penalties

LIECHTENSTEIN

Liechtenstein, which only gave women the right to vote in 1984, received a harsh review. The Committee was concerned with Liechtenstein's lack of legislation on violence against women and on parental leave. The experts noted that deep-seated social and cultural attitudes persist that work against the achievement of equality for women.

The tone was often sarcastic and judgmental, reflecting a politically affordable attitude toward a tiny country like Liechtenstein. The expert from Argentina, for example, challenged "how can a country

The Committee urges the Government to examine the ways in which its policy is implemented at the local level and initiate an open public debate thereon. It urges the Government to promote information, education and counseling in order to underscore the principles of reproductive choice and increase male responsibility in this regard.

The Committee recommends that the Government adopt a specific timeframe, with budgetary and resource allocation, for the achievement of universal literacy and primary education. It should also abolish official and unofficial school fees, which often result in the exclusion of girls from enjoying their right to education, particularly in poor areas.

The Committee urges the Government to translate the Convention on the Elimination of All Forms of Discrimination Against Women into local languages. It recommends a renewed comprehensive public campaign to improve legal literacy of the Convention and raise awareness of gender equality as a societal goal and of women's rights as human rights.

The Government should make clear that coercive and violent measures are prohibited and enforce such prohibition through fair legal procedures that sanction officials acting in excess of their authority.

The Committee recommends that the Government consider the possibility of extending an invitation the UN Special Rapporteur on Violence Against Women, including its causes and consequences, to visit China and all of its provinces.

in the heart of Europe have the same problems as those faced in the third world"?The expert from Norway said bluntly that Liechtenstein's comments were not at all helpful. Such brusque and impolitic language is unusual in the Halls of the UN where even insults often sound like compliments.

THAILAND

In reviewing Thailand, the experts focused on the new constitution, which contains that country's first law prohibiting discrimination against women. Unfortunately, it only prohibits "unjust discrimination" which, of course, raises the question of what constitutes "just" discrimination. The Committee urged Thailand to adopt the U. N. Convention's definition of discrimination instead.

While the government raised the tired defense that many of the discriminatory attitudes and gender stereotypes were the result of the country's culture and traditions, the Ski Lankan expert pointed out that traditional Thai law was the most egalitarian in Asia and that its unequal treatment of women today is the result of the (relatively recent) importation of the Napoleonic Code in the last century. She urged Thailand to put an ERA in place, to legislate equality and to institute affirmative action for women. Other experts expressed concern over Thailand's high female suicide rate, which may be linked to poverty, prostitution and trafficking. While Thailand laid much of the blame for trafficking on the demand from abroad, the Committee urged Thailand to forcefully prosecute traffickers and treat women as victims not wrongdoers.

WOMEN LIMITING WOMEN

While political intimidation and cowardice undermined the Committee's review of some states, in more general terms, it fails to live up to its own potential. Sadly, the CEDAW Committee appears unwilling to fully exercise the powers vested in it.

Article 21 of the Convention states that the Committee shall report annually, through ECOSOC to the General Assembly and shall make suggestions and general recommendations based on its review of States' reports. The Committee reads this language very narrowly to give it only the power to make general suggestions on interpretation of the Convention and general topics, such as improving health care delivery to women for example.

The Convention's language can be read broadly enough to empower the Committee to make substantive suggestions to the General Assembly on how best to address country specific systematic human rights violations and to urge action by the General Assembly. The Committee could also suggest a process of substantive coordination of various treaty and other Charter bodies in case of widespread and systematic violations.

As a body of experts, rather than political representatives, the CEDAW Committee would be in a good position to speak up on country-specific violations and to make constructive recommendations to the UN's political bodies. However, the Committee is unwilling to make such recommendations and refuses to make country specific recommendations to the General Assembly. Although the CEDAW Committee is viewed by many as one of the weakest committees, it appears, so far, to perpetuate this condition through its own reluctance to assert its power. ■

CEDAW

After years of controversy, UN adopts compromised individual complaint procedure for women

By Eva Herzer

In 1979 the United Nations adopted the Convention on the Elimination of All Forms of Discrimination Against Women, also known as CEDAW, or the UN women's treaty. This March, after six years of debate, the Commission on the Status of Women agreed to the terms of an Optional Protocol to CEDAW that allows individual women to file complaints with the enforcement committee for the women's treaty.

Under CEDAW, ratifying countries are required to submit compliance reports every four years to the CEDAW Committee, which in turn provides the reporting state with constructive comments and recommendation for improving the status and lives of women. Although NGO (non-governmental organizations such as NAWL) are allowed to submit reports to the committee, these review sessions are dominated by states, who more often than not, paint rosy pictures of their treaty compliance. Under the current scheme, the Committee does not respond to NGO submissions, but simply considers them as additional information.

Under the Optional Protocol, individual women and groups will be able to submit specific complaints to the committee which the Committee will then discuss and or investigate. The Committee will question the state regarding the allegations and will issue recommendations. This is an important step toward calling international attention to individual and to systematic women's rights violations.

Unfortunately, this Optional Protocol substantially limits its own usefulness by a compromised definition of "standing." Women's and human rights groups had lobbied for standing to be formulated broadly so that not only an affected individual could submit complaints but also human rights groups on their behalf.

Many states insisted on limiting standing to affected individuals or groups of affected individuals. This debate raged for the last several years and delayed the Protocol's final adoption. The problem, of course, with limiting standing to those whose rights have been violated is that very often these women live in situations where the mere fact of asserting their rights will result in retaliation and further violations of their rights.

For example, in Tibet, if a woman made a complaint to CEDAW, she would most likely be imprisoned for doing so. In these situations it is, therefore, necessary to allow human rights groups, such as Human Rights Watch or NAWL, to file a complaint on behalf of women in a particular country, without identifying individuals.

The final language of the Optional Protocol is a compromise between these positions. It allows affected individuals and groups of affected individuals to file complaints. It also allows complaints to be submitted on behalf of individuals or groups of individuals "with their consent unless the author can justify acting on their behalf without such consent." Thus NAWL could file a complaint on behalf of women in Afghanistan, without naming the individuals involved, so long as NAWL could convince the Committee that revealing the individuals' identity would endanger them.

Donna Sullivan, a law professor at NYU and strong advocate for an effective Protocol, probably best expressed the hope of women's rights groups when she said: "We expect the Committee to be flexible about the need for victims' consent". For if the Committee is not flexible in this regard, the Protocol will be of little value to those women who suffer the most.

Another weakness of the adopted Protocol is that it allows ratifying states to enter reservations—that is, to ratify only parts of the Optional Protocol. For example, a state could ratify but take exception to the provisions that relate to the authority of the Committee to investigate the alleged violations, thus limiting the committee to simply commenting on the alleged violations. It is for these reasons that many activists are only cautiously optimistic in their assessment of this new human rights instrument.

For the Protocol to take effect, at least 10 states must ratify it. Thereafter, it will be binding on the ratifying states. ■

Eva Herzer is a mediator and attorney in Kensington and Berkeley, California and serves as chair of NAWL's International Law Committee).

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The Position of Women Under Criminal Law:

an African Perspective

By Hauwa Ibrahim

Aries Law Firm (Dionisotti Chambers) Box 423, Bauchi, Nigeria

In different ways at different times the women in Africa have led and continue to lead difficult lives. In barely a century their situation has changed drastically. Africa was the target of imperialist Europe's colonizing impulses. At one time or another, virtually every European country—first Portugal, and later Britain, France, Belgium, Germany, Italy and Spain—seized a piece of Africa. The imposition of the laws of the colonial masters upon the existing rules and common practices of various communities of the colonized states has affected the fundamental rules and practices of its people. Ancient and modern ways mingle uniquely in each case.

Nigerian criminal law is an amalgam of English Criminal law on one hand and Islamic Criminal law as encapsulated by the Sharia. There exists no uniform penal statute in Nigeria: while the Criminal Code applies to the Southern States, the Penal Code applies to the vast area of Northern Nigeria. The Penal Code that emerged in 1959 was based on the Code of the Sudan. The Sudan Code in turn was modeled on the 1860 Indian Penal Code. There are, however, currently efforts in Nigeria to merge the two codes. This articles anaylzes the status of women under criminal law in African states generally and Nigeria in particular. We shall look at various practices and compare the treatment of women under the law and in reality.

Sexual Offenses

Rape: Defined as sexual intercourse with a woman without her agreement, in Nigeria it is treated as the worst act of violence and is punishable by life in prison (with or without flogging). The law on rape, however, is only a farcical protection for women and in reality debases women by exposing the female victim to ridicule and indignity, especially at the trial of her assailant. Rules of evidence and court procedures in most anglophone African countries as well as the nonchalant attitude of male policymakers and law enforcement agents have not helped.

Rape is statutorily defined in Section 357 of the Nigerian Criminal Code as "unlawful carnal knowledge of a woman or girl without her consent or with her consent, if the consent is obtained by force or by means of threats or intimidation of any kind, or by fear of harm, or by means of force and fraudulent representation as to the nature of the act, or in the case of married woman by impersonating her husband." The definition of rape pivots on the issue of consent.

Unfortunately, the sexual history of the victim is still inextricably tied to the determination of whether she gave her consent. Section 210 of the Nigeria Evidence Act allows evidence to be given of previous sexual dealing of the prosecutrix with other persons as well as the accused. One cannot help but wonder why any prior consensual sex with an accused rapist is at all relevant to a determination of whether she consented on the alleged occasion. The rationale for such evidential rules of practice apparently derives from one or more of the mythological conceptions of women's sexuality and rape.

Once again, we find that the reluctance to believe the prosecutrix is related to misogynistic views of women. It is thought that the woman who has succumbed to sexual delights outside the socially acceptable limits of marriage would sooner allege rape to absolve herself of guilt.

In Northern Nigeria, we have set up support groups, including lawyers and paramedicals. These NGOs and governmental organizations have special investigative units and counseling centres to assist victims and the police in dealing with rape cases.

Indecent Assault Section 360 of the Nigerian Criminal Code makes it a misdemeanor to unlawfully and indecently assault a girl or a woman and renders assault punishable with two years imprisonment. However, Section 353 of the same Criminal Code for an offence defined in precisely the same language —except insofar as this latter section makes the victim of the assault male — is a felony punishable with three years imprisonment.

It is a fundamental principle of criminal law that all persons be equally protected from harm of like degree. Thus, the same conduct

under the law creates different penalties for different sexes. This offends every constitutional guarantee of freedom from discrimination. In spite of the higher percentage of female victimization and thus greater likelihood of the frequency of Section 360 Criminal Code, the law considers an offence against Nigerian women to be of lesser gravity than an offense against her male counterpart. There have, however, been several calls for the review of this law, because it is verbose, highly discriminatory and unrealistic.

The increase in the manifestation of homosexual activities in Nigeria show that males are just as endangered as females and there is nothing in the biophysical nature of the female that makes her require such peculiar treatment. To continue to include Section 214 (3) of the Criminal Code, which deals with "permitting a male person to have carnal knowledge of him or her against the order of nature," under Chapter 21 is unjustified. It would be better to recognize a single chapter on sexual assaults that refers to both sexes as victims and offenders.

Offences Against Morality

Prostitution: The particular nature of prostitution in Africa today derives to some degree from traditional social practices. In Cameroon, for instance, it was considered indecent to have sex before marriage. This was considered a grave injury to the family of the young woman who was to be given in marriage and the guilty young man received a heavy penalty. But married women apparently don't also enjoy the right to their bodies.

Among the Ewondo of Cameroon, a greedy polygamous man who could not satisfy the needs of his many wives (acquired for their productive capacity), profited in what seems to have been the most normal way in the world from his sexual adventures. He could even rent his wife temporarily to the lover she was so taken with. Essentially, this was basically service purchased at a rate set by the owner.

Strictly speaking, prostitution existed from the beginning of the colonial period if not earlier, particularly in such areas as the railroad work sites, the mining compounds and wherever else a large group of young adult male workers were concentrated. Only recently has it been "modernized with Westernstyle pimps, and organized networks, and adopted as a survival strategy by many families reduced to poverty, such as prostitutes mainly from the South Eastern part of Nigeria who work in Italy.

In Tropical Africa, the Europeans introduced an unusual variant. We would have to call them "Mistresses," although in the case of signares of Senegal and the colored ladies of Luanda they were actually indispensable, often formidable, associates in frequently prospering business connected with the slave trade.

In Equatorial Africa and the Mousses of French Sudan (now Mali) "To take Mouso" meant to keep a native woman and was a practice accepted and even recommended by military doctors, who saw it as a kind of health insurance. These African women were to "amuse, care for, dispel boredom and keep the European man from turning to alcoholism and the sexual depravities, unfortunately so common in hot climates. They were above all to be beautiful and freespirited.

In South Africa, native prostitution was much more common and flourished where colonialism required an almost exclusively male workforce, creating a market for sex. The first region where this was true was South Africa, where the mining revolution took place as early as the last quarter of the nineteenth century. In 1896, there were 25,000 white men in Johannesburg and 14,000 white women but only 1,200 black women and almost 40,000 black male migrant miners hired on temporary contracts.

However, in the great mining city of the interior, prostitution was mainly a Western import via the Cape or for a small group of Asians via Durban in Natal around 1908. The failure of the final Zulu rebellion in Natal, drought and the spread of poverty attracted a growing number of African peasant women to the city. Subsequently as prostitution became more Africanized, it became increasingly informal.

In Nairobi, Kenya, prostitution appeared in the very beginning of the century in the railroad work camps. It is linked with two factors, the large number of male workers and the housing crisis. The Prostitution took a new twist called Malaya (a Swahili word for this activity). While in central Africa, Kinshasa, some divorced and widowed women spent their youth working as prostitutes so that they could open shops or draw upon their investments as they aged.

Women are always at the receiving end of violence and in a society where marriage remains the only condition for a woman, free women are subject to all sorts of mistreatment and the law does not protect them. This enormous industry is indeed a tragic path.

Section 1 of the Nigerian Criminal Code defines prostitution as the "offering by a female of her body commonly for acts of lewdness for payment." Only females are given the label of prostitute. The male is only liable for the

offense of living off the earnings of a prostitute or procuring a female to become a prostitute.

There is no moral justification or logical reasoning to exempt males from the definition of prostitution. There is no reason why a man cannot offer his body for acts of lewdness for payment and the truth is that men do so, more often than we would like to admit. Can it be said that if a man offers his body for pay, there is no moral offense?

Prostitution in itself is not a criminal offence in Nigeria, but related conduct, such as seducing, procuring, aiding and abetting, is criminalized. These offences however, are described in such vague language as to confer wide discretion on the police to determine when they are committed. The result, of course, is to expose certain populations of women to police abuse. This is made worse because prostitution in itself is not criminalized, hence, a number of persons who can rightly be so described cannot be legally policed.

Society has maintained a hypocritical stance toward what in fact is offensive to its morality. In some parts of Africa, the high ranking in society frequently engage prostitutes; however, because their actions are more discrete, they suffer no legal repercussions.

A number of Nigerian females, young and old, work as "elegant prostitutes" to maintain themselves in comfort and to enhance their chances of achieving economic independence. As long as our male-dominated society offers relatively limited opportunities for women to earn a good living wage, to win a secure career and attain economic independence from men, women will be only too willing to give their bodies to achieve this.

Violence Against Women

Female Genital Mutilation (FGM): Female genital mutilation is still very much alive in many African societies. Different degrees of female circumcision and genital "mutilation" are practiced. The least traumatic is the type known as "Sunna," which means "tradition" in Arabic. Sunna consist of removing the hood of the clitoris, a fairly benign operation precisely like male circumcision. The excision adds to clitoridectomy the ablation of the labia minora, an operation commonly known as tahara or purification.

Infibulation, the most radical practice of all, entails cutting off the inside of the labia majora and sewing together what is left—with silk thread in Sudan, and Ethiopia, with acacia thorn in Somalia. Infibulation is also practiced in Northern and Eastern Nigeria and parts of Mali.

"The belief runs deep that one is not a real woman without having endured this."

This operation closes the vulva almost entirely except for a tiny opening created by inserting a thin stick of wood or a straw to allow urination and menstrual flow. In some areas, infibulation is done to guarantee the young girl's virginity. Although ideally the husband should break the sealed orifice during intercourse, in reality, he uses a razor blade or something like it. Breaking the sealed orifice demonstrates his virility while dramatizing the woman's submission to his desire. The operation is repeated after childbirth to "restore" the wife's purity.

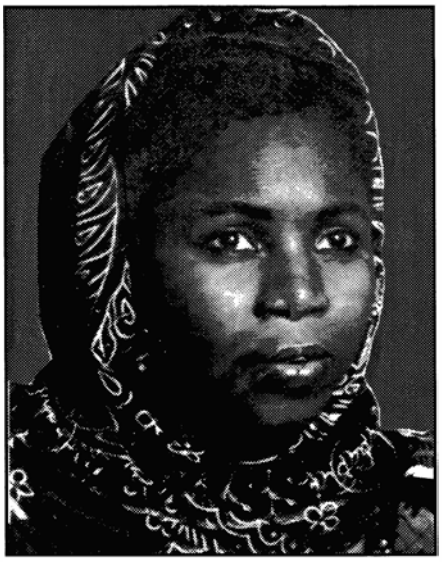
While there is no doubt that it is part of the husband's strict control of his wife's sexuality, there are many cultural permutations and explanations for the practice. For example the Mossi of Burkina Faso believe that the clitoris is a dangerous organ that can kill a baby at birth if its head brushes it or can make a man impotent if the shaft of his penis touches it.

Yet it is very difficult to fight these practices on which older women, especially, depend for their social power and their livelihoods. Their daughters-in-law, when they seek to, cannot always oppose them. The belief runs deep that one is not a real woman without having endured this. In many countries, young unexcised girls remain unmarriageable except in educated urban milieus. Sometimes, as in "Bund I'' society of the Mende women in Sierra Leone, the ritual is part of the women's secret society, and its sworn secrecy makes any intervention difficult. It is also a celebration that little girls await impatiently because it is a time for fun and gifts and because until they have been excised, their friends will make fun of them and their ignorance.

The World Health Organization estimates that about 40% of African women endure these kinds of operation in more than thirty six nations, extending in a vast belt from Mauritania to the Horn of Africa through parts of Senegal, Burkina Faso crossing from Central Northern Africa from West to East via Cameroon, Chad and the Central Africa Republic to Egypt, Kenya and Tanzania. Only in 1982 did the World Health Organization declared that "government should adopt clear national policies and

abolish female circumcision, and to intensify educational programs to inform the public about the harmfulness of female circumcision."

In many African countries, female circumcision is a prevailing customary law. Some traditions see it as an important method of checking promiscuity and sanitizing the society against social problems such as teenage pregnancies, prostitution, adultery and abortion. Whatever its ontological assertions, it is barbaric, cruel, dehumanizing, malechauvinistic and dangerous to health.



NAWL member **Hauwa Ibrahim** is a memer of Aries Law Firm (Dionisotti Chambers) Box 423, Bauchi, Nigeria

Recently, in Gambia, there were series of setbacks on gender issues. A policy directive prohibited the use of state radio and television for antifemale genital mutilation campaigns. Despite all the efforts of Isatou NjieSaidy (Gamcotrap women and law team member) in her capacity as VicePresident, Secretary of State for Health, Social Welfare and Women's Affairs in the anti-FGM struggle, the state still issued this policy against anti-FGM campaigns. The women and law team said they were "banned from using state radio or television to promote the eradication of FGM or the empowerment of women." They have, however, entered into negotiations with the state to rescind this directive, which contravenes one of the fundamental rights of citizens.

Conclusion

Will legal rights offer anything to women? The formal acquisition of a right does not necessarily in itself address the imbalance of power between men and women, neither does it result in the automatic and immediate advancement of women. Moreover, rights are usually formulated in individual terms. The invocation of the right to sexual equality, while it may occasionally address the problem of individual women, may nevertheless leave the position of the majority of women relatively unchanged.

Women can demand protection of their rights and governments are obliged to guarantee that protection. Some states in Africa are signatories to charter-based bodies such as the Commission on Status of Women, the Human Rights Commission and the SubCommission on the Prevention of Minorities. Others include treaty based groups such as the Human Rights Committee, the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) and the Committee on Economic and Social Rights. At the regional level, we also have the African Commission on Human Rights. All of these bodies should be encouraged to address the violations of the Human Rights of women and to incorporate gender specific information in their deliberations and findings. ■

This article is an abridged version of a paper by Ms. Ibrahim

Member profile

Cynthia Hujar Orr
San Antonio, Texas

NAWL Board Member-at-Large

Born Panama City, Florida

Practice A criminal defense lawyer with Goldstein, Goldstein & Hilley, Cynthia devotes her practice primarily to defending citizens accused of crime in State and Federal Trial and Appellate Courts.

Organizations A past president of the Texas Criminal Defense Lawyers Association, she is currently its Treasurer and chairs its Death Penalty Committee. She is also a member of the ABA's Criminal Justice Section and the Executive Committee of the National Association of Criminal Defense Lawyers.

Bio In her youth, Cynthia's focus was clear — she named all her pets after famous criminal defense attorneys. Later, she was the first woman to gain acceptance to the formerly all-male Air Force Academy. For recreation, she enjoys deep sea fishing, skiing and reading.

Causes She is passionately opposed to the death penalty and works actively to abolish it.

NAWL Presents President's Award For Excellence at Atlanta Award Luncheon, August 7

Katherine Henry, Dorothy Toth Beasely & Susan Fox Gillis

Dorothy Toth Beasley has served as Assistant Attorney General of Georgia and as Assistant U.S. Attorney. The first woman appointed to serve on the Georgia Court of Appeals, she is also renowned as a mentor to women law students. She offers generous support to women leaders who would enter the arenas of policy-making and power.

She is also one of the founders of Georgia Women on the Run, a bipartisan effort to encourage women to run for elective office. Currently, Judge Beasley is the Executive Director of International Programs at the National Center for State Courts. NAWL presented her with the 1999 President's Centennial Award for Excellence at the Atlanta Conference. In the following excerpted remarks, Judge Beasley describes the role of International Programs and shares her vision on the importance of efforts to craft a transnational rule of law.

Judge Beasley's Acceptance Remarks

WHEN Justice Anthony Kennedy spoke at Georgia State University Law School in October of 1996 he said: "We are at a turning point in the history of freedom and in the history of the rule of law. Countries around the world are watching us, they are listening to us, they are judging whether or not our social order and our public dialogue is deserving of their respect and the rule of law weighs in the balance."

Having served as a judge in Georgia for 22 years, I decided to turn my attention to what he was saying, so I took the opportunity to become the Executive Director of International Programs for the National Center for State Courts. The organization was initiated 28 years ago by Chief Justice Warren Burger to give leadership in judicial administration so as to improve on a continuing basis the operations of the state court systems and the delivery of justice by them. For example, the National Center conducts the Institute for Court Management, which trains court administrators. It teaches and publishes on child support recovery techniques, develops court performance standards and studies and advises on technology application in

case management, as well as provides many other court services.

In about 1991, the Center began to receive requests for assistance from other countries and a host of foreign visitors. Today the International Visitor Training Program hosts about 300 judges and justice system personnel from abroad annually. International Programs have grown so that we now receive grants and contracts to provide specific service when requested in other countries. Our mission is to share what we have learned in the U.S. to enable and empower judges, court personnel and leaders in judicial reform to find and implement ways for them to deliver justice more equitably. We give them the tools to help them move toward those goals.

The following lists just a few examples of our projects:

- In MONGOLIA, we set up a structure for strategic planning for leaders from all segments of the justice system to work together: judges, prosecutors, lawyers, media, public — to decide what changes they want to make and how to achieve them.
- In PARAGUAY and GUATEMALA, we helped establish community-based mediation centers, with a special focus on reaching marginalized groups such as women, children and ethnic and racial minorities.
- In EGYPT the focus is on case management, with work proceeding in the creation of two pilot courts. The object is to improve access to the courts, reduce delay and achieve fairer results by random assignment of cases.
- For MEXICO, a series of conferences were held to address the special issues of American and Mexican judges who work on both sides of the border. The judges were initiated into the arcana of each other's systems to make them more effective at understanding and solving what are often commonly-shared problems.

Which brings me to my second point. What can we learn from others beyond our borders?

"Like it or not, the world is now our courtroom. The question confronting our courts as we approach the year 2000 is whether we are willing to do what it takes to be world-class players."

We read much about economic globalization. Have you ever thought about legal globalization? Justice Claire L'Heureux-Dubé of Canada's Supreme Court delivered an address last year entitled T*he Globalization of the Judicial World*. In it she speaks of how factors, such as modern technology, are affecting international linkages and influences. She says that "More and more courts are looking to the judgment of other jurisdictions, particularly when making decisions on human rights issues. Deciding on applicable legal principles and solutions increasingly involves a consideration of the solutions that have been adapted to the problem elsewhere."

Chief Justice Shirley Abrahamson of Wisconsin wrote an article for the 1997 Hofstra Law Review entitled A*ll the World's a Courtroom*: Judging in the New Millenium. In it she shows the "increasingly worldly role state judges might play" in considering the decisions and reasoning of courts outside the U.S. and not only those of other states. Although not precedential, of course, these can have enormous persuasive value in providing guidance in the shaping of American law. In sum, she writes, "Like it or not, the world is now our courtroom. The question confronting our courts as we approach the year 2000 is whether we are willing to do what it takes to be world-class players."

Judges lean heavily on the arguments and citations which lawyers bring to them in deciding how to resolve issues. You have the opportunity as lawyers, therefore, to bring these enlightened decisions from other countries such as Canada, England, Australia, New Zealand. We as lawyers and judges are prone to look backward, at precedent within our own jurisdictions. Why not also look broadly sideways, at contemporary opinions elsewhere? All the right answers are not necessarily in legal principles in the United States. I am not talking here about international law but rather about common law more widely understood.

Although there's no time to talk about them in depth today, I would like to cite two examples to illustrate what I mean.

- The case of W. *v.* A*ttorney General*, The Court of Appeal of New Zealand, CA 239/98, issued May 6, 1999. Changes the "reasonable discovery" test for application of statute of limitation for bringing a lawsuit by a woman who was sexually abused as a child and did not realize for many years the connection between that and the later consequences on her life.
- The case of *Vishaka & Ors. v. State of Rajasthan & Ors.*, The Supreme Court of India, Writ Petition (Criminal) Nos. 666-70 of 1992, issued August 13, 1997. Recognized fundamen-

tal constitutional rights of working women against sexual harassment in government workplace.

It is the reasoning in cases such as these and not only the decision itself, which is instructive and usable elsewhere.

Your own exposure to world law and culture can contribute not only to the globalization of a more equitable rule of law but to your practice and your understanding as an educated lawyer in today's fluid world of law. Consider what you can do to think globally in very concrete ways:

- Cite other countries' opinions — Westlaw and Lexis and Internet provide instant access to foreign material. So do CD-Roms. Remember that courts probably will not go there if you don't lead.
- Offer to participate in some of the ABA Central and East European Law Initiatives, such as providing commentary of draft laws of other countries. It allows you to "travel" without leaving your home and practice.
- If you have experience in court administration and particularly if you have a second language, send your resume so we can add it to our consultants' data base at the National Center for State Courts International Programs. One never knows when a foreign project may need someone with your expertise.

To wind up, just permit me to add a few thoughts from my heart:

Have confidence in yourselves because you are each competent and capable of achieving a better brand of justice than has been heretofore known. ■

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A NEW DISCOVERY: The First Women Members of the ABA

by Selma Moidel Smith

Discovered: The names and identities of the first women members of the American Bar Association.

The first two women were elected to membership on August 28, 1918, at the annual meeting of the ABA in Cleveland. History was made. Since that time, however, the number and names of these women have been disputed or said to be unknown.

The Report of the Forty-First Annual Meeting stated only that two women were on the list of candidates nominated by the General Council. All candidates were elected on a single vote, but the list of new members was not published in the Report.

The Cleveland Plain Dealer of August 29, 1918, in its front page account of the meeting, stated in a subhead, "Cleveland and Denver Candidates Are First Women To Become Members." Their names were given as Mary B. Grossman of Cleveland and Mary Florence Lathrop of Denver. A check of the ABA Report confirms that both names were among the hundreds registered to attend the meeting.

The Legal Intelligencer, a weekly Philadelphia legal newspaper, also reported on the event. Its September 6 account stated that two women were elected members: Mary Florence Lathrop of Denver ("a Philadelphian originally") and

Mary Belle Grossman

Mary B. Grossman of Cleveland.

By contrast, the Denver Post of August 29 did not report on the meeting, but published a story and photo of Mary Lathrop as "the first woman lawyer in America to be elected a member of the American Bar Association." It did not mention any other woman. Throughout her life, Lathrop described herself as "the first woman lawyer in the ABA," a misstatement occasionally quoted in later books and periodicals.

* * *

Mary Belle Grossman (1879-1977) was one of Ohio's first women judges. She was born and educated in Cleveland where she worked for 16 years as a legal secretary before studying law. She received her LL.B. in 1912 from the Cleveland Law School of Baldwin-Wallace College, and received their Alumni Association Award in 1956. She was admitted to the bar of Ohio in 1912, and was a sole practitioner until her election to the Municipal Court in 1923. (This election predates by several years the election of other women claiming to be the "first elected" to a judgeship.) She was reelected continuously until 1959 when she retired at the age of 80. In that year she received an honorary doctorate from Cleveland-Marshall College.

Judge Grossman presided over the Cleveland Morals Court which she helped to organize in 1926. Her service was said to be "equal to adding 100 men to the police force." Her long career in the law was paralleled by her career as a leader in numerous social welfare organizations.

* * *

Mary Florence Lathrop (1865-1951) was the first woman to open a law office in Colorado. She was born and educated in Philadelphia, and found an early career as a newspaperwoman. By the age of 26 she had covered stories in the American West, Europe and Asia. She contracted tuberculosis and moved to Denver where she regained her health and chose a new career. She studied law at the University of Denver, receiving her LL.B. summa cum laude in 1896, and opened her office the following year.

Lathrop was the first woman member of the Denver and Colorado bar associations. She was a sole practitioner and specialist in probate law during a colorful career of more than half a century.

Mary Florence Lathrop

* * *

These two pioneering women were soon followed into the ABA by other prominent women lawyers. The first three of them, also admitted in 1918, were Marion Weston Cottle of New York City, Elizabeth S. Kenney of Los Angeles, and Mary Agnes Mahan of Boston. All five were active in the National Association of Women Lawyers (Cottle as president in 1911-13). Both Judge Grossman and Lathrop were state vice presidents of NAWL when they became ABA members.

For the record, it is appropriate that the women who came first—Judge Mary Belle Grossman and Mary Florence Lathrop—now be restored to the position in history they both deserve. ■

Member profile

Joan Williams
Washington D.C.

is a Professor and co-director of the Project on Gender, Work and Family at American University's Washington College of Law, Washington, D.C. She took her BA at Yale in Medieval Studies, then went on for a Master's in City Planning from MIT and a J.D. from Harvard Law School. She has two children, Rachel 13 and Nick 10. Reputed to be one of the most prolific legal scholars, Professor Williams' article "Deconstructing Gender" is also one of the most cited law review articles ever written. She recently published the book *Unbending Gender: Why Work and Family Conflict and What To Do About It*, which goes beyond post-structural and feminist theorizing to propose a useable model of "reconstructive feminism." Professor Williams has written a casebook on property law and teaches feminist jurisprudence, employment and family law.

TRENDS IN LAW SCHOOL AND BEYOND

As reported in Diversity and the Bar, the Magazine of the Minority Corporate Counsel Association, surveys by the National Association for Law Placement show:

- **Law school enrollment of women rose from 33% to 44% between 1982 and 1997**
- **Women and minorities represented 63% of all law school graduates in 1997**
- **While fewer minorities are entering private practice, by 1997 the percentage hired at large law firms increased from 21.3% to 35.9%**

An Unconventional Route to Success

by Edith G. Osman

On June 25th, Edith G. Osman became only the second woman to lead The Florida Bar in its 50-year history. Even more remarkable is the fact that she began law school with two young children, participated in multiple local and state bar activities and even managed an independent private practice, all while having primary responsibility for her children. None of The Florida Bar's past presidents can make that claim.

Have you followed a path to achieve your goals?

"I had no particular path in mind when I decided to attend law school. But, as it turns out the path I followed was unorthodox. When I started law school, my son Daniel had just turned 24 months old and my daughter Jackie was 6. My former husband was a medical resident. The struggle to balance family life and my professional goals began right away. I think the fact that my former husband was still in medical training and we were still poor, struggling, students probably helped me push forward. I was very ambitious and anxious to succeed. That was always a driving force for me. Fortunately, I always had a lot of energy which allowed me to put in extremely long hours, fulfilling those sets of responsibilities."

At what price does achieving this goal come?

"It was certainly a difficult balancing act and I hope the price wasn't too high. We adjusted family life to meet my school and professional needs. I would drive double shifts of morning carpools or Saturday car pools in order to have my days free. I was not at home for the kids when they came home from school but was always at their sporting events, school shows and other performances. I was lucky to have two children who excelled, one in athletics and one in dance, so there were lots of games and shows to go to. I know life was different for them than it was for children with stay at home moms. But when you think about it, how many families have stay at home moms these days? Fortunately my parents had moved to South Florida and they stayed with the children after school and drove them to their after-school activities, so I knew that they were with people who loved them. Their father and I would rotate picking them up when they were finished in the evenings."

"As I was going through the experience, I felt you could do it all, with minor sacrifices. I still feel you can do it all, but now think that the sacrifices a little greater. Its hard to believe that my children are now 20 and 25. They've been to all of my installations, bar conventions and many events that I have run. Everyone remembers Daniel as the adorable 8-yr. old in the gray suit and pink bow tie, who stood up in front of 200 people and gave me a bouquet of roses and said 'mom we're so proud of you. '"

"My truthful answer to you is that I have wonderful children who I am very proud of. I don't think that they were hurt by my professional life. I think they've learned about what one can accomplish with goals and hard work and I hope this will serve as a good example to them as they progress in their lives."

You have taken a nontraditional route to the presidency of The Florida Bar. How has your chosen path through FAWL and the Dade County Bar allowed you to leverage yourself into leadership positions with the statewide bar?

"During law school, I was active in many organizations, including the Women Law Students Association. As one of our programs, we invited the President of the Florida Association for Women Lawyers ('FAWL'), Debra Weiss-Goodstone to address us. From that day forward we became friends. She encouraged me to attend a FAWL program even while I was in law school. As soon as I graduated, I became involved with FAWL. Within four years, I was President of the Dade County Chapter and two years later was President of the state FAWL."

"My leadership positions with FAWL were instrumental in my becoming involved in The Florida Bar. As president of Dade FAWL, I began to attend Florida Bar meetings and was introduced with that title. I had an excellent year and ran good programs and people locally began to know me, which gave me the opportunity to establish a reputation early on. As president of the state FAWL, I was able to sit with the Board of Governors of the Florida Bar, albeit in a non-voting capacity. I attended every Board of Governors' meetings and all their social events and always planned to have my FAWL meetings immediately thereafter. I encouraged social activities between the two organizations. One time I arranged to have FAWL included in the Board of Governors' retreat and hosted a tremendous dessert reception for both boards.

Success at getting to know board members, speaking effectively at meetings and hosting first rate events was the basis for many friendships that led to further Florida Bar appointments. One year, I became very involved in the president's race and fortunately I backed the right candidate. I then ran for a seat on the Board of Governors and was able to benefit from this president appointing me to chair important committees."

Is "burn out" the most common mistake women make along this path?

"I've always believed that the rewards of bar service make practicing law more fulfilling. I understand that it can be difficult to juggle a family, a law practice and professional service and sometimes women take on too much. But those that do, I find, are always the happiest. I actually find this to be true for men as well as for women. Learning about your profession, meeting new people and getting involved is a gift of its own. People who enjoy their professional lives the most are those who have been involved in bar service. Despite that, in my experience, women want it all and quickly. This could lead to 'burn out'."

Is there a "right time" with a family to pursue your dreams?

"There probably is, but I find that if someone has a compelling drive to do something they will go after their dreams 'right time' or not. It might be wise to set a career path and to do more local bar activities when you have younger children. Clearly, it is harder to travel if you have very small children unless you have someone at home that can help you, i. e. , a husband, parent, or nanny and you know your children are comfortable with that. I found that the women who I surrounded myself with were, similar to me, anxious to progress quickly. We had a tendency to do many different things at one time. I for one tried to get involved in multiple organizations at one time and if you have a family that can be very difficult." ■

Edith G. Osman — Miami, Florida
Practice: A civil litigation attorney whose areas of practice include commercial litigation, contracts, construction, real estate, collections, insurance, and family law. Edith recently joined the law firm of Carlton Fields as a shareholder. Carlton Fields is a 200 lawyer firm with offices in 7 cities in Florida, and will be celebrating its hundred year anniversary next month.
Recent accomplishments: Edith is currently the President of the 65,000 member Florida Bar. She is only the second woman to have been elected to that position in the Bar's 50 year history, and was elected as an unopposed candidate. During her term, Edith has embarked on a extensive campaign to restore public confidence in the legal system. She started her bar year implementing a new theme to symbolize what being a lawyer in Florida really means: "The Florida Bar: Protecting Rights, Pursuing Justice, & Promoting Professionalism." She has also created a Children's Commission to study the legal needs of children. Edith has the honor of leading the bar into the new millennium and celebrating its 50th Anniversary. She plans to honor the First 100 Women Lawyers admitted to practice in the state of Florida, celebrating 100 years of women in Florida law.
NAWL member since 1985

Coping with Conflicts

Why managing our schedules really means taking responsibility for our lives

by Susan Ann Koenig

In the practice of law, we are constantly reminded of the value of our time. Whether driven by billable hours or time spent in our daily commute, we become acutely aware that the minutes of our day are precious.

We know time management is critical. Prioritizing tasks, delegating, setting goals, and reviewing lists of action to be taken are a part of our daily lives. We try everything from reading articles to taking seminars on how to get everything done that our busy lives seem to demand.

Despite our best efforts, we often fall victim to feelings of being overwhelmed or thinking that the conflicts in our commitments are beyond our control. Rethinking our values and our choices can help to alleviate these feelings.

Check your habits for exercising traditional time management.

Review your habits for the skills of time management you already know. Ask yourself:

- Am I prioritizing assignments each day?
- Am I grouping like tasks?
- Am I keeping an organized work area?
- Am I having some period of uninterrupted time each day?
- Am I preventing others from wasting my time?

Remembering to employ these skills is a good first step.

Recognize that you are making choices

Realize that you do have a choice regarding how you are spending your time. If your supervising attorney is constantly giving you trial brief assignments on Friday afternoons and declaring them due on Monday morning, admit that you may not be in a healthy work environment. If reading junk e-mail is eating up time each morning, decide which items should be deleted instantly.

A recent study showed that as we age, many of us are satisfied with having a smaller number of persons we name as our friends. This seems to reflect our growing wisdom of the importance of spending time with the people we truly care about. Deciding to spend our days in activities we enjoy and with people we love is an essential part of creating a life that enriches us rather than robs us of our last ounce of energy.

Ask yourself what you are willing to do to change those parts of your life that feel rushed, pressured, or overwhelmed.

Examine what is motivating your choices

Just how do we live this life of integrity, in which our actions are consistent with the statements we make about our priorities? One way is to examine what is motivating a decision to accept or decline an activity that takes time.

Do you bring homemade pasta to the family potluck because you are concerned about your sister-in-law's opinion of you as a mother, or do you do it because three hours in the kitchen cooking and listening to Vivaldi is your idea of a great time?

Sometimes it is our own negative thoughts that drive our choices. If you visit your aunt because of guilt, you are unlikely to feel happy with your choice. If you insist upon ironing your linens because you feel you must run your household like your mother did, be aware of it.

Avoid conflicts before they occur

When saying "no" to a request is difficult, ask for time to get back to the person asking you to serve on a committee or take on a project. Often having some time to reflect on your decision and to prepare your response will help you to make better decisions.

It is much easier to place a return call in a day to say "Thanks for thinking of me. I have thought it over and must say no. I

have already made other commitments I need to keep."

Remember that not every refusal to take on additional commitments requires an explanation. You have the right and responsibility to decide how to spend your time.

Commit to giving yourself time

Too many of us make time for ourselves last. Take charge of carving out the time in advance.

This past summer I spent a week bicycling over 500 miles across Iowa. The only way I was able to create that time along with the time for our family summer vacation was to decide months in advance to clear the week on my schedule.

Deciding to do it was far more important than finding the time to get all of my work done.

Consider how you will look back on your choice

When making a choice between conflicts in a schedule, think about how your choice might be looked back upon in the future.

Will you have wished you had billed five more hours in the month of October of 1999 or will you be gratified that you took an autumn drive with your sweetheart to enjoy the countryside?

Suddenly the pain of the choice can be eased.

Check in with your own priorities periodically

If the start of the new year is the only time that you examine how you are living your life, consider checking in more frequently. The start of each new season is a great time to see what steps one is taking to have the kind of relationships, work, spirituality, health, and fun that one desires.

The reality is that parts of our lives we consider as essential to be done each week really may not be furthering what we say we want more of in our lives.

If your actions are not in tune with your stated priorities, create your plan for change.

Take the first step by setting a date, a deadline on which you are going to put down a burden or take on something more meaningful.

Make your decision and let go.

We can never be all things to all people, but we can attempt to be true to ourselves. As you make difficult choices about how you spend the time in your life, recognize that others may be disappointed or damning.

The one voice you need to be listening to is your own, whether it is telling you to spend more or less time in any activity. Even if it is only five minutes a week, make it a priority to ask yourself how you have been doing finding time for what is important.

Once you have made the brave decision to spend the hours of your life in what you know is truly valuable, let go of the reactions and

Susan Ann Koenig is a lawyer in Omaha, Nebraska, where her general practice emphasizes family and juvenile issues. She is also an adjunct professor at Creighton University School of Law and at the University of Nebraska at Omaha School of Social Work.

Conduct Legal Research on the Internet — Efficiently

Net searches can be black holes that swallow galaxies of time and money

by Cheryl L. Conner

Performing legal research online can be the quickest, least expensive method to collect information if performed correctly. Inefficient legal research can be extremely time consuming and therefore expensive. The key to successful online legal research is organizing your search.

The Internet, in and of itself, is a scattered collection of random information with no centralized index. Internet search engines, such as Lycos, Alta Vista, Excite and LookSmart, can help. Keep in mind, however, that only a fraction of the information on the Internet—about 16%—can be accessed through these general search engines. They simply cannot keep up with the massive amount of information connected to the Internet each day. Finding information may require checking numerous search engines with the same variations in search queries.

Finding the search engines is easy, but it is different depending on your browser. The look of the browsers also changes very rapidly so you may have to reacclimate yourself to a new format often. Each browser has a search option near the top of the homepage.

The Netscape browser allows for a choice among numerous search engines. If you are using Netscape, simply click on "net search" at the top of the home page and you will be connected with a list of search engines. Type the search query into the input field and click "search." If the list of websites does not give you the information you need, simply click "back" at the top of the page until you are back at the list of search engines. You can choose another search engine and will not have to reenter your search query each time.

You may need to change your search query. Small differences in phrasing can produce dramatically different search results. The query "lawyer" will not find search results that use the term "attorney." You may also want to try both the plural and singular of important search terms.

Keep in mind that search engines sometimes require you to enter the same information differently. Some search engines require boolean terms (and, or, not) while other search engines will consider these words to be additional search queries. Some search engines require quotation marks around words that should be found together, such as "statute of frauds." A query without quotations would bring up all search results that include the words "statute" and "frauds." A few search engines will not accept quotation marks.

Different search engines may also offer the opportunity for more advanced searches. You can designate terms that absolutely must be in any search result or choose words or phrases you want to avoid. This is

especially helpful when your topic is broad. For example, if you were looking for information on the impeachment of Andrew Johnson, you may want to enter a query such as "impeachment and 'Andrew Johnson' not Clinton not Nixon" to avoid having to sift through information that you do not need.

Other browsers currently give only one option for the search engine. Microsoft Explorer uses only one and the chosen search engine changes periodically. If you are searching for information that you expect to find easily, one search engine is enough. For example, if you are looking for the website for the American Bar Association and you do not know the web address, any search engine will likely locate it. Also, you may find that searching numerous search engines using numerous variations in your search query is more work than necessary when many of the search engines will locate the same information.

Another key point in Internet search is the hyperlinks (URL addresses usually highlighted in a different color) on the pages you locate. Even if a found website does not give you the information you need, it may provide a list of websites that do. Most law review websites provide a list of other articles and case notes regarding the same topic.

Search engines are good for general research, but they often provide too many search results. They may also provide some websites that seem to have absolutely no connection to the query you entered. For a more focused legal search, use websites that are geared exclusively toward legal information. They are not strictly search engines because most of the information available is actually located on their website.

Some legal research websites focus on current legal developments in the form of new articles. *Lawnewsnetwork.com* provides a daily list of news articles in short form to allow for easy perusal on their home page. Click on "full story" to get the unabridged version of interesting or useful articles. The website also provides an archive of past columns that gives you the option of using a search query for finding articles on a particular subject matter.

Other legal research websites provide state constitutions, statutes, federal regulations, cases and law review articles. Findlaw. com is one of the most comprehensive. It includes all of the above-mentioned information, as well as links to legal organizations, lawyer and law firm websites, consultant referral services, etc. Other websites that fall into this category include *AllLaw.com* and *CounselQuest.com*. These are easiest to use because they provide clickable categories of information on their home page. You do not have to enter a query. If you click on state bar associations, you are provided with a list of states. Simply click on the applicable state and it takes you to that state bar association's website.

Other websites, such as Internet Legal Resources Guide (*ilrg.com*) and *catalaw.com*, provide you with a box to enter your search query and a "drop box" from which to select a specific legal field or source you want searched. *Lawcrawler.findlaw.com* also uses queries. The link can be found on the *Findlaw.com* website, but it is in small print among a list of other non-legal links such as "Free Web Sites" and "Stock Quotes" so it is easily overlooked. Query-based research websites are most useful when you have formulated a specific and comprehensive search query.

There are legal websites that simply provide a clickable list of other websites. They are sometimes called mega- or meta-sites. These websites are extremely useful because they do the work of finding new legal research websites that have recently come online. *Virtualchase.com* provides a list of links to statutes, cases and international law, but it also provides a list of other research websites under the category of "mega sites and starting points." All of this can be found by clicking on the "Internet Research" button and then on "The Annotated Guide to Resources for Legal Professionals." *Legalonline.com* also provides a list of legal research websites, although less comprehensive. This website lists the best sites on the Internet separated out into several categories. The websites and categories are all related to the legal field but do not all relate to research. They have been publishing their list since 1996.

All of the websites I have listed thus far are free. There are, of course, pay services. Lexis-Nexis and Westlaw are now available for research on the Internet. They are very

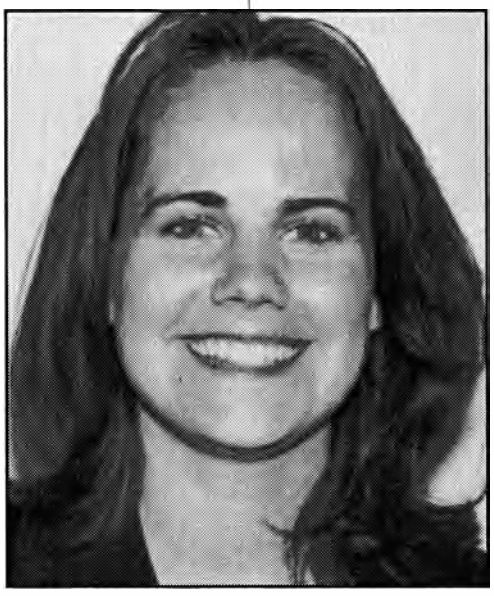
Search engines are good for general research, but they often provide too many search results.

similar to their traditional electronic versions, but do not require that you put their software on your computer. This is especially useful when you may be performing research on your office desktop at work, your personal desktop at home and your lap top while traveling. You can log onto the system from any computer that has Internet access. Lexis-Nexis also provides free dial-up software if you are not currently connected to the Internet. Both provide pricing options to fit individual attorney or firm needs.

"Only about 16% of the information on the Internet can be accessed through these general search engines."

Other websites are a hybrid of the free and fee-based information websites. *Lawyersweekly.com* is such a website. This website provides a short version of current news stories free of charge. If you wish to get the full story or search the archive for past stories, you must subscribe to Lawyers Weekly USA, a print newspaper. You have the option to try out the service and receive three free issues of the print newspaper before subscribing.

When you find a useful website you can save the address for easier access later. This is called a "bookmark" on Netscape and "favorites" on Microsoft Explorer. When you are looking at the page you want to save, click "favorites" and then "add to favorites" on Microsoft Explorer. In the text box you will see the name as it will be saved. These names are often long or do not adequately describe the website. You can change the name by deleting some or all of it or entering your own name for the webpage. There is already a directory of folders within your "favorites." Click on the folder into which you would like to save the website. You can create your own folder by clicking "new folder" and entering a name such as "legal research sites."



Netscape's bookmarking process is slightly more complicated. When you are on the website, click "bookmarks" and then "file bookmark." You are then provided with the list of categories similar to that of Microsoft Explorer. Click the category into which you would like the bookmark saved. A separate process is required to create a folder or rename the bookmark. Click "bookmarks" and "edit bookmarks." The option to add a new folder is locate under the "file" menu at the top of the editing box. The option to change the name of a webpage is located in the "edit" menu; click on "bookmark properties." You must have the name of the webpage you wish to change highlighted (single click) before clicking on the edit menu. The edit menu also provides the cut and paste options for moving a bookmark to a different folder.

The most difficult part of Internet legal research is getting started. Once you wade through the massive amount of websites and have saved the most helpful webpages to your browser the process becomes much simpler and faster. You need only check your bookmarked favorites to link to those webpages. You can also check the megasites with some regularity to see if any new legal research websites have been added.

Currently, your last resort when performing legal research is to check non-legal search engines. That may be changing. Excite@Home (*corp.excite.com*) announced August 3, 1999 that it has created a new search engine architecture capable of reaching all of the websites on the Internet. The search engine is currently scheduled for a mid-August release. It remains to be seen whether the search engine can live up to this promise. There is also the question of whether Excite@Home can present the researcher with the most useful information, rather than just more websites to sift through. If it turns out to be as good as the company says it is, it may become a truly useful research tool regardless of the topic searched. ■

Cheryl L. Conner is an attorney with Morris & Schneider in Atlanta. She was the 1998 NAWL Outstanding Law Student at the University of Richmond.

Lawyers in Large Firms *Can* Do Meaningful Pro Bono Work

A South Carolina firm shares its formula for success

by Zoe Sanders Nettles

Nelson, Mullins, Riley & Scarborough L. L. P. 's pro bono program is one of the most innovative in the nation. Nelson Mullins has received many awards for its pro bono service, including the American Bar Association's 1992 Pro Bono Firm of the Year award.

While many firms are only in the early stages of planning their pro bono budget, Nelson Mullins annually establishes a pro bono budget for the firm. That budget allocates a certain number of hours for each attorney, valued at an average hourly rate, multiplied by the number of attorneys in the firm. The budget formula also includes:

- a per-paralegal allocation of half of the number of hours per attorney, valued at a blended paralegal rate;
- the costs of litigation; and
- a part-time legal assistant who coordinates and administers the program.
- The goal for 1999 is 81 hours for partners and 85.5 for associates.

The firm provides billable and collectible credit for time spent on all approved pro bono matters. It treats pro bono hours just like billable hours when determining a lawyer's targeted billable hours and bonuses.

The firm has no established policy on payment of out-of-pocket expenses, making that determination on a case-by-case basis. Expenses of more than $1,000 must be approved by the Chair of the Pro Bono Committee. If fees are awarded to the firm, it may either donate them to the client, to a public-interest legal group or retain the fees to replenish the funds available for pro bono expenses.

For example, the firm recently sued the State of South Carolina on behalf of juvenile inmates incarcerated over a six-year period. The class action suit addressed the lack of adequate medical treatment and living facilities. At the conclusion of the successful suit, the firm recovered approximately three quarters of a million dollars, all of which was donated to charities for children. The bulk of the funds were donated to the Central Carolina Community Foundation, which is a donor-directed charity fund. The firm has established a legal services fellowship through this fund which is used by local legal services offices to employ first year attorneys to work solely on children's issues.

While many of the firm's attorneys participate in the Bar's Pro Bono Program and other sources of individual pro bono cases, Nelson, Mullins has also made a commitment to handle more complex litigation and corporate activities, as well as legislative advocacy and administrative rulemaking. This decision offers a diverse pro bono docket with opportunities for lawyers in all practice areas and all stages of development. Nelson, Mullins' pro bono work includes virtually every substantive area, but reflects a strong commitment to children's issues. Work in that area ranges from providing volunteer attorneys and legal assistants handling appeals and representing low-income, disadvantaged children who continue to need SSI benefits to major class action suits against the State of South Carolina.

Nelson, Mullins also has an extremely diverse non-litigation pro bono practice. This practice ranges from the provision of corporate and tax assistance to non-profits and assistance in real estate closings for low-income families to obtaining public services for residents of an isolated, low-income community and preventing the annexation of property being used to shelter the homeless. ■

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book review

Book Review

by Elizabeth K. Bransdorfer

Steven Keeva's Transforming Practices:

Finding Joy and Satisfaction in the Legal Life

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The legal profession's long established practices and entrenched requirements for what to do and how to do it need to be periodically questioned and critically examined. Lawyers no longer enjoy the presumption that they are honorable, well-intentioned professionals. Changing technology has all but eliminated the "luxury" of reflection. The vast proliferation of legal issues, problems and alternatives virtually prevents any single person or team from knowing (being sure of) the right answer to a client's question. Too many lawyers have adapted to the uncomfortable feeling of being uncertain by becoming louder and ruder as well as more strident and less willing to listen and compromise." Win at all costs" is the mantra of some, but the bane of many others. Women and men who want to balance fairness and humanity with success and profits are moving into positions where they are the purchasers of lawyers' time and advice, and where they are the decision-makers and intended audience of lawyers' advocacy. This diversity of audience and expectation adds another layer of uncertainty and stress to lawyers' daily efforts: to help meet their clients' needs; meet their firms' (and their own) financial contribution requirements; and maintain the respect and admiration of their colleagues. All too often, the resultant conflict and pressure results in the best people deciding that they just cannot be lawyers, at least not in large firms in private practice, any longer. The profession and our clients suffer.

Steven Keeva presents hope — in the form of a whole host of alternatives to leaving the profession when the reality of contemporary law practice seems to present an irreconcilable conflict with a lawyer's personal goals, beliefs and values. In his new book Transforming Practices: Finding Joy and Satisfaction in the Legal Life, published earlier this year by the ABA, Keeva offers snippets of philosophy and anecdotal illustrations of how individual lawyers have used different "practices" (pun intended, I'm sure) to improve their lawyering. Keeva's book offers something worth thinking about to almost any reader.

Two relatively brief introductory chapters comprise part I of the book. There, Keeva discusses the fundamental problems human beings often have (but often do not recognize) when they are not emotionally or spiritually comfortable with some important aspect of their lives. Keeva appears to accept as an unspoken premise that a lawyer is acting most like a lawyer when being "rational," "logical" or "objective" and, from this base, submits his premise — that lawyers might be more content and less dissatisfied if they allowed the emotional or spiritual sides of themselves into the practice of law.

Keeva identifies seven "practices" that could be beneficially integrated into the practice of law. They are Balanced, Contemplative, Mindful, Time-Out, Healing, Listening and Service Practices. While there is overlap among them, there are significant differences, too. Each is described in a separate chapter in Part II of the book. Those who have an academic or spiritual interest or background in Eastern philosophy will undoubtedly find a great deal of substance and direction in these discussions that I did not appreciate. Keeva utilized sources from outside the legal profession, as well as from within it, when examining the varied aspects of each separate "practice" he presents. A quick read suggests that there is a great deal to each practice that is consistent (although not

necessarily obvious) with mainstream common sense,at least as mine developed in the Midwest. Keeva will open some eyes and minds to new thoughts, but comfortably so since he suggests nothing particularly radical or potentially dangerous to existing legal traditions, values or norms.

Part III of Transforming Practices seems intended to be a description of how the various practices could be practically implemented by lawyers in different types of professional settings without necessarily sacrificing money, client satisfaction or peer respect. It is the weakest part of the book precisely because it attempts to dispel fears about the consequences of such relatively untested methods within the conservative context of a law firm.

The book must be applauded for its attempt to legitimize and validate lawyers who admit the existence of their emotional reactions and for suggesting that lawyers could better serve their clients by at least acknowledging the emotional and spiritual aspects of themselves and their situations. Nonetheless, I wonder why Keeva chose to do this solely by making those emotions and that spirituality a part of the rational, objective, hierarchical world. Perhaps he realizes that if historical and traditional gender approaches to the importance of interpersonal respect, communication and values were expressly included in the discussion, the prospective audience for the book would be much smaller. I hope that many, many members of the profession will read Transforming Practices and that a large portion of its readers (those who do not already do so for fear of professional and cultural stigma) will adopt some of the practices it suggests. Treating colleagues, clients, opponents —and ourselves — as valuable human beings can only improve our professional and personal lives in important ways. ■

The NAWL Networking Directory is a service for NAWL members to provide career and business networking opportunities within the Association. (Use the Back-Page Fax-Back to request details on listing a practice in the directory.) Inclusion in the directory is an option available to all members, and is neither a solicitation for clients nor a representation of specialized practice or skills. Areas of practice concentration are shown for networking purposes only. Individuals seeking legal representation should contact a local bar association lawyer referral service.

Concentrations Key

Ad	Administrative
Adm	Admiralty
App	Appellate Appeals
At	Antitrust
AttMa	Attorney Malpractice
Ba	Banks & Banking
Bd	Bonds, Municipal
Bky	Bankruptcy, Creditors
Bu	Business
CA	Class Actions
Ch	Child; Custody; Adoption
Ci	Civil; Civil Rights
C	Collections
Co	Corps.; Partnerships
Com	Commercial
Comp	Computer
Con	Municipalities; Takings
Cons	Constitutional
Cs	Consumer
Cont	Contracts
Cor	Coops; Condos
Cr	Criminal
DR	ADR; Arbitration
De	Defense
Dis	Discrimination
Disc	Attorney Discipline
Ed	Education
El	Elder Law
Em	Employment; ERISA
Ent	Entertainment
Env	Environmental
Eth	Ethics
F	Federal Courts
Fi	Finance or Planning
FL	Family Law
Fo	Foreclosure, Creditors
Fr	Franchising; Distribution
GP	General Practice
GC	Government Contracts
Gu	Guardianship
H	Health
I	Immigration
Ins	Insurance
Int	International & Customs
IP	Intellectual Property (C-copyright; P-patents; TM-trademark; TS-trade secrets)
La	Labor
Ld	Landlord, Tenant
Le	Legal Aid, Poverty
Leg	Legislation
Li	Litigation
LU	Land Use
Mar	Maritime
M/E	Media & Entertainment
Me	Mediator
MeMa	Medical Malpractice
MeN	Medical Negligence
N	Negligence
NP	Nonprofit Organizations
PI	Personal Injury
Pr	Product Liability
Pro	Probate
Pub	Public Interest
RE	Real Property
RM	Risk Management
Sec	Securities
Sex	Sex Harassment; Assault
SS	Social Security
T	Tort
TA	Trade Associations
Tx	Taxation
U	Utilities—Oil & Gas
W	Wills, Estates & Trusts
WC	White Collar
WD	Wrongful Death
Wo	Workers' Compensation
Wom	Women's Rights

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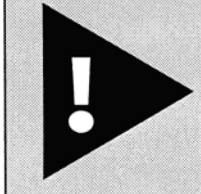

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