

# CHALLENGES AND STRATEGIES FOR LEADING WOMEN LAWYERS<sup>1</sup>

## I. Introduction

When summarizing the past two thousand years, encyclopedias list merely 850 women as holding formal leadership positions of power.<sup>2</sup> During the 21<sup>st</sup> Century, females have gained some important ground, obtaining significant positions of leadership such as that of the British Prime Minister. Here in the United States, influential women have become the Speaker of the House of Representatives, Senators, and legitimate candidates for president in 2008.<sup>3</sup> Additionally, in the field of law, women have made dramatic strides. These include gaining increased representation at ABA accredited law schools and as associates in law firms, with women now representing roughly fifty percent of the population in both areas.<sup>4</sup> However, formal leadership positions at law firms and in legally related professions remain elusive for women. Examining the statistics, there are virtually no women serving as law firm partners, federal judges, corporate officers, or elected government officials.<sup>5</sup> In terms of the general population,

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<sup>1</sup> Santa Clara University, School of Law JD Candidates Spencer Chen, Lesley Chang Dobbins, Elif Kimyacioglu, Joy Li, and Chelsea Richards wrote this paper for their Spring 2007 Leadership for Lawyers seminar class.

<sup>2</sup> See Deborah L. Rhode, *The Difference "Difference" Makes*, AMERICAN BAR ASSOCIATION AND STANFORD LAW AND POLITICS (2003) (including "eminent women, famous or infamous . . . [such as] queens, politicians, mothers, mistresses, wives, beauties, religious figures and 'women of tragic fate'").

<sup>3</sup> Prime Minister Margaret Thatcher, Speaker of the House Nancy Pelosi, Senators Diane Feinstein and Barbara Boxer, and presidential candidate Hillary Clinton.

<sup>4</sup> Elizabeth K. McManus, *Intimidation and the Culture of Avoidance: Gender Issues and Mentoring in Law Firm Practice*, 33 FORDHAM URB. L. J. 217 ("Women currently constitute almost fifty percent of J.D. enrollment in ABA approved law schools and women in law firms nationwide represent 42.4 percent of associates.").

<sup>5</sup> Deborah L. Rhode, *The Difference "Difference" Makes*, AMERICAN BAR ASSOCIATION AND STANFORD LAW AND POLITICS (2003), at 6 (noting that women represent 15 percent of federal judges and law firm partners, 12 percent of corporate officers, 16 percent of mayors, 6 percent of governors, 15 percent of congressional representatives, and no congressional committee chairs). See also Elizabeth McManus, *supra* note 4, at 217 ("[Women] represent only 16.3 percent of partners and five percent of managing partners in large firms.").

women are underrepresented, in positions such as senior executive branch officials and state legislators.<sup>6</sup>

This paper explores five challenges to becoming a leading women lawyer and provides some tips to overcome these challenges on the path to becoming a leading women lawyer. The goal of this paper is not to perpetuate stereotypical gender differences.<sup>7</sup> Rather, it highlights some of the potential challenges unique to a leading female lawyer and attempts to provide some viable solutions to overcome those challenges. First, the paper highlights some of the unique challenges that face a female when becoming a leading attorney. Second, this paper provides some systematic solutions, individual tips and strategies useful for a woman attorney striving to become a leading attorney.

## II. Challenges to becoming a Leading Women Lawyer

### a. Are Fewer Formal Leaders Simply the Result of Lag?

Some commentators attribute the lack of women in formal legal positions to a “cultural lag.”<sup>8</sup> Although women were historically the recipients of unequal treatment and discrimination, the argument goes, it is just “a matter of time until women catch up” and they simply “have not been in the pipeline long enough.”<sup>9</sup> Similar arguments are

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<sup>6</sup> Rhode, *supra* note 4, at 6 (noting that females represent only 25 percent of senior executive branch assistants and 22 percent of state legislatures).

<sup>7</sup> Susan P. Sturm, *From Gladiators to Problem-Solvers: Connecting Conversations about Women, the Academy, and the Legal Profession*, 4 DUKE J. GENDER L. & POL'Y 119, 124 (1997) (“It is difficult to justify theoretically an exclusive focus on women's experience as a critical lens . . . [because each individual woman's] experience[] do[es] not necessarily characterize all women and may be shared by members of other groups.”).

<sup>8</sup> Rhode, *supra* note 2, at 7.

<sup>9</sup> *Id.*

made in “gender bias studies on the legal profession.”<sup>10</sup> However, many commentators reject this theory as applied in fields such as law and business management because women have “long constituted between a third and a half of new entrants.”<sup>11</sup> However, empirical studies show males and females similarly situated in entry-level qualifications are not equal in terms of treatment, with males being more than two times more likely to become partner.<sup>12</sup> “At the current rates of change, it will be almost three centuries before women are as likely as men to become top managers at a major corporation or to achieve equal representation in Congress.”<sup>13</sup>

b. A Disappearing Act: Work/Life Balance or Something Else?

In an NALP Foundation study, the empirical evidence showed that “female associates were nearly twice as likely as males to depart to pursue a better work/life balance,”<sup>14</sup> while the average attrition rate for both sexes is roughly equal.<sup>15</sup> Some commentators have noted that today’s law firms require “more billable hours but offer less support.”<sup>16</sup> One major challenge to becoming a leading women lawyer comes down to a juggling act: balancing work and life. Many women desire to maintain an active family life while still balancing an exceptional and often demanding professional life.<sup>17</sup> For some women, this comes down to simple biology. One female associate who left a large firm comments, “What do we want? We want it all. We want a great career and

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<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> Malaika Costello-Dougherty, *We’re Outta Here: Why Women Are Leaving Big Firms*, CALIFORNIA LAWYER, February 2007, at 20, 22.

<sup>15</sup> *Id.* at 22 (discussing the NALP Foundation findings that the average attrition rate for associates in firms of 19% for both males and females, while more than three out of four associates exit the firm within five years).

<sup>16</sup> *Id.* at 24.

<sup>17</sup> *Id.* at 20.

kids.”<sup>18</sup> Although the long hours associated with the legal profession result in job dissatisfaction for both men and women, it is the “social expectations about family responsibility roles that make this [job dissatisfaction] more pronounced for women.”<sup>19</sup> Working an average of fifty to seventy hours per week, many women in the legal field argue they have little personal time or family time.<sup>20</sup> Other women characterize the situation as more of a zero-sum game: either work or life, but not both.<sup>21</sup> Women who overcame barriers to become successful leading lawyers, including early pioneers in the legal profession, mention that numerous personal sacrifices were necessary to achieve success and become a leader in the legal field.<sup>22</sup> Some commentators argue that the sparse number of women in corporate leadership positions has less to do with opting-out for family reasons and more to do with a general female worker perception that obtaining the top job hinges more on luck and connections than on hard work.<sup>23</sup>

Some commentators note that the workplace structure of law firms and businesses exhibits a disconnect between “formal policy and actual practices.”<sup>24</sup> They note that while 90 percent of law firms formally offer part-time working plans, “[o]nly about 3

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<sup>18</sup> *Id.* at 22.

<sup>19</sup> Pearl Gondrella Mann, *Unfinished Business: Obstacles to advancement for Women Lawyers*, 46 ORANGE COUNTY LAWYER 32, 33.

<sup>20</sup> Rhode, *supra* note 2, at 14-15.

<sup>21</sup> *Id.* at 22. (noting that one female attorney “felt the firm was asking her to neglect her family and that no amount of money was worth that.”).

<sup>22</sup> *Id.* at 22 (discussing the sacrifices of personal freedom in exchange for success in the legal field). At a Work/Life Balance conference, women leaders highlighted the difficulties of being a mom and leading lawyer, completing work long after their children are in bed. *Id.* Yet, they never expected to “be treated any differently than the men who came before them.” *Id.*

<sup>23</sup> Maura O’Neill, *Luck or Hard Work*, FORBES, February 26, 2007, available at <http://members.forbes.com/forbes/2007/0226/038.html> (discussing a survey of 35 women who were “within spitting distance” of the top job at a corporation and another survey of 140,000 respondents across 80 countries.) In the larger survey, it is clear that a larger percentage of women believe that success in life is attributable to luck and the old boys’ network, and less to hard work. *Id.*

<sup>24</sup> Rhode, *supra* note 2, at 14-15.

percent of lawyers actually use them.”<sup>25</sup> Leaves and part-time work correlates to lower long-term pay and promotion.<sup>26</sup> While their male counterparts typically have spouses who are full-time homemakers or hold jobs with flexible hours, women lawyers tend to be either single or maintain a relationship with someone who also has a full-time job.<sup>27</sup>

While the pioneering generation of women sacrificed much to become leaders in the legal field, younger female lawyers appear to be unwilling to sacrifice “the same amount of blood for their careers.”<sup>28</sup> Younger female attorneys often feel that while the pioneers broke the ground in the legal field, they failed to build a comfortable home for the new entrants by pushing for a more balanced work/life atmosphere.<sup>29</sup> A law firm survey seems to confirm this for both men and women, with lawyers unwilling to implement flexible schedules or fewer hours holding an attitude of “I had to give up a lot. You [should] too.”<sup>30</sup> Commentators have opined that both men and women in senior positions feel there are many different possible reasons for the difference in attitude toward work, including different generational point of views and workplace values,<sup>31</sup> different historical backgrounds,<sup>32</sup> blindly walking into the legal field,<sup>33</sup> different

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<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.* at 15.

<sup>28</sup> Costello-Dougherty, *supra* note 14, at 22.

<sup>29</sup> Rhode, *supra* note 2, at 19 (discussing the disappointment of younger attorney’s that senior women lawyers did not “play a role in promoting the opportunities and quality of life for junior colleagues.”). *See also* Gondrella Mann, *supra* note 19, at 24.

<sup>30</sup> Costello-Dougherty, *supra* note 14, at 22.

<sup>31</sup> *Id.* at 23-24 (discussing differing generation point of views, such as the pioneering generation sacrificing life for work verses Gen X/Y rejecting work that interrupts life). The article also notes that while the older generation is driven in work ethic, the younger generation tends to be more selective focusing on balancing work and life. *Id.*

<sup>32</sup> *Id.* at 23. (noting that the baby boomers were alive during the civil rights movement, assassination of the Kennedys and Martin Luther King, Woodstock and *Roe v. Wade*, while Gen X and Y were born during the HIV/AIDS epidemic, difficult corporate financial times, personal computers, 9/11 terrorist attack and the Internet).

<sup>33</sup> *Id.* at 23.

workplace values,<sup>34</sup> and lessons from the pioneering generation.<sup>35</sup> Regardless of the reasons, women are not in upper echelon leadership positions in law. The fact is, “[w]hen most women begin to climb into the upper ranks of big law firms, ‘[t]hey disappear.’”<sup>36</sup>

c. Role Models, Power and Gender Bias

Many women highlight the lack of role models in the legal field as another major hurdle in journeying down their path toward a successful legal career.<sup>37</sup> One former female associate notes, “I didn’t have any role models. There were no other women at the firm [balancing life and work] successfully.”<sup>38</sup> While women account for half of all associates in California, they represent only 19 percent of the top echelon positions in law firms.<sup>39</sup> In surveys of leading women lawyers, one third to half of all respondents emphasize the “lack of influential mentors as a major barrier to advancement.” Some commentators have noted a well-defined schism between lawyers who are potential role models and those starting off their careers.<sup>40</sup> Many of the younger generation view the diversity and retention programs as a veiled effort to retain the token female association population while in actuality providing little to no valuable interaction with female leaders who might be able to guide and assist them in their career and

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<sup>34</sup> *Id.*

<sup>35</sup> *Id.* at 24 (noting the younger generation of lawyers feels that the older generation cut personal life corners and could not provide guidance in balancing marriage, children, family and work).

<sup>36</sup> *Id.* See also Gondrella Mann, *supra* note 19, at 32, 33.

<sup>37</sup> Costello-Dougherty, *supra* note 14, at 20.

<sup>38</sup> *Id.* at 22.

<sup>39</sup> *Id.* at 22. While leaders may come from all walks of life, from law student to clerk to judge to associate to partner, a partner in a law firm is naturally in the position to lead and become a role model for others. *Id.* Generally, a partner has achieved substantial success and makes the major decisions in a firm. *Id.*

<sup>40</sup> *Id.* at 24 (noting that younger female associates argue that women partners seem unwilling to provide guidance and mentorship to the younger women). Conversely, women leaders argue the younger women don’t open the lines of communication. *Id.* At some firms, Gen X/Y view the “mentor” more as a supervisor of billing hours. *Id.*

personal life paths.<sup>41</sup> Other commentators argue that simply having more women in positions similar to that of the younger women, such as in a position of leadership, may make those younger women comfortable and able to excel in those positions.<sup>42</sup> Men are reluctant to fill the function of role model because they fear sexual harassment, loss of the old boys' network, or are simply unsure of how to mentor a woman.<sup>43</sup> However, when a new entrant is given an effective mentor, the results speak for themselves. For example, Bettina Plevan, the current president of the New York City Bar Association and a winner of one of the "Best Lawyers in America" award thirteen years in a row, is an example of the success that results from receiving effective mentorship. She says, "I was given opportunities to be a leading lawyer and demonstrate what I could do professionally very early here . . . . I think the opportunity to prove yourself is part of what puts someone on the partnership track."<sup>44</sup> A potential leading woman lawyer, lacking role models and power, faces substantial obstacles in her path to lead. She is passed over for challenging, high-visibility projects and is excluded from (or feels unwelcome to) social networking events.<sup>45</sup>

A recent Minnesota bar survey noted that another important component is missing for women at Minnesota law firms, the ability of females in positions of power to make

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<sup>41</sup> *Id.* at 25.

<sup>42</sup> Kara Hagen, *An Essay on Women and Intellectual Property Law: The Challenges Faced by Female Attorneys Pursuing Careers in Intellectual Property*, 15 SANTA CLARA COMPUTER & HIGH TECH. L. J. 139 (discussing the results of interviews of women in patent prosecution, intellectual property litigation and trademark law.) In practicing intellectual property litigation, some women expressed feeling unwelcome or not as competent "simply because there were fewer women populating the sector." *Id.* While those practicing trademark law, felt more comfortable or confident in their positions because of a larger number of women both practicing and in their firm's trademark law department. *Id.*

<sup>43</sup> Rhode, *supra* note 2, at 12-13.

<sup>44</sup> *Id.*

<sup>45</sup> *Id.* See also Gondrella Mann, *supra* note 19, at 32-33.

changes.<sup>46</sup> The survey noted that a larger percentage of men served on powerful internal decision making committees focusing on compensation, partnership choice and management in general.<sup>47</sup> Meanwhile, women sat on relatively powerless committees such as “diversity, recruiting and personnel development.”<sup>48</sup> One commentator, observing the larger number of female trademark attorneys, notes one possible explanation for the phenomenon is the lack of male power structures in place, giving women an increased opportunity to ascend to positions of power.<sup>49</sup>

Yet another factor contributing to challenges for a leading woman lawyer is gender bias. As one leading women lawyer notes, “Law firms are way beyond discrimination -- this is about advancement and retention. Problems with advancement and retention are grounded in biases, not discrimination.”<sup>50</sup> A 1995 ABA task force found that gender bias still strongly resounds throughout American culture, including the professional legal realm.<sup>51</sup> Women typically face double standards when they hold positions of power or leadership. If they exhibit traits more often associated with females, such as cooperation and collaboration, they are called “soft.”<sup>52</sup> If the women are assertive or take strong positions, traits thought more typical of males, they are “difficult”

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<sup>46</sup> Julie Forster, *Die Hard Legal Barrier*, PIONEER PRESS, November 23, 2006.

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> Hagen, *supra* note 42, at 151 (explaining that IP law is a relatively young booming field, resulting in an opportunity for women to “grow along with these practices.”). For example, at one interviewee’s firm, a woman heads the trademark department does not have to compete with the male power structure entrenched in other parts of the firm. *Id.*

<sup>50</sup> Timothy L. O’Brien, *Up the Down Staircase*, NEW YORK TIMES, March 19, 2006, available at [http://www.law.northwestern.edu/news/article\\_full.cfm?eventid=2493](http://www.law.northwestern.edu/news/article_full.cfm?eventid=2493).

<sup>51</sup> *Unfinished Business: Overcoming the Sisyphus Factor*, 1995 ABA COMMISSION ON WOMEN IN THE PROF. REP. 5, 7-9 (noting that in 1995 forty states and nine federal circuits appointed task force to probe gender bias in law.) The task forces consistently found that gender bias in law had not advanced much since 1985. *Id.*

<sup>52</sup> Rhode, *supra* note 2, at 8.

or “bitchy.”<sup>53</sup>

Women tend to face greater scrutiny and must prove their capability and credibility.<sup>54</sup> These stereotypes are injurious to leading women and reverberate throughout American culture, workplace and community.<sup>55</sup> For example, “[w]omen seeking public office are still considered less able to manage conflict or financial affairs.”<sup>56</sup> Women with children are thought to be lacking commitment to workplace as lawyers, while the public is also skeptical of childless women.<sup>57</sup> As one partner informed a junior colleague, “law is ‘no place for a woman with a child.’”<sup>58</sup> Finally, when a woman manages to reach the upper stratum of her firm cynical critics flash the affirmative action card, implying they were handed the position as a result of affirmative action.<sup>59</sup>

#### d. Gender Differences in Exercise of Leadership and Leadership Priorities

Although the research is thin and conflicting, there does seem to appear to be some actual differences between effective leading male and female lawyers.<sup>60</sup> Larger-scale studies seem to indicate that there is no gender difference in management styles.<sup>61</sup> While some evidence tends to rate women as less effective leaders, other studies show women leaders are actually more effective.<sup>62</sup> However, a recent ABA survey found that

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<sup>53</sup> *Id.*

<sup>54</sup> *Id.* at 8-9. *See also*, Hagen, *supra* note 42, at 146 (discussing the feeling of some patent prosecution women attorneys that feel that they are “not as good simply because there are fewer women in the field”).

<sup>55</sup> Rhode, *supra* note 2, at 9-10 (discussing the negative impacts of stereotypes on women).

<sup>56</sup> *Id.* (noting also that only half the U.S. population believes “people are comfortable with a woman president”).

<sup>57</sup> *Id.* at 10 (discussing the double standard causing a frustrated Former Congresswoman Pat Schroeder to quip, “[I have both a] brain and a uterus, and they both work.”).

<sup>58</sup> Deborah L. Rhode, *Gender and the Profession: The No-Problem Problem*, 30 HOFSTRA L. REV. 1001, 1010 (2002).

<sup>59</sup> Rhode, *supra* note 2, at 11.

<sup>60</sup> *Id.* at 18.

<sup>61</sup> *Id.* at 19.

<sup>62</sup> *Id.* at 19-20 (discussing various studies on women and leadership styles.) Some large based studies

a majority of women lawyers felt that men and women attorneys had different strengths and weaknesses.<sup>63</sup> One study found established women leaders to be more “empathetic, supportive, nurturing, relationship building and sharing.”<sup>64</sup> Other studies have found that leading women lawyers had more empathy and were more personable.<sup>65</sup> Some commentators argue that traditional gender roles result in more participatory styles of leadership because of development of “people skills.”<sup>66</sup> Others argue that the studies showing differing styles of male and female leadership are biased because humans tend to fall back on traditional gender roles when put in an experimental study situation.<sup>67</sup> Finally, women in positions of leadership or power have likely been “selected and socialized to conform to accepted organizational norms,”<sup>68</sup> resulting in leadership styles similar to their male counterparts.<sup>69</sup>

When it comes to women exercising acts of leadership, the studies are again slim and inconsistent. For example, early studies of female judges found no difference in decisions as compared to male judges, even when confronted with a “women’s rights” issue.<sup>70</sup> More recent studies have found discernable differences in voting between men and women.<sup>71</sup> Leading women lawyers have been trailblazers in areas such as “domestic

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on self-reports found no difference between men and women and leadership style. *Id.* Others rated women more poorly than men. *Id.* Still others rated women as better leaders. *Id.*

<sup>63</sup> *Id.* at 19.

<sup>64</sup> *Id.*

<sup>65</sup> Deborah L. Rhode, *The Difference “Difference” Makes*, AMERICAN BAR ASSOCIATION AND STANFORD LAW AND POLITICS 19 (2003).

<sup>66</sup> *Id.* at 20. (noting gender roles encourage development of “interpersonal skills and sensitivities”, which play a strong role in use of participatory style leadership).

<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

<sup>70</sup> *Id.* at 21.

<sup>71</sup> Deborah L. Rhode, *The Difference “Difference” Makes*, AMERICAN BAR ASSOCIATION AND STANFORD LAW AND POLITICS 21 (2003).

violence, child support, and gender bias.”<sup>72</sup> For example, California Congresswoman Hilda L. Solis sponsored the nation’s first domestic violence evidence bill, permitting battered women to introduce evidence into state court of prior domestic violence.<sup>73</sup> Conversely, some commentators have noted women leaders have failed to promote “access to justice” for the poor.<sup>74</sup> They note that women represent almost two thirds of all poor and therefore, it is one of the most pressing “women’s issues.”<sup>75</sup> Women political leaders strongly back and highly prioritize “initiatives focused on women and families.”<sup>76</sup> However, party lines drive votes more strongly, with some women voting only slightly more in favor for women’s related issues and others completely missing the boat.<sup>77</sup>

### III. Strategies to Overcoming the Challenges

While the challenges facing women trying to become leading lawyers may seem daunting, there are several strategies, both institutional and individual, that may be used to overcome these challenges. In terms of institutional strategies, the most important factor in ensuring equal access to leadership opportunities is a commitment to that objective.<sup>78</sup> That commitment should be reflected in institutional priorities, policies, and reward structures.<sup>79</sup> For individual strategies, initiative is incredibly important. Where formal policies are new and may not yet have achieved the results that women

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<sup>72</sup> *Id.*

<sup>73</sup> *See* Cal. Evid. Code § 1109 (West 2006).

<sup>74</sup> Rhode, *supra* note 2, at 21.

<sup>75</sup> *Id.*

<sup>76</sup> *Id.* (noting a finding that women representatives in Congress “[account] for over 90 percent of the sponsors and two-thirds of the cosponsors of bills involving women’s issues”).

<sup>77</sup> *Id.*

<sup>78</sup> *Id.* at 26.

<sup>79</sup> *Id.* at 28.

have hoped for, it is up to individuals to seek out mentors, work on making their family and work lives co-exist, and develop their leadership skills. Using both institutional and individual strategies, specific challenges are addressed as follows.

a. Challenge 1: Work/Life Balance

For an institution, a commitment to equalize leadership opportunities requires a serious commitment to address work-family conflicts and related quality of life issues.<sup>80</sup> Proposed solutions include flexible or reduced schedules, telecommuting, leave policies, and child-care assistance.<sup>81</sup> The details of effective policies may vary depending on the organization, but the key factors are mutual commitment and flexibility from both the individual and from the institution.<sup>82</sup> Employees on reduced schedules should be prepared to increase their hours when short-term needs arise, and although technological innovations that blur the boundary between home and work can help with flexibility, organizations need to prevent employees from ending up with part-time status but full-time work.<sup>83</sup>

In addition, organizations need to ensure that employees who seek temporary accommodations do not pay a permanent price.<sup>84</sup> Individuals on reduced or flexible schedules should not lose opportunities for challenging assignments or eventual promotion.<sup>85</sup> For example, one firm put in place initiatives that included allowing women who use flexible time schedules to make partner; since then, six women have

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<sup>80</sup> Deborah L. Rhode, *The Difference "Difference" Makes*, AMERICAN BAR ASSOCIATION AND STANFORD LAW AND POLITICS 28 (2003).

<sup>81</sup> *Id.*

<sup>82</sup> *Id.*

<sup>83</sup> *Id.* at 28-29.

<sup>84</sup> *Id.* at 29.

<sup>85</sup> *Id.*

been elevated in the past five years.<sup>86</sup> However, even the most family-friendly policies may be sabotaged by peer resentment, so an effective strategy would seek to prevent undue burdens from being placed on other employees to compensate for their colleagues' restricted availability.<sup>87</sup> Such peer resentment may also be reduced by emphasizing that part-time policies are available to both women and men. Kathryn Meier, Managing Partner at Hogue Fenton's San Jose office, remarks that there is at least one male associate and one male partner taking on a part-time schedule at their office, with others considering it.<sup>88</sup> Emphasizing that "children and family life are not an impediment" to a successful career for both men and women may alleviate the stigma against part-time work as more people, not just women, start to embrace it.<sup>89</sup>

From an institutional standpoint, employers who want the most able and diverse pool of leadership candidates must create a working environment that will attract, support, and retain them, which at a minimum, will often require adjustments in workplace schedules and reward structures.<sup>90</sup>

Though institutional solutions have provided opportunities for women to create more of a balance, individual solutions are also important. Often, the success of these individual solutions will depend on an individual's outlook. As Miki Kokka, a recently named partner at Thoits, Love Hershberger & McLean noted, "there is no such thing as balance; it is about juggling the 'imbalance.'"<sup>91</sup> Ms. Kokka believes it is "very important

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<sup>86</sup> Malaika Costello-Dougherty, *We're Outta Here: Why Women Are Leaving Big Firms*, CALIFORNIA LAWYER, February 2007, at 26.

<sup>87</sup> Rhode, *supra* note 2, at 29.

<sup>88</sup> Interview with Kathryn Meier, Managing Partner, Hogue Fenton, Jones & Appel, in San Jose Cal. (Mar. 4, 2007).

<sup>89</sup> *Id.*

<sup>90</sup> Rhode, *supra* note 2, at 29.

<sup>91</sup> Interview with Mikka Kokka, Partner, Thoits, Love Hershberger & McLean, in Palo Alto, Cal. (Mar. 30, 2007).

to maintain your personal goals” and not to sacrifice them out of fear.<sup>92</sup> In fact, she faced a potential conflict between her personal and professional life when she was up for partner the year she became pregnant with her first child.<sup>93</sup> She took maternity leave right before the partnership committee was to make their decision.<sup>94</sup> Although she admits it was a bit “stressful” during that time, she ultimately did make partner, and exemplifies a situation where a woman’s personal decision did not cost her professional gain.<sup>95</sup>

In terms of reconciling family life with working life, it may also be important to educate your family about your work, in addition to apprising your employer about your family life. Laura Fennell, Senior Vice President, General Counsel and Corporate Secretary at Intuit, Inc. states that she brings her two children to work quite often, and introduces them to her colleagues because it is important to her that they understand what she does.<sup>96</sup> She agrees that “there is no such thing as balance. There are times when you choose between your personal and your professional life, and whatever you do should be okay so that when you choose a professional commitment over a personal one, because your family is well-acquainted with your work and knows how important it is, they will understand.”<sup>97</sup> Similarly, when leaving for a family commitment, she will also let her colleagues know why she is leaving so that they understand the importance of her family.<sup>98</sup> Communication on both fronts is very important.

#### b. Challenge 2: Lack of Role Models and Power

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<sup>92</sup> *Id.*

<sup>93</sup> *Id.*

<sup>94</sup> *Id.*

<sup>95</sup> *Id.*

<sup>96</sup> Telephone Interview with Laura Fennell, Senior Vice President, General Counsel and Corporate Secretary at Intuit, Inc., in Mountain View, Cal. (Apr. 6, 2007).

<sup>97</sup> *Id.*

<sup>98</sup> *Id.*

For many women, the support of an influential senior colleague is critical in obtaining leadership opportunities.<sup>99</sup> Mentorship “is the cornerstone for a beginning lawyer” because “you simply cannot learn everything from a textbook.”<sup>100</sup> Mentors can sponsor women for challenging assignments and prestigious positions, refer clients, provide business development opportunities, prepare women to become leaders, provide career advice, serve as role models, and offer personal support.<sup>101</sup> As noted above, however, there is a lack of adequate mentorship for women. While the problem may be because leadership levels in law are dominated by white men who bond most easily with other men, or who worry about the appearance of forming close relationships with women, or because senior women worry about the appearance of favoritism if they focus on supporting female colleagues, formal mentoring programs can help fill the gap.<sup>102</sup> Although relationships that are assigned are seldom as effective as those that are chosen, some access to advice and support is better than none.<sup>103</sup> Furthermore, formal programs at least reduce men’s concerns about appearances that inhibit mentoring relationships.<sup>104</sup>

Another institutional strategy is to encourage voluntary mentoring through women’s networks and related activities.<sup>105</sup> Many companies have women’s groups within the organization, and many women’s business or professional organizations are prevalent outside the workplace as well.<sup>106</sup> These networks sponsor activities such as workshops, seminars, speaker series, talent banks, and informal social events.<sup>107</sup> These

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<sup>99</sup> Rhode, *supra* note 2, at 29.

<sup>100</sup> Kokka, *supra* note 91.

<sup>101</sup> Rhode, *supra* note 2, at 29.

<sup>102</sup> Rhode, *supra* note 2, at 29-30.

<sup>103</sup> *Id.* at 30.

<sup>104</sup> *Id.*

<sup>105</sup> *Id.*

<sup>106</sup> *Id.*

<sup>107</sup> *Id.*

networks can play a crucial role in addressing the sources and symptoms of gender inequality.<sup>108</sup>

In spite of institutional policies, acquiring role models may be an area where individual initiative is the most significant. Although there may be formal mentoring programs, administrators may not be able to foresee what creates the best mentor/mentee relationship. For example, Ms. Kokka states, “I had a formal mentor, but my ‘true mentor’ was the person with whom I worked the most.”<sup>109</sup> Because you spend so much time with that person, it is easier to develop a mentoring relationship.<sup>110</sup> Thus, recognizing the opportunity to develop a relationship with someone you work with extensively may be the most natural step towards acquiring a mentor.

Formal mentor programs may also be “very structured” and not allow for closer personal relationships.<sup>111</sup> As Ms. Meier states, “Informal mentoring may be just as important as formal mentoring because it is important for people to have someone talk to about their personal life.”<sup>112</sup> Whereas someone may not feel comfortable disclosing information to someone with whom they have a formal relationship, they might feel more open with someone they have sought out themselves.<sup>113</sup> The trust that evolves from a more personal mentorship may also give way to enormous professional benefits. Ms. Meier said that she was “lucky enough to have a role model who was very committed to my development, and let me handle projects outside my comfort zone because he trusted

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<sup>108</sup> Deborah L. Rhode, *The Difference “Difference” Makes*, AMERICAN BAR ASSOCIATION AND STANFORD LAW AND POLITICS 30(2003).

<sup>109</sup> Kokka, *supra* note 91.

<sup>110</sup> *Id.*

<sup>111</sup> *Id.*

<sup>112</sup> Meier, *supra* note 88.

<sup>113</sup> *Id.*

me so much.”<sup>114</sup> Such projects included handling her own trials at an early stage in her career, which was a huge advantage for her in her career.<sup>115</sup>

That is why it is very important to “take the initiative and surround yourself with people that care about you,” states Ms. Fennell, because “they will give you the most direct advice in terms of what you need to do to better yourself.”<sup>116</sup> Before doing so, however, “it is important to be self-aware and understand your own strengths and weaknesses” so you may be able to communicate them.<sup>117</sup> Only with such self-awareness can you understand what you need to gain from a mentor.

Finally, when seeking out mentors, a male mentor may be just as effective as a female mentor. Ms. Meier states, “It did not make any difference to me that my mentor was male.”<sup>118</sup> She also adds that it is helpful to have multiple mentors [male and female] in order to evaluate different styles of leadership.<sup>119</sup> Therefore, it is possible to achieve success with male role models. That does not mean, however, that female role models are unnecessary. Ms. Kokka states, “I had great men as role models and examples,” but “it would have been nice to see other women in leadership positions and use them as an example to develop myself.”<sup>120</sup> That is why Ms. Meier, Ms. Kokka and Ms. Fennell all understand the importance of making themselves available to other up-and-coming female attorneys.<sup>121</sup> Ms. Fennell adds, “I definitely encourage other women to approach me, and hopefully if enough women can help each other, we can create a network that

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<sup>114</sup> *Id.*

<sup>115</sup> *Id.*

<sup>116</sup> Fennell, *supra* note 96.

<sup>117</sup> *Id.*

<sup>118</sup> Meier, *supra* note 88.

<sup>119</sup> *Id.*

<sup>120</sup> Kokka, *supra* note 91.

<sup>121</sup> *Id.* See also Fennell, *supra* note 96, Meier, *supra* note 88.

encourages more women leadership.”<sup>122</sup> Therefore, even if male mentors may help your personal development, other women may work differently, and it is important to bear in mind what you may have to offer them.

c. Challenge 3: Gender Bias

Since the most important factor in ensuring equal access to leadership opportunities is a commitment to that objective, organizations must be prepared to translate principles into practice and to hold individuals accountable for the results.<sup>123</sup> In a law firm or corporate setting, both managers and individuals need to participate in diversity initiatives. Managers need to build a business case for diversity, to incorporate diversity goals into their organizational plans, and to make progress toward those goals a factor in performance evaluations, while individuals need to be rewarded for recruiting, retaining, mentoring, and promoting women.<sup>124</sup> However, similar to family-friendly policies, diversity-related initiatives must also be structured in ways that do not cause undue backlash.<sup>125</sup> As an example, one company attempted to provide financial incentives for employing women at senior levels, but found that resentment from male employees made the approach counterproductive.<sup>126</sup> While different organizations require different diversity-related strategies, the most successful equal opportunity initiatives are those that are responsive to the gender dynamics of different workplace cultures.<sup>127</sup>

Another solution may be to change networking activities.<sup>128</sup> While the typical

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<sup>122</sup> Fennell, *supra* note 96

<sup>123</sup> Rhode, *supra* note 2, at 26.

<sup>124</sup> *Id.*

<sup>125</sup> *Id.*

<sup>126</sup> *Id.*

<sup>127</sup> *Id.*

<sup>128</sup> Carol Hymowitz, *In the Lead*, WALL STREET JOURNAL, March 26, 2007 at B1.

networking activities may include “sports, steak and scotch” to attract new clients, that may not always appeal to women.<sup>129</sup> In response, certain companies have been holding “women-only” networking events that include shoe-shopping, spa treatments, cooking events, and evenings at art galleries.<sup>130</sup> Women state it is a “refreshing change from being the lone woman at a client dinner or sporting event.”<sup>131</sup> Top brass companies such as Merrill Lynch, Ernst & Young, and General Electric have been embracing such activities because they want “new and different ways to spend time with clients.”<sup>132</sup> There is some opposition to these events, however, because some argue they are just as exclusionary as the “male-only” events and women complain that the events might make them seem ‘frivolous.’”<sup>133</sup> But, a growing number of companies are embracing these events, and find “there’s nothing wrong with recognizing that women have different tastes.”<sup>134</sup>

As opposed to institutional solutions, however, gender bias on an individual level is tough to address. Though women may not feel that there are discriminatory practices, it is unavoidable to notice that “when you look around the room, it is mostly men,” states Ms. Fennell.<sup>135</sup> Because men are unfamiliar with working with women, women feel more pressure to perform.<sup>136</sup> There is the sentiment that they have to “work harder and be more resilient.”<sup>137</sup> Ms. Kokka agrees, and states that “because there are more men in leadership positions, women have to be more flexible and adaptable [to the male

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<sup>129</sup> *Id.*

<sup>130</sup> *Id.*

<sup>131</sup> *Id.*

<sup>132</sup> *Id.*

<sup>133</sup> *Id.*

<sup>134</sup> *Id.*

<sup>135</sup> *See* Fennell, *supra* note 96.

<sup>136</sup> *Id.*

<sup>137</sup> *Id.*

environment] in order to achieve success as a leader.”<sup>138</sup>

d. Challenge 4: Developing Leadership Skills

Law school does not seem to provide an adequate forum for developing leadership skills.<sup>139</sup> Therefore, firms or companies must be tasked with providing basic leadership training for their lawyers. For example, at Ms. Meier’s office, all lawyers are required to serve on the “leadership committee” at some point in their career.<sup>140</sup> This policy serves as a baseline to ensure every lawyer, man or woman, is acquiring basic leadership skills.<sup>141</sup> Similarly, at Sun Microsystems, Ms. Fennell as a senior level employee was asked to take “an intense leadership training program for six months.”<sup>142</sup> Her current company, Intuit, Inc., also places a premium on leadership abilities, where they do not offer formal training, but “leadership principles are so embedded in the company’s culture, it is a part of its DNA.”<sup>143</sup> These policies can ensure that every person has access to basic leadership training, and may be able to normalize deficiencies in leadership skills women may be experiencing due to lack of role models, for example.<sup>144</sup> Role models, however, do still remain a very important factor in leadership development.<sup>145</sup>

It is also important to focus on developing leadership skills as an individual, in order to place yourself in the best position to capitalize on leadership opportunities. Long before her formal leadership training Ms. Fennell recognized that “it is important to look

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<sup>138</sup> Kokka, *supra* note 91

<sup>139</sup> *Id.* See also Fennell, *supra* note 96, Meier, *supra* note 88.

<sup>140</sup> Meier, *supra* note 88.

<sup>141</sup> *Id.*

<sup>142</sup> Fennell, *supra* note 96.

<sup>143</sup> *Id.*

<sup>144</sup> Meier, *supra* note 88.

<sup>145</sup> *Id.*

at ‘the pie’ as a whole, and not simply focus on its pieces.”<sup>146</sup> She did not feel that a law firm emphasized the “big picture” as much as she would have liked, and that is why she transitioned to an in-house position that was more conducive to developing her leadership skills.<sup>147</sup> Ms. Meier also took initiative early in her career to place herself in leadership positions by becoming involved in bar activities.<sup>148</sup> By 1994 she was the President of the Santa Clara Bar Association, and she currently chairs numerous charitable projects.<sup>149</sup> Thus, recognizing what leadership skills appeal to you may aid you in seeking an environment to practice those skills.

Developing your own leadership style is also important. Different leaders emphasize different traits. Ms. Meier states that “a leader should be two things: humble and a great communicator.”<sup>150</sup> Ms. Kokka believes a good leader is “intuitive, organized, adaptable and goal oriented.”<sup>151</sup> Ms. Fennell believes a good leader is “clear, decisive, courageous, responsible for his/her actions, and delegates well.”<sup>152</sup> Developing a style may be difficult for women since, as noted above, women may fear being decisive because it may make them seem “arrogant or confrontational.”<sup>153</sup> On the other hand, they may fear being accommodating because they’ll be viewed as “soft.”<sup>154</sup> Ultimately, however, “what works best depends on context,” and “most research underscores a generalizeable [sic] strategy.”<sup>155</sup> Thus, “there is no single style that is successful” and

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<sup>146</sup> Fennell, *supra* note 96.

<sup>147</sup> *Id.*

<sup>148</sup> Meier, *supra* note 88.

<sup>149</sup> *Id.*

<sup>150</sup> *Id.*

<sup>151</sup> Kokka, *supra* note 91.

<sup>152</sup> Fennell, *supra* note 96.

<sup>153</sup> Rhode, *supra* note 2, at 34.

<sup>154</sup> *Id.* at 8.

<sup>155</sup> *Id.* at 34.

what is most important is to “find a style that [*you*] are comfortable with.”<sup>156</sup>

e. Miscellaneous Factors

The solutions listed above may be more or less effective based on the environment. For example, the smaller the organization, the easier it is to develop individual strengths of employees. Ms. Meier states “Since we are a medium-sized office, we are able to work with our lawyers more closely and track individual development more easily than a larger office would be able to.”<sup>157</sup> As noted above, at Ms. Meier’s office all lawyers are required to serve on the “leadership committee” at some point in their career.<sup>158</sup> Ensuring that every lawyer learns from these leadership experiences, not to mention keeping track of whether each lawyer has completed these tasks, would be much more difficult in a larger organization.

Another environmental difference is working at a law firm versus working in-house at a company. “The way the work is structured is simply different,” states Ms. Fennell.<sup>159</sup> Whereas law firms have more “content-based” or “discrete” projects, companies are much more focused on achieving the ultimate “business objective.”<sup>160</sup> This is why part-time work is simply more difficult to implement in a company because it is not as easy to delegate projects and have people complete them off-site. The focus is on ensuring that the ultimate objective is achieved by everyone, which means that an employee’s presence is very important.<sup>161</sup> There may, however, be another solution: taking longer periods of time off than a law firm would allow.<sup>162</sup> Ms. Fennell states, “I

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<sup>156</sup> *Id.* at 34 (emphasis in original).

<sup>157</sup> Meier, *supra* note 88.

<sup>158</sup> *Id.*

<sup>159</sup> Fennell, *supra* note 96.

<sup>160</sup> *Id.*

<sup>161</sup> *Id.*

<sup>162</sup> *Id.*

definitely respect an employee who takes time off in order to spend time with his/her family; in fact, we encourage our employees to take time off, acquire different experiences, and come back.”<sup>163</sup> Therefore, it is clear that working in a corporation will require different solutions to work/life balance, than working in a law firm. Finally, as noted above, corporations may place a higher premium on leadership than law firms.<sup>164</sup> Therefore, acquiring leadership skills and exercising them may simply be easier at a corporation than at a law firm.

#### IV. Conclusion

Although historically, women have not been treated equally as compared to men, this has been slowly been changing. From the necessity of balancing work and life outside of work, to gender bias and gender differences in the exercise of leadership and leadership priorities, women face a number of challenges unique to their gender in their quest to become leading lawyers. However, these challenges may be overcome through the use of role models, development of leadership skills, and the cooperation of law firms and corporations in implementing various policies. By following these strategies, women will become increasingly able to obtain leadership positions in the upper echelons of law firms, corporations, and a variety of other organizations.

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<sup>163</sup> *Id.*

<sup>164</sup> *Id.*