Gender Discrimination in the Employment of Female Attorneys

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For most of United States history women have taken no part in the professional aspects of the work world. In the last half of the twentieth century, however, women have become a larger part of the professional working environment—and not just as secretaries. Today, women are doctors, lawyers, and businesswomen. In fact, the economy of modern times would be severely crippled without women working outside the home (Beck 16).

Although women have become a major part of the labor force, they are still not treated as equals with men and continue to suffer unique challenges in the work environment. Women lawyers in particular seem to be disadvantaged. A report in 1988 by the American Bar Association’s Commission on Women in the Profession showed that women lawyers were not advancing at the same rate as men lawyers (Stein 96). Since 1985 women have made up 37 percent of practicing lawyers. Nevertheless, only 13.6 percent of law firm partners are women (Barnes 25). More and more women are
becoming successful lawyers but they are still not making the partner track nor rising to the upper echelons of the profession.

Discrimination plays a large part in explaining the inequality between men and women attorneys. For example, a major way for young associates to become familiar with the practice of law is to have a mentor. Besides teaching young associates the basis of the law, mentors also help them become participants in high-profile cases. Men are typically in positions to be mentors. However, very often they will not mentor women. Sometimes this is because men feel that women do not belong in the work world and are not smart enough to do the job. For others, it is because they are afraid of being accused of having a romantic relationship with the female they mentor (Snyder 251).

Along with mentoring, a large part of the legal culture is association through outside activities. A common practice in law firms involves partners inviting associates out to lunch, which is especially true in corporate law. Debra Zumwalt, who worked as a litigator, found that the all-male partners at her firm would invite only male associates out to lunch (Barnes 25). Doing this not only made Zumwalt herself feel like an outsider and less valued as an employee but also made other partners and associates view Zumwalt that way. Since all the associates being invited to lunch were male, the message was implicitly sent to employees that Zumwalt was not a competent lawyer because she was a woman. This sense of the incompetence of women has been ingrained in many of the top law firm partners. A study by the Center for Creative Leadership showed that when executives were asked to compile lists of qualities wanted in male and female employees, the list for female employees was twice as long as that for male employees (Holmes 22). Most likely this is a result of the message men receive that women are not as good as men at being lawyers, and so women must work twice as hard to prove their competence.

The courtroom demonstrates a common arena where women experience discrimination. For one thing, women tend to be shorter and smaller than men and are often literally overlooked. Additionally, fashion and appearance are considered an important factor with regards to women and these outward concerns aren't so important with regards to men (Snyder 197). Juries and judges take a woman's appearance into consideration when deciding if she is a good or believable lawyer. Appearances affect other areas of the law as well. One survey showed that women who are either overweight or considered unattractive have an even harder time finding jobs than men who are in the same category (Holmes 20).

Discrimination is something that can only be stopped by changing attitudes. The more women who enter the field of law the more quickly discrimination will be put aside. However, discrimination must be recognized and considered unacceptable by both men and women before it is complete eliminated. The ABA Commission on Women in the Profession is trying to help companies combat gender discrimination by helping firms develop and implement procedures that will neutrally evaluate males and females (Stein 97). This kind of
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procedure can help accelerate the elimination of discrimination.

One reason women do not earn the same amount of money or reach the same high positions as men is that women take time off to have families or raise their children. They may take maternity leave or they may drop to part-time work. This becomes particularly difficult because the field of law “has had a different attitude about parenthood; that the law comes first and your family second” says Vivian Harvey, who has founded a group known as Lawyers at Home (Keton 56).

The problem is that women are uniquely bound by biology to have children at a certain time during their life. They have two choices if they are pursuing a career in law. Either they can wait until after they make partner to have children, running the risk that they will not be able to have children or might have complications with their pregnancy, or they can have children and try to juggle work and family without neglecting either (Holmes 18). If women choose to have children they often move from the partner track to the so-called “mommy track.” When women have children, they take longer to make partner, if they even make partner. Many women who are mothers also get stuck with the undesirable cases. This presents a problem since an associate lawyer cannot move towards the partner track if they are not getting the high-profile cases (Snyder 73).

In addition, women lawyer-mothers are still in charge of raising the children in their families. It is the women who need to leave work at the same time everyday to pick up their children from daycare. Thus, women are often seen by other employees as lazy, even if they continue working at home after they have left the office. This also prevents women from receiving promotions (89). One woman “took part-time status so that she wouldn’t ‘feel guilt’ when she left the office at the end of the day while other partners worked into the night” (Barnes 27).

The phenomenon of working extremely long hours is a problem particular to the field of law (Keton 54). In fact, in the past ten years the number of hours worked by both men and women in the law profession has increased (Beck 15). Women are expected to put in sixty-hour weeks. Many feel that when they work that much they do not have enough time for their families. This problem has begun to spread to male lawyers as well. They, too, are becoming concerned with the time they spend away from their families and are pushing for less hours (Keton 55). Hopefully, as this becomes a concern for both males and females, solutions will come more readily.

More flexibility in work schedules could efficiently resolve the differences in pay and position for women. Two types of alternative work schedules can help women balance work and family. Previously, most women who had families chose a part-time work schedule. Part-time work, in general, is interpreted as a less aggressive approach to law. Many women have found that by going into part-time work they are not as challenged as they would like to be. Also, because the majority of employees who chose part-time work were women, companies used this to provide lower wages and benefits to women (Kahne 260).
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Job-sharing is a relatively new idea that is beginning to replace part-time work. In job-sharing two people do one job. They work together to coordinate schedules and each person does half the work-load. The advantage of job-sharing includes the possibility for lawyers to take on work that is both stimulating and high profile ("Job Sharing" 11). If women keep the significant cases through part-time work they will be able to stay on the track of becoming a partner. Job-sharing offers that opportunity.

Increasingly, firms are becoming open to the idea of flexible work schedules. Some have even come to address flexibility issues at the highest levels of power (Kahne 263). Though in the past, law firms were among the last to give workers more flexibility (Keton 55). That is slowly changing however. A letter by Howard Twiggs who is President of the North Carolina Academy of Trial Lawyers (NCATL) said, "Caucus members work together to address issues of inequality in the profession, such as the scarcity of women partners and the need for alternative work schedules" (9). This is a start for the law community, but lawyers need to push for these new policies rather than wait for them to happen.

It is true that the legal profession has become more accepting of women in the past thirty years. However, women are still not considered equals with men, especially in corporate and trial law. Also, family issues are not being addressed. Those entering the field of law need to continue pushing for more equality for women and more flexibility in the work environment if these discriminations are to be eliminated.

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