

TAKING WOMEN FROM LAW SCHOOL TO LAW FIRM PARTNERSHIPS
New Jersey Women Lawyers Association 2018 Scholarship Program
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My law school orientation is memorable for a number of reasons, but a particular aspect of my experience remains most notable: the sheer amount of women sitting in the school's auditorium as first-year law students. This setting, although promising and not unusual, nevertheless seemed counter to societal norms. Statistically, women make up the majority of my law school's student body as well as that of many other law schools across the United States.¹ Yet, society's institutions and women's personal experiences continue to reveal that women are not often likened with positions of power and influence, such as a partner at a law firm, a federal judge, or a law school dean. Instead, women are traditionally associated with the home and family, or with administrative work, while men are described and lauded as the go-getters.²

These norms and biases have yielded tangible and profound consequences, particularly in the legal profession. Despite general acknowledgement of gender disparity and, in turn, encouragement of gender diversity, studies continue to show an absence of women lawyers in the legal profession's most powerful positions. The National Association of Women Lawyers' ("NAWL") 2017 Annual Survey provides that women comprise the minority of equity and non-equity partners at law firms "despite being hired in nearly equal numbers as men," and that men are continuously the top earners at their respective firms.³

Accordingly, while I celebrated the number of women beginning their law school

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¹ See Elizabeth Olson, *Women Make Up Majority of U.S. Law Students for First Time*, N.Y. TIMES (Dec. 16, 2016), <https://www.nytimes.com/2016/12/16/business/dealbook/women-majority-of-us-law-students-first-time.html>.

² See Justin D. Levinson & Danielle Young, *Implicit Gender Bias in the Legal Profession: An Empirical Study*, 18 DUKE J. OF GENDER L. & POL'Y 1, 3 (2010) (discussing the general prevalence of gender biases among law students and other studied populations).

³ See Destiny Peery, *NAWL 2017 Annual Survey Report: The Promotion and Retention of Women in Law Firms*, NATIONAL ASSOCIATION OF WOMEN LAWYERS (Sept. 19, 2017), <http://www.nawl.org/page/2017>.

journeys alongside mine and felt great pride as I walked into my law school classrooms, my research during the recruitment process quickly taught me that the demographics of my law school class did not realistically reflect the demographics of most law firms currently and in the near future. More specifically, in light of the gradual progress toward increasing the representation of women in the legal profession, it is unlikely that an equivalent number of men and women from my class will fill the chief positions at their law firms. Even more, for the men and women who attain such positions, it is unlikely that they will receive equal pay.

Unfortunately, these predictions hold true even though female law students are just as intelligent, capable, and driven as male law students, and even when students from both genders land comparable summer associate positions.⁴ I, therefore, frequently pause to ask myself how I may help hasten and encourage gender diversity in the legal field, and I imagine that the solution requires both widespread awareness and collective action. Thus, as powerful women in the legal profession strive to uncover what is causing the longstanding lag in women's leadership success,⁵ the remaining powerful women *and* men should supplement such efforts by tackling implicit gender biases and rigid gender roles in social settings, classrooms, work environments, and more. Above all, greatness and leadership should be encouraged irrespective of gender.

A. ROOT OF THE DISCREPANCIES

Given the prevalence of gender discrepancies in our society, particularly in the legal profession, it is difficult to imagine how they originated and why they persist. Do such discrepancies rest on legitimate differences between male and female, or are they rooted in unfounded biases about the roles of each gender? Studies tell us that it is frequently the latter. In

⁴ See Peery, *supra* note 3.

⁵ See Stephanie Russell-Kraft, *Top Lawyer to Investigate Legal Profession's Gender Problem*, BLOOMBERG L.: BIG L. BUS. (Sept. 19, 2017), <https://biglawbusiness.com/lawyer-to-investigate-legal-professions-gender-problem/> (explaining Hilarie Bass's research regarding the factors behind women's decisions to leave the legal profession).

fact, gender biases and accompanying stereotypes develop early in life as children learn to attribute certain characteristics to different societal groups, including men and women.⁶ These attributions may become implicit in adulthood,⁷ subconsciously affecting personal perceptions and judgments about the roles and capabilities of each gender and, in turn, the career advancements of each gender. Preconceptions of men as assertive and capable and, conversely, of women as diffident and family-focused (or originally unfit for the practice of law) transform into inherent social realities: men are matched for professional success while women are associated with passive roles rather than those of leadership or authority.

These implicit biases have accordingly contributed to the discrepancies that pervade the legal profession. As women attempt to develop and advance their legal careers, performance and assignment decisions are often influenced, albeit subconsciously, by such preconceptions. The female corporate associate who asserts herself during a team meeting may be deemed aggressive, while her male counterpart is admired as confident. This same female associate may raise an idea that is disregarded by a senior lawyer, but later acknowledged when proposed by a male colleague, notwithstanding the idea's merit. Even further, the young female associate is warned not to have kids "too soon" as that will impact the quality of the cases she is assigned and her ability to dedicate the time necessary to qualify for the firm's most powerful positions. I have been given this advice on numerous occasions, leading me to question my ability to raise a family while simultaneously advancing my legal career. Managing such doubts and double standards elicits several effects: women become less likely to acquire the skills and repertoire necessary to advance professionally, causing many to bypass leadership positions, salary

⁶ See Levinson & Young, *supra* note 2, at 6 (explaining that "children are likely to learn at an early age that men are 'competent, rational, assertive, independent, objective, and self confident,' and women are 'emotional, submissive, dependent, tactful, and gentle.'").

⁷ *Id.*

increases, or to leave the legal field altogether, while men continue to thrive in identical settings.

Moreover, the President of the American Bar Association, Hilarie Bass, recently posited that, in addition to implicit bias, the pay gap between men and women might also contribute to the gender discrepancies prevalent in the legal profession.⁸ According to NAWL's 2017 Annual Survey, "[t]he gender pay gap persists across all levels of attorneys, with men out-earning women from associates to equity partners. Women earn 90–94% of what men in the same position earn."⁹ This pay inequity is but one effect of the implicit biases that touch women in their professional lives. Fortunately, several large law firms retain lock-step compensation systems whereby lawyers are paid according to seniority rather than other criteria, such as clients retained.¹⁰ These lock-step systems can serve as a check on pay inequities or, at a minimum, a signal that there is a general awareness of gender biases and the discrepancies that they create. Still, the lock-step system alone is not enough to address the persistent pay gap and the underlying biases on which it rests, particularly for high-level positions.

B. AWARENESS IS A SECRET WEAPON FOR CHANGE

While women have made exceptional progress since permitted to learn and practice law, the road to increasing gender diversity and the representation of women in the legal profession's most honorable positions has been gradual. Still, there has been notable improvement, and though multiple factors may be credited for stimulating this progress, one constant underpinning is *awareness*—a general cognizance and understanding of gender biases and their resulting discrepancies. The implicit nature of the biases that affect the legal profession means that even the most influential individuals are generally unaware that they are engaging in behavior that

⁸ See Russell-Kraft, *supra* note 5.

⁹ Peery, *supra* note 3.

¹⁰ See Peter Lattman, *Culture Keeps Firms Together in Trying Times*, N.Y. TIMES: DEALBOOK (Sept. 24, 2012), <https://dealbook.nytimes.com/2012/09/24/culture-keeps-firms-together-in-trying-times/>.

hinders women and perpetuates gender discrepancies. Accordingly, change can be induced only if there is awareness among parents, children, law students, teachers, and lawyers, as well as among those that influence and determine professional success at law firms. General awareness through training, corrective behavior, and objective criteria will necessarily trigger a sense of *self*-awareness, which, in turn, will help level the playing field and hasten change.¹¹ In short, mindfulness must be effectuated at multiple levels.

Ultimately, knowledge of the biases and discrepancies that affect my profession has made me a more prepared advocate and leader. Now, my goals are to encourage *and* witness change: perhaps my female peers will one day outnumber their male counterparts in firm leadership positions.

¹¹ See Peery, *supra* note 3 (explaining that “firms with established to mature women’s initiatives had a higher percentage . . . of women equity partners compared to firms with newer initiatives,” which demonstrates that awareness can help promote the abdication of gender biases).