AMEERICAN BAR ASSOCIATION
COMMISSION ON WOMEN IN THE PROFESSION
REPORT TO THE HOUSE OF DELEGATES

RECOMMENDATION

BE IT RESOLVED, that the American Bar Association recognizes that persistence of both overt and subtle barriers denies women the opportunity to achieve full integration and equal participation in the work, responsibilities and rewards of the legal profession;

BE IT FURTHER RESOLVED, that the American Bar Association affirms the fundamental principle that there is no place in the profession for barriers, including practices, attitudes and discriminatory treatment, that prevent the full integration and equal participation of women in all aspects of the legal profession;

BE IT FURTHER RESOLVED, that the American Bar Association calls upon members of the legal profession to eliminate these barriers and to refuse to participate in, acquiesce in or condone barriers to the full integration and equal participation of women in the legal profession.
INTRODUCTION

The Commission on Women in the Profession was established by the American Bar Association in August of 1987 in furtherance of the ABA's commitment to the principle that women are entitled to participate as equals in all aspects of the profession. The Commission's formation is consistent with Goal IX of the ABA which commits the Association to increasing the participation of women and minorities in the legal profession.

The Commission has reviewed a vast amount of information, gathered through open hearings at the 1988 Midyear Meeting in Philadelphia and from written testimony, reports, surveys, and articles. The Commission's initial conclusion after completing this phase of its investigation is that, although women have made significant advancements in gaining access to the practice of law, the attached resolutions are necessary and timely because opportunities in the legal profession remain less available to women, at all levels, than to their male colleagues.

The Commission urges the ABA to recognize publicly that gender bias exists in the profession and to take affirmative steps to eliminate it. The adoption of the resolutions will put the ABA on record as reaffirming the principle that discrimination is incompatible with standards of professionalism. This action is especially important because the Commission found that male members

1. In its initial stage of investigation, the Commission reviewed numerous books, law review articles, state and local bar association surveys, gender bias task force reports and statistical research concerning women in the legal profession. The Commission conducted two days of open hearings, heard oral testimony from 64 witnesses and received written testimony from more than 70 individuals. A Summary Report of the Hearings and an 800-page transcript were produced earlier this year.

2. The work of the Commission on Women in the Profession has important connections with the work of the ABA Commission on Professionalism, which issued a report in 1986, "...In the Spirit of Public Service: A Blueprint for the Rekindling of Lawyer Professionalism." The connection between the concerns addressed by these two Commissions serves to underscore the fact that issues being raised by women are more than just "women's issues," but rather are crucial human and professional issues.
of the profession perceive fewer problems of discrimination, and that men are more likely to regard the issues that greatly disturb women in the profession as silly or trivial. The Commission is confident that all members of the profession, by listening to and validating the experiences and perceptions of women, can increase their own sensitivity to obstacles confronting women and can identify ways to eliminate discrimination. Through this increased awareness, members of the profession can resolve personally to cease participating in practices that obstruct women's full professional equality, and can further resolve to develop programs and practices that further the shared commitment to women's participation as equals.

This report supplements the attached resolutions by documenting the status of women in the profession and the nature of existing impediments to full integration into the profession. The report first focuses on statistics which show that, in spite of the large number of women entering the profession, women are not increasing their representation among partnerships, judgeships and tenured law faculty positions in nearly the percentages that their numbers and class rank would indicate. Disproportionate numbers of women lawyers enter government and legal services work but have not advanced to management positions commensurate with their numbers.

The report next relates the nature of the barriers women face. The Commission is not attempting to describe in this report all the barriers to women's advancement, but rather to describe them sufficiently to support its proposed resolutions and findings that women throughout the legal profession still face a significant amount of bias, both overt and subtle. Although many of the worst obstacles to women's participation in the legal profession, such as refusal to hire and law school quotas have disappeared, the oral and written testimony received by the Commission reveals that a significant amount of discrimination continues to exist.

The Commission was troubled to find that women still face overt instances of bias such as differential, belittling and harassing treatment in courtrooms, in private practice settings and law schools. Women continue to be asked unacceptable questions (such as inquiries as to methods of birth control or as to obtaining permission from one's husband to practice) in the recruiting process. In addition, the Commission found, and this report will show, that although the profession has made room for women at an

3. According to the surveys by several state bar organizations and Supreme Court task forces on gender bias, when asked whether discrimination on the basis of gender exists in the profession, approximately 80-90% of women respondents indicated there is gender discrimination in various forms, while only 20-50% of male respondents think there are problems with gender discrimination within the profession.
entry level, certain attitudinal and structural barriers exist which subtly limit women's opportunities for advancement.

Attitudinal barriers subject women to pressures which lead to discomfort and often rejection in the workplace. An example of the attitudinal barriers is the recurring testimony that women enter the legal arena and are faced with negative presumptions: women must prove their competence, while men must prove their incompetence. Excessive scrutiny of women was a theme heard over and over again. The Commission also found that barriers exist in the very structure of the profession which has not been altered to reflect the emergence of women as members of the profession or the basic changes in society that have occurred in the past twenty years.

A growing number of women and men now deal with more responsibilities at home in addition to those at the office. To make full use of the potential of this significant and increasing percentage of the profession, we must examine the structures of our professional institutions to ensure that they do not become anachronisms -- and that we do not lose the talents of our best and brightest.

A recurring theme from the hearings is that the Commission is not dealing with only "women's issues" but with issues that should be of interest to all lawyers as human beings. Can lawyers have a law practice and a personal life? There was a plea from many witnesses to direct our inquiry as to how the profession can be more humane. Although many of the issues addressed in this report are raised by women in the context of the professional status of women, the Commission is very much aware that many of these issues, such as child care, transcend gender lines. But it is also clear that many of these responsibilities still fall disproportionately on the shoulders of women.

The overt instances of discrimination and the subtle structural and attitudinal barriers described in this report must be addressed. These barriers are and will be the focus of the Commission. The profession must do more than assimilate those women who can adapt their lives completely, often at great personal, familial and societal cost, to fit professional norms and standards which may no longer reflect the best interests of the entire membership of the profession. Rather, integration requires that women be accepted in the profession with recognition and validation accorded to their needs, life demands and professional styles, whether alike or different from the needs or styles of men.

4. Numerous witnesses urged the Commission to examine women's volunteer participation in the ABA as part of its ongoing investigation on the status of women in the legal profession. The Commission is in the process of studying the history of women's involvement in the ABA.
A Statistical Overview of Women in the Legal Profession

The great strides made by women within a profession until recently closed to them have been impressive. Whereas, in 1970 only 3% of lawyers were women, today women are 20% of the legal profession. Twenty years ago, women comprised approximately 4% of law students; today they are over 40% of graduating law students.

Despite these encouraging statistics, we cannot be complacent about this progress. A closer look at the numbers reveals that the profession is stratified by gender. The "higher" echelon positions—in terms of remuneration, power and prestige—are still disproportionately held by men. Even though sufficient numbers of women have been practicing long enough to have made greater inroads, women remain overrepresented in the least lucrative segments of the profession; state and local government practice, public interest law and nontenure track positions in legal academia. In addition, women in private practice are not rising to partnership in appropriate numbers.

As the following statistics demonstrate, time alone is unlikely to alter significantly the underrepresentation of women in law firm partnerships, judicial appointments and tenured faculty positions. Entry of women into these positions at a rate proportionate to their numbers out of law school requires serious examination of the structures, practices and attitudes of the profession.

Private Practice

Twenty-five percent of all associates in private practice are women and 75% are men. Ninety-four percent of all partners are men while only 6% are women. According to a recent National Law Journal survey of the nation's 250 largest law firms, women are 33% of the associates but less than 8% of the partners. Women have been increasing their representation among partnerships at a rate of only 1% a year.

Although some of this disparity is due to the fact that women did not enter firms in significant numbers until the mid-1970s, this explanation does not fully account for the difference in status. A study of the women in the Harvard Law School class of 1974 revealed that ten years out of law school, of those class members who entered

5. In reviewing the available numbers about women in the profession, the Commission discovered a lack of statistical information on women lawyers in small firms. We do know, however, that 70% of women in private practice are found in solo practice or small firms with less than 11 attorneys. Therefore, although this section devotes greater attention to large firms, it is with the understanding that these numbers do not represent the majority of women lawyers in private practice today.
private practice, only 23% of the women were partners while 59% of the men were partners. Of all lawyers admitted to the bar between 1971 and 1979, 71% of the women and only 48% of the men were associates as of 1980. Thus, although women have comprised at least 25% of those entering law firms for the past ten years, they have not made partner at a rate proportionate to their numbers out of law school or to their male colleagues.

**Law Schools**

Although 20% of full time faculty positions are held by women, the majority of women law school professors are clustered in lower paying, nontenure track positions such as legal writing instructors and clinical advisors. Over 40% of clinical teaching positions and over 70% of legal writing positions are held by women. In the 1986-87 school year, women comprised 11% of tenured professors. Several law schools still have no tenured women on their faculties and the elite law schools have made especially poor progress in increasing representation of tenured women on their faculties. Minority women law school professors encounter even greater barriers to advancement in academia, and few schools have a significant number of minority teachers.

**Judiciary**

The judiciary is still almost entirely a male bastion. In the federal system, women comprise only 7.4% of district, circuit and U.S. Supreme Court judges. Despite the increase in the number of women of an appropriate experience level in the last few years, the percentage of women on the federal bench has actually declined.

The numbers are even smaller in the state judiciary. As of 1986, women comprised 7.2% of state court judges. Women represent only 6.8% of judges on state courts of last resort and 6.5% of intermediate appellate judges, a far smaller percentage than their representation in the profession at large.


7. The Commission had difficulty collecting statistics on minority women in the profession because statistics on women and minority lawyers generally fall into two categories: "women" and "minorities". There are few statistics that focus on the category of "minority women." See Chused, Richard, "The Hiring and Retention of Minority and Female Faculty in American Law Schools," (1988)
Government Practice/Legal Aid

Women, especially minority women, are disproportionately employed in government practice. Thirteen percent of women lawyers as opposed to 7.2% of men lawyers are employed in federal, state or local government. Three percent of women lawyers work in legal aid or public defender offices as contrasted to 0.9% of men. Witnesses testified that because salary levels in these positions do not continue to increase, one of the few areas for career advancement is a move into management. However, women are not proportionately represented in the management of government practice. The workforce is predominantly female, but the managers are male.8

Implications

The statistics demonstrate that women are not rising to "upper" levels of the profession in appropriate numbers and dispel any sense of complacency that the sheer numbers of women entering the profession will eliminate barriers to their advancement. Indeed, witnesses observed that women often reach a level above which they seem unable to rise. Some commentators describe this phenomenon as the "glass ceiling."

For the few women who do "make it" beyond the "glass ceiling," the consequences are often a lack of support networks and the stresses that accompany living life as a constant token, with the extra demands and scrutiny that status attracts. These women partners or judges are not regarded as just partners or judges, but as women partners and judges, supposed representatives of how all women will do in such positions. In addition, as many witnesses observed, women who "made it," often did so at the great expense of not having a spouse and children. As one successful witness testified, she found herself to be, "43, single, childless and typical."

Witnesses noted that some women are leaving the profession in part as a reaction to the numbers cited above and this "glass ceiling" phenomenon. They observe that women are not advancing in the profession like their male colleagues and that life beyond the "glass ceiling," for many women, seems to be a dissatisfying personal and professional experience. This observation of a bleak future coupled with the barriers currently being faced, as next reported, very often lead to dissatisfaction which sometimes results in a search outside the profession for a better situation.

8. ABA Commission on Women in the Profession Hearings, see transcript, Vol. II, pg. 54.
II. THE OVERT BARRIERS TO WOMEN'S ADVANCEMENT IN THE LEGAL PROFESSION

Although it is indeed significant that many of the worst obstacles to women's participation in the profession, such as hiring and law school quotas, have largely disappeared, one serious obstacle that persists is sexual harassment. Several witnesses alluded to the need to investigate this problem but were uncomfortable discussing it in open hearings; others requested anonymity. One firm that submitted testimony has adopted a policy addressing sexual harassment.

The Commission is concerned that some men apparently continue to have problems separating the image of women as romantic possibilities from the reality of women as professionals. These men say they "don't trust themselves" working with young, attractive women or claim their "wives don't approve." This type of man sometimes makes the working relationship uncomfortable with conduct that may even raise (or lower) itself to the level of sexual harassment.

The Boston Bar Association's recent survey on gender bias in the profession revealed that 13.6% of women attorneys believed they had suffered from discrimination in the form of sexual harassment. Further evidence that this problem persists is the recent decision finding that senior SEC attorneys in Washington, D.C. were responsible for "creating and refusing to remedy a sexually hostile work environment." The court found that a female staff attorney was denied promotions and job opportunities after she failed to submit to sexual advances.  

In addition to the sexual harassment issue, the Commission identified a number of overt barriers that block women's paths to full integration and acceptance into the legal profession. These barriers first appear in law school and reappear throughout women's careers in a variety of employment settings.

A. Discrimination in Law Schools

The Commission received a significant amount of oral and written testimony concerning the persistence of discrimination against women faculty and students in law schools. Testimony focused on incidents of sexual harassment and hostility directed against women professors and students, including increased appearances of pornographic grafitti and antagonistic comments in the classroom. Witnesses also voiced concerns about the small number of women rising to tenured positions on faculties, especially at the elite schools. A number of witnesses testified that the

relative lack of attention to issues of importance to women in the curriculum sends a signal that women and their contributions to the legal profession are not important. It also discourages women faculty from producing scholarship about women.

As the accrediting agency for law schools, the ABA is in a position to address some of these concerns. The Commission and the ABA should examine legal education carefully. Currently, the curriculum and teaching in some law schools reinforce discriminatory attitudes and practices and the acceptance of traditional notions about women's capabilities. Law schools shape the next generation of lawyers and judges. It is important to begin there to change discriminatory attitudes and increase awareness about the ways in which the law and the profession affect women.

B. Discrimination in Job Interviews

The law school placement process is another area where women still face numerous disturbing comments and inappropriate inquiries about their personal lives, childbearing plans and physical appearance. These kinds of questions and comments are rarely addressed to men. Even though such inquiries are unfair employment practices, women applicants who muster the courage to ask the relevance of such inquiries often receive curt responses indicating that the question disqualifies them from consideration for the job. According to testimony from the National Association for Law Placement, the number of incidents from the current placement season demonstrates not only the persistence of such comments, but that employers often assume discriminatory attitudes and assumptions are acceptable. Although employers have reason to be concerned about how the personal and family needs of attorneys will fit with the needs of the practice, this concern affects men as well as women. Directing such inquiries exclusively to women perpetuates the impression that there is something incompatible about being a woman, a wife, a mother and an attorney. Moreover, when employers substitute their own judgments about how a woman's personal life plans will fit with her work for the judgment of the woman, -- but do not make such assumptions about men -- the employer is making gender biased assumptions that reflect a failure to treat women as equal participants in the profession.

C. Discrimination in the Courts

The courtroom is another area where women attorneys are often subjected to disrespectful treatment that differs from the treatment accorded to men. In a system where litigants must depend on their chosen advocates, bias affects justice.

Supreme Court task forces on gender bias in the courts in several states have documented the variety of disparate and
demeaning behavior women often encounter. Women are often addressed by terms of endearment ("sweetheart" or "honey") rather than professional titles. Judges and opposing attorneys make comments about women's physical appearance, clothing, sexual attractiveness and availability. The studies report that women's arguments and courtroom demeanor are likely to draw far more comments, including reprimands for being too aggressive, when more aggravated conduct by male attorneys goes unmentioned.

Some conduct is subtle; a woman attorney is called by her first name while her male adversary is called "Mr." Some conduct is flagrant; one witness, a respected litigation partner, recounted an incident where the judge stopped the proceedings and asked her to turn around. He then offered her compliments to her tailor. Or the case of the Texas judge, who asked a 5'2" lawyer to turn around and face the courtroom and, when she did, said, "Ladies and gentlemen, can you believe this pretty little thing is an Assistant Attorney General?" These examples are not atypical.

This type of conduct results in more than personal embarrassment. It undercuts credibility and professionalism. How does an attorney establish authority when the judge has just described her to the entire courtroom as a "pretty little thing?" Even the most subtle conduct cannot help but have an impact on a client when that client's lawyer is perceived to be treated with less dignity than her male adversary.

The woman attorney is caught in a double bind. If she objects to the conduct, she is a "women's libber." If she lets it go, she is weak. Such comments shift the woman's attention away from the case at hand to an evaluation process about how to respond to these incidents. The New York Task Force on Women in the Courts concludes that, "The added pressures engendered by a climate of disrespect or hostility distract the attention of the judge, the jury, and attorneys from the merits of the particular proceeding and thereby reduce the quality of justice received by all."

Gender bias task forces are a relatively recent development in the ongoing effort to achieve equality for women in the legal profession and under law. Task forces are established by the state's chief justice or highest court to collect and disseminate information on the existence of gender bias in decision making and court interaction, propose reforms and recommend mechanisms to institutionalize those reforms. Eighteen states have established court-appointed gender bias task forces. Numerous state and local bar associations have also created commissions, committees or task forces to study women in the profession.
D. Discrimination In Law Firms and Corporate Counsel Offices

Witnesses also report biased treatment within law firms and corporate counsel offices. Recurring testimony was received on the topic of mentoring - women's difficulty in establishing mentoring relationships with senior male attorneys. A shortage of mentors is particularly acute for minority women who rarely have any role models and face additional sources of discrimination from others lawyers. Some senior male attorneys' discomfort in establishing mentor relationships with women may be due to fear of sexual overtones or unfamiliarity with working with women.

Absence of mentor relationships results in problems with case assignments, a failure to consider women for various positions of responsibility that might lead to business development or referrals and an absence of a guide through the labyrinth of firm politics and advancement, a path which is already strewn with additional obstacles for women. If members of the profession make a conscious effort to give equal mentoring consideration to women, the talents of women will become more widely known.

Witnesses also reported that women are receiving different types of case assignments from those given to men, and are sometimes steered away from major litigation, commercial matters, heavy client contact, extensive travel or late night responsibilities. Witnesses said that women are more likely to be relegated to supporting roles such as document preparation, even when they have been taking the lead in preparing the case. Assigning women to a subsidiary role prevents their achieving professional recognition. The assumption that women are unable to assume certain work responsibilities may be a product of rarely giving women a chance to demonstrate their talents in a variety of situations.

Another form of bias occurs when senior attorneys acquiesce in client requests not to have a woman work on such client's matters. In some areas this acquiescence may stem from firms' concerns about not offending the sensibilities of clients from other parts of the world where women rarely occupy professional roles. In other instances, legal counsel may not wish to challenge the corporate culture ethic that has traditionally excluded women. For whatever reason, however, it seems that firms and general counsel are not universally flatly rejecting such requests.

Some women also report being frozen out of firm discussions and professional socialization. The exclusion may stem from

II. The Commission received limited testimony with respect to corporate counsel offices and is in the process of gathering more information. Therefore, this section will focus on barriers women encounter within private law firms.
discomfort or uncertainty about how to engage in camaraderie with a woman but acquiescing in this behavior only perpetuates the unfamiliarity and discomfort. Women lawyers are often not included when colleagues go out for lunch or drinks after work where business is going to be discussed. Male colleagues may conduct work discussions or professional meetings in settings that are likely to exclude women, such as clubs that do not accept women as members. These settings often provide the starting point for development of business contacts, professional trust and collegiality. The problems of professional exclusion appear to be especially acute in small firms in smaller towns where women are often among the first women lawyers in the area. Indeed, several witnesses from smaller town practice settings insisted on confidentiality, because they feared the repercussions from candor.

Witnesses also testified that there is a perception that women will not be successful rainmakers. It should be noted, however, that women are often excluded from social environments where business contacts can be established and nurtured. The use of rainmaking as an evaluation standard seems to be a yardstick more commonly applied to women than men. Few lawyers in firms are star rainmakers; thus holding all potential women partners up to excessive scrutiny on this score, when not all men are expected to serve principal rainmaking functions for a firm, is a form of gender bias.

III. THE SUBTLE BARRIERS TO THE ADVANCEMENT OF WOMEN IN THE PROFESSION

One subtle but significant form of bias women experience concerns the greater degree of scrutiny given to their work and their work styles. Many women who testified before the Commission reported that they still have to work harder, do better and make fewer mistakes in order to receive even the same degree of professional respect received by men of average skill, competence and diligence.

Women report that they are often treated with a presumption of incompetence, to be overcome only by flawless performance, whereas they see men attorneys treated with a presumption of competence overcome only after numerous significant mistakes. Minority women testified that adverse presumptions are even more likely to be made about their competence.

This differential scrutiny imposed on women also relates to their styles of lawyering. Men are often perceived to be aggressive and combative lawyers while women are seen as less competitive and more soft-spoken. When women employ a different style from that of men, it is often assumed that the different style is attributable to the lawyer's femaleness and is therefore less valid or successful.
Women questioned about their styles point out that men, too, have widely differing styles with equal measures of success in varying situations.

Not all male lawyers resort to the stereotypical aggressive, hard-ball, "male" style of lawyering. Many are soft-spoken and conciliatory in negotiations. They may be more skilled at listening than at arguing. But when men display these varieties in lawyering styles, it is regarded as just that -- a difference in style. When women depart from the stereotypical style of aggressive lawyering, it is more likely to be regarded as a gender difference and a basis for questioning competence. Yet, women who do act with assertive confidence risk being perceived as too aggressive. Although this type of behavior is rewarded when engaged in by men, women's competency may sometimes be questioned simply because they do things differently.

The profession must become more open to a wide variety of lawyering styles for both men and women in order to provide all lawyers full professional opportunities, unconstrained by gender stereotypes.

The profession's traditional response to many of the subtle barriers identified by women has been to deny that bias exists or deny that the profession is responsible. The implication is that women themselves are to blame. Women are told they are not aggressive enough in promoting themselves or seeking out business while simultaneously being criticized as too pushy or discouraged from working in certain areas. Women are told they are humorless or too sensitive when they do not accept sexist jokes or demeaning forms of address with grace. Women's career commitments are questioned when they ask for some recognition of their family responsibilities.

Women's reaction to the subtle barriers they encounter is often a hard to articulate perception that they are at a disadvantage because they are operating in an alien culture. Some women express this as a sense that they and the men they work with are from different worlds. Others express it as a realization that a woman will never be one of the boys no matter how hard she tries.

Often, women can share their feelings with other women but cannot articulate these perceptions convincingly to men. Men, in return, frequently do not see these barriers as anything other than the normal requirements of the profession.

To better understand men and women's different reactions to the professional culture, it is useful to briefly consider how the professional culture developed and how it has changed in recent years.
IV. THE PROFESSIONAL CULTURE -- HOW IT DEVELOPED AND HOW IT HAS CHANGED

The structures and attitudes of the legal profession were originally developed by men in an era when the workforce was predominantly male and the dual career family was an anomaly. The work expectations and definitions of career commitment were created at a time when the prototypic lawyer was one whose wife, in most instances, devoted full time to raising their children and providing him with a well-organized home life. Lawyers were seen as breadwinners and professionals with little or no responsibility for child care. Numerous witnesses testified that the structure of the profession is still largely based on this, now outmoded, model.

Today, the structures and attitudes of the legal profession -- developed in an era that no longer is representative of American society -- pose great problems for women lawyers. These cultural norms are not often thought about by the group that has defined and most often fits them, but for women lawyers, these norms represent the subtle attitudinal and structural barriers encountered on a daily basis discussed throughout this report. They are the problems that have no name, yet most men do not even understand the description of them as "problems," but rather perceive them as the inevitable and necessary norms of the profession to which all members must adapt.

However, for lawyers who bear children and have primary responsibility for childrearing, the clash between the professional culture and these life circumstances operates as a barrier to full and equal participation. Thus, it is not surprising that the problem drawing the most concern and attention at the Commission hearings focused on how legal employers respond to family responsibilities.

V. FAMILY AND WORKPLACE ISSUES: NOT FOR WOMEN ONLY

Numerous witnesses stressed that family and workplace issues are not simply women's issues but are issues of crucial importance to both men and women in the profession. These issues include the need to develop parental leave, child care and part-time work arrangements.

All of these issues undeniably have a greater impact on women because women continue to bear a disproportionate share of the responsibility for child care and family duties. However, the Commission also heard evidence that more male lawyers are starting to yearn for greater opportunities to be more actively involved with their families. Several witnesses indicated that men are starting to evaluate practice settings based on their accommodation to family
responsibilities. Today, both men and women are struggling to establish a more healthy balance between work and other aspects of their lives.

One barrier encountered by lawyers who try to juggle their family responsibilities with work demands is the assumption that family responsibilities are not an acceptable reason to ask for professional scheduling adjustments. The assumption is that lawyers who ask for an extended leave or part-time work arrangement display a reduced professional commitment and want to receive "special treatment." This "special treatment" subjects these lawyers to resentment from both male and female co-workers.

Men and women reported that their career commitment was sometime called into question when they sought a part-time work arrangement. Members of the profession should recognize that men or women who seek to balance family responsibilities with work demands are demonstrating the depth of their career commitment because they are trying to find a way to remain actively engaged in their career while still meeting family needs.

Witnesses pointed out that it should also be universally recognized that having children is personally and societally important and warrants flexible work arrangements just like other responsibilities the profession has always accommodated, such as political involvement, military reserve duty and government service. Members of the profession need to examine the wide range of activities they have frequently accommodated and ask why having children should not assume a place alongside other valued activities. The profession should reevaluate the current situation where men who have families suffer little or no adverse consequences to their careers while women who have families often must sacrifice career advancement, remuneration and respect of colleagues.

Witnesses who worked part-time and firm representatives who helped fashion part-time policies, stressed that such arrangements can make good economic sense for firms by enhancing productivity and lawyer satisfaction. The policies help firms retain experienced lawyers and often give firms a recruiting edge. According to the testimony of several large-firm senior partners, in today's competitive marketplace, part-time policies can, in the long run, inure to the economic benefit of the firm. Witnesses cautioned, however, that part-time arrangements must be structured so that they do not become another source of professional disadvantage to women, relegating them to lower-paid, lower-status jobs within the profession.
Witnesses also stressed the need for the profession to consider the availability of some form of day-care assistance, at least on an emergency basis, for working parents. Testimony described a range of options, including bar association day-care referral or large firm on-site emergency day-care. Day-care assistance for women often means the difference between successfully participating fully in the profession and having to make professionally disadvantageous sacrifices.

Many women, faced with the difficulty of combining work and family, postpone marriage and/or childbearing until their careers are well-established, at which point it may be too late for childbearing. Data showed that significantly more men lawyers than women lawyers are married with children. The conflict between family life and career is generally not a dilemma that young male lawyers face. The profession must study the current professional culture and consider changes that will make it possible for both men and women to combine families with careers.

VI. QUALITY OF LIFE AND THE LEGAL PROFESSION

Many of the witnesses testifying before the Commission asked to have the issue of women in the profession framed in a larger context; we should examine the direction of the profession itself and ask whether that direction is in the best interests of anyone, the members of the profession or the clients they serve.

Although the practice of law has always made great demands on its practitioners, witnesses observed that a new "bottom-line" oriented atmosphere is pervasive. Twenty-one hundred, 2200 and 2500 billable hours per year are not uncommon. How can any lawyer, male or female, combine such professional demands with outside relationships, children, personal fulfillment and satisfaction? Witnesses expressed concern that the growing pressures for law firms to be successful businesses and for lawyers to produce even greater numbers of billable hours results in lawyers becoming dehumanized. They are unable to relate with compassion to clients, colleagues and family members. The lawyer who bills 2500 hours a year loses perspective and the ability to render legal advice with a built-in sense of reality.

Perhaps the greatest contribution women have made to the legal profession is to make the profession look at its structure and ask whether it is satisfied with the direction it is moving. As pointed out earlier in this report, many women are leaving the traditional forms of practice, trying to find a setting where they can be good lawyers and responsible human beings. Many articles would describe this as women abandoning the legal workplace. Witnesses stated that, to the contrary, these are instances of the legal workplace abandoning women. Women are leaving but so are men.
One managing partner from a small-city firm told the Commission that the firm has no trouble recruiting from larger cities, "because your associates and some of your partners are no longer interested in living that kind of lifestyle."

If the profession is to retain and attract competent, well-rounded people -- people who are interested in being more than 24-hour-a-day workaholics and people who derive personal and professional growth from outside contacts -- it is important that the American Bar Association, as the voice of the legal community, take a good, hard look at where the profession is headed. One witness noted that the issue here is simply the survival and sanity of the legal profession.

CONCLUSION

Beginning in law school and continuing through their climb to the upper echelons of the profession, women encounter fewer opportunities for advancement, a greater degree of personal and professional scrutiny and greater pressures to balance work and family responsibilities.

Despite the exponential growth in the number of women entering the legal profession in recent years, a variety of discriminatory barriers remain a part of the professional culture that make it difficult for women to participate fully in the work, responsibilities and rewards of the profession. The significant increase in the number of women attorneys will not, by itself, eliminate these barriers. Rather, a thorough reexamination of the attitudes and structures in the legal profession must occur.

The overt instances of discrimination and subtle forms of bias, some of which are identified in this report, must now be addressed. As the representative of the legal profession, the ABA must provide a strong public acknowledgment that gender bias exists and must be eliminated. In addition, the ABA can help the profession to understand better that family and workplace issues are issues of concern to all lawyers who desire a healthy balance between professional and personal concerns. Adoption of this resolution will put the ABA on the record as reaffirming that discrimination is incompatible with professionalism. Furthermore, adoption of this resolution will help members of the profession increase their awareness of these problems and provide a heightened sensitivity to the need for developing programs and practices that further the shared commitment to women's full and equal participation in the profession.
Goal IX commits the ABA to increasing the participation of women and minorities in the legal profession. In furtherance of this goal, we urge the ABA to call upon members of the legal community to eliminate these barriers and refuse to participate in, acquiesce in or condone barriers to the full integration and equal participation of women in the legal profession.

June, 1988

Respectfully submitted,

Hillary Rodham Clinton
Chair, Commission on Women in the Profession
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Submitting Entity: Commission on Women in the Profession
Submitted By: Hillary Rodham Clinton, Chair

1. Summary of Recommendation(s).
Recommendation asks ABA to recognize the persistence of barriers to women's advancement in the profession; affirm the principle that there is no place in the profession for such barriers; and call upon members of the profession to eliminate these barriers by refusing to participate in, acquiesce in or condone barriers to women's full integration and participation in the profession.

2. Approval by Submitting Entity.

3. Previous submission to the House or relevant Association position.
Report was not previously submitted.

4. Need for Action at This Meeting.
Adoption of Resolution is essential at this time because the ABA must publicly acknowledge the persistence of continued barriers to women's advancement in the profession to allow the legal community the chance to better identify and understand these issues. The ABA, in adopting the resolution, can take the lead in ensuring that Goal IX can be achieved.

5. Status of Legislation. (If applicable.)
Not applicable.
6. **Financial Information.** (Estimate of funds required, if any.)
   
   No special allocation of funds is required.

7. **Disclosure of Interest.** (If applicable.)
   
   Not applicable.

8. **Referrals.**
   
   Recommendation has not been referred to other entities at this time, but will be referred to ABA Section and Division Chairs and the National Association of Women Lawyers.

9. **Contact Person.** (Prior to meeting.)
   
   Elaine Weiss, Staff Director
   Commission on Women in the Profession
   750 N. Lake Shore Drive
   Chicago, IL 60611
   312/988-5676

10. **Contact Person.** (Who will present the report to the House.)
    
    Hillary Rodham Clinton, Chair
    Commission on Women in the Profession
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    Little Rock, AR 72201
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