Women in Positions of Power

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I. Introduction

In the past few decades, women have made substantial progress within the legal field. Women currently comprise almost half of all law school graduates, and women make up one-third of the country’s lawyers, a substantial increase from just 4.9% in 1970.\(^1\) Despite the large increase of women within the legal field, women lawyers continue to be grossly underrepresented in positions of power in the U.S.’s top law firms and corporations.

II. Statistics for Women in Power

According to a 2012 survey conducted by the National Association of Women Lawyers (“NAWL”), women hold only 15 percent of equity partnership positions within the 200 largest law firms in the U.S.\(^2\) The percentage of women as equity partners has not crossed the 16 percent threshold in the past seven years NAWL has collected this data.\(^3\) Women hold a mere 4 percent of firm-wide managing partnerships.\(^4\) Notwithstanding this stagnation in law firms, the gender gap appears to be narrowing at a faster rate in Fortune 500 companies. According to the Minority Corporate Counsel Association (“MCCA”), there has been a steady increase in the number of women serving as general counsel for U.S. Fortune 500 companies and currently, women hold 21 percent of these top leadership positions.\(^5\) There are currently 108 women serving as general counsel for Fortune 500 companies and this is twice the number of women general counsel than in 1999.\(^6\)
III. Women in Power is Good for Business

Narrowing the gender gap and having more women lawyers in positions of power at law firms and major corporations is not only good for women, it is a successful business strategy. This is because of the increased demand by major corporations for diversity among the firms advising them and the talent women lawyers bring. With respect to major U.S. corporations, a survey conducted by the MCCA revealed that after the economic downturn in 2007, the overall profitability of Fortune 500 companies declined by 17.8%, while Fortune 500 companies with women general counsel experienced an increase in profits from the previous year.

IV. So Why Aren’t More Women in Power?

Considering that having women in positions of power is good for business, it is disconcerting that the representation of women decreases significantly as women climb up the career ladder in law firms. As the amount of power, prestige, and money brought by a position increases, we see fewer women in the position. See Figure 1. Some explanations for this female flight include the firm partnership structure, unrepresentative firm cultures, the lack of role models for women, and the lack of support for women, including support for those who choose to pursue a career and a family.

Historically, women have had a better chance at making equity partner in firms with single-tier partnerships (only one track to partnership), rather than two-tier partnerships. However, an ever-increasing majority of partnerships are turning away from single-tier partnerships and in favor of two-tier partnerships. Another barrier to increased representation of women in positions of power is the use of staff attorneys. Women currently hold 70% of these low status and non-partnership track positions. The overwhelming number of women
occupying these positions is a cause for concern because women are being shut out of partnership opportunities from the beginning.

The limited representation of women in positions of power means that few, if any, women are included in the important discussions of policy and strategy. These policies and strategies are what create and reinforce the firm’s culture. The under inclusion of women in policy and strategy discussions results in a firm culture that is unlikely to represent female goals and values. As a result, women may leave in order to pursue employment in an environment more attune to their goals and values. Furthermore, the scarcity of women in visible positions of power sends a powerful and uninviting message to recent law school graduates and those rising in the ranks that women are not welcome in the higher echelons of law firms. The relatively small number of women in positions of power leaves fewer women to serve as role models for recent graduates and those on the partnership track.

Women often have fewer mentoring opportunities and less access to network and business development opportunities, usually because the activities revolve around male dominated areas, such as golf and sporting games. Another factor negatively impacting the retention and promotion of women lawyers is the lack of support for women. Though many women leave law firms to raise children, studies indicate that women lawyers often feel pressured into that choice and would prefer to maintain both a career and family if a structure existed that allowed them to do so. Furthermore, for women who want to reenter the legal field after temporarily putting their careers on hold to raise children, they face a difficult if not impossible time trying to do so.

Finally, once a woman obtains a position of power within a major corporation or law firm, chances are that she will be paid less than her male counterparts for comparable work. For
instance, women general counsel and chief legal officers make only 79% of what their male counterparts’ make, the average total cash compensation for women being $575,200 and men being $723,700. Fairing slightly better are women equity partners who make 89% of what their male counterparts make. Interestingly, this pay discrepancy cannot be explained by differences in total hours, billable hours, or books of business.

V. Conclusion/Recommendations

Despite the influx of women in the legal profession and the progress being made to narrow the gender gap between men and women lawyers in positions of power within the U.S.’s top corporations and law firms, there is a substantial amount of progress to be made. Top corporations and law firms need to direct focus towards the attraction, retention and promotion of women. This includes enacting policies that are female-friendly and that do not discourage pursuits of achieving work life balance. This can be achieved through having more women in positions of power because this enables women to effectuate changes and policies that make law firms places where women want to work. Simply increasing the total number of women in large firms, or even providing considerable maternity leave and other family benefits, could not stand without promoting women to power. Finally, to further minimize gaps in compensation between men and women, there needs to be more transparency in compensation and greater inclusion of women on compensation committees.

3 Id.
4 Id.
Figure 1. Women in Attorney Positions at AM100 and 200 Firms (2012)