The Legal Gender Gap: Where Are All the Women Partners?

By: Carolyn Aberman, Managing Partner
Lucas Group

Women have made important strides towards equal representation in the legal field, accounting for just over half of all law school graduates and 40% of first-year firm classes. Female associates express a desire to be promoted to the partner level as much as, or even more so than men. In fact, at the Associate level, the rate of attrition for women is lower than the rate for men. Yet, women continue to be underrepresented in senior positions, accounting for just 30% of non-equity partners and 19% of equity partners, according to the National Association of Women Lawyers (NAWL) Promotion & Retention surveys. For a profession with casework dedicated to eliminating bias and advancing equality, the legal field is failing its own people.

As a former practicing attorney and current legal recruiter, I’ve had many candid discussions with attorneys, hiring managers, and diversity managers. These conversations offer important insights that go behind NAWL’s numbers, digging deeper into why firms continue to struggle with gender parity despite decades of initiatives to close the gender gap. While many firms have promising policies and programs in place, more needs to be done to translate stated commitments into measurable outcomes, including addressing lateral hiring procedures that perpetuate gender imbalance. Female attorneys must also become more comfortable advocating for their professional growth, including choosing to leave firms that do not offer pathways to promotion and proactively exploring lateral moves earlier in their careers.

Gender parity does not have to remain a distant possibility. By understanding the true driving forces behind continued gender imbalance, men and women alike will be equipped with the knowledge and resources necessary to work towards actionable change that benefits the legal industry as a whole.

Debunking the “Ambition” Gap

Nearly half of all first-year Associate classes are women, but by the time women reach the equity partner level, their numbers have fallen to just 19%. For far too long this gap has been blamed on women’s lack of ambition. As the thinking goes, the opportunities for advancement exist—women just aren’t taking advantage of them. If women aren’t rising to the level of equity partner, that’s because they have chosen not to pursue this goal or simply are not qualified— not because they are facing internal barriers to advancement.
Recent research from Boston Consulting Group (BCG) dispels this “ambition gap” myth. While women’s ambition levels do vary, they vary by employer, not by family status. Specifically, the research shows that having children does not make women any less ambitious. According to the report, “When companies create a positive culture and attitude regarding gender diversity, all women—mothers included—are eager to advance. Ambition is not a fixed attribute but is nurtured—or damaged—by the daily interactions, conversations, and opportunities that women face over time.”

For example, BCG looked at one large firm that has operations in many different locations. At sites where employees reported that the company is committed to the retention of women, the ambition levels of women in middle management were, on average, over 20 percentage points higher than at other sites.

Most importantly, BCG found that creating a culture that enables more women to advance does not put men at a disadvantage. At companies demonstrating the most progress on gender equality, both women and men were more ambitious. When women work at companies where leadership looks welcoming and achievable, they will strive to get there – and their gains do not come at the expense of their male colleagues. When women succeed, everyone benefits.

These findings underscore why it is so critical for firms to achieve diversity buy-in at every level. If firm leadership believes that the lack of gender parity at higher levels is because women opt out, then diversity initiatives that fail to address this belief structure will continue to fall flat.

3 Factors Impacting Gender Parity

The “ambition gap” has long been a distraction from digging deeper into the complex factors impacting gender parity. By putting this myth aside, we can focus on three key concerns:

1. **Lateral hiring perpetuates gender imbalance.**
   Recruiting a diverse class does not solve partner parity problems. Firms must assess why their attrition rates are disproportionately higher for females than for male attorneys and why male attorneys are more likely to be recruited as lateral hires rather than women.

   Beyond the early Associate years, lateral hiring frequently relies on one’s ability to bring a book of business. Yet at many firms, women continue to work accounts without receiving proper credit. They put in long hours building a book of business for someone else, hurting their own portability. Without receiving due credit, women are unable to match male partners in the size or breadth of their books of business and as long as firms don’t prioritize other qualities or achievements, women will continue to be less attractive when it comes to lateral recruitment.

2. **Law firms lack partner-level gender-equality targets and senior leadership accountability.**
   It’s difficult to make progress without clear goals to measure performance. For example, McKinsey found that while all firms track gender diversity in partnership elections, only 35% set targets. Part of
the challenge is also a transparency problem. Many firms do not disclose their salary figures to NAWL, suggesting the gap may be even more significant.

Part of the challenge in achieving parity is that many professionals believe diversity is no longer a pressing issue the way it was 20 or 30 years ago. “Many lawyers believe that barriers have come down, women and minorities have moved up, and any lingering inequality is a function of different capabilities, commitment, and choices,” says Deborah L. Rhode, the Ernest W. McFarland Professor of Law, the director of the Center on Legal Profession, and the director of the Program in Law and Social Entrepreneurship at Stanford University in a Washington Post think piece.

Yet, research continues to prove the opposite. Without clear targets to evaluate gender parity at the equity partner levels, senior leadership is not held accountable for continued underrepresentation of women. This is especially true for women of color, who face a double-barrier to advancement.

As firms consider their gender equality targets, they must also consider gender parity in relation to other inclusion initiatives, such as minority hiring.

3. Diversity statements are unconvincing to women.

Firms must be careful not to be labeled “all talk, no action.” Just because a firm has a gender diversity policy in place does not mean this policy is effective or that gender parity is a true priority for the firm. According to McKinsey research, there’s a major gender perception gap. Sixty-two percent of men believe gender diversity is a priority for their firm, yet only 36% of women feel the same. More than two-thirds of men feel their firm is taking actionable steps to improve gender diversity, compared with less than half of all women.

This perception dissonance is grounded in women’s day-to-day realities. For example, McKinsey found that while 87% of firms offer unconscious bias training, only 30% of firms actually mandate program participation. Additionally, women express reservation at taking advantage of programs like flextime because they worry these programs will hurt their advancement opportunities. Senior leadership must foster a culture where utilizing these offerings is not only encouraged but expected. Otherwise, women worry that taking advantage of their employer’s work-life balance initiatives will jeopardize their success at the firm—no matter how many hours they work or how big their book of business. And often, from years of anecdotal research, it does.
Pathways to Parity: Law Firms

Public diversity statements do not always reflect internal diversity communications or the day-to-day reality of firm life. Treating gender parity initiatives only as “one-offs” will fail to ingrain diversity into a firm’s culture. A stated commitment to gender equality and offering programs meant to foster this equality, like flextime, are a good start, but more must be done to eliminate internal cultural barriers. If partners believe a lack of representation at higher levels is because women opt out, then this belief structure must be addressed before progress towards parity can be achieved.

A firm’s organizational culture shapes the day-to-day experience of employees in myriad ways. Everything from a manager’s attitude and performance guidance to the seemingly innocuous comments heard in passing will influence a women’s perception of her firm. When women opt out, BCG says they often describe a “moment of truth” that was the final straw, but notes that this moment “is the culmination of a long journey full of daily pain points.”

To change organizational culture, behavior must be modeled from the top down. The following questions help facilitate a candid internal discussion:

- **What does gender parity mean to our firm and what should our progress milestones be?**
  To genuinely foster a more equitable and inclusive workplace, your firm’s leadership must close the gap between idea and reality. This starts with building a gender diverse team who can act as role models. It is difficult to imagine life at the top if there are no role models to show employees that this possibility exists.

  Next, establish clear progress milestones and a plan to achieve these milestones. Be specific in communications and reference concrete action your firm is taking, including efforts to achieve buy-in at every level for initiatives and continually evaluating and improving these initiatives.

- **How can we assess current initiatives and use feedback to drive meaningful improvement?**
  Your firm should consider whether its current initiatives are in sync with diversity goals and how these initiatives can best support career trajectories for all Associates. For example, if your firm does offer flextime policies meant to support better work-life balance, are these policies actually utilized? Or, is there an unconscious bias against Associates and Partners who choose to use these policies? Your firm should also review its evaluation and promotion system to identify and eliminate potential bias.

- **How can we use external resources, like recruiters, to improve parity in lateral hiring?**
  External resources can provide invaluable support towards lateral diversity hiring initiatives. For example, partnering with a legal recruiter who understands your firm’s commitment to gender parity can help narrow the representation gap at more senior levels. The right recruiter will have access to a wide talent network, including many driven female attorneys who may consider a lateral move. This recruiter can connect your firm with the right talent to grow your bench strength and make progress on gender parity milestones. Furthermore, a trusted recruiter can work with the internal recruiting team to understand obstacles to achieving stated initiatives and partner with your firm to modify targets when necessary.
Pathways to Parity: Women in Law

Successful women in all industries understand the dangers of staying put in a position that lacks a pathway to promotion or sticking around at a company with a toxic workplace culture. This is especially true in the legal industry, where most people succeed or fail based on their ability to develop their own book of business. Women must proactively take ownership of their career trajectory from day one.

- **Consider your options early.**
  In BigLaw, making a lateral mid-level move is easier than moving at the partner level. If you're thinking about making a move it’s better to do so early on rather than waiting. Use your annual reviews to get a real sense of whether you’re on track to make partner. If you’re getting daily client interaction and building your own book of business, then you may be in a good position. But, if you’re not getting client exposure, your practice is restrictive, or your firm’s solvency is in doubt, it pays to map out your options sooner rather than later. Furthermore, even if you are being supported by your firm, there are a number of reasons it may be better for your career to build your book at a different firm. Looking doesn’t mean moving, but if you don’t look at all, you will never know if you are doing the best you can for your career.

- **Aggressively build your network.**
  A generation ago, getting ahead in law meant fitting into the boys club. Today, what sets you apart from the crowd may also be the key to your success. With a myriad of legal networking opportunities that embrace inclusion, it’s possible to network in a way that celebrates diversity. State and regional bar associations, Employee Resource Groups (ERG) and national groups, like the Leadership Council on Legal Diversity, are all opportunities to share knowledge, build relationships, and win new business. Should you need to make a lateral move, these relationships may be key to a smoother transition process. Most importantly, these networking groups are also an opportunity for you to give back, helping other women succeed.

- **Leverage the right resources to support your switch.**
  If you are not achieving your full potential at your current firm, you may already be considering a different pathway. Searching for a new position, however, is easier said than done, especially once you have made partner. Unlike other career paths where professional mobility is the norm, frequent lateral movement in the legal field can be looked down upon and disfavored. Many people also don’t understand that job transitions generally don’t happen overnight: it can take a year or more to find the right opportunity.

  Searching for a new opportunity can be tricky since few – if any – will be publicly posted. Even telling colleagues that you are considering a transition, and asking them to keep an eye out for new opportunities, could backfire. You will need to be extremely discreet in your search process, which is where an experienced legal recruiter can help. By letting a recruiter know you are open to new possibilities, the recruiter can keep an ear to the ground and let you know about opportunities that align with your search criteria. In addition, good legal recruiters will help you craft your business plan, assist you with interviewing, and provide additional assistance and advice throughout the interview process.
Gender Parity: Increased Representation Drives Business Success

Achieving gender parity is about more than equal representation. Fundamentally, it’s also smart business. Research has long found that all forms of diversity drive productivity, decision-making, and organizational performance. Building a diverse legal team will push everyone on the team to be more creative, more diligent, and harder working.

But what about the partner level specifically— are firms with greater gender parity at the partner level more successful than firms with limited female representation? Recently, Am Law charted the relationship between firm performance and the growth of female partners.

Building a diverse legal team will push everyone on the team to be more creative, more diligent, and harder working.

While we can’t assert causation, there’s a clear correlation between firm performance and female partnership growth. Every firm ranked in the Top 15 for performance also reported 80% or greater female partnership growth. Baker McKenzie reports the highest growth rate in female partnership (338%) and is also ranked third overall for performance. Norton Fulbright is second for female partnership growth (245%) and ranks 10th overall. DLA Piper ranks third at 188% and its posted growth rate is fifth. On the flip side, firms with low or negative female partnership growth rates also have lower overall performance.
There’s also a connection between a firm’s ongoing commitment to gender parity and equity partner earnings. Firms with established initiatives have a higher percentage of equity partners compared to firms with newer or no initiatives, according to the 2017 NAWL survey. The median income for equity female partners is higher at firms with established initiatives. At firms with established initiatives, women earn 94% of what men equity partners make, compared to 82% at firms reporting new initiatives.

Over the last decade, firms have taken important steps to address gender parity. However, as the gender imbalance at the partner level indicates, these programs and policies have not generated the desired results. Tying gender parity to a firm’s financial success is key to shifting the representation conversation away from a “women’s issue” to a strategic priority for everyone. Doing so could drive buy-in from senior stakeholders, fundamentally shift a firm’s culture, and ultimately translate stated commitments into measureable outcomes that drive success for all.