

Value, not Gender: Successful Strategies for Equal Opportunity in Law Firms

by
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Law firms have not done a good job of providing equal opportunity for women and minorities. Contrary to widespread assumptions, U.S. law firms, as a group, do not provide shining examples or best practices for the rest of the world to follow. In this article, originally written for and published in [Latin Lawyer](#), Lisa Walker Johnson points out four highly successful strategies that allow progressive law firms, in Latin America and elsewhere, to leverage diversity for greater business success.

Latin American law firms should not look to U.S. law firms for good examples of how to respond to equal opportunity issues. One of the mistakes that many U.S. law firms have made is to install a diversity program or a “mommy track ^(note 1)” and then to assume that programs alone solve the problem. Although the number of women lawyers in U.S. firms has increased dramatically, U.S. firms, as a group, have not produced commensurate shifts in formal power, influence and opportunity for women. The percentage of law firm partners who are women is not much better in the U.S. than it is in Latin America: 15 per cent v. 12.1 per cent. ^(note 2)

Basic attitudes about gender have not changed much. Here is what we have heard law firm partners tell us just in the last two years. These remarks are not isolated anachronisms. They are typical of residual attitudes that still lurk in the dark corners of law firms.

“Most women lawyers are not as productive as their male counterparts.”

“Women are better at detail work; they’re very accurate.”

“Women are too passive. They are not aggressive enough to be good litigators or deal makers.”

“Women don’t aspire to become partners.”

“Women can’t work the same number of hours and aren’t able to take on the same responsibilities as their male colleagues.”

“Based on the merits of their own performance, women lawyers will rise to the top, just like good male lawyers.”

“It’s unfair to both men and women to bend the rules or create lower standards for women.”

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These are not the comments of malicious people. In some firms there is a kernel of truth underlying these statements. In other cases, comments like these are based on inaccurate information and may even be well intentioned.

In fact, we have heard these remarks from men and women. They concern more than gender issues. Comments such as these also reveal fundamental weakness in the way that the firm manages its legal talent of either gender.

Firms that are most successful in producing opportunities for professional women and retaining women lawyers have addressed the question of what constitutes value in a lawyer. Moreover, they continually revisit this issue as market conditions, the needs of clients, and the firm's governance and culture change over time. They understand that there are many ways – not just billable hours - in which an associate can contribute to the financial success of the firm. Some contributions have short term benefits such as high levels of productivity to support transactional legal work. Other contributions are longer range and more strategic in nature, such as mastering business development or management skills. Although a lawyer's value to the firm has subjective aspects it is not intangible or speculative. The value of a young lawyer's contribution in these firms is understood in very specific, practical and measurable terms.

The partners in these firms work very hard to create a professional environment in which each lawyer, male or female, can make a full and unique contribution. Partners may invest whole weekends discussing and defining their common expectations of their associates and of themselves. The extent to which a lawyer succeeds in the firm is the result of the value of his or her performance, not gender, age or internal politics.

What do these firms do that make them different?

First, they define performance objectives. Performance objectives are not the same for every lawyer. They translate expectations of lawyer performance and law firm business goals into individual performance objectives that are specific, measurable, agreed, realistic and time related. These objectives support all aspects of a lawyer's value to the firm not just billable hours or number of new clients obtained. They tell each lawyer what it means to be a "good lawyer" in that firm.

As each lawyer develops his or her performance objectives for a year he or she must make choices about how he or she can best add value to the firm, taking into consideration his or her own individual talents, interests, aspirations and personal circumstances. Women do not need to get onto a "mommy track" to become partner. Instead, they meet the same obligations that every other lawyer in the firm must meet, but like their colleagues, in each person's individual way.

This is not easy. Management has to ensure that each person's objectives advance the business goals of the firm and that the performance burden that each associate is undertaking is fair. Consistent performance objectives are among the best tools to reduce the risk of gender discrimination.

This means that a law firm does not have to "bend the rules" or have a lower standard for women. Instead, the standard changes for everybody to one that best matches individual talents and capabilities with the needs and goals of the firm.

Second, these firms provide ongoing coaching and feedback. All lawyers need to know how they are doing and what they need to do to improve. In our work with associate focus groups,

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one of the top factors in the retention of associates, whether male or female, is the opportunity to work in a close mentoring relationship with a successful partner.

Third, these law firms define career paths that take into account individual talents and differences. The firms that seem to do the best with this do not adopt an “up or out” policy. Under these systems, associates know when they are likely to first be considered for partnership; but they also know that they have whatever time they need, as well as options, to meet the requirements for partnership without damaging their internal reputation in the firm. This is especially important for women, who too often who have been required, for example, to make a choice between motherhood and partnership. There is no one path to partnership and not all paths lead there. A career plan should also make provisions for the lawyer who does not want to become partner, by ensuring the opportunity for a satisfying career.

Fourth, successful firms take a long term strategic view. Managing legal talent is a process that begins when a lawyer first steps foot into the law firm and continues through retirement. It is not a program that is introduced with fanfare, produces some short term results, and then is forgotten. It is vitally important to the financial success of the firm and therefore demands the full attention and commitment of every partner.

If there is anything that is a decisive factor in the success of equal opportunity policy in a law firm, it is the depth and extent of partner commitment and involvement in goal setting, coaching and feedback and career development. In this regard, we find some of the highest levels of partner commitment in Latin American law firms. By contrast, in most North American law firms, partner commitment remains an uphill struggle.

The attitudes and comments described at the beginning of this article will not be eliminated by a program. As with any human institution, it will take years, and perhaps even generations, for the vestiges of discrimination to fade from law firms. A performance management system that includes defining performance objectives, providing coaching and feedback, and defining career paths provides a structure for law firms and partners to begin that transition. It can also provide a business-like basis for evaluating professional performance while insulated from the effects of broader cultural attitudes about gender, race and ethnicity.

The strategies described in this article are first practical steps to equality in the legal profession. The law firms who will still be successful twenty years from now are the ones who have been willing to take that journey.

There are a number of progressive firms in Latin America who are already using and benefiting from this approach. The progress of women in Latin American law firms, and the strategies that many of those firms have adopted to get the best from all of their lawyers, are examples that law firms elsewhere in the world should study and emulate.

About the author:



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Notes:

1. The term *mommy track* refers to a special plan for women to advance to partner separate from their male contemporaries or from other women lawyers who do not choose to take time away from their careers to devote to motherhood.
2. Ana G. Trigas and Tamsin Mitchell, "Women practitioners in search of equality", *Latin Lawyer*, April/May 2002, page 30.