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*Improving the Representation of Women in Law Firms
Through the Adoption of Family-Friendly Policies*

by

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INTRODUCTION

For lawyers, even asking for a reduction in work hours is professional suicide. Amelia Uelmen was a young litigation associate at a New York City law firm.¹ She was expected to bill 2,000 hours per year, which, after budgeting for vacations, holidays, and sick days, came out to about forty-two billable hours per week.² With all of the non-billable, administrative tasks she had to do every day, she had to be at the firm for at least ten or eleven hours per day in order to meet her billable target.³ She enjoyed her job, but when her work days started creeping into her nights and weekends, Amelia decided she “wanted to find a way to protect [her] evenings and weekends so [she] could calmly clean the house, cook dinner, attend church, read non-law books, work in the yard, and keep up with friends and community activities outside the law firm.”⁴ She thought reducing her billable hours to thirty per week would allow her to find that balance.⁵ Amelia looked in the policy manual and found that her firm had a part-time policy that “looked great.”⁶

When she asked a senior associate, whom she viewed as an “older brother and protector to guide [her] through the labyrinth of large firm life and politics,” about transitioning to part time he warned her, “‘Don’t do it.’ . . . ‘It’s professional suicide—don’t even ask.’”⁷ She asked anyway.⁸ She figured the worst that could happen was that the partners could refuse her request.⁹ But Amelia quickly found out that her colleague was right.¹⁰ She was dropped from all of her work almost immediately, even though she “had extensive expertise in both the law and the facts

¹ Amelia Uelmen, *The Evils of “Elasticity”: Reflections on the Rhetoric of Professionalism and the Part-Time Paradox in Large Law Firm Practice*, 33 FORDHAM URB. L.J. 101, 101-02 (2005).

² *Id.*

³ *Id.* at 101-02.

⁴ *Id.* at 102.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.* at 101.

⁸ *Id.* at 103.

⁹ *Id.*

¹⁰ *Id.*

after working for three years on a particular set of cases.”¹¹ Partners avoided eye contact, and she felt “as if [she] had fallen off the planet.”¹² Amelia eventually left the firm.¹³

Another attorney, Jan Sigmon, endured similar treatment from partners at her firm after she became pregnant, even though she intended to continue working full time.¹⁴ Jan was an associate in the corporate department of a Brooklyn law firm.¹⁵ She had been with the firm for just over 3 and a half years when she told the corporate partners she was pregnant.¹⁶ After she announced her pregnancy, she heard the chairman of the corporate department say, as another pregnant associate walked by, “With all these pregnant women around, I guess we should stop hiring women.”¹⁷ While pregnant, she was not allowed to participate in firm events, like recruiting, which she had participated in prior to her pregnancy.¹⁸ Before she returned from maternity leave, Jan was asked to attend a “breakfast meeting” that turned into an annual performance review with three corporate partners.¹⁹ The partners told her that she had a “poor attitude” and was not committed to the firm, and they criticized her work product.²⁰ Once she returned from maternity leave, she was given fewer assignments, and when she asked for more, she was told that no work was available, even though other corporate associates were billing substantial hours.²¹ After she was laid off, Jan sued her firm for discrimination, and a federal court held in her favor.²²

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Sigmon v. Parker Chapin Flattau & Klimpl*, 901 F. Supp. 667, 671 (S.D.N.Y. 1995).

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.* at 672.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.* at 683 (denying defendants’ motion for summary judgment with respect to plaintiff’s Title VII discrimination claim).

As Amelia and Jan’s stories reflect, law firms have not changed much since the 1950s.²³ Most firms still expect their attorneys to bill substantial hours, rarely take leave, and be present at the firm before, during, and after business hours.²⁴ The workforce, however, has changed since the 1950s.²⁵ Unlike the “ideal worker” of the 1950s—a man with a stay-at-home wife, who could devote himself entirely to his career—most families in the United States today are dual-income families, which means there is no one at home to take care of the children and domestic responsibilities.²⁶

Part of the reason that law firms have not changed is because women are underrepresented in leadership positions within firms. Although half of all law school graduates are female, women make up only 34% of practicing lawyers.²⁷ Within law firms, women are most prevalent in the lowest-earning positions, and their presence dwindles as compensation and influence grow.²⁸ Women represent about 45% of associates, the lowest rung on the law firm ladder.²⁹ But women make up only about 20% of partners and only 17% of equity partners.³⁰ At the nation’s top 200 law firms, just 4% of managing partners are women.³¹

The female exodus from law and other professions has been documented in national newspapers for decades, but most writers blame the women as opposed to the firms.³² In her 2003 New York Times article, *The Opt Out Revolution*, Lisa Belkin argues that women choose

²³ Joan Williams, Stephanie Bornstein, Diana Reddy & Betsy Williams, *Law Firms as Defendants: Family Responsibilities Discrimination in Legal Workplaces*, 34 PEPP. L. REV. 393, 400 (2007).

²⁴ *Id.* at 400-02.

²⁵ *Id.* at 400.

²⁶ *Id.*

²⁷ Commission on Women in the Profession, *A Current Glance at Women in the Law*, AM. BAR ASSOC., 1, 2 (2014), http://www.americanbar.org/dam/aba/marketing/women/current_glance_statistics_july2014.authcheck_dam.pdf.

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² Joan Williams, Jessica Manvell, Stephanie Bornstein, “*Opt Out*” or *Pushed Out*?: *How the Press Covers Work/Family Conflict*, THE CENTER FOR WORKLIFE LAW 1 (2006), <http://www.worklifelaw.org/pubs/OptOutPushedOut.pdf>.

to leave successful careers in favor of filling the more traditional role of staying home with their children.³³ Joan Williams, in a thoroughly researched critique of the opt-out theory, argues that women are not opting out; rather, they are pushed out by “workplace inflexibility, the lack of family supports, and workplace bias against mothers.”³⁴ Moreover, if and when they do try to reenter the profession, they are not able to pick up where they left off; most women end up taking jobs they are overqualified for when they come back to work.³⁵ This results in a disproportionately low number of female attorneys at the highest levels of practice.

This paper argues that law firms should adopt family-friendly policies to recruit and retain female attorneys. Part I of this paper will discuss the ethical and economic considerations that should encourage law firms to increase female representation within the firm and the profession.³⁶ Part II will discuss some of the reasons women are leaving law firms.³⁷ Part III will discuss one solution to help law firms recruit and retain women: the adoption of family-friendly policies.³⁸

I. WHY SHOULD LAW FIRMS CARE?

There are several reasons law firms should try to adopt family-friendly policies in order to recruit and retain female lawyers. First, from an ethical perspective, lawyers are responsible for policing equality in our society.³⁹ The hypocrisy of an overwhelmingly white male profession with a gender wage gap of its own enforcing discrimination laws for the rest of the nation is alarming. Second, from an economic perspective, increasing female representation is good for a

³³ Lisa Belkin, *The Opt-Out Revolution*, N.Y. TIMES MAG. (Oct. 26, 2003), <http://www.nytimes.com/2003/10/26/magazine/26WOMEN.html?pagewanted=all>

³⁴ Williams, *supra* note 32, at 7.

³⁵ *Id.* at 23-35.

³⁶ *See infra* Part I.

³⁷ *See infra* Part II.

³⁸ *See infra* Part III.

³⁹ *See infra* Section IA.

firm's bottom line.⁴⁰ Research shows that diversity within firms is profitable.⁴¹ In addition, firms put themselves at risk of having to defend against expensive lawsuits and fueling the competition when they do not adopt family-friendly policies.⁴²

A. The Ethics

First and foremost, the legal profession—a profession bound by a code of professional ethics—should be concerned about the lack of female representation. The profession is responsible for enforcing the nation's antidiscrimination laws, yet itself has few women in leadership positions. Moreover, the lack of women in leadership positions contributes to the wage gap within the profession. Finally, the profession serves as a talent pool for leaders in our government. If women are pushed out of the profession, then they are also pushed out of that pool.

The underrepresentation of women in high-power and high-income positions in law firms raises important questions about the propriety of the firm and, more broadly, the profession. “What message does it send if the profession responsible for enforcing laws that challenge sexism and discrimination cannot itself figure out how to deal with the issue of equality amongst its own actors?,” Professor Hannah Brenner asks in her article *Expanding the Pathways to Gender Equality in the Legal Profession*.⁴³ “Is it ethical that the very profession charged with addressing such exclusion in other contexts lags behind in addressing its internal equality issues?,” she probes.⁴⁴ Brenner argues that the legal profession is “the gatekeeper of equality” and that the underrepresentation of females at the highest levels may cause the profession itself

⁴⁰ See *infra* Section IB.

⁴¹ *Id.*

⁴² *Id.*

⁴³ Hannah Brenner, *Expanding the Pathways to Gender Equality in the Legal Profession*, 17 LEGAL ETHICS 261, 262 (2014).

⁴⁴ *Id.*

to be “perceived as disingenuous or even unethical for not itself reflecting the kind of reality for which it stands.”⁴⁵ Law firms should seek to increase the presence of women in leadership positions so that the profession can maintain legitimacy as “the gatekeeper of equality.”⁴⁶

Moreover, the disproportionately low numbers of women in leadership positions contributes to the wage gap within the profession. Female attorneys make 77% of what male attorneys make.⁴⁷ The very same women who represent plaintiffs suing employers for wage discrimination are, themselves, making less than their male counterparts.⁴⁸ At least part of the wage gap is due to the abysmally low percentage of women in partnerships, equity partnerships, and managing partnerships, where earnings are higher.⁴⁹ Retaining and promoting female attorneys to those positions would help reduce the gender wage gap.⁵⁰ Data has shown that having women in leadership positions where they can influence compensation and advancement leads to more parity in earnings among men and women within firms.⁵¹

Additionally, the legal profession is a pipeline to positions of power and influence. As of 2010, there were 1,225,452 licensed lawyers in the United States⁵² compared to 174,136,341 adults between the ages of 18 and 64.⁵³ That means that approximately 0.007% of the adult population in the United States is a licensed attorney. In contrast, an astonishing 40% of members of Congress are lawyers. In the 114th Congress, 160 of the 435 Representatives and 53

⁴⁵ *Id.* at 263.

⁴⁶ *Id.*

⁴⁷ Debra Cassens Weiss, *Full-Time Female Lawyers Earn 77 Percent of Male Lawyer Pay*, ABA J. (Mar. 17, 2016), http://www.abajournal.com/news/article/pay_gap_is_greatest_in_legal_occupations/.

⁴⁸ *Id.*

⁴⁹ Commission on Women in the Profession, *supra* note 27.

⁵⁰ *Report of the Eighth Annual NAWL National Survey on Retention and Promotion of Women in Law Firms*, National Association of Women Lawyers 1, 12 (2014), <http://www.nawl.org/d/do/150>.

⁵¹ *Id.*

⁵² *Lawyer Demographics*, AMERICAN BAR ASSOCIATION (2010), https://www.americanbar.org/content/dam/aba/migrated/marketresearch/PublicDocuments/lawyer_demographics_2011.authcheckdam.pdf.

⁵³ *Age and Sex Composition: 2010*, UNITED STATES CENSUS BUREAU (2011), <http://www.census.gov/prod/cen2010/briefs/c2010br-03.pdf>.

of the 100 Senators were lawyers.⁵⁴ Moreover, 26 of the country's 44 Presidents have been lawyers.⁵⁵ Women being pushed out of the legal profession could contribute to their underrepresentation in Congress and the Presidency. Only 19.3% of Representatives and 20% of Senators are women, and the country has never had a female President.⁵⁶ Because the profession is a talent pool of future leaders, we should strive to achieve diversity in the profession so that both those who write the laws and those who enforce them can be as diverse as the people they serve.

Firms should make an effort to recruit and retain female lawyers because it is the right thing to do. Having significantly fewer women at the top levels of firms undermines the profession's stated commitment to justice and equality. Moreover, it contributes to the gender wage gap within the profession. Finally, many of our nation's leaders are lawyers; pushing women out of the profession is excluding them from the talent pool and limiting their chance to lead.

B. The Economics

In addition to the ethical reasons, law firms should seek to retain female lawyers for economic reasons. Firms make big investments in hiring and training associates, and the firm loses money when a lawyer leaves. Some scholars estimate the cost of replacing a second- or third-year associate at as much as \$500,000 when factoring in the costs of training and recruitment.⁵⁷ Firms can help their bottom line by adopting policies that encourage female

⁵⁴ Mike Sachs, *Meet the New Lawyers in Congress; These Newly Elected Members Share One Thing, at Least-a Law Degree*, THE NATIONAL L.J. (Dec. 22, 2014).

⁵⁵ Norman Gross, *Presidential Bar Leaders: Fascinating Facts About American's Lawyer Presidents*, BAR LEADER (2010), http://www.americanbar.org/publications/bar_leader/2009_10/january_february/presidential.html.

⁵⁶ Center for American Women and Politics, *Women in U.S. Congress 2015*, RUTGERS (2015), <http://www.cawp.rutgers.edu/women-us-congress-2015>.

⁵⁷ Christen Linke Young, *Childbearing, Childrearing, and Title VII: Parental Leave Policies at Large American Law Firms*, 118 Yale L.J. 1182, 1182 (2009).

lawyers to stay. Research shows that diversity is profitable for businesses. Moreover, by retaining female lawyers, firms can stave off the competition and expensive law suits.

Firms should try to increase the presence of female attorneys because diversity is profitable. In a study of law firms, researchers found that, in the case of diversity, “moral instincts held by some align with market instincts held by others.”⁵⁸ The study found that diverse law firms generated more revenue and profits than their peers, “even after controlling for hours, location, and firm size.”⁵⁹

Additionally, law firms can look to corporate America as an example for diversity driving profits. A study of for-profit businesses in the United States shows that “diversity is associated with increased sales revenue, more customers, greater market share, and greater relative profits.”⁶⁰ Research on corporate boards shows that companies with three or more women on their board “outperform companies with all-male boards by 60 percent in return on invested capital, 84 percent in return on sales, and 60 percent in return on equity.”⁶¹ Comparing Fortune 500 companies, those with the most women on their boards “outperformed those with the least by 66 percent in return on invested capital, 42 percent in return on sales, and 53 percent in return on equity.”⁶² Additionally, the proportion of women on corporate boards is highest in the most successful companies (the Fortune 100), and the proportion of women decreases with level of success.⁶³

⁵⁸ Douglas Brayley & Eric Nguyen, *Good Business: A Market-Based Argument for Law Firm Diversity*, 34 THE J. OF THE LEGAL PROFESSION 1 (2009).

⁵⁹ *Id.* at 36.

⁶⁰ Cedric Herring, *Does Diversity Pay?: Race, Gender, and the Business Case for Diversity*, 74 AM. SOCIOLOGICAL REV. 208, 220 (2009).

⁶¹ Sheryl Axelrod, *Banking on Diversity: Diversity and Inclusion as Profit Drivers-The Business Case for Diversity*, ABA (June 12, 2014), http://www.americanbar.org/groups/litigation/committees/diversity-inclusion/news_analysis/articles_2014/diversity-inclusion-profit-drivers.html.

⁶² *Id.*

⁶³ *Id.*

Not only would retaining more women increase profits, but just the adoption of family-friendly policies has been shown to improve other business outcomes. Family-friendly policies do not just impact women; they impact all employees. Employers that have implemented family-friendly policies have seen “retention of valued staff and reduced recruitment costs, mitigated absenteeism, enhanced organizational commitment and staff motivation, improved relations among employees, and various indices of performance and productivity.”⁶⁴

In addition to increasing profitability and other positive business outcomes through the adoption of family-friendly policies, law firms should implement family-friendly policies in order to keep their top talent from going to work for the competition. In response to client complaints about costs and lawyer complaints about inflexible work arrangements, “New Models”—firms with innovative models of legal practice—have begun to flourish.⁶⁵ New Models are taking the top talent from Big Law and repackaging it, by eliminating expensive office spaces and utilizing technology, then selling it to clients for a fraction of the cost.⁶⁶ For lawyers, New Models allow reduced and flexible schedules as well as the ability to work from home—all the things that many attorneys want, but do not get, from Big Law.⁶⁷ In order to avoid losing top talent and clients, firms should adopt some of the family-friendly policies that the New Models have.

Finally, law firms should implement family-friendly policies in order to insulate themselves from lawsuits. A new trend in employment litigation has emerged, and law firms should be concerned.⁶⁸ “Family responsibility discrimination” is “discrimination against

⁶⁴ Monica Porter, *Combating Gender Inequality at Home and at Work: Why the International Labour Organization Should Provide for Mandatory Paid Paternity Leave*, 48 GEO. WASH. INT’L L. REV. 203, 208 (2015).

⁶⁵ See generally Joan Williams, Aaron Platt & Jessica Lee, *Disruptive Innovation: New Models of Legal Practice*, WORKLIFE LAW (2015).

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ Williams, *supra* note 23, at 395

employees based on their family caregiving responsibilities for newborns, young children, elderly parents, or ill spouses or partners.”⁶⁹ Since 1970, over 800 family responsibilities discrimination cases have been filed, with a 50% win rate for plaintiffs and at least 75 cases yielding verdicts or settlements of over \$100,000.⁷⁰ Between 1990 and 2007, plaintiffs filed at least 33 cases against their former-employer law firms for family responsibilities discrimination.⁷¹ Jan Sigmon’s case, discussed in the Introduction to this paper, is just one example.⁷² Law firms are “particularly susceptible” to family responsibilities discrimination suits because of their traditionally masculine norms.⁷³ Thus, firms should be proactive in adopting family-friendly policies to insulate themselves from the expenses of litigation.

In addition to the ethical reasons for improving female representation in law firms, there are economic reasons to do so. Data shows that diversity drives profits and that family-friendly policies result in positive business outcomes. Additionally, firms can insulate themselves against the competition and potential lawsuits by adopting family-friendly policies.

II. WHY DO WOMEN LEAVE LAW FIRMS?

It is clear that law firms should care about retaining female lawyers because it enhances the credibility of the firm and the profession and it is good for business. But in order to improve retention of female attorneys, firms have to understand why women are leaving. Public perception is that women leave their careers to stay home with their children, but research shows that women are being pushed out of the workforce.⁷⁴ Moreover, the United States does not have social programs like other countries do to help women succeed in the workforce, so employers

⁶⁹ *Id.*

⁷⁰ *Id.* at 396.

⁷¹ *Id.* at 395.

⁷² See *supra* notes 14-22 and accompanying text.

⁷³ Williams, *supra* note 23, at 395.

⁷⁴ Williams, *supra* note 32.

seeking to increase female employment should adopt more family-friendly policies to help fill the gaps in our social policies.⁷⁵

When asked why 83% of partners are men, one partner in a California firm said, “It’s nothing the law firms are doing. These women just want to stay home.”⁷⁶ The partner’s explanation summarizes Belkin’s opt-out theory: Successful career-women choose to leave the workforce to fulfil a more “traditional” role of staying at home with their children.⁷⁷

Joan Williams wrote a thoroughly researched report in response to *The Opt Out Revolution* and the plethora of other articles that have been published in recent decades making the same argument.⁷⁸ Williams argues that these articles create a damaging depiction of women’s decision to leave their careers—one that masks the real forces pushing women out of the work force.⁷⁹ Rather than “opting out,” Williams argues that women are pushed out of the workforce by “workplace inflexibility, the lack of family supports, and workplace bias against mothers.”⁸⁰

A. Workplace Inflexibility

The biggest critique that law firms receive is that they fail to offer attorneys their “desired trade-off between time and money.”⁸¹ While both billable-hour requirements and salaries have increased in recent decades, young workers consistently rate money as less important than job flexibility.⁸² Big Law firms began offering part-time schedules in an effort to meet the demand for more flexible schedules.⁸³ Although part-time options are “near universally available across the profession,” only 6.1% of lawyers were working part time in 2013, a vast majority of them

⁷⁵ See *infra* Section IB.

⁷⁶ Williams, *supra* note 32, at 48.

⁷⁷ Belkin, *supra* note 33.

⁷⁸ Williams, *supra* note 32.

⁷⁹ *Id.*

⁸⁰ *Id.* at 7.

⁸¹ Williams, *supra* note 65, at 10.

⁸² *Id.*

⁸³ *Id.*

being women.⁸⁴ Research shows that lawyers are not taking advantage of part-time policies because they are disproportionately penalized in pay and because of the stigma associated with working part time.

One reason lawyers might choose to either stay on full-time or quit is because part-time workers are disproportionately penalized in pay.⁸⁵ In her research, Goldin found that for lawyers and business executives, both the number of hours worked and the time during the day the hours are worked have an effect on income.⁸⁶ In these professions, earnings and hours have a nonlinear relationship, whereas in pharmacy, earning and hours have a linear relationship.⁸⁷ Meaning, when women take small amounts of time away from work (maternity leave, for example) or reduce their hours worked per week slightly, those “[s]mall differences . . . translate into large differences in pay” for lawyers and business executives.⁸⁸ Pharmacists, on the other hand, are more likely to stay in the labor force and reduce their hours because they will not be penalized beyond hours lost.⁸⁹

In addition to the disproportionate pay penalties, another reason that lawyers continue to work full-time even though part-time schedules are technically available to them is because of the stigma associated with part-time work.⁹⁰ Law is a stereotypically masculine profession, where working long hours is rewarded with bonuses and promotions and part-time work is met with disdain.⁹¹ Those who work part-time are viewed as “less committed” than other lawyers.⁹² Law firms operate on a 1950s model of the “ideal worker” who “is able to work unlimited hours,

⁸⁴ *Id.*

⁸⁵ Claudia Goldin, *A Grand Gender Convergence: The Last Chapter*, 104 AM. ECON. REV. 1091, 1116-17 (2014).

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Id.* at 1110.

⁸⁹ *Id.* at 1117.

⁹⁰ Williams, *supra* note 65, at 10.

⁹¹ Williams, *supra* note 23, at 399.

⁹² Williams, *supra* note 65, at 10.

with no time off for childbearing or childrearing and insulated from familial or domestic responsibilities” because their partner stays at home.⁹³

This model of the ideal worker is outdated, and the stigma against part-time work runs counter to “a wide array of research” indicating that “part-time employees are more efficient than their full time counter parts, particularly bleary-eyed, burned-out practitioners with oppressive schedules.”⁹⁴ Most workers today do not have a partner at home to take care of all of the domestic responsibilities, as both partners work in 70% of American households.⁹⁵ In the 1960s, only 3% of lawyers were women.⁹⁶ That number grew to about 30% as of 2001,⁹⁷ and has remained about the same, with women currently comprising about 34% of the profession.⁹⁸ Women make up almost 45% of new associates at firms,⁹⁹ and 82% of women have children.¹⁰⁰ And while they are more prevalent in the workforce, women are still outperforming men at home; the average mother spends nearly twice as much time caring for children as the average father.¹⁰¹

While the workforce is changing, the oppressive schedules for full-time attorneys are only getting worse. The expected billable hours for an attorney have risen from an average of 1,300 hours per year in 1960¹⁰² to between 2,000 and 2,300 hours per year today.¹⁰³ Billing at 2,000 hours per year means working about 60 hours per week,¹⁰⁴ making it impossible for the average mother—95% of whom work less than 50 hours per week—to meet their required

⁹³ Williams, *supra* note 23, at 400.

⁹⁴ Rhode, *supra* note 107, at 2217.

⁹⁵ Williams, *supra* note 23, at 400.

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ Commission on Women in the Profession, *supra* note 27.

⁹⁹ *Id.*

¹⁰⁰ Williams, *supra* note 23, at 400

¹⁰¹ *Id.*

¹⁰² Williams, *supra* note 23, at 400-01.

¹⁰³ Williams, *supra* note 65, at 10.

¹⁰⁴ *Id.*

hours.¹⁰⁵ Women are not the only ones who struggle with meeting the ever-increasing billable hour demands; of men who work 50 hours or more per week, 9 out of 10 report that they wish they could work less.¹⁰⁶

Moreover, the profession conflates “facetime” with “commitment.” Many firms view “a willingness to work long hours” as “a proxy for harder-to-measure qualities such as commitment, ambition, and reliability under pressure.”¹⁰⁷ This encourages lawyers to spend long hours in their offices—or to fake it.¹⁰⁸ Some attorneys leave their lights on and doors open in hopes that others will believe they intend to return soon when they are actually out for the day,¹⁰⁹ while others call themselves on an office intercom late at night or change the settings on their computer to send out emails when they are asleep.¹¹⁰ And once today’s lawyers leave, they are not done with work. Technological innovations have made it so that lawyers are “perpetually ‘on call,’ tethered to the workplace by cell phones, e-mail, [and] fax machines, . . . and expectations of total availability are the norm rather than the exception.”¹¹¹

Although part-time work is technically available, very few attorneys work part-time because of the disproportionate pay penalties and the stigma they face. Women and men who want to work part time are deterred by the negative repercussions. Though more of the workforce values flexible work arrangements, law firms continue to require exorbitant billable hours and constant availability. These all-or-nothing work arrangements push women out of the workforce.

¹⁰⁵ Williams, *supra* note 32, at 8.

¹⁰⁶ *Id.* at 34.

¹⁰⁷ Deborah Rhode, *Lecture: Balanced Lives for Lawyers*, 70 *FORDHAM L. REV.* 2207, 2208 (2002).

¹⁰⁸ Williams, *supra* note 23, at 401.

¹⁰⁹ *Id.*

¹¹⁰ Rhode, *supra* note 107.

¹¹¹ *Id.*

B. Lack of Family Supports

In addition to facing inflexible work arrangements, female lawyers have little family support. Working mothers in the United States are at a disadvantage compared to working mothers in other countries because the United States lags so far behind in family-friendly social policies.¹¹² While other countries provide benefits such as paid family leave, high-quality and affordable child care options, and maximum work-hour regulations, the United States places the burden on families to work out their child care arrangements.¹¹³ Without the support of social policies, employers should help women stay in the workforce by adopting family-friendly policies.

The United States is the only advanced economy that does not provide paid maternity leave.¹¹⁴ There are only three other countries in the world, besides the United States, that lack paid parental leave: Lesotho, Papua New Guinea, and Swaziland.¹¹⁵ The Family Medical Leave Act permits workers to take up to 12 weeks of unpaid leave, but the Act provides no protection at all for about 40% of the workforce.¹¹⁶ While parents in European countries have access to paid leave financed through social insurance, parents in the United States do not have paid leave unless their state requires paid leave or their employer voluntarily provides it.¹¹⁷ Only four states in the U.S. have laws providing for paid parental leave.¹¹⁸ In those four states—California, New Jersey, Rhode Island, and New York—the programs are funded through a tax on employees’

¹¹² Williams, *supra* note 32, at 38.

¹¹³ *Id.*

¹¹⁴ Danielle Kurtzleben, *Lots Of Other Countries Mandate Paid Leave. Why Not The U.S.?*, NPR (July 15, 2015), <http://www.npr.org/sections/itsallpolitics/2015/07/15/422957640/lots-of-other-countries-mandate-paid-leave-why-not-the-us>.

¹¹⁵ Williams, *supra* note 32, at 38.

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ National Partnership for Women and Families, *State Paid Family Leave Insurance Laws*, 1 (2016), <http://www.nationalpartnership.org/research-library/work-family/paid-leave/state-paid-family-leave-laws.pdf>. A paid family leave law was signed in Washington in 2004, but has not gone into effect due to a lack of funding mechanism. Paid family leave was passed in New York, but will not go into effect until 2018. *Id.*

wages or on the employer, or a combination of the two.¹¹⁹ As of 2012, only 15% of employers with over 100 employees and only 8% of employers with less than 100 employees provided paid family leave.¹²⁰ In addition to having only unpaid parental leave, families in the United States do not have access to high-quality, affordable childcare. While other countries have implemented programs like universal preschool, afterschool programs, and childcare, the United States has not. Paid leave and childcare compliment each other because when parents are able to take paid leave, they do not have to pay for infant care.¹²¹ In countries that provide paid parental leave, once the leave is up, parents can place their children in childcare for a fraction of the cost. “For example, in France, parents typically pay only 17-25% of child care costs, with the remainder of the costs split between employers and the government.”¹²² In contrast, except for the very lowest income earners, American families are responsible for the full cost of childcare, which can consume a large portion of their income. In many places across the United States, child care costs more than rent and college tuition.¹²³ Moreover, childcare providers in Europe are typically highly trained and provide high-quality care, partially because European childcare providers are paid better than American childcare providers.¹²⁴ Whereas other countries ensure access to high quality, affordable child care, parents in the United States have inadequate, expensive child care.¹²⁵

The lack of quality child care is especially burdensome for attorneys. While lesser-educated, lower-income women may leave their jobs to stay home with their children or rely on

¹¹⁹ *Id.* at 3-4.

¹²⁰ Robert Van Giezen, *Paid Leave in Private Industry Over the Past 20 Years*, U.S. DEPT. OF LABOR BUREAU OF LABOR STATS. (August 2013), <http://www.bls.gov/opub/btn/volume-2/paid-leave-in-private-industry-over-the-past-20-years.htm>.

¹²¹ Williams, *supra* note 32, at 41.

¹²² *Id.*

¹²³ Elise Gould & Tanyell Cooke, *High Quality Child Care is Out of Reach for Working Families*, ECON. POLICY INSTITUTE 1, 2-5 (Oct. 6, 2015) <http://www.epi.org/files/2015/child-care-is-out-of-reach.pdf>.

¹²⁴ Williams, *supra* note 32, at 41.

¹²⁵ *Id.*

their families for support, female lawyers have to rely on professional child care services because they are more likely to stay in the workforce and they are more likely to live further away from their families. Women with higher levels of education are more likely to stay in the workforce and to work more hours than other women.¹²⁶ In fact, 63% of “professional women stay in the labor force with minimal time away until retirement,” and 50% of “highly trained mothers never take off more than six months total.”¹²⁷ While other women may leave their jobs to raise children, the highly educated forgo that option because they face high opportunity costs in doing so.¹²⁸

Additionally, high-income earners are more likely to move away from home for job opportunities and, therefore, do not have the support of family members while raising their children.¹²⁹ While lower- and middle-class Americans are able to rely on their families for childcare, higher-income earners—like lawyers—are significantly more likely to live further away from their parents, so they have to rely on professional child care.¹³⁰ Most families earning more than \$75,000 per year enroll their children in daycare, while most families earning less than \$30,000 per year depend on their family members for child care.¹³¹ Because lawyers fall into the highly educated, high-income category, they are more likely than other Americans to need professional day-care services because they are less likely to leave the workforce and less likely to have family nearby for support.

Finally, unlike other countries, the United States does not regulate maximum hours, which means many parents end up working long hours, leaving little time to spend with their

¹²⁶ *Id.* at 22

¹²⁷ *Id.* at 23-24.

¹²⁸ *Id.* at 23.

¹²⁹ Quoc Trung Bui & Claire Cain Miller, *The Typical American Lives Only 18 Miles From Mom*, N.Y. TIMES (Dec. 23, 2015), http://www.nytimes.com/interactive/2015/12/24/upshot/24up-family.html?_r=0.

¹³⁰ *Id.*

¹³¹ *Id.*

children. Dual-income couples with children in the United States work an average of 91 hours per week combined.¹³² Comparatively, in almost all European countries, the workweek is capped at 48 hours, and in some countries, workers have the right to part-time work.¹³³ Because opportunities for part-time work are limited, and part-time pay is low, “many families see no alternative but to have one partner, typically the woman, sharply cut back or quit.”¹³⁴

Most families in the United States do not have paid family leave or access to affordable child care because our social policies are lacking compared to other industrialized countries. Some women are able to leave their children with family members while they go to work, but for most highly educated women, that is not an option. Female attorneys are less likely to leave the workforce, but more likely to require professional child care because they live further from their families. For some women, the lack of family supports pushes them out of the workforce entirely.

C. Workplace Bias Against Mothers

In addition to being faced with inflexible workplaces and a lack of social programs to support families, female lawyers face “the maternal wall.”¹³⁵ The maternal wall is the mother’s equivalent to the glass ceiling that all women face.¹³⁶ It is a set of sex stereotypes that force women out of their careers. The stereotyping can be hostile or benevolent, blatant or subtle.¹³⁷ These stereotypes create a double bind for mothers. “Female attorneys who seem willing to sacrifice family needs to workplace demands appear lacking as mothers. Those who want extended leaves or reduced schedules appear lacking as lawyers.”¹³⁸

¹³² Williams, *supra* note 32, at 28.

¹³³ *Id.* at 42.

¹³⁴ *Id.*

¹³⁵ *Id.* at 43.

¹³⁶ *Id.* at 29.

¹³⁷ *Id.* at 43-45.

¹³⁸ Rhode, *supra* note 107, at 2216.

Stereotyping leads to assumptions about women who become mothers that employers would not make about women without children or fathers. For example, one female attorney was told that she was not considered for a promotion after she had a child because the position required travel.¹³⁹ No one asked her whether she would be willing to travel before they passed her up for the promotion.¹⁴⁰ In fact, she would have taken the position if it had been offered to her.¹⁴¹

Joan Williams's article, *Law Firms as Defendants: Family Responsibilities Discrimination in Legal Workplaces*, discusses several cases in which female attorneys have hit the maternal wall.¹⁴² A partner told one female attorney, after finding out that she had a small child, that she needed to decide if she wanted to be "a successful mommy or a successful lawyer."¹⁴³ Another female attorney with small children was passed over for partnership three years in a row even though she met all of the requirements.¹⁴⁴ She later found out that other female associates with children were also denied partner status.¹⁴⁵ She sued, and the firm ended up settling.¹⁴⁶ Another attorney was told by her boss, "If you were my wife, I would not want you working after having children."¹⁴⁷

These women, like many others, did not want to leave their jobs. They were forced out of their jobs by their supervisors' stereotyping and discriminatory practices. As Williams notes, for these women, quitting is not a choice: "[A] choice by someone stuck between a rock and a hard

¹³⁹ Williams, *supra* note 32, at 43-45.

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² Williams, *supra* note 23, at 405.

¹⁴³ *Id.*

¹⁴⁴ *Id.*

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

¹⁴⁷ *Id.* at 409.

place cannot be considered a free choice or a choice based solely on the desires of the chooser, with no regard to the context in which that choice is made.”¹⁴⁸

Inflexibility in the workplace, the lack of family support, and maternal-wall bias all contribute to women leaving the legal profession. Law firms should be concerned about the lack of female representation in their leadership because it undermines the credibility of the profession and contributes to the wage gap. Moreover, by increasing female presence and adopting family-friendly policies, firms can increase profits and insulate themselves from competition and lawsuits. Firms should implement family-friendly policies in order to increase the representation of female attorneys.

III. WHAT CAN LAW FIRMS DO TO RECRUIT AND RETAIN FEMALE LAWYERS?

Firms recognize that retaining women is a problem, particularly when women are trying to balance work and family obligations. The National Association of Women Lawyers found in a 2013 study of the top 200 law firms in America that “the vast majority of firms see at least some obstacle to retaining women associates.”¹⁴⁹ One of the major obstacles those firms identified is “work–life balance issues.”¹⁵⁰ In fact, 38% of the firms surveyed responded that “work–life balance issues” present an obstacle in retaining female lawyers.¹⁵¹ So what can firms do to retain female talent and recruit more? Several solutions have been offered from more flexible hours to mandatory wage disclosure. In addition to those solutions, firms should implement family-friendly policies like paid family leave and child care solutions to combat some of the forces pushing women out of the workforce.

¹⁴⁸ Williams, *supra* note 32, at 47.

¹⁴⁹ *Report of the Eighth Annual NAWL Survey*, *supra* note 50, at 15.

¹⁵⁰ *Id.*

¹⁵¹ *Id.*

Allowing attorneys to work more flexible schedules, including working fewer hours, working different hours, and working from home, would encourage more women to stay at law firms. Williams suggests the “all-or-nothing workplace” is one of the drivers pushing women out of the workforce.¹⁵² Dual-income couples with children work an average of 91 hours per week combined.¹⁵³ “There really are no in-between options. You either work and do not see your child, or you don’t work at all,” said one female attorney who left her career after being refused a part-time schedule.¹⁵⁴ The vast majority of mothers and fathers—90 and 95%, respectively—wish they had more time with their families.

Even though part-time work is available in most large law firms, it is viewed as far less valuable than full-time work.¹⁵⁵ Only 6.1% of workers were working part time in 2013 because of the “flexibility stigma” in law.¹⁵⁶ Those seeking a part-time schedule often end up with “scut work at low pay.”¹⁵⁷ On average, people who work more than 45 hours per week earn double of what those who work 35 hours per week earn.¹⁵⁸ In addition to offering part-time work, firms have to make an effort to erase the stigma, so more attorneys feel comfortable taking it.¹⁵⁹

Goldin’s research supports the idea that firms would be able to retain female attorneys if they allowed attorneys to work flexible hours and work from home without disproportionately penalizing them in terms of pay.¹⁶⁰ She found that for female lawyers and business executives, earnings and time are nonlinear, and as a result women in these occupations were more likely to leave the workforce after having children than pharmacists, whose earnings and time are

¹⁵² Williams, *supra* note 32, at 31.

¹⁵³ *Id.* at 28.

¹⁵⁴ *Id.* at 29.

¹⁵⁵ *Id.* at 31.

¹⁵⁶ Williams, *supra* note 65, at 10.

¹⁵⁷ Williams, *supra* note 32, at 31.

¹⁵⁸ *Id.*

¹⁵⁹ Williams, *supra* note 65, at 10.

¹⁶⁰ Goldin, *supra* note 85

linear.¹⁶¹ If female lawyers could work more flexible schedules without being disproportionately penalized in pay, Goldin argues, then more female lawyers would stay in the profession after having children.¹⁶²

Others have suggested mandatory wage disclosure. Current wage-disclosure laws are directed primarily at the public sector, but approximately 90% of Americans work in the private sector.¹⁶³ Since adoption of the public-sector wage-disclosure laws, the wage gap in the federal government has decreased substantially.¹⁶⁴ Based on the success in the public sector, some scholars have argued that a mandatory wage-disclosure law should be enacted for the private sector.¹⁶⁵ Rather than waiting on Congress to adopt legislation at the federal level mandating all private employers to disclose wages, law firms could disclose the data on their own initiative. The National Advancement of Women in Law sought to obtain that data and found that “the large majority of firms will not report data about compensation of their men and women lawyers.”¹⁶⁶ In fact, only 48 firms in the AmLaw 200 were willing to provide compensation data on their male and female equity partners, even though those firms were promised anonymity.¹⁶⁷

In addition to these ideas for retaining female lawyers, law firms can offer paid maternity and paternity leave and child care solutions for their employees. Offering child care solutions would give female attorneys the option to stay in their careers while raising their children. These policies would also benefit male employees and increase retention for the firm. Importantly, adopting these policies would allow firms to combat some of the forces that drive women out of the workforce. Providing paid family leave and offering childcare solutions would help to

¹⁶¹ *Id.*

¹⁶² *Id.*

¹⁶³ Marianne DelPo Kulow, *Beyond the Paycheck Fairness Act: Mandatory Wage Disclosure Laws-A Necessary Tool for Closing the Residual Gender Wage Gap*, 50 HARV. J. ON LEGIS. 385, 420 (2013).

¹⁶⁴ *Id.* at 425.

¹⁶⁵ *Id.* at 427.

¹⁶⁶ *Report of the Eighth Annual NAWL National Survey*, supra note 50, at 4.

¹⁶⁷ *Report of the Eighth Annual NAWL National Survey*, supra note 50, at 10.

alleviate some of the issues men and women face with workplace flexibility. Moreover, these policies would help fill some of the gaps that U.S. social policy leaves open for young families. Finally, implementing these policies and encouraging employees to take advantage of them could help break down some of the stereotypes that women face when they try to be both mothers and lawyers.

A. Paid Family Leave

Law firms should offer paid family leave in order to recruit and retain female lawyers. Only a few states in the country require paid family leave. In other countries where paid family leave is available, women are more likely to stay in the workforce. Additionally, firms should offer paternity leave for the same length of time in order to help break down the maternal wall.

The Family Medical Leave Act provides for 12 weeks of unpaid family leave for employees who work for businesses with over 50 employees. Only 15% of employers with over 100 employees and only 8% of employers with less than 100 employees provided paid family leave as of 2012.¹⁶⁸ Several authors have suggested that paid family leave would reduce the gender wage gap, particularly if both maternity and paternity leave are offered.¹⁶⁹ Where women have access to paid leave—in other countries like Canada—they are less likely to drop out of the workforce.¹⁷⁰

All of the top 100 firms offer paid maternity leave, and a majority of them offer paid paternity leave.¹⁷¹ But maternity leave is typically much longer than paternity leave at those

¹⁶⁸ Van Giezen, *supra* note 120.

¹⁶⁹ See Jean Kimmel & Catalina Amuedo-Dorantes, *The Effects of Family Leave on Wages, Employment, and the Family Wage Gap: Distributional Implications*, 15 WASH. U. J.L. & POL'Y 115, 141 (2004); Monica Porter, *Combating Gender Inequality at Home and at Work: Why the International Labour Organization Should Provide for Mandatory Paid Paternity Leave*, 48 GEO. WASH. INT'L L. REV. 203, 204 (2015).

¹⁷⁰ Sara Cohen, *Have Your Cake and Eat It Too: How Paid Maternity Leave in the United States Could End the Choice Between Career & Motherhood*, 36 WOMEN'S RTS. L. REP. 1, 9 (2014).

¹⁷¹ Young, *supra* note 57, at 1189.

firms.¹⁷² On average, the top 100 firms offered 11.9 weeks of paid maternity leave, with all of the firms offering between 4 and 18 weeks of maternity leave.¹⁷³ The same firms only offered an average of 3.9 weeks of paternity leave, with firms offering paternity leaves ranging from 1 to 12 weeks.¹⁷⁴ Even when firms offer paid leave, many women will work part time through their leave.¹⁷⁵ Those who do not work through their leave will face the stigma associated with motherhood.¹⁷⁶

Offering more maternity leave for mothers than fathers reinforces stereotypes about the proper role of men and women. While women face the maternal wall, men who become fathers are expected to work harder in order to provide for their children rather than spending time with them.¹⁷⁷ Male attorneys are “pressured not to request primary caregiver leave, are denied leave they request, and are stigmatized when they return from leave they do receive.”¹⁷⁸ When women receive more parental leave than men, it encourages the idea that women should be responsible for a larger share of parental responsibilities.¹⁷⁹ In fact, one of the reasons the Family Medical Leave Act applies to both men and women is because Congress wanted to “ensure that family-care leave would no longer be stigmatized as an inordinate drain on the workplace caused by female employees.”¹⁸⁰

Women whose firms have adopted paid family leave policies report feeling more comfortable and secure in their jobs. Candace Alnaji, whose law firm in Buffalo allowed her to take four months of paid leave said, “I feel very comfortable balancing my obligations as a mom

¹⁷² *Id.*

¹⁷³ *Id.*

¹⁷⁴ *Id.*

¹⁷⁵ Rhode, *supra* note 107, at 2214.

¹⁷⁶ *Id.*

¹⁷⁷ Young, *supra* note 171, at 1201.

¹⁷⁸ *Id.* at 1222.

¹⁷⁹ *Id.*

¹⁸⁰ *Id.* at 1217.

and attorney.”¹⁸¹ Alnaji also takes Wednesdays off to stay home with her son.¹⁸² She said, “I don’t have the fear that somehow I’m going to be punished or reprimanded or lose out professionally. It’s something we talk about at the firm, and we know we’re lucky because this is not the norm. It should be but unfortunately it is not.”¹⁸³ Having access to paid leave made Alnaji feel “true loyalty” to her employer.¹⁸⁴

In order to reduce the stigma and keep women in the profession, firms should offer paid family leave for both mothers and fathers for the same number of weeks, and parents should be encouraged to take their full leave.

B. Child Care Solutions

In addition to offering paid family leave, firms should offer child care solutions in order to help retain female attorneys. Relatively few law firms offer assistance with family-related needs, but some firms have taken a proactive approach in cultivating a work environment that promotes work–life balance.¹⁸⁵ In October of 2001, Alston & Bird began providing child-care facilities for its lawyers and support staff.¹⁸⁶ The idea came up at a town-hall type meeting where lawyers and staff can raise concerns. Once the concern about adequate child care was raised, the firm hired a consultant to determine what type of options its employees wanted for child care.¹⁸⁷ The consultant found that lawyers and staff in different offices had different child care needs.¹⁸⁸ Lawyers in the Atlanta office wanted full-time child care, while staff wanted backup care and a

¹⁸¹ Michael Petro, *Law Firm Ahead of Curve on Paid Family Leave*, BUFFALO L.J. (Apr. 11, 2016), <http://www.bizjournals.com/buffalo/blog/buffalo-law-journal/2016/04/law-firm-ahead-of-curve-on-paid-family-leave.html>.

¹⁸² *Id.*

¹⁸³ *Id.*

¹⁸⁴ *Id.*

¹⁸⁵ Rhode, *supra* note 107, at 2214.

¹⁸⁶ Robert Denney, *A Peach of an Idea from Georgia: Law Firms Providing Child Care*, 32 LAW PRAC. 6, 16 (2006).

¹⁸⁷ Cathy Benton & Nicole Brown, *Taking Care of Lawyers Taking Care of Children*, BUSINESS L. TODAY (2008) <http://apps.americanbar.org/buslaw/blt/2008-01-02/brown.shtml>.

¹⁸⁸ *Id.*

program for children of school-age, and employees in the D.C. office only wanted backup care.¹⁸⁹

After Georgia passed a law improving the tax credit for employer-sponsored child care, the firm chose to open a near-city center and partnered with Bright Horizons Family Solutions to run the Children’s Campus in Atlanta.¹⁹⁰ The center, which is located within walking distance of the firm, is open to both lawyers and staff and is open from 7:00 a.m. to 7 p.m.¹⁹¹ The center focuses on child development and early education, so children are getting more than just daycare. Employees “pay the market rate for use of the Atlanta child-care facility, and the firm subsidizes the campus to cover the difference.”¹⁹² The firm also provides a scholarship program for employees with lower salaries.¹⁹³

After Alston & Bird opened the Children’s Campus, other firms in Atlanta caught onto the idea. The firms Smith, Gambrell & Russell and Kilpatrick Stockton joined together to open a child care facility (also run by Bright Horizons Family Solutions) for their lawyers and staff.¹⁹⁴ A lawyer from Smith, Gambrell & Russell said she is “thrilled” to have her triplets close by, and she even gets to join them for lunch.¹⁹⁵

In addition to the Children’s Campus in Atlanta, Alston & Bird also used Bright Horizons to offer child-care options to lawyers and employees in other offices.¹⁹⁶ For its Charlotte office, the firm purchased reserved spaces in an existing center.¹⁹⁷ In New York and D.C., the firm

¹⁸⁹ *Id.*

¹⁹⁰ *Id.*

¹⁹¹ *Id.*

¹⁹² *Id.*

¹⁹³ *Id.*

¹⁹⁴ Denney, *supra* note 186, at 17.

¹⁹⁵ *Id.*

¹⁹⁶ Benton, *supra* note 187.

¹⁹⁷ *Id.*

purchased dedicated backup spaces.¹⁹⁸ The backup program allows employees to take their children to a Bright Horizons center for only \$15 per day.¹⁹⁹ In-home care is also offered for sick children and elders, which costs only \$4 per hour.²⁰⁰

A representative for Alston & Bird acknowledges that the child care programs are costly, but “they are worth the price for the benefits the firm receives and are viewed as an investment in [the firm’s] resources.”²⁰¹ Some estimates suggest that for every dollar a law firm invests in family-friendly policies, it will save two dollars in other costs.²⁰² The firm has found that “[h]aving a benefit that keeps just two associates from leaving pays for the investment made by the firm.”²⁰³ And Aston & Bird has seen an increase in its retention of 6% since implementing the child-care programs. The firm also found that 226 employee days were saved in 2006 because of the backup child-care programs, which helps defray the costs of the program for the firm.²⁰⁴ Aston & Bird also sees offering child-care solutions as a way to enhance the firm’s reputation and show the employees that it is committed to work–life balance.²⁰⁵

Law firms should follow Aston & Bird’s lead in seeking to promote work–life balance and retain young attorneys by offering child care solutions for their lawyers and staff. Firms should start the process by determining the type of child care solutions their employees are seeking. As evidenced by Aston & Bird’s experience, employees in different regions and even in the same firm can have different needs when it comes to child care. Taking employee needs into account and adopting policies that promote work–life balance will signal to employees that the firms care about them, which will increase employee satisfaction and retention. Family-friendly

¹⁹⁸ *Id.*

¹⁹⁹ *Id.*

²⁰⁰ *Id.*

²⁰¹ *Id.*

²⁰² Rhode, *supra* note 107, at 2218.

²⁰³ Benton, *supra* note 187.

²⁰⁴ *Id.*

²⁰⁵ *Id.*

policies will also better the firm's reputation in the community and attract more qualified applicants.

In addition to increasing retention and recruitment overall, offering child care solutions for lawyers and staff should help firms to retain and recruit talented young women. Based on the research, which shows that family responsibilities are a primary reason women leave the profession, adopting family-friendly policies will allow women who would otherwise leave to take care of their children to stay in the workforce. When more women stay in their firms, more women will rise through the ranks to equity and managing partner, decreasing the wage gap within the profession and making the profession more equitable.

CONCLUSION

Women are underrepresented in the legal profession, and it is not a "woman problem"; it is a profession problem. Law firms should be concerned about the lack of women in partnerships and equity partnerships because it reflects negatively on the firm and the profession when they do not embody the values they claim to enforce. Beyond the ethical reasons, firms should be interested in improving diversity because it is profitable, and it would help them insulate themselves against competition and lawsuits. The data shows that women do not choose to leave the profession; rather, they are pushed out by external forces like inflexible workplaces, lack of family support, and bias against mothers. Firms could combat all three of these forces by providing paid family leave and offering child-care solutions, in addition to making salaries public and offering more flexible work arrangements. Rather than lagging behind the rest of the world, the American legal profession should be at the forefront of pursuing equality.