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Servant Leadership and Women in the Law: A New Nexus of Women, Leadership and the Legal Profession

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COMMENT

SERVANT LEADERSHIP AND WOMEN IN THE LAW: A NEW NEXUS OF WOMEN, LEADERSHIP AND THE LEGAL PROFESSION

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Minnesota loudly celebrated the strengthening of its diversity and equality in leadership after the November 2006 elections: Amy Klobuchar became the state's first woman elected to the U.S. Senate, Michele Bachmann was elected as the first Republican woman and third Congresswoman, and the state chose Lori Swanson as its first female Attorney General.[1] Nationally, the election sent a record number of women to the U.S. Congress, and Nancy Pelosi was tapped as the first female Speaker of the House.[2]

These changes signaled to many people that gender barriers to leadership positions are eroding in our society; these women reportedly smashed

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1. Rob Hotakainen, *Election 2006: Minnesota Feeds Trend Toward Diversified Congress*, STAR TRIB. (Minneapolis-St. Paul), Nov. 9, 2006, at 11A; Jeremy Olson, *DFL Candidates Win Top State Positions*, PIONEER PRESS (St. Paul), Nov. 8, 2006, at 1A.

2. Hotakainen, *supra* note 1, at 11A.

through the "mythical" glass ceiling.[3] Contemporaneously, however, the Minnesota State Bar Association (MSBA) released the results of its 2005 gender and minority equity study,[4] which showed that the percentage of women who are equity partners in Minnesota law firms did not grow in the past five years—it remained constant at 18 percent.[5] Law firm partnerships are key leadership roles in the legal community. The stagnancy of this low number, and its relative lack of media coverage compared with what was given to recently-elected women, show that the reality of female leadership is not consistent with perception.

Inaccurate assessment on the status of women in leadership has been labeled "the 'no problem' problem."[6] Women's increasing roles in the public sphere incite complacency; they allow people to believe that obstacles to women in the workplace are nominal.[7] The suggested solution to current inequities in position, pay or professional advancement has thus become time—the opportunities are there; women just have to catch up to speed.[8] This line of reasoning has begun to sound hollow, especially considering the recent MSBA study and its unchanging percentage of female partners.[9] Five years in an evolving, growing legal community is a long time for absolutely no progress.

Perhaps this lack of leadership is not a reflection of law firm cultures but women's perceived leadership capabilities. For most of the twentieth century, leaders who were assertive, independent, autocratic, and task-oriented were considered most successful; coincidentally, these characteristics are also most often attributed to men's leadership styles.[10] The generalized strengths of women, such as relationship-building, communication, and non-hierarchical attitudes, were not deemed ideal for leaders.[11] However, a diversified workforce and recent corporate scandals have prompted a call for change in leadership styles. As a result, leadership theories are looking for a new kind of leader, and gender traits no longer play a major role.[12]

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3. *Klobuchar Gives DFL a Bright New Light: In Senate Race and Fifth District, Voters Make History*, STAR TRIB. (Minneapolis-St. Paul), Nov. 8, 2006, at 24A.

4. TASK FORCE ON DIVERSITY IN THE PROFESSION OF THE MINNESOTA STATE BAR ASSOCIATION, 2005 SELF-AUDIT FOR GENDER AND MINORITY EQUITY (2006) [hereinafter MSBA 2005 SELF-AUDIT].

5. *Id.* at 9–10.

6. Deborah L. Rhode, *Gender and the Profession: The No-Problem Problem*, 30 HOFSTRA L. REV. 1001, 1001 (2002).

7. *Id.*

8. *Id.* at 1002.

9. Jaclyn Fierman, *Why Women Still Don't Hit the Top*, *in* FRONTIERS OF LEADERSHIP 501, 501 (Michel Syrett & Clare Hogg eds., 1992).

10. Ambassador Swanee Hunt et al., *Women Waging Peace: Lessons in Leadership*, 24-FALL FLETCHER F. WORLD AFF. 61, 62 (2000); *see* BERNARD M. BASS, STOGDILL'S HANDBOOK OF LEADERSHIP 43–68.

11. *See* Hunt, *supra* note 10, at 62.

12. JAMES C. HUNTER, THE WORLD'S MOST POWERFUL LEADERSHIP PRINCIPAL 13–15 (2004).

Professor Neil Hamilton at the University of St. Thomas School of Law has worked to connect a new leadership theory of servant leadership to the practice of law.[13] Servant leadership is an outgrowth of leadership models that define leadership as cultivating vision and proactively inspiring followers, departing from models that are task-oriented and reactive.[14] It focuses on reaching others through moral development and serving others by helping them reach their full potential.[15] Moreover, the leadership theory requires skills and personality traits that are not divided by gender; in fact, some of the generalized traits of women are strong servant leadership skills. Accordingly, integrating the current servant leadership theory into the legal profession could help advance women in the law into leadership roles.

This paper begins by offering a chronological view of the interaction between leadership and the entrance of women into the legal profession. It presents and reveals the fruits of a century of leadership theories and the current status of women in the legal world. Finally, it proposes that Professor Hamilton's integration of servant leadership into the legal profession might erode women's obstacles to law firm leadership. As our culture reevaluates effective leadership characteristics, we need to focus on a profession of leaders with a disparity in women leadership so as to promote their advancement.

I.   A PAST OF GENDER DIVISION

The male-centric leadership theories prevalent throughout most of the twentieth century correlate with the exclusion of women from the public sphere.[16] Integrating gender into leadership research was unnecessary when women were either absent or at entry-level positions in most professions.[17] The early leadership theories were not forced to expand until women became an integral part of the workforce.

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13. *See* Neil Hamilton, *What Leadership Theories Are Relevant to the Practice of the Professions?* (forthcoming 2008) (on file with the author). Professor Hamilton seeks to further the St. Thomas vision statement's commitment to "preparing students to become accomplished servant leaders in the practice of law, in the judiciary, in public and community service, in business, and in education." University of St. Thomas School of Law, http://www.stthomas.edu/law/about/mission/default.html (last visited Sept. 15, 2007).

14. *See* JAMES M. BURNS, LEADERSHIP 426 (1978).

15. *See* ROBERT K. GREENLEAF, SERVANT LEADERSHIP: A JOURNEY INTO THE NATURE OF LEGITIMATE POWER AND GREATNESS 5–13 (2002); Neil W. Hamilton, *Authentic Leadership and Servant Leadership in the Practice of Law*, MINN. LAW. (Feb. 23, 2004), *available at* http://www.minnlawyer.com/story.cfm?ID=26847 (discussing the ideas of Robert K. Greenleaf).

16. *See, e.g.*, Hunt, *supra* note 10, at 62 (saying that past leadership theories "build a thoughtful framework for examining leadership but they have been formulated by exclusively examining male leaders").

17. TALKING LEADERSHIP: CONVERSATIONS WITH POWERFUL WOMEN 3 (Mary S. Hartman ed., 1999) (noting that women have always been leaders in less prominent places, such as neighborhood communities and family households).

A. Leadership Theories

Leadership theories, trends, and advice are a growing market in to-day's world: thousands of books are written each year, tens of thousands of pages in journals and magazines are devoted to the topic, and corporate America spends more than fifteen billion dollars on leadership training and consulting.[18] Arguably, it has become "'the most-studied and least-under-stood topic in all the social sciences.'"[19] Although leadership theory is growing in popularity, people have been hypothesizing and writing on lead-ership since the beginning of the twentieth century.

Trait theories dominated early leadership thought and prevailed in American psychological circles from the late nineteenth century until the 1940s.[20] The leadership theorists believed that some people were inherently blessed with certain characteristics that made them effective leaders.[21] Many lists of characteristics were proposed, most including facets of ra-tional, decisive, assertive, and authoritative traits.[22] Leadership was studied by looking at people who were in those roles; thus, the natural personalities of those leaders became the predictors of successful leadership.[23] Since men were the only public leaders in that era, men then defined and exemplified the concept. One prevalent trait theory was termed the "'great man' the-ory," thus showing the close overlap between conceptions of male and leader.[24]

The limitations of trait theories, including the failure to emphasize uni-versal traits or account for the myriad of leadership situations, necessitated the development of new leadership theories.[25] Behavioral theories corrected some of these limitations by eliminating genetics from the equation; in-stead, effective leadership was based on learned behaviors.[26] The theories idealized leadership that effectively achieved tasks: for example, setting goals, group decision-making, and good communication.[27] A famous be-havioral theory was the Blake and Mouton Managerial Grid. With concern for people on one axis and concern for production on the other, the effective leader was one who could develop and use both areas efficiently.[28] Success-

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18. HUNTER, *supra* note 12, at 14.

19. Charles Handy, *The Language of Leadership, in* FRONTIERS OF LEADERSHIP 7, 9 (1992) (Michel Syrett & Clare Hogg eds., 1992) (quoting leadership guru Warren Bennis).

20. *See* Hamilton, *supra* note 13, at 4 (citing BASS, *supra* note 10, at 43–68).

21. Walter H. Zultowski, *Tracing the Evolution of the Leadership Concept,* LIMRA's VI-SION, Apr.–May 1996, at 17.

22. Sue J.M. Freeman & Susan C. Bourque, *Leadership and Power: New Conceptions, in* WOMEN ON POWER: LEADERSHIP REDEFINED 3, 7 (2001); *see* BASS, *supra* note 10, at 43–68.

23. Freeman, *supra* note 22, at 7.

24. *Id.*

25. *Id.*

26. Zultowski, *supra* note 21, at 17–18.

27. *Id.* at 18.

28. ROBERT R. BLAKE & JANE S. MOUTON, THE MANAGERIAL GRID 10 (Gulf Publishing Co. 1994) (1964).

ful leadership under the behavioral theories was again defined by the situations of only those studied—men.[29] These theories evolved in a time of great social change, however, and people soon realized that leadership situations were too varied to assign a specific set of characteristics to every situation.[30]

Contingency theories took behavioral models a step further and tried to integrate the situational influences on leadership.[31] These models hypothesized that workplace performance depended on two factors: leadership style and the favorableness of the situation.[32] Contingency theories looked more to the followers' maturity and development than the leader's aptitude.[33] For example, the Hersey-Blanchard situational theory has a spectrum of leadership behaviors that can only advance according to the intellectual and experience level of the followers.[34] Contingency theories allowed the complexity of leadership roles to be explored, but also became too complicated to glean any generalizations and too reliant on outside factors.[35] These theories did not account for why some individuals with certain characteristics were consistently effective leaders, did not allow flexibility in leading toward situational change, and were almost solely the product of workplaces where women did not play an integral role.[36]

This evolution in leadership theory went from too general to too complex, from too focused on individual characteristics to too focused on external situations. Because leadership is so intangible, picking theories could be dangerous to women attempting to get away from defining the "correct" leadership and its accompanying stereotypes.[37] The real key, as shown in a following explanation of servant leadership, may be integrating values into leadership and leaving specific conduct and traits behind.

B.   Women's Entrance Into the Public Sphere and Legal World

Women were not part of the above leadership theories because in the beginning of the twentieth century they were more concerned with entering the workplace and public sphere. The lack of leadership positions was not an issue when women constituted only 1 percent of the legal profession.[38]

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29. *See* Zultowski, *supra* note 21, at 18.
30. Freeman, *supra* note 22, at 7.
31. Zultowski, *supra* note 21, at 19.
32. Hamilton, *supra* note 13, at 8 (citing FRED E. FIEDLER, A THEORY OF LEADERSHIP EFFECTIVENESS (1967) (defining situational favorableness as the leader's personal relations with the group, the degree of structure, and the amount of power the leader is given)).
33. *See id.*
34. PAUL HERSEY & KENNETH H. BLANCHARD, MANAGEMENT OF ORGANIZATIONAL BEHAVIOR 169–200 (5th ed. 1988) (1969).
35. PETER GUY NORTHOUSE, LEADERSHIP: THEORY AND PRACTICE 115–16 (3rd ed. 2003).
36. *See id.*
37. Freeman, *supra* note 22, at 8–9.
38. HEDDA GARZA, BARRED FROM THE BAR: A HISTORY OF WOMEN AND THE LEGAL PROFESSION 60 (1996) (revealing the percentage of women in the legal profession in 1910).

However, as women emerged into the work and legal spheres, there were already hints of the barriers to leadership that would later materialize.

During the colonial era, women worked together with men on family farms and in businesses; duties were divided on gender lines, but separation between the home and public sphere was minimal.[39] When the industrial age, formation of cities, and competition of capitalism actualized in the early 1800s, gendered spheres evolved from a combination of necessity for home stability and belief that women did not have the capacity for public participation.[40] The "cult of domesticity" developed during the nineteenth century and encouraged women to manage the home while the men entered the public sphere.[41] In 1920, only 6.5 percent of married European American women worked for wages.[42]

Of course, this domesticity ideal was unobtainable for many single, poor, or African American women, who all worked at much higher percentages.[43] The "true woman" who was defined by her role as wife and mother was an "aristocratic definition of women's proper sphere constructed by the middle class as an attempt at social dominance."[44] As class distinctions appeared, leisure became a status symbol and women working became unacceptable.[45] Being home was seen as intended by God, and a woman wanting to leave this sphere was seen as a move to undermine civilization.[46] For more than 150 years, women were conditioned to believe that competing with men in the workplace was going against natural law or, at the very least, social norms.

World wars and political movements pushed women out of the home sphere.[47] World War II brought 36 percent of all women into the workplace, and the civil rights movement had women appearing in the front lines of a social movement.[48] Even those who could afford the "true woman"

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39. MARY BECKER, ET AL., FEMINIST JURISPRUDENCE; TAKING WOMEN SERIOUSLY 862 (2nd ed. 2001).

40. HOWARD ZINN, A PEOPLE'S HISTORY OF THE UNITED STATES: 1492-PRESENT 114 (1999).

41. *Id.*

42. BECKER, *supra* note 39, at 862 (citing TERESA L. AMOTT & JULIE A. MATHAEI, RACE, GENDER, AND WORK: A MULTICULTURAL ECONOMIC HISTORY OF WOMEN IN THE UNITED STATES 300 tbl.9-2 (1991)).

43. *See id.* at 862–63 (showing the percentages of groups of working women in 1920: 32.5% of married African American women; 18.5% of married Asian American women; 45% for single European American women; 58.8% for single African American women; and 38.7% for Asian American women).

44. Mary M. Cronin, *Redefining Woman's Sphere, in* JOURNALISM HIST., 13, 13 (1999) (citing Barbara Welter, *The Cult of True Womanhood: 1820-1860,* AM. Q., 151, 152 (1999)).

45. *Id.* at 18 (citing Gerda Lemer, *The Lady and the Mill Girl,* MID-CONTINENT AM. STUD., at 4–13 (1969); Welter, *supra* note 44, at 151–74).

46. *Id.* (citing Welter, *supra* note 44, at 158–73; NANCY WOLOCH, WOMEN AND THE AMERICAN EXPERIENCE 114–45 (1994); NANCY F. COTT, THE BONDS OF WOMANHOOD: 'WOMAN'S SPHERE' IN NEW ENGLAND, 1780-1835, at 19–100 (1977)).

47. BECKER, *supra* note 39, at 862; ZINN, *supra* note 40, at 504.

48. ZINN, *supra* note 40, at 504.

lifestyle started to question if home life had to be every woman's destiny.[49]
By 1969, women were 40 percent of the entire labor force but were working
almost exclusively at administrative, entry-level, domestic, or teaching po-
sitions.[50] These positions provided relatively little monetary value, and wo-
men had a hard time advancing in a game where all the rules had been
written by men.[51] The tension of over a hundred years of unequal educa-
tion, exclusion from the political process, inexperience with the work cul-
ture, and an ingrained responsibility to maintain the home made the
transition into the working world anything but smooth.

Title VII, the civil rights law that prohibited sex discrimination in em-
ployment, and the women's movement of the 1970s raised the conscious-
ness of women's problem of access in the workforce.[52] Title VII allowed
women to enforce their rights to equal treatment by making it unlawful to
hire, discharge, discriminate, or adversely affect the status of employees
based on sex.[53] This legislation eliminated much of the overt sex discrimi-
nation and obstacles to the workplace; however, the more subtle barriers to
equality were not eliminated and remain difficult to solve.[54]

The legal profession almost completely excluded women until the
twentieth century. The United States Supreme Court affirmed this exclusion
in 1872 when the Court held that the right to practice law was not a Consti-
tutional right and allowed the Illinois Supreme Court to bar Myra Bradwell
from practicing law.[55] Justice Bradley's concurring opinion in that case said
that "the paramount destiny and mission of women are to fulfill the noble
and benign offices of wife and mother. This is the law of the Creator."[56]
This idea was eventually defeated by legislation, but serious obstacles still
prevented women from obtaining jobs, finding clients, or being treated
equally in the profession.[57] In 1971, women comprised only 3 percent of all
lawyers.[58]

Title VII and the women's movement—not to mention the growing
number of lawyers and litigation in general—made the 1970s and 1980s a
time of extremely rapid change in the legal profession.[59] Before this period,
the vision of "women's nature" and the perceived aggressiveness needed for

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49. *Id.* at 505 (quoting BETTY FRIEDAN, THE FEMININE MYSTIQUE 16 (1963)).

50. *Id.* at 506.

51. *See id.*

52. Title VII, 42 U.S.C. § 2000 (1964); ZINN, *supra* note 40, at 506–09.

53. Title VII, 42 U.S.C. § 2000.

54. *See* BECKER, *supra* note 42, at 865; ZINN, *supra* note 40, at 509 (saying that in the years
following the passage of Title VII, over a thousand suits were initiated by women's groups to
enforce the law); *see also* 45A AM. JUR. 2D *Job Discrimination* § 143 (2007).

55. Bradwell v. Illinois, 83 U.S. 130, 138–139 (1872).

56. *Id.* at 141–42 (Bradley, J., concurring).

57. *See* GARZA, *supra* note 38, at 83.

58. BECKER, *supra* note 42, at 981.

59. *See id.* (stating that the percentage of women lawyers went from 3% in 1971, to 8% in
1980, and to 25% in 1995); Kandace Pearson Schrimsher, *Career Commitments: Women and Men*

an attorney's success kept women from equal consideration or representa-
tion in law schools and law firm jobs.[60] Once Title VII made this outright
exclusion illegal, women's numbers quickly rose.[61] However, more subtle
professional factors kept women from being full-fledged members of the
"legal fraternity."[62] These subtleties included exclusion from partnerships,
sexist remarks and practices in firms and courtrooms, and the development
of the "Mommy track" (the term coined for the career path of women who
work fewer hours because of child obligations and as a result are given less
prestigious work).[63] The exclusion of women from the profession for so
long resulted in a deprivation of any female culture or influence in design-
ing the legal system, which led to a large gender-based disadvantage.[64]

II.   A PRESENT OF STAGNANCY

Equal opportunities to leadership have remained out of women's reach
since their entrance into the public realm, perhaps partly due to the already
imbedded notion of "true" leadership characteristics.[65] The term "glass ceil-
ing" was coined in the 1970s to give a name to the intangible, artificial
barriers that kept women from senior level positions in the workplace.[66]
Educational parity, increasing representation in the workforce, and a shift in
attitudes about gender and work have been present for years;[67] however,
these changes are not the only solutions for improving women's current
leadership status, described below. First, current leadership theories are ana-
lyzed as a guide toward a solution of both equality and societal good in the
workforce and legal profession.

A.   *Current Leadership Theories*

Current theories of leadership require leaders to look for deeper mean-
ing in leadership than just power or accomplishing a task; our complex and

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Law School Graduates, in GENDER AND WORK IN TODAY'S WORLD 243, 244 (Nancy E. Sacks &
Catherine Marrone eds., 2004).

60. BECKER, *supra* note 42, at 982.

61. MONA HARRINGTON, WOMEN LAWYERS: REWRITING THE RULES 15 (1993) (stating that
women comprised 50 percent of law students by 1990).

62. GARZA, *supra* note 38, at 83 (quoting one 1914 male bar leader who said "I think it may
be safely asserted that there is no prospect that women will be seen except as a rara avis (rare bird)
in the ranks of the legal fraternity." (citing KAREN BERGER MORELLO, THE INVISIBLE BAR 126
(1986))).

63. BECKER, *supra* note 42, at 982–83; Ellen S. Podgor, *Lawyer Professionalism in a
Gendered Society*, 47 S.C. L. REV. 323, 341–43 (1996) (citing courtroom instances of female
attorneys being called by their first names or pet names, their physical appearance, or their status
as lawyers).

64. Podgor, *supra* note 63, at 341.

65. *See* Freeman, *supra* note 22, at 3.

66. LINDA WIRTH, BREAKING THROUGH THE GLASS CEILING: WOMEN IN MANAGEMENT 1
(2001).

67. *Id.*

sometimes corrupt culture is hungering for "leadership that can exercise a moral imagination and *moral courage* on behalf of the common good."[68] Earlier leadership theories could not last because of their specificity to people and situations; in contrast, leadership models based on shared values that work toward societal good can reach across situations—and gender lines. These principles form the basis for many of the transformational theories, one of which is the servant leadership model that the University of St. Thomas Law School strives to ingrain in its students.[69]

Transformational leadership goes beyond the transactional-centered, decision-making strategies studied in earlier theories and looks for an evaluation of entire structures; this could range from a follower's mind-frame to a whole institution.[70] Most transformational theories include an articulated vision, the leader's ability to challenge assumptions and ask for participation, and the follower's ability to identify with the leader.[71] This leadership style focuses on constantly revising the broad purpose and goals, and emphasizes the intangible variables of values and motivation.[72]

Transformational principles have dominated the most successful leadership books and classroom teachings in the last decade.[73] These theories call for a leader with "'vision, self-confidence, and inner strength to argue successfully for what he [or she!] sees is right or good, not for what is popular or is acceptable according to the established wisdom of the time.'"[74] Transformational theories call for a distinct type of leader with a specific set of priorities, but these specifics do not distinguish leaders by stereotyped traits.

Servant leadership expands on the idea of value- and morality-driven leadership with a special emphasis on the interaction between the leader and follower.[75] One of the most distinctive features of the servant leader is that he or she is a servant first; an aspiration to lead grows from the desire to serve others, instead of a search for power or material gain.[76] This choice to serve by leading is tied to stewardship or "understanding that the servant leader has been entrusted to elevate other people to be their better selves, to

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68. SHARON DALOZ PARKS, LEADERSHIP CAN BE TAUGHT 2 (2005).

69. *See supra* notes 13–15 and accompanying text.

70. JAMES M. BURNS, TRANSFORMING LEADERSHIP: THE PURSUIT OF HAPPINESS 24 (2003).

71. *See* B.M. BASS & B. AVOLIO, IMPROVING ORGANIZATIONAL EFFECTIVENESS THROUGH TRANSFORMATIONAL LEADERSHIP (1994).

72. JOHN W. GARDNER, ON LEADERSHIP 4 (1990).

73. *See, e.g.,* RONALD A. HEIFETZ, LEADERSHIP WITHOUT EASY ANSWERS (1994) (proposing adaptive leadership, where effective leaders are those who engage everyone to work toward shared progress together); JIM COLLINS, GOOD TO GREAT (2001) (highlighting levels of leaders, the top one being someone who inspires commitment and enduring greatness with personal humility and professional will).

74. Hamilton, *supra* note 13, at 9 (quoting B.M. BASS, LEADERSHIP AND PERFORMANCE BEYOND EXPECTATIONS 17–18 (1985)).

75. *See* GREENLEAF, *supra* note 15, at 5–13.

76. Hamilton, *supra* note 15.

be what they are capable of becoming."[77] Christian leaders who desire to connect their faith to leadership can look to Jesus's teachings that leadership is based in servanthood, as exemplified when he washed his disciples' feet.[78]

Servant leadership calls for a leader who has "the *skills* of *influencing* people to enthusiastically work toward goals identified as being for the common good, with *character* that inspires confidence."[79] This leader is doing more than accomplishing a specific task; he or she is helping followers discover their full potential through moral guidance and working to inspire everyone to aim for societal good.[80] Servant leaders have a solid foundation of self-knowledge and moral conviction, build lasting relationships and structures, and work to make all people servant leaders in their own roles.[81] Servant leadership has no hierarchal power requirement, only the requirement to serve others first and improve one's own character through constant introspection, a developing sense of core values, and a search for meaning.[82]

Servant leadership does not focus on a particular leader's specific traits or attributes, but instead on defining their life purpose and continually refining their ethical framework.[83] It focuses on their ability to listen, counsel, build consensus and community, and articulate vision.[84] These are not skills that are specific to any gender, race, or background. Servant leadership allows leaders to develop at every level and creates a culture of moral knowledge and practice throughout society.

B. *Women's Current Status and its Complications*

This paper explores the history of changing societal attitudes toward both women and leadership—so where are we now? Despite the evolution of leadership theories, the professional world for women leaders has become stagnant, as shown by the numbers of women leaders in the legal profession. The glass ceiling rests above women lawyers, which allows them to see the prestigious gains they could make but does not give them the same opportunities to achieve them.[85] The following discussion is limited to women in medium and large law firms with some discussion of minority women; it does not explore the issues of the other leadership roles in the legal profession, such as the judiciary, or the problems of other mi-

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77. *Id.*

78. *Id.* (servant leadership can be just as easily accessed in other religions and moral frameworks).

79. HUNTER, *supra* note 12, at 32.

80. *See id.*

81. Hamilton, *supra* note 15.

82. *See* HUNTER, *supra* note 12, at 34–41.

83. *See id.*

84. Hamilton, *supra* note 15.

85. *See* WIRTH, *supra* note 66, at 21.

nority groups, such as racial minorities or minorities based on sexual orientation.[86]

In Minnesota, the hope that the legal profession was progressing to greater gender equality was cut short by the MSBA's 2005 Self-Audit for Gender and Minority Equity.[87] This study, done by the Task Force on Diversity in the Profession, was a follow-up to the first Self-Audit for Gender Equity published in 1999.[88] That first audit, the follow-up studies, and the resulting recommendations were intended "to promote practices among legal employers (public and private) that encourage employment and retention of women in the profession."[89]

During 2005 and 2006, the Diversity Task Force set out to update the statistics with a study broken into three parts: a survey of law firms and non-firm employers of 10 or more lawyers, where 34 law firms and 19 non-firms responded; a survey of individual lawyers, where 880 lawyers responded; and focus groups of diverse communities of lawyers, where 15 focus groups, or 86 lawyers, participated.[90] The study revealed that despite women's equal parity in law school and entrance to the profession, gender composition at law firms has remained 70 percent male since 1997 and leadership percentages are even worse.[91]

The most compelling number reflecting the stagnancy of women advancement is the 18 percent of women equity partners that did not grow or expand from 2000 to 2005.[92] Two women made equity partner for every three men in 2005.[93] Additionally, the percentage of women leaving these equity partner positions was more than twice as high as the percentage of men leaving.[94]

The study also showed a significant disparity between men and women in their perception of gender problems in the legal profession: 73 percent of females reported gender bias as a major or moderate problem while 70 percent of males said it was a minor or non-existent problem.[95] In terms of ultimate professional advancement, 45 percent of men strongly agreed that

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86. These problems, however, are crying out to be addressed. One startling statistic: the National Association of Law Placement revealed that only 1.48 percent of firm partners nationwide are minority women. NATIONAL ASSOCIATION OF LAW PLACEMENT, PERCENTAGE OF WOMEN AND MINORITIES AT LAW FIRMS UP SLIGHTLY FOR 2006; ONLY 1.48% OF PARTNERS ARE MINORITY WOMEN (2006), http://www.nalp.org/content/index.php?pid=448 [hereinafter NALP PERCENTAGE].

87. MSBA 2005 SELF-AUDIT, *supra* note 4.

88. *Id.* at 7.

89. *Id.*

90. *Id.*

91. *Id.* at 9.

92. *Id.* at 9–10.

93. MSBA 2005 SELF-AUDIT, *supra* note 4, at 9.

94. *Id.* at 10 (noting that at the associate level, 14% of all women left while 10% of all men left; the top destination of migrating women equity partners was other law firms).

95. *Id.* at 21.

female attorneys can advance as far as males in the legal profession; 61 percent of women somewhat or strongly disagreed.[96] One female senior associate said, "As a female, I feel like I'm just a workhorse . . . whereas these other (male) associates get to fraternize with the partners . . . I think it has affected my advancement only because I don't get the opportunity to . . . demonstrate my personality, demonstrate my level of thinking outside of the box of my practice."[97]

Law firms decide equity partners by specific criteria for promotion, criteria communicated in writing and orally at meetings.[98] There is either no or very little obvious exclusion of women from partnerships; however, women are leaving firms disproportionately before they become partners and, lately, even after becoming partners.[99] This shows that the issues facing women lawyers at firms remain barriers even without obvious exclusions, which perpetuates the "glass ceiling" cycle.[100]

The MSBA study's findings are reflected in both smaller scale and larger scale studies. The Hennepin County Bar Association released diversity employment statistics in December 2006 that revealed that women are still a minority of attorneys at law firms, and any increase was close to nonexistent.[101] The number of women lawyers at law firms went from 21.7 percent in 1995 to 28 percent in 2002, but the increase slowed to only 30 percent in 2006.[102] This seems contradictory when compared to the parity of women to men in law schools and entering law firms immediately out of school.[103] The national statistics are not much brighter: in the United States, women comprise about 17.9 percent of partners at law firms.[104]

The complications of women entering an exclusively male-created profession may never be fully identified, but this paper recognizes and addresses four well-recognized problems: gender stereotypes, working mothers, support networks, and equal access.[105] The future, with a new

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96. *Id.* at 24.

97. *Id.* at 22.

98. *Id.* at 42.

99. *See* MSBA 2005 SELF-AUDIT, *supra* note 4, at 44.

100. *See id.* (noting one man in law firm senior management said, "We do experience higher turnover with women and minorities. . . . There's no way to be positive about it. But I think . . . there is less glue today in a law firm for both women and minorities because you have far more . . . white men in senior positions still in law firms. So there's less natural mentoring that tends to go on.").

101. *Law Firm and Public Employer Diversity Employment Statistics*, HENNEPIN LAW. 7, 10 (Dec. 2006).

102. *Id.*

103. Lisa Montpetit Brabbit & Neil Hamilton, *The Status of Women in the Profession and Best Practices*, MINN. LAW. (Feb. 17, 2003), *available at* http://www.minnlawyer.com; *see* MSBA 2005 SELF-AUDIT, *supra* note 4, at 66; NALP PERCENTAGE, *supra* note 86.

104. NALP PERCENTAGE, *supra* note 86.

105. *See, e.g.*, Deborah L. Rhode, *The Difference "Difference" Makes*, 55 ME. L. REV. 15 (2003).

leadership definition, could mean equal leadership opportunities and perhaps more meaningful, purposeful legal careers.

III.   A FUTURE OF SERVANT LEADERSHIP

Law firms are perceived by some to be merely going through the motions to increase women's opportunities; firms commit to "best practices"[106] and special recruitment but then seem to lose track of women and their careers.[107] Firms need to move beyond merely appointing diversity committees that "may do little more than churn out newsletters or tout recruiting statistics" and make serious institutional changes.[108]

This paper proposes that commitment to servant leadership at both firm and personal levels throughout the legal community has the potential to spark institutional change or, at the very least, promote a thoughtful, ethical culture that is open to change and equality. This section shows how the benefits of servant leadership, when applied to the legal community, can correct the barriers to women leadership.

A.   *Servant Leadership and the Legal Profession*

Applying servant leadership within the framework of the control-fixated legal profession can be a scary prospect, but servant leadership is not a passive style of leadership.[109] Servant leaders are tough, almost autocratic, when it comes to aspects like vision, values, standards, and accountability; the leader does not allow followers flexibility in following these expectations.[110] Once this direction is set, however, the servant leader "turns the organizational structure upside down" and becomes responsive to followers' needs, helps them develop to their full potential, and works toward a meaningful mission.[111]

In the legal system, the servant concept is extremely useful when interacting with clients. The lawyer as counselor can empower the client to be a better person or the organizational client to build a better community.[112] In deciding legal goals and best interests, the lawyer can counsel the client through the client's moral framework and help integrate values into legal solutions.[113] By being a servant to the client first, the lawyer more skillfully

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106. MINNESOTA STATE BAR ASSOCIATION, SAGE BEST PRACTICES (2003) (describing the MSBA-approved set of goals for legal employers to promote gender equality created in response to the 1999 MSBA study).

107. Jill Schachner Chanen, *Early Exits*, A.B.A. J., Aug. 2006, at 33, 34.

108. *Id.* at 39.

109. HUNTER, *supra* note 12, at 50.

110. *Id.*

111. *Id.* at 51.

112. Hamilton, *supra* note 15.

113. *See id.*

ascertains the purpose behind representation and can more effectively work toward those ends.[114]

Law firm leaders committed to serving others think about clients, employees, and community before material gain.[115] Servant leadership in firm leaders may establish a mission, shared values, and sense of ownership.[116] In the broader legal community, servant leadership can promote a high ethical standard, which is important in a profession accused of immorality.[117] Law is a powerful social institution; leadership in law firms and the legal community have "a duty to create a culture of high aspiration with respect to the goals and ideals of the profession."[118]

1.   Gender Stereotypes

One leadership barrier is gender stereotypes. As discussed earlier, characteristics that are traditionally associated with leadership, such as assertiveness, competitiveness, and business judgment, are juxtaposed with characteristics traditionally associated with women.[119] Some clients and professionals assume women lack the combativeness or authoritativeness to control autonomous workers.[120] However, when women try to adopt more authoritative styles, they are interpreted as abrasive.[121] This is another reason why values in leaders must be examined over personality traits.

When transformational leadership is utilized, studies have shown that there is no difference perceived between women and men.[122] Successful servant leaders have great listening and relationship skills; these leaders think more about the big picture and are closely attuned to their own value system.[123] These skills are not associated with any gender; in fact, successful servant leaders are required to be their authentic selves, not an emulation of someone else's definition of a leader.[124] This will also be attractive to men because male leaders will not be limited to the "masculine" version of authoritarian leadership. Servant leadership in the legal community would redefine the notion of competent leaders and could begin to eradicate gender bias throughout the profession.

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114. *See id.*

115. *See* HUNTER, *supra* note 12, at 29.

116. Neil Hamilton, *Developing Cultures of High Professional Aspiration*, MINN. LAW. (Jan. 1, 2001), *available at* http://www.minnlawyer.com.

117. *See* Neil Hamilton, *Falling Public Perception and Rising Billable Hours*, MINN. LAW. (May 13, 2002), *available at* http://www.minnlawyer.com.

118. Hamilton, *supra* note 15.

119. Rhode, *supra* note 6, at 1004.

120. *Id.*

121. *Id.*

122. Freeman, *supra* note 22, at 33 (saying that subordinates rate the actual leadership behaviors of men and women equally in transformational leadership settings).

123. Hamilton, *supra* note 15.

124. *Id.*

Awareness of the problem is a simple and important first step. For example, women leadership in the ABA drastically increased once the ABA Commission on Women in the Profession began issuing annual reports that compiled the low percentages of women officers and chairs.[125] "All legal workplaces need to go through a similar process and consider who is where, who is not, and why they are not."[126]

Servant leadership could be introduced as part of continuing legal educations or through employee meetings. The money spent on leadership training could be directed at promoting the goals and values of this theory, rather than promoting specialized behaviors that should be learned. In addition, firms could take steps, whether through education, policies, or meetings, to call leadership stereotypes into question and reflect on what people look for in a leader. Moreover, hiring decisions could account for people interested in developing servant leadership qualities: people who are reflective on their values, people who integrate these values into all aspects of their work, and people who are driven by meaning or looking to fit with a mission.

2. Working Mothers

The quality and culture of servant leadership could potentially be more sympathetic to working mothers. It has already been shown that "[t]he culture of workplaces, including policies on and attitudes about leave, affects attorneys' satisfaction and retention."[127] Children have become a huge barrier to women in leadership; women are the ones most frequently taking time from their career path to raise children, and those mothers who work are held to higher standards than working fathers and criticized more for "being insufficiently committed."[128] "At both the associate and partner levels, women were 75 percent of those leaving firms to take time for family responsibilities in 2005."[129] Even when firms have part-time policies, only 3 percent of lawyers use them.[130]

The problem of working mothers is compounded by rising billable hour requirements.[131] Women's perspectives, which are frequently more family-centric, appear to have less influence.[132] One survey revealed 62 percent of men would not be interested in lower billable hour requirement and less money, but only 30 percent of women were not interested.[133]

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125. Rhode, *supra* note 105, at 20–21.
126. *Id.* at 21.
127. MSBA 2005 SELF-AUDIT, *supra* note 4, at 11.
128. Rhode, *supra* note 6, at 1008–09.
129. MSBA 2005 SELF-AUDIT, *supra* note 4, at 44.
130. Rhode, *supra* note 6, at 1008.
131. *Id.* at 1009–10.
132. *See* Neil Hamilton, *A Look at the Effects of Increasing the Hours that Associates Must Bill*, MINN. LAW. (June 4, 2001), *available at* http://www.minnlawyer.com.
133. *Id.*

Ninety-five percent of mothers between the ages of twenty-five and forty-four with school-aged children work less than fifty hours per week during the whole year.[134] Requiring high billable hour requirements dramatically impacts the number of women available and willing to commit to the employer.[135]

Servant leadership has two important elements that mitigate the problems faced by working mothers: a focus on listening to followers' needs and a foundation in mission.[136] Women attorneys who feel control over both their careers and home will connect more to a firm's culture, and their concerns are more likely to be considered by firm leaders. When good workers are defined by more than who works the most, part-time work will be validated. If the mission of the firm is to serve others, then promotion will be based more upon effective stewardship than working many hours. Billable hours will lose value if material gain takes a back seat.[137]

Implementing servant leadership to address the bias toward those who take parental leave requires a strong commitment to changing the culture. A strong mission that moves away from monetary gain and broadens the definition of a good worker is essential. Further, leadership opportunities should specifically address part-time workers and allow access to leadership positions.

3. Equal Access

Access is blatantly unequal in two important situations: access to challenging work and access to important firm committees.[138] Despite the fact that equal access to challenging work plays a critical role in attorney advancement, the amount of firms with formal criteria or systems for work distribution has been cut in half in Minnesota firms since 1997.[139] Unequal work assignments stem from subtle gender bias and result in greater inequity; "[s]ocial perceptions of suitable work for men and women often mean that they are assigned different tasks and responsibilities from the outset and receive different compensation" and reduced opportunities for leadership.[140] Women are also disproportionately underrepresented on the most

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134. Joan C. Williams & Stephanie Bornstein, *Caregivers in the Courtroom: The Growing Trend of Family Responsibilities Discrimination*, 41 U.S.F. L. REV. 171, 177 (Fall 2006).

135. *Id.*

136. *See* Hamilton, *supra* note 15.

137. Neil Hamilton, *Firms Should Reduce Lawyer's Billable Hours*, MINN. LAW. (Mar. 15, 1999), *available at* http://www.minnlawyer.com (commenting that "the time famine is especially burdensome on women lawyers in two-career families . . . on the average, the woman in a two-career household is still contributing approximately an hour and a half more a day to the family").

138. *See* MSBA 2005 SELF-AUDIT, *supra* note 4, at 11, 46.

139. *Id.* at 11.

140. WIRTH, *supra* note 66, at 101.

powerful governance committees at law firms, which include the management, partnership selection, and compensation committees.[141]

Servant leadership will prompt improvement in equal access through an emphasis on motivation.[142] A main element of servant leadership is "lighting a fire within people."[143] Servant leaders motivate through recognition, praise, influence, challenge, and meaningful work.[144] The effective servant leader will realize that challenging women and giving them adequate influence will encourage women in their work and in their connection to the firm. Further, women need to be equally represented on the governance committees set forth above. These committees set the culture of the workplace and could help formally introduce and ingrain servant leadership into the firm.

4. Support Networks

A large advancement obstacle for women leaders is "the absence of mentors and access to informal networks or advice, contacts, and client development."[145] This problem is exacerbated if the woman has family responsibilities that pull her home instead of out to social events.[146] This lack of networking possibilities puts women at a knowledge disadvantage and perpetuates the "men's culture."[147]

Support networks are not increasing as fast as the number of women in the profession for several reasons: some women believe that since they managed without special help, no one should have it; other women do what they can but are overburdened by the increasing number of new women.[148] Mentoring in general is sometimes avoided; the business of the law firm "penalizes workers for engaging in intangible—ergo unproductive—activities, which effectively reduces the time and effort lawyers can afford to devote to mentoring efforts."[149]

The connection of mentoring, servant leadership, and women leadership overlaps on several levels. Servant leaders would be pushed by their desire to build a support network for all followers. This support would also draw on the values and ethics of both mentors and protégés, ensuring that

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141. MSBA 2005 SELF-AUDIT, *supra* note 4, at 46 (revealing the 2005 percentages as: 15% on management, 22% on partnership selection, and 12% on compensation committees; one man observed, "if [minority representatives are] not . . . on that management committee that matters then . . . they're just like any other partner who gets a vote. We need to have voices . . . [with] the decision-making power to make things happen.").

142. HUNTER, *supra* note 12, at 187.

143. *Id.*

144. *Id.* at 189.

145. Rhode, *supra* note 105, at 18.

146. *Id.*

147. *See id.*; *see* MARTHA BURK, CULT OF POWER: SEX DISCRIMINATION IN CORPORATE AMERICA AND WHAT CAN BE DONE ABOUT IT 21 (2005).

148. Rhode, *supra* note 105, at 18.

149. Schachner Chanen, *supra* note 107, at 37.

new associates were addressing problems within a moral framework and with moral courage.[150]

Using servant leadership in mentoring situations would spread this leadership theory, and hopefully its continuing benefits, onto the next generation of lawyers. The implementation of a formal mentor program is easily solved but should also have tangible recognition. Informal mentoring can start to be addressed by specifically encouraging women leaders not to "pull up the ladder" behind them, but instead work to build a supportive network for everyone.[151]

CONCLUSION

Retaining and promoting women is in law firms' best interests; a firm's ability to draw the best talent means nothing if it is not able to capitalize on its experienced and capable attorneys.[152] Integrating servant leadership into the profession would be one significant step in that direction. Being a servant leader is ultimately a personal choice, but there are steps an organization can take to promote those ideals.

Mission or vision developments are important components of executing servant leadership and could also be a place where values and expectations are ingrained and distributed to each attorney. Further, encouraging all employees to be part of forming and defining these elements would increase investment and community in the firm. The culture of the firm must be carefully designed, carefully promoted, and then carefully implemented through hiring, policies, and communication.

This vision should include a sincere commitment to equal leadership opportunities, which must be "reflected in institutional priorities, policies, and reward structures."[153] Explicit expectations must be set forth, along with a systematic way to measure whether there is progress. A commitment or policy is meaningless without measurement.[154]

These changes would be implemented the fastest if women did not have to fight these obstacles alone. Investment in servant and women leadership by both men and women is the only way to truly achieve equal playing ground. Further, clients can also help to promote diversity among firms and firm leadership.[155] Clients should keep demanding this, and law firms should be honest with the public in their endeavors to achieve leadership

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150. HUNTER, *supra* note 12, at 110.

151. Joshua M. Levine, Comment, *Stigma's Opening: Grutter's Diversity Interest(s) and the New Calculus for Affirmative Action in Higher Education*, 94 CAL. L. REV. 457, 527 (2006).

152. Brabbit, *supra* note 103.

153. Rhode, *supra* note 105, at 20.

154. BURK, *supra* note 147, at 163.

155. Schachner Chanen, *supra* note 107, at 39 (stating that law firms have to learn an important lesson that diversity costs money to implement, diversity has to be more than hiring a "critical mass" of minority groups, and clients have to show that they are serious about training and development issues so that the firms become serious).

parity. Starting a public discussion could help eliminate the "no-problem problem" by establishing that there is inequality in leadership positions, and the solution must include a new definition of successful leadership.