

Working Paper

***From Here to Flexibility in Law Firms:
Can It Be Done?***

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Introduction

The MIT Workplace Center hosted a Seminar Series in the spring of 2003 entitled *From Here to Flexibility: The Challenges and Promise of Flexible Work Arrangements*. Lauren Stiller Rikleén presented at a seminar in this series on March 20, 2003 and her presentation was entitled *From Here to Flexibility in Law Firms: Can it Be Done?* Mona Harrington, Program Director for the MIT Workplace Center was the discussant for the seminar. Susan Cass, the Center's Program Manager, prepared this working paper from the transcript of the seminar.

Lauren Stiller Rikleén is a senior partner in the law firm of Bowditch & Dewey. She practices environmental law and holds a JD degree from Boston College Law School. Ms. Rikleén has had extensive practice in all aspects of environmental law with an emphasis on negotiation, enforcement, and compliance issues. She has served as an enforcement attorney at the Massachusetts Office of the Attorney General and in the United States Environmental Protection Agency. She has published extensively and lectures frequently on environmental topics.

Ms. Rikleén has played a leadership role within the legal community on work and family issues. As president of the Boston Bar Association, she initiated a Task Force to examine work-life issues. That investigation resulted in a report called "Facing the Grail: Confronting the Cost of Work-Family Imbalance," which received national attention following its publication. The Task Force is now a standing committee of the Boston Bar Association, on which Ms. Rikleén continues to serve.

She is currently writing a book about the challenges and institutional impediments which women face as they strive to succeed in law firms.

Ms. Rikleén's remarks include excerpts from the "Facing the Grail" report.

Choosing Work-Family Balance

As president of the Boston Bar Association, I had the tremendous opportunity to highlight work-family balance as a priority of my bar presidency. This issue is one that has been on my mind for a long time. Part of it stems from the fact that I am a parent of two teen-aged children. As any working parent knows, you are consumed by the fact that you are a parent, no matter where you are. I also found it was easy to connect with other working parents on the same issues I had been grappling with for many years. I always appreciated how frequently, when I would meet a lawyer for the first time, we would connect easily around these topics. It was clear to me that the work/family balance issues are important to all working parents.

In my role as a senior partner in a law firm, I have had the opportunity to participate in many discussions about who should be elected to become a partner in the firm. I have also had conversations with many of my colleagues in other firms about these issues. I often hear the criteria of “total commitment” as a critical quality that an associate needs in order to become a law firm partner. I worry about what “total commitment” means and how this criteria impacts how one can parent and lawyer at the same time.

Finally, I am deeply interested in this issue because I have long had a general concern about my own generation – as well as the generation younger than mine –

regarding the attention we are paying to our children. This can be a very difficult, sensitive issue to discuss, but sometimes I see people who are

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doing a better job lawyering than parenting. I worry about what this means to their children. The reality is, being able to be a good parent—even while in the workplace—is very important to the health of our children.

One of the things that struck me when we began looking at this topic is how Americans used to view the Japanese workplace as the example of an overworked culture. Numerous articles used to analyze how driven Japanese workers were, and point with horror at their long hours. But now, the United States has passed Japan to become the longest-working nation in the advanced industrial world.

Law firms provide the perfect vantage point for a study of the over-worked American. What we have in law firms, essentially, is an increased demand for billable hours and decreasing partnership opportunities. This combination leads to high attrition, poor morale, and a variety of other problems.

Creating a Task Force to Study Work-Family Issues

The work of creating this Task Force began when I became president-elect of the Boston Bar Association. It was important to interest the leadership of the bar in this topic, and seek their commitment to the Task Force's goals. So we worked hard to build support for a whole-hearted commitment to this effort.

We also gave a great deal of thought to how we would constitute this Task Force. We worked to identify a diverse group of senior and junior partners, associates, in house counsel, and law school administrators to be sure that our membership represented a broad legal constituency.

After determining the membership of the Task Force, we addressed what our mission and goals should be. None of us had any illusions about what we could accomplish. We were not out to create dramatic, overnight change. We did, however, hope that we could bring

What we were hoping was that we could bring greater attention to the issues of work and family and to help move these issues to the forefront of a law firm's agenda.

greater attention to these issues and to help move work/family balance concerns to the forefront of a law firm's agenda. For years, the issue of work-family balance was rarely

discussed in law firms. We thought that if we could accomplish getting the issue on the table, it would be a very significant start. We believed that the more that law firms had to confront and discuss this issue, the more likely it would be that they would begin to effect measures that would accomplish real change.

Accordingly, in our early meetings, we reached out to others in the profession to seek their perspectives and get their input. One observation that derived from this outreach process complicated our challenge in many ways. Specifically, we found a significant discrepancy existed between how law firm managers viewed their firms and what associates in those same firms experienced as their reality. In the report we describe the discrepancy this way:

Most senior managers in law firms will tell you that the profession is troubled, but that their own law firm is grappling with these problems well. Most young attorneys contribute to that perception by failing to state within their own law firms the perceptions that they are willing to share with outsiders: that their firms are not addressing these issues in a meaningful way, and that their firms' inability to offer an acceptable balance between work demands and family needs leads them to question their own future in the profession.

Changes in the Legal Profession

We began our report by noting the dramatic changes our profession has experienced over the last generation. Historically, lawyers and their clients had on-going relationships and long-term commitments. Lawyers could send out a bill that said little more than: “for services rendered,” stating the amount due, and the client would then pay that amount. The bill was generally based on a lawyer’s perception of what the work was worth.

Today, as our Task Force noted, we see the billable hour as the driving force. Professional success in a law firm now depends on fees generated from billed hours. Moreover, rising legal costs have resulted in far greater scrutiny of bills. Many clients now have explicit requirements regarding how lawyers must account for their time. It is

not unusual for an institutional client to send lengthy memos explaining what a bill should look like and how time should be documented. And, rather than relying on long-term relationships, clients now shop their matters among multiple firms. They talk with several different firms and try to get competitive prices and lower billable rates, further de-personalizing the relationship between a lawyer and their client. As a result, the relationship between the lawyer and client has been transformed in our profession.

In addition, there are new benchmarks for measuring success: billable hours, fee realization, and the firm's market share in a particular practice area or geographical region are now the critical drivers. We have also seen a real impact from technology. We all remember what the promise of technology used to be. We were going to get more free time, we would become more efficient, doing more in less time. What technology has made possible is the 24/7 work week, allowing all of us to be accessible around the clock. Certainly this is not unique to the legal profession, but it is a huge problem within it.

Vicious Circles

As the Task Force looked at all these historical changes within the practice of law, we started to identify what we called a series of "vicious circles," where solving one difficulty led to another problem which created new difficulties.

Foremost in this analysis is the drive for higher revenues. In most firms, the largest expense is associate salaries and benefits. A few years ago, as firms found themselves competing to attract highly qualified law school graduates, they began offering increasingly higher salaries and promises of bonuses. This rise in salaries for the new lawyers then led to a ripple effect throughout the law firms. The salaries and bonuses of senior associates and partners had to be adjusted to keep ahead of their younger colleagues. Compensation expectations, therefore, increased dramatically throughout law firms.

But at what cost? As the pressure for higher compensation increased there was, and is, greater pressure on everyone to work longer hours, increase their hourly billable

rate, and to take on even more work. And as partners and associates continue working so much harder, they seek higher compensation to make up for how hard they are working. And the vicious circle continues.

One way lawyers increase compensation is by increasing their hourly rates. But as hourly rates go up, the pool of potential clients that can afford such rates declines. This affects the type of work that is available to both associates and to partners. As clients are paying more per hour, advances in technology allow law firms to offer--and clients to demand--a more sophisticated work-product. Lawyers are expected to consult more reference sources, revise more drafts, and be more responsive to client demands at any time of the day. As client demands increase, lawyers work harder, and the vicious circle continues.

The Task Force identified additional pressures on associates as a result of the growing trend of law firms to limit the number of partners that they would add each year. Associates respond to this growing competition by attempting to stand out in the race for the increasingly elusive goal of partnership. They compete primarily by exceeding the billable hour expectations. Stress levels increase, morale plunges, and another vicious circle continues.

With each of these circles, work-family balance is at the center of the conflict. It became clear to us that the economic model under which most law firms operate directly impacts the work-family balance issue.

The Law Firm Economic Model

Law firm economic models are different from most other business models in key ways that exacerbate work/family balance challenges. In law firms, expenses are distributed on a per-capita basis, that is, across all attorneys. Profits, however, are distributed according to who produces the revenue. This results in a compensation model that focuses primarily on revenue generation, with expenses taking a back seat. For

example, the need to hire additional associates is frequently based on the work demands of the firm's largest rain-makers. But all partners share equally in the cost of these new employees. So there is little incentive for any one particular partner to reduce costs.

Even to the extent that firms are focusing more on expenses, they tend to do so on a firm-wide, per-capita basis, and not with respect to any individual. Accordingly, an individual lawyer's expense generation (e.g., how many extra associates are required to service that lawyer's clients) is not an important component in setting compensation. Per-capita expenses are steadily climbing now because of the issues just noted relative to associate compensation and also training and development. As per-capita expenses increase, there is greater pressure on hourly rates and the number of hours that an attorney must work to be perceived as profitable.

In most firms, junior associate salaries are so high they do not work enough hours to pay their own salaries and overhead. This results in increased pressure on senior attorneys to be even more profitable. Even worse, the growing attrition rate is reducing the number of profitable mid-level and senior associates, exacerbating the financial burden at the partnership levels. As more mid-level associates leave, everyone else, including partners, have to work even harder.

The Myth of Meritocracy

The Task Force also looked at what we called the "myth of meritocracy." Firms promote the idea that they are meritocracies, pure and simple. Excellent lawyers will excel. But what does that really mean? For someone to be excellent and to excel they still have to compete. Yet competition and meritocracy are both impediments to the achievement of work-family balance, as these qualities are played out in the law firm environment.

The competition can be found in a number of ways. For example, many law firms measure their success by how well they perform in what is now a very publicized net-

profit-per-partner category. *American Lawyer* annually publishes the net-profit-per-partner for a significant number of major firms. By defining success in this way, and comparing the firm's net-profit-per-partner to those of other similar firms, the short-term economic issues become paramount.

As the Task Force report stated, firms are constantly asking themselves:

- *What are our net profits this year compared to last year?*
- *How does our net-profit-per-partner compare to other firms with whom we compete?*
- *What are this year's starting salaries in competing law firms?*
- *How did we do in recruiting?*
- *How many associates are likely to be candidates for partnership this year?*
- *How will this affect net-profit-per-partner overall?*

How each firm answers these questions has a direct impact on how their lawyers can excel.

The concept of meritocracy negatively impacts work-family imbalance because of the misperception that merit is equated with work quality only. But how do law firms define merit? Our Task Force noted that lawyers define it by the quality of one's legal skills, responsiveness to client demands, commitment to the firm, and teamwork. These attributes are, in fact, all components

of merit, but they are also all correlated with long-hours, to the sacrifice of personal and family time. Meritocracy

Meritocracy has come to mean a lifestyle that pushes all non-work obligations aside on a regular basis as a symbol of one's commitment.

has come to mean a lifestyle that pushes all non-work obligations aside on a regular basis as a symbol of one's commitment.

An anecdote that captures the meritocracy dilemma is a story about a partnership discussion that took place at a law firm. A particular candidate was described in terms of

all his terrific qualities and how committed he was to the firm. What example was used to show his commitment? It was when a family member died and the candidate flew out-of-state just for the funeral, and immediately returned to work. To his partners, this showed great dedication; to others, it was a horrifying example of how commitment has come to be defined. And there are many more stories like this one, including lawyers having to change wedding dates and other significant life cycle events.

The Task Force report stated that even those associates who do not see themselves becoming a partner feel the competitive effects of this culture. Associates compete for assignments to desirable cases and jockey to be recognized for their contributions to a positive case outcome. They try hard to distance themselves from a mistake or an unsatisfying outcome. They spend a lot of time vying for the esteem of their partners. In the end, associates evaluate themselves and each other with respect to their bonuses, the size and financial status of their cases, and the relationships with those who are perceived to be the more influential partners in the firm.

The Report also analyzed the fact that, while the associates are grappling with their own place in their firms, partners are also competing for compensation. Partners compete with each other to staff their cases with the most talented associates and they compete for client billing credits. Within this competitive environment, we have a culture that sends a message: lawyers that devote significant time to non-revenue producing activities may be viewed by others as lacking commitment.

In creating this culture, lawyers are failing to account for the significant downside costs of this competitive environment. First and most significantly, attrition is a growing expense that firms can no longer afford to ignore. A major study is often cited on this point: In 1998, 154 law firms involving more than 10,000 associates were studied. The findings revealed that 10% of the associates leave their firm within one year, 43% leave within 3 years, two thirds leave within 5 years and three quarters are gone by their 7th year.

The costs of associate attrition are enormous. Once the costs of recruitment, training, salaries and benefits and other related expenses are factored in, nearly all first- and second-year associates at large and many medium size firms are an economic loss. In general, it takes at least 3-4 years before associates even begin to return the firm's financial investment in them. An associate's primary return on the firm's investment occurs in years 5-10, the time that statistics show is the greatest period of attrition.

The negative impacts of attrition reach beyond these measurable costs. Our report noted that there is often a profound impact on people's relationships within the firm, and a sense of loss can be experienced as co-workers depart. High associate turn-over also affects the willingness of partners to devote non-billable time to mentoring and assisting with related associate development issues. The general feeling is often, "Why spend the time, the person's going to be gone soon anyway, so we may as well just get as much work out of the person as we can now."

Attrition also has a negative impact on those that remain in the firm, because it is often interpreted as a statement that work-family balance is not achievable. As more lawyers leave and fewer role models remain of those who shoulder significant family responsibilities while working in the firm, the questions arise more and more about what the future holds. One interesting statistic that *[Attrition]... is a statement that work-family balance in not achievable.* our Task Force report cited is that an associate who stays long enough to become elected to partner in a large firm (seven to ten years) is likely to have seen about three hundred other associates come and go.

Our report summarizes the state of our profession in the following way:

We are in danger of seeing law firms evolve into institutions where only those who have no family responsibilities — or, worse, who are willing to abandon those responsibilities— can thrive. This is not an exaggerated perspective; it is a description of where many think we are heading and where others think we have already arrived.

What Is Needed for Real Change?

What do we need for real change in our profession? Our report identified key components that we see as foundations for any kind of change:

1. Awareness of the issues;
2. A willingness to engage in some self-examination;
3. Honesty;
4. Discussion;
5. Some imagination; and
6. A willingness to take some risk.

With respect to the risks, it is important to note that there are very few changes that could be made where you *cannot* modify mid-course, or make some reversals or changes if it proves unsuitable or detrimental for any reason within a particular law firm culture. There is a great deal of room for individualized solutions.

Flexibility Is Key

Our Task Force looked at a number of firm policies and practices that could be particularly helpful in promoting and supporting work-family balance. What we found is that a key ingredient of any “best-practice” is flexibility. The discussion of work-family balance could begin

[Flexibility] is the willingness to keep making adjustments until something works.

and end on that one word alone, if people understood it and were engaged in a discussion about what it means and how best to use it. In its essence, flexibility is the willingness to keep making adjustments until something works.

The Task Force observed that the creation of alternatives to equity-partnership can maximize opportunities for retention and advancement in a broader way. Firms benefit from retaining experienced lawyers, but not necessarily in a one-size-fits-all elevation package. Some firms have begun to experiment with senior, non-ownership

positions. But, unfortunately, at the more senior levels of law firms, there are not many non-partnership arrangements offered.

Another key is the development of individualized, flexible (there is that word again), work-family alternatives. There are a number of options: contract attorneys who can work on an as-needed basis; policies that support reduced hour caseloads and other related work arrangements; and recognizing the value of policies that provide opportunities for part-time partners and associates within a firm.

But many significant issues exist around reduced and part-time hours. Unfortunately, many firms try to implement a one-size-fits-all type of reduced hours arrangement, and it is not a one-size-fits-all issue. It is fraught with a need for significant caution. For example, a lot of people who work part-time talk about how technology ends up enslaving them, rather than helping to actually reduce their time working.

Many difficult issues arise in trying to implement a reduced hour policy in a fair way. For example, the questions that usually arise are: Can lawyers work part-time? What percent part time? How do you pay them? How long can they stay part time? The only way it works well within a firm is if everybody is committed to making the arrangement succeed — that means not just the person with the reduced hours, but everybody, from the Managing Partner on down. The common theme among attorneys most satisfied with their reduced-hours arrangements is their firm's *commitment* to honor the arrangement; that is really what it means to have top-down support.

Case Example:

An Alternative Law Firm ¹

I left a big firm in 1995 and started my own firm where 8 of the 17 lawyers are what we call flex-time lawyers and 11 of the 17 are women. They are people with responsibilities at home that do not allow them to work all the time. We have decided to have a maximum number of hours that people can work and that number is 1800 hours a year. We don't let people work more than that, even if they are full time, because we think it produces bad habits.

We look upon all the lawyers as being permanent lawyers who share in the revenues of the firm. We do not treat flex-time lawyers any differently than we treat full-time lawyers because they are professional people who discharge their professional responsibilities in the same way the rest of us do. I think it is true that there are some areas of practice that given short periods of time require bursts of concentration that make it very hard for someone that is less than full time to do them.

My firm has 17 lawyers and 3 and a half non-lawyers. If we had the same number of non-lawyers that other firms have, we would have about 23 non-lawyers, which would mean we would have to have that much more space, much more overhead, many more HR problems, and it would be impossible to be a family, and so forth.

There will always be a quantity of business in which the fee is essentially no object, but for all the other work people increasingly are looking at their expenses and they are venturing out and finding firms like ours which can do things literally for half the price big firms can.

I am optimistic that there are increasingly going to be more places like ours that offer opportunities to women. Twenty years from now instead of the 20 big money-making firms in Boston, there will be just five or six. Another difference will be you are going to find many more firms where women, for example, mothers, are going to perform a lot more of the work.

¹Comments made by Bob Sullivan. For more information, see MIT Teaching Case WPC #100 "Beyond the Part Time Partner: A Part Time Law Firm? Brendan Miller, Thomas A. Kochan and Mona Harrington, October 2003.

But there is often a discrepancy between how law firms see themselves and their true success. For example, it is common to hear a firm manager say “Oh, we have great part-time policies and it works very successfully here.” Yet a lawyer in that same firm who is working at a reduced-hours rate may express unhappiness with, for example, the poor quality of work assignments or the feeling that she is working too many hours for the amount she is being paid as a part-time employee.

A woman I spoke with recently summed up her part-time experience, “What I’m really getting is the flexibility I need, even though I’m basically working full-time to get paid part-time. What’s in it for me is that I can walk out when I need to without feeling guilty.”

Culture of Awareness

Other best practices include a commitment to what is called a “culture of awareness.” Firms transmit much of their culture and values in different ways, often through casual conversations, particularly those in which partners or associates characterize themselves or firms relative to each other. For example, some firms like to describe themselves as entrepreneurial, others as tough and aggressive, or intellectual. But whatever the cultural identity, it holds a very subtle but important meaning with respect to the work styles that will be expected of every partner and associate who is there.

The language of lawyers also equates to being a top firm, or a successful lawyer, with size and revenue. Rarely do we hear the words *dedication* and *commitment* to describe one’s family obligations, as opposed to

their long hours working at the firm. We are trying to create a culture of success by

Firms that wish to address work- family balance in a meaningful way, really have to clarify what their expectations are.

addressing how lawyers can limit their work lives without negative effects: for example, setting forth clear expectations for when and how an associate can place limits on availability without adverse consequences, training associates in how to respond to inconsistent deadlines or demands, and ways to obtain firm intervention in difficult

situations. This effort would also require firms to send a message that “face time” is not a measure of success, and work schedules can often be adjusted in a way that is not inconsistent with client demands.

“I Stopped by at 6 O’clock Last Night. Where Were You?”

Associates feel strongly that there is a “bed-check” mentality at a lot of firms. You hear the stories about how they learn to leave their coat and glasses visible, so it looks like they are working late. There is a need for a top down message that says “get your work done, but get your work done around ways that work for you.” Adopting flexible working patterns would go a long way towards fixing the problem.

More Best Practices

Another best practice the Task Force explored is a “bottom-up” evaluation. A number of firms have begun to institutionalize evaluations in which associates are asked to review confidentially their supervising lawyers with respect to such issues as supervision, training, feedback, and mentoring. These reviews can provide very meaningful information, particularly if the evaluations are factored into the firm’s deliberations regarding the compensation of the person being evaluated.

Flexible parental and family-emergency leaves are also important components in the development of best practices. Many firms now offer flexible leaves to new parents, or in the event of a family emergency. Some firms have back-up childcare facilities for when a regular childcare provider is suddenly unavailable, a school is unexpectedly cancelled, or some other emergency occurs. It is critical, however, to ensure that providing childcare is not used as an excuse to demand even greater hours. If you have childcare available in the firm for weekend support, that encourages people to come in on weekends. If you have childcare available for a sick child, that encourages you to take your sick child out of the home to be in some kind of an institutionalized setting so you can work longer. I think we have to think very carefully about some of these measures and how innovative and how helpful they really are.

The Task Force also looked at best practices in other professional services fields. We looked at the accounting profession because the law shares many parallels with this service profession. Of the companies we looked at, it was clear that those that embraced flexibility in a fully committed way were the ones that developed a track record of success in lowering attrition and improving employee morale in very measurable ways. Many accounting firms have developed firm-wide programs to assist employees in creating individual work-life balance plans that allow for flexible arrangements. Some of these individualized work-life plans include a wide range of acceptable alternatives that people could use: compressed work weeks, reduced hours work-weeks, reduced work loads, telecommuting, and job-sharing. Other firms have developed workshops for men and women that are structured to encourage the expression of concerns about the workplace that employees might otherwise be reluctant to discuss. Forums and other opportunities for people to talk more to each other are important. Almost none of these are in use in law firms in any significant way.

Input from Associates

Our Task Force also asked associates for best practice ideas and received some interesting suggestions. One suggestion was to encourage associates to work as a group to identify problems and solutions. By working as a group, individuals who raise issues avoid being stigmatized. Another suggestion was to support information-sharing throughout the law firm by way of bulletin boards and other internal communication vehicles. We heard a lot of concern around the issue of how to preserve confidentiality because there is such a fear of stigma associated with wanting to talk about these issues in any sustained way. Some associates have suggested that firms should hire work-family advocates who have either direct management authority in the firm, or the direct ear of management to monitor and help with the implementation of reduced-hour arrangements and other similar types of programs.

Task Force Recommendations and Implementation Plan

Our Task Force recommended that bar associations and law firms establish on-going committees or groups to encourage the continued sharing of ideas and experiences. To continue our own role in that effort, our own Task Force evolved into a Standing Committee of the Bar Association as a way of keeping these issues front and center.

The Report concluded by noting that law students entering our profession are increasingly questioning a definition of success that does not include family and community involvement. We

hear a great deal from law students who see law firms as just a place to work while they pay off student loans, and then they plan to move

... we stand at a time in which our decisions with respect to professional commitment and work-family balance will profoundly affect the future direction of our profession, and the lives of the families of those who choose law as a career.

on with their career by doing things that they really want to do. We noted in our report that we stand at a time in which our decisions with respect to professional commitment and work-family balance will profoundly affect the future direction of our profession, and the lives of the families of those who choose law as a career.

We thought it was critical that once the report was issued (and it received significant attention nationally) we would create an action plan and try to move the agenda forward. Our long-term goals are to look at the following:

- Ways to reduce attrition;
- How to create an organizational culture to support diverse career profiles;
- How to develop alternative work-family arrangements;
- How to identify benchmarks for success;
- How to use technology in a more positive way;
- How to improve mentoring to serve as a tool in addressing these issues;
- How to retain and promote women and minority lawyers; and

- How to analyze the structure of today's private law firms, looking at culture, the labor force, and the business and legal trends to affect the ability to achieve work-family balance going forward.

I will briefly describe two of the initiatives on which we have moved forward. One was a law-student initiative which focused on how to address the fears of law students about to enter private practice. We held forums at law schools to discuss the issue generally, and to hear the students' concerns. We also implemented a survey for law students that they completed at the end of their summer associate experience. In this survey, we were trying to obtain some of their insights on the work-family issues they observed as summer associates. Unfortunately, we did not get the kind of information we had hoped to obtain--and we are not sure whether the students did not have the right exposure or we did not ask the right questions. Ultimately, what we would like to do as part of our focus on law students is to develop a practical guide that would help students negotiate around and learn about the work life environment at different firms. We are continuing to think about the best ways to help law students as they come into the workforce.

We also undertook a Managing Partner initiative. Recognizing that the full buy-in and commitment from law firm leaders was critical to any effort to change firm culture, we developed this initiative to seek ways to secure their involvement. We asked the Managing Partners to commit to doing "just one thing," and received back an interesting range of proposals. Some wanted to address this issue very systematically and put together major committees, while others proposed only minor tinkering along the edges.

A couple of examples: some firms agreed to establish firm-wide work-life committees where the committee members would have a broad mandate to review existing programs and make recommendations, monitor the progress of all individuals participating, and recommend benchmarks to help evaluate the committee's performance and the firm's ultimate success in this area. Two of the three firms that proposed firm-

wide committees required that the committee report regularly both to the managing partner and to the firm's executive committee. This is key to the top-down support that is so critical in the law firm environment.

Examples of other proposals include:

- One firm proposed that the Managing Partner and department chairs conduct interviews within the firm to understand better work load and work-life challenges within each department, and to evaluate the need for different types of technologies or different types of support.
- Another firm proposed to institute a professionally designed upward review program, including an evaluation of each partner's commitment to work-life issues.
- One firm proposed to appoint an attorney coordinator to look at the firm's work-life policies, and to determine whether there are internal structural impediments to using these policies. Many firms do have some fairly solid part-time policies or maternity or paternity leave policies, but they also have a culture in which you could never take advantage of those policies and succeed.

There is a great deal more to do. The Boston Bar Association's Standing Committee on Work-Life Balance will continue its efforts, and welcomes your suggestions and involvement.

Discussant's Comments

Mona Harrington, Program Director, MIT Workplace Center

What is so striking in this story and extremely difficult to try to understand and cope with is the underlying assumptions, the underlying values, the underlying legitimating concepts that do not recognize that work-family is an important piece of the lives of lawyers, the lives of professionals, the lives of workers and important enough for workplaces to take it seriously. We have reached the point where the problems that lawyers and professionals have for putting work-lives and family-lives together have become recognized as a problem, but somehow we have not quite reached the point where it is broadly, firmly, securely accepted that work should be organized in such a way that allows workers, allows lawyers, allows all kinds of professionals, to be able to respond to family needs in some way. That concept simply has not taken root. All of the proposals that the task-force, and the standing committee and the various managing partners have come up with are pieces of solutions dealing with problems. Standing in the way remains the resistance to taking responsibility for supporting the families of workers, as a proper and legitimate responsibility, as a necessary responsibility of firms.

What sits underneath that set of assumptions and values? Lotte Bailyn and her colleagues have done a great deal of work, face-to-face consultations in workplaces coming straight up against this set of assumptions that seem to block the most rational, the most sensible kinds of changes that would solve problems.² Lotte's work is an important way of thinking about the problem, naming it and focusing on it. The assumptions that make it so difficult to make any change need to be examined.

We need to keep in mind the remaining legitimacy of the concept of separate spheres of work and family, a sense that they should be separate. Maybe it is a fear that if they are not kept separate, they might damage or contaminate each other. And they are kept separate by a gendered division of family labor, meaning that women mainly take care of families and organize their work-lives to allow that as best they can. This is a

² "Beyond Work Family Balance, Advancing Gender Equity in Workplace Performance" with Rhona Rapoport, Joyce K. Fletcher, Bettye H. Pruitt (Jossey Bass, 2002)

pattern that is bolstered by a belief, broadly shared in our culture, that they should do this, that this is the right thing to do.

Then there is the corollary value of individual responsibility that is organizing a life that bridges these separate spheres of work and family. It is not part of something that our large social institutions need to take on as part of their responsibility. This is all very familiar, but it bears repeated reminders so that we do not forget. The tensions that Lauren has outlined so very clearly and specifically and in a way horrifyingly, are replete with social and moral rules, legitimating justifications, assumptions, beliefs, shoulds and should nots, and this cultural structure simply is not going to give way to rational demonstrations of different ways of doing things. An important piece of making change in the way work and family can be integrated has to do with identifying these assumptions, bringing them out into the open as Lauren has done, and contesting them in the various ways.

The MIT Workplace Center is engaged in an attempt to organize a state work-family council to bring together a range of stake-holding groups that connect to work-family problems but that do not necessarily have very much conversation with each other. The stake-holding groups are business, labor, professional associations, women's groups, low-income advocates and

community based organizations
dealing with schools and

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healthcare and transportation and all of these pieces that are part of the way work and family need to be understood. The problem of integrating work and family needs to be understood, but is rarely seen as a whole. If we could bring this whole into public sight the possibility of reaching the underlying, legitimating piece that makes it so difficult to talk about and think about might be possible.

Overall the general lesson of what Lauren has been addressing is the importance of recognizing that when we are dealing with those domains of work and family, we are dealing with fundamental elements of life and that values are an essential part of their makeup. Any clearly accepted and secure change in the relation of work and family does require change in the values and assumptions that surround the relation between work and family.

Conclusion

Thomas A. Kochan, Co-Director, MIT Workplace Center

Perhaps this problem will begin to solve itself because of the economics. The large firms that have these tremendous overheads are dinosaurs and over time they will lose out to smaller, more flexible firms. Are there better ways to organize law firms that do not have high levels of overhead that are leaner in some respects, but also more flexible? Will the number of very large firms go from 15 down to 6 with many more specialized smaller ones meeting the remaining need? Technology will probably be an asset in moving in that direction.

But all this is very top down and very individual—firm by firm. If we could only get the senior partners to understand that the world is changing. It is very difficult to make change on an individual basis because there is always going to be this competitive culture. But if a large number of young people are coming out of law schools who want to have a different approach, if there is tremendous dissatisfaction among lawyers, then why not work to build a more collective approach? Build the power of the lawyers themselves to change the culture of the profession, to change the relationships with senior partners, and to build some collective process through the labor market and begin to create much more of a response and much more power by the individuals themselves? We need to continue working with the law schools to change the culture.

That model requires more development because the labor market power and the changing demographics is the other lever that is available here. The lawyers of Boston could convene from time to time, those who are interested in these kind of changes, to share ideas, to ask what kind of collective efforts they are making, to support each other and to support changes in the law school, in law firms and law schools. The Task Force and working group are excellent beginnings. Keep the conversation going and expand it.

Other Publications from the MIT Workplace Center

Workforce Issues in the Greater Boston Health Care Industry: Implications for Work and Family,
Mona Harrington, Ann Bookman, Lotte Bailyn, and Thomas A. Kochan (#WPC0001)

Enhancing Patient Care Through Enhancing Employee Voice: Reflections on the Scanlon Plan at Boston's Beth Israel Medical Center,
Mitchell T. Rabkin, MD and Laura Avakian (#WPC0002)

An Employment Policy Agenda for Working Families,
Thomas A. Kochan (#WPC0003)

Work Redesign: Theory, Practice, and Possibility,
Lotte Bailyn and Joyce K. Fletcher (#WPC0004)

Supporting Caring Caregivers: Policy and Practice Initiatives in Long Term Care
Susan C. Eaton and Barbara Frank (#WPC0005)

Reinventing the Health Care System from Within: The Case of a Regional Physician Network in Germany
Katrin Kaeufer, Claus Otto Scharmer, and Ursula Versteegen (#WPC0006)

Meeting the Family Care Needs of the Health Care Workforce: Reflections on the 1199 Child Care Fund,
Carol Joyner, Executive Director, 1199/Employer Child Care Fund (#WPC 0007)

Bridging the Gap Between Workplace Demands and Family Obligations: Lessons from the United Auto Workers/Ford Partnership,
Bill Corey, Assistant Director UAW, FSLC and Richard Freeman, Ford Director, FSLC (#WPC0008)

Connecting Work and Family in the Higher Education Workplace: Past Successes, Future Directions,
Kris Rondeau, Organizer, Harvard Union of Clerical and Technical Workers (#WPC0009)

Maintaining a Patient Focus in the Flexible Work Environment,
Nancy Kruger, DNSc., RN Vice President, Patient Care Services and CNO, Brigham and Women's Hospital
Nancy Hickey, RN, Director of Personnel Resource Applications, Brigham and Women's Hospital / Discussant: Lotte Bailyn, T Wilson Professor of Management, MIT Sloan School of Management (#WPC0010)

Professions Theory vs. Career Theory: Explaining Physician Employment in HMOs
Forrest Briscoe (#WPC0011)

Education, Families, and Workplace Policies: Their Roles in a Knowledge-Based Economy
Thomas A. Kochan (#WPC0012)

Restoring Trust in the Human Resource Management Profession
Thomas A. Kochan (#WPC0013)

Broadening the Horizons of HRM: Lessons for Australia from Experience of the United States
Russell D. Lansbury and Marian Baird, Work and Organisational Studies, University of Sydney
(#WPC0014 [This paper provides commentary on MIT Workplace Center Working Paper #WPC00013 by Thomas A. Kochan, *Restoring Trust in the Human Resource Mgmt. Profession.*])

Bureaucratic Flexibility: How Organizational Processes Function to Provide Career Flexibility
Forrest Briscoe (#WPC0015)

From Here to Flexibility in Law Firms: Can It Be Done?
Forrest Briscoe (#WPC0016)

Job Autonomy vs. Career Flexibility: the Role of Large Bureaucracies in Professional Labor Markets
Forrest Briscoe (#WPC0017)

Work-Family Council Working Paper(s)

Work-Family Council Initiative Working Paper Series – The State of Working Families in Massachusetts
Neeta Fogg, Paul Harrington and Thomas A. Kochan (#0001WFC)

Teaching Cases

Beyond the Part Time Partner: A Part Time Law Firm?
Brendan Miller, Thomas A. Kochan and Mona Harrington. October 2003 (WPC #100)

Part Time Partner Redux: So We Solved the Problem, Didn't We?
Thomas A. Kochan. September 2002 (WPC #101)