

THE CHALLENGES INHERENT IN INTERSECTIONALITY

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Gender Pay Gap and Intersectionality

- Intersectionality: People are often disadvantaged by multiple sources: their race, class, gender identity, sexual orientation, religion, and other identity markers.
- 2015 Pew Research Data
 - White women earned 82 cents for every dollar earned by white men
 - Black women earn 65 cents for every dollar earned by white men
 - Hispanic women earned 58 cents for every dollar earned by white men

Common Causes of the Challenges

- Positional segregation
- Occupational segregation
- Lack of Political Power
 - Women account for only 17% to 28% of state legislators and 10% to 20% of governors although they are approximately 51% of the national population.

National Science Foundation Study: Four Basic Patterns of Gender Bias

- Prove it Again: Women must deliver twice as much evidence of competence as men in order to be seen as equally competent.
 - Double Standards
 - Recall Bias
 - Leniency Bias
 - Attribution Bias
 - Shifting Standards/Polarized Evaluations
 - Ignored/Stolen ideas
 - Black women were more likely than other women to report having to provide more evidence of competence to prove themselves to colleagues
- The Tightrope: High-status careers are seen as both male and masculine. Women must behave traditionally masculine to be perceived as competent. Women who behave too masculine are seen as “aggressive.” Women must walk the tightrope between the two.
 - Asian-American women surveyed were far more likely than other women to report backlash for stereotypically masculine behaviors such as being assertive and self-promoting.
 - Black women rarely reported pressures to play traditionally feminine roles and had the lowest levels of backlash for self-promotion.
 - Latina women who behaved assertively risked criticism for being angry or “too emotional” and were far more likely than the other groups of women

to report being expected—both by colleagues and by students—to do large loads of office housework.

- The Maternal Wall
 - Descriptive Bias: Mothers are not seen as a good fit for a difficult career.
 - Prescriptive Bias: Association between motherhood and a perception of lack of competence and commitment .
 - 2007 Study: Subjects were given identical resumes where one was a mother and the other was not, the mother was 79% less likely to be hired, only half as likely to be promoted, offered an average of \$11,000 less salary and held to harsher performance and punctuality standards.
 - Among those surveyed, Asian-Americans (26.7%) and White women (26.0%) were far more likely than Latinas (9.1%) or Black women (7.7%) to report that their colleagues had communicated that they should work fewer hours because they had children.
 - Women without children also experience bias.
- Tug of War: A tug of war occurs when gender bias leads to conflict among women
 - Women who experience gender bias distance themselves from other women in order to avoid identification based on gender.
 - Conflict with Administrative Staff
 - Tokenism

The Impact of Intersectionality in the Legal Profession

- Studies and Statistics
 - 2006 American Bar Association “Visible Invisibility: Women of Color in Law Firms”
 - 2009 Catalyst study
 - 2018 ABA Report from Commission on Women in the Profession
 - 2020 Left Out and Left Behind: The Hurdles, Hassles, and Heartaches of Achieving Long-Term Legal Careers for Women of Color”
- 2004
 - 50% of JDs were women
 - 21% were minorities
 - 17% of law partners were women
 - 4% of law partners were attorneys of color
- 2005
 - 49% of practicing attorneys were women
 - 6% African-American
 - 2.6% Asian
 - 3.5% Hispanic/Latino

- 2006
 - 48% of all associates in private law firms are women
 - 15% of all associates in private law firms are attorneys of color
- 2020
 - 15% of associates are women of color
 - 4% of partners are women of color
 - 2% equity partners at large firms are women of color
- Attrition
 - Late 1900s: More than 75% of minority female associates left their jobs in private law firms within five years of being hired
 - After eight years of being hired, the percentage of minority female associates leaving increased to 86%
 - 2005: 81% of minority female associates left their law firms within five years of being hired.
- Why Minority Talent is Leaving
 - Networking
 - Demeaning Comments
 - Desirable Assignments
 - Performance Evaluations
 - Salary Differences
 - Perception of Actions that Impact Compensation
 - Marriage and Family

Recruiting and Retaining Minority Talent

- Recruiting
 - Create relationships with local law schools and their affinity groups as well as with Bar Associations and their affinity groups.
 - Implement pipeline programs and internship programs.
 - Ask existing diverse associates and partners for referrals.
- Retention
 - Maintain an inclusive environment
 - Mentoring
 - Professional Development
 - Client Development
 - Hold everyone accountable for noncompliance of anti-discrimination and anti-harassment policies.