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BAR ASSOCIATION

# THE CATALYST

*The newsletter of the ISBA's Standing Committee on Women and the Law*

## Letter from the Chair: Is it midyear already?

By Sharon L. Eiseman; Chair, Women and the Law Standing Committee

Being an observant but not deeply religious person, I sometimes feel uncomfortable when a friend or stranger says to me: "Have a blessed day." Although no faith-based reference may be intended, I imagine most people are thinking of blessings from the Lord, or Allah, or the Almighty, or some other higher Power, and so I struggle with what response to give. For this reason, it seems odd and yet just right that I feel "blessed" this year in my (ever-shortening) role as Chair of this amazing Committee.

First, I am awed by its rich history, going back to the Committee's origins when, more than ten years ago, Irene Bahr, Angela Imbierowicz, Ruth Ann Schmitt and other strong women within the ISBA successfully lobbied for its creation and Irene launched the

Committee as its first chair. Then I am humbled by the line-up of past chairs, all of whom are women of extraordinary talent and vision and who were committed to

carrying forward the traditions of the Committee to advocate for women lawyers and the broader community of women. And this year, I am energized and inspired by the diversity among us. While it would be good to see more persons of color and of the male gender around our table, we nevertheless, as a group, reflect a wonderful mix of cultural backgrounds, practice areas, life experiences, ages, and interests, and, with the assistance of the ISBA leadership, we continue our efforts to expand our diversity into other areas.

By virtue of our differences and the unique perspective each Committee member brings to the group, we 'teamed up' to develop and present two powerful programs, one dealing with troubled girls in the juvenile justice system, and the other addressing the legal challenges faced by unmarried couples. For both, we were fortunate to have a number of committees and section councils serve as co-sponsors.

In addition, work is in progress on plans for (1) two potential cable programs on new and ongoing problems women face in the workplace, and immigration policies as they uniquely affect women and children; (2) co-sponsorship with the Women's



Sharon L. Eiseman

Bar Association of a five-part series of luncheon programs on empowerment of women attorneys, conceived by the WBAI, the first to take place on December 12 at the CRO; (3) a whirlwind weekend in April of 2008 at SIU Law School in Carbondale, in partnership with the Minority and Women Participation Committee, which will be filled with discussion, debate, and celebration of our long-standing relationship with the Law School and Dean Peter Alexander as well as our Committee's first visit to that part of this long state; (4) a roundtable on challenges faced by women starting their own firms, to be led by our own members who can serve as mentors and also raise provocative issues concerning that adventure into entrepreneurial territory; and, in connection with that event, (5) developing our newly created subcommittee entitled, for now, "Self-empowerment and Self-advocacy." I also reiterate here my note from the last issue of The Catalyst: we will hold an internal workshop for purposes of evaluating and perhaps revising our scope and mission statements, and invite suggestions from ISBA members.

Seeing this list makes me a bit dizzy, but it will be manageable with the teamwork of our hardy Committee members. Moreover, I know that our work is never really finished, and that whatever remains undone will be inherited by next year's leaders, just as this year's officers and members have carried on the legacies of our prior leadership.

On behalf of the entire Committee, I wish you and your families a holiday season and New Year filled with good health, peace, and joy.

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# Best practices for private attorneys defending female juveniles, or, The top 10 tips for juvie attorneys

By Mary F. Petrucci<sup>1</sup>

In 30-some words or less, could you explain the approach the attorney should take in representing a juvenile client? Francine T. Sherman, Director of the Juvenile Rights Advocacy Project at the Boston College of Law succinctly states the attitude one must adopt: “*Focusing on the client, the pathway she takes into delinquency, and the full range of her legal needs humanizes delinquency so that the lawyer truly represents the client, and not just the case.*” I hope the following will assist the private practitioner in achieving true success with the juvenile client, not just the juvenile case.

1. If you have never represented a juvenile, don’t even think about accepting a fee and opening a delinquency file without first referring to the Juvenile Defender Delinquency Notebook (which shall hereafter be referred to as “the Notebook”), published by the National Juvenile Defender Center (NJDC), to guide you! You won’t know what you’re getting yourself into until you do. The Notebook is a guide and does not provide specific state laws and statutes, but it will become your Number One resource for how to effectively represent juvenile clients. Representing kids in the juvenile justice system is what I would call “multidisciplinary” in nature, in that it involves accessing the mental, physical, and child welfare resources as well as legal advocacy in delinquency or criminal proceedings. Remember, you’re representing the client, not just the case. Contact the NJDC at 202-452-0010 or at <http://www.njdc.info>. I certainly wish I had this Notebook when I was an assistant public defender.

In the Notebook’s Preface, Patricia Puritz, Executive Director of the NJDC tells the reader to “please feel free to copy and distribute portions of the guide liberally” in hopes that it will have a positive impact on the defense of children in our country. To that

end, I have taken her up on that offer throughout this article. Specific forms, publications, or documents cited may be found in their entirety in the Notebook or may be obtained by contacting me at [marypetlaw@tbc.net](mailto:marypetlaw@tbc.net).

2. The juvenile client, particularly the female juvenile client, is a distinct species and must be represented by you as such. Her motives for committing crimes and obviously, her entire psychological makeup, is vastly different from that of the male juvenile. On October 4, 2007, this Committee devoted a full-day CLE to this very topic, entitled: “*Justice for Girls: Delivered or Denied?*” I was privileged to be one of the panelists presenting that day. Watch for my article summarizing the entire program in our next newsletter. Additionally, be sure to read the 2002 report, “Justice by Gender: The Lack of Appropriate Prevention, Diversion, and Treatment Alternatives for Girls in the Justice System.” You can obtain this report from the NJDC when you order the Notebook.

The organization, Physicians for Human Rights (PHR), provides a fact sheet citing resources the attorney may consult when representing juvenile girls. PHR reports: “Girls are the fastest growing population in the juvenile justice system, yet the system has failed to respond to the special needs of this vulnerable group. Girls of color are particularly impacted, disproportionately representing two-thirds of those incarcerated. Girls in the juvenile justice system experienced childhood victimization at much higher rates than boys. As a result, girls present with extremely high rates of serious mental health conditions, including post-traumatic stress, psychiatric disorders, attempts at self-harm, and suicide. There is dire need for the juvenile justice system to develop gender-specific practices that address the unique needs of girls and that protect their health and human rights.” Contact

PHR at [www.physiciansforhumanrights.org](http://www.physiciansforhumanrights.org) to obtain the fact sheet as well as the full text of the article, “Unique Needs of Girls in the Juvenile Justice System.”

3. Always remember Principle 2 of the Ten Core Principles for Providing Quality Delinquency Representation Through Indigent Defense Delivery Systems:

Representing children in delinquency proceedings is a complex specialty in the law and . . . is different from, but equally as important as, the legal representation of adults. (Italics added by this author)

4. The following from “An Overview of the Role of the Juvenile Defender” in Chapter One of the Notebook explains just how different that representation is and summarizes it in a nutshell:

Defenders who represent children in delinquency proceedings have tremendous opportunities to *help* young people and to practice in a complex and rapidly changing area of the law.

Because *developing* the best *strategies* for your client’s case requires *attention* to multiple considerations, as well as an interdisciplinary *understanding* of youth, you will use all of your *legal ingenuity* to defend against your client’s delinquency charges.

Additionally, you will need all of your *interpersonal skills* to be effective with your *clients*, their *parents*, and *other personnel* involved in the juvenile justice system.

(Italics added by this author—See 5. below)

5. You, therefore, have a duty to:  
*Help*  
*Develop Strategies*

*Pay Attention*  
*Understand*  
*Use Your Legal Ingenuity*  
*Defend*  
*Possess Interpersonal Skills and*  
*Be Effective when dealing with your*  
*Clients*  
*Their Parents and*  
*Other Personnel in the juvenile justice*  
*system.*

To wit, you must not only be your client's ardent defender, you must also be a social worker, psychologist, family therapist, referee, fashion consultant (tell her how to dress for court—no pierced belly buttons showing), etiquette coach, skilled communicator, and even sometimes the shoulder to cry on. If you cannot accept these responsibilities (only to a limited extent, though), maybe you should restrict your practice to adult clients.

6. Provided your client is not detained and you have an opportunity to meet with her and her parent/guardian before court, be sure to send your client and parent a copy of "A Guide to the Juvenile Delinquency Court in Illinois," published by the ISBA. Request that they read the booklet prior to your initial consultation.

At the initial consultation, walk the client and her parents through "the Process."

Carefully read and explain the Petition to Adjudicate and re-read the Guide with them. If this is the client's first exposure to juvenile court, it is likely she and her parents will be like deer in the headlights when you begin to explain terms and procedures. You want them to feel as comfortable as possible and you need to reassure them that juvenile court is not something to fear. This exercise plants the seed of your relationship with your client and her parent(s).

If your client is, unfortunately, in detention when you conduct an initial consultation with her parent, contact the detention center to obtain a copy of its visitation policy. Reviewing the policy with the parent will be greatly appreciated, as it can lower their anxiety level before they visit with the child.

7. The success of your representation of the juvenile client depends upon your establishing a trusting,

honest, relationship with her. How do you do that? Randy Hertz in his Trial Manual For Defense Attorneys in Juvenile Court says:

Show your client that you care about what she thinks and what happens to her.

Keep your client informed about developments in her case.

Let your client know of work you are doing on her behalf.

Answer your client's questions plainly and clearly.

Be timely and responsive to all your client's inquiries.

### **Keep your promises!**

You must be forever mindful not to promise your client anything you are not completely and absolutely sure you can provide. Why? You risk losing her trust if you let her down and fail her. Good luck trying to defend a teenage girl who doesn't trust you.

This is not to say that the points cited in 5. and 6. above are not germane to representation of the adult client; they simply must be applied differently to juveniles. For instance, you may need to answer questions plainly and clearly several times before your juvenile client understands. The biggest difference, however, between representing a juvenile and representing an adult is the parental factor, which leads us to 8.

### **8. Who's paying your bill?**

Interacting with your juvenile client's parent or guardian is a complex matter that is unique to juvenile court. You may find yourself in what you feel is a conflicted position because the parent is paying your fees, but you must make it clear that you represent the child. At the same time, though, you need to cultivate the cooperation of the parent. I am of the opinion that this is the most difficult task of the juvenile defense attorney and must be approached with sensitivity. This is the point at which your expert interpersonal skills come into play.

Explain the Attorney/Client Privilege to your client and her parent. Be sure they communicate to you that they understand what that means.

## **The Catalyst**

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It is crucial to tell the client that the parent can wait outside or come in for the interview process, if the client so chooses. You need to explain the concept of confidentiality in relationship to Attorney/Client Privilege. You can do that diplomatically and still get the message across to the parent that just because he/she is writing the check, the parent is not your client. The following is the approach my law partner, Richard Schmack, uses to explain this relationship to the client and parent when we sit across the table from them at the initial consultation:

Everyone needs to understand before we go any further that if we are retained to represent anyone in this case, it is your daughter. The Attorney/Client privilege will cover confidential communications with your daughter. Even though you are paying my fees for her representation, we cannot disclose any information to you unless requested to do so by her.

The factors listed below must be considered and are explained in detail on Pages 29 and 30 of the Notebook:

Ideally, the parent wants to be an ally, even if the parent may be the alleged victim or complainant. Regardless of the parent's willingness to help, be clear about how the parent can be involved and how he/she cannot.

You need to be able to speak to your client alone so you can be sure she is not altering her words for the parent's benefit. You may need to talk to the parent alone also so that you can collect information free from any distortions designed to influence your client.

When talking to parent and client together, disagreements may arise. Smoothing over minor problems on your own or with a professional social worker's assistance will benefit your client and her case.

Let the parent know what impact his/her statements to the court or other personnel could have on your client's case. A parent who could be simply venting

frustration to a judge may, in fact, be setting up the child for detention.

Finally, (and this is not from the Notebook—it's all mine)

Never, ever tolerate your client speaking disrespectfully to a parent or vice versa.

I have told clients and their parents that I don't care how they speak to each other at home, they will address each other with respect and courtesy when I am working with them. It's amazing what impact that little speech has on many parent/child relationships. Most of the time, the parties are not even aware they are doing it.

9. Your relationship with your juvenile client does not terminate on the day the sentencing/disposition order is entered and the Engagement Letter you provide must reflect that. Chances are that your client could have at least one future Petition to Revoke Probation and/or one Detention Hearing. I will be happy to fax or e-mail the full text of the engagement letter I use to the reader upon request.

The difference between an adult and a juvenile engagement letter can be illustrated in the text below:

The purpose of this letter is to confirm that Schmack & Petručius has agreed to represent you in the following matters: Juvenile Delinquency Petition to Adjudicate based upon felony criminal offenses upon receipt of a \$1,500 flat fee. One half the fee is due before we can file an appearance on your behalf. The remaining \$750 must be paid within forty-five (45) days of your arraignment or before the case is resolved, whichever occurs first. This flat fee includes representation for One (1) Post Disposition/Sentence Detention Hearing and/or a First Motion/Petition to Revoke Probation or Supervision.

The flat fee for any Motion/Petition to Revoke Probation or Supervision after the first one is \$300 and includes One (1) Detention Hearing, if that detention hearing accompanies the Motion. Any Motions or Petitions after the first will require a new

engagement letter. The fee must be paid in full prior to the first appearance on the new Petition or immediately at the conclusion of the Detention Hearing, whichever occurs first.

10. Familiarize yourself with the programs available and provided to your client. Having a good relationship with your client's probation officer cannot be emphasized enough. He/she can be your client's best ally or her worst enemy! Keep the lines of communication open, as that individual usually has access to a wealth of resources for your client, including counseling services, treatment providers, gender-specific programs, and residential placements.

Finally, I would like to stress that the attorney walks a fine line between defender and "best-interest advocate" when representing the juvenile client. What I mean is this: Once she becomes an adult criminal, more often than not, the client simply wants you to get the best deal on her behalf. With the juvenile, you at least have a decent shot at helping her get off that rocky road toward a life of crime and who knows what else.

I believe that if resources are available, you have a duty, at the very least, to explore those resources with your client, while maintaining your duty to defend her. If you can have a positive influence on her while being her zealous advocate, you are a success as a juvie attorney. In my opinion, if you have one client who becomes a productive member of society, it's worth every minute you spent with her!

1. Mary F. Petručius is a partner in the law firm of Schmack & Petručius, 584 W. State St., Sycamore, IL 60178. Her areas of concentration include criminal and juvenile law. She may be reached at mary-petlaw@tbc.net. Mary's passion for juvenile law is the result, in large part, of the eight years she spent as an assistant public defender in Kane and De Kalb Counties. Mary is a member of this Committee and the Standing Committee on Law Related Education. She also serves on the ISBA Assembly representing the 16th Judicial Circuit. Within her own community, Mary is a member of the De Kalb County Juvenile Justice Council and its Truancy Committee.

# Changing the climate: Why gender equality matters

By Rebecca Pearl, Women's Environment and Development Organization

Climate change is one of the most urgent issues of our time. Extreme weather and natural disasters have become more common and the results are all too real: devastating drought and floods in Africa and Asia, a deadly European heat wave, and the wreckage of hurricanes in the Americas.

Unquestionably, climate change will affect everyone. However, climate change magnifies existing inequalities, and gender inequality is among the most pervasive forms of inequality. Women's historic disadvantages—their restricted access to resources and information, and their limited power in decision-making—make them more vulnerable to extreme weather events. At the same time, women are best positioned to curb the effects of climate change.

Hurricane Katrina demonstrated that even in industrialized countries poor women are disproportionately affected by swift environmental changes. African-American women are among the most impoverished groups in the United States, and the hurricane further entrenched this group in deeper levels of poverty. Poor women in developing countries face even greater obstacles. During the Indian Ocean tsunami at the end of 2004, women made up 55 to 70 percent of the dead in Banda Aceh, and 80 percent of the dead in the worst affected village in Indonesia. Similarly, during the 2003 European heat wave, 70 percent of the dead were women.

Natural disasters often reinforce traditional gender roles. Women living in rural areas of developing countries are still largely responsible for securing food, water and energy for cooking and heating. Drought, desertification and erratic rainfall cause women to work harder to secure these resources. This results in less time to earn income, get an education and provide care to families. Women usually have fewer assets than men to recover from natural disasters, and they often do not own land that can be sold to secure income in an emergency.

Many of the world's conflicts are spurred by threats to natural resources.

Climate change will likely increase these conflicts, and thus the gender inequalities that come along with them. In the Darfur region of Sudan, where desertification has plagued the land in recent decades, homes are often destroyed, campaigns of intimidation, rape, or abduction are waged, and thousands of women and children are caught in the crossfire. Conflict increases migration, and the vast majority of the world's refugees are women and children.

While women are faced with unique vulnerabilities, they are seldom recognized as agents of change. In a growing number of studies of natural disasters, putting women at the center of early warning systems, decision-making, and post-disaster reconstruction has greatly benefited communities and saved lives. In the midst of a drought in the Federated States of Micronesia, it was women who created a new well with drinkable freshwater. Women's work on the land had given them a considerable understanding of hydrology, but planners and decision-makers had not considered the possibility of their contributions. In La Masica, Honduras, women took over the task of hazard management after monitoring of the early warning system had been abandoned. Their work resulted in a swift evacuation and no deaths during Hurricane Mitch.

Women are also involved in mitigation measures to slow global warming. In November 2006, Kenya's Green Belt Movement, founded by Nobel Peace Laureate, Wangari Maathai, and the World Bank's Community Development Carbon Fund, signed an emission reductions purchase agreement to reforest two mountain areas in Kenya. Women's groups will plant thousands of indigenous trees, which will capture 375,000 tons of carbon dioxide and restore soil lost to erosion and support regular rainfall essential to Kenya's farmers and hydro-electric power plants, the country's main source of electricity. Planting trees also provides poor, rural women with a small income and some economic independence.

In an effort to ensure that gender

equality and women's voices are included in the climate change discourse, Women's Environment and Development Organization (WEDO) is directing its advocacy efforts to what governments can do for further inclusion. Global negotiations on climate change, whether through the United Nations Framework Convention on Climate Change (UNFCCC) and Kyoto Protocol or the UN Commission on Sustainable Development, have not adequately addressed the social impacts of this issue, if at all. Governments must act now to assess how national adaptation or other climate change plans address gender equality and to ensure that women participate in decision-making. On September 21, 2007, in conjunction with the Council of Women World Leaders (CWWL) and the Heinrich Böll Foundation North America, WEDO organized a landmark roundtable event entitled "How a Changing Climate Impacts Women." To learn more about this event and other WEDO projects, and for additional information about gender and climate change and what you can do to get involved, please visit [www.wedo.org](http://www.wedo.org).



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# Senators introduce bill in Congress to combat violence against girls and women on a global level

By Sharon L. Eiseman

On November 1, 2007, Senators Joseph Biden (D-DE) and Richard Lugar (R-IN) introduced in the Senate the International Violence Against Women Act, closely modeled on the VAWA enacted by Congress in 1994 and recently re-authorized. The IVAWA was developed with expertise and cooperation from numerous NGOs world-wide. Through the coordination of resources and leadership from the United States, the legislation, called a "blueprint" by Sen. Biden, tackles on a global level the problem of widespread and increasing violence that targets females around the world. Its ambitious goal is to prevent and respond to the often endemic violence faced by girls and women which can take the forms of forced child marriages, human trafficking, female genital mutilation, and femicide, as seen in the mass rapes and murders of women and girls used as a weapon of war to terrorize entire communities, as occurred in Bosnia and the Congo.

As noted in the Senators' joint press

release, there are three primary components of the bill. The IVAWA would:

1. create a central Office for Women's Global Initiatives to coordinate the United States' policies, programs and resources that deal with women's issues, and provide that its director report directly to the Secretary of State;
2. mandate a 5 year comprehensive strategy to fight violence against women in 10 to 20 selected countries, and provide a dedicated annual funding stream of \$175 million to support programs dealing with violence prevention in the criminal and civil justice systems, health-care, girls' access to education and school safety, women's economic empowerment, and public awareness campaigns; and
3. require training, reporting mechanisms and a system for dealing with women and girls afflicted by violence during humanitarian, conflict and post-conflict operations.

The Executive Director of Amnesty International, one of the participating organizations, underscored the need for such legislation to address the dire consequences of the horrific violence inflicted on women both in domestic situations and during armed conflict, which is prevalent in so many countries. Such violence "destabilizes communities, undermines economic development and breeds poverty and despair." Senator Biden believes it is time for the U.S. to become actively engaged in the "fight for woman's lives and girls' futures." Dedicating money and services toward this goal will educate and empower women, and thereby improve conditions for all people. Unfortunately, given the funding of the war in Iraq, and the general mood of Congress, passing this bill will be an 'uphill' battle on the Hill.

Sharon Eiseman is Chair of the Women and the Law Committee and may be reached at [seiseman@atg.state.il.us](mailto:seiseman@atg.state.il.us).

## ISBA Task Force On Diversity

By E. Lynn Grayson

On October 30, 2007, the Task Force on Diversity held its first organizational meeting in Chicago. ISBA President Joe Bisceglia created this special task force in response to recommendations made by the ISBA Diversity Pipeline Project in its report issued in March, 2007. The task force's mission is to implement the ISBA Diversity Pipeline Project recommendations and to promote greater diversity in the Illinois legal community statewide and within the ISBA.

To accomplish its mission, the task force has been organized into three subcommittees: 1) Diversity Pipeline

Project; 2) Illinois Legal Community; and 3) ISBA. Co-chairs have been named to lead the work of each subcommittee as follows:

1. Diversity Pipeline Project: Alice Noble-Allgire, Andy Fox, Tracy Prosser and Venu Gupta.
2. Illinois Legal Community: Sonni Williams and Gwen Rowan
3. ISBA: Patrice Ball-Reed and Deborah Cole

In large part, the work of the task force will be conducted by these subcommittees. Each subcommittee has a mission and has identified possible actions it may consider moving forward.

### Diversity Pipeline Project

In its report dated March 9, 2007, the Diversity Pipeline Project, initiated by the Standing Committee on Minority and Women Participation, made several recommendations:

1. Appoint a special diversity task force following the lead of the State Bar of California.;
2. Serve as a clearinghouse and coordinator of information;
3. Establish partnerships to implement pipeline programs;
4. Advocate for funding/programs to be carried out by others;
5. Evaluate a means to assess the

- effectiveness of current and future pipeline programs; and,
6. Identify funding resources needed to support pipeline initiatives.

With these recommendations in mind, the mission of the Diversity Pipeline Project subcommittee is to “support improved educational opportunities for diversity students and encourage all efforts for diversity students to enter the legal profession.” Other possible actions the subcommittee will consider this year include: creation of a matrix of meaningful pipeline projects; establishment of a clearinghouse for pipeline information; coordination of educational outreach with the ISBA Committee on Law Related Education for the Public; and, development of potential pipeline initiatives for K-12.

### Illinois Legal Profession

This subcommittee’s mission is to “promote greater diversity within the Illinois legal community including support of the Commission on Professionalism of the Illinois Supreme Court (“Commission”) and overall raise awareness of the critical importance of diversity to the legal profession.” The key task this subcommittee will accomplish is the completion of a statewide survey on diversity within the Illinois legal profession. The survey will address qualitative as well as quantitative information. Other outreach efforts will include working with the Commission on a clearinghouse that will make diversity-related information available to interested parties. The subcommittee also will work to support diversity initiatives advanced by law firms, corporate law departments, government and bar associations.

### ISBA

This subcommittee’s work will be focused on the ISBA as an organization with its overall mission to “increase the participation, leadership and membership ranks of diversity attorneys within the ISBA.” The key task of this subcommittee will be to develop a report card on the status of diversity attorneys within the ISBA membership, leadership and programs. Other outreach efforts will focus on examining opportunities to expand diversity attorney membership in the ISBA, promoting advancement of diversity attorneys in the bar association’s leadership, considering pilot diversity training and evaluating



Commission on Professionalism of the IL Supreme Court Executive Director Cheryl Niro and IL Legal Profession subcommittee co-chairs, Sonni Williams and Gwen Rowan



Task Force members, Karina Ayala-Bermejo, Diversity Pipeline co-chairs, Alice Noble-Allgire, Venu Gupta, Task Force members Raquel Martinez, Francine Soliunas, Diversity Pipeline co-chair Andy Fox and ISBA subcommittee co-chair, Patrice Ball-Reed.

differing membership opportunities, particularly for government attorneys.

Another critical component of the task force will be to support the work of the Commission on Professionalism of the Illinois Supreme Court. Working closely with the Commission’s Executive Director, Cheryl Niro, the task force will be partnering with the Commission, as appropriate, to raise awareness of diversity concerns within the Illinois legal community and to make resources available to promote the advancement and success of diversity attorneys in Illinois. The task force is honored to support the Commission’s conclave on professionalism and diversity to be held December 6, 2007 in conjunction with the ISBA mid-year meeting in Chicago.

The subcommittees are hard at work

advancing pipeline projects, developing the format of a statewide diversity survey and creating a report card of diversity within the ISBA. Any ISBA member with recommendations or suggestions for the task force should contact its Chair, Lynn Grayson, at 312-923-2756 or at lgrayson@jenner.com.

With the collaborative effort now underway, the task force hopes its work will contribute to positive change in the Illinois legal community and to sustainable progress on diversity required for the continued success of the legal profession overall.

E. Lynn Grayson is a Partner in the Chicago office of Jenner & Block LLP. In 2007, ISBA President Bisceglia appointed Ms. Grayson to serve as the Chair of the Task Force on Diversity.

# 2007 World Economic Forum's Gender Gap Index

By E. Lynn Grayson

On November 8, 2007, the World Economic Forum released its second Gender Gap Index Report – a framework for capturing the magnitude of gender-based disparities across the world and tracking how they evolve over time. This year's report featured 128 countries and provided insights about 90 percent of the world's population. The top 20 countries that performed best in the 2007 index are outlined below along with their ranking in 2006.

Country	2007	Score	2006
Sweden	1	81.46	1
Norway	2	80.59	2
Finland	3	80.44	3
Iceland	4	78.36	4
New Zealand	5	76.49	7
Philippines	6	76.29	6
Germany	7	76.18	5
Denmark	8	75.19	8
Ireland	9	74.57	10
Spain	10	74.44	11
United Kingdom	11	74.41	9
Netherlands	12	73.83	12
Latvia	13	73.33	19
Lithuania	14	72.34	21
Sri Lanka	15	72.30	13
Croatia	16	72.10	16
Australia	17	72.04	15
Canada	18	71.98	14
Belgium	19	71.98	20
South Africa	20	71.94	18

The Global Gender Gap Index Report 2007 is based on innovative

new methodology introduced last year and provides insight into the economic, legal and social aspects of the gender gap in 115 countries examined both in 2006 and 2007. The inequality between men and women are evaluated in four critical areas:

- 1) economic participation and opportunity – outcomes on salaries, participation levels and access to high skilled employment;
- 2) educational attainment – outcomes on access to basic and higher level education;
- 3) political empowerment – outcome on representation in decision-making structures; and,
- 4) health and survival – outcomes on life expectancy and sex ratio.

The report assesses countries on how well they are allocating their resources and opportunities among their male and female populations, regardless of the overall levels of these resources and opportunities. According to Saadia Zahidi, one of the report's co-authors, "the purpose of the rankings is to bring out where a country stands in terms of dividing its resources between men and women."

The report also provides some support for the premise that the economic performance of a country is directly linked to its gender gap. The report shows a strong correlation between competitiveness and gender gap scores. While this may not imply causality, the possible theoretical underpinnings of this link are quite simple: countries that do not fully capitalize effectively on one-half of their human



E. Lynn Grayson

resources run the risk of undermining their competitive potential. The report authors specifically want to highlight the incentive behind empowering women in addition to promoting equality as a basic human right.

Again, the annual survey does not take into account a country's overall level of economic development. As a result, women in Sri Lanka, South Africa, Cuba and Lesotho all fared better than their peers in industrialized nations like Japan, Switzerland and the United States. Overall, the survey revealed that women in Muslim countries are struggling to compete for jobs, win equal pay and hold political office causing them to fall behind the rest of the world in eliminating discrimination. By contrast, the Nordic nations received the best overall grades for gender parity in education, employment, health and politics.

The United States ranked 31st falling eight places since last year's survey. The United States scored lower because the percentage of female legislators, senior officials and managers fell in 2007. Also, the pay gap between men and women widened.

The report results from a collaboration between Ricardo Hausmann, Director of the Center for International Development at Harvard University, Laura Tyson, Professor of Business Administration and Economics at the University of California, Berkeley and Saadia Zahidi, Head of the World Economic Forum's Women Leadership Program. The World Economic Forum is an independent international organization committed to improving the state of the world by engaging leaders in partnerships to shape global, regional and industry agendas. Founded in 1971, the Forum is based in Geneva, Switzerland and is an impartial, not for profit foundation with no political, partisan or national interests. The report is available online at <[www.weforum.org/gendergap](http://www.weforum.org/gendergap)>.



# Collaborative divorce

By Debra J. Braselton, The Law Firm of Debra J. Braselton, P.C.

I love this quote by Abraham Lincoln:

Discourage Litigation.

Persuade your neighbors to compromise whenever you can. Point out to them how the nominal winner is often a real loser—in fees, expenses, and waste of time. As a peacemaker the lawyer has a superior opportunity of being a good man. There will still be business enough.

Lincoln's charge to us lawyers can be answered by our choosing to practice collaborative law, a relatively new method of alternative dispute resolution. Collaborative law has become particularly popular as a means of resolving marital dissolution matters.

That basic tenets of collaborative law are as follows:

- The parties agree to resolve all issues in a respectful, open and honest manner, outside of the court system.
- Each party retains a collaboratively trained<sup>1</sup> attorney.

The parties and their counsel sign a legally binding contract (called a Participation Agreement) committing themselves to resolving the dispute according to collaborative principals and guidelines. Settlement remains the main objective because the lawyers' continued employment depends upon his or her ability to facilitate an acceptable settlement proposal. Failure to reach settlement results in the end of the collaborative divorce process and an end to the attorney's employment because the Participation Agreement provides that collaborative counsel is prohibited from representing the client if the case goes to litigation.

A team of professionals is employed by the couple and each team member focuses on the issue that is within their respective expertise. Typical team members are a parenting specialist, financial specialist and divorce coach. The parenting specialist helps the couple resolve issues related to the children, such as custody and parenting time but also to assist the couple in developing good communication skills to foster

effective post-divorce co-parenting. The financial specialist assists the couple in completing their required financial disclosure statements and determining the character and value of marital and non-marital assets. The financial specialist also assists the team by creating alternative scenarios for asset division and support, based on the parties expressed needs and interests. The couple may also employ a divorce coach whose function is to assist the client in dealing with the emotional aspects of the dissolution of marriage. Divorce coaching is not therapy, nor is it clinical in nature. The divorce coach helps the client set and achieve goals for the divorce process, teaching effective communication skills for use in the settlement meetings and making life transitions. The divorce coach can also function as a process coach by attending the meetings and facilitating communication between the participants in cases that are particularly difficult. Other team members can include business valuation experts, appraisers, estate planning attorneys and actuaries.

The collaborative process is conducted in a series of meetings during which the lawyers guide the parties through the process by providing a structured, but non-adversarial environment that focuses on the parties' legitimate needs and interests, rather than on legal positions. Some or all of the other professionals may be in attendance at the meetings, depending upon the subject being addressed at that meeting. Sometimes, the clients will meet together with one of the other professionals (without the lawyers) to work on issues solely involving parenting or financial matters.

Once agreement is reached, the collaborative attorneys draft the necessary documents and present the agreements to the judge for approval and entry of judgment.

A collaborative process differs from a litigated process in many respects, some obvious, some not so obvious. Among the more obvious differences are timing, cost, the use of experts and the manner of resolution of disputed issues. A collaborative process proceeds at the pace that the parties require, rather

than at the pace the court dictates in a litigated case. Because a collaborative case is not filed with the court until all agreements have been reached, there is a significant cost savings to the clients through the elimination of multiple routine status calls. If an experts is needed, for issues involving custody or business valuation for example, the parties jointly retain one expert to help them resolve the dispute. In the litigation model, each party retains an expert (hired gun) to advocate for their position and to win that issue in court. Finally, the manner of resolving disputed issues in a collaborative case is dramatically different than in a litigated case. The collaborative team creates a list of issues to be resolved, giving great deference to the legitimate needs and interests of the clients and their family unit. A problem solving approach is used and multiple, creative options are generated. When an agreement is reached, each of the parties is satisfied because they have been heard and involved in the resolution of the issue. In a litigation model, the issue is framed by lawyers who use case law to argue for their client's position. The decision is made by a judge who does not know the parties or their children and must rule based on the narrow range of options contained in established law and case precedent, whether or not such a ruling meets the legitimate needs of the family.

Among the less obvious differences between collaborative law and litigation is what happens to the people involved in each process, primarily the clients and the lawyers. It is well documented that a litigated divorce is among the most stressful life events that a person can undergo. Any divorce litigator can attest to the personal toll that the profession takes on his or her life. We are constantly in reactive mode, awaiting the next motion, petition or argument. Our entire caseload is comprised of clients experiencing a life crisis and we are not equipped with the tools to help them emotionally.

In a collaborative divorce, it is expected that all of the parties will treat one another in a respectful and dignified manner, and they do. The emotions, feelings, needs and interests

of the clients are valued and respected. The attorneys and other professionals are working together to help the couple, rather than working against one another to win.

I can tell you from personal experience that my choice to practice collaboratively has dramatically impacted my job satisfaction as a matrimonial lawyer. I work with a fine group of professionals who are dedicated to resolving disputes respectfully. My clients' legal, emotional and financial needs are attended to by the professional best suited, by training and experience, to meet those very different needs. Because my clients are happy with the process, they recommend collaborative divorce to friends and acquaintances which results in an increase in referral business. Post-decree issues are virtually non-existent because the parties were actively involved in crafting and understanding their own settlement, they deal with future conflict by agreement rather than litigation.

1. The basic training to become a collaborative practitioner consists of 2-3 full days. Trainings are offered all over the country by various collaborative organizations. For information on upcoming trainings, go to [www.collablawil.org](http://www.collablawil.org) or [www.collaborativepractice.com](http://www.collaborativepractice.com).



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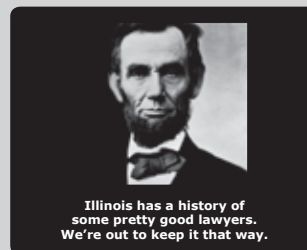
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