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**Keynote Remarks As Prepared**

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**Introduction**

It is an honor to join you this morning. The warmth and hospitality of the International Bar Association and the Women's Interest Group, particularly Gabrielle Williamson and Claire Miskin, co-chairs of the IBA Women's Interest Group, and Francis Neate, president of the IBA, are most generous and welcome me back to a World Women Lawyers Conference.

I enjoyed being in London two weeks ago to attend the IBA's First World Bar Leaders Conference and it is reassuring to see so many of the same faces here today. At that meeting we discussed the reason why bar associations exist, rule of law, infringement on attorney-client privilege, efforts to control and police our profession by non-lawyers, the attempts by oppressive regimes to deny an independent legal profession and independent judiciary. Those issues affect all lawyers – men and women, alike – and I expect there will be a great deal of like discussion over the next two days. For all its grandeur, and the events of two weeks ago were grand, the next two days may resonate even more for those of us attending both conferences.

This Third World Women Lawyers Conference, like its predecessor conferences, is an opportunity for us to talk with each other. Here we will learn about important substantive legal issues of the day, and we will hear of them from our sisters in the law, globally. There is power in sharing our expertise and our stories with one another. While we know much more about women in the legal profession than we did a decade ago, there is still so much we *don't* know.

As women lawyers, we are not deterred by uneven circumstances or knowledge. We are energized! We find ways to work together.

Brigitte Mabandla, South Africa's Minister of Justice and Constitutional Development, recently launched the South African Women in Law Association. She remarked, "The need for a national structure to bring together women in law is underpinned by the fact that women are still severely under-represented in the legal sector. I would like to see

women being organized in the legal sphere of our country so that they can also have a direct impact in the developmental and restructuring issues of the country.”<sup>1</sup>

While there are some differences among our nations’ legal systems, and the associations we represent, aren’t our experiences as women lawyers more similar than they are different? Will future conditions, issues and prospects also be similar? We share many commonalities, and there is much we can learn from one another’s experiences.

These remarks today come from personal experience and my own observations as an American woman lawyer. Let’s spend some time talking about the growth of women in the legal profession and the profession’s ability—or inability—to adapt to our presence; what our younger colleagues are telling us about our profession; and the ways women are influencing its future.

While the statistics you’ll hear this morning reflect the facts of *American* women in the law, our experiences as women lawyers—the story behind the numbers—give us common ground.

### **Setting the Stage**

I am one woman lawyer who knows about my own experience and vicariously about the experience of other women lawyers in my country.

As I have talked with other women lawyers, I have seen patterns of experience that appear to characterize the profession and women in the profession in the United States.

As this conference progresses, I hope you will let me know if you find the experience of women lawyers in your own nations mirrors the American experience I describe.

### **Theme One: The Growth of Women in the U. S. Legal Profession, and the Consequences for the Profession**

#### *Growth*

Women have been lawyers in the United States since the earliest days – but not necessarily “licensed to practice” and not in great numbers. In fact, the first woman lawyer in the American colonies was Margaret Brent, in the seventeenth century English colony of Maryland.

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<sup>1</sup> “Mabandla launches women lawyers association.” Government Communication and Information System, May 5, 2006.

Women came into the U.S. legal profession in small numbers through the 1940s, 1950s and 1960s. The passage of the U.S. Civil Rights Act, which prohibits discrimination on the basis of race, color, religion, national origin or sex, opened the way for women to enter law schools in the United States in significant numbers.

This legislation deeply affected the United States. In 1971, just three percent of all United States lawyers were women; by 1980 this number had risen to eight percent, and to 16 percent in 1988. Since 1987, 40 percent of all U.S. law school graduates are women. For the first time, in 2004, women students outnumbered men in law schools. Today, women receive slightly more than half of the law degrees in the United States.<sup>2</sup>

With the dramatic increase of women entering and finishing law school, it is no surprise that the United States has the largest concentration of women lawyers. Of the 1,104,766 practicing lawyers in the United States, slightly less than 30 percent are women.<sup>3</sup>

#### *Career Progress*

Where are women lawyers working? We know the following about women lawyers in the United States:

In 2005, women lawyers represent 56 percent of those working in private practice. Among them, 47.7 percent are summer associates, 43.4 percent are associates, and 17.1 percent are partners.<sup>4</sup>

In business settings, women are 10 percent of the lawyer population, and of those 15.4 percent are general counsels. Women are 11.9 percent of government lawyers, and are 6.1 percent of public interest lawyers.<sup>5</sup>

In courts, women represent 22.3 percent of district court judges, 25.6 percent of circuit court judges, 28.2 percent of state courts of last resort judges, and 37.5 percent of the international trade court judges.<sup>6</sup> We also have one woman serving on the United States Supreme Court, now that Sandra Day O'Connor has retired.

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<sup>2</sup> American Bar Association Section of Legal Education and Admissions to the Bar, January 2005.

<sup>3</sup> American Bar Association Commission on Women in the Legal Profession, "A Current Glance at Women in the Law" 2005. This useful, at-your-fingertips guide compiles statistical information on women in the legal profession drawn from a number of institutions, including the U.S. Bureau of Labor Statistics, the Association of American Law Schools, and the National Association for Law Placement.

<sup>4</sup> "A Current Glance at Women in the Law" 2005.

<sup>5</sup> "A Current Glance at Women in the Law" 2005.

<sup>6</sup> "A Current Glance at Women in the Law" 2005.

Women are also a growing presence at U.S. law schools. In the 2004-2005 academic year, 19 percent of law school deans were women, 42.9 percent were associate or vice deans, and 67.3 percent were assistant deans or directors. Among law school faculty, 35.1 percent of professors are women. Of them, 25.3 percent are tenured, and 44.4 percent are on a tenure-track.<sup>7</sup>

These numbers sound impressive. They show us that women are entering the profession in ever-increasing numbers, closer to their proportion of the population. The numbers also show us, that we have a longer, winding, uphill road to parity in the gender composition of our profession than we'd hoped.

The statistics also show that, in private practice, where women are more than half of the lawyers, our numbers are smallest at the partner level.

They show that women judges are more likely to be in lower courts; as we climb the judicial ladder, our presence decreases significantly.

They show that women in academia, whether serving as deans or as faculty, are more likely to be at the assistant level or to hold non-tenured positions.

The fact is, in 2006, despite significant progress in the workforce; despite blockbuster numbers of women entering law school and the legal profession; we are still concentrated in less senior positions, whatever our practice or work setting.

In many nations, women continue to face barriers in law firm environments that undervalue their work, misread their commitment, and thwart effective mentoring. In South Africa, the Law Society tells us there are 22,000 lawyers, 4,601 of whom are women. Of the country's 214 judges only 30 are women—and only 13 are black; and there are no women lawyers in Heads of Courts committees, no women judge presidents.<sup>8</sup>

Women continue to make significantly less money than our male counterparts. In the United States, women lawyers earn about \$20,000 less than men.<sup>9</sup> In Scotland as reported by the Law Society, women solicitors earn on average 42 percent less than men.<sup>10</sup> Women continue to be less likely to reach partnership, and far less likely to be an equity partner. We are less likely to be deans. If we are on faculty, we are usually in the “pink

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<sup>7</sup> “A Current Glance at Women in the Law” 2005.

<sup>8</sup> Reported by the Law Society of South Africa.

<sup>9</sup> The National Association for Female Executives reports in 2004, median income for women lawyers was \$65,260; for men, it was \$88,920. U.S. National Association for Female Executives ELS Data, 2004.

<sup>10</sup> Law Society of Scotland and the Equal Opportunities Commission of Scotland, “Women in the Legal Profession in Scotland,” 2005.

collar ghettos” of family law, estate planning and criminal law. We are less likely to be decision-makers within our work hierarchies.

If this is the snapshot of women lawyers, how has the legal profession adapted to our presence? To understand this, we should look at how the legal profession is shaped today.

### **Theme Two: The Adaptability of Legal Employment Environments to Women Lawyers**

The climate and culture of the legal profession have changed dramatically in the last few decades. There is increasing pressure for higher billable hours. There is growing concern about professional issues such as the attorney-client privilege. The number of lawyers is rising. There are more people holding law degrees, joint business and law degrees, or joint medical and law degrees. Firms are larger, with more emphasis on a global presence. There is a greater “bottom line” emphasis on law as a means to wealth. These pressures combine to make life in a law firm extremely unpredictable, with loyalty becoming less important than money-making and self preservation.

This modern environment is not especially hospitable to either gender. As women, we have concentrated on discussing glass ceilings, sticky floors, and most recently glass cliffs<sup>11</sup>. While some debate their individual merits, for others there is no discussion. Rather than focus on one barrier, we may be better served by understanding these boundaries in concert. Taken together they are metaphors for the continued perilous nature of the contemporary legal work place.

Our younger colleagues are formulating their own responses to these dangers. *After the J.D.: A Study of Legal Careers*, or “AJD,” is the first longitudinal study of American lawyers’ careers<sup>12</sup>. It is an ongoing study sponsored by the American Bar Foundation, and it provides insights about women and people of color who are entering the legal profession and the workforce in ever-increasing numbers. That study’s initial findings were reported in February 2004, and I think the findings will interest you.

The initial data provide a snapshot of a national sample of lawyers who are in the early years of their careers. These law graduates, who entered the legal profession in 2000, will be followed for ten years. In particular, it tells us a great deal about how young women are responding to the legal profession. It shows that many issues characterized as “women’s concerns” are everyone’s challenges.

New lawyers in the 21<sup>st</sup> century are more diverse than their peers of a generation ago. Today, 46 percent are women, and 20 percent are people of color. Some characteristics

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<sup>11</sup> Glass Cliff Research Group, University of Exeter, United Kingdom.

<sup>12</sup> American Bar Foundation and the NALP Foundation for Law Career Research, *After the J.D.: First Results of a National Study of Legal Careers*, 2004.

remain the same. New lawyers continue to come from more economically affluent backgrounds than the average American. About 40 percent of respondents had a relative who was a lawyer, showing that law like many professions is a “family occupation.”

The study findings pertaining to women are fascinating. They prove what many of us have suspected. Women have long said that they tend to marry and become parents in smaller numbers than their male colleagues. *AJD* confirms such stories. Women lawyers tend to marry and have children later. There is also a 10 percent difference in being a mom, between women lawyers and the general female population in the United States. This gap is more striking when compared to other national data on women. Forty-seven percent of all U.S. women ages 27-32 have no children, whereas 76 percent of the *AJD* respondents are childless.

*AJD* shows the majority of new lawyers in the United States are practicing law full-time, though in diverse practice settings. Those in private firms are more likely to be in firms of less than 100 lawyers. A large number of these new lawyers are in the government sector. And at this stage of their careers, many are satisfied with their decision to become a lawyer. New lawyers, regardless of gender or race, tend to value most highly their relationships with colleagues, the level of responsibility they hold, the intellectual challenge of practicing law, the opportunities to build skills, and a sense of job security.

Respondents in *AJD* also disagreed about the performance evaluation processes of their employers. Women and people of color were more dissatisfied with the evaluation process. Also, while men tend to be more content with their job settings than women, women lawyers are much more satisfied about the substance of their work. Conversely, women are less satisfied with the “social index of work,” for example opportunities for pro bono, diversity in the workplace, and the way their work is perceived as a value to society. Finally, men are more satisfied with their opportunities to advance and their levels of compensation.

The economic pressures of the practice of law are important. We have already noted the differences in compensation between men and women lawyers. This disparity affects women everywhere, in virtually every practice setting. According to government statistics, the 2004 median salary for beginning women lawyers in the United States was approximately \$66,000; for men, it was \$80,000;<sup>13</sup> no wonder men are “more satisfied.” We can’t explain this gap by years in the profession, levels of experience, or a book of business. This gap is not decreasing – it is increasing in dollars and by percentage. One explanation *may* be the overrepresentation of women in lower-paying areas such as the government and public interest sectors. Certainly, this is not the only reason for the disparity in pay. In the current climate of the legal profession the financial bottom line is highly valued and money is the barometer by which worth is measured. It appears that

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<sup>13</sup>*After the J.D.*; U.S. Bureau of Labor Statistics reports that in 2006, the median income for all lawyers in the United States is \$98,920.

women and our contributions continue to be undervalued in comparison to the compensation paid to our male peers.

We also have to examine the effect of crushing student debt on young lawyers in America where universal higher education is not available and only those who can pay, borrow, or obtain financial aid attend law school. Debt levels for recent law school graduates in the United States are essentially stable, regardless of where the lawyer was educated. The average debt for law students graduating from a government funded school is \$90,000. If a student attended a privately funded school, the debt averages \$120,000.

It is interesting to compare *AJD* with “Women in the Legal Profession in Scotland.” Both studies demonstrate the pressing need for more knowledge about the experiences and concerns of women in the legal profession.

Many of you are aware of the Scotland study; some of you may have participated in it. The study surveyed Scotland’s 10,000 solicitors; 2,300 (about one-quarter) responded, and more than half—59.6 percent—were women. Of the women solicitors, almost half have been practicing for fewer than 10 years (the men who responded have been in practice for more than 21 years).<sup>14</sup>

The survey results show many similarities between the legal profession in the United States and Scotland. In the Scots survey, 73 percent of the respondents are in private practice; 26.1 percent are in other areas. Women are far less likely to be partners—only 20 percent, compared with 60 percent of the men. Also, it takes Scottish female solicitors on average two years longer than men to *make* partner, and women are even less likely to be equity partners. At the equity level, 52.7 percent of the women have dependents, compared with 74.4 percent of the men. At all other levels, more women than men have dependents. As noted previously, women make far less money than men: the study reports a 42 percent pay gap between 21 and 25 years of qualifying to practice law for men and women.

Work/life balance is another important question in the Law Society of Scotland’s study. Among the respondents, 62 percent reported being happy with their work/life balance. More women than men characterize themselves as the primary care-giver, and so experience greater stress maintaining their balance. Within the practice environment, 65 percent of the women believe there is a perception that men and women are better suited to certain types of work. Only 36 percent of the men share this belief. In law firms, 52.5 percent of women respondents believe motherhood is a barrier to making partner. Only 20.8 percent of the men hold the same view. Finally, 52.9 percent of the women say they no longer have partnership aspirations because of work/life balance issues.

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<sup>14</sup> Law Society of Scotland and the Equal Opportunities Commission of Scotland, “Women in the Legal Profession in Scotland,” 2005.

The differing views of men and women beg the question: how are the perceptions of various respondents in these studies formed, and why are they so different? The answer lies in some of the notions lawyers hold dear, but are in fact myths. You may think of many more, but here are five myths I classify as most significant to the understanding of women in the legal profession.

First, the myth that women lawyers leave the legal profession in much larger percentages than men. Women tend to leave large law firms in greater percentages, as do lawyers of color, but they are not leaving the *profession*. They are finding ways other than the traditional, large, law firm setting to practice. Recent studies portend that women *will* retire earlier from the practice of law. Corporate clients are demanding diversity at their law firms. Firms need to examine their hiring *and* retention of women and lawyers of color.

Second, the myth that lawyers who are committed to the law, the law firm, and our clients, do not want to take advantage of part-time, reduced schedule and flex time. Although more than 90 percent of U.S. law firms have a written policy allowing for reduced time schedules, fewer than 5 percent of associates and 1.5 percent of partners take advantage of these policies. This does not mean lawyers are uninterested. Instead, they express a fear of *being perceived as* being less committed than other colleagues if they take advantage of such programs. Both young men and women find the work/life balance to be the most challenging issue in the practice of law, with 71 percent of all graduates reporting similar levels and sources of conflict. In fact, one in two American women, and one in five men, *want* reduced work schedules at some point in their careers.

Third, the myth that billable hours are the only standard to judge productivity and talent. We know performance can be measured in many ways. Law firms that use billable hours, rather than performance, as the sole standard to judge productivity and talent are hidebound. The ABA's Commission on the Billable Hour makes other options for evaluation abundantly clear.

Fourth, the myth that it takes "male attributes" to be the best lawyer. The talents that make a lawyer effective and productive include advocacy skills, experience, the ability to analyze and solve problems, intelligence, persuasiveness, being a good strategist, obtaining satisfactory results, and working well with clients. None of these are exclusive to either gender.

Finally, the myth of meritocracy, which is the idea that merit *alone* will advance the best candidates. We know this is not the case. A significant component of advancement depends upon relationships with people like mentors, who can influence advancement. Having knowledge of and access to the informal networks among colleagues also influences advancement.

We also know that women are often excluded from informal networks within the law firm. This exclusion causes a lack of client development experience, and the absence of suitable women role models. All of these factors are significant barriers to advancement. We are only beginning to break into established networks or to form our own. Our younger women colleagues also say that while we are taking great steps in offering a hand up the ladder, we still have many rungs to go. It is important to note that in the Law Society of Scotland's survey, the country's move *away* from networking centered on men and male activities is responsible for at least part of the growth of women in the legal profession, from 9 percent in 1975 to 40 percent in 2005.

### **Theme Three: Trends Emerging in the Legal Profession, and Their Effect on Women**

These myths illuminate how women are influencing our profession, particularly the divergence between perception and reality. It is important to keep in mind that the legal profession is in a state of significant transition. We are not prone to quick change, but a number of noteworthy trends are emerging.

We are experiencing huge growth in globalization. We have to find lawyers with the right skills to thrive in multinational organizations. Human resources management is increasingly important, but managers must be trained to identify people who can succeed in international businesses. The ways we make assignments and evaluate performance are two areas where women feel they are being adversely affected, because they believe their capacity to succeed is not being adequately assessed.

The legal profession is also experiencing a shortage of talent. The competition for good people at every level is tremendous, and people are expected to do even more with overburdened resources. In addition, this competition is international in scope as well as interdisciplinary: accounting firms, investment banking groups, large corporations and the government all want the same people.

And technology, which has given us flexibility, also has produced overload. On the one hand, we are no longer tied to an office to care for our clients. On the other, advances in technology have spawned an "on demand" society. Clients expect full, around the clock service. Women particularly experience the tension and pressure of being always available as they struggle to balance their career demands, but increasingly this is emerging as a serious concern to younger male lawyers as well.

In the midst of this brain and talent rush women are making up a growing segment of the talent pool. As women are becoming a larger percentage of newly coined lawyers, it is interesting to note that the leading edge of the "baby boom" generation is just reaching 60. U.S. estimates are that over 44% of our practicing lawyers fit the "baby boomer" definition and within 15 years they will largely be retired from the practice of law. So the "female-ization" of the law will become more and more apparent. As a side note, the

numbers of lawyers entering the profession during these same years appears to be less than the number of lawyers retiring. So the profession may contract in size.

Our profession must do whatever it takes to retain and advance these women. Doing so is essential to meet current and projected needs of the legal profession.

The legal profession must pay attention to what its women members are saying. Women voice legitimate concerns about the way law is practiced, and the type of organizations that provide our livelihoods. And these are not women's issues, but professional issues. The legal profession must be prepared to respond.

Women and men go to law school for the same reasons: the intellectual challenge and satisfaction of being a lawyer; the professional credibility and financial security a career in the law can provide, and a desire to help others. Too frequently, this is where the similarities end. The topic this morning demonstrates how, once the decision is made to become a lawyer, the experiences and perceptions between women and men run on vastly different tracks.

We are not without common footing on important issues. There is agreement on advancement strategies across gender lines. Any lawyer must possess strong communications skills, develop a style partners are comfortable with, take initiative, be a team player, and have recognized expertise. There are profound perception gaps between the genders about the barriers to women's advancement. These "perception gaps" are narrowing, because women's issues are really workplace issues.

The desire for a meaningful balance between professional dedication, reward and recognition, and a home life, is not limited to women. In many ways there is a generational divide with young men and women alike experiencing these concerns.

Women and men lawyers together are redefining what it means to be a successful lawyer. An American study revealed that men and women agree the top barrier to women's advancement is commitment to personal and family responsibilities. In our increasingly global, extremely competitive world, our profession cannot afford to lose talented women only because we can't—or won't—adjust how we do business. Slowly, we are recognizing that placing value on a good work/life balance benefits our firms, our clients, and our bottom lines. This study shows there is a competitive advantage for firms that approach retention and advancement for women strategically. They expand the universe of potential markets because women have different networks. Women partners help retain junior women, and reduce costs associated with losing valuable employees who may leave what they perceive as an unsupportive environment.

### **Concluding Thoughts**

This morning we've been able to explore the growth of women in the United States legal profession. We've taken a look at how our profession is trying to adapt to more women lawyers, and at the ways women adapt to the practice of law. We've learned a bit more about what the next generation of women lawyers thinks about the profession. And we've seen how women and men of this younger generation are expressing similar views and experiencing similar pressures as they develop their legal careers.

As we think about our profession's future and our own, remember what young women lawyers are telling us. They want a "high social index." They want to "make a difference." I believe that with the obstacles and the setbacks each of us will face over a long and fruitful career, a key weapon in the arsenal of satisfaction is giving back to the people and institutions which need our help. As a result, during my year as President of the American Bar Association, we will focus our considerable resources on America's Youth at Risk with a national service program. We are excited about the initiative and you may review out what we have planned by looking at our blueprint at <http://www.abanet.org/child/youthatrisk/home.shtml>.

A recent television program featured the great American tennis star Billie Jean King. She observed, "If you are a girl or a woman you're supposed to be happy when you get the crumbs. Well, I don't want the crumbs. I want the cake and the icing—everybody deserves the cake and the icing!"

Women lawyers are closer to the full slice of the cake. Slowly, women are reshaping the legal profession. We are at a watershed moment where the profession cannot afford to lose us. This is not a thunderbolt transition, but a slower one. At the fourth World Women Lawyers Conference, we will very likely have similar discussions. We will grapple with many of the same challenges. But we will have made more gains, brought more women into the profession, seen more of us shatter the glass ceilings, leaving the sticky floor behind.