

THE RECORDER

VIEWPOINT

Women's work: Three steps closer to gender equality

Mallun Yen

The Recorder invited Mallun Yen, the executive vice president of RPX and the former head of global IP at Cisco, to deliver the keynote address at a Sept. 25 reception honoring The Recorder's 50 Women Leaders in Tech Law. Below is a condensed version of her talk.

Many of you know that I am a big supporter of women's issues and co-founded an organization called ChIPs, which is dedicated to the advancement of women in IP and technology.

While I have done a great deal of speaking on IP issues, the truth is that I have never publicly spoken expressly about women's issues.

But sometimes you just need a little nudge to get you out of your comfort zone and confront something that's been on your mind, so I do have some thoughts that I'd like to share with you tonight.

Let me start by telling you that after talking with many friends and colleagues, I found no consensus on the cause of the 'problem' or even whether there is a problem, how much of a problem there is, and what exactly is the problem. I also found no agreement on the right path forward: do we all need to 'lean in'? Or is it possible to opt out and then opt back in? Can women have it all as long as it isn't all at once? Should women stop trying to be Wonder Women in everything we do and hence we're our own worst enemy? Is it OK to be a Tiger Mom or should we all try to be more French?

The answer to all the above is yes. And that's because, as I say to my 6-year-old daughter and 8-year-old son often, everyone is different. That may seem obvious, but it's worth repeating—the right path for different women is different. What works for someone else isn't necessarily going to be right for you.

Consider: Until about 1970, women comprised less than 10 percent of law school enrollment. That number climbed, thankfully, and about 25 years ago, law schools had reached more than 40 percent women (we're up to 50 percent today).

In that modern era of law school equity, there was good reason to think that once women began to graduate and work their way up the ranks, we'd see them become partners at firms and running legal departments and within a quarter century or so, we'd see gender balance in the leadership ranks of the legal workplace.

Well, fast forward to today—we all know that hasn't happened. Not at all.

At top law firms, women comprise about 16 percent of partners. General counsels, 20 percent. By the way, this isn't just in the legal profession. Fourteen percent of executive officers at Fortune 500 firms are women; CEOs, 4 percent; U.S. Congress, 18 percent; venture capitalists, 10 percent. When you look at the numbers, they average out to 15 percent or so.

But 50 percent of U.S. college graduates are women, and they have been since the early '80s. And they comprise about half of the overall workforce.

So what's happening? There are lots of theories out there, but I'm going to focus on just three tonight.

First is what I call 'birds of a feather.' It's a theory that echoes the ideas of my friend and ChIPs co-founder Mona Sabet. She calls this the syndrome of the single story, or institutional bias.

'Do we all need to "lean in"? Or is it possible to opt out and then opt back in? Can women have it all as long as it isn't all at once?'

Studies have shown that groups view others as leaders or potential leaders based upon how prototypical of the group that leader is.

So what does that really mean? Well, if the individuals in charge of giving access to leadership happen to be a bunch of Ivy League grads who golf, or if they aspire to be that kind of person, then those who fit that profile are more likely to be given access to leadership positions.

In other words, 'birds of a feather' are people who strive to be surrounded by people who are like them or are like the people they want to be. If you're a guy, with whom do you want to grab a beer or watch a ball game? If you're a woman, with whom do you want get your nails done or have in your book club?

Perhaps it's only natural, but when men



SPEAKING OUT: Mallun Yen, an accomplished IP lawyer and mother of two, said leaders should counter the 'birds of a feather' mindset by looking harder at those who may not check all the typical boxes or have a traditional career path.

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comprise approximately 85 percent of the leadership positions, it also becomes self-perpetuating.

The second of the theories reflects what some may say are differences in personality traits viewed as either traditionally male or female. Let's call this theory 'confidence versus competence.'

Studies have found that groups without leaders naturally tend to end up with overconfident, self-centered and narcissistic individuals as leaders, and that these personality traits are not equally common in men and women.

Why do people do that? That's beyond my abilities as an armchair psychologist to say and frankly probably beyond our control to change human nature, but studies seem pretty settled that this is the case.

Let's take a look at what might be more within our control. Are these traits innate gender differences? Are women hard wired to multitask, stay at the camp and raise the kids while the man hunts? And in a Darwinian world, have women been naturally selected for traits that favor competence more than confidence? If so, how does that translate to our role as professional women and is it within our control to change?

My third theory is a concept uniquely applicable to women. I'll call this 'be careful what you wish for.' For the past 25 years or so, we have been told we could have it all. Debra Spar, Barnard College president, in her recent book *Wonder Women*, traces it all back to a 'Charlie' commercial from the '80s. Remember the one

with a successful working woman, glamorous in her business attire and stilettos, perfect hair blowing back—all while holding the hands of her children, with an adoring husband waiting to send her off to work? Well, I don't know about you, but that is *exactly* what my household was like this morning.

Perhaps we were fortunate in that when we were all coming of age, not only were we told we could have it all, we were also told we had choices. First of all, we did have choices our mothers, grandmothers and great-grandmothers didn't have—the choice to work at all. As long as we worked hard, we assumed we'd be promoted and achieve positions of leadership.

And then we were told that because the world was now more enlightened and egalitarian, we had the choice also to be mothers as well as professionals, and that we could juggle work and life just the same way men did it and more. We could be the Charlie woman who, after a 10-hour workday, could still go pick up the kids and cook an organic, gluten-free, locally harvested, ancient grain quinoa dinner.

And in the heady days post-Gloria Steinem, a lot of women felt liberated and empowered and free to make the choice to say, 'I can work, but I am making the choice not to.' It never crossed their mind that it might be difficult to opt back in.

But it turns out that it is difficult. Very difficult. A recent survey found that 89 percent of those who 'off-ramped' said they wanted to resume work; only 73 percent of these were able to, and only 40 percent of those got full-time jobs. And about a quarter took jobs with less management responsibilities or lower job titles than when they left.

Going forward, I certainly don't claim to have all the answers, nor do I think all these issues are readily solvable, but I do have a few observations that I'd like to offer as food for thought.

Regarding the theory of 'birds of a feather'—it's clear that until the gender numbers become more equitable at the highest levels, there will necessarily be a bias toward that single story. I'm not advocating hiring less-qualified people, and by no means are women lawyers less qualified as a class. They just happen to be a bird of a different feather; their backgrounds and paths might not look the same as the next guy. And awareness is the first step toward undoing any bias.

Beyond awareness, I do have a couple of concrete suggestions. First of all, many of you are in the position of doing a lot of hiring, so we can start by being a little more proactive there. Hiring and promoting goes on all the time in a legal department or law firm, and for reasons we've already examined, many of these personnel decisions are being made by men. That does not, however, mean that you need to keep your opinions to yourself. You want to be polite and professional, of course, but you can also be an advocate. Don't wait to be asked.

I can tell you from personal experience that this does work. When I was at Cisco, I would regularly call up partners at firms when I saw a promising young woman attorney and tell

them that they needed to keep an eye on her because it was different for her than it was for them—even harder because she had no female role models in their group.

I found they were actually relieved that I had raised [the issue] in this time of such extreme political correctness. In fact, they welcomed the opportunity to have a candid conversation and seek advice. Law is, after all, also business. Partners want their partnerships to grow and the vast majority recognize the value of diversity as critical to future growth.

A second way we can help minimize the birds-of-a-feather mindset is by looking a little harder at that resume that isn't the 'easy resume'—the top 10 law school, law review, associate at top-tier law firm. Don't dismiss those who don't check all the single-story boxes—take a closer look at the substance behind it.

As for the second theory, the 'confidence versus competence' issue is something that has only become more apparent to me as I get more senior in my career. In my 20s and even my early to mid-30s, I kept my head down, learned as much as I could, tried to do good work and would get steadily promoted on my merits. I would have denied that there was any sort of real institutional bias or glass ceiling, because in those first years, I didn't experience much of either. The mantra of 'do good work and good things will happen' worked for me. For the first 10 to 15 years, just doing good work is good enough. But for the next 10 to 15 years, it isn't.

To move to the next level also requires the ability and willingness to market yourself. In other words, what is needed here are those 'confidence' skills that some say are not innately female.

Remember that study I mentioned about leaderless groups having a tendency to elect overconfident, self-centered and narcissistic individuals as leaders? Like it or not, group-think often tends to favor flash over substance.

I've learned that being confident and able to market yourself is important for the second 10 to 15 years. But there are ways to do it without becoming someone you don't want to be. We as women can do it in our own way, a way with which we're comfortable. For example, if it really isn't natural for most women to brag about themselves, then maybe we need to start going out of our way to introduce others or boast about a colleague in a way that she might not do herself.

And awards like this, being presented tonight, are a brilliant opportunity—let others do the bragging for you. Put it on your Facebook/LinkedIn/Instagram/Pinterest page. Or better yet, have a friend do it and tag you instead, and vice versa. But don't downplay it. Celebrate yourselves as part of celebrating each other.

On that third theory of 'being careful what you wish for,' perhaps you can have it all and all at once, or you can have it all as long as it's not all at once, or you can have it all as long as you don't try to do it all too perfectly.

I don't know the answer. But I do know that it depends on who you are and what your support structure is at home. If you're a single

mom, that's going to be very different than if you have a stay-at-home spouse. My husband Jason and I have always both worked full-time. I could have never done it without him and his complete support of my career and our family. We have also had the benefit of having family, including my mom and dad, close by who can pitch in.

But whatever your situation, make the choice that is right for you at that time and then have a plan for staying relevant. Things move fast. Your skills and experience can get stale pretty quickly, whether you've opted out for a while or even if you've stayed on track. If you've been doing the same thing for 10 to 15 years, how valuable to your organization are you really? Given the speed of change these days, you really don't have the luxury of not expanding your skill set, experience and network.

I used to think networking was a bad word and had a negative connotation. While I still have trouble saying the word 'networking' and I've yet to come up with a better alternative term, I do now realize the value in it. We as women can embrace our natural tendency to make personal connections with each other to then also benefit each other in business and hence continue to grow and stay relevant.

Take ChIPs for instance. Last year, co-founder Noreen Krall casually mentioned we should have a little cocktail party in D.C. to meet our East Coast counterparts. One thing led to another and five weeks later we had a sold-out summit with over 250 participants and a lineup of high-powered women speakers. What started out as an authentic desire to meet our East Coast counterparts turned out to be professionally valuable. In-house folks realized they didn't know all the great women in IP and hired new outside counsel they met as a result. Government folks invited many of us to testify at their workshops. In-house counsel, whose companies were in disputes with each other, reached out directly to work things out on a more personal level.

Now, obviously, building networks is not a panacea for women wanting to advance their careers. But building relationships and keeping connections strong as a way of expanding and staying relevant will serve us all well. ChIPs is proof that it can work and still be enjoyable. I'd love to see more of these kinds of venues emerge. It's just one more way for us to provide a counterweight to the leadership gender imbalance in a way with which I think we're all comfortable.

We need to keep training great women, we need to keep them practicing for a long time, and we need to ensure that they ascend to the highest levels of the profession. Clearly that's going to take some work. And a lot of that I would say is women's work. I look forward to working with all of you here to make it happen.