

Review on Women in Legal Profession

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Abstract: *The legal profession has changed significantly in the last several years, with a sharp increase in the proportion of women in its membership. Scholars in the fields of law, sociology, economics, organizational behavior, and legal history have examined many aspects of the feminization of the legal profession. The boundaries of integration and disparity in the professional careers of men and women in the modern legal field are traced in this review. We investigate and evaluate the theoretical justifications for gender disparities in legal education, employment, compensation, promotions, and other areas of the law profession. The impact of women's experiences on the law and the profession is also examined.*

Keywords: discrimination, gender, law practice, careers, mobility, and incomes

I. INTRODUCTION

One of the most notable—some have even dubbed "revolutionary" (Abel 1988, p. 203)—changes to the legal profession in the last 150 years is the introduction and increasing representation of women. The admission of women into law poses a number of issues. Have women achieved success in all legal specializations, practice environments, and upper levels of status and influence since being admitted to the profession? In the profession, what barriers to gender equality still exist? How have women lawyers responded to the organizations in which they work, especially when those organizations have been reluctant to change or have outright opposed change (Caplow & Scheindlin, 1990)? More importantly, have the presence and increasing status of women in the legal profession prompted change in either the content of law or the structure and activities of lawyers (Martin & Jurik 1996, Menkel-Meadow 1989a, Shaw 2003, Schultz 2003a).

Through litigation, lobbying, formal appeals to law societies, and occasionally by engaging in legal work outside of professional jurisdictions, women have battled to enter the profession, as historical and comparative research has documented (Bartow 2005, Brockman & Chunn 2002, Mossman 1990, Pue 1999). Several decades ahead of women in other nations, American women set the precedent when they were the first to enter the legal profession in the 1860s. However, this exclusion of women from a number of American law schools persisted until the 1960s (Mossman 2006). The admission of women to the legal profession was only the first step in challenging male exclusivity in the legal profession (Backhouse 1991, Drachman 1995, Latourette 2005). The pursuit of employment was a huge challenge for women. Even women who had attended prestigious law schools were subject to openly practiced employment discrimination, according to early research conducted on lawyers in the 1970s (Epstein 1983). Women who were successful in getting legal work were frequently given opportunities in low-status fields like family law and probate law that were thought to be appropriate for women. They were not granted partnerships, made less money, and were not frequently assigned to the bench (Kanter 1978, Martin & Jurik 1996). Women lawyers continued to experience discrimination and exclusion in a variety of ways far into the twentieth century (Eastman 2004, Mossman 2006, Resnick 1993). Remarkably, the initial wave of women who joined the legal field in the late 19th and early 20th centuries did not usher in a new wave of female professionals. Instead, for the majority of the first half of the twentieth century, women's entry into law remained a trickle (White 1967). Only during the 1970s have women's admission rates increased most dramatically (Abel 1985, Kinnear 1992). In the United States in 1970, women made up 8% of all law school applicants. Women in law school had almost reached parity with men by 2006 (Wilder 2007, p. 6). Similarly, only 1 in 20 law firms in Canada in 1970 were women. According to the Canadian Bar Association (2005, p. 14), one out of every three lawyers was a woman in 2005, with the majority being under 35. Many nations saw a similar substantial increase in the number of women entering the legal profession. According to Carson (2004), women make up about 30% of the legal profession in the United States and 36% in Canada (Law Society of Upper Canada 2006). In

some other nations, such as Finland (43%) and France (45%), the percentages are even higher (Boigeol 2003, Schultz 2003a, Silius 2003).

The status of women in the legal profession has changed significantly since the publication of Cynthia Fuchs Epstein's seminal book *Women in Law* in 1981. Women are now represented in law in greater numbers than they were in the 1970s, with advancements in all areas of the profession, elite firm partnerships, the bench, and bar governance. With women reaching a critical mass and their presence in circles of power facilitating reform and creativity in the field, the legal profession has entered a dynamic era. Several current gender dynamics in the legal profession are examined in this review. The first two sections of our analysis focus on the early phases of professional formation, including women's experiences in law school, career entry and hiring practices, and persistent sex-segregation trends in the legal profession. Next, we look at gendered experiences of legal work, particularly discrimination, sexual harassment, and work/family conflict. Next, we assess the gender disparities that exist now in terms of wages, promotions, upward mobility, the emotional life of lawyers, and legal exit strategies. Lastly, we evaluate how women have impacted the legal profession in terms of substantive law and legal practice styles.

LEGAL EDUCATION

There is strong evidence that the experiences of women in law school are not the same as those of men. The question of whether the patterns have continued in more recent times still stands, though, as several of these studies are from the late 1980s or early 1990s.

Numerous studies indicate that a significant portion of women experience sexual harassment, gender-based discrimination, and disparagement at the hands of male peers or faculty. According to a survey of students at nine Ohio law schools, 31% of women had experienced gender-based discrimination, and 19% had experienced sexual harassment (Krauskopf 1994). 43% of female survey respondents at a midwestern law school claimed that their professors stereotyped women (Wilson & Taylor, 2001); 53% of women at Harvard Law School thought that the faculty discriminated against women (Granfield, 1992). More than 40% of women who participated in a survey conducted by a number of law schools said that their professors either used or accepted offensive humor (Banks 1988, Wilson & Taylor 2001). In one law school, 66% of women also reported harassment and aggression from male students (Wilson & Taylor 2001). On the other hand, 80% of women at a different law school stated that gender had little to no impact on interactions in the classroom (Garrison et al. 1996). The professional socializing that occurs throughout law school may be another cause of stress for female students. Similar to other professional training programs, law school creates changes in students' attitudes and preferences as well as their habitual cognitive processes by introducing them to the professional community and its status structure (Mertz 2007). Students experience a shifting sense of identity as they become conscious of these changes. While nearly every student finds this process unsettling in some way, women may find it particularly so as the required adjustment may be more pronounced. According to Guinier et al. (1994) and Weiss & Melling (1988), women are more likely than men to start law school with self-concepts and values that are at odds with the analytical, adversarial, and competitive standards of the legal profession. There is evidence that women experience more personal change while in law school, which is consistent with this viewpoint. According to a study conducted by Janoff (1991) on first-year law students at one law school, women tended to prioritize relationships and caring at the beginning of the year while men prioritized individuality and rights. By the end of the year, women's responses were indistinguishable from men's. Women are more likely than men to plan to work in government or the public interest rather than a private firm, and they are more likely than men to enter law school with the motivation to serve others or advance social justice (Carroll & Brayfield 2007, Garrison et al. 1996, Guinier et al. 1994, Homer & Schwartz 1989, Krauskopf 2016).

Their interest in public-sector or public-interest work appears to decline more sharply than men's during their law school study (Guinier et al. 1994, Homer & Schwartz 1989; but see Garrison et al. 1996). This is in contrast to men's (Mattessich & Heilman 1990, Schleef 2000, Teitelbaum et al. 1991). Additionally, studies by Granfield (1992), Homer & Schwartz (1989), and Weiss & Melling (1988) suggest that women are more likely than men to report feeling subjectively alienated from law school, however some find the opposite (Krauskopf 1994).

Though the fact that law students suffer from higher levels of anxiety and depression than other similar populations is comparatively well-established (Dammeyer & Nunez 1999; Pritchard & McIntosh 2003), it is unclear if women

specifically experience higher levels of psychological discomfort. According to survey results, women are more likely than men to report feeling good about their life and experience anxiety, depression, and other distressing symptoms (Garrison et al. 1996, Guinier et al. 1994, Taber et al. 1988). However, inconsistent results are seen in studies utilizing psychological tools that have been validated. While some studies (McCleary & Zucker 1991, McIntosh et al. 1994, Shanfield & Benjamin 1985) find that female law students had higher scores for depression and/or anxiety, other studies (Benjamin et al. 1986, Pritchard & McIntosh 2003, Sheldon & Krieger 2004) do not. Surveys reveal no gender gap in attitudes toward the law school experience, with both men and women reporting satisfaction or positive feelings on average (Krauskopf 1994, Mattessich & Heilman 1990, Taber et al. 1988, Teitelbaum et al. 2014), regardless of whether there is a gender difference in personal distress.

DISPARAGEMENT, SEXUAL HARASSMENT, AND WORK/FAMILY CONFLICT: EXPERIENCES OF LEGAL WORK

A strong gender divide seems to exist in the experiences of practicing law. Many women lawyers experience gender discrimination, including sexist behavior, harassment, degrading remarks, and an unfavorable courtroom environment, according to a number of task force reports and academic studies (Kay et al. 2004, Rhode 2001, Ross et al. 1992, Wilder 2007). The experiences of women are influenced by gender stereotypes and discriminatory practices that negatively impact their access to professional possibilities.

The availability of wide options and choices for men and women lawyers is impeded by persistent gender stereotypes (Coontz 1995, English 2003, Kuo 2005).

Thornton (p. 157, 2019) examines, for instance, how women in law are predominantly defined in "corporeal terms," creating and maintaining prevailing ideas of gender roles. This "binarism is invoked in an endeavor to retain the masculinist character of legal practice," according to her analysis. Epstein (2021) also discovered that employers frequently make assumptions about women that harm women's chances of demanding work and career progression, particularly assumptions about their dedication and motivation. According to Epstein (2021), companies often provide women work assignments and career chances that are less demanding or prominent than those given to men because of their presumptions about the unique personality features of women.

To make matters worse, women lawyers are caught in a catch-22 situation (Rhode 1994, 2001). Women lawyers frequently find themselves in "no-win" situations, regarded as not tough enough to handle business law and the stress of the courtroom but too tough to be easy collaborators and partners. This is consistent with social psychological studies of competence (Foschi 2000), which note that women lawyers "risk appearing too 'soft' or too 'strident,' too aggressive or not aggressive enough." Epstein (1992, pp. 244–45) also notes on this dilemma. According to a number of national polls conducted in the United States, approximately 50% to 75% of female lawyers feel that they are held to greater standards than their male counterparts (Rhode, 2001). In addition, gender inequality undermines the authority of women in law practice. These verbal behaviors diminish women's status or esteem while bringing attention to gender inequality. Disparagement includes calling women "honey" or "sweetie," addressing men by surname or title, making jokes and demeaning remarks about women (Coontz 1995, Czapanskiy 1990), and making comments about how female attorneys dress or appear that diminish their status as professionals in the eyes of litigants, witnesses, and juries. It also includes judges and other lawyers expressing traditional beliefs about the social role and nature of women. Additionally, disparagement includes interrupting female attorneys during their speeches repeatedly. Rosenberg et al. (2003) discovered that women in the private sector, particularly within law firms, were most likely to experience the full brunt of sexism—reporting the coexistence of on-the-job discrimination, disparagement, and harassment (n = 220) in a small-scale survey of lawyers in a midwestern U.S. city (Rosenberg et al. 1993, p. 428). Nonetheless, in contrast to many other studies, the majority of women in Rosenberg et al.'s (1993) study did not practice in big law firms or in important financial and legal hubs, nor did they attend prestigious law schools.

Alternative work schedules (Marks 1990, Rhode 2002, Williams 2002), part-time work (Abella 1990, Nielsen 1990, Uelmen 2005, Williams & Calvert 2002), and flexibility in parental and child care leaves (Cunningham 2001, Weinrib 1990, Wilson 1992) have been advocated in a number of law journal articles. Policies pertaining to workplace family accommodations (such as flex time, compressed work week, flexible place, part-time hours, job sharing, and parental leaves) have been promoted in a plethora of reports by bar associations and law societies (see, for example, Bouchard

2006, Buckley 2006, Canadian Bar Association 1993, Rhode 2001, Wilder 2007). However, individual negotiation—rather than organizational policy—remains the primary means of establishing alternate working arrangements that support family life (Mossman 1994b).

Promotion and Upward Mobility

What is the status of women lawyers in terms of advancement and promotion? The majority of the research on this subject has been on law firms, particularly big or prestigious firms that cater to corporate clients. Other legal work environments have been examined in fewer studies.

The move from partnership to pro-motion is crucial in law firms. Law firm partners have historically benefited from job stability, great work autonomy, ownership of equity in the firm, and involvement in firm governance. Partnership is still more rewarding and attractive than other statuses inside law firm organizations, despite the fact that these advantages have diminished in many organizations over the past few decades due to the increased competition in the market for legal services. It is evident that there are not enough women in partnership roles. According to the National Association for Law Placement (2007), women made up 18.3% of partners in major U.S. law firms in 2007, compared to 45% of associates. Though the rate of change has been gradual, women now make up more and more company partners than they did in 1993 (12.3% of partners). Similar to how it is in law firms, women's representation among law school faculty decreases as they move up the ranks. During the 1999–2000 academic year, women made up 22% of full professors, 48% of assistant professors, 46% of associate professors (a status that typically does not carry tenure in law schools), and 69% of instructors and lecturers (Neumann 2000). Compared to 1986–1987, when women made up 34% of tenure-eligible faculty and 11% of tenured professors, this is an improvement for tenure-track faculty (Chused 2017).

The third explanation is that women do not have the social networks and cultural orientations necessary to establish and preserve connections with clients and other lawyers. In fact, Kay & Hagan (1998) discovered in a 1990 survey that women performed worse than men on measures of cultural capital (propensity to value goals outside the firm versus sharing firm values) and social capital (professional activities, association memberships, client origination, and representation of corporate clients). A considerable gender discrepancy persisted even when the social and cultural capital indicators were taken into account. This explanation accounted for around one-third of the impact of gender on lawyers' partnership pro-motion probability, net of marital and parental status, hours and weeks worked, leaves taken, and metropolitan location. Six years later, in 1996, the same sample was surveyed again, and this time, association memberships and representing institutional clients were found to be partially responsible for the gender difference in partnership probability (Kay & Hagan 2007).

GENDER-WISE INCOME GAP

Studies on the pay of lawyers typically show that women make significantly less than men. The average salary gap between men and women is between 52% and 64%. This gap narrows but doesn't go away when factors like law school status, academic standing, labor supply, practice setting, specialization, hours worked, family status, and social capital measures (like social networks and family background) are taken into account (Dixon & Seron 1995, Hagan 1990, Hersch 2003, Huang 1997, Kay & Hagan 1995b, Laband & Lentz 1993, Robson & Wallace 2001, Wood et al. 1993).

Are salaries for lawyers generally significantly different between genders in other professions? Baker (2002) examined the relative financial benefits for women holding four professional degrees: doctorates in social science and psychology, law, medicine, and MBAs, using data from a national survey of college graduates conducted in 1993. According to Baker's research, men's age-earnings profiles are significantly steeper throughout professional degrees than women's. Men who graduate from law school are anticipated to make around 14% more money than women over the course of a legal career. However, compared to female professionals in other sectors, a female law degree has a higher overall rate of return. In comparison to other professional sectors, Baker (2002) found that the legal profession continues to be very appealing to women in terms of labor market participation, career re-entry, incomes, and returns on schooling.

HAVE WOMEN MODELED LEGAL PRACTICE MODES OR SUBSTANTIVE LAW?

Both academics and political activists have speculated that the inflow of women into the legal profession may result in a change in the nature of substantive law and the way law is practiced. Expectations that women's legal thought and behavior would differ from men's have typically been based on one or both of two theories: that women judges and attorneys have a stronger feminist consciousness, or that they approach legal matters from a different moral perspective. According to the feminist awareness view, women judges and lawyers are more likely to have an impact on legal issues that concern women's interests or that include female clients or litigants. One interpretation of this perspective holds that female judges and attorneys see themselves as speaking for all women and, as such, have a unique duty to take action to lessen the disadvantages that women experience (Allen & Wall 1993, Martin 1993, Segal 2000). In a slightly different version, women should be more conscious of the unequal treatment of women and more willing to reject cultural norms and laws that favor men over women because of their experiences as subordinate and less powerful women in the larger societal system of gender relations. It appears that while considering their legal positions, judges and attorneys draw from distinct backgrounds and experiences. Women judges were more likely than their male colleagues to have faced sex discrimination and conflict between their work and home responsibilities, according to a survey of federal judges appointed by President Carter (Martin 1990). The majority of 693 women state court judges surveyed in 1987 felt that "women have certain unique perspectives and life experiences, different from those of men, that ought to be represented on the bench"; over 50% also felt that "women judges are probably more sensitive to claimants raising issues of sexual discrimination than are men" (Martin 1993). Martin et al. (2002) examined a 1988 survey of Florida judges and attorneys and discovered that women reported experiencing sexual harassment and gender disparagement more often than did men. Additionally, traditional stereotypes of women, prescriptive norms for women's behavior, and legal presumptions favoring men in cases of domestic abuse and property division during divorce processes have been more forcefully rejected by women judges and lawyers. Lastly, there was a larger correlation for women between the perceptions of judges and attorneys on gender stereotypes and roles and their observations of sexual harassment and gender disparagement. This suggests that the perspectives of these professionals were influenced by their own experiences. Significant evidence also suggests that female judges are more likely than their male colleagues to make decisions that support women's interests in the legal system. Allen & Wall (2003) discovered that female judges on state supreme courts in the United States were more likely to side with the woman in matters pertaining to child support, sex discrimination, sexual assault, birth control, and property settlement in divorce cases. Women lawyers might be influenced by an ethic of care to refrain from engaging in too aggressive or dishonest legal conduct that could violate the ethics of the profession. Hatamyar & Simmons (2004) discovered that women were disciplined less frequently than men in comparison to the total number of state lawyers after analyzing data on disciplinary processes involving lawyers in 2000. All categories of disciplinary infractions (such as incompetence, conflicts of interest, misuse of client property, improper litigation behavior, etc.) also showed this gender gap. Sadly, the researchers' data did not allow them to account for the unique traits of lawyers who were and were not disciplined.

II. CONCLUSION

With recent figures surpassing 35% in the profession and 50% in North American law schools, women's significant representation in the legal field is a relatively modern occurrence. There has been progress. A growing number of women are seeking legal education; in many law schools, they are reaching and surpassing parity with men, and recent cohorts of women are finding employment in equal numbers to men across a range of practice settings and firm sizes. Despite the fact that sex segregation no longer exists as a massive male or female dominance within specialty, gender disparities still exist across substantial practice areas. However, gender disparities become more evident when it comes to career mobility, particularly when discussing partnerships in law firms, promotions in diverse contexts, and ensuing recruiting or job changes. In addition, there has always been a sizable pay difference between men and women who practice law. Men in the profession still have to deal with gender stereotypes and discriminatory practices that harm both genders. Despite the fact that overt discrimination appears to have decreased, sexual harassment still exists, and women still face unfavorable professional consequences connected with motherhood as well as the profession's inability to accommodate family commitments. Career satisfaction levels seem to be comparable across men and women, despite the fact that women and men to a lesser extent seem to be well aware of gender prejudice in the

profession. Certain components of happiness give rise to gender inequalities; women are less content with their work/life balance, pay, job security, recognition for their efforts, and opportunities for promotion. It appears that women may process their dissatisfaction differently (by internalizing negative feelings or by changing jobs), possibly as a result of gender socialization or the formation of their gendered professional identity in law, even though research does not support the idea that women value different aspects of their work. It should come as no surprise that women are more inclined to change careers or leave the profession altogether given the unfavorable working environment and obstacles to career advancement. Women are breaking past the "glass ceiling" and, through leadership roles within firms and organizations, challenging conventional career models and developing new, creative workplace arrangements and policies, despite evidence of gender inequities. Substantive law and judicial decision-making have been impacted by women judges and lawyers, though maybe not because of a "different voice" or gendered approach to legal reasoning.

As women advance to the highest levels of practice and reach a critical mass of power, new concerns surface. Will the remaining institutional barriers to genuine gender equality in the legal profession be effectively dismantled by men and women? Will the next generation of women (and men) lawyers push for changes to workplace policies that would allow for greater diversity in the legal profession and better work/life balance? What part will women lawyers play in the evolving legal profession in terms of alternative conflict resolution methods, increased legal technology use, changing legal practice jurisdictions, judicial decisions, and substantive law reform? The growing body of academic research on gender discrimination in the legal profession shows how gender inequality and discrimination are evolving. A growing push for improved gender equality in the legal profession coexists with the persistence of barriers and opposition to change.

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