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The Social Significance of the World's First Women Lawyers

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Review Essay

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REVIEW ESSAY

THE SOCIAL SIGNIFICANCE OF THE WORLD'S FIRST WOMEN LAWYERS[©]

THE FIRST WOMEN LAWYERS: A COMPARATIVE STUDY OF GENDER, LAW AND THE LEGAL PROFESSIONS BY MARY JANE MOSSMAN
(PORTLAND, OR: HART, 2006), 289 pages.¹

FIONA M. KAY²

I.	CONTINENTAL DIVIDES: THE FIRST WOMEN LAWYERS.....	400
A.	<i>The North American Examples: Admission "On the Same Terms as Men"</i>	400
B.	<i>Britain: Bastion of Tradition Fragmented</i>	403
C.	<i>The Colonies: Emerging Independence from Imperial Courts</i>	404
D.	<i>India's Cornelia Sorabji: No "Shrieking Sister"</i>	406
E.	<i>Europe's Femmes-Avocats</i>	407
II.	TRACING COMMON AND DIVERGENT THEMES ACROSS BIOGRAPHY AND CULTURE.....	408
A.	<i>The Fruits of Comparative Analyses</i>	408
B.	<i>Women on the Margins of Law Practice</i>	410
C.	<i>But Were They Feminists?</i>	411
D.	<i>The Role of Men: Opposition or Facilitation?</i>	412
E.	<i>Diverging Interpretations of Women's Lives in Law</i>	414
III.	CONTEMPORARY LINKAGES AND IMPLICATIONS FOR THE STUDY OF THE LEGAL PROFESSIONS.....	416
A.	<i>Women's Gendered and Professional Identities</i>	416
B.	<i>The Culture and Habitus of the Legal Professions</i>	418
C.	<i>Potential for (or Immunity Against) Structural Transformation</i>	420
D.	<i>Cultural Diversity and the Legal Professions</i>	422
E.	<i>Conclusion</i>	423

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¹ [*The First Women Lawyers*].

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Without question, one of the most dramatic, even “revolutionary,”³ changes in law over the past two centuries has been the entry and rising representation of women in the legal professions. Mary Jane Mossman’s *The First Women Lawyers* is a pinnacle achievement, both in depth of biographical and legal case inquiry and in scope of comparative cross-national research. For scholars of the legal professions, and gender and the professions more generally, *The First Woman Lawyers* is simply required reading.

Mossman focuses her attention on the history of claims presented by the first women to challenge the male exclusivity of the legal professions. Her analysis targets two processes: (1) the various tactics adopted by women in their quest to enter the legal professions; and related to these tactics, (2) the intersection of women lawyers’ identities as *women* and as *legal professionals*.

During the late nineteenth century, women encountered expanding opportunities through law reform and access to professions, including medicine and law. Yet, as women initiated claims for entry to the legal professions, traditional ideas of professionalism were also in transition. Law was in the midst of a dramatic transformation from a “gentleman’s profession,” defined on the basis of social class, contacts, and dinner parties in the early nineteenth century, to a system based on educational credentials and competitive examinations.⁴ Women’s entry to the legal professions during this time of significant change is often mentioned in relation to theories of professionalization, but until now it has received little detailed exploration. Mossman succeeds brilliantly at bridging these two historical developments—the changing ideals of professionalism and emerging women’s equality rights. In so doing, she poses three critical questions:

[H]ow did legal professions respond to women’s challenges to the male exclusivity of a “gentleman’s profession”? How did women characterize their right to gain admission to the legal professions and their interest in pursuing legal work? And why were some women’s gender challenges successful, while other women’s claims to become lawyers were resisted, deflected or assimilated by courts and legislatures?⁵

³ Richard L. Abel, “United States: The Contradictions of Professionalism” in Richard L. Abel & Philip S.C. Lewis, eds., *Lawyers in Society: The Common Law World* (Berkeley: University of California Press, 1988) vol. 1 186 at 202.

⁴ R.D. Gidney & W.P.J. Millar, *Professional Gentlemen: The Professions in Nineteenth Century Ontario* (Toronto: University of Toronto Press, 1994) at 205-07.

⁵ Mossman, *supra* note 1 at 7-8.

In contrast to many studies of the legal professions, Mossman adopts a considerably more fluid definition of “lawyer.” Her work encompasses women who gained formal admission to the legal professions and others who were engaged in legal work without having gained the status of formal admission. This approach allows Mossman to move seamlessly between civil and common law jurisdictions where the roles of lawyers differed substantially, as well as to reveal “how the boundaries of legal professionalism sometimes shifted, and how gender was sometimes accommodated without ever being formally acknowledged.”⁶

Mossman draws on numerous academic theses and dissertations, news reports, letters and diaries within archives, and other secondary sources. Her study also delves into a virtual gold mine of papers that were kept by Louis Frank, a Belgian lawyer who corresponded with women lawyers internationally from the late 1890s onward and who was an earnest advocate of women’s equality rights. These letters written by women lawyers in several countries lend authentic and personal voice to the first women in law.

The book consists of six chapters that fall into three parts. The first two chapters explore the historical context for the entry of the first women to legal practice in North America. Here Mossman contrasts individual biographies, court cases, and legislation in the United States and Canada. While chapter three focuses on women’s entry to law in Britain, chapters four and five establish a link between North America and the British Empire in New Zealand and India. The book might have ended there, as a tale of women lawyers in Britain and its colonies, but Mossman ambitiously forges on to explore connections across Europe, highlighting differences between civil and common law countries in the admission (and denial) of women to the legal professions.

In this review essay, I briefly summarize Mossman’s examination of women’s entry to the legal professions across several continents, with attention to her insights on women’s challenges to male exclusivity of the professions and areas where her thinking diverges from earlier scholars. In the second section, I critically consider how she traces common and divergent themes across

⁶ *Ibid.* at 9.

individual biographies and broader cultural and historical contexts. I conclude by suggesting some contemporary linkages and implications of Mossman's analysis.

I. CONTINENTAL DIVIDES: THE FIRST WOMEN LAWYERS

A. *The North American Examples: Admission "On the Same Terms as Men"*

Mossman begins her historical account of women's entry to the legal professions in the United States, which is an appropriate starting point as these women were truly pioneers in this context, entering law nearly three decades ahead of women elsewhere. Yet paradoxically, as Mossman observes, women would remain excluded from several law schools for over six decades of the twentieth century. Hence, women's entry to law was only the start of what would become a "century of struggle."⁷

Her analysis begins with the 1848 *Declaration of Sentiments*, which defined comprehensive reform objectives for women, including equal rights in the universities, trades, and professions, the rights to vote and to make contracts, and equality in marriage.⁸ This broad reform agenda was narrowed by the end of the nineteenth century, when most women's groups were focused on the drive for suffrage and arguments increasingly emphasized women's special talents as moral guardians, not their right to equality with men.⁹ While many individual women lawyers supported suffrage, their aspirations for legal careers and for economic independence were no longer congruent with views dominant in the organized women's movement of the era.¹⁰ According to Mossman, this incongruity holds significance not only for these women's ties to the women's movement, but also for their identities as professional women.¹¹

At the same time, the profession of law was undergoing significant transformation toward a more "learned profession," away from apprenticeship and patronage as mechanisms for entry and toward systematic training through university law schools. The shift toward

⁷ *Ibid.* at 23.

⁸ *Ibid.* at 30-31.

⁹ *Ibid.* at 32, 107.

¹⁰ *Ibid.* at 33, 107.

¹¹ *Ibid.* at 33.

competitive entry and educational qualifications on the surface may appear to render law more accessible to women, but as Mossman points out, "it appears that reformist ideas about an elite legal professions were fundamentally inconsistent with the admission of women: elite legal education and its connection to elite corporate law firms remained steadfastly defined by traditional ideas of white, Protestant masculinity."¹² Even when women students were admitted, they were not always accorded the same privileges as men, and Mossman cites several cases in which women were prohibited from sitting with their male classmates or receiving diplomas; in the case of Alice Jordan, who graduated from Yale Law School in the 1880s, her presence prompted university officials to amend admission criteria to exclude women thereafter.¹³

Mossman's analysis of specific cases launched in American courts during the mid-1890s also offers insight into the vast range of arguments advanced by women in their challenges to the courts. Arabella Mansfield's 1869 success in an Iowa court and subsequent confirmation by the Iowa legislature illustrates the important role played by individual judges in interpreting statutes and shows how the law enabled some women to become lawyers. Only months later, Myra Bradwell endeavoured to gain admission to the Illinois Bar. While Bradwell cited the Mansfield case as a precedent for an inclusive interpretation of the male eligibility requirement in the Illinois Bar statute, she was unsuccessful before the Illinois Supreme Court and in her subsequent appeal to the Supreme Court of the United States. Yet, Mossman emphasizes that despite the lack of success, Bradwell's case remains important because it demonstrates the variety of legal arguments invoked in women's attempts to gain entry to law. Bradwell referred to the guarantees of the American constitution, arguments about common law disabilities, and principles of statutory interpretation to support her application to become a lawyer. These arguments proved useful to other women in other jurisdictions, most notably Canada.¹⁴

Mossman uncovers the views of women lawyers as they grappled with dilemmas of negotiating femininity and professional identity, juggling marriage and career (more often forfeiting marriage), and

¹² *Ibid.* at 39.

¹³ *Ibid.* at 37-38.

¹⁴ *Ibid.* at 42-43.

preserving ties to charity and reform efforts. She accomplishes this impressive feat through two rich archival sources. The first is a collection of annual letters written by women lawyers and circulated among members of the Equity Club between 1887 and 1890. The second source is correspondence between women lawyers in the United States with the Belgian barrister, Louis Frank. The letters demonstrate that the nature of women's legal practices appeared very similar to those of men in the legal professions. However, Mossman's considered analysis also reveals that women often "gained admission to the profession without challenging underlying norms of male exclusivity in professional culture."¹⁵

North of the border, Canadian cases offer their own unique experiences of male exclusivity in law and the creative legal tactics adopted by aspiring women lawyers. Mossman challenges current theories regarding a common professional project for law in North America. These theories postulate that new challenges posed by industrialization, along with improvements in communication and transportation, stimulated demands for new types of legal services in the United States and Canada toward the end of the nineteenth century. These rapid changes also fostered new ideas about professionalism in both countries. As W. Wesley Pue observes, "it is arguable that the dominant cultural influence on Canadian lawyers in this period came from the United States of America."¹⁶ However, Mossman notes that if members of the Canadian legal professions were influenced by emerging ideas of professionalism south of the border, it is striking that the Canadian legal establishment remained unpersuaded for several decades by American precedents permitting women to enter legal practice. In this case, Canadian courts and law societies turned to Britain, where women remained barred from legal professions until after the First World War.

In contrast to American examples, Mossman contends that the introduction of systematic lectures, by either the profession or university law schools, may have provided "*the* significant catalyst for women's decisions to become law students" in Canada.¹⁷ For women without fathers or other relatives who were legally trained, the prospect of

¹⁵ *Ibid.* at 29.

¹⁶ W. Wesley Pue, "Cultural Projects and Structural Transformation in the Canadian Legal Profession" in W. Wesley Pue & David Sugarman, eds., *Lawyers and Vampires: Cultural Histories of Legal Professions* (Portland: Hart, 2003) 387.

¹⁷ Mossman, *supra* note 1 at 76 [emphasis in original].

obtaining full-time articles for three to five years likely stood as a formidable barrier to their entry to law. Mossman traces women's admission to the bars across the western provinces following, in each case, the introduction of systematic lectures for law students.¹⁸

Mossman's detailed accounts of three litigated cases in Canada, those of Clara Brett Martin in Ontario (1891), Mabel Penery French in New Brunswick (1905), and Annie Macdonald Langstaff in Quebec (1914), insightfully reveal how women were granted admission to the profession, not as equals, but on the terms and cultural definitions of a masculine profession.¹⁹ Although judges acknowledged changing roles for women in society, they firmly rejected women's appeals for admission to the profession of law. One exception, Justice Lavergne in Quebec, offers a very different tactic of legal reasoning. Unlike the other Quebec judges, he did not rely on cases in other jurisdictions of Canada where women had been denied the right to enter the profession; rather, he cited examples in France and the United States where women were already entitled to practice law. Justice Lavergne applied a principle of statutory interpretation that women were included unless expressly excluded, thereby creating a presumption of inclusivity.²⁰ The story tells of the successful, if delayed, admission of women to the bar in Canada through legislation rather than by progressive judicial reasoning. Yet, Mossman observes poignantly that amending statutes permitted women to become lawyers, but only "on the same terms as men."²¹ Therefore, women were compelled to embrace a professional identity as lawyers, to assimilate rather than to alter the profession's traditional culture.

B. *Britain: Bastion of Tradition Fragmented*

Most intriguing in Mossman's chapter dedicated to the British historical context is her in-depth account of the life of Eliza Orme. Part of the intrigue is the courage, tenacity, and vibrant personality of Orme, which Mossman conveys with wonderful stories demonstrating Orme's

¹⁸ *Ibid.* at 76-77.

¹⁹ Dates noted in parentheses are the years in which Martin applied to the Law Society to become a lawyer, French petitioned the Barristers' Society, and Langstaff applied to write the preliminary bar examinations.

²⁰ Mossman, *supra* note 1 at 93-98.

²¹ *Ibid.* at 88.

acute wit and intelligence. For example, the decision to deny women the right to receive university degrees by the Senate of the University of London prompted Orme to publish a scathing critique in *The Examiner*: “We venture to think that when a body of women acts in this way we shall hear many generalizations about the ‘jumping at conclusions,’ ‘the feverish action,’ and the ‘want of scientific method’ of the weaker sex.”²² And, in response to a suggestion that women’s clothing represented a barrier to their participation in intellectual work, Orme replied: “Why should it be more necessary for women to discard petticoats than for barristers to discard wigs? ... Wigs are extremely irksome, and even unhealthy, when worn in a heated court of justice, and during the performance of highly intellectual work.”²³

Interestingly, Orme successfully established a law office in Chancery Lane in 1875 without seeking formal admission to the legal professions at all. Orme’s career is a fascinating example of women who engaged in legal work at the boundaries of professional jurisdictions, without directly “confronting the authority and culture of the legal professions.”²⁴ Her legal practice also vividly displays fractured traditional ideals about what constituted “women’s sphere” and about law as a “gentleman’s profession” in turn of the century Britain.²⁵

C. *The Colonies: Emerging Independence from Imperial Courts*

Mossman’s account of New Zealand and Australia reveals that colonial courts frequently relied on British precedents to dodge judicial responsibility for women’s exclusion from the legal professions. In each case the courts deferred to legislatures to amend the relevant statutes.²⁶ The pattern was similar to other former British colonies, including Canada, where lobbying efforts and sporadic litigation characterized the legal history.²⁷

²² *Ibid.* at 130, citing Eliza Orme, “University Degrees for Women” *The Examiner* (May 1874) 707.

²³ Mossman, *ibid.* at 130, citing Eliza Orme, “Woman’s Work in Creation: A Reply” 9:50 (December 1886) *Longman’s Magazine* 149.

²⁴ Mossman, *ibid.* at 120.

²⁵ *Ibid.* at 121.

²⁶ *Ibid.* at 159.

²⁷ *Ibid.* at 157.

Mossman focuses attention on the life of Ethel Benjamin in New Zealand. Benjamin represents an exceptional case of a woman who gained entry to the bar quite readily. Benjamin was entitled to practice law without having to launch a claim in the courts because she applied for admission *after* the enactment of suffrage in New Zealand, and *after* legislation permitted women to enter the legal professions.²⁸ What is most telling about Benjamin's career is that, notwithstanding her privileged family background and uncontested entry to law, she encountered formidable obstacles in her law practice by the organized bar. The prevailing culture limited her participation in collegial activities, such as Law Society dinners²⁹ and conventions,³⁰ and undermined her access to legal work and clients on grounds of gender.³¹

It is noteworthy that Mossman's reading of Benjamin's legal career diverges from that of earlier writers. While Gill Gatfield depicted Benjamin as a "leading feminist"³² whose legal activities were designed to promote women's equality, Mossman takes a more qualified approach. She notes that while Benjamin's legal work defending women in divorce cases fits this description, her work representing publicans in prohibition cases likely damaged her relationship with the women's movement.³³ Mossman also takes issue with Carol Brown's conclusion that Benjamin's brief career provides evidence that "women could compete and succeed in a 'male's world.'"³⁴ Mossman's more nuanced account reveals the substantial barriers that Benjamin never truly overcame, in spite of her arduous efforts to achieve professional success.³⁵ She concludes firmly that the culture of masculinity remained resistant to the first women lawyers in New Zealand.³⁶

²⁸ *Ibid.* at 159.

²⁹ *Ibid.* at 172.

³⁰ *Ibid.* at 174.

³¹ *Ibid.* at 159, 174.

³² Gill Gatfield, *Without Prejudice: Women in the Law* (Wellington, NZ: Brooker's, 1996) at 331.

³³ Mossman, *ibid.* at 190.

³⁴ Carol Brown, *Ethel Benjamin: New Zealand's First Woman Lawyer* (B.A. Hons. Thesis, University of Otago, 1985) [unpublished] at 99.

³⁵ Mossman, *ibid.* at 190.

³⁶ *Ibid.* at 159. See also Margaret Thornton, *Dissonance and Distrust: Women in the Legal Profession* (New York: Oxford University Press, 1996) at 49-50.

D. *India's Cornelia Sorabji: No "Shrieking Sister"*³⁷

Mossman's telling of the life and career of Cornelia Sorabji, an Indian woman who had studied at Oxford and returned to Poona, India to practice law, is perhaps the most engaging and complete biography in the book. As is the case with her studies of lawyers in Britain, Canada, the United States, and New Zealand, Mossman's account of Sorabji's life is embedded in a profound understanding of the social reforms underway in nineteenth century India, as well as the country's rich tapestry of religious and ethnic diversity.

Sorabji's legal career exemplifies constraint and opportunity, alongside effective ties of sponsorship and tactful appeal. Sorabji faced unyielding opposition to her application for formal admission to the legal profession in India, where judges repeatedly deferred to British precedents. Yet some native courts in India exercised a discretion to allow Sorabji to appear in court.³⁸ Mossman's account reveals not only Sorabji's erudite legal talents, but also her skillful strategizing to lobby for appointments in an effort to further her cause of providing legal counsel to women in purdah. At the same time, her appeals were often gently worded and played into the dominant discourses of the time. For instance, Mossman quotes Sorabji's letter to the *The Times*, where she writes that Oxford and Cambridge were producing women capable of "good, cool-headed, non-hysterical work," that would be able to aid a clientele of Indian women through their "tact and sympathy as well as legal knowledge and business capacity."³⁹ Sorabji also possessed a prodigious talent for organizing effective support, and Mossman reveals this through Sorabji's letters to "friends in high places," as well as through her published books and articles.⁴⁰ Sorabji certainly benefited from the sponsorship, financially and professionally, of Lady and Lord Hobhouse in Britain. The Hobhouse family financed her education at Oxford and her articles, and occasionally subsidized her law practice. Mossman's impressively detailed account reveals that Sorabji remained between worlds. While she aligned herself with British male imperialism and British justice, she was never fully accepted. And although she

³⁷ "Shrieking sister" was apparently a derogatory term for suffragists. See Mossman, *ibid.* at 226.

³⁸ *Ibid.* at 192.

³⁹ *Ibid.* at 229.

⁴⁰ *Ibid.* at 228.

rejected a gendered identity, her gender precluded her from full membership in the legal professions.⁴¹

E. *Europe's Femmes-Avocats*

The final jurisdiction of Mossman's (near) global exploration is Continental Europe. Mossman's study of the letters of Louis Frank reveals a vast network of connections among the world's first women lawyers. Mossman provides a succinct overview of women's entry to the legal professions in several European countries, then focuses attention on three early cases: Lydia Poët in Italy, Marie Popelin in Belgium, and Jeanne Chauvin in France. These cases are interesting because together they offer an occasion to explore women's claims for admission to the bar in civil law jurisdictions at the end of the nineteenth century. The cases also demonstrate how women's claims to become lawyers intersected with turbulent struggles about legal professionalism, specifically the independence and sovereignty of the bar,⁴² and attempts to repel an emerging American model, in which lawyers were implicated in economic activity rather than traditional advocacy.⁴³

The legal challenges advanced by Poët, Popelin, and Chauvin to become *avocats* demonstrate a range of strategies, judicial reasoning, and important alliances among men and women involved in challenging male exclusivity in the legal professions.⁴⁴ Mossman's analysis also underscores how women who were denied admission to the bar continued to engage in legal work and advocacy for women's rights through law reform. For example, Chauvin succeeded in obtaining a *Docteur en droit* from the University of Paris, but she "had not dared to present herself at the Paris Bar knowing about the earlier rejection of Popelin in Belgium."⁴⁵ Instead, Chauvin looked elsewhere for legal work. Chauvin taught lessons on law in several girls' *lycées* in

⁴¹ *Ibid.* at 233.

⁴² *Ibid.* at 270.

⁴³ Lucien Karpik, "Technical and Political Knowledge: The Relationship of Lawyers and Other Legal Professions to the Market and State" in Rolf Torstendahl & Michael Burrage, eds., *The Formation of the Professions: Knowledge, State and Strategy* (London: Sage, 1990) 186 at 189-90.

⁴⁴ Mossman, *supra* note 1 at 275.

⁴⁵ *Ibid.* at 263. Chauvin did eventually gain admission to the bar (*ibid.* at 268).

Paris and published extensively on law reforms proposing the advancement of women's rights.⁴⁶

II. TRACING COMMON AND DIVERGENT THEMES ACROSS BIOGRAPHY AND CULTURE

In this next section, I examine the contributions of Mossman's *The First Women Lawyers* to our understanding of: (1) comparative research on women and the legal professions, (2) women's integration to (or marginalization within) the legal professions, (3) professional identity formation among women lawyers, (4) the role of men in women's entry to law, and (5) new interpretations and areas of divergence from prior scholarship of the legal professions.

A. *The Fruits of Comparative Analyses*

The First Women Lawyers offers tremendous breadth of cross-national research and refined precision through detailed individual biographies, blended together in a masterful work. Extricating patterns across countries, time, lives, and laws is a monumental undertaking. Mossman succeeds formidably, and her meticulous comparative analyses reveal several compelling patterns.

First, her analysis of civil law jurisdictions in Europe, specifically France and Belgium, demonstrates that the arguments presented in European cases were not dramatically different from those adopted in common law jurisdictions, despite their contrasting origins within the civil law tradition.⁴⁷

Second, timing appears to have been a critical factor in women's success at gaining entry to the bar. American women's efforts took place at a time when the goals of women's equality movements were broadly based and included the right to engage in professional work. By the end of the nineteenth century, women's equality movements had shifted to a more narrow focus on suffrage. These movements were mainly led by middle-class women with less appreciation for women aspiring to professional work and economic independence.⁴⁸ This was in all

⁴⁶ *Ibid.*

⁴⁷ *Ibid.* at 18.

⁴⁸ *Ibid.* at 19.

likelihood a less auspicious time for women's admission to the legal professions in several countries.

Third, Mossman notes that the colonies often exercised independence in judicial reasoning and choice of precedents. It is significant that colonial legislatures, including parts of Canada, New Zealand, and Australia, permitted women to practice law two decades before the British Parliament enacted legislation to do the same, following the First World War. Meanwhile, in Poona, India, a British court exercised judicial discretion to permit Cornelia Sorabji to provide legal representation as early as 1896. Through these examples, Mossman highlights the independence of colonial courts and legislatures on this question.

Fourth, Mossman observes that, remarkably, judges who decided that women were eligible to practice law frequently used the same legal principles as those who deemed women's admission to the practice of law beyond the scope of judicial decision-making.⁴⁹ Her analysis leads us to consider factors beyond specific historical events, prevailing societal values, undercurrents of feminist reform, and ideological transformations in the legal professions. In so doing, she restores a sense of agency to history by acknowledging the role of judges' motivations and inclinations. As Mossman notes, "in such a context, both the choices exercised by individual judges and their motivations for adopting different approaches may be relevant to defining relationships between gender and legal professionalism in the late nineteenth century."⁵⁰

Fifth and finally, Mossman's extensive archival research suggests transnational linkages among lawyers, previously overlooked, that take us beyond a compilation of histories separated by national borders. Although many of the women whose biographies are recounted in Mossman's work appear as "lone voyagers,"⁵¹ Mossman uncovers several connections through correspondences and conferences, through Louis Frank and lobbying efforts for women's admission to the bar, and more often through claims that cited precedents from other jurisdictions.

⁴⁹ *Ibid.* at 278.

⁵⁰ *Ibid.*

⁵¹ Geraldine Jonçich Clifford, ed., *Lone Voyagers: Academic Women in Coeducational Institutions, 1870-1937* (New York: Feminist Press, 1989).

B. *Women on the Margins of Law Practice*

In addition to these specific insights afforded through comparative research, Mossman's analysis reveals several general themes. One theme is that women often worked on the margins of the legal professions. In fact, prior to formal admission to law, women were already working on the edges of law. For example, Mossman reveals evidence that women engaged in legal work as early as the colonial period. She identifies several women who acted as "attorneys-in-fact," were "appointed counsel" to the Governor, and women who pleaded their own cases before colonial courts.⁵² In Britain, women graduates of university law programs were employed as clerks in solicitors' firms in the years prior to women's eligibility for entrance to law practice after the First World War.⁵³ Some women managed to practice law without being admitted to the bar. For example, in Britain Eliza Orme and Mary Richardson's legal practice as conveyancers and patent agents remained at the margins, as neither woman applied for admission to the bar or to the solicitors' profession.

Further, women who were denied entry to the professions often created their own opportunities within legal work. For example, Annie Macdonald Langstaff, who was denied entry to the legal professions in Quebec in 1915, was employed by a Montreal law firm until her retirement. She described her work there as "a little secretarial work, a little bookkeeping, and a little law."⁵⁴ Another woman at the margins was Lydia Poët in Italy, who worked in her brother's law office after the Cour de cassation precluded her admission as an *avocat* in 1884. Interestingly, Poët did the work of an *avocat* even though she could not sign letters or plead in court. When her brother departed for Vichy each year, she took over the practice entirely, and when necessary, sought out male colleagues to plead in court on behalf of her clients.⁵⁵ However, even the women admitted to the bar remained on the margins of law practice. Mossman observes that entry was not to be equated with

⁵² Mossman, *supra* note 1 at 24-25.

⁵³ *Ibid.* at 109, 132.

⁵⁴ *Ibid.* at 86.

⁵⁵ *Ibid.* at 251.

inclusion. As Margaret Thornton has stated, women remained “fringedwellers of the jurisprudential community.”⁵⁶

C. *But Were They Feminists?*

A pressing question for scholars studying women’s entry to the professions is whether these women were feminists. Mossman tackles this complicated question with an appreciation for the cultural norms and difficult prescriptions confronting women in this era. Mossman sees that, across several countries, the first women lawyers appeared to forge a professional identity as lawyers, “emphasizing that they were *lawyers* rather than *women*, they claimed to practise law as *professionals*, without regard to either gender or the broader goals of women’s equality.”⁵⁷ Women were compelled to disguise their gender within their professional identities.⁵⁸

In adopting the identity of a legal professional, did women entirely forfeit feminist identity and goals? Mossman suggests that some of the first women lawyers may have held views out of pace with the women’s movement of their time.⁵⁹ For example, Eliza Orme in Britain was known for her liberal and egalitarian views about women and men, yet at this time, reformers in the women’s movement increasingly embraced claims regarding women’s different and special nature, especially with reference to the suffrage agenda.⁶⁰ Orme appeared to fall into a crevice between two worlds: the mainstream of the women’s movement and the legal community of her time. As Mossman concluded, “Indeed, as a ‘sound-minded’ woman in law, Orme’s independence had separated her from the worlds of both women and men.”⁶¹

Yet, it cannot be denied that many of the first women lawyers pursued gender causes through their law practices, providing legal services to women clients, and even making significant progress on behalf of women’s rights. For example, Chauvin in France, Sorabji in India, and Orme in Britain each appealed not only to the idea that

⁵⁶ Thornton, *supra* note 36 at 3-4.

⁵⁷ Mossman, *supra* note 1 at 52-53 [emphasis in original].

⁵⁸ *Ibid.* at 284.

⁵⁹ *Ibid.* at 41.

⁶⁰ *Ibid.* at 153.

⁶¹ *Ibid.*

women could succeed as lawyers, but also showed that they would provide needed legal services to women clients. Orme also published extensively on the topics of higher education for women, women's access to paid work and the professions, women's suffrage,⁶² working conditions for prison matrons and warders, and conditions of women prisoners.⁶³ Popelin served as President of the Belgian National Council of Women and organized an important *Congrès féministe internationale* in Brussels in 1912.⁶⁴

Carrie Menkel-Meadow has suggested that the career success of individual women lawyers may not only depend on, but be inversely related to, the extent of their commitment to gender issues.⁶⁵ Mossman marshals considerable evidence to support this claim. She reveals how women who were denied admission to the bar went on to become active in the movements for women's equality at the turn of the twentieth century; meanwhile, some women who gained entry to law appeared to have been "more inclined to eschew connections with the women's movement in favour of strictly professional identities."⁶⁶ Mossman raises the possibility that the culture of law practice as a "gentlemen's profession" may have constrained, perhaps in subtle ways, women lawyers' involvements in reformist activities of the women's movement. Mossman makes clear the irony that some of the women who were denied admission to the bar, such as Popelin in Belgium and Bradwell in the United States, emerged as the "most energetically engaged in reform activities promoting women's rights."⁶⁷

D. *The Role of Men: Opposition or Facilitation?*

A particularly refreshing aspect of Mossman's historical account of the first women lawyers is that she does not shy away from confronting exceptions and contradictions in the lives of the women and men engaged in battles over the legal professions' male exclusivity. The

⁶² *Ibid.* at 125.

⁶³ *Ibid.* at 147.

⁶⁴ *Ibid.* at 254-55.

⁶⁵ Carrie Menkel-Meadow, "The Comparative Sociology of Women Lawyers: The 'Feminization' of the Legal Profession" (1986) 24 Osgoode Hall L.J. 897.

⁶⁶ Mossman, *supra* note 1 at 21.

⁶⁷ *Ibid.* at 283.

stories told are not simplistic models of male oppression and female resistance.⁶⁸ Mossman skillfully provides a finely layered approach, revealing ambiguities in the views of the first women lawyers, which were sometimes racist, anti-Semitic, and on occasion, undermining of causes raised by the women's movement. Nor were men universally resistant to women's entry to law. Mossman demonstrates poignantly how several aspiring women lawyers received substantial support from individual male lawyers. For example, in the Canadian context, Mossman documents how journalists, prominent male lawyers, several male politicians, and leaders of the organized women's movement joined forces to support women's entry to the legal professions.⁶⁹

Mossman goes further yet to single out several men who worked arduously to further women's entry to the legal professions. For example, John Stuart Mill, a well-known British advocate of women's equality; Sam Jacobs, a respected barrister in Quebec and member of Parliament;⁷⁰ and Jules Guillery, a distinguished member of the Belgian Bar;⁷¹ each supported women's claims for entry to law and even appeared in court on their behalf.⁷² Perhaps most notable in the battle for women to gain admission to the legal professions was Louis Frank, who offered assistance to aspiring women lawyers in Europe, North America, India, and New Zealand.⁷³ Frank wrote prolifically to encourage reforms concerning the legal and social status of women. His writings often included detailed legal proposals for amending civil codes.⁷⁴ His more ambitious writing projects, *La Femme-Avocat*⁷⁵ and *Le Grand Catéchisme de la Femme*,⁷⁶ were influential in shaping public opinion regarding women's rights to participate in public life and in the professions.

⁶⁸ For further arguments against such reductionism, see Franca Iacovetta & Mariana Valverde, eds., *Gender Conflicts: New Essays in Women's History* (Toronto: University of Toronto Press, 1992) at xvii.

⁶⁹ Mossman, *supra* note 1 at 17, 71, 99.

⁷⁰ *Ibid.* at 103, 122.

⁷¹ *Ibid.* at 253.

⁷² *Ibid.*

⁷³ *Ibid.* at 227.

⁷⁴ *Ibid.* at 258.

⁷⁵ Louis Frank, *La Femme-Avocat: Exposé Historique et Critique de la Question* (Paris: V. Giard & E. Brière, 1898).

⁷⁶ Louis Frank, *Le Grand Catéchisme de la Femme* (Paris: Verviers, 1894).

E. *Diverging Interpretations of Women's Lives in Law*

It is noteworthy that *The First Women Lawyers* offers a wealth of new insights and resolutely challenges established views held by several scholars of women in the legal professions. For example, Mossman's careful analysis of American women's struggles to enter the legal professions across several states and their involvement with the women's movement comes to a very different conclusion than the earlier work of Virginia Drachman.⁷⁷ Drachman maintained that women lawyers of the Equity Club were at the very center of the women's movement.⁷⁸ Mossman's more nuanced assessment reveals a lack of uniformity among women lawyers. She notes that while some women lawyers were involved in the women's movement, "they did not make a significant collective impact on its policies and programmes; moreover, some women lawyers were clearly opposed to, or at least ambivalent about, any involvement at all."⁷⁹ Thus, Mossman arrives at a very different conclusion, claiming that "it appears that women lawyers' identities as professionals may have weakened ties between many women lawyers and other women activists."⁸⁰

Mossman also disagrees with scholars who assert that there was an identifiable pattern of greater resistance to American women's claims for admission to the profession in eastern states than in the west.⁸¹ Mossman's detailed review of historical records reveal that the experiences of women lawyers sometimes deviated from this pattern, in both eastern and western states of the United States.⁸² In addition, Mossman suggests that important additional factors have been overlooked in historical studies of women's entry to the legal professions: "the timing of women's claims for admission to the bar, individual judges' familiarity with women lawyers in other states, issues

⁷⁷ Virginia G. Drachman, *Women Lawyers and the Origins of Professional Identity in America: The Letters of the Equity Club 1887-1890* (Ann Arbor: University of Michigan Press, 1993) [Drachman, *Women Lawyers*]; Virginia G. Drachman, *Sisters in Law: Women Lawyers in Modern American History* (Cambridge: Harvard University Press, 1998) [Drachman, *Sisters in Law*].

⁷⁸ Drachman, *Women Lawyers*, *ibid.* at 21.

⁷⁹ Mossman, *supra* note 1 at 62.

⁸⁰ *Ibid.* at 63.

⁸¹ See Mari J. Matsuda, "The West and the Legal Status of Women: Explanations of Frontier Feminism" (1985) 24 J. West 47.

⁸² Mossman, *supra* note 1 at 278.

about overcrowding in the professions or about increasing needs for legal expertise, or relationships between claims for women's suffrage and access to professional work."⁸³

Mossman imports the creative metaphor of a kaleidoscope from the work of June Purvis⁸⁴—an approach to conceptualizing women's lives as composed of "always-changing and interconnected patterns."⁸⁵ Mossman uses this metaphor of a kaleidoscope poignantly when she shifts the appropriate reference group of women lawyers away from their male counterparts in the legal professions. In so doing, Mossman disagrees with Drachman's claim that the achievements of the first women lawyers were "modest, not monumental."⁸⁶ Rather, Mossman asserts that "the presence of a woman lawyer, *by itself*, must have rendered her 'exceptional.'"⁸⁷ Furthermore, she argues convincingly that the first women lawyers invested heroic efforts in their persistent struggle to gain entry to the legal professions, and these women no doubt adopted innovative strategies to recruit clients and generate legal work. As Mossman observes, "women lawyers very often *created* their own opportunities for legal work, evading or overcoming barriers presented by formal legal rules and professional cultures."⁸⁸

Although the metaphor of a kaleidoscope provides an interesting conceptual image, allowing one to shift gaze between configurations and trajectories in the lives of women lawyers, the metaphor is somehow not entirely appealing. The kaleidoscope's attraction lies in its contrast to the more common metaphor of a microscope to examine biography: a magnification of detail and focus on the individual in a quest for "truth."⁸⁹ Yet, a microscope allows magnification of a close-range object through glass, as do binoculars for objects of distant-range. A kaleidoscope does not facilitate focus on an

⁸³ *Ibid.*

⁸⁴ See June Purvis, "Biography as Microscope or Kaleidoscope? The Case of 'Power' in Hannah Cullwick's Relationship with Arthur Munby" in Liz Stanley, ed., *The Auto/Biographical I: The Theory and Practice of Feminist Auto-Biography* (New York: Manchester University Press, 1992) 158.

⁸⁵ Mossman, *supra* note 1 at 277.

⁸⁶ Drachman, *Sisters in Law*, *supra* note 77 at 8.

⁸⁷ Mossman; *supra* note 1 at 282 [emphasis in original].

⁸⁸ *Ibid.* at 283 [emphasis in original].

⁸⁹ *Ibid.* at 277.

observable object or scene, but rather consists of light entering a field containing shifting particles; the image is a product of the instrument itself, rather than an external reality—lived, perceived, or however subjective. In my opinion, Mossman accomplishes something more vibrant than the limiting metaphor of a kaleidoscope through her simultaneously expansive *scope* of exploration (across four continents and two centuries of history) and meticulous *focus* on the individual biographies of the first women lawyers.

III. CONTEMPORARY LINKAGES AND IMPLICATIONS FOR THE STUDY OF THE LEGAL PROFESSIONS

Women's efforts to gain entry to the legal professions in both civil and common law countries constitute a history with resonance for the understanding of contemporary issues of gender and professionalism. In this final section, I examine several valuable linkages between Mossman's *The First Women Lawyers* and contemporary issues confronting the legal professions, with an eye toward implications for scholarship investigating diversity and the legal professions.

A. *Women's Gendered and Professional Identities*

Mossman succeeds brilliantly in her endeavour to contextualize individual experiences within the larger social, political, and economic climate and to explore how social identities are forged in gendered historical context. Her examination asserts the "necessity of examining not only systematic factors in the history of gender and of professionalism, but also the individual circumstances and aspirations of the first women lawyers."⁹⁰ Mossman's voyage into the lives of the first women lawyers is clearly informed by a feminist historical vision of individual circumstance situated in historical context.⁹¹ Yet, she is

⁹⁰ *Ibid.* at 15.

⁹¹ The scholarship of Joy Parr, Ruth Roach Pierson and Gerda Lerner are important inspirations to Mossman's academic venture. See Joy Parr, *The Gender of Breadwinners: Women, Men and Change in Two Industrial Towns, 1880-1950* (Toronto: University of Toronto Press, 1990); Ruth Roach Pierson, "Experience, Difference, Dominance and Voice in the Writing of Canadian Women's History" in Karen Offen, Ruth Roach Pierson & Jane Rendall, eds., *Writing Women's History: International Perspectives* (Bloomington: Indiana University Press, 1991) 79;

cautious in her interpretations of the first women lawyers' own articulations of their circumstances. Mossman notes that these women's expressions of their life experiences were shaped by cultural norms of women's gender roles and society's prescriptions of what constituted both "desirable and plausible" ventures for women.⁹² Thus, Mossman argues, it is essential that contemporary readers of the first women lawyers' claims to the courts, publications, and even personal correspondences explore these women's "stories within the constraints of gender and legal professionalism to understand the choices available to them and their responses to different kinds of opportunities."⁹³

Mossman raises difficult questions about women's identities. To what extent was gender used (or dismissed) in women's attempts to gain entry to the legal professions, to practice law alongside men, and to achieve political and social reform through law? How might we characterize the degree of engagement among the early women lawyers and the women's movement of the late nineteenth and early twentieth century? And finally, as Mossman inquires, "[W]hen these pioneering American women began to become lawyers, what was their impact on the tradition of male exclusivity in the legal profession?"⁹⁴ Contemporary scholarship also explores issues of gendered and professional identities. For example, several scholars have examined the way lawyers form their professional identities, the rewards and sanctions resulting from feminist and reform commitments in the legal professions, and the extent to which women have achieved integration in the legal professions.⁹⁵ Mossman's inquiry into the identity formations of the first women lawyers reminds scholars of the

and Gerda Lerner, *The Majority Finds its Past: Placing Women in History* (New York: Oxford University Press, 1979).

⁹² Mossman, *supra* note 1 at 287.

⁹³ *Ibid.*

⁹⁴ *Ibid.* at 24.

⁹⁵ Ulrike Schultz & Gisela Shaw, eds., *Women in the World's Legal Professions* (Portland: Hart, 2003); Cynthia Fuchs Epstein, *Women in Law*, 2d ed. (Urbana: University of Illinois Press, 1993); Joan Brockman, *Gender in the Legal Profession: Fitting or Breaking the Mould* (Vancouver: UBC Press, 2001); Hilary Sommerlad & Peter Sanderson, *Gender, Choice and Commitment: Women Solicitors in England and Wales and the Struggle for Equal Status* (Aldershot, UK: Ashgate/Dartmouth, 1998); Jean McKenzie Leiper, *Bar Codes: Women in the Legal Profession* (Vancouver: UBC Press, 2006); and Thornton, *supra* note 36.

importance of contextualizing women's contemporary roles as lawyers within dominant discourses of equality, professionalism, and pervasive gender norms.

B. *The Culture and Habitus of the Legal Professions*

Interdisciplinary scholarship has produced an impressive body of work on the cultural history of lawyers. Scholars who have clearly identified the need to examine gender inequalities as salient factors to professionalization⁹⁶ point specifically to the “gendered character of the professions,” including “the role of gentlemanliness, respectability and masculinity.”⁹⁷ Yet, the impact of feminization on ideologies of the professions remains uncharted. A significant contribution of *The First Women Lawyers* is that Mossman exposes intricate connections between the history of professionalism, issues of gender, and the fissured nature of “the culture of legal professions in relation to women’s challenges to male exclusivity.”⁹⁸

Her cultural and historical investigation leads Mossman to cite the work of French sociologist, Pierre Bourdieu, and she refers on several occasions to his cultural capital concept of *habitus*. For example, Mossman argues that: “Indeed, it seems that the *habitus* of legal practice and the challenge of establishing professional legal relationships may have constituted more formidable barriers for aspiring women lawyers than achieving admission to the bar.”⁹⁹ Citing Gisela Shaw, Mossman discusses the rejection by the Swiss court of Emilie Kempin-Spyri’s application for admission to the bar in terms of the “*habitus* of the profession”¹⁰⁰ that compromised Kempin-Spyri’s ability to pursue her feminist goals.¹⁰¹ In addition, Mossman cites the work of Penina Migdal Glazer and Miriam Slater on early women professionals

⁹⁶ Michael Burrage, Konrad Jarausch & Hannes Siegrist, “An Actor-Based Framework for the Study of the Professions” in Michael Barrage & Rolf Torstendahl, eds., *Professions in Theory and History: Rethinking the Study of the Professions* (London: Sage, 1990) 203 at 223.

⁹⁷ W. Wesley Pue & David Sugarman, “Introduction: Towards a Cultural History of Lawyers” in Pue & Sugarman, *supra* note 16 at 15-16, 22.

⁹⁸ Mossman, *supra* note 1 at 13.

⁹⁹ *Ibid.* at 281.

¹⁰⁰ Gisela Shaw, “Conflicting Agendas: The First Female Jurists in Germany” (2003) 10 *Int’l J. Legal Profession* 177 at 185 [emphasis in original].

¹⁰¹ Mossman, *supra* note 1 at 242.

in the United States, noting the variations in how women's tactics responded to their circumstances, and thereby revealing "the texture, the range, and *the limits of the possible* in these women's lives."¹⁰² Ideas of *habitus* and a field "of the possible" are notions deeply embedded in the writings of Bourdieu.¹⁰³

A Bourdieusian approach has been taken up in recent studies of contemporary law practice and has yielded important insights. Studies have begun to explore the culture of legal practice with reference to Bourdieu's understanding of cultural reproduction and professional *habitus* in relationship to lawyers' self-conception,¹⁰⁴ the *habitus* of legal practice as exclusionary of women;¹⁰⁵ and the importance of related social capital, or elite networks, to advancement within legal careers.¹⁰⁶ For example, Hilary Sommerlad and Peter Sanderson in Britain examined the culture of legal practice, arguing that "masculinity per se

¹⁰² Penina Migdal Glazer & Miriam Slater, *Unequal Colleagues: The Entrance of Women into Professions, 1890-1940* (New Brunswick, NJ: Rutgers University Press, 1987) at 14 [emphasis added by Mossman, *supra* note 1 at 10].

¹⁰³ See e.g. Pierre Bourdieu, "The Field of Cultural Production or The Economic World Reversed" (1983) 12 *Poetics* 311; Pierre Bourdieu, "The Forms of Capital" in John G. Richardson, ed., *Handbook of Theory and Research for the Sociology of Education* (New York: Greenwood Press, 1986) 241; Pierre Bourdieu, *The Logic of Practice*, trans. by Richard Nice (Stanford: Stanford University Press, 1990); and Pierre Bourdieu, *Language and Symbolic Power*, trans. by Gino Raymond & Matthew Adamson (Cambridge: Harvard University Press, 1991).

¹⁰⁴ Pierre Bourdieu, "The Force of Law: Toward a Sociology of the Juridical Field" (1987) 38 *Hastings L.J.* 814; Pierre Bourdieu, *Practical Reason: On the Theory of Action* (Stanford: Stanford University Press, 1998); Craig Calhoun, "Pierre Bourdieu" in George Ritzer, ed., *The Blackwell Companion to Major Contemporary Social Theorists* (Oxford: Blackwell, 2003) 274; Yves Dezalay & Bryant G. Garth, *Dealing in Virtue: International Commercial Arbitration and the Construction of a Transnational Legal Order* (Chicago: University of Chicago Press, 1996); Mikael R. Madsen & Yves Dezalay, "The Power of the Legal Field: Pierre Bourdieu and the Law" in Reza Banakar & Max Travers, eds., *An Introduction to Law and Social Theory* (Oxford: Hart, 2002) 189; Harm Schepel, "The European Brotherhood of Lawyers: The Reinvention of Legal Science in the Making of European Private Law" (2007) 32 *Law & Soc. Inquiry* 183; and Ulrike Schultz, "Women Lawyers in Germany: Perception and Construction of Femininity" in Schultz & Shaw, *supra* note 95 at 295.

¹⁰⁵ Fiona M. Kay & John Hagan, "Building Trust: Social Capital, Distributive Justice, and Loyalty to the Firm" (2003) 28 *Law & Soc. Inquiry* 483; Fiona M. Kay & John Hagan, "Raising the Bar: The Gender Stratification of Law-Firm Capital" (1998) 63 *Am. Sociological Rev.* 728; Leiper, *supra* note 95; and Sommerlad & Sanderson, *supra* note 95.

¹⁰⁶ Ronit Dinovitzer, "Social Capital and Constraints on Legal Careers" (2006) 40 *Law & Soc'y Rev.* 445; Rebecca L. Sandefur & Edward O. Laumann, "A Paradigm for Social Capital" (1998) 10 *Rationality & Soc'y* 481.

remains *the* core cultural capital of the profession.”¹⁰⁷ Ronit Dinovitzer and Bryant G. Garth explored how American lawyers through their *habitus*—the set of practices and dispositions acquired through biography and history—internalize what they can reasonably expect (or not expect) to attain in their legal careers.¹⁰⁸ Nancy J. Reichman and Joyce S. Sterling,¹⁰⁹ and John P. Heinz and his colleagues,¹¹⁰ have examined how unequal access to and differential returns of social capital reinforce women’s disadvantage in the legal professions.¹¹¹

C. *Potential for (or Immunity Against) Structural Transformation*

Mossman observes that women’s entry to the legal professions at the turn of the twentieth century was founded on a discourse of gender equality that failed to encompass more fundamental reforms, such as the transformation of relationships between women’s work and their family responsibilities.¹¹² Recent scholarship on the legal professions echoes the need for radical transformation of societal norms regarding family responsibilities and law practice expectations in terms of hours. For example, in her study of contemporary lawyers in British Columbia, Joan Brockman writes: “Both the workplace—its workaholic culture—and the home need restructuring before women can be on equal footing in the legal profession ... As with the early pioneer women in the legal profession, outside intervention may be necessary.”¹¹³ The last decade has seen a burgeoning of research exploring gender in the legal

¹⁰⁷ Sommerlad & Sanderson, *supra* note 95 at 119 [emphasis in original]. See also Rosemary Hunter, “Women Barristers and Gender Difference in Australia” in Schultz & Shaw, *supra* note 95 at 103; Hilary Sommerlad, “The Myth of Feminisation: Women and Cultural Change in the Legal Profession” (1994) 1 Int’l J. Legal Profession 31.

¹⁰⁸ Ronit Dinovitzer & Bryant G. Garth, “Lawyer Satisfaction in the Process of Structuring Legal Careers” (2007) 41 Law & Soc’y Rev. 1.

¹⁰⁹ Nancy J. Reichman & Joyce S. Sterling, “Recasting the Brass Ring: Deconstructing and Reconstructing Workplace Opportunities for Women Lawyers” (2002) 29 Capital U.L. Rev. 923.

¹¹⁰ John P. Heinz *et al.*, *Urban Lawyers: The New Social Structure of the Bar* (Chicago: The University of Chicago Press, 2005).

¹¹¹ See also Fiona M. Kay & John Hagan, “Cultivating Clients in the Competition for Partnership: Gender and the Organizational Restructuring of Law Firms in the 1990s” (1999) 33 Law & Soc’y Rev. 517; Karen Robson & Jean E. Wallace, “Gendered Inequalities in Earnings: A Study of Canadian Lawyers” (2001) 38 Can. Rev. Soc’y & Anthropology 75.

¹¹² Mossman, *supra* note 1 at 283.

¹¹³ Brockman, *supra* note 95 at 214.

professions, specifically on issues of work-family balance,¹¹⁴ women's commitment to the professions,¹¹⁵ and glass ceilings for women in law.¹¹⁶ Recent studies report that women continue to face a tradeoff between marriage, children, and career that their male counterparts do not confront as often. For instance, women are far more likely to forego or delay having children.¹¹⁷ Those with children face a significant "time crunch" and challenges to balancing family demands.¹¹⁸ And motherhood, itself, appears to have a detrimental impact on women's law firm partnership prospects.¹¹⁹ Other research examines strategies toward progressive change, including women's impact on the legal

¹¹⁴ See e.g. John Hagan & Fiona Kay, "Even Lawyers Get the Blues: Gender, Depression, and Job Satisfaction in Legal Practice" (2007) 41 *Law & Soc'y Rev.* 51; Kathleen E. Hull, "The Paradox of the Contented Female Lawyer" (1999) 33 *Law & Soc'y Rev.* 687; Kathleen E. Hull & Robert L. Nelson, "Assimilation, Choice, or Constraint? Testing Theories of Gender Differences in the Careers of Lawyers" (2000) 79 *Soc. Forces* 229; Fiona M. Kay, Cristi Masuch, & Paula Curry, *Turning Points and Transitions: A Longitudinal Study of Ontario Lawyers from 1975 to 2002* (Toronto: The Law Society of Upper Canada, 2004); Deborah L. Rhode, "Lecture: Balanced Lives for Lawyers" (2002) 70 *Fordham L. Rev.* 2207; Jean E. Wallace, "Can Women in Law Have it All: A Study of Motherhood, Career Satisfaction and Life Balance" (2006) 24 *Research in the Sociology of Organizations* 283; Jean E. Wallace, "Work-to-Nonwork Conflict Among Married Male and Female Lawyers" (1999) 20 *J. Organizational Behavior* 797; and Jean E. Wallace, "Job Stress, Depression and Work-to-Family Conflict: A Test of the Strain and Buffer Hypotheses" (2005) 60 *R.I.* 510.

¹¹⁵ See e.g. Jean E. Wallace, "Motherhood and Career Commitment to the Legal Profession" (2004) 14 *Research in the Sociology of Work* 219.

¹¹⁶ Joan Brockman, "Leaving the Practice of Law: The Wherefores and the Whys" (1994) 32 *Alta. L. Rev.* 116; S. Elizabeth Foster, "The Glass Ceiling in the Legal Profession: Why Do Law Firms Still Have So Few Female Partners?" (1995) 42 *UCLA L. Rev.* 1631; Elizabeth H. Gorman, "Moving Away from 'Up or Out': Determinants of Permanent Employment in Law Firms" (1999) 33 *Law & Soc'y Rev.* 637; Elizabeth H. Gorman, "Gender Stereotypes, Same-Gender Preferences, and Organizational Variation in the Hiring of Women: Evidence from Law Firms" (2005) 70 *Am. Sociological Rev.* 702; Robson & Wallace, *supra* note 111 at 75-96; Fiona M. Kay & John Hagan, "The Persistent Glass Ceiling: Gendered Inequalities in the Earnings of Lawyers" (1995) 46 *Brit. J. Sociology* 279; Fiona M. Kay & John Hagan, "Changing Opportunities for Partnership for Men and Women Lawyers During the Transformation of the Modern Law Firm" (1995) 32 *Osgoode Hall L.J.* 413; Fiona M. Kay & Joan Brockman, "Barriers to Gender Equality in the Canadian Legal Establishment" (2000) 8 *Fem. Legal Stud.* 169; and Fiona M. Kay, "Crossroads to Innovation and Diversity: The Careers of Women Lawyers in Quebec" (2002) 47 *McGill L.J.* 699.

¹¹⁷ Robert L. Nelson *et al.*, "Observations from the After the Bar Survey of the Bar Class of 2000" (2006) 24 *Quinnipiac L. Rev.* 542.

¹¹⁸ See chapter four of Leiper, *supra* note 95 at 79. See also Deborah L. Rhode, *The Unfinished Agenda: Women in the Legal Profession* (Chicago: American Bar Association Commission on Women in the Profession, 2001); Carroll Seron & Kerry Ferris, "Negotiating Professionalism: The Gendered Social Capital of Flexible Time" (1995) 22 *Work and Occupations* 22.

¹¹⁹ Mary C. Noonan & Mary E. Corcoran, "The Mommy Track and Partnership: Temporary Delay or Dead End?" (2004) 596 *Ann. AAPSS* 130.

professions. These scholars examine whether women lawyer differently,¹²⁰ how women influence law through the judiciary,¹²¹ and consider strategies toward engendering change in the legal professions through model policies and education.¹²²

D. *Cultural Diversity and the Legal Professions*

Mossman's study also addresses questions of contemporary relevance concerning wider racial and cultural diversity in the legal professions. For example, Mossman documents widespread anti-Semitism in the first decades of the twentieth century in the Toronto legal community, where Jewish students, particularly women, struggled to obtain articling positions in prestigious "old Ontario" law firms.¹²³ Nor were the first women lawyers immune to bigotry, and racist views were connected to their ideas of legal professionalism. Both Myra Bradwell in the United States and Clara Brett Martin in Ontario aligned themselves with elite members of the legal professions in their criticism of Jews and foreigners.¹²⁴ Over a decade ago, the Canadian Bar Association's 1993 report cautioned that the "glass ceiling" was often experienced by minority women as a "steel door."¹²⁵ More recent

¹²⁰ See e.g. Rosanna Langer, "Five Years of Canadian Feminist Advocacy: Is it Still Possible to Make a Difference?" (2005) 23 Windsor Y.B. Access Just. 115; Jennifer L. Pierce, *Gender Trials: Emotional Lives in Contemporary Law Firms* (Berkeley: University of California Press, 1995) at 103-42; Deborah L. Rhode, "Gender and Professional Roles" (1994) 63 Fordham L. Rev. 39; Hilary Sommerlad, "The Myth of Feminization: Women and Cultural Change in the Legal Profession." (1994) 1 Int'l J. Leg. Profession 31; and Hilary Sommerlad, "Can Women Lawyer Differently? A Perspective from the UK" in Schultz & Shaw, *supra* note 95 at 191.

¹²¹ See e.g. Anne Boigeol, "Male Strategies in the Face of the Feminisation of a Profession: the Case of the French Judiciary" in Schultz & Shaw, *supra* note 95 at 401; Eliane Botelho Junqueira, "Women in the Judiciary: a Perspective from Brazil" in Schultz & Shaw, *supra* note 95 at 437; and Patricia Yancey Martin, John R. Reynolds & Shelley Keith, "Gender Bias and Feminist Consciousness among Judges and Attorneys: A Standpoint Theory Analysis" (2002) 27 Signs 665; and Rhode, *ibid.*

¹²² See e.g. Mary Jane Mossman, "Engendering the Legal Profession: the Education Strategy" in Schultz & Shaw, *supra* note 95 at 77; Deborah L. Rhode, *Balanced Lives: Changing the Culture of Legal Practice* (Chicago: American Bar Association Commission on Women in the Profession, 2002).

¹²³ Mossman, *supra* note 1 at 111.

¹²⁴ *Ibid.* at 112.

¹²⁵ Canadian Bar Association, *Touchstones for Change: Equality, Diversity and Accountability – The Report on Gender Equality in the Legal Profession* (Ottawa: Canadian Bar Association, 1993) at 11, 60-61.

scholarship is beginning to trace the contours of ethnic, cultural, and racial inequality in contemporary law practice.¹²⁶ Mossman's work contributes an essential historical and cultural context within which to understand contemporary challenges of diversity and inclusion in the legal professions.

E. Conclusion

The First Women Lawyers does much to advance our understanding of the culture of the legal professions and women's challenges to male exclusivity during the past two hundred years. Mossman's masterful work explains more precisely why women succeeded in gaining access to the legal professions at the end of the nineteenth century, a quest that has proved largely elusive for historians.¹²⁷ The book also exemplifies a theoretical sophistication that derives from bold comparative scholarship merged with determined study of the intersection of individual biography and historical, political

¹²⁶ See e.g. Janet E. Gans Epner, *Visible Invisibility: Women of Color in Law Firms* (Chicago: American Bar Association Commission on Women in the Profession, 2006); Dennis W. Archer, "The Value of Diversity: What the Legal Profession Must Do To Stay Ahead of the Curve" (2003) 12 J.L. & Pol'y 25; Emily Carasco, "A Case of Double Jeopardy: Race and Gender" (1993) 6 C.J.W.L. 142; Valerie Fontaine, "Progress Report: Women and People of Color in Legal Education and the Legal Profession" (1995) 6 Hastings Women's L.J. 27; Danielle C. Gray & Travis LeBlanc, "Integrating Elite Law Schools and the Legal Profession: A View from the Black Law Students Associations of Harvard, Stanford, and Yale Law Schools" (2003) 19 Harv. BlackLetter L.J. 43; Steven Greer & Colin Samson, "Ethnic Minorities in the Legal Profession – A Case Study of the San Francisco Bar" (1993) 22 Anglo-Am. L. Rev. 321; Fiona M. Kay, Cristi Masuch & Paula Curry, "Growing Diversity and Emergent Change: Gender and Ethnicity in the Legal Profession" in Elizabeth Sheehy & Sheila McIntyre, eds., *Calling for Change: Women, Law and the Legal Profession* (Ottawa: University of Ottawa Press, 2006) 203; Fiona M. Kay, Cristi Masuch & Paula Curry, *Contemporary Lawyers: Diversity and Change in Ontario's Legal Profession* (Toronto: The Law Society of Upper Canada, 2004); Miles McGrane, "Diversity in the Legal Profession" (2004) 78:3 Fla. B.J. 6; Errol Mendes, "'Promoting Heterogeneity of the Judicial Mind: Minority and Gender Representation in the Canadian Judiciary" in Ontario Law Reform Commission, *Appointing Judges: Philosophy, Politics and Practice* (Toronto: Ontario Law Reform Commission, 1991) 91; Shelina Neallani, "Women of Colour in the Legal Profession: Facing the Familiar Barriers of Race and Sex" (1992) 5 C.J.W.L. 148; Wilma Williams Pinder, "When Will Black Women Lawyers Slay the Two-Headed Dragon: Racism and Gender Bias?" (1993) 20 Pepp. L. Rev. 1053; Sherene Razack, "Speaking for Ourselves: Feminist Jurisprudence and Minority Women" (1991) 4 C.J.W.L. 440; David B. Wilkins, "Partners Without Power? A Preliminary Look at Black Partners in Corporate Law Firms" (1999) 2 J.I.S.L.E. 15; and David B. Wilkins, "Two Paths to the Mountaintop? The Role of Legal Education in Shaping the Values of Black Corporate Lawyers" (1993) 45 Stanford L. Rev. 1981.

¹²⁷ See James C. Albisetti, "Portia Ante Portas: Women and the Legal Profession in Europe, ca. 1870-1925" (2000) 33 J. Soc. Hist. 825 at 847.

and social context. Admittedly, the book “does not represent a comprehensive history of the first women lawyers all over the world”,¹²⁸ yet, Mossman surely provides the most ambitious cross-national comparative and historical work on women lawyers to date. Mossman is acutely sensitive to the shifting historical contexts, the dynamics of fortuitous timing and powerful allies, the individuals’ aspirations and fortitude, and the resiliency of legal culture, despite the professions’ apparently permeable borders. In the final analysis, Mossman is correct in her assertion that the first women lawyers’ efforts to challenge male exclusivity in the legal professions “remain profoundly significant for contemporary women lawyers.”¹²⁹

¹²⁸ Mossman, *supra* note 1 at 18.

¹²⁹ *Ibid.* at 289.