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Afterward: A Comparative Look at the Status of Women in the Legal Profession

CARROLL SERON*

Today, young girls in many nations of the world may decide on a career in law in the same matter-of-fact manner as their grandmothers decided to become a teacher, social worker, nurse, or librarian.¹ Sociologists Cynthia Fuchs Epstein and Abigail Kolker remind us that today we also take for granted that women may sit on the U.S. Supreme Court, serve as Secretary of State, or hold leadership positions in some of the most powerful law firms in the country—and even in the world.² Rereading Epstein's *Women in Law*, published in 1981, reminds us, however, that what we today take for granted in fact represents a revolution in the gender composition of law (and other professions) in what is actually a remarkably short span of time.³ During the first wave of the Women's Movement, which coincided with the Progressive Era in the United States, a few pioneering women battled for the opportunity to be admitted to the practice of law; the challenges were many and the proportion of women who joined the ranks of legal practice remained miniscule through the early 1960s.⁴ In the wake of the Civil Rights Movement and the second wave of the U.S. Women's Movement in the 1960s that picture began to change. Today, the gender composition of legal education hovers at parity across the hierarchy of U.S. law

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1. See Ethan Michelson, *Women in the Legal Profession, 1970-2010: A Study of the Global Supply of Lawyers*, 20 IND. J. GLOBAL LEGAL STUD. 1071 (2013). For a comparative history of the United States, see STEVEN J. DINER, *A VERY DIFFERENT AGE: AMERICANS OF THE PROGRESSIVE ERA* (1998).

2. Cynthia Fuchs Epstein & Abigail Kolker, *The Impact of the Economic Downturn on Women Lawyers in the United States*, 20 IND. J. GLOBAL LEGAL STUD. 1169 (2013).

3. CYNTHIA FUCHS EPSTEIN, *WOMEN IN LAW* (1981). See also Michelson, *supra* note 1.

4. EPSTEIN, *supra* note 3, at 4. See also KAREN BERGER MORELLO, *THE INVISIBLE BAR: THE WOMAN LAWYER IN AMERICA, 1638 TO THE PRESENT* (1986); VIRGINIA G. DRACHMAN, *SISTERS IN LAW: WOMEN LAWYERS IN MODERN AMERICAN HISTORY* (1998).

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schools;⁵ women represent about 32 percent of practitioners in the United States,⁶ though “the United States lags far behind many other countries.”⁷ The articles in this *IJGLS* issue both shed light on the feminization of legal practice from a global perspective and provide snapshots of how feminization unfolds in various nations, often highlighting the challenges that remain to be addressed.

This revolution in the gender composition of the legal profession was not limited to the United States. In his 1989 comparative analysis, Richard Abel shows that the patterns of stasis and expansion in the legal profession are similar for the United States and most European countries.⁸ Further, after a long period of stability in the early part of the twentieth century and in large part due to the impact of two world wars, by the 1960s, there was the beginning of consistent growth in the size of the profession with the expansion of access to higher education, the increasing role of governmental regulation, and the emergence of new areas of practice, including the globalization of legal practice itself.⁹ Coincident with this expansion, Abel shows, was the beginnings of change in the gender composition of the profession across these countries, such that “the entry of women explains virtually *all* of the increase [while] the number of men admitted to the profession remained relatively constant or even declined.”¹⁰ More specifically, Abel shows that this pattern is essentially the same in the United States, England and Wales, Scotland, France, Holland, Germany, Italy, Canada, and Norway. Further, “only in India and Japan have women remained an insignificant fraction of the profession,” Abel notes¹¹—“anomalous cases” that persist to this day.¹²

Sociologist Ethan Michelson provides a fascinating update of Abel’s earlier portrait of the gender transformation in legal practice. Michelson coins the term “legal demography” to organize his analysis of the feminization of legal practice from a global perspective. To this end, he

5. *Women in Law in the U.S.*, CATALYST (Oct. 17, 2012), <http://www.catalyst.org/knowledge/women-law-us>.

6. BUREAU OF LABOR STATISTICS, CURRENT POPULATION SURVEY, TABLE 11: EMPLOYED PERSONS BY DETAILED OCCUPATION, SEX, RACE, AND HISPANIC OR LATINO ETHNICITY (2012).

7. Michelson, *supra* note 1, at 1075.

8. Richard L. Abel, *Comparative Sociology of the Legal Professions*, in *LAWYERS IN SOCIETY: COMPARATIVE THEORIES* 80 (Richard L. Abel & Philip S.C. Lewis eds., 1989).

9. See generally John P. Heinz et al., *The Scale of Justice: Observations on the Transformation of Urban Law Practice*, 27 ANN. REV. SOC. 337 (2001); See also Carole Silver, *Globalization and the U.S. Market in Legal Services—Shifting Identities*, 31 LAW & POL’Y INT’L BUS. 1093 (2000).

10. Abel, *supra* note 8, at 100.

11. *Id.*

12. Michelson, *supra* note 1, at 1075.

assembled a longitudinal dataset constructed from census data across eighty-six countries to “measure changing patterns of female participation in legal practice” and “to identify conditions promoting women’s entry into the legal profession.”¹³ In other words, his goal is to tease out causal mechanisms of the feminization of the legal profession. The previous discussion hints at the two competing explanations of this development. Building on Abel’s findings of an association between bar expansion and feminization, scholars have developed the concept of “gender queuing,” which argues that women are able to join traditionally male fields, including law, when “an occupation expands beyond the point where demand for labor can be satisfied by qualified men.”¹⁴ Alternatively, building on the themes suggested by Epstein, feminization unfolds through a “cultural explanation” where social movements demand greater commitment to universalistic, meritocratic, and equitable treatment of marginalized groups, including women and minorities. Through a careful analysis, Michelson eliminates the viability of a cultural explanation and shows on the other hand that bar expansion—or more specifically “lawyer density” (i.e., a country’s population of lawyers relative to its overall population size)—is a necessary precondition for the feminization of legal practice. It is no doubt the case, Michelson notes, that feminist demands for equality of professional educational opportunity played a role in specific contexts, such as the United States, but his overall findings underscore that “demography trumps politics in the global process of lawyer feminization.”¹⁵ While many countries, representing 61 percent of the world’s population lag behind this threshold, since 1970 the change has been dramatic for close to half of the eighty-six countries studied. As Michelson appropriately concludes, the important pattern explained in this study about the changing quantity of women in the legal profession reveals little about the quality of their experiences, nor whether women’s presence in the profession improves the odds that low income and poor people enjoy better access to justice.

Using divorce as a case study, Michelson speculates that the feminization of legal practice has, for many clients around the world, increased access to legal services. Numerous case studies show that women tend to concentrate in family law, and much evidence suggests a “significant degree of lawyer-client gender homophily, [or] that women lawyers are disproportionately likely to represent women clients.”¹⁶

13. *Id.* at 1073 (a third goal is “to establish a repository of information available to other scholars about lawyer populations and their gender compositions.”).

14. *Id.*

15. *Id.* at 1102.

16. *Id.* at 1103.

Michelson's hypothesis is suggestive, but how this plays out in practice and whether women in deeply entrenched patriarchal societies indeed enjoy more equitable and qualitatively better outcomes to vexing legal problems requires greater systematic and empirical investigation beyond the numbers. I would suggest prudence around this speculation. To the extent that Michelson himself suggests that demography trumps politics in an explanation of feminization of law, we should be cautious about whether these women bring a more robust set of political values and commitments to their practice. Research on the United States certainly suggests that women's motivation for selecting a career in law is not all that different from their male counterparts and that those reasons tend to emphasize status and reward over service.¹⁷

While these numbers and patterns of change tell an important story of convergence around feminization, the article by Xiaonan Liu on the status of women lawyers in China begins to unpack the quality of that experience. In one of the fastest growing economies in the world, women in China continue to face an uphill battle for acceptance into a profession that is pivotal for economic development. The picture Liu paints of women's struggle for acceptance in the Chinese bar echoes many of the stories we have recently been reading about women's place in the elite of China's political hierarchy. As one recent *New York Times* article, *No Women at the Top in China* put it, this should hardly come as a surprise, as China remains a "male-dominated society."¹⁸ This article goes on to note that women do not fare much better below the pinnacle: just over 23 percent of China's eighty-three million party members are women; the party remains, the article concludes, "a boys-only affair."¹⁹ The picture Liu paints of the legal profession echoes the structure of

17. See CARROLL SERON, *THE BUSINESS OF PRACTICING LAW: THE WORK LIVES OF SOLO AND SMALL-FIRM ATTORNEYS* (1996). See also JOHN P. HEINZ, ROBERT L. NELSON, REBECCA L. SANDEFUR & EDWARD O. LAUMANN, *URBAN LAWYERS: THE NEW SOCIAL STRUCTURE OF THE BAR* 140-59 (2005). In a variant on the access to justice question, see Ryan D. King, Kecia R. Johnson & Kelly McGeever, *Demography of the Legal Profession and Racial Disparities in Sentencing*, 44 *LAW & SOC'Y REV.* 1 (2010) (explaining that, in a vein similar to that posed by Michelson, much research on changes in the racial composition of the legal profession in the United States has focused on access and mobility with less attention to its implication for outcomes. As a corrective, King et al. ask whether the composition of minority lawyers in a U.S. county makes a significant difference for parity between whites and blacks in sentencing. Their findings show, net of a series of relevant controls, that for the period 1990 to 2002 the black-white disparity in sentencing is reduced as the proportion of black attorneys in an urban community goes up. The same pattern holds for Hispanics.).

18. Didi Kirsten Tatlow, *No Women at the Top in China*, *INTERNATIONAL HERALD TRIBUNE* (July 11, 2012), <http://rendezvous.blogs.nytimes.com/2012/07/11/no-women-at-the-top-in-china/>.

19. *Id.*

Chinese politics: whether at the top (e.g. deans of law schools or legal organizations) or at the beginning in legal education, women are marginalized both numerically and culturally.²⁰ Moreover, the cultural barriers appear formidable. Typical of many of her quotations in this article, a male law professor reports to Liu,

There are inherent differences between the interests and capacity structure of men and women. Men should do what men are born to do, while women should do what they are born to do. Thus, men should be leaders and women should do careful works.²¹

Whether stronger regulations against sex discrimination coupled with broader commitments to human rights, as Liu proposes, will suffice remains an open question. Though the cultural barriers facing women in the United States, Canada, and most Western Europe countries are by no means as overt or formidable today, many latent stereotypes remain, a point I return to below.

As Swethaa Ballakrishnen acknowledges, the picture in India may echo some of the cultural challenges experienced in China. The underrepresentation of women in India's legal profession reported by Abel in 1989 is consistent with the continued, slow pace of change over the last two decades: today, women make up only about 10 percent of the legal profession in India.²² Against this sluggish backdrop, Ballakrishnen finds that in one, critical niche of legal practice, the role and status of women is taking off. As India takes aggressive steps to be a key international player on the world stage, there has been a call to develop "a hoard of new legal organizations that deal primarily with transactional corporate work for large global and domestic corporate clients."²³ The leader in this niche is Zia Moody, recently cited on Forbes' list of Asia's 50 Power Businesswomen.²⁴

Ballakrishnen interviewed a sample of these players to understand the ways in which individual biography, interactional style, and institutional context matter for their success. In many respects, the

20. Xiaonan Liu, *Chinese Women in Legal Education*, 20 IND. J. GLOBAL LEGAL STUD. 1311 (2013).

21. *Id.* at 1336.

22. Swethaa Ballakrishnen, "Why is Gender a Form of Diversity?": *Rising Advantages for Women in Global Indian Law Firms*, 20 IND. J. GLOBAL LEGAL STUD. 1261, 1265 (2013).

23. *Id.* at 1262.

24. *Asia's 50 Power Businesswomen*, FORBES, http://www.forbes.com/lists/2012/13/power-women-asia-12_rank.html (last visited Sept. 15, 2013).

findings around institutional context are the most interesting. At the institutional level, Ballakrishnen finds that newness is the name of the game: transactional work for global clients requires a firm structure that is less dependent on traditional, familial lines for coordinating work.²⁵ Ballakrishnen's findings raise an interesting hypothesis: a large body of research in organizational theory suggests that organizational structures are largely the product of the environment at the time of their founding, and, once established, organizations tend to resist innovation.²⁶ To the extent that Ballakrishnen documents a "new" organization, it is, then, the product of its environment at the time of its founding, i.e., at a time where women with strong pedigrees are available to build a niche that takes advantage of innovative resources and human capital.²⁷ Of course, whether this hypothesis is supported empirically, in the Indian case, other emergent economies, or even in innovative niches in countries such as the United States or England requires systematic, empirical analysis and time to test.

Brazil is also experiencing a transformation, taking steps to modernize the organization of law practice to meet the growing demand of playing on the world economic stage. Echoing earlier patterns discussed by Abel and Michelson for the United States, Canada, and most of Western Europe, Brazil's expansion of the legal profession took off in the 1990s and has continued through the early decades of the twenty-first century; with that bar expansion, there has been a concomitant feminization. As of 2006, women represented 44 percent of all practitioners in the state of Sao Paulo, the site of Maria da Gloria Bonelli's study, *Gender and Difference Among Brazilian Lawyers and Judges: Public and Private Practice in the Global Periphery*.²⁸ Brazil has expanded its law firm practice, often mimicking the U.S. model, as the country has privatized what were historically public enterprises. Bonelli's work examines how women fare in this emergent landscape. In contrast to India, Bonelli does not find a niche where women are taking

25. Ballakrishnen, *supra* note 22.

26. *Id.*

27. See WALTER W. POWELL & PAUL J. DiMAGGIO, *THE NEW INSTITUTIONALISM IN ORGANIZATIONAL ANALYSIS* (1991) for a discussion of neo-institutional isomorphism. See also Lauren B. Edelman et al., *When Organizations Rule: Judicial Deference to Institutionalized Employment Structures*, 117 AM. J. SOC. 888 (2011). For a competing view, see MICHAEL T. HANNAN & JOHN FREEMAN, *ORGANIZATIONAL ECOLOGY* (1989); Glenn R. Carroll, *Organizational Ecology*, 10 ANN. REV. SOC. 71 (1984); Jitendra V. Singh & Charles J. Lumsden, *Theory and Research in Organization Ecology*, 16 ANN. REV. SOC. 161 (1990).

28. Maria da Gloria Bonelli, *Gender and Difference Among Brazilian Lawyers and Judges: Public and Private Practice in the Global Periphery*, 20 IND. J. GLOBAL LEGAL STUD. 1291 (2013).

the lead; rather, the emergence of large firms in Sao Paulo, Brazil tends to reproduce gendered patterns of discrimination and marginalization of women within this elite site. Interestingly, Bonelli's project takes a comparative turn within her study to contrast the experiences of lawyers in private practice with their counterparts in the judiciary.²⁹ Female judges' experience is markedly different, and more akin to their male counterparts within the judiciary: judges enjoy a "degree of autonomy that works to strengthen the ideology of professionalism as an occupational value."³⁰ Bonelli's findings remind us that organizational context matters for women's legal work and experiences of discrimination.

Globalization can take various forms, as Carole Silver and Steven A. Boutcher demonstrate. How do the twin dynamics of U.S. firms' move to globalize, coupled with increasing diversity in the composition of the legal profession affect women's and men's career trajectories? Importantly, there is a social pattern to U.S. firms' strategy of globalization and, one that appears to confirm neo-institutional theories that organizations, including law firms, tend to mimic each other as they strategize to maintain legitimacy among peers.³¹ The most typical strategy is to combine host country lawyers with "expats" who are credentialed in the United States. While the ratio of locals to expats favors the locals, it is the expats who tend, perhaps not surprisingly, to also be in leadership positions as partners. The advantages enjoyed by expat-partners abroad corroborate the patterns at home and reveal that "the typical pattern of male dominance seems to persist."³² Silver and Boutcher's findings clearly show that women partake in these global exchanges, but they continue to confront the same challenges of their counterparts who stay home.

Liu and Bonelli remind us that cultural stereotypes are remarkably resilient. Ballakrishnen tells an upbeat story and shows that new opportunities for legal work create niches for women with the right degrees and background to step around those cultural barriers and stereotypes to land on top. Silver and Boutcher bring us back to reality to ask: Is the glass half full as women partake in the development of global law firm outposts? Or, is the glass half empty, as women appear to experience patterns of discrimination or latent sexism that has been

29. *Id.*

30. *Id.* at 1294.

31. See note 27, *supra*.

32. Steven A. Boutcher & Carole Silver, *Gender and Global Lawyering: Where are the Women?*, 20 *IND. J. GLOBAL LEGAL STUD.* 1139, 1167 (2013).

remarkably resilient in large firms in the United States?³³ The themes explored in these articles, the power of cultural stereotypes and the persistence of discriminatory treatment, will no doubt continue to frame the questions we must ask of this unfolding story.

In the United States, the first generation of women to enter legal practice acted on the premise that equity and fairness is realized through a commitment to equality of opportunity that drew a perhaps implicit boundary between the public sphere of work and the private sphere of home and family. Beginning in the 1980s, as the proportion of women entering practice grew at a marked clip, this divide between public and private—work and family—became a site of contestation and demands for new policies and practices.³⁴ In response to these demands, organizations, including government, corporations, and large law firms, developed policies designed to facilitate work-family balance, including part-time scheduling, job sharing, and flexible scheduling, to name a few.³⁵ By the time Cynthia Fuchs Epstein, Bonnie Oglensky, Robert Saute, and I conducted our research on part-time policies in law in the late 1990s, every government agency, law firm, and corporation that we studied had a policy in place.³⁶

We set out to explain the impact of work-family balance policy on lawyers' career trajectories, but we quickly learned that this is a story about the career trajectories of women because men rarely availed themselves of the opportunity to go part-time. Indeed, it may be no exaggeration to say that the institutionalization of part-time and alternative work policies and practices in law and similar professions is one of the major legacies of the feminization of professions. The article in this issue of *IJGLS* by Bonelli on Brazil suggests that concerns about work-family balance were exported along with models for large-firm organization; the case of Brazil is interesting—and, a bit curious—because Brazilian middle and upper classes have always enjoyed a large reserve of domestic help in ways that are not available in the United States and much of Western Europe.³⁷

33. See Ronit Dinovitzer et al., *The Differential Valuation of Women's Work: A New Look at the Gender Gap in Lawyers' Incomes*, 88 SOC. FORCES 819 (2009).

34. See Carroll Seron & Kerry Ferris, *Negotiating Professionalism: The Gendered Social Capital of Flexible Time*, 22 WORK & OCCUPATIONS 22 (1995); Erin Kelly, Phyllis Moen & Eric Tranby, *Changing Workplaces to Reduce Work-Family Conflict: Schedule Control in a White-Collar Organization*, 76 AM. SOCIOLOGICAL REV. 265 (2011); CYNTHIA FUCHS EPSTEIN ET AL., *THE PART-TIME PARADOX: TIME NORMS, PROFESSIONAL LIFE, FAMILY AND GENDER* (1999).

35. See CYNTHIA FUCHS EPSTEIN ET AL., *supra* note 34.

36. See *id.*; See also Erin Kelly & Frank Dobbin, *Civil Rights Law at Work: Sex Discrimination and the Rise of Maternity Leave Policies*, 105 AM. J. SOC. 455 (1999).

37. Bonelli, *supra* note 28.

The institutionalization of work-family balance policies as a legacy of women's entry into the profession raises a number of important questions. First, and perhaps foremost, just how institutionalized is this policy, particularly when economic times get tough? Second, is the penalty to opt for work-family balance itself fair and equitable? Related, how does the presence of children affect the earnings of men and women in law?

When my colleagues and I conducted our research on work-family policy in law, we heard many stories that firms had dropped or modified this option in the aftermath of the economic downturn of the late 1980s. At a point in time when the policy was still in formation and large law firms were experiencing a dip in revenues, our informants described how this policy was put on hold, to the chagrin of many. Fast forward two decades to the beginning of the Great Recession in 2008, and Epstein and Kolker describe a quite similar picture, with some important caveats.³⁸ To appreciate the current status of part-time work in large firms, it is important to note, as Epstein and Kolker report, that the structure of large firms has gone through a process of significant change toward a more segmented hierarchical structure that includes permutations on the status of partners and associates as well as the introduction of staff and contract positions.³⁹

Staff and contract positions employ lawyers in firms on a full-time basis, but they are not on a partnership track; these attorneys are employed to pick up much of the more redundant work involved in large cases. In fact, it is not unreasonable to argue that in the context of the enormous work demands of large firms in the United States, staff and contract status is itself a form of part-time work. Perhaps not surprisingly, Epstein and Kolker find that 60 percent of staff and contract attorneys are women, making it "the job title that includes the highest concentration of women in any area of practice of law."⁴⁰ Large law firms have also incorporated a form of outsourcing through contract lawyers who, again, tend to pick up the more "monotonous and tedious" work.⁴¹ While contract lawyers are "hot in demand" as a way to keep costs under control, Epstein and Kolker also note that "this affects women because there is some evidence that firms are using contract attorneys rather than allowing their own women lawyers to work part-time."⁴² And, this brings us to the institutionalization of part-time policies. While the evidence from Epstein and Kolker does not suggest

38. Epstein & Kolker, *supra* note 2.

39. *See id.*; Abel, *supra* note 8.

40. Epstein & Kolker, *supra* note 2, at 1184.

41. *Id.* at 1185.

42. *Id.*

that the policy of part-time and flexible scheduling is on hold in the aftermath of the Great Recession, their findings show the perhaps ironic twist that while “men and women have been terminated in rates proportionate to their numbers as associates and partners, . . . the termination of part-time attorneys was the exception. Even when controlling for the much larger number of women attorneys in part-time positions, from 2008 to 2010 women were fired from these positions in greater proportions than men.”⁴³

These findings and patterns suggest that part-time work is indeed an institutionalized feature of large law firm practice in the United States. It is fair to argue, moreover, that its institutionalization extends to new categories of employment—staff and contract attorneys—that are themselves gendered enclaves. To answer our first question—is the penalty for opting for a reduced schedule, whether through part-time work, contracting, or staffing, fair?—the answer appears to be no; women continue to pay a disproportionate price. The emergence of this institutional and gendered pattern suggests, moreover, an even more important question for future research to unpack the causes and implications of “horizontal stratification” in the legal profession or the gendering of the profession by areas of specialization and occupational sites (i.e., within government, corporate, and private firms).

For those women who opt for reduced hours, often as a way to balance work-family obligations, Epstein and Kolker demonstrate a price. What, on the other hand, is the situation for those women who opt to work full-time with children? Nancy Reichman’s and Joyce Sterling’s findings show an overall increase in the gap in earnings. Using the best available data for the United States, *After the JD (AJD)*, they show that women earned 94 percent of what their male counterparts earned two years out of law school, and that gap grows to 82 percent seven years out.⁴⁴ To explore the child factor in an explanation of earnings, Reichman and Sterling compare earnings for men and women with and without children and find that, confirming earlier research,⁴⁵ children have a significant and positive effect on male earnings, what some have described as a “daddy bonus.”⁴⁶ In addition, Reichman and Sterling are able to distinguish between a parenthood and a gender penalty for

43. *Id.* at 1188.

44. Nancy Reichman & Joyce Sterling, *Parenthood Status and Compensation in Law Practice*, 20 IND. J. GLOBAL LEGAL STUD. 1203, 1204 (2013).

45. See, e.g., Jo Dixon & Carroll Seron, *Stratification in the Legal Profession: Sex, Sector, and Salary*, 29 LAW & SOC’Y REV. 381 (1995); Kathleen E. Hull & Robert L. Nelson, *Assimilation, Choice, or Constraint? Testing Theories of Gender Differences in the Careers of Lawyers*, 79 SOC. FORCES 229 (2000).

46. Reichman & Sterling, *supra* note 44, at 1206.

men's and women's earnings, orientation to work, and sites of practice. Reichman's and Sterling's findings corroborate more general patterns revealed in the research by Michelle Budig and Melissa J. Hodges. Studying overall patterns of a possible motherhood penalty on earnings, Budig and Hodges find that the only category where women do not experience a penalty for motherhood is in the highest wage category of earners.⁴⁷ Focusing on lawyers more specifically, Reichman and Sterling show that gender, rather than parenthood status, is the significant predictor of differences in compensation patterns. As they make clear, "in the professional context of law, gender matters more" than parenthood status:⁴⁸ inequitable and unequal treatment remains a story affecting *all* women in law.

But here is a bright spot that is being leveraged to extend equity and fairness: In today's legal marketplace, corporate lawyers in firms often negotiate with the general counsel of large corporations to secure work. Epstein and Kolker find that women have made significant in-roads in general counsel offices of Fortune 500 companies. As of 2011, 94 women were the general counsel at Fortune 500 companies.⁴⁹ Women also make up a growing proportion of the staffs of general counsel offices, they point out.⁵⁰ The implications of this trend are significant: Christine Beckman and Damon Phillips have shown that "when the corporate client has a female president or CEO, legal counsel or director, its law firm has a higher growth rate of women partners in the subsequent year."⁵¹ In other words, women in corporate leadership positions leverage power not just within their sites of work, but in the broader organizational field. Women in high profile positions in corporations expect, then, to find women in comparable positions at the firms they retain for legal services. When they do not find women in those positions, they opt for another firm.

The feminization of legal practice has introduced a series of new research questions. As the articles in this issue of *IJGLS* corroborate, one of the most salient topics has been investigation of differential patterns by gender (and race) of lawyers' return on their investment as

47. Michelle Budig & Melissa J. Hodges, *Differences in Disadvantage Variation in Motherhood Penalty Across White Women's Earnings Distribution*, 75 AM. SOCIOLOGICAL REV. 705 (2010).

48. Reichman & Sterling, *supra* note 44, at 1221.

49. Epstein & Kolker, *supra* note 2, at 1187.

50. *Id.*

51. Christine M. Beckman & Damon J. Phillips, *Interorganizational Determinants of Promotion: Client Leadership and the Attainment of Women Attorneys*, 70 AM. SOC. REV. 678, 696-97 (2005).

measured by status and income.⁵² The feminization of the profession has also, however, brought the question of exit and interruption from professional work front and center. Research consistently shows that women are significantly more likely to exit and interrupt work compared to their male counterparts.⁵³ As Fiona M. Kay, Stacey Alarie, and Jones Adjei point out, much of the explanation of this pattern has pointed to issues of work-family balance and women's disproportionate responsibility for children, elder care, and family responsibilities more generally.⁵⁴ But, Kay and her colleagues ask, is this the single most important factor in an explanation of women's greater risk of exit compared to men?⁵⁵ Research by Kay and John Hagan is suggestive that more may be at play than work-family balance for understanding these differential patterns of mobility and persistence between men and women in private practice. Men's thinking about departure is influenced by whether they are satisfied with their opportunities for promotion, pay, job security, and benefits. For women, their findings show that plans to leave a firm were shaped by more intrinsic rewards, such as opportunities to demonstrate legal skill and to attain a sense of accomplishment through the practice of law.⁵⁶

The article in this *IJGLS* issue by Kay et al. builds on these findings to ask two research questions: Do lawyers who begin their careers in private practice stay the course in this worksite? What explains lawyers' decision to leave private practice? The authors theorize that plausible lines of inquiry include (1) satisfaction with one's job, including such factors as opportunities for advancement, workplace collegiality, and the content of one's work; (2) family pressures, including the presence and number of children; and (3) organizational context and options, including availability of flexible work schedules or the economic climate at the point of career launch. The findings reported here are based on a carefully constructed, longitudinal survey, stratified by gender, to lawyers who were called to the Ontario Bar between 1975 and 1990. Their findings show that job satisfaction is not, on balance, a highly salient factor in an explanation of exit from practice. Corroborating

52. See Elizabeth H. Gorman & Rebecca L. Sandefur, "Golden Age," *Quiescence, and Revival: How the Sociology of Professions Became the Study of Knowledge-Based Work*, 38 *WORK AND OCCUPATIONS* 275 (2011).

53. See, e.g., Fiona Kay & Elizabeth Gorman, *Women in the Legal Profession*, 4 *ANN. REV. L. & SOC. SCI.* 299 (2008).

54. Fiona M. Kay, Stacey Alarie & Jones Adjei, *Leaving Private Practice: How Organizational Context, Time Pressures, and Structural Inflexibilities Shape Departures from Private Law Practice*, 20 *IND. J. GLOBAL LEGAL STUD.* 1223 (2013).

55. *Id.*

56. See JOHN HAGAN & FIONA KAY, *GENDER IN PRACTICE: A STUDY OF LAWYERS' LIVES* (1995).

earlier research, the presence of children, especially more than one child, is a positive and significant predictor of persistence for men and a positive and negative predictor for women.⁵⁷ That said, work interruptions, which are significantly more common for women, are a significant factor in an explanation of exit and turnover. As the authors rightly note, the findings here raise new and important research questions; for example, how are lawyers treated when they return from leaves? How are decisions about exit made? What are the roles of the firm and the interpretation of the incumbent in making these decisions?

Together, these articles describe a complex picture of women's status, earnings, and role in the legal profession in the early decades of the twenty-first century. The overall demographic profile across nations shows remarkable progress in an equally remarkable short period of time. Yet, the closer look at the status and rewards enjoyed by women who opt for a legal career across various nations, including the United States and Canada, as well as emerging economies, including Brazil, India, and China, reveals the persistence of gendered hierarchies. These articles map an agenda for future research.

We must continue to analyze cultural barriers and stereotypes, as well as more overt forms of discrimination faced by women in law. For example, the findings describing women's status in China underscore the challenges of overcoming cultural barriers to entry in law. But experiences of perceived discrimination by women in law is not limited to emerging economies; the findings reported by Kay et al. for Canada also show that women are significantly more likely than their male counterparts to report experiences of discrimination. Scholars have also theorized that women of color confront a "double-bind" of race and gender discrimination, or what has been described as "intersectional" discrimination.⁵⁸ We may ask: how does race interact with gender to explain women's mobility in law? This question has resonance, if with different permutations, across the multiple nations that have experienced a feminization of legal practice.

As the structure of the legal profession changes in response to economic pressures, as well as to globalization, firms will continue to innovate by developing new opportunities and career tracks. Epstein and Kolker point to some of these innovations, including contract and staff positions within corporate firms; but, with equal importance, Silver and Boutcher remind us that firms also innovate by going global. Do these innovations become sites for reproducing gendered niches and

57. See Dixon & Seron, *supra* note 45. Cf. Reichman & Sterling, *supra* note 44.

58. See Kimberle Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and the Violence Against Women of Color*, 43 STAN. L. REV. 1241 (1991).

enclaves? And, with what consequence for reward as measured by mobility, income, and prestige?

Much of our research on women's career trajectories in law replicate what we know about men's mobility patterns. Reichman and Sterling demonstrate, however, that gender, rather than women's "choice" to have children, appears to be more significant in an explanation of mobility as measured by income. Further, the evidence is mounting that career patterns of men and women appear to unfold quite differently, particularly around the issue of work interruptions. While prior research suggests that work interruptions have significant consequences for mobility, it remains to be investigated whether, how, and to what extent this pattern is replicated for women. In other words, what happens *after* work interruptions?

The articles in this volume also remind us that today we see women in positions of power and leveraging that power to shape new arenas of practice, as well as to shape the gender relations of the profession itself. Ballakrishnen's findings suggest that even in deeply entrenched, patriarchal societies, women may take the lead when the circumstances are right. Her provocative findings raise the question of whether this is an idiosyncratic story or, perhaps more optimistically, a pattern that unfolds when, as the findings here suggest, legal practices are being pushed into untilled territory. Is this a story of emerging economies? Or, do we observe similar patterns in the United States, Canada, and European countries as well?

That these articles raise as many questions as they answer is a sign that much remains to be understood about the ways in which the feminization of law has transformed our most taken-for-granted claims about what it means to be a lawyer.