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Women Attorneys and
the Changing Workplace:
High Hopes, Mixed Outcomes

Phyllis Kitzerow

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**Women
Attorneys &
the Changing
Workplace**

High Hopes, Mixed Outcomes

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1

Women Who Chose Law

To be successful in an environment like this, and to compete, and to do this kind of work, you can't say, "Well, I'm leaving now, because I have to go home [to be] with my family." If your case is going to trial tomorrow, you're working 'round the clock, you're working 7 a.m. to 8 p.m. . . . I'm closer to my kids now that they're adults than I was then, because I did miss a lot. I was not a mom that was driving kids around doing stuff. . . . At least in that era, being one of the first women, I felt that there was some pressure for women in the profession to prove that women could do it, could be trial lawyers, not just be a back office trust [lawyer]. . . . but to be a trial lawyer and to go head to head and be willing to make the sacrifice and be here. If the guys were here, I was going to be here, too. I made it a point, maybe I'm still to this day making a point that I'm here and I'm not distracted by [family], but yet still was fortunate to have a caregiver and a husband that were willing to allow me to do that. —Gloria, Modern group¹

Gloria foreshadows this book in giving her story as one of the women lawyers who graduated by 1975. For her, the question of career and family was both a personal one and one that tied into the expectations of the legal world at that time. Finding a position, doing well in that position, and combining career and family were personal dilemmas. Women like Gloria figured out what they could and could not do, guided by their perceptions of the workplace. Some were very successful, others less so. The stories of their careers tell the outcome of the circumstances they faced and the choices they made and make up the framework of this book.

Using these stories, this book explores the timely and important topic of women professionals' abilities to balance career and family.

¹ All names are pseudonyms to maintain anonymity. Pseudonyms were given in order of graduation date with the earliest graduates receiving names beginning with A on through the alphabet. This should enable the reader to have a general sense of when the person speaking graduated.

Women like Gloria, law school graduates of 1975 or before, talk about their experiences over time and their outlook on the current world of law from their individual perspectives. An important part of this experience is the career decisions made, with the movement from the initial position to successive positions or sometimes out of the labor force. Charting this balance of career and family makes visible the decisions being made and the factors involved.

Kay (1997), studying Canadian lawyers, looked at the movement across work-settings, charting career mobility for successive cohorts of lawyers as a way of accounting for gender differences in career paths. She used a life course perspective to bring together life and career events with structural changes in law firms. Important in her analysis were the social-psychological factors of job satisfaction and organizational commitment in making these moves. In a similar way, this book ties together the environments in which the women entered the profession of law with their personal lives and concerns. Leaving a position might reflect not a lack of professional commitment or dissatisfaction with the position but an overload on the personal or family side of one's life. Change might mean a step upward or a move toward a more manageable life style.

This book offers the unique experience of input from many of these women in both 1975 and 2010. The women are divided into several cohorts depending on year of graduation. The experiences of these cohorts are compared, thus offering both a longitudinal and comparative focus.

When women started to enter law and medicine and other professions in larger numbers in the 1970s, most people were not sure whether these women would succeed or even stay in these professions. These women are now at the advanced stage of their careers, but there is little information available about what has happened to them. Connected stories of the lives of these women are mostly available in the form of individual biographies or a profiling of a particular law school class (Abramson and Franklin 1986; Hope 2003). Stories of a large group of women found in the same setting, in this case a large eastern city, and their progress over time are seldom available. Brockman (2001) gave this kind of information but for Canadian women lawyers who were, at most, only in their sixth year of practice. Being able to hear from women who have been in practice for thirty-five years or more makes it possible to see both the effects of individual decisions and the extent to which women have made their way into the legal profession.

Brockman (2001) asked the question "Are younger women lawyers fitting into the established legal profession, or are they altering the old

mould (sic) in which lawyers have traditionally been formed, or at least having some impact on it?” Her thought was that if things were getting better for young Canadian women lawyers, perhaps the legal establishment had changed because of the large influx of women. In the 1970s, the assumption was that in the future work would be more family friendly and manageable, husbands would be equal partners in family responsibilities, and the wrenching pressures would subside to an occasional busy moment. Has that happened?

Did the generation of women who came into the law in the 1970s have enough of an impact to change the structure of law settings? Were they able to reach the top themselves or did their careers show the effect of gender and unyielding structures? When looking at law settings today, what has changed since these women entered the field? What changes in the settings due to factors other than women’s entry have advanced or hindered the brave new world predicted?

An important part of this book is what it can contribute to the ongoing debate on career/family balance. Slaughter’s (July 2012) article entitled “Why Women Still Can’t Have It All” drew instant public discussion. Most of the discussion centered on whether her conclusion was accurate although the point of her article was to suggest changes to make having it all more manageable and thus more likely. Spar (2012) in *Newsweek* made a comparable statement by saying that no one can work a sixty-hour-per-week job and be the same kind of parent that he/she would have been without the job. “And yet,” Spar says, “women are repeatedly berating themselves for failing at this kind of balancing act.”

Sandberg’s (2013) *Leaning In: Women, Work and the Will to Lead* raised the related question of why professional women had not made more progress and whether that progress had been halted by the concern about family. Despite the surge in women entering the legal profession since the 1970s, women are still underrepresented in the top ranks and salaries of lawyers today. Much scholarly research on women in the law (Epstein et al. 1995; Gorman and Kmec 2009; Kay 1997; Noonan et al. 2005; Williams 2002) has focused on why women are still underrepresented in top positions. Why does a pay gap between male and female lawyers still exist? Are women being promoted and retained to the same extent as men in law firms? Have changes come about in firms to make the combination of family and career more manageable? The book examines this literature after giving the women’s stories as another way to understand the present situation of women in law. Included are questions of opportunity and expectations, emerging

alternate definitions of professional success, and the extent to which gender norms still impact the profession of law.

Exploring the careers and lives of these women will show how the profession of law has changed and what has remained static. This is an opportunity to catalog the changes seen by these women and use that information to understand how changes in gender relations come about, thus illuminating one area of gender studies. What have been the effects of gender norms? Does gender still matter in law? How much is due to choice on the women's part and how much to the structures in which they are embedded?

The Impact of Gender

Gender pervasively affects everyone's lives, influencing the nature of people's experiences and the ways people are evaluated. The examination of gendered differences is of the utmost importance for sociology, and the social construction of gender has become a familiar theme in gender studies. West and Zimmerman (1987) suggest that because society sees gender differences as "essential" or built-in, gender expectations are unavoidable. They call attention to ways our society both creates gendered spaces (e.g., gendered bathrooms) and then uses these as evidence of gender differences. These expectations are visible in the negative reactions to women entering the professions, so much so that people still speak of "women lawyers" as an exception to the norm which is, of course, lawyers as male. As individuals interact, the evaluations of their conduct by others and themselves according to gendered standards legitimate the "naturalness" of gendered behavior. According to West and Zimmerman, "If we do gender appropriately, we simultaneously sustain, reproduce, and render legitimate the institutional arrangements that are based on sex category." If the society is simply reacting to "real" male/female differences, then such differences legitimate issues of allocation, who gets what or gets to do what. Thus people are encouraged to ask not why differences in compensation still exist but to remark instead on how well women are doing.

Because legal competency is hard to quantify other than by the rewards attached, perception remains very important. Particularly in evaluating lawyers for partnership, the gender expectations still held by those in power are likely to shape how successful or competent those lawyers are assessed as being. Lorber (1994) points out "believing is seeing" rather than the usual statement of "seeing is believing." That is, people see what they expect to see, often regardless of the reality. If people believe that women should be "ladylike," then a woman's

assertive behavior will be seen as inappropriate despite the fact that this behavior is normal for the work role she holds.

Examining a particular group of women who have a set of experiences over time highlights how this gendering process comes about. Looking at women who have been very successful, as some of the women in this group have been, can show where traditional gender rules have been modified or seen as less relevant. Thorne (1993) examined the relevance of gender norms in particular contexts. In her study of girls and boys in a school setting, Thorne talked about the circumstances in which gender is extremely relevant and other circumstances when it is of much less importance. While gender might always be noted, it does not always carry the same burden of differentiation. Thus the context and the situation over time must be considered in determining how important a role gender is playing. Which women have been able to escape the constraints of gender expectations and why?

Knaak (2004) reminds us that gender itself is “socially constructed” and changes over time as other assumptions and beliefs change. She suggests that gender is both a process and an outcome. The interaction between individuals and between individuals and social structure teaches and reinforces gender roles while, at the same time, the social institution of gender affects that structure and influences the choices that individuals make. Gender then becomes an independent variable influencing actions such as occupational choice and progress. Seeing the changes in the field today and comparing them to the situations these women have faced catalogues that perceptual change which has so influenced the gendered structure of the legal field today.

Studying the Women Who Graduated from Law School by 1975

This book contributes a two-stage look at baby-boomer and earlier women lawyers and the setting in which they practiced. The first stage, the interviews in 1975, focused on seventy- seven women who had graduated from law school between 1925 and 1975. The area of women and work has been a prominent topic in gender studies and in 1975, I was interested in gender as one of the factors influencing women’s success in professional careers. In order to look more closely at this situation, I wanted to study a group of women in one of the professions that was beginning to change in gender demographics and decided to focus on law. At that point I wanted to understand why the surge in women professionals was happening and what the consequences would be. I wondered whether the women I interviewed would be able to break through the glass ceilings that characterized so many occupations in the

1970s and succeed on equal terms with the men with whom they studied and worked.

I interviewed seventy-seven women who were practicing law in a large eastern city. I was able to find these women through a combination of three methods. Most of the women were located through the bar association membership list of Eastern County. Additional women were added from the fall 1975 Bar Exam pass list. The names of a few additional women were given to me by the women I interviewed. Although one hundred and nineteen women were listed in the membership list, many were hard to trace as they had moved from their original placement and their former employer was unwilling to give me any forwarding address. As a non-lawyer, I had only a few contacts within the legal world of Eastern City and was mostly dependent on the existing lists. Ten of the questionnaires were completed by mail since these women were not in Eastern City at that time.

The 1975 study was an attempt to answer three questions. Why had these women wanted to become lawyers; what had their law school experience been; and what had happened since law school? At that time, almost half of the sample (48%) was within three years of graduation from law school so their career paths were only beginning. Three patterns were apparent in the responses from these women. The most important variable was the year of graduation, which I used to form my three cohorts. I also looked for similarities within the groupings. The groups do not cover equal numbers of years due to the rapidly shifting gender roles causing women who graduated only a few years apart to have very different experiences.

The Pioneer Group

Those women who had graduated from law school by 1963 were the most distinctive in motivation. They had usually had some contact with law, either a parent or family friend. Their parents encouraged their ambitions and placed little emphasis on more traditional expectations for them. They tended to come from middle class or higher backgrounds and had expected to go to college. They wanted not just professional status of some kind but, more specifically, a career in law. They had been very successful academically before law school and were usually very successful in law school.

The early group was quite different from the next two groups. I picked the date of 1963 to separate the first and second groups because this seemed to be the breaking point for these differences. Women in the early group were true pioneers in both numbers and the extent to which

they were breaking the norms. The modern women's movement had not yet become visible and few attitudes towards women in the law had changed (Fossum 1981). In 1966 only 6.5% of those taking the law school admission test (LSAT) were female. By 1970 this would more than double to 13.3%, an indication of how quickly things were changing. The next two groups show some of the effects of this change, as shown by their law school experiences, first positions, and their careers that followed.

The Transition Group

The women who graduated between 1964 and 1972 were a more mixed group in motivation and background than those who came earlier. Their connection with law was more tenuous and their backgrounds included some women from working class families. A number of them had had other careers before the decision to become a lawyer. Their contact with law, if they had any, might have been as an employee or friend or spouse. Often this contact convinced them that they would be capable of earning a law degree although they had not earlier had this confidence or considered this option. They were more mixed in terms of academic success in previous academic work and in law school. A number of these women attended a local law school's night program while working full-time.

The Transition group experienced law school as the Women's Movement became more visible. Change was beginning to be felt in both attitudes and actions as law schools became more receptive and employers began to relax some of the barriers that had existed earlier. The results of these changes were most evident for the next group; the most numerous group even though only three years of law school graduates are included.

The Modern Group

The third group, made up of women who graduated from 1973-1975, was similar to male law students in terms of wanting some sort of professional status and choosing law as one possibility out of a range of others. It was no longer necessary for them to have encouraging families or a connection with law. Perhaps the messages about women achieving professional status which had begun to appear in popular culture as the women's movement progressed took the place of the individual messages that had been necessary for the earlier groups. Popular media was beginning to carry stories of women in new careers and emphasize

the “first” woman in various settings. Women in the third group were generally academically successful before law school and showed the same range of academic success in law school as male students. Some of them were able to take advantage of placement opportunities formerly unavailable to women once they had graduated from law school.

When I interviewed these women in 1975, the expectation of both the women interviewed and the legal world in general was that gender equity in not only numbers but also status and compensation would come with time, and that as women reached the mature career stage, their rewards would equal those of male lawyers. The Modern group, composed of those who graduated between 1973 and 1975, was excited about their entry into the field of law and optimistic about women’s progress in law. Many of them felt confident that their careers would progress quickly and well.

The 2010 Study

In 2010, I went back to the original list of women I had interviewed in 1975 and contacted those who could be found. Forty-three were deceased or could not be found. Seven individuals also refused, two on the basis of illness. I used the current bar association directory of Eastern County to locate additional women who had graduated from law school by 1975 and added those women who had not been part of the original study. Some of these had moved to Eastern County since 1975 or had been missed the first time.

I interviewed sixty-five women (thirty-two of whom I also had interviewed in 1975). In my interviews with these women, I was especially interested in their occupational histories. My questions were particularly focused on how they made their choice(s) of position. Other questions focused on compensation and perceived success as well as career satisfaction. Most questions were open-ended. An important area was the work-family balance for those women who combined employment and marriage and/or children as many of these women had.

I encouraged the interviewees to move into a career narrative rather than just respond to each question. Most interviews ranged from 30 to 60 minutes and took place in the interviewee’s office or home. Much of this book consists of quotes from those interviews. I made only minor changes in the quotations I used, either for readability or to maintain anonymity. Only a few of the women interviewed were part of minority racial or religious groups. I did not designate them as such as it would have often destroyed their anonymity. Nor did I try to generalize about members of these groups since there were so few included.

The interviews were recorded and transcribed and then coded using qualitative data analysis software. I chose forty-one relevant themes and coded the interview data according to these themes. Most of the themes related to the questions asked in the interview but a number also emerged from the answers given.

The material is presented in terms of the three groups, Pioneer, Transition, and Modern. It is also presented in order of the career progression from law school to the present day. Three concepts, opportunity, success, and work/family issues, focused the analysis and discussion of the women's experiences. Placement categories such as private practice, corporate practice, and government positions were often important influences on satisfaction and problems encountered. The constraints influencing the original choice of position and the career decisions following are examined through the narratives of the individual careers of a representative sample of these women. The interplay between agency (the women's own choices and actions) and structure (what the legal world was like over time) becomes clear through these narratives.

The stories of these women illustrate the benefits and disadvantages of being early on the scene of a profession which has changed radically in its gender makeup during their time in the profession. All of the women I interviewed graduated from law school by 1975. They were part of that first large infusion of women into the legal profession and are now at a mature stage of their careers. Their experience illustrates what has happened to both the profession and the women who entered it. The effects of the gender shift on the profession, the story of the careers of these women, and the lessons learned make up the core of this text. This book addresses the degree to which the pre-1975 women perceive gender equity as having been reached and what their career paths have been. It applies a modern understanding of gender to a particular example and gives an opportunity to examine the outcome for a group of women who entered law so early.

A number of questions arise when looking at women who are at a mature career stage or beyond it and in retirement. What was the professional world like for women in 1975? What have their careers and their lives been like? Are they happy with the careers they have had? Do they feel that they have reached their goals? What should women entering the field of law now expect?

I also conducted a focus group with ten women students from one of the Eastern City law schools as a way of connecting the lives of the women I studied with the conditions for women today. In this focus group, I asked some of the same questions that I had asked in 1975 and

also questions to gauge the students' aspirations and expectations. I was particularly interested in the expectations of these women who are entering law approximately thirty-five years after the last of my group. Are they better prepared for what they will face? What will their experiences be like? How do they think their careers will progress?

I also attended a roundtable on work/family conflict conducted by a division of the local bar association. It was attended by approximately twenty-five people, mostly female. A short program consisted of two speakers, one female, one male, who discussed how they had handled and were handling work/family conflict. The program was followed by extensive questions and discussion.

In the first study, when I interviewed women lawyers in 1975, the professional world was a fairly new experience for almost half of my sample (48%). They had finished law school within the last three years, were often still in their first jobs, and were getting used to the experience of being lawyers. For the rest of my sample, some of whom had finished law school as early as 1925, the experiences were often much different and much more difficult. One woman, despite her law degree, was hired as a secretary for the law department of a large corporation. Only after ten years in this position was she allowed to join the law department as a lawyer and start out on the same level as the new male lawyers coming in. Other women told me of great difficulties in finding positions and the often very overt discrimination that they faced in those positions (Kitzerow 1977). In Eastern County, the first woman passed the bar in 1895. It took until 1955 for the total of women lawyers in Eastern County to reach one hundred and a number of my interviewees from the 1975 interviews were part of that group. In my 2010 interviews, I was able to talk again to some of those first hundred women lawyers, a few of whom were still practicing, including a woman who had graduated from law school in the late 1940s.

What Follows

Chapter Two looks at the surge in the number of women going to law school as well as other professional schools in the 1970s and connects this to the difference in the model of women and work over five cohorts during the twentieth century, a concept introduced by Goldin (2004). The chapter also categorizes the five main reasons women chose law and discusses their law school experience.

Chapter Three looks at the process of finding the first position. In most of the chapters, the coverage is split into the Pioneer, Transition, and Modern groups since the experiences might be expected to differ

depending on the time period. This was particularly true in Chapter Three where women in the Pioneer group had a much more restricted choice of position and had much less desirable positions available. The Transition and Modern groups benefited from some of the legal and attitudinal changes in the legal world and were more likely to have a range of positions open to them.

In Chapter Four, eight individuals were followed throughout their careers to give us a detailed sense of decision-making, choices available, and constraints on the career. These eight women were chosen to illustrate different eras with women from all three groups, Pioneer, Transition, and Modern. They were also chosen to illustrate different placement settings and levels of success.

Chapter Five looks at the varying levels of success for these women and what seemed to account for this. The interviewees were asked if they had progressed as fast as they had expected and what their biggest achievement had been. I was particularly interested in their own perceptions of success as well as how the legal world would classify them.

Chapter Six examines how work/family issues played out for these women. What were the most common problems and what strategies did the women use to solve them? Balancing child care and work responsibilities took a number of different forms and brought up issues that still surface in the lives of women practicing today.

Chapter Seven looked at the impact of gender. Since work/family issues were not the only source of differential gender treatment, the women were asked to respond as to whether they would have been treated differently had they been male. They were also asked whether gender was still an issue for young women now entering the legal world. As a further way to look at the impact of gender, a focus group of current female law students was asked questions about their law school experience, their aspirations, their job hunting and employment experiences and what they saw as possible problems in their first full-time positions. Their answers as well as the answers of the 1975 graduates give us a good idea of what has changed and what has not.

Finally, Chapter Eight sums up the lessons learned from the lives of the women who graduated from law school by 1975. How might they be useful to current female lawyers, especially those who are just beginning their careers and to women in other fields? The same work/family issues, the same problems in moving upward in one's occupation, the same pressure to be "superwoman," and the same gender expectations are faced by women in many occupations. This book is an attempt to

make the information available to those women and anyone else who is concerned about women and work.

Two questions dominate Chapter Eight. Why have so few women lawyers have made it to the top? Can women have it all, i.e., career and family. These questions are examined in terms of both the experience of the 1975 graduates and the current research on women in law. The continuing interest in this topic speaks to the concern that gender equity has still not been achieved. However gender equity may be defined and to what extent women are able to choose what they will do, constraints still exist. Part of this work must be to examine these constraints and to negate the expectations that would continue them. Of particular concern is the present lack of progress towards gender equity.

Work should be manageable. Obviously, it would be undesirable to return to a world in which women can only, with great difficulty, use their education and intelligence in the workplace. If women face untenable situations or positions which require undue sacrifice, attrition from these positions will surely continue. Nor does a world sound appealing in which men are well compensated financially, but encouraged to immerse themselves in work, making only minimal commitments outside of that sphere. What solutions are possible for women *and* men to have full lives with work as a part, not the whole, of their lives?

Employers, too, must be encouraged to move to a different model. Chapter Eight will examine the proposed solutions put forth by a number of those who have studied the problem. How might employers benefit from these solutions? What methods might be used to encourage them to participate in change? If the bottom line is the most important consideration for the law firm, what arguments can be made that the bottom line will be improved, not hurt by these changes?