



---

October 2001

**Book Review: Gender and the Legal Profession: Fitting Or Breaking the Mould, by Joan Brockman; Scales of Success: Constructions of Life-Career Success of Eminent Men and Women Lawyers, by Sheelagh O'donovan-Polten**

Andrea Unikowsky

Follow this and additional works at: <https://digitalcommons.osgoode.yorku.ca/ohlj>

Book Review

---

**Citation Information**

Unikowsky, Andrea. "Book Review: Gender and the Legal Profession: Fitting Or Breaking the Mould, by Joan Brockman; Scales of Success: Constructions of Life-Career Success of Eminent Men and Women Lawyers, by Sheelagh O'donovan-Polten." *Osgoode Hall Law Journal* 39.4 (2001) : 885-897.

DOI: <https://doi.org/10.60082/2817-5069.1460>

<https://digitalcommons.osgoode.yorku.ca/ohlj/vol39/iss4/9>

This Book Review is brought to you for free and open access by the Journals at Osgoode Digital Commons. It has been accepted for inclusion in Osgoode Hall Law Journal by an authorized editor of Osgoode Digital Commons.

---

**Book Review: Gender and the Legal Profession: Fitting Or Breaking the Mould, by Joan Brockman; Scales of Success: Constructions of Life-Career Success of Eminent Men and Women Lawyers, by Sheelagh O'donovan-Polten**

# BOOK REVIEWS

## Gender and the Legal Profession: Fitting or Breaking the Mould

BY JOAN BROCKMAN

(Vancouver: University of British Columbia Press, 2001)<sup>1</sup> 259 pages.

## Scales of Success: Constructions of Life-Career Success of Eminent Men and Women Lawyers

BY SHEELAGH O'DONOVAN-POLTEN

(Toronto: University of Toronto Press, 2001)<sup>2</sup> 239 pages.

### I. INTRODUCTION

Many students entering law school assume that women and men have largely attained equality in society, and that this equality exists within the legal profession. After all, women and men are entering law schools in equal numbers, and in recent years women have even constituted a higher proportion of the first year law school class than men. Yet, in many respects, education tends to be a gender equalizer. First, success is based on merit and work is generally judged anonymously. Second, law students are often in their twenties and remain unencumbered from family and child rearing responsibilities. Both of these situations will radically change within a decade of entering the legal profession. In 1993, Madame Justice Bertha Wilson's ground-breaking report revealed the extent that gender as well as others forms of discrimination continues to exist in the legal profession.<sup>3</sup> The "somewhat numbing"<sup>4</sup> list of barriers to women entering the legal profession include sexual harassment, differences in salary, difficulties in obtaining articles, inequality in work allocation and in securing good files, challenges for career advancement in terms of promotion and access to partnership, the lack of women in management and leadership positions,

---

<sup>1</sup> [hereinafter *Gender and the Legal Profession*].

<sup>2</sup> [hereinafter *Scales of Success*].

<sup>3</sup> B. Wilson, *Touchstone for Change: Equality, Diversity, and Accountability* (Ottawa: Canadian Bar Association, 1993) in *Gender and the Legal Profession*, *supra* note 1 at 13.

<sup>4</sup> *Ibid.*

segregation into certain areas of practice, and an unwillingness to accommodate child care responsibilities.<sup>5</sup>

This review examines how the issue of women's equality in the legal profession has played out by examining two books. *Gender and the Legal Profession*, by Joan Brockman, contrasts the struggles faced by women and men at the onset of their legal careers. Specifically, it unveils the results of a questionnaire and an interview-based study on fifty men and fifty women called to the British Columbia Bar within a period of three and seven years. In contrast, in *The Scales of Success*, Sheelagh O'Donovan-Polten examines a select number of successful women and men lawyers at the peak of their legal careers. Based on interviews with four women and four men, O'Donovan-Polten explores the meaning of life-career success, and highlights gender differences in what constitutes career satisfaction.

## II. METHODOLOGY

Brockman and O'Donovan-Polten's studies employ different methodologies and academic perspectives. Brockman chose to conduct a broad survey in which an initial questionnaire was widely distributed and used as a basis for locating fifty men and fifty women who were practicing law at the time and who were willing to engage in an interview. In contrast, O'Donovan-Polten preselected her respondents based on recommendations from various experts specializing in legal issues, and confirmed her selection through directories of eminent Canadians, as well as eminent Canadian lawyers. Several pages in *Scales of Justice* are devoted to a discussion of each of the respondents, beginning with a brief account of their family life and moving into an examination of their personal and professional development.

O'Donovan-Polten's analysis is psychologically informed, based on theories of leading developmental theorists. This psychological analysis and her smaller number of respondents render the book very readable. With only eight respondents, the reader has a firm grasp of each co-participant as their perspectives are compared and contrasted throughout the book. The only issue raised by this approach is that the anonymity of the co-participants may have been compromised. Since the respondents are considered eminent people, and most if not all are from the relatively close-knit Toronto legal community, individuals in the legal profession will likely recognize their colleagues.

---

<sup>5</sup> *Ibid.* at 13-14.

In contrast, *Gender and the Legal Profession* presents a thorough statistical analysis, combining percentages with quotes from respondents. While ambitious, the numerous percentages peppered throughout many pages decrease the book's readability. The statistical analysis would have been more effectively presented with graphs and charts.<sup>6</sup> In addition, while respondents were given pseudonyms when discussed individually, the large number of respondents clearly made it impossible to juggle them all. As a result, *Gender and the Legal Profession* is more useful as a reference tool<sup>7</sup> for a specific audience interested in women in the legal profession. With its psychological discussion and uninterrupted flow, *The Scales of Success* will attract a wider audience of lawyers as well as psychologists.

### III. GENDER AND THE LEGAL PROFESSION

*Gender and the Legal Profession* begins with an historical account of the exclusion of women, as well as Aboriginal peoples and other ethnic and racialized groups, from the legal profession in Canada. Brockman's introduction offers an insightful backdrop for situating women's struggles within a broader context of the barriers that have prevented groups from entering the legal profession.

The subsequent chapters focus on the results of Brockman's study. Chapter Two explores reasons for having chosen law as a profession, and determines the respondents' overall satisfaction with the practice of law. This chapter sets the tone of the rest of the book, both in its determination that women are less satisfied by the current state of the practice of law than men, and in its recognition that a significant number of men and women alike are dissatisfied with the current state of the practice of law. In statistical terms, only 50 per cent of the women in the study were satisfied with the practice of law, while 62 per cent of the men were satisfied.<sup>8</sup> Both men and women emphasized the long hours and high amount of stress as significant detractors to the practice of law. The only other area where

---

<sup>6</sup> There are only four charts in the book, two of which are in the appendix and attributed to the research of another author.

<sup>7</sup> A further suggestion of its use as a reference tool rather than a book to be read from cover to cover is that some sentences were repeated in the book. See e.g. the ten line quote repeated at 84 and 186; virtually the same sentence about "plum cases" at 63 and 71; the sentence "only 26 per cent of the women and 14 per cent of the men worked forty or fewer hours a week—the hours one might expect of a full-time worker" at 195 and 210.

<sup>8</sup> It should be kept in mind that Brockman's sample already excluded those who were no longer practicing law.

statistics among men and women were comparable was in their lawyering styles, which is discussed in Chapter Six. Here Brockman dispels the myth that men are somehow more adversarial in their practice. The majority of men and women who practice law are in fact "reluctant adversaries," who prefer a more conciliatory approach more closely associated with alternative dispute resolution.

Chapter Three discusses how the respondents have "fit into" their respective jobs, and Chapter Four discusses the existence of discrimination and sexual harassment within the legal profession. These chapters continue to demonstrate a bleak view of the practice of law for women in particular. Perhaps the most disturbing statistic was that 66 per cent of the women who were interviewed said they had been discriminated against in the legal profession on the basis of their sex, in contrast to 4 per cent of men. The various ways in which women experienced discrimination covered the gamut of areas that Wilson identified in her study. Perhaps most interesting was the affirmation that women felt they were discriminated against in the kind of assignments they were given. While men did the trial work and met with clients, women spent more time in the library writing memos, and were given fewer clients. In part as a result of this discrimination, women were more likely to have had more than one full-time job, and to have had jobs that did not involve practicing law, but were law related.

Other forms of discrimination occurred in the areas of career advancement, ultimately attaining partnership, and salary. According to the salary data provided by Brockman, men and women tend to emerge from law school on a financial par with each other. While women tend to be more represented in the private sector, their salaries are comparable. In fact, women's salaries are slightly higher than those of their male counterparts. The divergence appears to occur in their fourth year of having been called to the Bar. It is at this point that men's salaries begin to increase rapidly from year to year, while women's salaries remain virtually stagnant. As Brockman notes, this stagnation at least in part results from the fact that men tend to remain in the private sector in large firms, where their salaries continue to rise. Brockman's study also recognized that women's underrepresentation in the upper echelons of law firms not only affects women's salaries, but also their power and influence as leaders in their place of work and in the community at large.

Chapter Six moves on to explore whether women have been able to balance career, partner, children, and chores. Here Brockman concludes that while women face discrimination in the legal profession, it is women's experience at home that most significantly undermines their equality in the paid workforce. It appears that while there has been a shift in the societal mindframe towards a division of household tasks, women continue to bear

a greater share of this work. Brockman invokes Chris Kynaston, who maintains that despite the fact that women are entering the workforce in greater numbers, only a minority of couples have renegotiated the distribution of household work and child care. The so-called "bloodless" revolution in which men would adopt an equal share of the housework has not occurred. As a result, "gender inequality became more deeply entrenched as women were increasingly forced to assume a 'double load' of unpaid domestic work and paid employment."<sup>9</sup>

Finally, Chapter Seven evaluates the accumulated data to determine whether women are "fitting into" or "breaking the mould" in the practice of law. Brockman's conclusion is not optimistic. Despite increasing numbers of women entering law, the legal profession has inadequately accommodated the different, and heavier, family commitments women often have, both towards children and elderly family members. As a result, a greater percentage of women than men have chosen to leave the practice of law altogether.

Brockman's statistics reflect a negative attitude towards the legal profession held by both men and, to a greater extent, women. In part, this finding may have related to when her study was conducted. Brockman's respondents had been called to the Bar between 1986 and 1990, and she gathered her statistics between 1993 and 1994. The late 1980s and early 1990s were a point in which Canada was still facing a recession, and obtaining articling and associate positions for new lawyers was challenging. The difficulties in securing and retaining positions may, in part, reflect the negative attitudes women and men in her study had towards the practice of law. Today, the vast majority of students do obtain articling positions and, while jobs in large firms remain competitive, articling students are not grappling for positions in the same way that they would be during a period of recession.

#### IV. SCALES OF JUSTICE

Not unexpectedly, O'Donovan-Polten's study reflects a more optimistic view of the practice of law. Her respondents are middle-aged individuals who have traversed the challenges of their profession and emerged successfully. Part One of O'Donovan-Polten's book provides an introduction to readers on the purpose and method of study. O'Donovan-Polten's assumption is that the process of individual development continues

---

<sup>9</sup> *Gender and the Legal Profession*, *supra* note 1, quoting Chris Kynaston, at 180.

well into adulthood, a period in which individuals continue to grow and evolve. The central theorist anchoring her study is developmental psychologist Robert Kegan, who posited that the primary quest for individuals is that of meaning making. Kegan holds that individuals are constantly struggling to negotiate between the two greatest yearnings in human experience: the yearning for social inclusion or integration and connection on the one hand, and the yearning for individual independence or differentiation and distinctness, on the other hand. Kegan depicts individual development as a five-stage hierarchical model, in which each stage represents an evolutionary progression where the individual has assimilated and accommodated new experiences. However, the development occurs in a spiral process, in which each stage is slightly imbalanced towards a “truce” favouring independence on the one hand, or interdependence on the other.

O'Donovan-Polten embraces Kegan's model, in part, because it accords equal dignity to “male-oriented” and “female-oriented” value systems, and integrates both systems into a unified framework. Basing her assumption on gender developmental theorists, notably Carol Gilligan, O'Donovan-Polten associates the male-oriented value system with independence and autonomy, and the female-oriented value system with inclusion and relationships. This gender-based framework informs much of O'Donovan-Polten's discussion, a central question in her book being in what ways successful female lawyers differentiate in their construction of life-career success from their male counterparts.

Initially, readers may be skeptical about O'Donovan-Polten's dualistic view dichotomizing female-oriented and male-oriented systems. However, significant and unmistakable gender differences emerge in her study. While the more obvious differences relating to the challenges faced by women juggling family and career emerge, other, perhaps more subtle differences reveal themselves in the later stages of her analysis. In Part Two, O'Donovan-Polten provides case profiles of four male lawyers, followed by four female lawyers. She begins each discussion with an explanation of the lawyer's conversation style, as well as a brief note about the co-participant's personal life. Part Three moves on to discuss recurring themes that emerge in the interview, first by focussing on themes common to men and women, and then by concentrating on gender-linked themes. Part Four concludes and offers ideas for further research.

A somewhat troubling point in O'Donovan-Polten's book is that all respondents are partners at leading Bay Street firms, with the exception of one lawyer. This anomalous exception resulted in the need for a justification: “although she has had extensive experience with large law



firms, Gillian is currently a sole practitioner ...”<sup>10</sup> The undercurrent here may be that “eminent” lawyers can only be affirmed by having practiced at a major law firm. O’Donovan-Polten addresses this point early on through “a report of the Canadian Bar Association, [which] refers to private practice as ‘the paradigm for the profession’ and points out that ‘the most powerful positions in legal practice are in the largest firms.’”<sup>11</sup> She further points to the report to affirm that “the largest firms interconnect with the boards and directorships of major corporations [and] that the majority of judicial appointments are drawn from lawyers practicing in this section.”<sup>12</sup> This justification, however, does not address the corporate nature of large firms, and the effect this corporate mentality may have on the results of O’Donovan-Polten’s study. The resulting concept of success will inevitably be somewhat skewed towards a corporate mentality. It is possible that the choice to exclude eminent lawyers from other areas, including smaller firms or government positions, may somehow relate to attracting readers with the “glamour” of a “Bay Street job.”

Despite the co-participants revealing a certain corporate flavour, the emerging themes that O’Donovan-Polten draws out of the interviews, such as contributing to the realization of justice in Canadian society, or experiencing a sense of freedom or autonomy, did not appear specific to a large, corporate firm mentality.

The most interesting part of O’Donovan-Polten’s analysis is her subsequent focus on female-specific themes. The author notes that while there were no themes common only to men, women exhibited specific notions of success. Specifically, the female co-participants placed an unmistakable emphasis on contributing socially beneficial services to the community and this emphasis was notably lacking among the male co-participants. While one male respondent did confess a more general desire to contribute to society, which played out in contributing to the arts, the obligation to help the less fortunate was raised by all four female respondents, and none of the male respondents. This significant difference is even more surprising when one considers the corporate ethos of large business firms and the possibility of the internalization of this mentality by its members, whether men or women.

The fact that women in this study exhibited a more caring, relational view of success is somewhat perturbing, since it adheres to a

---

<sup>10</sup> *Scales of Success*, *supra* note 2 at 79.

<sup>11</sup> *Ibid.* at 5.

<sup>12</sup> *Ibid.*

stereotype that risks affirming women's traditional roles in society. Overriding concerns about political correctness, O'Donovan-Polten invokes Gilligan, who construes women's greater social service orientation as part of a moral code associated with care, connection, and relationship.

However, O'Donovan-Polten also acknowledges Gilligan's critics, who argue that this "ethic of care" may "constitute a psychological artifact of subordination within oppressive patriarchal cultures"<sup>13</sup> in which women are socialized into caring roles in a sexist society. These critics caution against the hazards of oversimplification or of "confounding the so-called different female moral voice with characteristics stereotypically attributed to and expected of women."<sup>14</sup>

Yet O'Donovan-Polten suggests that this "ethic of care" may in fact motivate and direct those who endorse it to greater personal growth. She notes that in developmental psychologist Erikson's model, middle-aged adults face a stage known as generativity vs. self absorption and stagnation, in which the virtue of 'care' must emerge in order for the individual to progress.<sup>15</sup>

O'Donovan-Polten also hypothesizes that, ironically, "although fraught with psychological risks and definitely not a desirable state of affairs,"<sup>16</sup> the challenges women face in balancing family and career, or in negotiating independence on the one hand and interdependence on the other, may serve as a catalyst to propel them forward to more refined psychological integration. O'Donovan-Polten theorizes that the legal profession tends to favour Kegan's fourth order of consciousness, known as the institutional stage. In this stage of consciousness, an evolutionary truce is made favouring independence. However, the highest order of consciousness, the interindividual level, requires reintegration on the side favouring inclusion. The female-associated propensity towards connection and relationships, as well as women's pragmatic need to work through balancing personal and professional life, "in turn may occasion their recognition of a multiplicity of possible selves and result in the transition to the mode of ... paradox-transcendence that characterize meaning-making at the fifth [and highest] order of consciousness."<sup>17</sup> This interesting

---

<sup>13</sup> *Ibid.* at 165.

<sup>14</sup> *Ibid.*

<sup>15</sup> *Ibid.* at 167.

<sup>16</sup> *Ibid.* at 182.

<sup>17</sup> *Ibid.*

hypothesis was not in fact tested on her co-participants, and the author notes that analyzing which stage her respondents have reached would entail further study.

O'Donovan-Polten emphasizes that, despite the possibility for further growth, the fact that women must manage greater balancing acts is not a desired state of affairs. O'Donovan-Polten's middle-aged cohort together with Brockman's younger group allow for a discovery of long-term and more recent changes for women in the legal profession. Both groups illuminate the question: "How has women's situation in the legal profession improved?" According to both age groups, today's state of affairs is bittersweet. On the one hand, men are beginning to recognize the need to contribute more to household and child care tasks (although whether or not men are actually contributing equally appears doubtful from both studies). On the other hand, over the 1990's women have faced a further challenge in the legal profession. The increasing corporatization and deprofessionalization of the law firm places a further strain on the ability to balance their professional and personal lives. Increasing billable hours has become a well-known tune and a source of pressure for lawyers. Law firms are increasingly run as businesses, with the goal of maximizing profits, rather than as professional organizations whose goal is to serve public interest by assisting in the carriage of justice.<sup>18</sup>

This corporatization has a discriminatory impact on women by straining the balance between personal and professional life. As O'Donovan-Polten explains, Justice Wilson's Canadian Bar Association report noted that the general target at large firms of sixteen hundred billable hours per year "does not constitute a neutral measure of worth, because it is less easily attained by those with child care responsibilities."<sup>19</sup> Similarly, Susan Bison-Rapp in *Gender and the Legal Profession* notes that the new discourse of "performance based reviews," bonuses based on performance as measured through billable hours, "masks, rather than eliminates, conditions of inequality, by assuming that the ideal worker is one who has no family or household responsibilities."<sup>20</sup>

An emphasis on billable hours also inhibits an important variable of success among the women in O'Donovan-Polten's study, which is

---

<sup>18</sup> The decrease in group liability through the establishment of LLPs in Ontario, while undoubtedly beneficial, also demonstrates a lean towards the corporate model of governance. The LLC in certain states is a further indication of the corporatization of law firms.

<sup>19</sup> *Scales of Success*, *supra* note 2 at 199.

<sup>20</sup> *Gender and the Legal Profession*, *supra* note 1 at 199.

contributing to society through *pro bono* work. Co-participants in O'Donovan-Polten's study noted that *pro bono* services have been relegated to personal time, whereas before, they could be integrated into professional time. Because they encroach on personal time, women in this study were required to make a decision between decreasing family time, or decreasing the amount of *pro bono* work that they did.

## V. SOLUTIONS

There are various factors that could be considered in measuring performance other than billable hours, such as quality of work, attention to detail, client feedback, and productivity. The pressure to put in "face time," which refers to the time the lawyer is at work and appears to be working, may force lawyers to be present at the office without always being as productive as they might if they knew they had to be out by a certain hour. What might be assessed is not only how many hours were put in, but the quality of those hours.

The argument on the other side, as mentioned by several of Brockman's respondents, is that in our age of immediate gratification, clients have become more demanding, and as a result there is a need to be at work all the time to respond to the clients need to "do it now." Similarly, critics argue that women are more likely to want to work part-time, or leave the firm altogether, which can be financially costly to firms.

A female respondent in Brockman noted that:

[Y]ou have to acknowledge that, with women, the experience is that they're more likely to sacrifice career for family, whereas men are not expected to do that. So, in economic terms, it's harder for law firms to make that investment in a female, because the investment, which is expensive in the first few years, may never pay off if she takes off after three years ... and says, 'I want to go and do in-house counsel, or I want to do my master's, or I want to go to Paris, or I want to get married and have kids.' The men don't do that.<sup>21</sup>

That same respondent noted that:

Even though we talk about part-time partners, the reality is that male partners feel, 'Why should I support part-time partners when I put in 100 per cent?'...And it's not just from the male lawyers either; sometimes it's female partners who chose not to have kids or have not married and they say, 'well, I've sacrificed, I never expected any special treatment going through, why should you?'<sup>22</sup>

---

<sup>21</sup> *Ibid.* at 87.

<sup>22</sup> *Ibid.*

These comments reveal the need for a shift in the corporatized approach to law firms. First, it ought to be in the firm's economic interest to retain lawyers who do the highest quality work. Therefore, it would make economic sense for firms to accommodate lawyers with child care and household commitments so that the best lawyers can be kept.

Second, it should be recognized that both men and women are suffering from the corporatization of the law firm, as well as the societal expectation for men to continue working long hours, while women have the option, although often it is not a true choice, to decrease hours while child rearing. As O'Donovan-Polten writes, "The lives of men are also circumscribed by the restrictive role prescriptions imposed on them within the patriarchal system, since men are both its instruments and its victims ... Not only are men estranged from themselves ... they are also commonly quite patently estranged from ... their wives and their children."<sup>23</sup> Further, Brockman notes that exorbitantly long hours at work each day affect women and men's psychological and physical health.<sup>24</sup> O'Donovan-Polten's study indicates that:

A successful career in law ought to be characterized by a judicious and honourable balance between personal and professional life ... It is therefore incumbent on law firms to reconsider expectations which seriously impede lawyers' fulfillment of their personal commitments and the maintenance of a reasonable personal-professional life.<sup>25</sup>

Simply put, both men and women will only be able to achieve success through a reasonable balance of personal and professional commitments; for this reason it is not only women who are demanding more flexible hours of work and recognition of their personal lives. Today, men are becoming aware of the loss they experience by spending so little time with their family, and are also demanding that changes be made at work.<sup>26</sup>

---

<sup>23</sup> *Scales of Success*, *supra* note 2 at 193.

<sup>24</sup> *Gender and the Legal Profession*, *supra* note 1 at 214.

<sup>25</sup> *Scales of Success*, *supra* note 2 at 199.

<sup>26</sup> If the current corporate ethos of exorbitant billable hours also has a toll on men, who are often in the more powerful position to change the norms, why has there been little change? O'Donovan-Polten suggests that men may perpetuate the system in their reluctance to sacrifice their positions of power:

the male-female division of labour in the traditional family and the conventions of legal practice function in a complementary fashion for the benefit of male lawyers, and that as unwitting instruments of the patriarchal system many male lawyers are, not surprisingly, reluctant to surrender their privileged status within the context of its prescribed

Brockman suggests that, since economics are clearly a driving force for many lawyers, an economic solution to change societal norms, through various changes in the law, is required. Presently, employers consider one overworked employee to be worth more or to be more efficient than having two employees who would share the work. Legislation could alter this so that it would cost more in benefits, payroll deductions, and taxes for firms to hire full-time overworked lawyers (who work fifty to 100 hours a week) than to hire lawyers who worked thirty or forty hours a week, which would cause firms to adjust their hiring practices.<sup>27</sup>

Internally, firms can also alter their practices and maintain an economically viable practice. Offering part-time positions, as well as part-time partnership tracks are all solutions that could assist both men and women lawyers to balance their lives in order to achieve life and career success. Lawyers who accept what are currently considered to be alternative positions would clearly need to accept proportionately lower pay, and might also need to accept office sharing between two part-time lawyers so that office space can be economically justified.

Moreover, *pro bono* work might be valued from the perspective of the eminence brought to the firm through work on meaningful and sometimes high-profile cases. In addition, from an economic perspective, the various contributions that men and women provide through involvement in educational, artistic, and other activities, all bring connections and esteem to a firm. The current corporatization of the law firm risks severing these connections as lawyers are forced to forgo their contributions to bill more hours.

Firms may also perhaps be concerned over the possibility of shattering their image as hard core, cut-throat corporate, with the implementation of alternative solutions and practices. As exciting as the possibility of a day care in the building of a large firm would be, for example, this implementation could be viewed with skepticism by large corporations consisting of "old boys clubs," which constitute crucial clientele for large firms. Yet such alternative solutions could have a positive impact on lawyers lives, as well as a positive economic impact by improving

---

arrangements. *Ibid.* at 193-4.

<sup>27</sup> *Gender and the Legal Profession*, *supra* note 1 at 214. It is interesting that during the 1950s through to the 1970s, predictions in Canada and the United States were made that hours of work would decrease in the future. Amusingly, U.S. experts in the late 1950s predicted that by the early 1990s, workers would have "a twenty-two hour week, a six month workyear, or a standard retirement age of thirty-eight." *Ibid.* at 208.

the quality of their performance, and by enhancing the socially progressive reputation of the firm.

The reluctance to implement alternative solutions returns once again to the need for a societal shift, in addition to an internal shift within the legal profession. As Brockman points out:

Both the workplace—its workaholic culture—and the home need restructuring before women can be on equal footing in the legal profession ... the elimination of discrimination in the legal profession will have to involve not only changes by law firms and law societies, but also changes to laws and societal norms.<sup>23</sup>

The legal profession, however, is in a powerful position to set an example and create precedents for other facets of society, and for society as a whole. Lawyers constantly face challenges, meeting them with surprising ingenuity. This creativity suggests that the inflexibility that many firms have thus far shown in failing to devise alternative solutions reflects an unwillingness, rather than an impossibility, of creating satisfying and economically viable career solutions. Both O'Donovan-Polten and Brockman demonstrate that in order for the practice of law to maintain excellent lawyers, particularly in large firms, there is a need to restructure and reorganize their practice norms and conventions. We can hope that firms will meet this challenge.

Andrea Unikowsky, LL.B.  
Osgoode Hall Law School  
York University

---

<sup>23</sup> *Ibid.*

