

One woman's experience of commercial practice

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For this article I was asked to set out my experiences in practice. In preparing the article I reflected on the things that I believe have shaped me as a woman and a commercial lawyer, the reasons for my choices and how these have affected my experiences. One thing that struck me is the lack of women role models or mentors for me in law and particularly in commercial/company law. In my experiences, I felt their absences deeply. In this article I relate my experiences as a woman specialising in commercial/company law in a large commercial practice and, in doing so, I hope to explore some of the reasons why there is a lack of women role models or mentors.

What shaped me as a lawyer? Like many women, I am part of what I call, for want of a better description, the "transitional generation". My childhood was spent in a traditional home. My mother, like many women of the 1950s, possessed traditional feminine qualities; she never raised a word in argument or opposition to my father. She was a devoted wife and mother. She was, as well, a devout Catholic holding all the Church's strict views on the role of women and women's issues.

It was not until the time of my adolescence in the late 1960s that my mother discovered the women's movement. She joined a support group for "women in transition" and became active politically on issues affecting women.¹ It was then that for the first time in my life I began to witness my mother and other significant women in my life, speaking out for their rights: the right to live and be employed on an equal basis and in a non-harrasing environment; the right to reproductive freedom and so on.

Due to the changes my mother went through, my experiences of her that shaped me are conflicting.² She strongly encouraged me to pursue a career, both before and after my two children were born, yet my own childhood experiences were of a full-time mother who focused primarily on home and family. In later years, my mother became very vocal in her assertion of women's rights, yet my own experiences as a child were of a non-assertive woman who accepted a traditional role. I feel the play of this conflict often in my life. It is to me, in a sense, the "ties that bind", affecting choices I have made and probably will make in the future. I know other women who share these feelings. However, I believe that the feeling probably will disappear over time as more

1 My mother was a member of the National Organisation for Women and the Women's Political Caucus. In 1977 she became the head of the South Dakota chapter of the National Abortion Rights Action League and was a member of its national board and of the founding board of the South Dakota chapter of Family Planning until her death in 1991. In 1983 she was chosen by the South Dakota Women's Political Caucus as Pioneer Woman of the Year for her efforts.

2 She probably should have read Betty Friedan's *Feminine Mystique* (Dell, New York, 1965) to us at bedtimes to help us make the transition with her.

and more women take responsibility for their lives, choose to work outside the home and become the role models for future generations of working women.

I certainly felt the lack of working women role models and mentors. I believe this lack is one of the biggest problems for women of my so-called "transitional generation". My mother was a well educated woman, but during my childhood she did not work in paid employment. She did not struggle with children, career and home.³ She could not offer me any practical (although she did offer much moral) assistance on how to manage a career, particularly a career with children, how to cope with the "old boys' network" or how, possibly, to create one for women. Today, there are a few more women to serve as these models for working women, even some in law. My daughter will have one in me. But for me as part of the transitional generation, there are too few.

My father worked hard to keep it all financially together for a large family, even though his medical practice took him away from us and greatly diminished his input into my life. He is man of great compassion. He grew up in a small farming village, then moved on (about 60 miles north). But, he never forgot his little town. We had the oddest collection of people at our back door, very poor, some toothless, dropping off bags of corn or some chooks, probably payment in kind for some treatment. He instilled in me a sense that there was something "not right" with a world where people were forced to live in such a state of deprivation. I think that he could have been a mentor in my life but for the fact of his small input.

He also taught me that so long as you work hard you will succeed at what you do. While it is an admirable thought, I think now that he was naive. I do not believe that my father understands the difficulties of being a woman in a man's world. He did not really mean for his daughters to be in that world. I recall him saying to a tableful of his eight daughters, women in law, medicine, banking and engineering, that he had pushed us all into the professions so that "if your husbands die, you can take care of yourselves". He could not empathise with the indignation I felt during my first legal job, a plum United States federal clerkship, when I was always upstaged by my fellow clerk, a man who played poker with the judge⁴ and went for after-work drinks with the court reporter, even though I produced the draft opinions required to clear the judge's docket of reserved decisions and was more conscientious about the job. Being a man, my fellow clerk was able to form very close, casual relationships with the judge and other men that served him well professionally. Nor could I turn to my father for guidance or support on my first day on staff at New Zealand's Securities Commission when all Commission members and *male* staff went to lunch at the all male Wellington Club.⁵ My father had always refused to belong to the Elks Club, a fraternal organisation

3 But I think she was deeply unsatisfied with the limited scope of her life; I'm not often with mine.

4 I understand that a woman law clerk subsequently did insist that she be allowed to join the poker game. We need to remember that our role models may not necessarily be "ahead" of us.

5 To the Commission's credit, it was the last time, at least during my tenure there, that the Commission and staff took lunch at the Wellington Club. There are now two

in the United States, because of its racist policies, but was a lifetime member of the Rotary Club, even though it refused to allow membership to women.

For me, the lack of any female role model/mentor has had long-lasting consequences. I had always planned to use my Spanish and law to work in legal aid (federally funded legal services to indigent persons in civil matters) in one of the border communities in the southwestern United States. The experience of my father's care for the poor and my mother's growing political awareness had inspired me.⁶ I wanted to help the transient farmworker, made up almost entirely of Mexican-Americans, many of them illegal immigrants. The conditions of their lives were tragically underprivileged.

However, in law school, two things happened. First, I found that women were *expected* to go into areas like poverty law and domestic law. These areas were considered suitable to women's nurturing qualities. Women classmates who were interested in commercially oriented law and who were fortunate enough to be hired by the larger, commercial firms, usually were placed in the firms' domestic law departments. I felt that these women were being ghettoed. It was difficult to feel that they had succeeded in their goals. It seemed to me then that to be truly successful I needed to earn respect in a male-dominated area of law. (In retrospect, I realise that it is not the women, but the issues, that are ghettoed.) I did not wish to be part of a ghetto. I deliberately began avoiding courses in areas like domestic and poverty law.

Secondly, I found a mentor (a man). Like many people, my mentor's field of interest became mine. It was commercial/corporate law. A far cry from poverty law. Such is the strength of a good mentor - he or she can have a lifelong effect.

So I chose to work in the areas of commercial, company and securities law. I found that the number of role models/mentors for women rapidly diminished. When asked, senior partners in the large commercial firms tell me that women leave to have babies. But this hardly answers my question, since many of the women that leave the firms do not actually quit paid employment. Why do so many leave? My own experiences lead me to conclude that it is for a number of reasons; to work within the home and family is only one of them. Attitudes towards women in the commercial environment from employers and clients (almost always men), acceptance of, and confidence in, advice provided by women, a feeling of isolation, particularly as one's position increases in seniority, how one defines "success" in one's life, and the lack of mentors, all input into the decision.

Women can be successful in a commercial practice. Hard work does pay off. But there is more involved than law. Big firms today aim to be considered as part of their clients' decision-making teams. Getting to this point requires much more than law. It

women members of the Commission, Judith Potter, a lawyer, and Elisabeth Hickey, an accountant.

6 The grape and lettuce boycotts of the 1960s and 1970s were my first experiences of my mother's growing political awareness. For information about the boycotts, see R Acena *Occupied Area: a History of Chicanos* (Harper & Row, New York, 1981) 268.

requires that lawyers possess good interpersonal skills, not only the ability to talk to clients about their legal affairs, but about their businesses as well, the abilities to "work a room" at large gatherings of clients and potential clients and to build out-of-work relationships. I found that to be done well this can be all consuming and, at times, quite stressful. I use "stressful" because I found that most men are not comfortable talking to women about these matters, many feel threatened, many do not take women seriously and some are simply opposed to women being in the job at all. In my case reactions included being referred to as the supervising partner's "girlfriend", regularly being quizzed about my childcare arrangements and how my husband coped with *my* job. I had no women role models on my job or in my personal history to help me deal with these uncomfortable situations. I had not learned to be assertive or how to handle such matters from my mother. There were no senior women to me in my firm that I could turn to for guidance.

Extra-work relationships established between a male client and his female legal adviser are difficult and uncomfortable for women as well. I found them difficult because I had other commitments in my life, like children. Client entertainment is a regular part of a partner's and senior solicitor's job and usually is done in the evening. I found them uncomfortable because references to women performing the task were usually met with smirking suspicion and/or shock/horror. To whose detriment? Almost certainly the woman's. One can just imagine the reaction a woman would receive upon saying, "I'll discuss the matter with client Mr. X when I meet him for golf on Saturday or for dinner tonight". One woman in my firm was fortunate to have a spouse who was willing to play a role in her client relationships. I think he was unusual. I do not mean that these extra-legal skills cannot or have not been used by women, only that it is far more difficult for women to do successfully.

The problems that I faced are not the type that can be easily pointed to and eradicated. They are systemic, so much a part of our culture⁷ that in the above situations women can feel as uncomfortable as men. So it becomes easy for men to say (or more likely their behaviour to imply) that it is not really natural for women to be in these situations. Let's save everyone from the embarrassment, particularly if it is a client. I do not wish to imply that women are driven out of large commercial firms by blatant discrimination. I do not think that is the case. But until the culture has changed, at least for me the difficulty remains.

In private practice, success is usually viewed as the establishment of a sound practice and/or the receipt of an offer to join a partnership. In the large commercial firms, this offer usually comes anywhere from five to ten years after joining directly from university. What does it mean? I found that partners in my firm worked harder and longer hours than their staff. They not only were the place where the proverbial "buck" stops on legal advice, they were also the "rain-makers", who "drummed up" the firm's business and the managers of a substantial business. They had to be good lawyers, good

7 I recall my mother reprimanding me after I was married for having lunch alone with a male university friend.

marketers and good businesspeople. That is a big order to fill. Most were good at some of them; few were good at all.

My experience of recruitment for a big firm indicates that the large firms attempt to get people who can fill these roles, ideally all of them. Women are often caught in a dilemma here. For example, a good "rain-maker" is someone whose self confidence, ambition, assertiveness, competence and contacts will attract clients naturally. A man possessing these qualities will be recruited heavily by the firms. However, a woman displaying these qualities will often be seen by men as aggressive and threatening, if not by clients, then by her own potential employers. The phrase "act like a lady, work like a man" is particularly apt here. A woman walks a fine line here and I know a few who finally gave up trying.

I always found it necessary to get an initial reading on a client's willingness to accept a woman adviser. If I felt they were uncomfortable or threatened by my presence, I had to adjust my approach accordingly. My early experiences of my mother's traditional feminine qualities served me well in those situations. But what do we give up of ourselves when we make these "adjustments"? Unquestionably, all people, not just women, have to make adjustments when dealing with clients. But I resented the fact that no man I worked with had to have his antennae out for a response based on his gender alone.

It is easy for firms to pay lip service to the needs of their women staff in juggling their multifaceted lives. I found that in a large commercial practice the reality is that if you are a success then your success will be defined by male terms. By this I mean that your personal life remains separate and subservient to your professional one. My male colleagues had fewer personal commitments in their lives outside of work. They were not often required to fully manage a family, home and career even though they reaped the benefits of having all of them. They were able to focus on work to the exclusion of all else. Women who chose to be successful as mothers as well as lawyers often found that their commitment to the firm was questioned. While the firms are all keen to show off their one or two women partners, they are less keen to disclose that all partnership meetings and most client functions are held outside of normal working hours, that there are no daycare facilities or subsidies provided by the firms and that there is nothing more than a very haphazard approach to maternity leave and child rearing issues. The idea of job sharing or part-time work is often met with the response that it would not suit the clients. (Ironically, most of the clients probably have some form of flextime in operation already.)

Earlier in this article I alluded to my views, as a younger woman, that to be a "success" one had to earn respect in field of law dominated by men. I experienced "success" in private practice in commercial/company law, but it was on men's terms. I always was careful not to let my personal life, my home and children, interfere with my professional life. I never objected to the meetings and functions scheduled outside of normal working hours. The bottom line is that in a large commercial firm I do not

think a woman can be "successful" on other terms and I think it is fundamental to why so many women leave. Robin Morgan says that "for women, life itself is a radicalising experience".⁸ I feel that I now know what it was like for my father to have no input into his children's lives. I remember one weekend not being able to recall one thing my children had done all week. For me as a mother, "success" had too high a price.

Since there are so few women in commercial/company law, as I became more senior I also became more isolated from other women. I think this has to do with a number of things, one of which is that there were few women at upper levels in the firms, particularly women with children.⁹ Also, and probably of equal importance, it has to do with competitiveness, which I believe is aggravated in the case of women because we know that only a few women will be allowed "up there" before men begin to feel that there are too many.¹⁰

It is a vicious cycle; so long as the numbers making it through the "glass ceiling" are small there will not be the critical mass needed to force through changes to the firms' policies affecting women, but more importantly, to the whole culture of commercial practice. Women in the commercial legal world will continue to feel that it is a man's world and that the road to success is designed and paved by men. There will also continue to be a dearth of women mentors.

I made the decision to leave private practice for many of the reasons discussed above. I chose academia, in part, because it is often distinguished by its flexibility and forward attitudes toward issues such as paternal leave, childcare and the like. Whether that same position of leadership exists on other women's issues, such as encouragement and promotion of women through the "glass ceiling", I cannot yet say.¹¹ Occasionally I have felt tempted to take up my old causes, however, I will remain in the commercial/company law area. I believe it is as important for women to have women teaching in these areas as it is for them to have women in these practices. Women should be encouraged into these fields if that is where their talents are. Perhaps if more women enter the field the required critical mass and the mentors for the next generation will be there and it will not be a man's world any longer.

8 "Look Forward in Anger" *The Dominion*, Wellington, New Zealand, 15 February, 1993, 11.

9 To me, the age differential itself is not significant; the stage of the life cycle is.

10 See S Faludi *Backlash: the Undeclared War Against American Women* (Chatto & Widnus, London, 1991) 86.

11 I am not aware of any literature in New Zealand on this topic. In the United States since the early 1980s the majority of university students are women, but full-time faculty women are only 29% of all faculty. Women represent between 30-40% of assistant professors (entry level for academics) "but at the associate level, it starts dropping. Not much more than 10 percent of full professors are women, which is the level it has been for years and years. So the glass ceiling in higher education is really tough." J Touchton, deputy director of the American Council of Education's Office of Women in Higher Education in T Obermiller "The Big Chill" *The University of Chicago Magazine*, Chicago, USA, June 1992, 16.