

Welcome to the women in the law edition of *Balance*

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In the 04/2010 edition of *Balance* then Law Society Northern Territory President Mr Matthew Storey walked through some figures of the Society for December 2009. Two years later it is time to once again look at the Society's vital statistics particularly to see where women stand.

But before we do, since December 2010 a number of women have stepped in to the spotlight.

In June 2010 Ms Julia Gillard became Australia's first female Prime Minister. In less dramatic circumstances Ms Peggy Cheong became President of the Law Society Northern Territory in October 2011, joining such other notable professionals as Allison Smart (nee Robertson), Merran Short and the trail blazing Nerolie Withnall, President in 1977. Ms Catherine Gale became the third female President of the Law Council of Australia in January 2012. In December 2011, Australia's first federal Attorney-General, Ms Nicola Roxon, was sworn in. In October 2011, the Northern Territory was given its first female Administrator, Her Honour, the Honourable Sally Thomas AM. At the present time, four out of nine Magistrates are female, but there are only two female Supreme Court Judges from a cohort of six.

Turning the spotlight on the profession Matthew noted that in December 2009

- 49% were women
- nearly 20% of the profession practised outside of Darwin

- There was an even spread of women in Darwin and remotely
- There was pronounced post admission attrition, particularly for women over time
- Women held only 35% of the unrestricted Practising Certificates

In two years there have been a few minor changes. In December 2009 we had a total of 489 practising certificates which had increased to 523 as at December 2011. Interestingly this figure can show significant variance from month to month – at 31 October 2011 we had 473 total. Leaving that to one side, it would appear that now there are more women than men in the Northern Territory profession,

Women in the law 2009 - 2011

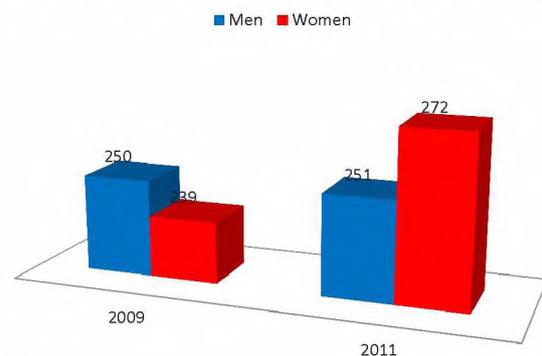


Fig 1

52% up from 49%. See figure.1.

But it appears that this majority falls dramatically when looked at from the standpoint of practising

Practising Certificate type

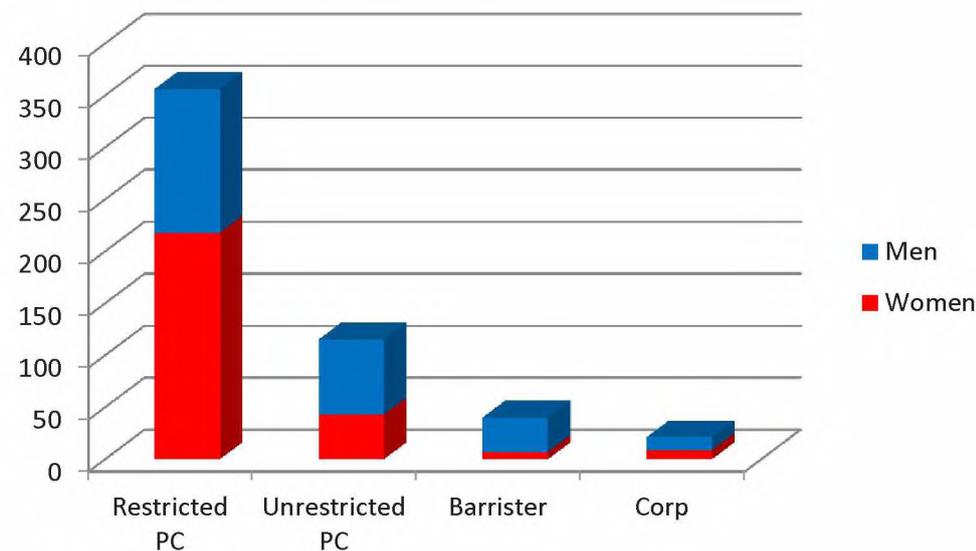


Fig 2



Darwin vs. Rural / Remote 2009 - 2011

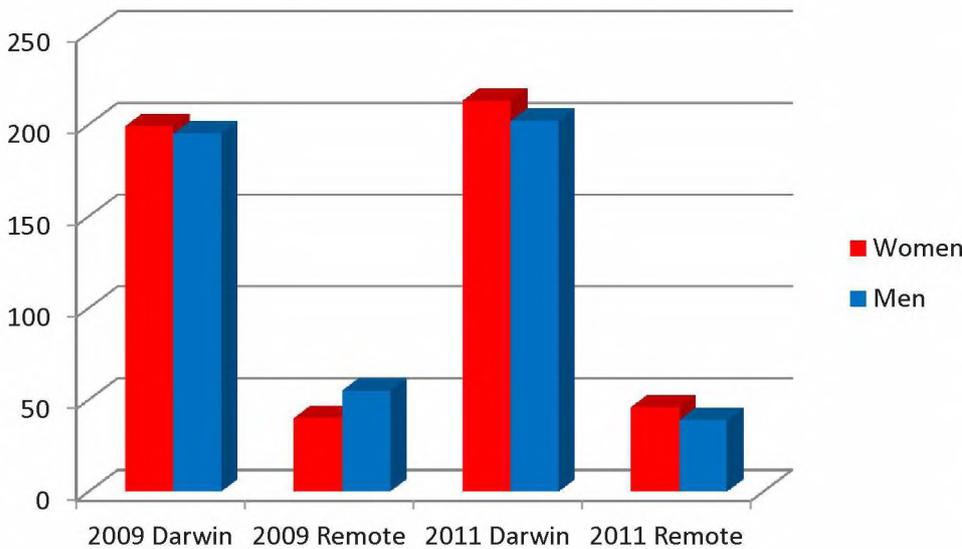


Fig 3

certificate type. In 2009 Matthew noted that women held 35% of unrestricted practising certificates, in December 2011 this had increased to 37%. What continues to be evident, is that men are in the majority at a senior level. Of a total of 40 barristers, only seven are women but this compares well with the national average.

A breakdown of Darwin v rural/

remote, shows that since 2009 women have marginally increased in remote (outside of Darwin), and men have marginally decreased.

When considering the 2009 figures Matthew raised concerns about attrition rates post admission, particularly for female practitioners. This concern was again evident in figures as at October 2011, where there were a total 473 practising

certificates, of which 223 were women and 250 men. When looking at years of practice the decline in women in the profession continues to be alarming.

One factor that is frequently referred to as explaining the gender difference is maternity leave. I agree that maternity leave must be a factor, but this does not explain the overall decline in practitioners 6-14 years post admission, with significant disparity between men and women at 15 years plus. Clearly people are leaving the law, but even more significantly, women are not choosing the law for the longer term.

This is reflective of national trends.

Another factor that is considered by some to come into play is the role of government. Interestingly, the majority of the Territory profession is in Government. In some jurisdictions you could guess that the profession moves from private firms to the "super firm" (government), but this is not necessarily the case in the Northern Territory where legal roles within government carry practising certificates. I am frequently asked how private firms can compete in the market place, but that is an issue for another day.

Plenty of opportunities exist to lure young lawyers from the private profession to non-legal roles where pays will outstrip the private profession by tens of thousands of dollars. Non-legal roles have always held a strong attraction for my sister lawyers. Generous pay in the early years coupled with good leave entitlements, well structured workplace policies, and varied work has often been cited as the main attraction. When coupled with the possibility of breezing out of the office at 4:21 in time to pick up the kids or take a jog along the foreshore where do I send my CV?

If these lifestyle factors are the driver, then I could conclude that the disparity between the number

Practitioners by years of experience

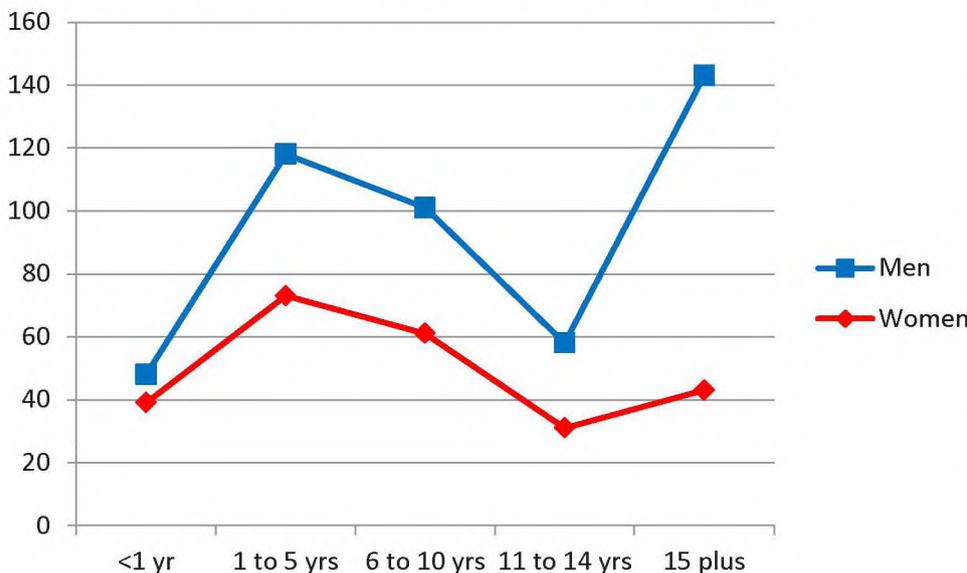


Fig 4

of women and the number of men sticking with the law reflects something else, not merely that we have all moved on to non-legal roles elsewhere, but that we have got wise about work-life balance. I cite colleagues who have escaped the unit/budget grind to become doctors, social workers, photographers and magazine editors.

No matter how you look at it, these figures mean that a wealth of knowledge and experience is walking out the door and the profession needs to look at ways to stop the march. What the profession puts in to its young lawyers by way of training and mentoring is not being returned to the profession in those later years; most acutely for women.

Law societies around the country continue to tackle this issue. The Law Society of New South Wales figures¹ note that despite women being increasingly represented in the profession (41%), this representation drops markedly when you look at managing partners of large or medium firms (23% large 18% small to medium firms). The Law Council of Australia is undertaking a scoping study to investigate recruitment and retention of women lawyers as a national priority.

Increasing the number of women at the bar is never off the radar for the Society. President of the Northern Territory Bar Association, Ms Raelene Webb QC, considers that the key to addressing this issue is to ensure there are flexible options, strong role models, and that women can tap into the wealth of knowledge and support that exists either through formal or informal mentoring relationships.

The Law Council of Australia's equitable briefing policy proposes that firms report against targets for briefing of female barristers. When it comes to partnerships, can we require firms to report against benchmarks similar to ASX listed companies? Clair Braund,



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Executive Director of the Women on Boards group, reflected on the experiences of Norway who have had some success in addressing gender imbalance at the board level by imposing quotas.

*'In Norway, having children and working are regarded as the two major contributions an individual makes to the economy and well being of society as a whole – so it is in everyone's interests to make them mutually inclusive, rather than mutually exclusive. This thinking has driven its social reform programs over the past 30-40 years.'*²

Clair comments that, working at the top level first off appears to have succeeded and is providing a strong foundation upon which Norway is now addressing the 'pipeline' issues; ensuring there are enough women at all levels of management. Interestingly, Norway noticed that women in these board roles were significantly younger than their male counterparts. The pipeline issues for the profession appear to be valuing our women and giving them incentives rather than obstacles to return to work.

Australia increasingly acknowledges the importance of families and early childhood development through measures such as paid maternity leave and the Early Years Learning Framework. At the same time, Australia has taken steps to address the gender imbalance at board level. The landscape is changing. Can the

legal profession keep pace?

As a woman, I always expected that childrearing would hit me in the hip pocket, that my career would stall, and the cost of childcare would outstrip the pittance I could earn working part-time. I also expected to be making excuses for a busy father, often working late, frequently out of town, and generally ground down by a busy work schedule. Whilst being ambitious in my chosen profession, I was prepared to let it all slide to fulfil another equally important social role. And, whilst for me this was always part of the equation, for my male colleagues it comes as a pleasant surprise.

How can we entrench this dual social role within the profession? Is it quotas in law firms, flexible work practices, family fun days, or building courthouses with child care facilities? What we know is that it is not just changing the people who do the job, but the way it is done, and giving incentives to return after maternity leave and stick with it over the longer term. Is it time to abandon the "anywhere/any time" business model?

Let's face it, someone has to pick up the kids.

Until we meet again. ●

Footnotes

1. www.lawsociety.com.au/about/news/579224
2. <http://www.womenonboards.org.au/pubs/articles/cb1012-summary.htm>