

By Noor Blumer

WOMEN LAWYERS, you can't live without them

A personal perspective

In this article, I am going to explain what it has been like and what it continues to be like for many women lawyers.

It is well known that women were 'late entrants' to the legal profession, so we were up against it from the start.

In 1979, I was asked by my father-in-law, a country solicitor, what I intended to do with my life. When I told him I wanted to be a lawyer, he said "Women can't be lawyers."

In the late 1940s, his own father, also a country solicitor, had said the same thing to his own daughter when she had said she wanted to study law.

This article is not going to provide a lot of empirical data;

you can assume that such data is depressing. Nor am I going to discuss the various obligations under employment, human rights and discrimination laws. Nor will I quote from what eminent persons have said about the whole awful situation.

In 1965, when former High Court Justice, Mary Gaudron, graduated from Sydney University law school as a university medallist, she was unable to obtain employment as an articulated clerk because of her gender, and so entered the public service instead.

A colleague told me that, in the early 1980s, he coached a mock trial team for a local private school and one year he had a terrific team, which was all girls. They were up against an all-male team from one of the local public schools. The mock trial judge was a local solicitor well into his 70s. At the end of the trial, the solicitor pronounced judgment: "The girls' team won on the points and were a better team, but I am awarding the win to the boys' team as the girls are unlikely to ever be lawyers." I think he was quietly taken off the list of mock trial judges.

When I was first admitted as a solicitor, a male law clerk of Mediterranean descent, part-way through his studies, said to me, at a legal meeting, "Congratulations on entering the legal profession, we need more women in the law." I'm afraid I was somewhat abrupt with him at the time and said, "that would be like me saying to you, welcome to the legal profession, we need more short Italians". He was very shocked, as we had always been friendly. I do not feel proud of this answer and have since apologised to him. I have explained that, at the time, I felt it was patronising for a person not yet qualified himself, to welcome me into a club of which he was not yet a member. The perception was that as a male, he was already in that club and I obviously wasn't.

I remember sitting at the bar table in the local court in about 1997 and having the magistrate address the court in the preferred manner of "Good morning, gentlemen." He did apologise to me when he realised, and I didn't really take much offence. I kind of understood what a comfortable thing it was for him to be able to say "good morning, gentlemen" as it rolls off the tongue very nicely. Nonetheless, it still made me feel that I was a bit of an intruder.

At about the same time, a circular/practice note came from the Parramatta Family Court with words to the effect of, 'women lawyers appearing in trousers will be seen'.

Many years later, in 1991, I had finished my legal studies and started working with my father-in-law as a country solicitor. Despite his earlier comment, he thought well of me as a solicitor.

When I became a partner in 1998, the first-ever female partner of a law firm in the Riverina Law Society, my father-in-law had some trouble coping with the ramifications of my new status, particularly when it came to allowing me a car, like the other partners.

My time as a partner there was short, mainly for other reasons, and my husband and I moved to Canberra late in 1998.

The move to Canberra was a big one. Here we were, in a big metropolis, and I looked forward to a more 'chick-friendly' legal community.

I was surprised that a firm with which I had dealings had never employed a woman lawyer, and I was told by a former employer that this was a deliberate policy. That was in 1998, and I can recall that, at that time, there were still many firms that mysteriously didn't employ women as lawyers. I think you would be hard-pressed to find an all-male firm today, but there are still a few with no female partners.

In about 1999, I was in the Supreme Court when a young female colleague was reprimanded by a judge and told "You're playing in the first 11 now." Cricketing and football terms are often fondly used in the courts by certain judicial officers on the assumption that all those appearing in court closely follow cricket and rugby. I have found it useful in my professional life to take some interest in rugby in order to participate in such banter from time to time. I have also found it sensible to take an interest in such sports at home as well, particularly when my daughters left home and my only companions were my husband and two sons. In the end, I managed to develop some mild interest in rugby myself. It is simply sensible and good manners to take an interest in what interests others in any relationship.

I use these anecdotes as background to why I felt, notwithstanding my own good fortunes in my career and my great colleagues both male and female, that young women entering the profession feel less than welcome, less than accepted and the second-class citizens of the legal profession.

While this may be interpreted as paranoia, it was borne out by statistics that, notwithstanding many legislative improvements, have not much improved at all.

The proportion of lawyers who are women in NSW has increased from 20 per cent in 1988, to about 49 per cent in 2010.

One of the most upsetting circumstances is that, in NSW, 'males are earning an average of \$5,000 more than females in their first year and almost \$12,000 more per annum in the first five years'.¹ Ouch! This is before factors such as babies have entered the equation. Are young men and women straight out of law school sitting in adjacent offices being paid entirely differing amounts? That difference for all lawyers shows women earning \$28,600 per annum less than their male counterparts in full-time work.²

I discussed this state of affairs with an expert in legal practice, who commented "Of course, Noor, I could never say this, but ... particularly in the country, young men command a premium because they don't take time off or leave entirely to have babies."

Our law firm still gets letters from other firms addressed to 'Messrs Blumers'. In this day and age, the assumption that all partners or directors of law firms are men is plainly rude.

Yet, on becoming the 25th president of the ACT Law Society this year, it was sobering to realise that I am only the second woman president, and that the last female president was elected in 1995.

All practitioners need to actively identify their own tendencies to discriminate and deal with them in a positive manner. I have developed a series of practical rules for helping a legal workplace to avoid gender discrimination.

Try these:

1. Regularly assess the salary packages provided to your staff and make sure that you aren't inadvertently discriminating.
2. Consider the family and other needs of all staff when organising staff meetings, functions, and retreats.
3. Actually review and implement those sexual harassment >>

and anti-discrimination policies that we routinely 'bung' into our employment agreements.

4. If you have regular informal 'bonding' activities that are not attractive or suitable to your female employees, such as 'Friday night drinks', try and find another time or format for get-togethers as well.
5. When addressing other law firms, use 'Dear practitioners' or 'Dear colleagues'.
6. It is no longer polite to refer to 'chairmen'; 'chairs' is very acceptable in all circles and barely noticed.

For my women colleagues, there is much we can do to assist our own cause and that of our sister lawyers.

The first thing you can do, to help yourself, is to acknowledge your own ambition. When I first became a lawyer, I was so grateful to be allowed to be a lawyer in the first place that I did not turn my mind at all as to what sort of lawyer I wanted to be and what sort of career I wanted to have. I was fortunate in that my firm needed a litigation lawyer and that is what I became. This suited me and has continued to suit me very well. A large part of my work was personal injury litigation. In the early 1990s it was starkly obvious that there few women in personal injury law, either as plaintiff or defendant lawyers. Slowly, the penny dropped. Personal injury law generally was a good earner. The more you billed, the greater your status in the firm and the more likely your progression to high pay and partnership. So don't be afraid to acknowledge, if only to yourself, that yes, you would like to be financially successful, and then work out what area of work would best achieve your goals. And don't feel guilty about it.

When I started work in the country, I was faced with a dilemma on the first day. All the solicitors were men and were brought their morning tea to have in their office while they continued to work. A senior secretary popped her head into my office on the first morning and asked me if I was going to have my morning tea brought to me in my office or join 'the girls' in the tea room. This was a fair question and part of me just wanted to seek refuge in the company of the tea room and not desert the sisterhood or to be seen to be placing myself above them, but instead I screwed up my courage and managed to say that I would have my morning tea in my own office, thank you very much.

The NSW Law Society 2011 report on advancing women in the legal profession shows that more young women are leaving private practice than men and more are moving into in-house roles.

It is a shame that more women lawyers are not persisting in private practice, as this can be the most satisfying area when you reach partnership or similar levels. You can be master of your own destiny and control your own time and priorities. It is my experience that it is generally more satisfying to be at the top of the tree being the nuisance, than being further down the tree and having to put up with other nuisances.

In fact, the most independent lawyers are those at the bar. What a career: scary, financially precarious for some, requiring a high degree of courage, hard work and commitment. If you are brave enough for the risks, the

benefits can be fabulous. Exciting work, status, money, and the excuse to wear fancy clothes.

Such felicity can be achieved in the higher levels of the public service and corporate environments, but one will remain subject to the stressors of changing governments, corporate owners and CEOs.

I have formulated some handy hints for women lawyers and realise that many of them are simply good sense for anyone, but here they are anyway:

1. Be generous with your experience and make a point of mentoring other women.
2. Identify the real options in your legal career, including the financial and advancement benefits as well as the importance and fulfilment of the work.
3. Consider taking on equity partnership or going to the bar, notwithstanding the possible financial risks and burden.
4. Don't be overly afraid of criticism or failure. A lawyer who has never lost a case or made a wrong decision hasn't been trying hard enough. It's how you deal with your mistakes that is the measure of your character.
5. Make sure you recognise a good opportunity when you see it, and make sure you take it up; you never know if and when you will see another.
6. If you are inclined towards having a family, have as many children as you can while you are young; you can't buy them later.
7. Be a finisher, someone who takes on a task and can be relied on to carry it through in a timely manner.
8. Try to avoid relying on your looks and feminine wiles to get on in the workplace. You will not be respected by your peers, and as you get older it doesn't work as well anyway.

Having provided my own random tips, I suggest that you turn to more useful and practical suggestions for legal employers and for your career, as provided in the Law Society of NSW Thought Leadership 2011, 'Advancement of Women in the Legal Profession' project report and recommendations, to be found at www.lawsociety.com.au/idc/groups/public/documents/internetcontent/579007.pdf. ■

Notes: 1 'Advancement of women in the professions', *Report and Recommendations*, Law Society of New South Wales, 2011.

2 All statistics and conclusions referred to are from the Law Society of NSW Thought Leadership 2011, 'Advancement of Women in the Legal Profession' project report and recommendations, to be found at www.lawsociety.com.au/idc/groups/public/documents/internetcontent/579007.pdf.

Noor Blumer is a director of *Blumers Personal Injury Lawyers, Canberra*. She is also president of the *ACT Law Society*; vice-president of *Civil Liberties Australia*; past president of *Australian Women Lawyers*; and past chair of *Equalising Opportunities in the Law Committee of the Law Council of Australia*. Noor and her late father-in-law's son are still married and have four children, now fully grown.