

Women in Commercial Legal Practice

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IBA Legal Policy & Research Unit

December 2017

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Foreword

Women in law: a success story? At first sight, yes.

Around the turn of the 20th century, women all over the world began to fight for access to law faculties, and the right to practice in the legal profession. For decades, their progress was slow. Only since the 1970s has the number of women law students risen significantly, in the 1980s especially.

In most countries of the world, women make up the majority of law students, constitute a considerable percentage of the judiciary and work as lawyers in law firms – even in the traditionally male reserve of the commercial law firm as business lawyers. The gentleman's club dominating this highly desirable segment of the legal market had to open the door to women: they needed them in the globalised world because of the ongoing extension of legal markets.

Women have proved to be good lawyers. They have gained professional status and standing. The question is whether women get what they deserve: an equal share of work and remuneration.

Although formal entrance barriers have been dismantled, the famous 'glass ceiling' for women is still solid. Women's careers are different to men's. Only a minor percentage of women make their way to full partnership status. There is no linear trickle-up effect, with different factors explaining success or failure. In law firms, women are often the 'reserve army', their fate dependent on the economic situation. They tend to do the less visible work in the back room; their male colleagues in the front office, with access to more client contacts and better possibilities for rainmaking. There is marked vertical and horizontal segregation. Women are less specialised, or specialised in the less remunerative fields. Women's asset is their academic capital; their deficiency their social capital, which does not fit the traditional law firm structure.

Women still face discrimination, often intersectional discrimination combining two or more factors, leading to unequal treatment. Traditional gender images are still working against them. At the core of the matter are problems with work–life–family balance, leaving women less content with their work and inclined to leave the profession.

The report of the IBA's Legal Policy and Research Unit (IBA LPRU) gives a comprehensive picture of the situation of women in commercial legal practice, and describes the reasons why women continue to experience barriers. This research was long needed. It enriches the information so far available and gives a solid basis for a long-overdue discussion of what can be done to improve working conditions for women. Anti-discrimination laws and policies have not been sufficiently effective. Creative thinking about better ways and means to create a hospitable environment in law firms for women must be initiated.

Attracting and keeping qualified women in the legal profession is not only a demand of gender justice but also a necessity in the international competition for talent.

Ulrike Schultz *Akad. Oberrätin a.D., FernUniversität in Hagen*

Executive summary

The term ‘feminisation of the legal profession’ is often used to describe changes in the legal profession. This is both a misnomer and misleading. Although women generally outnumber men in law schools, and have done so for a decade or more, men still outnumber women in senior positions in law firms. Indeed, women’s progression to senior positions and positions of authority within commercial law firms appears to have stalled.

The IBA LPRU undertook this project to obtain information regarding why women continue to experience barriers to the most senior positions in commercial law firms. The outcome of this work is disheartening. Although women’s participation in the legal profession increased significantly from the 1980s, their representation as equity partners in law firms remains low, often less than 20 per cent. Discrimination against, and sexual harassment of, women continues to be a significant problem. Many societies, developed and developing, continue to expect that women remain primarily responsible for the home and children even when they are in full-time employment. These attitudes are remarkably similar in both common law and civil law countries.

The ever-increasing demands of billable hours, the use of technology-enabling work to intrude on lawyers’ time outside of work and the continued expectation that the ‘ideal legal worker’ must commit him or herself ‘unconditionally’ to work is used to call into question women’s (among others) commitment to their careers. Diversity policies, introduced ostensibly to help women in the workplace, after 30 years have been found to be wanting. This is hardly surprising given that they were designed to address the problem of women, not the workplace.

If law firms want to attract, retain and progress broader expertise – women, ethnic and generational – then change is required. This requires the support of those in the most senior positions in law firms; that is, men. The IBA LPRU encourages law firm management – that is, senior partners in positions of authority – to conduct thorough reviews of the structure of their law firms, taking into consideration the law firm culture, business practices (including billable hours), job allocation, pay scales and professional ideology. Such an approach is critical to identifying the structural barriers that impede the progress of women (and others).

It also encourages those in authority to own and oversee the implementation of relevant policies, such as flexible working arrangements, rather than delegating responsibility for them to those who most often have little power or authority, for example, non-fee earners.

Finally, the IBA LPRU encourages legal associations and law firms to develop and implement programmes that encourage not only mentorship but also sponsorship. Mentorship is important, but sponsorship is critical. Those who progress in law firms often are those who more senior lawyers, in particular senior partners, actively sponsor. This sponsorship, however, is largely informal and opaque. This further entrenches discriminatory practices. Formal and transparent sponsorship programmes can go some way to addressing workplace inequities.

Introduction

‘What... explains the disproportionately higher attrition rates of women lawyers? Some scholars argue that women lawyers choose to leave large law firms in higher numbers. This explanation is [unsatisfactory] on two grounds. To characterize the departure of women lawyers as a free choice is to argue that women attorneys opt out, as opposed to being pushed out. As extensive research demonstrates, however, women’s career sacrifices are explained not only by the choice of individual women lawyers but also by choices made by employers and public decision makers. More importantly, the free-choice explanation avoids the question. Even if it were assumed to be true, why would women lawyers opt out in disproportionate numbers?’¹

The purpose of this report is to set out the findings of a project undertaken in 2017 by the IBA LPRU. The focus of the project is women business lawyers – or women lawyers in commercial practice – exploring the reasons why women continue to experience barriers to the most senior positions in commercial legal practice.

This report covers the following:

- **Context:** sets out the reasons why the IBA LPRU conducted this work.
- **Methodology:** sets out the approach that the IBA LPRU took to secure information for the purpose of this project, including details of an international survey that it conducted in the first half of 2017.
- **Research:** identifies and provides an overview of the additional desktop research that the IBA LPRU conducted to complement the survey findings.
- **Results and reflections:** sets out some proposals for bar associations, law societies and law firms, among others, to consider to improve the retention of women in commercial legal practice.
- **Survey findings:** summarises the findings of the responses to the IBA LPRU’s survey.
- **Bibliography:** lists materials of importance and relevance to this topic.

Context

It is reasonably common knowledge that women have dominated in numbers at law schools in many countries for some years.² Indeed, there has been some lamentation about the decline in men entering law schools, as well as in university generally. For example, a review conducted by McGill University in the early 2000s found a significant increase in women enrolling there compared with men in 2002 compared with 1980: ‘[l]aw’s shift from 63 percent male in 1980 to 40 percent last year [2002] was the largest drop after dentistry’.³ However, this shift in demographic in law schools remains to be reflected in the more senior levels of the legal profession. As quickly as women have

1 Eli Wald, ‘Glass Ceilings and Dead Ends: Professional Ideologies, Gender Stereotypes, and the Future of Women Lawyers at Large Law Firms’ (2010) 78 Fordham Law Review 2,255 http://fordhamlawreview.org/wp-content/uploads/assets/pdfs/Vol_78/Wald_April_2010.pdf accessed 25 September 2017.

2 See Ulrike Schultz, ‘Introduction: Women in the World’s Legal Professions: Overview and Synthesis’ in Ulrike Schultz and Gisela Shaw (eds), *Women in the World’s Legal Professions* (Hart Publishing 2002).

3 Mark Reynolds, ‘Where have the boys gone?’ (2003) 36(5) McGill Reporter www.mcgill.ca/reporter/36/05/gender accessed 4 September 2017.

been joining the legal profession, a significant percentage have also chosen to leave it.

According to an in-depth analysis of women in the legal profession globally, 30 per cent is an important threshold.⁴ At 30 per cent, women's entry into the profession is more or less established. According to this analysis, of the countries surveyed, only six countries crossed the 30 per cent threshold during the 1970s and 1980s, and another 14 did so in the 1990s. Among wealthy countries, the United States only crossed this threshold in 2003, with Germany, Denmark and Norway only catching up later in the decade (2007, 2010 and 2010, respectively). Women figure most prominently in the legal profession in some Eastern European countries, such as Bulgaria, Latvia, Poland and Romania, where women account for some 50 per cent of lawyers. At the other end of the spectrum, women's entry into the legal profession remains very low in China (20 per cent) and India (5 per cent).⁵

Even where this threshold is surpassed, however, the 'feminisation of the legal profession', as it is often called,⁶ is predominantly experienced at junior levels. A recent study found that, of the largest 250 law firms in the US, '...only five firms report women as accounting for more than 25 percent of their equity partners'⁷ or, according to another study, only 15 per cent.⁸ While these studies are very US-focused, they are reflective of women's experience in law firms globally.⁹ The findings of our survey reinforce the findings of these studies.

Of course, issues of attrition and re-engagement of women in the legal profession are not unique to it. Other professions, and in particular service professions, struggle to retain women, and women remain under-represented at the most senior levels. Examples include finance,¹⁰ accounting,¹¹ university professors and board members,¹² and leading companies.¹³

It remains apparent, however, that women's progression in law firms appears to have stalled. This is despite law firms implementing a plethora of policies – anti-discrimination, diversity and flexible working arrangements, among others – ostensibly designed to attract and retain women, and some

4 Ethan Michelson, 'Women in the Legal Profession, 1970–2010: A Study of the Global Supply of Lawyers' (2013) 20(2) *Indiana Journal of Global Legal Studies* 1083 www.repository.law.indiana.edu/cgi/viewcontent.cgi?article=1531&context=ijgls accessed 4 September 2017. However, this analysis is based on the critical mass theory, which has also been criticised. See for example: Drude Dahlerup 'The Story of the Theory of Critical Mass' (2006) *Politics & Gender*, 2/4, S. 511–522.

5 *Ibid.*

6 See, eg, Carrie Menkel-Meadow, 'The Comparative Sociology of Women Lawyers: The 'Feminization' of the Legal Profession' (1986) 24(4) *Osgoode Hall Law Journal* <http://digitalcommons.osgoode.yorku.ca/cgi/viewcontent.cgi?article=1855&context=ohlj> accessed 4 September 2017.

7 Anna Jaffe, Robert Gordon, Lucy Ricca and Susan Robinson, 'Retaining and Advancing Women in National Law Firms' (2016) *Stanford Law School: Women in Law Policy Lab Practicum* 4 <https://law.stanford.edu/publications/retaining-and-advancing-women-in-national-law-firms> accessed 4 September 2017.

8 See n 1 above p 2,251.

9 Directorate General for Internal Policies, Policy Department for Citizens' Rights and Constitutional Affairs, Legal and Parliamentary Affairs, *Mapping the Representation of Women and Men in Legal Professions Across the EU* August 2017 [www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL_STU\(2017\)596804](http://www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL_STU(2017)596804) accessed 9 October 2017. See n 2 above pp xli–xlvi.

10 See, eg, Astrid Jaekel and Elizabeth St-Onge, 'Why Women Aren't Making It to the Top of Financial Services Firms' *Harvard Business Review* (Brighton, 26 October 2016) drawing on (2016) Oliver Wyman 'Women in financial services' www.oliverwyman.com/our-expertise/insights/2016/jun/women-in-financial-services-2016.html accessed 4 September 2017 and HM Treasury and Virgin Money (2016) *Empowering Productivity: Harnessing the Talents of Women in Financial Services* <https://uk.virginmoney.com/virgin/women-in-finance> accessed 4 September 2017.

11 See, eg, AICPA, *The Attraction, Retention, and Advancement of Women Leaders: Strategies for Organizational Sustainability* (2013) https://competency.aicpa.org/media_resources/209431-the-attraction-retention-and-advancement-of-women accessed 4 September 2017.

12 See, eg, House of Commons Library, *Women in Public Life, the Professions and the Boardroom* (2017) <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN05170> accessed 4 September 2017.

13 See, eg, Melanie Sanders, Jayne Hrdlicka, Meredith Hellicar, Dale Cottrell and Joanna Knox, *What stops women from reaching the top? Confronting the tough issues* (2011) Bain & Company www.bain.com/publications/articles/what-stops-women-from-reaching-the-top.aspx accessed 4 September 2017.

societies having social and familial structures that facilitate women's desire to work.¹⁴ So, what is going wrong?

Methodology

Our methodology was a combination of quantitative and qualitative methods. The IBA LPRU took advantage of the IBA's global reach by launching an international survey early in 2017. The purpose of this survey was to collect information from business lawyers to enable the IBA LPRU to understand why there are significant gaps in diversity in more senior roles in the legal profession. The particular focus of the legal profession was business lawyers. We derived mainly quantitative responses to the survey, with some questions allowing for qualitative responses (albeit minimal).

The survey used was adapted from a national research survey conducted by the Law Council of Australia.¹⁵ Through the survey, the IBA LPRU sought to obtain quantitative data and confirm trends in progression of both female and male lawyers. Through the responses to the survey, we aim to improve the understanding among the legal profession, particularly law firms, of the respective experiences and motivations of female and male legal practitioners as they progress through their careers, and to understand the reasons why some lawyers choose to leave the legal profession or choose a different career path.

We structured the questions in the survey to secure responses from practising lawyers, lawyers who no longer practised and lawyers who never practised. The reason we structured the survey in this way was to determine whether the respondents' different experiences influenced their responses.

We distributed the survey through the IBA membership and through other networks, and encouraged the recipients to distribute the survey to their networks. We received 5,829 responses to the survey, of which 4,032 were from women, 928 were from men and 870 were from respondents who preferred to remain unspecified. Generally, those who did not specify their gender did not respond to the remainder of the survey. As such, we excluded those responses from this analysis, which means that the total number of respondents analysed for the purposes of this report was just under 5,000. It is worth noting that this is the largest response to any survey undertaken by the IBA. That such a proportionately high number of senior female lawyers responded potentially indicates a will to engage with reform in this area.

We engaged legal research experts, Acritas, to analyse the responses and compile them in an accessible format.¹⁶ When we required additional, or more specific, information, we returned to the source data.

We also conducted a desktop review of available materials, which were plentiful. However, much of the material that we reviewed was in English, which necessarily provides a bias towards information derived from English-speaking common law countries. To counter this, we also engaged with a group of scholars from other regions who have been conducting research on the legal profession, including

14 Eg, in some societies, it is possible to employ live-in staff members (eg, in Latin America, parts of Asia and the Middle East), rely on members of an extended family to assist (eg, in parts of Africa) or send one's children to live-in or boarding schools (eg, in the United Kingdom).

15 Details of the Law Council of Australia's work are available at www.lawcouncil.asn.au/policy-agenda/advancing-the-profession/equal-opportunities-in-the-law/national-report-on-attrition-and-re-engagement accessed 4 September 2017.

16 See www.acritas.com accessed 8 November 2017.

women in the law, since the 1980s.¹⁷ They very generously invited us to attend their meeting¹⁸ as observers, at which they discussed the findings of their work, which is due to be produced in a book sometime in 2019. A number of them also very generously agreed to review this draft report and provide their own input. Our gratitude goes to Ulrike Schultz, Akad. Oberrätin a.D., FernUniversität in Hagen, for her incredibly valuable input.

We also reviewed closely a survey, supported by additional research, recently conducted by the European Union's Committee on Legal Affairs (JURI) on the representation of women and men in the legal professions in the European Union.¹⁹ The outcome of this work reveals remarkable parallels in the experience of women lawyers across common law and civil law jurisdictions.

The IBA LPRU hopes that these findings will lead to the IBA regional fora conducting more focused studies relevant to their particular regions. Through the results of this study and others, we also hope to encourage law firms and legal associations to review critically their current approach to attrition and re-engagement, with a view to developing and implementing more robust retention strategies.

Some few limitations to our findings have to be mentioned. Due to resource constraints, the survey was distributed only in English. This necessarily excludes respondents who do not speak or read English. Given the nature of the IBA membership, most respondents were practising lawyers. This means that we did not receive as many responses from those who no longer practice or who never practised as we would have liked. We note these limitations in more detail below under the heading 'Demographics'.

The focus of this survey was on attrition and re-engagement of legal professionals with a particular focus on women lawyers. The IBA LPRU is fully aware that minorities – for example, indigenous people, women and men of colour, and people with disabilities – also continue to be seriously under-represented in law firms. We also are aware that there are significant socio-economic, cultural, ethnic and religious distinctions between women lawyers and, likewise, significant differences between law firms.²⁰ For resource reasons, however, we were unable to extend the survey to cover all possible permutations of inequality in law firms. This must be kept in mind when reviewing our findings. Of interest, though, is an observation made by Ahmed Fahour, former Chief Executive Officer at Australia Post who said, '[if] we can't get something as plainly obvious as gender equality right then what hope does anybody else have who is slightly different? What does it mean for minorities?'.²¹

Research

Women's involvement in law is a relatively recent phenomenon. One hears of a woman lawyer being the sole female student at law school in the 1970s, or how senior male barristers at certain chambers

17 Many of the contributors to Ulrike Schultz and Gisela Shaw (eds) *Women in the World's Legal Professions* (Hart Publishing 2002) have been involved in these studies.

18 Held at the International Institute of the Sociology of Law in Oñati, Spain on 12–13 September 2017.

19 See n 9 above.

20 See n 1 above p 2,248. As Wald clearly states: 'Talking about "women lawyers at large law firms" triggers at least two proper conceptual objections: to the complex term "women" and to the complex term "large law firm"'. With regard to the former, it is clear that collapsing the experiences of women lawyers into one category, ignoring racial, sexual-orientation, ethno-religious, socioeconomic, and cultural distinctions, is highly problematic... With regard to the latter, treating all large law firms alike, without accounting for differences in firms' size, organization, structure, culture, etc. is, to say the least, problematic.'

21 Cited in Catherine Fox, *Stop Fixing Women* (Newsouth Publishing 2017).

sought to deny entry to women practitioners.²² This report does not purport to recount the paths taken by women to secure access to the legal profession because this is covered quite succinctly elsewhere.²³ However, in preparing this report, we found some very interesting parallels between the growth of the legal profession globally, changing professional ideology, changing expectations of billable hours over time, changing technology and women's entry into the profession.

Women's entry into the legal profession, at least in significant numbers, coincided with an overall expansion of lawyer population growth. A detailed study of women in the legal profession between 1970 and 2010 (the 'Michelson Study') indicates lawyer density increasing significantly from the 1970s in most countries.²⁴ This was in response to and the result of '... increased demand for legal services by corporate clients who consumed new kinds of legal services, significant growth in the body and scope of statutory and administrative laws regulating the conduct of entity clients, and the increased complexity of the law'.²⁵ The Michelson Study provides robust support for there being a strong correlation between the growth of the legal profession since the 1980s and women's entry into it. According to this study, drawing on the analysis conducted:

'... the estimated global lawyer population grew from 1.1 million to 5.0 million (or 348 percent) over this period of time [1970 to 2010], an average annual growth rate of 3.9 percent, which yields a doubling of lawyers every eighteen years.

Meanwhile, the estimated global rate of lawyer feminization has been far faster: female representation among lawyers grew by an estimated 376 percent (from 7.5 percent to 35.7 percent) in the same time period... the production of female lawyers was 9.5 times faster than the production of male lawyers.'²⁶

The dramatic rise in women's participation in the law initially suggested that the 'woman problem' had been resolved:

'However, on closer inspection discrimination against women, however well concealed and refined and possibly subconscious, is still rife. Women lawyers tend to remain on the margins of power and privilege. Discrimination often occurs unwittingly or in the conviction that it can be rationally justified... women tend to notice acts of discrimination much more clearly than men, but both are inclined to attribute them to individual failings rather than to gender-based issues.'²⁷

Attitudes towards women and women's experience in common law and civil law countries are remarkably similar. As has been observed, this tends to reflect a continued expectation in many societies that women remain primarily responsible for the home and children.²⁸

22 Personal communications with one of the authors to this report.

23 See, eg, Ulrike Schultz and Gisela Shaw (eds) *Women in the World's Legal Professions* (Hart Publishing 2002) for an overview.

24 See n 4 above, which provides an excellent analysis of the growth of the legal profession and female lawyers in it. See *ibid* p xxxv and certain individual chapters that explore the expansion of the legal profession and female lawyers in some countries. The findings in these chapters support the findings in Michelson's article, as does information derived from a meeting held at the International Institute of the Sociology of Law in Oñati, Spain on 12–13 September 2017 of scholars and contributors to a future textbook on lawyers in the 21st century.

25 See n 1 above p 2,258.

26 See n 4 above p 1,093.

27 See n 23 above p xli. Michelson's findings (see n 4 above) provides a more contemporary finding. For more detailed discussions and analyses on unconscious bias, see the seminal work done by Christine Jolls and Cass R Sunstein, 'The Law of Implicit Bias' (2006) www.law.harvard.edu/programs/olin_center/papers/pdf/Jolls_et%20al_552.pdf accessed 26 September 2017.

28 Observed by researchers of the legal profession and identified as a topic of ongoing concern at the meeting held at the International Institute of the Sociology of Law in Oñati, Spain on 12–13 September 2017. Baroness Helena Kennedy QC made a similar statement in her presentation at the IBA/AIWF Women Business Lawyers Initiative event on *Advancing gender equality in law and the professions* held at Boodle Hatfield, London on 19 September 2017.

Indeed, in those areas where the ‘feminisation’ of a field has been successful, particularly in more senior positions, the field can suffer a loss of prestige. In France, the judiciary suffered a loss of image in part due to its feminisation.²⁹ ‘Recruitment problems have resulted from young men increasingly giving preference to other more challenging fields of law, especially commercial legal practice, leaving the judicial field and its ‘boredom’ [and lower salaries] to women’. Parts of the judiciary in Germany has had a similar experience.³⁰

Clearly, therefore, the expanding legal profession facilitated women’s entry into it but did not pave the way into sustainable positions of authority, particularly in commercial law firms. Women encountered ‘glass ceilings’ as they sought to progress their careers. Studies have identified four factors as responsible: ‘persistent gender stereotypes; discriminatory and biased mentoring processes and support networks; conservative workplace structures that are inhospitable to work-life concerns; and implicit, yet ingrained, instances of sexual harassment’.³¹

These factors reflect the male-oriented professional ideology that dominates law firms, among other workplaces. Indeed, concerns have been expressed that the changing professional ideology of law firms from a form of ‘competitive meritocracy’, in which women could progress, albeit slowly, to one that is more ‘hypercompetitive’, is bad news for women in the longer term.³² This is discussed further below.

The ‘old style’ of lawyering, where clients remained with firms and firms did not compete with each other for clients, disappeared during the course of the 1970s and 1980s. Law firms are now more aggressive and competitive in their approach, and clients expect far more of their lawyers. There is also a far more profound divide between the juggernaut of global law firms fuelling the change in professional ideology and those law firms that operate more domestically.

In that context, other aspects of legal life changed. The billable hour, love it or hate it, is the foundation of profitability of most law firms and has been for the best part of a century. In the 1950s, the expectation for commercial lawyers (at least according to billable targets recommended by the American Bar Association (ABA)) was to bill around 1,300 hours per year (unless a lawyer had to work ‘overtime’).³³

When women started entering the legal profession in force – in the 1970s and 1980s – it was at a time when lawyers’ incomes increased along with requirements for billable hours. In the 1980s, US lawyers were expected to bill on average around 1,800 hours per year. By 2002, the ABA proposed a total of 2,300 hours of time per year per lawyer, of which 1,900 hours should be billable hours.³⁴ By 2012, the average billable hour requirement of law firms in the US was more than 2,200 hours per year, and this

29 Anne Boigeol, ‘Male Strategies in the Face of the Feminisation of a Profession: the Case of the French Judiciary’ in Ulrike Schultz and Gisela Shaw (eds) *Women in the World’s Legal Professions* (Hart Publishing 2002) pp xlviii and 401–418.

30 As informed by a representative of the European Women Lawyers Association on 4 October 2017. This reflects more recent and more general studies which find that pay levels and prestige decrease as women join the workforce in more numbers than men. See n 21 p 77 citing a study conducted by Asaf Levanon, Paula England and Paul Allison, ‘Occupational Feminization and Pay: Assessing Causal Dynamics Using 1950–2000 US Census Data’ (2009) 88(2) *Social Forces* 865–892 www.statisticalhorizons.com/wp-content/uploads/2012/01/88.2.levanon.pdf accessed 7 September 2017.

31 See n 1 above p 2,246.

32 *Ibid.* According to Wald, this changing professional ideology is likely to result in the glass ceiling becoming a ‘dead end’.

33 Stuart L Pardau, ‘Bill, Baby, Bill: How the Billable Hour Emerged as the Primary Method of Attorney Fee Generation and Why Early Reports of its Demise May Be Greatly Exaggerated’ (2013) 50 *Idaho Law Review* 5. This article provides a good overview of the history of the billable hour in the US in particular.

34 *Ibid.*

most likely was understated.³⁵ The globalisation of the legal profession, and that of many law firms, means lawyers in many other countries – both common law and civil law – are experiencing similar requirements.

As Steven J Harper, a former Kirkland & Ellis partner, observed:

‘For associates, the goal is simple: meet the required (or expected) minimum number of billable hours to qualify for annual bonuses and salary increases. Billing 2,000 hours a year isn’t easy. It typically takes at least 50 hours a week to bill an honest 40 hours to a client. Add commuting time, bathroom breaks, lunch, holidays, an annual vacation and a little socializing, and most associates find themselves working evenings and weekends to “make their hours”. Most firms increase financial rewards as an associate’s billables move beyond the stated threshold.’³⁶

The responses to our survey, and others,³⁷ confirms that this expectation is not specific to law firms in the US. In brief, women were entering into the legal profession at a time when expectations of all lawyers were on the increase, and quickly. These expectations were built into a structure – a professional ideology³⁸ – that was created when a traditional and conservative approach to work, and who should work, was the norm. A seminal work on women in the world’s legal professions, published in 2002, explores the experience of women in legal professions, and their entry into it, from common law and civil law countries. Their experience was remarkably similar.³⁹

In addition to increasing billable hours, the late 1980s/early 1990s saw a profound shift in technological developments that affected how lawyers (indeed all professionals and other workers) worked (and continue to work). Insofar as ‘overtime’ existed for professionals in law firms in the past, it did no longer with the increasing expectation that lawyers must be available 24 hours/seven days a week. While the ability to be connected regardless of where one was working originally was seen as a boon, particularly for women, over time, it has eroded the separation between work and personal life.⁴⁰ This separation between work life and family life has essentially disintegrated, and employers’ control of employees’ time has become more intrusive. Lawyers are expected to attend firm events, and socialise with clients and colleagues if they wish to develop their careers.⁴¹

In this context, law firms in many countries have sought to improve gender diversity among their professionals, and have done so for decades. They have developed and implemented policies, supported by relevant committees, designed to improve the retention of women professionals and address their attrition, such as policies on diversity, anti-discrimination and flexible working arrangements.

35 *Ibid* p 6.

36 Steven J Harper, ‘The Tyranny of the Billable Hour’ *New York Times* (New York, 28 March 2013) www.nytimes.com/2013/03/29/opinion/the-case-against-the-law-firm-billable-hour.html?mcubz=0 accessed 6 September 2017. Also, see n 33 above p 6.

37 Margaret Thornton, ‘The Flexible Cyborg: Work-Life Balance in Legal Practice’ (2016) 38 *Sydney Law Review* 7 https://sydney.edu.au/law/slr/slr_38/slr38_1/SLRv38n1Thornton.pdf accessed 22 September 2017. The responses to our survey from both women and men consistently expressed dissatisfaction with the drive to meet billable hours.

38 See n 1 above for an exploration of the changing professional ideology in the legal profession.

39 See n 23 above. This work has been supported by the more recent findings in Michelson, see n 4 above.

40 See n 37 above, which provides an excellent analysis of the intrusion of technology into the life of a legal professional. Thornton concludes that ‘... the economic sphere is in danger of colonising the sphere of intimacy by stealth’ p 4.

41 In some cases, women lawyers are encouraged to smile more to achieve this objective. See, eg, www.slate.com/articles/life/dear_prudence/2017/08/my_law_firm_said_i_need_to_smile_more.html accessed 6 September 2017. Note that this is not unique to the legal profession. See www.theatlantic.com/notes/all/2016/10/the-sexism-of-telling-women-to-smile-your-stories/503309 accessed 6 September 2017.

Workplaces develop such policies with the best of intentions. Often, however, the most they provide is some form of window dressing, with the responsibility for implementing and managing them left to non-fee earners who have little power or authority, such as human resources.⁴² The general consensus is that 30 years of policies, such as diversity and those promoting mentorship, have achieved little. According to a recently published White Paper, '[t]he data on the impact of diversity committees is mixed, but indicates that their effect on the retention and advancement of women and minority lawyers is minimal'.⁴³ Indeed, '[d]espite the rhetoric, the ideal legal worker is still expected to be unencumbered by private sphere responsibilities in order to be able to devote [him]self unconditionally to work'.⁴⁴ Little wonder that flexible working arrangements, however structured, have had minimal impact on the progression of women lawyers.

Gender diversity policies were and are designed with the assumption that women (among others) are the problem; that is, women entered into the workforce and experienced bias and discrimination, and policies were introduced to help women adapt to that workforce and the prevailing structures. Workplaces, including law firms, generally do not examine the structure of the workplace or the existing power equations when developing diversity policies. If women found themselves unable to progress despite availing themselves of the existing policies, then it was because something was wrong with them. As Catherine Fox, Australian journalist and author has said, '[t]elling women it's mostly their fault [eg, for "not putting their hands up for promotion" or to "back themselves"] for being marginalised in workplaces designed by and for male breadwinners – and failing to crack through the glass ceiling and scale the ranks of business – reinforces ridiculously outdated gender stereotypes'.⁴⁵ Specifically in the legal profession, extensive research in the US has found that '[t]o characterize the departure of women lawyers as a free choice is to argue that women attorneys opt out, as opposed to being pushed out'.⁴⁶ That is, it is women's fault.

The findings of our survey support this view, with many respondents – women and men – expressing dissatisfaction with the diversity arrangements, flexible working arrangements and the management support provided to each that they had experienced in their workplaces. Further, the findings indicate that women continue to experience discrimination all too frequently due to their gender, family or carer responsibilities, and age.

As noted above, the changing professional ideology of law firms from a competitive meritocracy to hypercompetitiveness is bad news for women: '... the hypercompetitive aspect of the ideology celebrates over-the-top commitment and loyalty to clients and the firm above all else, even above meritocracy. The new ideology highlights and amplifies with new... stereotypes regarding women's lack of commitment and disloyalty to clients and the firm, and the negative consequences are devastating'.⁴⁷

If change is to occur, however, the support of men – that is, those in the most senior positions in law firms – is critical. If law firms truly want to attract broader expertise, not just women but ethnic and generational, then it is important for them to recognise the inadequacies of a workplace structured

42 See n 21 above p 123 and the personal observation of one of the authors.

43 See n 7 above. This finding is supported by similar findings in other professions. See, eg, the discussion on diversity councils, general unconscious bias training, mentoring and extraordinary role models in n 21 above, pp 123–124.

44 See n 37 above p 6. The reference to '[him]self' is in the original.

45 See n 21 above p 2.

46 See n 1 above p 2,255.

47 See n 1 above pp 2,282–2,283.

and operated along traditional lines: ‘... if the bias and unfairness is not only about the personal but the political – the way workplaces are run and by whom – then the people with the power, who are overwhelmingly privileged white middle-aged men, are not just nice to have on side. They are essential to success. They not only have to stand up as advocates but they must change the rules and norms that helped give them a big advantage in getting the keys to the top office’.⁴⁸

Respondents to our survey referred to a lack of mentorship as being an inhibitor. However, other research suggests that, while mentorship is important, sponsorship is key.⁴⁹

At the most junior levels in the legal profession, when graduates or junior lawyers are applying for positions, the approach is largely one of a competitive meritocracy. The selection process is, largely, transparent and subject to some formal selection process. Partners in law firms, particularly the large ones, are seldom involved in this process. However, as lawyers progress, such a selection process becomes more opaque. Those who progress often are those who more senior lawyers, in particular senior partners, actively sponsor. This sponsorship, however, is largely informal and is not subject to any independent oversight. This further entrenches discriminatory practices. Mentorship provides support in a workplace, but sponsorship is essential to anyone wanting to progress.

It is time to change the focus ‘... from fixing women to getting serious backing for fixing the bias and recalibrating the power equation in workplaces...’.⁵⁰ This is not a comfortable message, particularly as it is easier, and less confronting, to find ways to fix women (among others). Some respondents to our survey expressed dissatisfaction with firms’ workplace culture, and leadership and organisational direction. This suggests that there may be multiple reasons for law firms to consider structural reform more seriously.

The findings of our survey reinforce research that current work structures continue to impede the retention and progression of women.⁵¹ Further, women are not the only ones demanding change. Minorities are knocking on the doors to law firms that have been far more comfortable being predominantly white (and male). And the current generation of young lawyers entering the workforce expect more from their work experience than unsustainable demands on their time. It is time for law firms and the men who are predominantly the ones who lead them to examine, closely, their structure, expectations and future:

‘... what creates and sustains gender bias in the workplace is not all in our heads... nor is it “mostly about the cognitive errors of well-intentioned managers and supervisors who want to do the right thing if only we would give them the training that tells them what that might be. It is fundamentally about how we structure organisations and how we structure work... and about the degree to which everyday practice of hiring, assigning, developing, training, and promoting men and women is tightly or loosely coupled with what companies claim are their policies and practices regarding anti-discrimination and diversity”’.⁵²

48 See n 21 above p 4.

49 *Ibid* pp 126–127.

50 *Ibid* p 185.

51 Baroness Helena Kennedy QC likewise has noted that the growth of women at law school and in law firms is used as an excuse to avoid structural reform. Presentation at the IBA/AIWF Women Business Lawyers Initiative on *Advancing gender equality in law and the professions* held at Boodle Hatfield, London on 19 September 2017.

52 William T Bielby, ‘The Challenge of Effective Interventions’ presented at *Gender & Work: Challenging Convention Wisdom Research Symposium*, Harvard Business School www.hbs.edu/faculty/conferences/2013-w50-research-symposium/Documents/bielby.pdf accessed 7 September 2017, and referred to in Fox, see n 21 above p 188.

Results and reflections

Our desktop research and review of the survey findings provide evidence that there is much more that must be done in order to improve not just the retention of women (among others) in commercial legal practices, but their progression to the most senior positions in them. We call upon bar associations, law societies and law firms, and in particular the men who are in the most senior positions of authority, to engage more rigorously to change the professional culture and attitude that continues to exclude women (and others) from senior positions in the legal profession. Below are some suggestions to assist with this:

- Diversity policies and other similar policies and committees within organisations, such as law firms, have achieved little. Most likely, this is because such policies are designed to help women (and others) to fit into the existing workplace rather than reviewing the structure of the workplace that exists to identify inbuilt discriminatory barriers. We encourage law firm management – that is, senior partners in positions of authority – to conduct thorough reviews of the structure of their law firms, taking into consideration the law firm culture, business practices (including billable hours), job allocation, pay scales and professional ideology. Such an approach is critical to identifying the structural barriers that impede the progress of women (and others).
- Research indicates that the current generation of women and men – referred to as millennials or Generation Y – want to work differently. This needs to be taken seriously, along with technological developments that are changing the market for legal services, if law firms want to be prepared for the future. As such, the attitudes and expectations of millennials (indeed, all employees) need to be factored into any such review of the work environment.
- Law firms often develop and implement flexible working arrangements and other policies, but seldom conduct the necessary due diligence when developing them. Further, responsibility for their implementation frequently is left to non-fee earners who are not in positions of authority within firms, for example, human resources. If law firms, among other workplaces, are serious about improving the retention rates of women (and others) in law firms, such policies must be ‘owned’ by senior management and audited regularly to ensure they work. And, if they do not, we encourage senior management to conduct more detailed reviews regarding why not.
- Flexible working ought not be used to erode the separation between work and personal life. Findings suggest that those who are paid to work part-time inevitably work longer hours but that this is not recognised nor taken into consideration by senior management. If law firms are committed to allowing lawyers to work flexibly, then appropriate support of these arrangements is essential. Again, as with diversity policies, such arrangements need to be ‘owned’ by senior management and audited regularly.
- The findings to our survey indicate a level of frustration with mentorship within law firms. Our research and experience suggest that mentorship is important to all lawyers working in law firms. However, if a lawyer wants to progress, he or she needs the sponsorship of a senior partner. It is essential. As such, we encourage law firms to strengthen their mentorship programmes but, more importantly, to introduce formal sponsorship programmes or, where they are already in place (as they are, albeit informally), make such programmes more transparent.

- The majority of men who responded to our survey are still practising law and over 40 years of age. Research indicates that it is essential to engage with those men who are in positions of authority within a law firm (or any other organisation) if change is going to be implemented effectively.⁵³ Organisations such as Lean In⁵⁴ and Male Champions of Change⁵⁵ are good examples of this.
- The findings of our survey include responses that suggest that some lawyers experience alarming levels of bullying and intimidation. These findings suggest that significant percentages of both women and men – women almost 50 per cent and men 30 per cent – have been subject to bullying and intimidating conduct during the course of their careers. This is unacceptable in any profession, but particularly one that considers itself as integral to the pursuit of the rule of law and justice. We encourage law associations and law firms to seriously consider these findings in the context of their work culture and, if found to occur within their workplace, address them expeditiously.
- The responses to our survey from the Middle East, Africa and Asia regions were low. We encourage others, such as the IBA's regional fora, to explore gender diversity in their regions in more detail, particularly the representation of women in partnerships and senior management, taking into consideration local cultural constraints and business practices.
- Our survey sought to secure information on why lawyers left the legal profession. Due to the low responses from lawyers who are no longer practising, we did not achieve this objective. We encourage further work to be done here. Indeed, we encourage law firms to reach out to lawyers who previously worked in the firm to gain a better understanding of the reasons why they chose to leave that firm and, potentially, the legal profession.

Survey

Demographics

We received a total of 5,829 responses to the survey, of which 4,032 were from women, 928 were from men and 870 were from respondents who preferred to remain unspecified. Those who did not specify their gender did not, on the whole, respond to the remainder of the survey. As such, we excluded those responses from this analysis, which means that the total number of respondents analysed for the purpose of this report was just under 5,000.

We consider the responses as a whole, but also separate them into the following regions: Europe, Africa, Asia, the Americas, Middle East and Oceania. The total number of responses received from Asia, the Middle East and Africa were low such that, in some cases, we were unable to include them in our analysis and, where we do so, we note that the findings must be treated with caution.

Most of the responses we received were from lawyers who remain in practice. This is unsurprising given the IBA membership and focus of the survey.

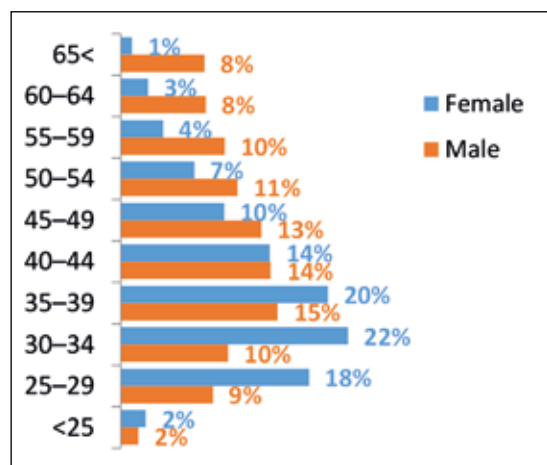
⁵³ See n 1 above.

⁵⁴ See <https://leanin.org> accessed 8 November 2017.

⁵⁵ See <http://malechampionsofchange.com> accessed 8 November 2017. Although the effectiveness of these organisations remains unclear.

Of the 5,829 responses, 4,670 were from practising lawyers – 3,756 from women, 894 from men and 20 unspecified (and therefore excluded). The breakdown in age group, measured by percentage, is set out in **Figure A**.

Figure A: Age of practising lawyer respondents by percentage



As can be seen, most responses came from women until the 40–44 age range. It is at this point that the percentage of responses from women and men became equal, after which more responses came from men (50 per cent compared with 25 per cent from women).

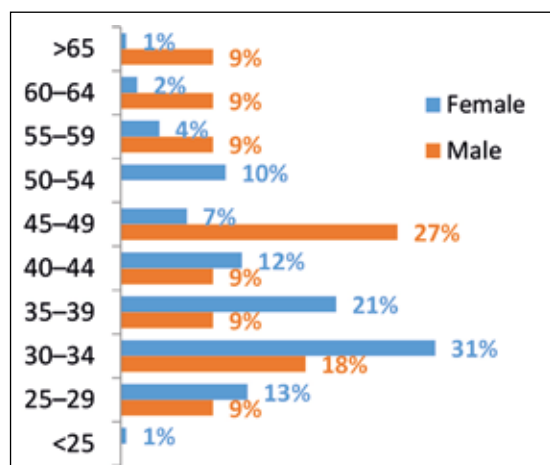
Regionally, 42 per cent of the responses came from lawyers in Europe, 39 per cent from the Americas, ten per cent from Oceania (predominantly Australia), five per cent from Asia, four per cent from Africa and only one per cent from the Middle East. Ten per cent did not specify their location.

Almost half of the respondents – 49 per cent – had been qualified for a period of between one and ten years.

LAWYERS NO LONGER PRACTISING

We received a total of 757 responses from lawyers who no longer practice, of which 184 were from women, 11 were from men and 562 were from lawyers who did not specify a gender. Excluding those who did not specify a gender means that the total number of responses included for the purposes of this report was 195. Given the overall low number of responses, our findings here must be treated with caution.

Figure B: Age of no longer practising respondents by percentage

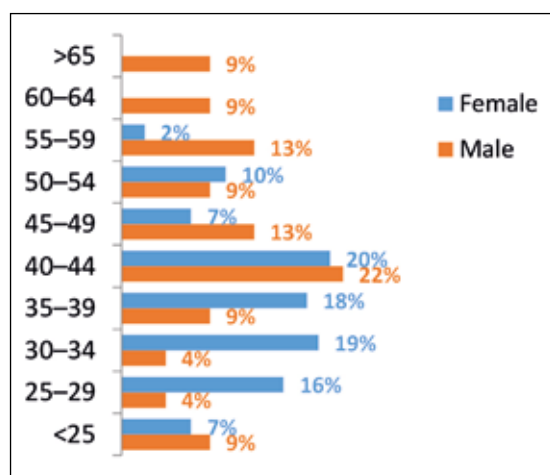


The highest number of female respondents were aged 30–34 and the highest number of male respondents were aged 45–49. Regionally, 40 per cent were from Europe, 26 per cent were from the Americas, 13 per cent were from Oceania, five per cent were from Asia, five per cent were from Africa, one per cent were from the Middle East and ten per cent did not specify their location. More than 70 per cent had been qualified for a period of between one and ten years.

LEGALLY QUALIFIED BUT NEVER PRACTISED

We received a total of 402 responses from people who qualified as lawyers but never practised. Of that 402, 91 were from women, 23 were from men and 288 were from respondents who did not specify a gender. Excluding those who did not specify a gender means that the total number of responses included for the purpose of this report was 114. Given the overall low number of responses, our findings here must be treated with caution.

Figure C: Age of never practised respondents by percentage



The majority of both male and female respondents were aged 40–44. Regionally, 54 per cent were from Europe, 13 per cent were from Asia, ten per cent were from Africa, nine per cent were from Oceania, six per cent were from the Americas, three per cent were from the Middle East and nine per cent did not specify their location. More than 60 per cent of the respondents had been qualified for a period of between one and ten years.

Survey findings

Practising lawyers

Most male and female respondents work in private law firms. As such, there is significant commonality in the areas of law practised, among other things. This reflects the IBA membership and focus of the survey. While it means that there may be gaps in our understanding of all the factors that impact women across the legal profession, it provides a useful insight into the experience of practitioners in the corporate sector.

Nature of work

Findings in brief:

- The majority of practising respondents work in private law firms.
- Overall, 30 per cent of respondents are women partners, but this varies depending on the region, and only 14 per cent of women respondents are equity partners.
- More than a quarter of women work in firms where no more than ten per cent of the partnership is female, potentially making it challenging for younger women to find role models. Both men and women lawyers tend to be dissatisfied with the availability of accessible mentors.
 - One woman respondent said that ‘a good mentorship to access partnership’ would make her more likely to stay at her current firm.
- Slightly more encouragingly, 30 per cent of women work in a firm where at least one partner works part-time, providing evidence that part-time working is not incompatible with a legal career.
 - This rises to 47 per cent in Oceania. However, the proportion of female partners in Oceania appears to be similar to other regions.
- A higher proportion of women (17 per cent) than men (ten per cent) work part-time. The highest rate of part-time working for women is in Oceania (predominantly Australia). Over half of all part-time workers actually work over 30 hours per week, meaning that a part-time job can, in reality, end up being full-time.

Focus: We asked respondents to identify the areas of law in which they mainly practised. These ranged from corporate law, commercial law, civil litigation, banking and finance, intellectual property, administrative law, family law and tax law to criminal law, probity law, immigration law and small business.

FINDINGS: The most common practice areas for women and men respondents were corporate law, commercial law, civil litigation and general litigation. The least common areas for both women and men respondents were debt/insolvency, conveyancing/real property, criminal law and taxation. There was no significant variation found across the regions. This most likely reflects the composition of the IBA membership.

Of interest is that men dominated (in percentages) in *all* practice areas, which suggests that the men responding, when compared with women, identified a broader number of practice areas in which they mainly practice. This further suggests that women identify more closely with specific practice areas. This can have implications for practice and career development.

Focus: We wanted to understand where respondents conducted most of their work. As such, we asked if they were located in the central business district (CBD) of a capital city, a suburb of a capital city, a smaller region or remote location, or a major regional centre (with a population of 100,000 or more).

Findings: Respondents, both women and men, predominantly were located in the CBD of a capital city, with very few identifying as being located in a smaller regional or remote location. There was no significant variation found across the regions. This most likely reflects the composition of the IBA membership.

Focus: We asked respondents where they worked and in what capacity; that is, whether they worked in a private law firm, as a lawyer in a corporation (in-house), government legal, or not-for-profit or non-governmental organisation (NGO), and if they worked as a partner (equity or salaried) or an associate, advocate, prosecutor or public defender.

Findings: Most respondents – that is, 71 per cent of responses from both women and men – said they worked in a private law firm. This is generally consistent across the regions (see **Figure D**).

In Europe, 15 per cent of women and 25 per cent of men identified as an advocate. In-house or corporate legal also were reasonably well represented, although they only exceeded ten per cent of responses from the Asia and Africa regions. We received very few responses from lawyers practising in government legal (the most was five per cent from Oceania), prosecutors/public defenders (only one to two per cent) and academia (one per cent).

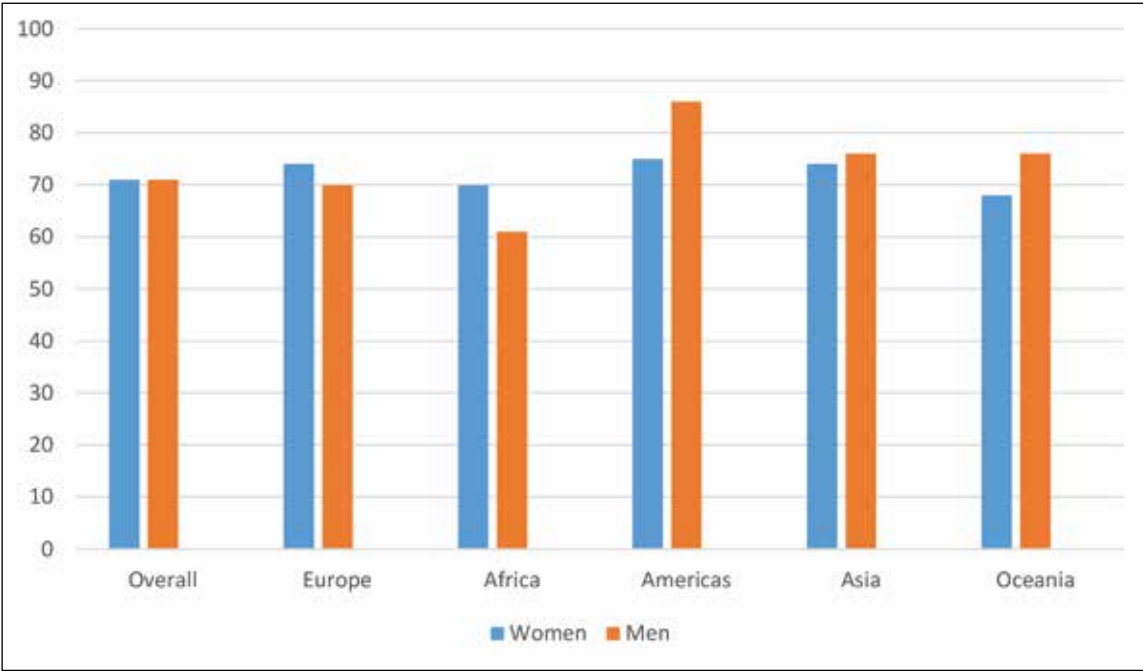
Of those responding from private law firms:

- twice the proportion of women were in associate/senior associate roles (22 per cent compared with ten per cent of men); and
- more than twice the proportion of men responding were equity partners, compared with women (35 per cent and 14 per cent respectively).

A survey undertaken by the IBA Law Firm Management Committee provides further evidence of this difference in treatment. Some 40 per cent of respondents to that survey indicate that 25 per cent or less of equity partners in their respective firms are women.⁵⁶ These figures are consistent with those that we identified in our research.

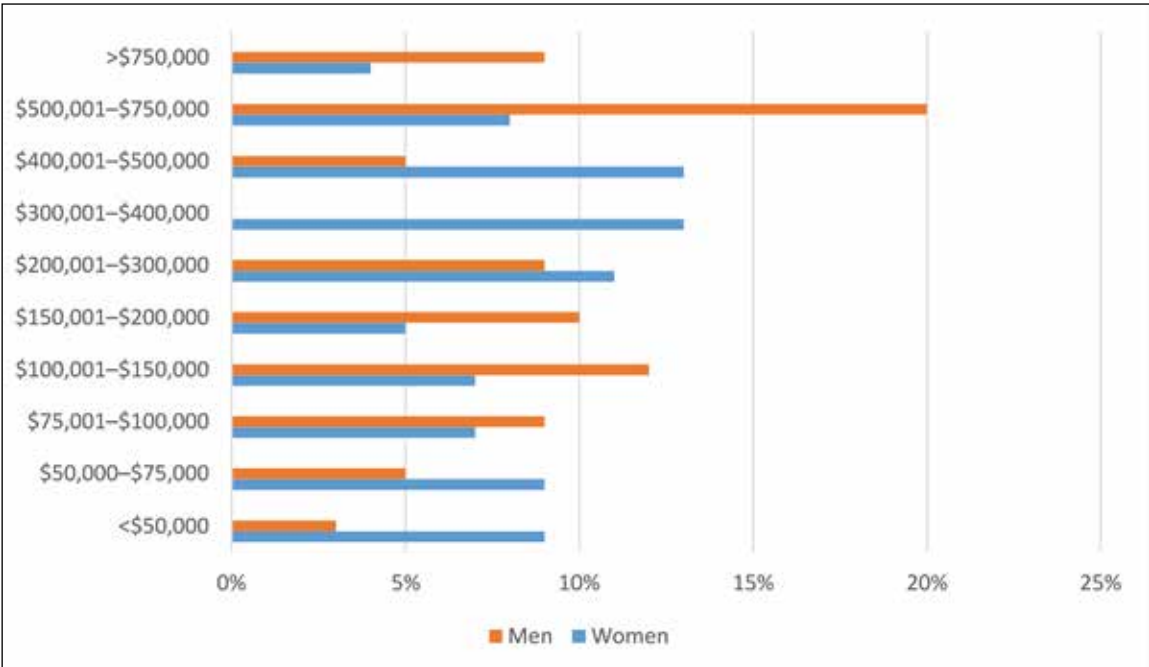
⁵⁶ See www.ibanet.org/PPID/Constituent/Law_Firm_Management_Committee/Default.aspx accessed 7 November 2017.

Figure D: Respondents from private law firms



Also of interest is the variation across salaried partners’ incomes. Women dominate at the lower end of the pay scale (<\$50,000–\$75,000) but also in the mid-range pay scale (\$200,000–\$500,000). It is unclear what the gaps signify, although it may be that more men become equity partners at a certain period, which may then affect the responses to this question. This issue requires further and more detailed study.

Figure E: Salaried partner incomes



Focus: There has been some anecdotal evidence supported by personal observations of the authors suggesting that lawyers move workplaces today more frequently than in the past. Thus, we asked respondents to specify how long they had been at their current workplace.

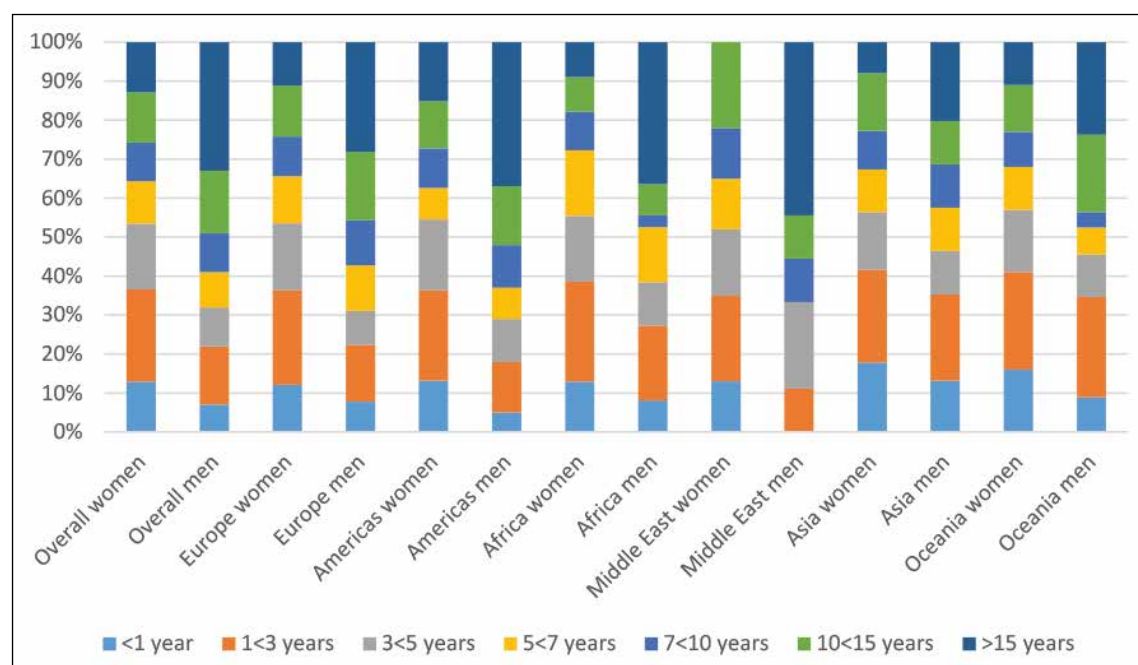
FINDINGS: Generally speaking, women more than men tend to move frequently, with men staying in one workplace for the longest time. This may reflect the demographics of the respondents, with women being the greater percentage of respondents in the 40–44 age range and men being so thereafter.

Most movement tends to occur in the one- to three-year period, with all regions showing that more than 20 per cent of women move within this timeframe. Only in Asia and Oceania do a comparable percentage of men move in that timeframe.

Equal percentages of women and men stay in the workplace between five to ten years in Europe, Asia and the Americas. In Africa, this tends to be around ten to 15 years, and in the Middle East, it is seven to ten years (the latter figures need to be treated with caution, however, as there was a low response rate from the Middle East).

In all regions, men outnumbered women for work terms of 15 years or more.

Figure F: Length of time in current workplace



Focus: Role models for all people at the beginning of their career are important. An issue identified in the literature⁵⁷ is the dearth of female role models for young women in the legal profession. As such, the survey asked respondents to indicate how many women partners or principals were in their workplace.

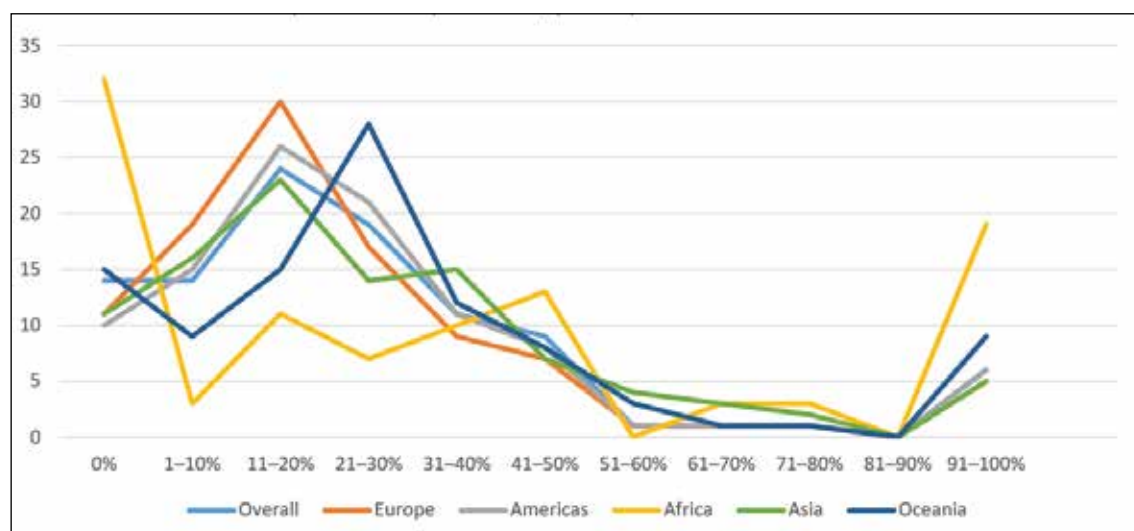
FINDINGS: Over a quarter of all women respondents reported working at firms where no more than ten per cent of partners are women and more than half work in firms where no more than 20 per cent of partners are women. Of the responses from the Africa region, 40 per cent of respondents work at firms where there are no female partners or principals.

Of the male respondents, around 20 per cent work in a firm with no female partners or principals.

This lack of female role models can discourage younger women from joining those particular firms which, in turn, entrenches certain exclusionary practices.

⁵⁷ See, eg, n 7 above.

Figure G: Proportion of partners/principals who are women

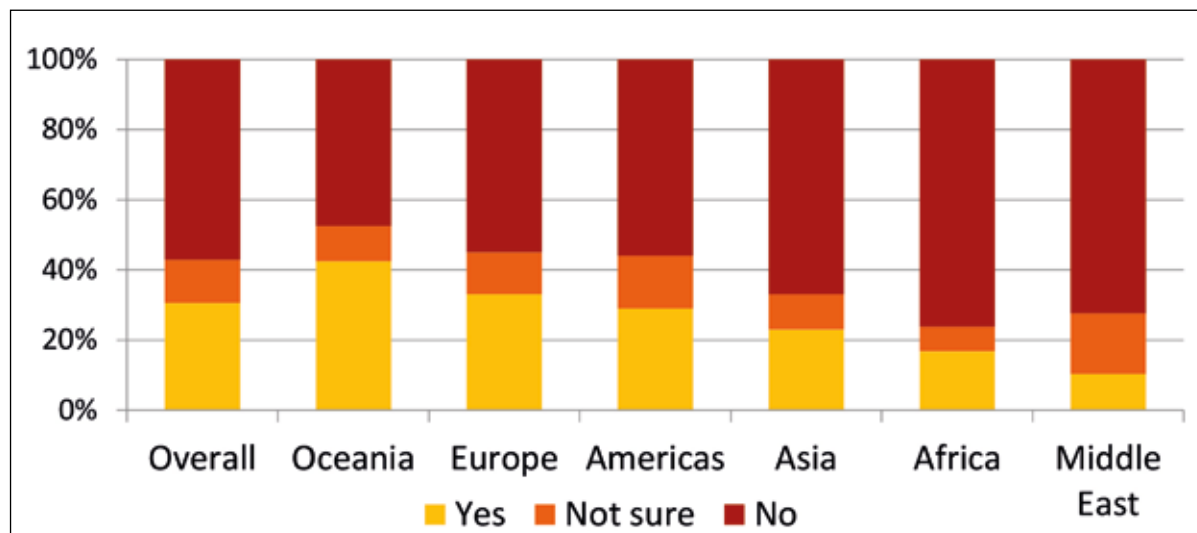


While these responses are not surprising given the breadth of research undertaken on this topic, it remains disheartening to see that research so emphatically confirmed. It clearly indicates that three decades or more of diversity policies have failed to achieve their objectives, which suggests the approach taken by them is flawed and imperfect. This issue requires further and more detailed study and analysis, preferably at a regional level, which might identify the social or cultural mores that contribute to these disappointing results.

Focus: Having partners or principals working part-time also provides an important role model to aspiring young lawyers, both women and men. As such, the survey also asked respondents if, to their knowledge, any partners/principals of their firm worked part-time (ie, less than five days a week).

FINDINGS: Almost 60 per cent of respondents overall said that no partners or principals worked part-time. This finding was reasonably consistent across all regions – Europe 55 per cent, Americas 56 per cent, Asia 67 per cent, the Middle East 72 per cent and Africa 77 per cent – with the exception of Oceania, where over 40 per cent of respondents said they knew of a partner or principal working part-time. Africa and the Middle East had particularly low positive responses to the question.

Figure H: Do you have partners/principals at your firm who work part-time?



Job satisfaction

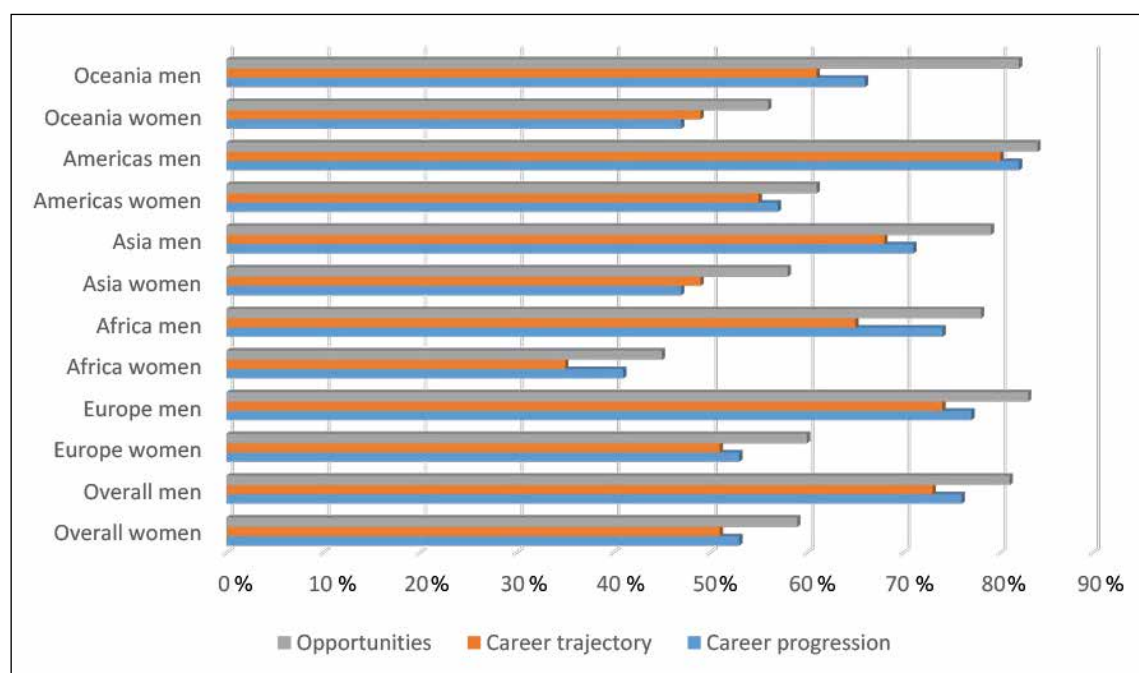
Findings in brief:

- Women report being less satisfied than men in all aspects of working life measured. They are most commonly dissatisfied with:
 - support in their organisation for work–life balance;
 - work–life balance;
 - accessible mentors;
 - billable hour requirements;
 - non-chargeable commitments requirements; and
 - promotion opportunities.

Focus: The survey sought to secure information regarding the extent to which respondents were satisfied with their career. This was a prelude question to other, more detailed questions regarding the nature of respondents' dissatisfactions, if any.

Findings: Overall, men were more satisfied with how their career had progressed, its trajectory versus expectations, and the opportunities for professional career development and promotion available to them. These findings were consistent with some minor variations across those regions from which we received sufficient responses.

Figure I: Career satisfaction

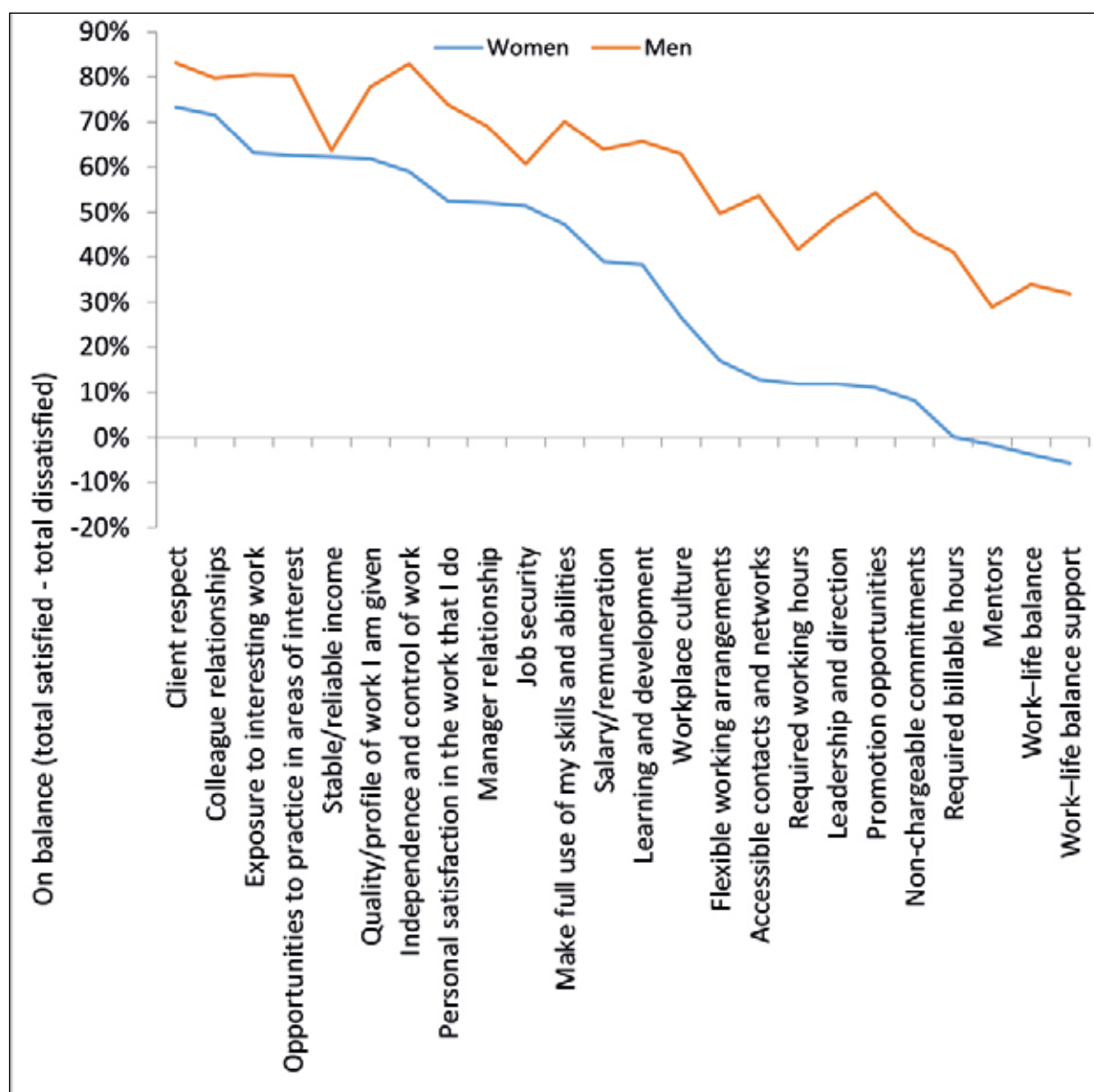


Focus: To gain a deeper understanding of the aspects of the job with which respondents were most or least satisfied, we asked them this question with a broad range of factors from which to choose. These included client respect, colleague relationships, quality of work, independence and control of work, manager relationships, billable hours required, workplace culture, salary/remuneration and job security, among others.

FINDINGS: Overall, there was consistency between women and men on factors such as satisfactory relationships with colleagues, client respect and the opportunities to practice in their areas of interest. Men were satisfied with the independence and control of work, as well as their exposure to interesting work. Women were satisfied with having a stable and reliable income. Both women and men were dissatisfied with required billable hours, access to mentors, work-life balance and support of these factors. Women were also dissatisfied with their non-chargeable commitments, while men were dissatisfied with the working hours required.

Dissatisfaction with non-chargeable commitments was a common theme across all regions. The survey did not explore the nature of the non-chargeable commitments; for example, it is unclear whether such commitments cover law firm administrative work, training demands or pro bono work. This issue requires further and more detailed study.

Figure J: Most satisfactory/least satisfactory factors of work



Here regional differences did arise. Note, however, the responses received from men in the regions of Africa and Asia were insufficient to include, as were the total responses from the Middle East.

In **Europe**, women and men were most satisfied with their colleague relationships, being able to practise interesting law and having opportunities to practice in areas of interest. Women also were more satisfied with having a stable and reliable income, and client respect, while men were more satisfied with the independence and control of their work, and the quality and profile of the work given to them. Both women and men were dissatisfied with non-chargeable commitments, required billable hours, accessible mentors and work-life balance support. Women also were not satisfied with the extent to which they have access to contacts and networks, while men were not satisfied with their work-life balance.

In **Africa**, women were most satisfied with client respect, colleague relationships, the ability to practise interesting law, the quality and profile of the work provided to them and the opportunities to practice in areas of interest. They were dissatisfied with work-life balance and the support given to it, having access to contacts and networks, having access to mentors and non-chargeable commitments.

In **Asia**, women were most satisfied with client respect, the quality and profile of the work they were given, the opportunities to practice in areas of interest and to practise interesting law, and having independence and control of their work. They were least satisfied with promotion opportunities, having accessible mentors, work–life balance support, required billable hours and non-chargeable commitments.

In the **Americas**, both women and men were satisfied with client respect, the opportunities to practice in areas of interest and to be able to practise interesting law, and the quality and profile of the work given to them. Women were also satisfied with colleague relationships, while men were satisfied with having independence and control of their work. Both women and men were dissatisfied with accessible mentors, non-chargeable commitments, required billable hours and work–life balance support. Women were also dissatisfied with work–life balance, while men were least satisfied with flexible working arrangements.

In **Oceania**, women and men were satisfied the most with having a stable and reliable income, client respect and the opportunities to practice in areas of interest. Women were also satisfied with their colleague relationships and to be able to practice interesting law. Men were more satisfied with learning and development, and independence and control of their work. Both women and men were dissatisfied with accessible mentors, required billable hours and work–life balance support. Women were also dissatisfied with work–life balance and non-chargeable commitments, while men were dissatisfied with their manager relationship, and leadership and direction.

Flexible working

Demand for flexible working arrangements has increased significantly over the past few years. The generation most commonly referred to as millennials, in particular, are demanding work environments that are more progressive and reflective of broader social mores.

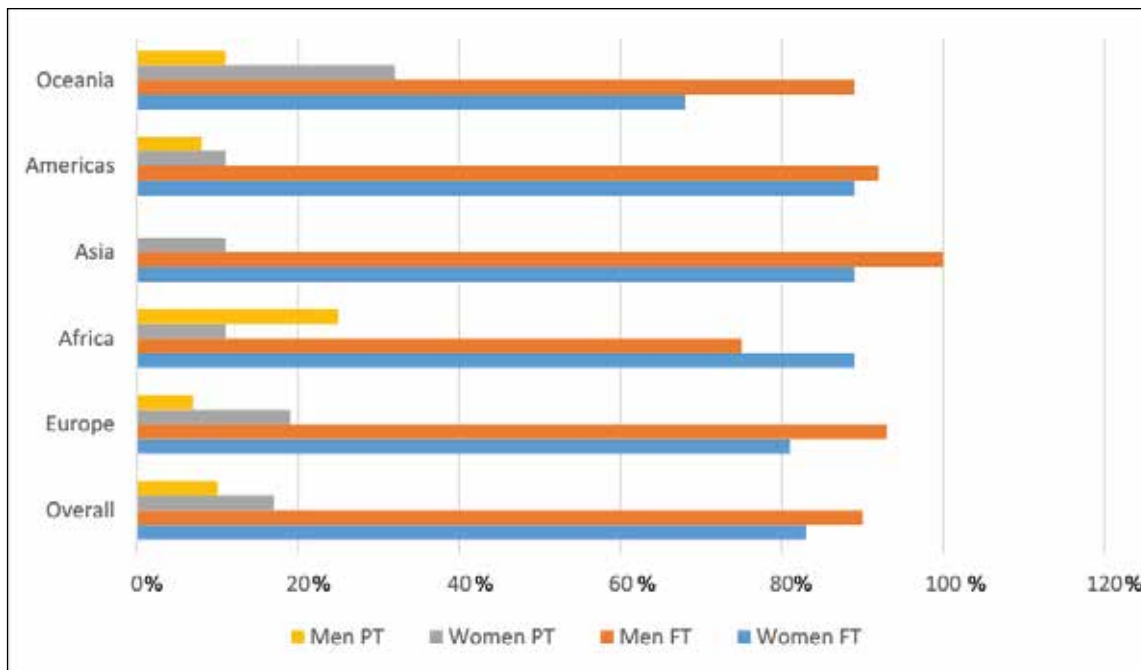
Findings in brief:

- Most firms have flexible workplace policies in place, but many are often not available or do not work effectively in practice due to a less than supportive workplace culture. For example, a lawyer may be discouraged from requesting flexible working arrangements if he or she is informed that to do so could damage his or her career prospects.
- A higher proportion of women than men have requested flexible working. Those respondents who did not make a request were driven by a lack of interest (particularly men) and/or the perception that it would not be feasible. Women often had concerns about the negative impact on their careers.
- For every type of flexible working, men were more likely than women to have their request approved.
- Female flexible workers were less likely than males to feel supported by clients, colleagues and management, and more likely to experience a negative impact on their careers.

Focus: In this context, the survey asked respondents if they work full-time or part-time and, on average, the number of hours they work each week (excluding breaks).

FINDINGS: Overall, more women worked part-time than men, with the most significant percentage being in Oceania (predominantly Australia). However, in Africa, some 25 per cent of men worked part-time compared with 11 per cent of women. No men responding from Asia or the Middle East said they worked part-time.

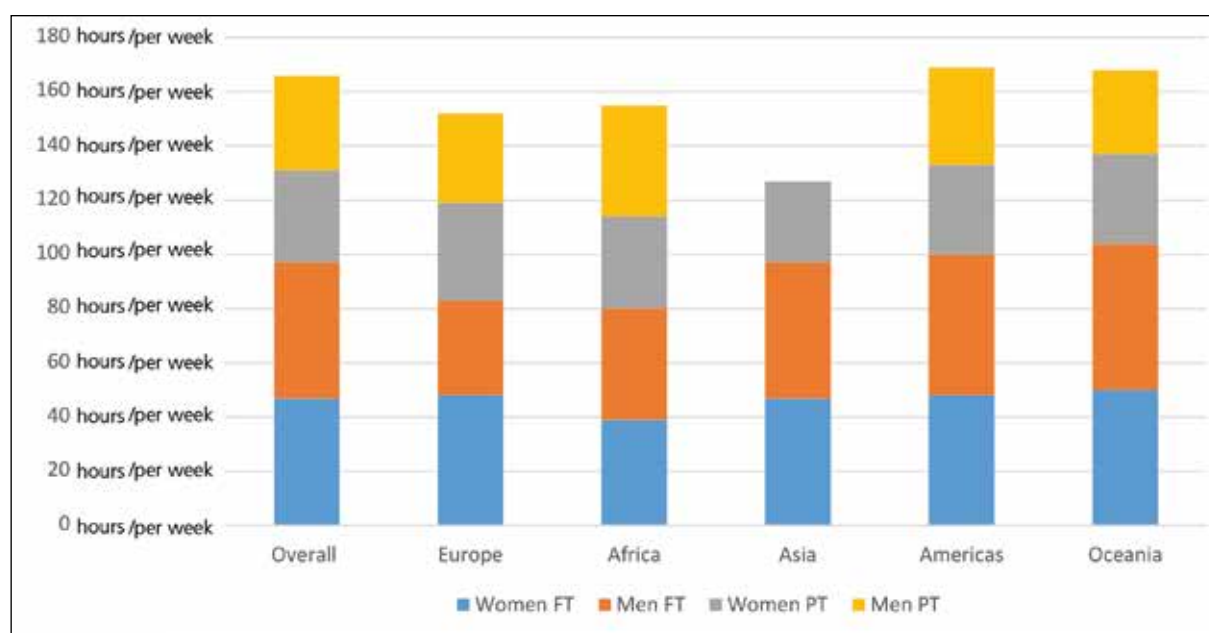
Figure K: Percentages of respondents working full-time versus part-time



Women continue to be the ones who predominantly undertake part-time work. However, the fact that men also work part-time strongly indicates that it is not specific to women. Responses to other questions, and our additional research, suggest that interest in more flexible working arrangements, such as working part-time, is not limited to women, and it is not always for family reasons.

As to hours worked, there was little difference between men and women, either in the full-time or part-time context. For the full-time context, on average, men worked 50 hours a week while women worked 47 hours a week. More men than women worked in excess of 50 hours a week, but most full-time respondents worked in excess of 40 hours a week.

Figure L: Average hours worked per week across regions



Fifty seven per cent of part-time women workers regularly worked more than 30 hours a week, compared with 48 per cent of male part-time workers.

Focus: Respondents were asked if they had requested access to flexible working arrangements and, if so, the nature of the flexible working arrangement requested, and if not, why not.

Options available to respondents were job sharing, compressed week, flexi-time, part-time, unpaid or paid maternity or paternity leave, flexible hours and remote working, with the option of none of the above for those who had not made any such request.

FINDINGS: Overall, 56 per cent of all respondents requested some sort of flexible working arrangement, of which 59 per cent were women and 41 per cent were men. The most significant flexible working arrangements requested were remote working, flexible hours, flexi-time and paid maternity/paternity leave.

Those who did not request flexible working arrangements had a range of reasons for not doing so. The options available were:

- not relevant for me/not interested (A);
- not feasible due to the requirements and expectations of my role (B);
- concerned of negative consequences for my status/progression if approved (C);
- concerned request would negatively impact my status/reputation (D);
- not feasible due to impact on household income (E); and
- unlikely that my request would be approved (F).

Overall, and consistently across the regions, a significantly higher proportion of men did not do so because they were not interested or they were of the view that such arrangements were not relevant to them (68 per cent compared with 39 per cent of women). The reasons why women did not request flexible working arrangements, on the other hand, varied across (B) (overall women 31 per cent and men 24 per cent), (C) (overall women 26 per cent and men ten per cent), (D) (overall women 26 per cent and men ten per cent) and (F) (overall women 20 per cent and men nine per cent). Only in the Americas and Oceania was (E) of reasonable significance – that is, was ten per cent or more – to respondents (Americas overall women 15 per cent and men 11 per cent, and Oceania overall women ten per cent and men 20 per cent).

The responses from men in the Africa and Asia regions suggest a greater expectation that such requests would not be approved (Africa 16 per cent and Asia 18 per cent). However, the total number of responses from men from each of these regions was low, so these results must be treated with caution.

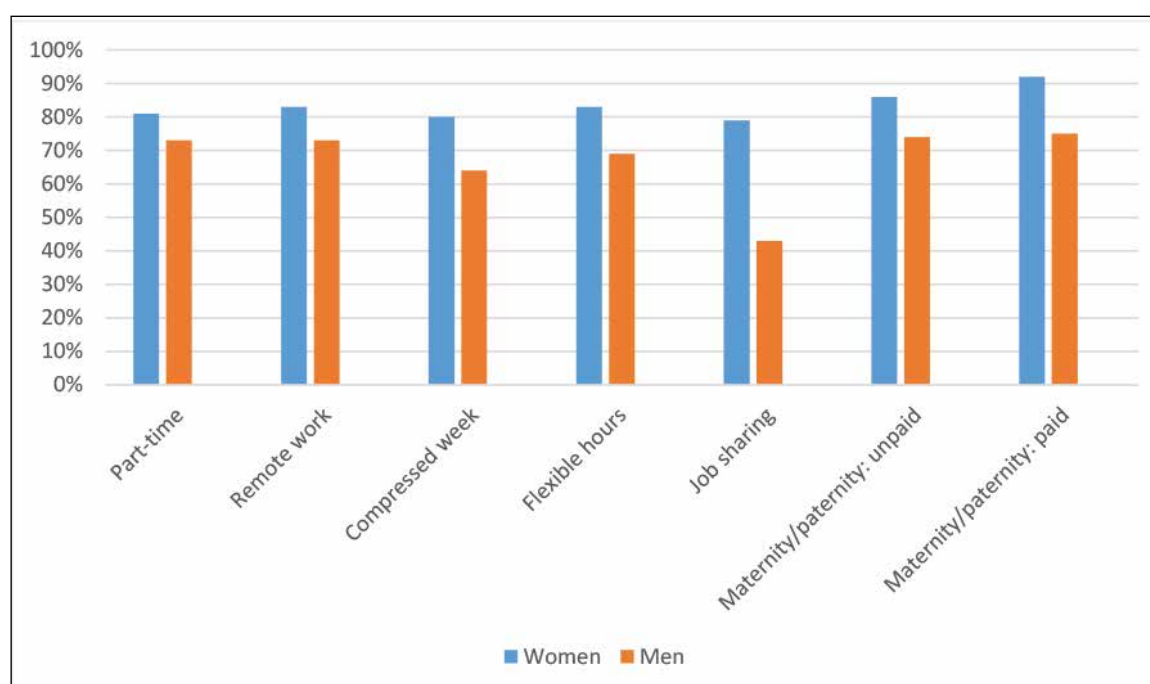
Focus: The survey asked respondents for the outcome to any request for flexible working arrangements; that is, the response and the reasons for the response.

The options provided to respondents for the first question were that the request was approved, partially approved or not approved. The options provided for the second question were company policy, management refusal, workload, position/seniority, it would set a precedent, approved with wage decrease or other. The responses to the ‘other’ option ranged from ‘not applicable’ to ‘approved, but didn’t work in practice’ (this is explored further below) to ‘too valuable to work part-time’.

FINDINGS: Overall, men’s requests for flexible working arrangements were approved more often than women’s. Almost 80 per cent of men had their request approved compared with 68 per cent of women respondents. In Europe, despite the high approval rates for men overall, approval rates for each of the flexible working arrangements listed do not differ significantly between them.

Women were more likely to have their request partially approved (23 per cent) compared with requests from men (15 per cent). Less than ten per cent had their requests refused (eight per cent women and five per cent men). Women responding from the Africa and Asia regions reported the highest refusal or partial approval in response to requests for flexible working arrangements (Africa refused 28 per cent and partially approved 33 per cent, and Asia refused seven per cent and partially approved 36 per cent). Note that the responses from men in the Africa and Asia regions, and all responses from the Middle East, were too few to include.

Figure M: Approval of flexible working arrangement requests



Note that these figures are derived from low bases in response rates from men from some regions to this question and therefore need to be treated with caution.

When requests for flexible working arrangements were refused, ‘company policy’ and ‘management refusal’ were cited as the main reasons, which reflected the position mainly in Europe and the Americas. Other reasons included workload, position/seniority (more in Europe than in the Americas) and concerns that to approve such requests ‘would set a precedent’.

Focus: For those respondents whose requests for flexible working arrangements were approved, we asked how those arrangements worked in practice.

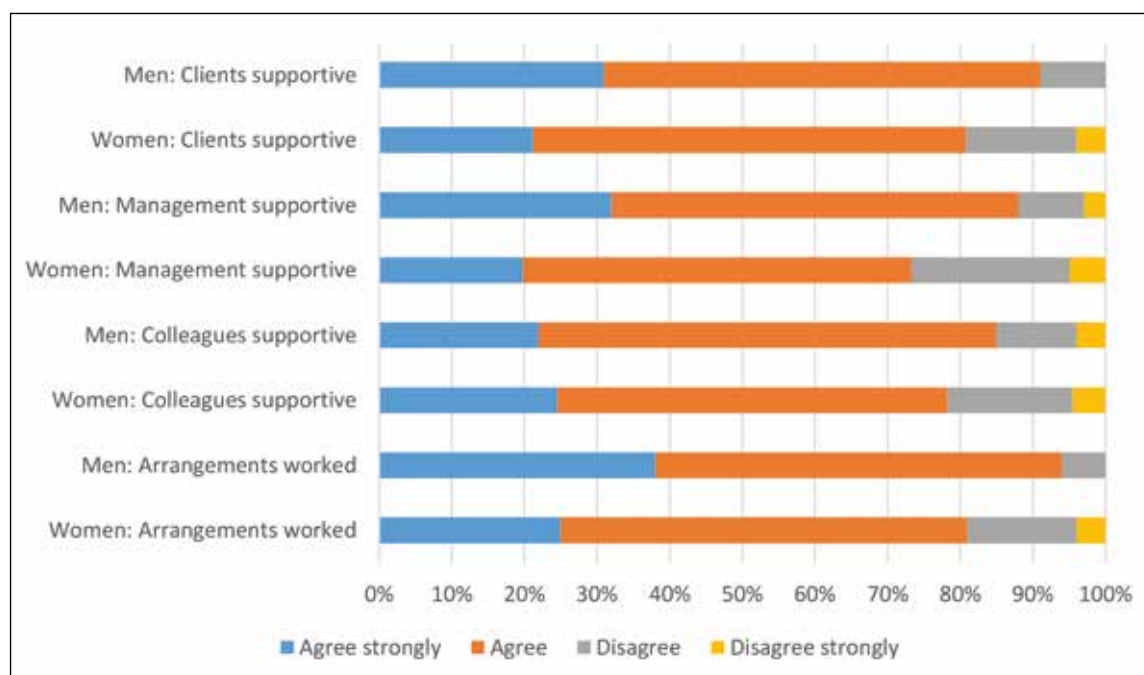
The options available to respondents were:

- the arrangements worked as intended;
- my colleagues were/are supportive of these arrangements;
- management was/is supportive of these arrangements;
- my clients were/are supportive of these arrangements;
- initially the arrangements worked well but they were not sustainable for me;
- the arrangements have negatively impacted my career path and promotion opportunities; and
- the arrangements have negatively impacted the profile and type of work I am given.

Respondents were given the option to strongly agree, agree, disagree or strongly disagree with these statements.

FINDINGS: Overall, men responded more positively to these options than women. The greatest variation was in response to the option that ‘management was/is supportive of these arrangements’. Almost 90 per cent of men agreed or strongly agreed with this statement compared with less than 75 per cent of women.

Figure N: Responses to how flexible working arrangements have worked in practice – overall

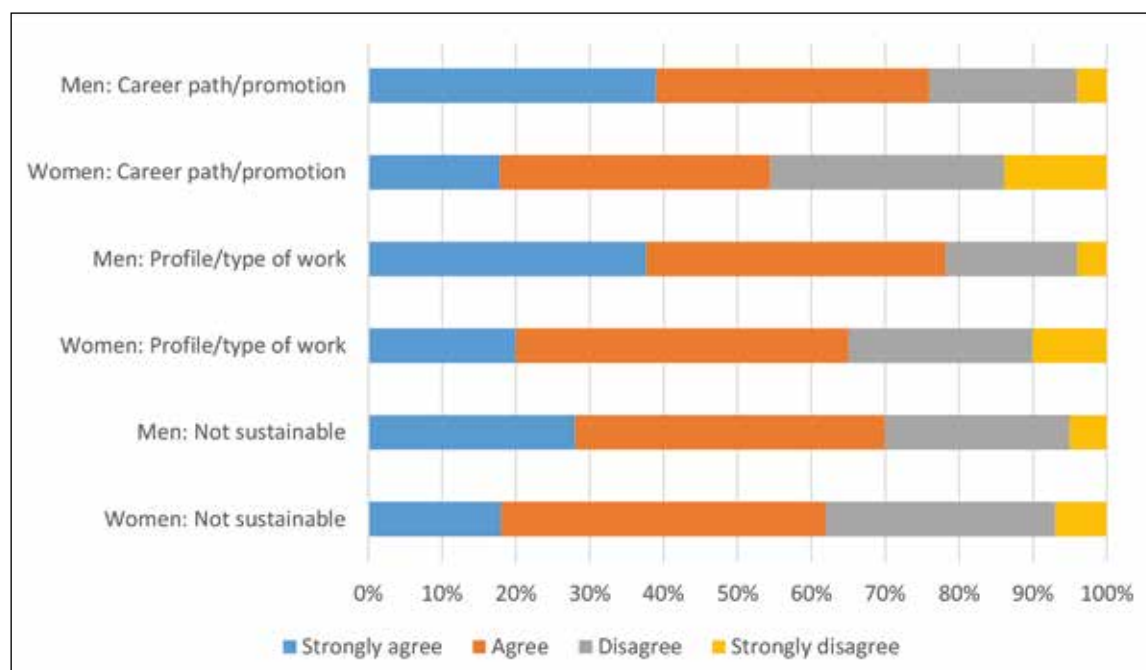


Overall, respondents across all age groups said that colleagues were supportive of flexible working arrangements. However, those within the age ranges of 30–50 were more likely to disagree with this. Respondents aged from 30–44 were more likely to say that their flexible working arrangements did not work as intended, whereas women over 44 years old were more likely to state that the arrangements worked as intended.

The responses suggest that respondents aged from 30–44, who are still progressing in their careers, experience difficulties with flexible working arrangements. In contrast, those over 44 years old often are more well established and, as such, management seems to be more likely to support their flexible working arrangements. Men stated that their arrangements worked as intended.

Similarly, overall, men disagreed more than women that their flexible working arrangements negatively impacted on their career paths, profiles and type of work, or that they were not sustainable.

Figure O: Consequences of flexible working arrangements – overall



These findings provide support to what is often more anecdotal evidence that expectations are that lawyers must commit themselves 100 per cent to their work/career to be taken seriously. Note that the ‘workability’ of the different flexible working arrangements may reflect the nature of those arrangements and the degree to which law firm structures/management have implemented appropriate supports rather than just flexible working arrangement policies.

Discrimination

Despite the plethora of anti-discrimination laws and policies, acts of discrimination against women, both direct and indirect, remain a concern. This is reflected in the findings of our survey, our research and that of others. For example, as noted earlier, many societies still hold very conservative views of the role of women in society, regardless of apparent equality under the law and in the workplace.⁵⁸

Findings in brief:

- Women more commonly report having experienced discrimination than men, particularly in relation to gender, age and carer responsibilities.
- Discrimination is experienced by lawyers of all ages.

Focus: The survey then sought more information regarding the extent to which respondents experienced discrimination in their current workplace. The options available were as follows:

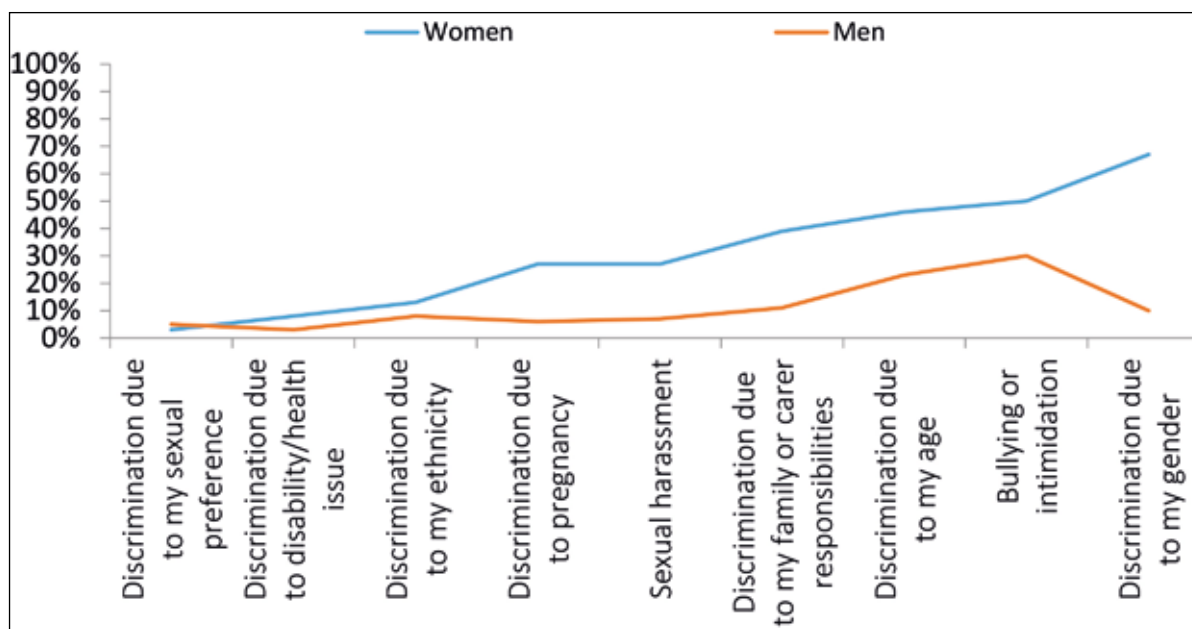
- discrimination due to my gender;
- discrimination due to my age;

⁵⁸ This observation was made in relation to findings of scholars and contributors to a future textbook on lawyers in the 21st century, explored and discussed at a meeting at the International Institute of the Sociology of Law in Oñati, Spain on 12–13 September 2017.

- discrimination due to pregnancy;
- sexual harassment;
- discrimination due to my family or carer responsibilities;
- bullying or intimidation;
- discrimination due to my ethnicity;
- discrimination due to disability/health issue; and
- discrimination due to my sexual preference.

FINDINGS: Overall, women experienced more discrimination in all areas except sexual preference. While there was some convergence by women and men regarding discrimination due to ethnicity and bullying or intimidation, in each case, women experienced them both more than men.

Figure P: Experience of discrimination by women and men overall

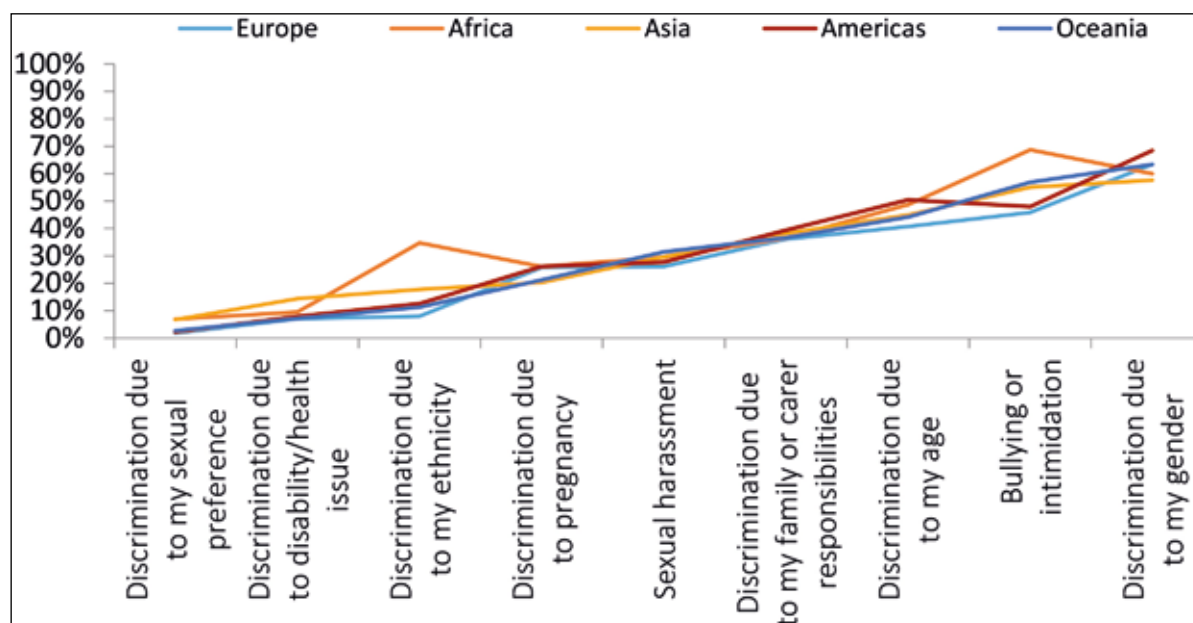


The proportion of women who have experienced:

- discrimination due to gender is 67 per cent compared with ten per cent of men;
- discrimination due to family or carer responsibilities is 39 per cent compared with 11 per cent of men;
- discrimination due to age is 45 per cent compared with 12 per cent of men;
- bullying or intimidation is 49 per cent compared with 30 per cent of men;
- sexual harassment is 27 per cent compared with seven per cent of men;
- discrimination due to ethnicity is 12 per cent compared with eight per cent of men; and
- discrimination due to disability/health is eight per cent compared with three per cent of men.

These findings were fairly consistent across the regions, as can be seen in **Figure Q**. We note, however, that women respondents from Africa experienced greater discrimination due to ethnicity and bullying or intimidation than women from other regions.

Figure Q: Experience of discrimination across the regions (women only)



There have been considerable strides to address sexual harassment, discrimination and bullying in the workplace, but this clearly is insufficient. As with gender diversity, however, what really establishes the ethos of a workplace is the kind of conduct that is and is not tolerated, and this, in turn, links back to workplace culture and leadership. The authors have observed that law firm management tends to tolerate inappropriate conduct by a partner if that partner brings in significant revenue. The influence of workplace culture on employees has significant implications for turnover and progression. This is explored further in the next section.

Job moves

Employees who are dissatisfied with their work environment are more likely to seek opportunities elsewhere. We wanted to understand the extent to which respondents proposed moving and actually did move, and the factors that influenced and motivated those moves.

In doing so, we note that, traditionally, law firms have hired more young lawyers than will ever make it to partnership; that is, there will always be some attrition, and that forms part of a law firm's business model. However, the rate of turnover at law firms is considerably higher than is required for these purposes. The findings are considered in this context.

Findings in brief:

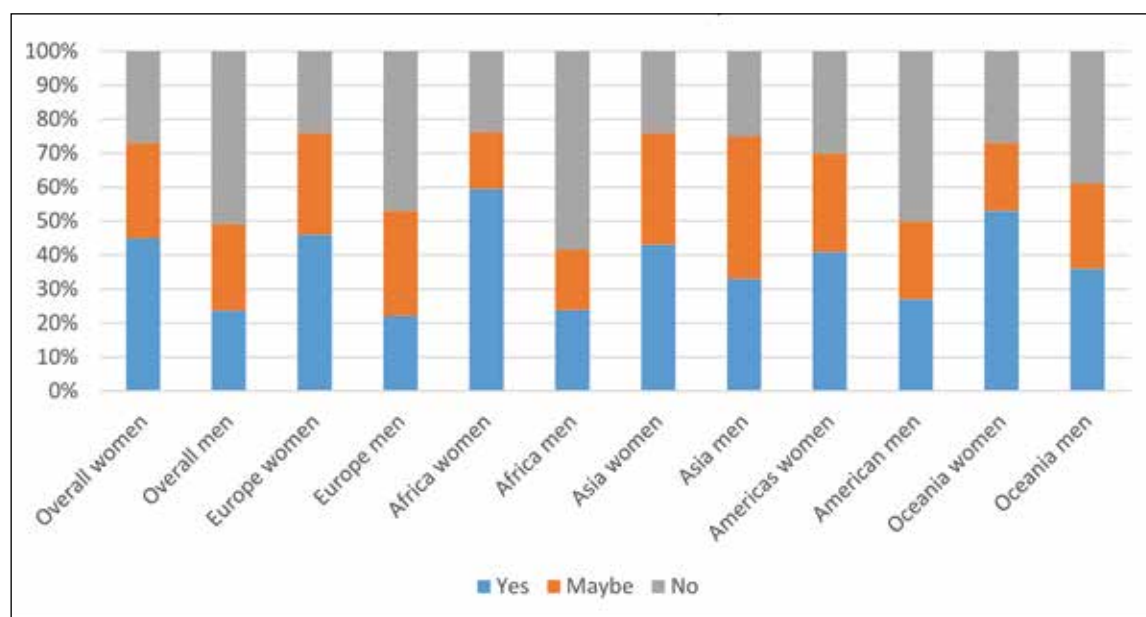
- A higher proportion of women to men were considering a job move, and typically within a shorter timeframe.
 - Of all those currently in private practice, a quarter planned to move to another firm, a quarter to corporate legal and a quarter to other employment types, with the remainder unsure.

- For women, the most common drivers when considering a job move were:
 - better work–life balance;
 - better salary/remuneration;
 - more flexibility to balance work and personal responsibilities;
 - more scope for flexible working arrangements; and
 - looking for a change/something new.
- Where experienced, a lack of promotional opportunities also often had a major impact on women considering a move.
- However, the factors that actually most commonly influenced women’s most recent moves were:
 - better salary/remuneration;
 - unhappy with leadership and direction;
 - unhappy with workplace culture;
 - lack of promotional opportunities; and
 - more interesting/varied work.

Focus: Generally speaking, if people are satisfied with their jobs, then they are less likely to consider moving. As such, we asked respondents if they were considering a job move or new employment circumstances in the next five years.

FINDINGS: Overall, almost half of female respondents said that they were considering a move in the next five years, while only around a quarter of men said they were doing so. While there were variations from region to region, women consistently were more likely to consider a move than men. Note that the responses from the Middle East were too few to include here.

Figure R: Respondents considering a move in the next five years



When asked specifically in what timeframe the respondents were considering moving to a new job/new employment circumstances (ie, in the next year, next one to two years, next two to three years, next three to four years and next four to five years), the percentages of female and male respondents who said they were doing so increased. However, the proportions of women and men in their responses remained largely the same across the regions.

This may reflect the demographic of respondents, where more men older than 40–44 responded to the survey when compared with responses from women. Note that a higher percentage of men in Asia and Oceania said that they would consider moving to a new job in the next five years. This could reflect a more mobile workforce in those regions.

Focus: The survey asked respondents to identify the kind of job/employment sector to which respondents anticipated they would move. Options available were as follows:

- private law firm;
- academia;
- advocate;
- community legal centre;
- corporate legal;
- court/tribunal;
- government legal;
- NGO/not-for-profit;
- prosecutor/public defender; and
- other.

FINDINGS: Of interest is that a significant percentage of respondents, with some exceptions, largely intend to move to the same kind of job, but with a different employer. So, 25 per cent of respondents currently working in a private law firm want to move to another private law firm. Another 24 per cent of those same respondents want to move to corporate legal or an in-house legal job, another 24 per cent remain unsure, while five per cent each want to go into a government legal job or retire.

Advocates are thinking about joining law firms or going into another advocate's position. Lawyers who currently work in corporate legal are more likely to seek a comparable job in another company. And those working in courts or tribunals either want to change their jobs within the same organisation or, interestingly, move to a private law firm.

Women's responses to this question were largely consistent across the regions, except in the Americas, where a lower percentage of women were interested in moving to another law firm.

Men were more likely to change law firms rather than move into a corporate legal role. Those men who are currently in corporate legal roles are more likely to seek to join a private law firm.

Focus: We then sought to identify the factors that are likely *to play a role* in respondents' decision to move and *influence* their decision to move. Options available were extensive and included:

- better salary/remuneration;
- lack of promotional opportunities;
- more flexible working arrangements;
- better work–life balance;
- unhappy with workplace culture;
- unhappy with the leadership and direction of the organisation;
- experienced bias or discrimination;
- more independence/control in work;
- better quality of work;
- looking for a change/something new;
- better position/significant job opportunity;
- better job security/reliability of work and/or income;
- better mentorship;
- too much pressure on billable hours;
- too much pressure on bringing in clients/new business;
- reduced stress and pressure;

- it's part of the career plan;
- taking time out from the profession (career break/parental leave);
- retirement; and
- other.

FINDINGS: Overall, the top factors that respondents considered likely to *play a role* in their decision to move were better work–life balance (women 56 per cent and men 39 per cent), salary/remuneration (women 43 per cent and men 35 per cent), work flexibility (women 42 per cent) and looking for a change/something new (men 26 per cent).

In Europe and the Americas, the main factor likely to play a role in a decision to move for women and men respondents was work–life balance (Europe 61 per cent and 44 per cent, respectively, and Americas 55 per cent and 36 per cent, respectively). Women in Asia and men in Oceania said this factor would play the main role in their decision to move (47 per cent and 39 per cent, respectively). For women and men in Africa and women in Oceania, salary/remuneration were more likely to play a role (59 per cent, 41 per cent and 50 per cent, respectively). For men in Asia, work–life balance and salary/remuneration were equally likely to play a role (each at 42 per cent).

Other factors likely to play a role in women's decision to move were working arrangements, promotion opportunities and seeking a change/something new. For men, seeking a change/something new was more likely to play a role. Seeking interesting/varied work and the quality of work both were identified as likely to play a role in any decision to move by women in Africa and Asia.

Overall, the factors that were likely to *influence* respondents' decision to move – both women and men – were better work–life balance and flexibility to balance work and personal life. This was consistent among women respondents across the regions, whereas there was some variation for men. Men were more likely to be considering retirement than women.

Women respondents also said more flexible arrangements, lack of promotion and reduced stress and pressure would influence their decision. Men respondents also said better salary/remuneration, looking for a change/something new and better quality work would influence them.

Focus: While respondents may have *anticipated* factors that could have a role to play or influence their decision to leave in the future, of equal importance are the factors that *actually* influenced respondents' most recent career move. The options available were extensive and included those listed above.

FINDINGS: In this case, the factors cited most frequently become more specific and common between women and men. Overall, for both women and men, particularly in Europe and the Americas, the factors that influenced their last move were salary/remuneration, being unhappy with the leadership and direction of the organisation, unhappy with the workplace culture and a lack of promotional opportunities/career advancement (see **Figure S**).

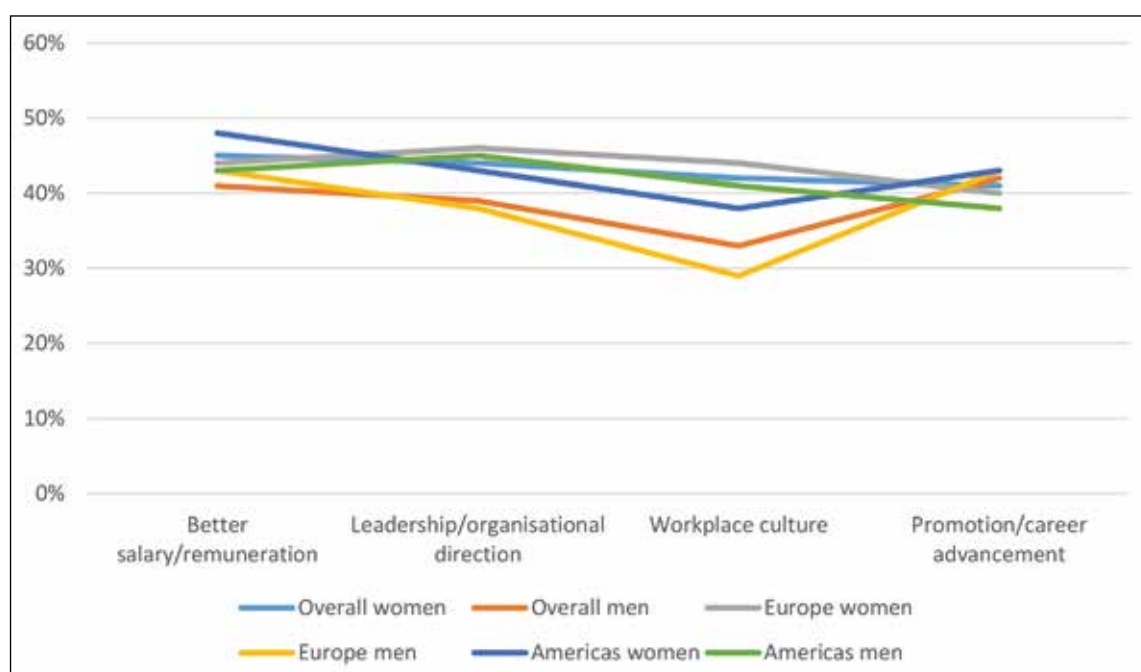
Note there were insufficient responses from the Asia, Africa, Middle East and Oceania regions to include here.

Women sought more interesting work, while men sought a change or something new. The longer women had practised, the less they were concerned about the lack of promotional opportunities, while women who worked part-time were more concerned about having flexibility to balance work and life.

Women, more often than men, also referred to factors such as being unhappy with management relationships or having experienced bias, discrimination, bullying or intimidation as factors influencing their more recent career move. Men expressed less unhappiness with the leadership and direction of the organisation, or with workplace culture.

The highest proportion of women not moving to a new job or circumstance were those working for NGOs or not-for-profit organisations.

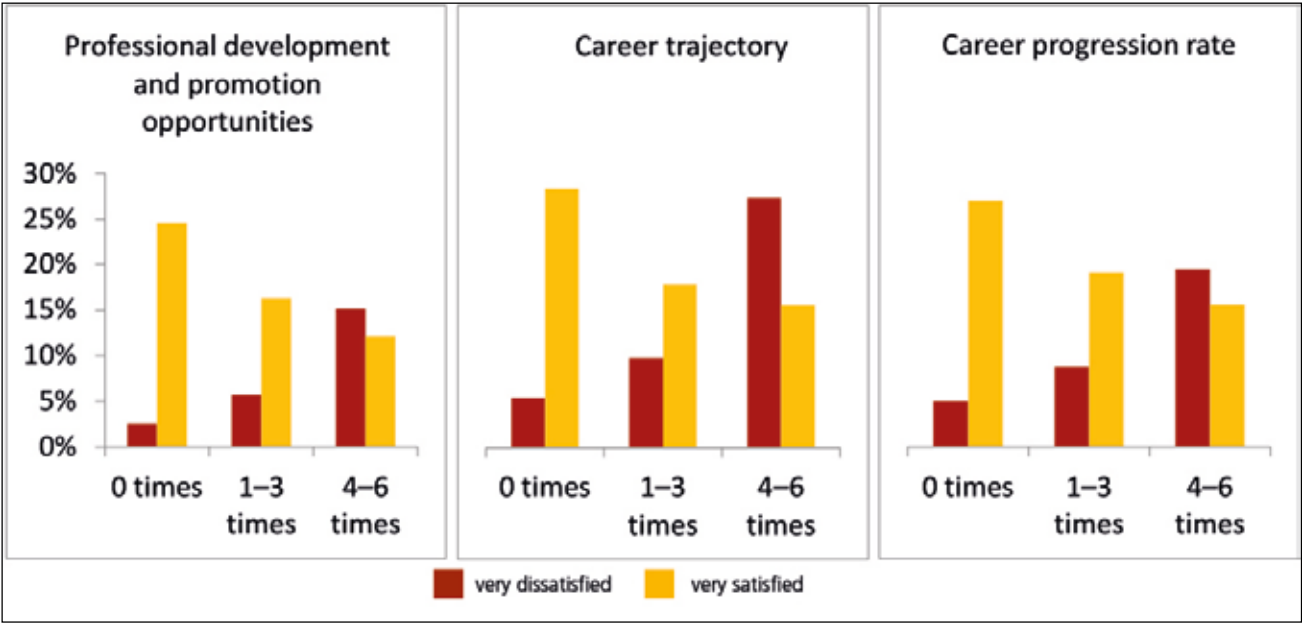
Figure S: Factors that influenced respondents' most recent career move



Focus: We also asked respondents how frequently they have left a job (eg, changed employer, taken a career break or started their own business) in the previous five years (since October 2011) and the extent to which they were satisfied with their professional development and promotion opportunities, career trajectory and career progression rate.

FINDINGS: Unsurprisingly, we found that respondents satisfied with these factors moved far less frequently than those who were not. **Figure T** sets out respondents' comparative levels of satisfaction with the frequency of job moves over the five-year period.

Figure T: Frequency of move measured against satisfaction with factor



The findings suggest that men are more likely to be pulled by positives, while women are more likely to be, or feel they are, pushed by negatives. This reflects the findings of our research, which highlights that the structures developed by men continue to work in their favour, but are less likely to do so for women.

Focus: Given the factors that influenced respondents to move, we asked them from where and to where they moved.

FINDINGS: Interestingly, most respondents moved from a private law firm, and from other forms of legal employment, to a private law firm. Sixty-seven per cent of female respondents and 71 per cent of male respondents moved from a law firm, and 71 per cent of female respondents and 82 per cent of male respondents moved to a law firm. While nine per cent of female respondents left a corporate legal position and nine per cent moved to a corporate legal position, the numbers of respondents leaving their current form of employment for a form of employment other than law firms trended down.

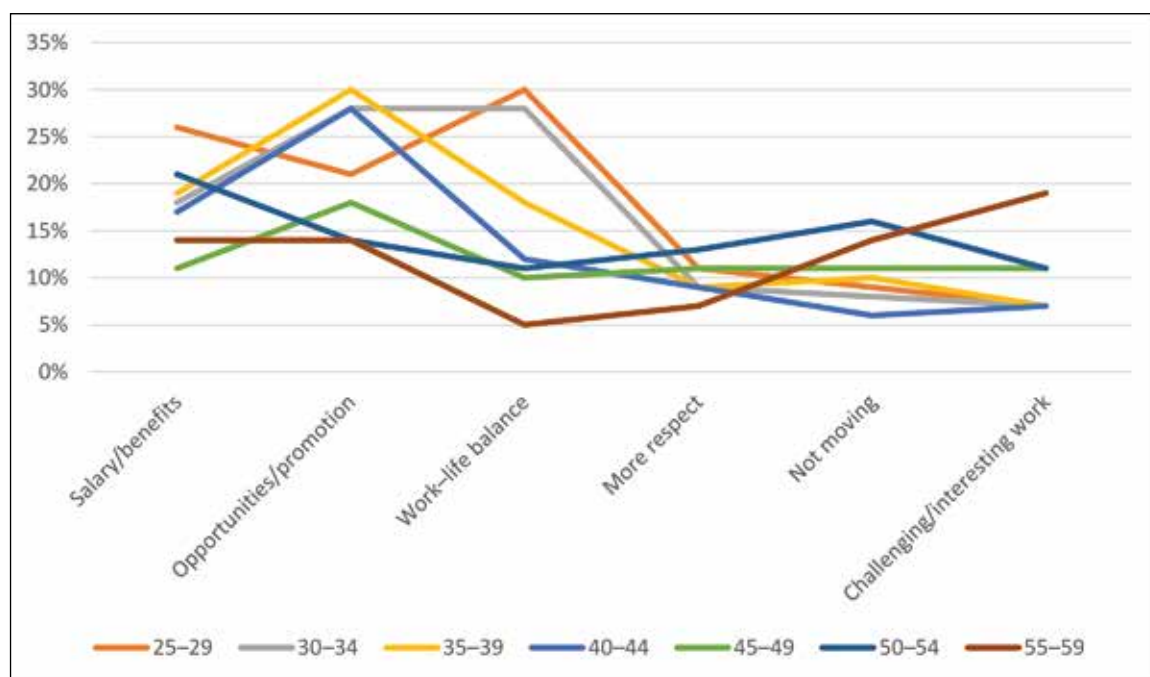
The high number of responses from respondents in private law firms most likely reflects the IBA membership, although we did seek to extend the survey beyond the IBA. However, it also is likely to reflect the fact that better salary/remuneration is a key factor influencing respondents’ decision to move. Law firm salaries are generally much higher than other professional options. This can be a particular drawcard for legal professionals leaving other forms of employment such as academia, courts or tribunals, government legal and not-for-profits/NGOs. Finally, there is a tendency for people to stay with what they know. As such, even if someone is frustrated with the workplace culture and/or leadership, say, at their current law firm, the law firm structure is one with which they are most familiar.

Focus: We also sought to understand what might have motivated them to change their decision to move job/employment circumstances.

Findings: Women, overall, would have been motivated to change their decision if offered more opportunities or promoted (particularly in Africa), an improved work–life balance, respect (particularly in Oceania) and a better workplace culture. Opportunities for promotion, improved salary and benefits, and work–life balance were more important to women with one to ten years’ experience. In contrast, women with 21–30 years’ experience were more interested in having challenging work. Of interest is that only women respondents in the age bracket of 25–29 referred to improved mentoring (seven per cent), and billable hours were more of a concern for women respondents from the Americas (eight per cent).

Men, overall, would have been motivated to change their decision if offered better salary and benefits and more opportunities or promotion.

Figure U: Main factors that would result in women respondents changing their move decision – by age (responses from those in the age groups <25, 60–64 and >65 have been excluded because there were too few)

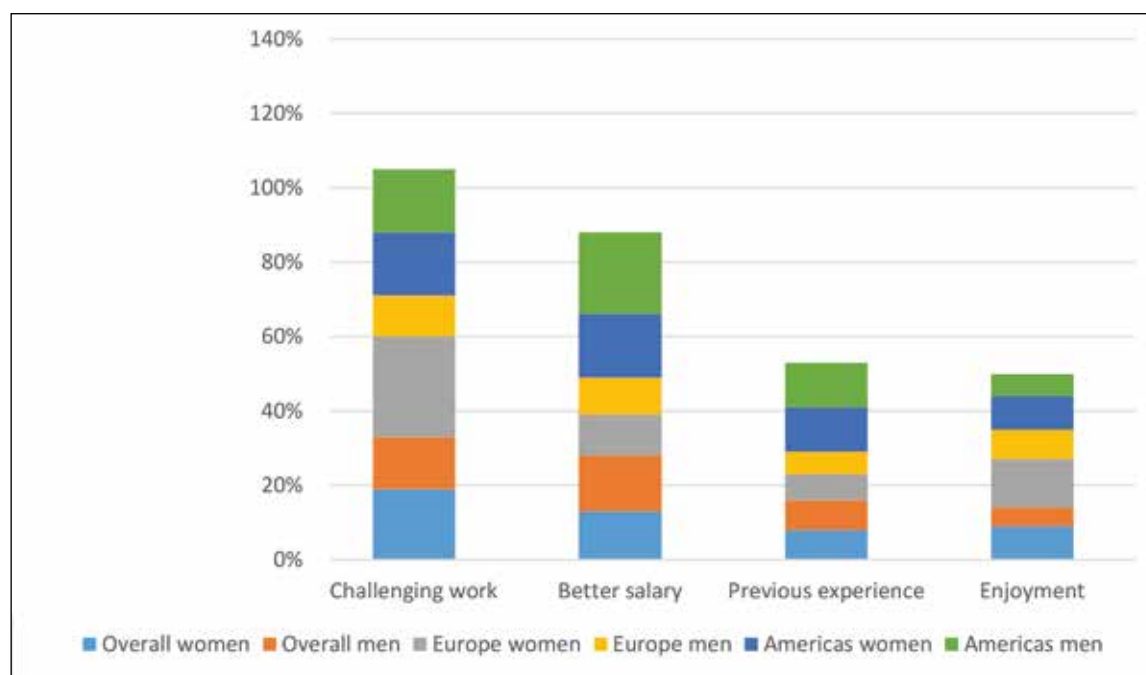


Focus: For those respondents who, at the time of responding, did not work in a private law firm, we asked why they were interested to do so in the future.

Findings: Of those not working in a private law firm, 63 per cent of women respondents and 72 per cent of male respondents said they would consider working for such a firm in the future. Women said that this was because of access to challenging/interesting work, particularly in Europe, and a better salary, particularly in the Americas. Male respondents were predominantly driven by better salaries, but also were interested in more challenging work.

Male and female respondents also were interested in the opportunities available, where such work fit within their own career plans, and the autonomy such work was likely to give them.

Figure V: Why respondents would be interested in joining a law firm



These findings were fairly consistent across the age groups, with challenging work remaining the primary interest and better salary close behind in the younger age groups. For those falling into the age groups of 40–44 and greater, better salary was less of a focus. All age groups, albeit to a lesser extent, referred to the enjoyment of working in a private law firm. Therefore, it can be said that there were mixed messages derived from these responses.

Leaving the profession/re-engagement

It is clear from the responses that many leave the profession, and for a range of reasons. We sought to obtain more detailed information regarding why by asking respondents their reasons for leaving. Note, however, that we received only 195 responses in total – 184 from women and 11 from men. Given the low number of responses from men, we excluded their responses from this analysis. Further, most respondents were from Europe or the Americas. There were insufficient respondents from Africa, Asia, the Middle East and Oceania to include here. The following findings must be considered in that context. We include them here for completeness.

Findings in brief:

- For women who left the legal profession, work–life balance was a key factor, the most common reason for leaving and the most common factor that would have persuaded them to stay.
- The majority have not ruled out practising as a lawyer again in the future:
 - three to five years is the most common timeframe.
- Women tend to miss the challenging work.
- Salary, work–life balance and promotion opportunities are the factors that would influence their decision to return.

- Seeking a better work–life balance was more of a deciding factor for respondents that were younger and earlier in their career.
- Being unhappy with the culture and leadership of the organisation was cited as a reason for leaving the earlier the respondent was in his or her career in the legal profession.
- Seeking flexible working was more of a factor for those working part-time; however, being unhappy with the workplace culture influenced full-time workers more than part-time workers on the decision to leave law.
- Full-time workers were more likely to leave law to find more interesting and varied work.
- Part-time workers were significantly more likely to want to start a new business/be self-employed.
- Those in Asia sought a better salary significantly more than those in Europe, and they also cited not wanting to be a lawyer any more significantly more than respondents in Europe.

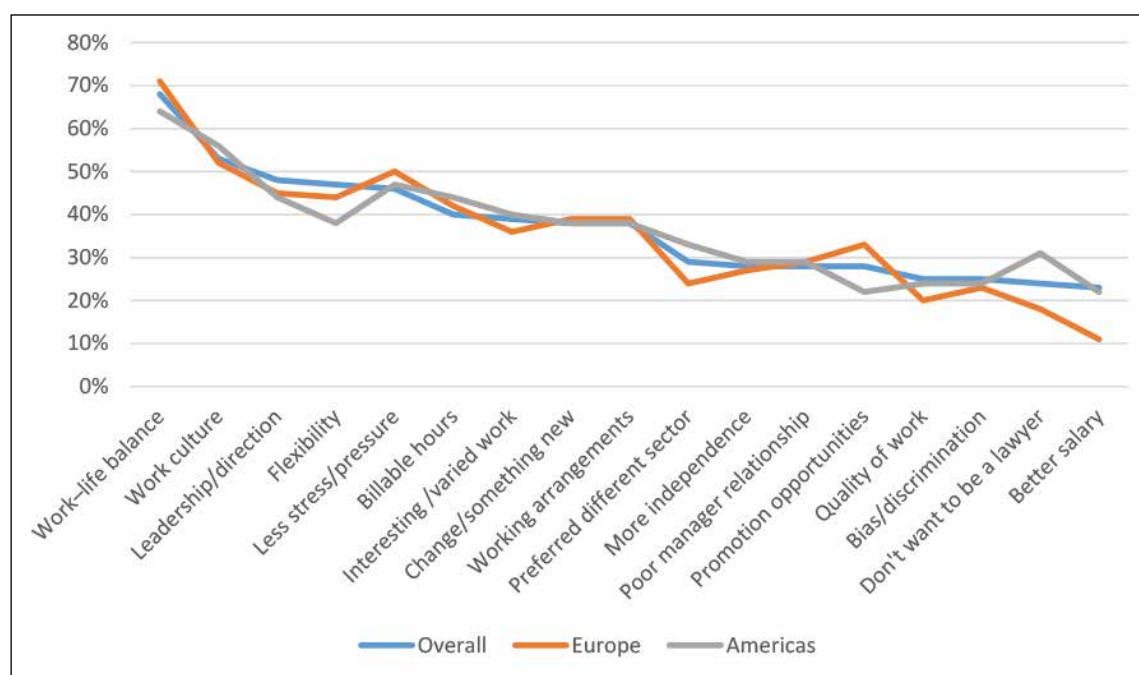
Focus: For those respondents who chose to leave a career as a practising lawyer, we wanted a better understanding of the factors that influenced their decision to leave.

Findings: Work–life balance was the dominant factor in women’s decision to leave their legal career, accounting for 68 per cent of all responses. Many were also unhappy with the workplace culture (53 per cent) and the leadership and direction of the organisation (48 per cent). Women also left their careers because they wanted more flexibility to balance work and personal life (47 per cent) and to reduce stress and pressure (46 per cent).

Less common, but still significant, factors that influenced women leaving their legal career included:

- discrimination and bias (25 per cent);
- harassment and bullying (21 per cent);
- pressure to bring in clients/business (18 per cent);
- better position or significant job opportunity in another sector (16 per cent);
- seeking better mentorship (11 per cent);
- the move was part of a longer-term career plan (ten per cent); and
- to take a career break (nine per cent).

Figure W: Factors influencing women's decisions to leave their legal career



Of interest is that the importance of some of these factors varied depending on how long the respondent worked as a lawyer. In particular, unhappiness with the workplace culture, leadership and direction of the firm, and inadequate mentorship were less important the longer the respondent worked as a lawyer. Presumably, more senior practitioners became inured to such practices or found ways to work within them. Wanting to give back to the community became more important to respondents the longer they practised, while seeking a better salary was more important to those respondents who had practised for 11 to 20 years.

Focus: Respondents were then asked what, if anything, would have changed their decision to leave the legal profession. This was a qualitative question, thus no options were provided.

Findings: The most dominant factor that respondents said would have changed their decision to move was improved flexibility and a better work–life balance (32 per cent overall). This was particularly in the 30–34 age group and less relevant for women younger than 25 or older than 50. Women respondents from the Americas, in particular, mentioned this factor as being a game changer (43 per cent) compared with their European counterparts (31 per cent). However, women respondents also said they would have changed their decision to leave if there had been, among other things:

- better career progression/opportunities for promotion (Europe 16 per cent and Americas 17 per cent);
- change in culture/staff attitudes (Europe nine per cent and Americas 14 per cent); and
- better mentorship and support (Europe 12 per cent and Americas nine per cent).

Some said that nothing would have changed their decision (Europe ten per cent and Americas 11 per cent).

Focus: Given that many of the respondents left the legal profession for reasons other than the nature of the work, we asked them what they miss about working in the legal profession. This was a qualitative question, thus no options were provided.

FINDINGS: The most common factor respondents said they miss is the exciting and challenging work and intellectual stimulation derived from legal work (20 per cent overall). This was particularly so for the 25–29 year old age group, and more so for those respondents from Oceania. Respondents also missed:

- colleagues and camaraderie (Europe 19 per cent and Americas 15 per cent);
- working with clients (Europe 16 per cent and Americas nine per cent);
- level of compensation or having a stable income (Europe 12 per cent and Americas 12 per cent); and
- practising law or undertaking legal work (Europe nine per cent and Americas six per cent).

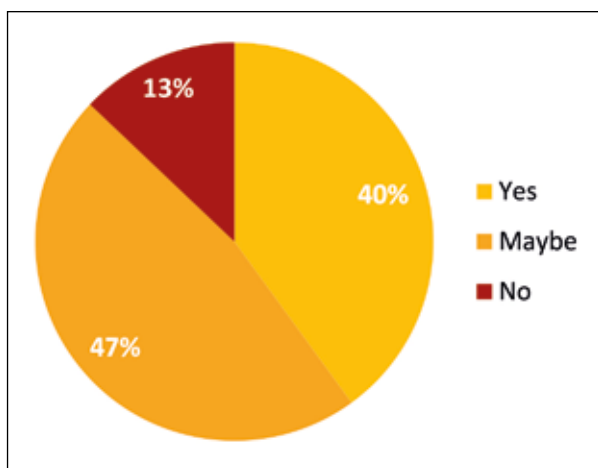
Respondents from Europe also missed the availability of career progression and development (nine per cent) and the thrill and adrenaline of legal work (seven per cent). By contrast, respondents from the Americas missed teamwork and collaboration (15 per cent), the status and prestige of being a lawyer (nine per cent) and mentoring or having a mentor (six per cent).

A significant percentage missed nothing about being a practising lawyer (Europe 14 per cent and Americas 15 per cent).

Focus: Finally, we asked respondents if they would consider working as a lawyer again in the future and, if so, in what timeframe and what would influence their decision.

FINDINGS: Almost half of respondents were undecided regarding whether they would rejoin the legal profession. Of those who said yes, 11 per cent anticipated doing so within the next 12 months (Europe 13 per cent and Americas eight per cent), while 31 per cent anticipated doing so in three to five years (Europe 30 per cent and Americas 33 per cent). Of these respondents, some 33 per cent were unsure regarding when they would do so.

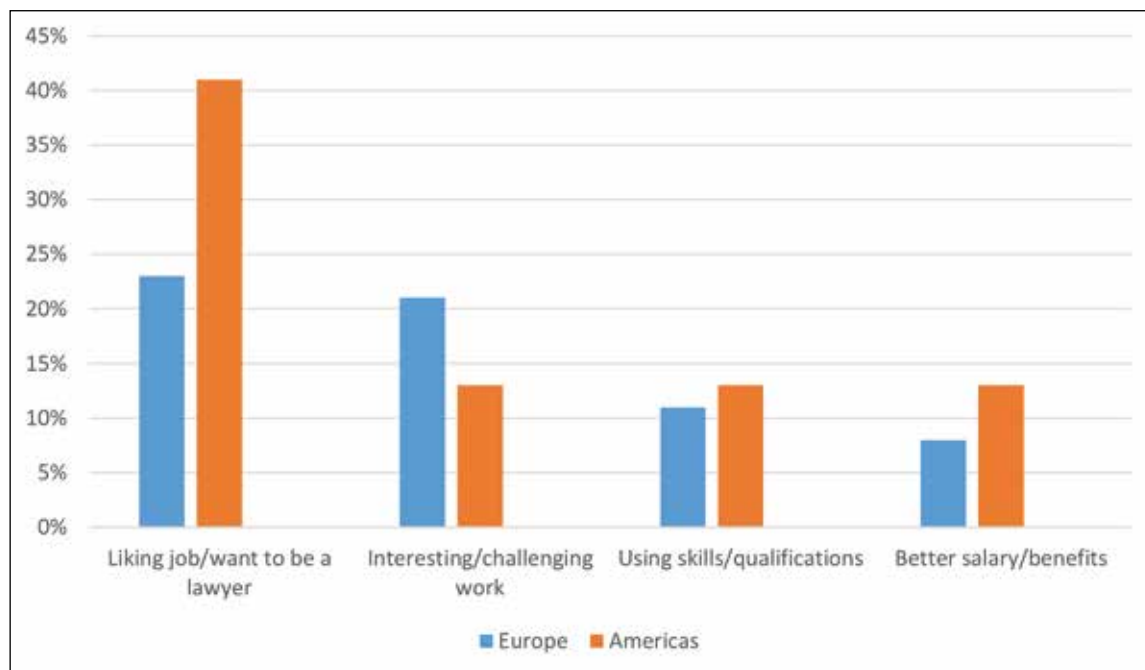
Figure X: Respondents' response to whether they would work as a lawyer again



Respondents with 11–20 years’ post-admission experience were most likely to say that they would consider working as a lawyer again in the future (53 per cent). The highest proportion of respondents who answered ‘maybe’ were married women.

The reasons why respondents considered rejoining the legal profession included liking the job and wanting to be a lawyer again, wanting to do interesting and challenging work, to use the skills that they had acquired and in which they were qualified, and to have better salary and benefits. The breakdown between respondents from Europe and the Americas is in **Figure Y**.

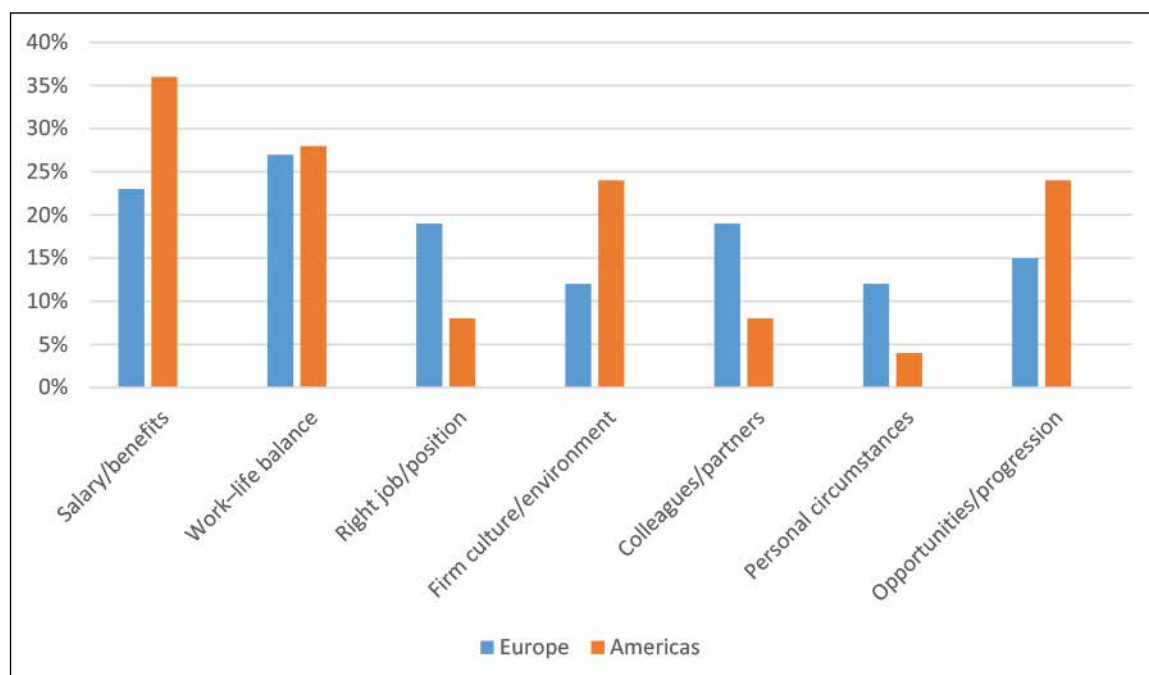
Figure Y: Why respondents wanted to rejoin the legal profession



Respondents from Europe also wanted to work with and help people (ten per cent) and to grow and progress professionally (ten per cent).

A range of factors would influence their decision to do so, including the salary and benefits (with more single respondents and respondents with 11–20 years’ experience having a particular interest in these) (overall 33 per cent), nature of the work–life balance and work flexibility (overall 24 per cent), availability of opportunities and progression (overall 18 per cent), the right job or position (overall 16 per cent) and the culture or environment of the firm (overall 16 per cent). The breakdown between respondents from Europe and the Americas is shown in **Figure Z**.

Figure Z: Factors that would influence the decision to return to the legal profession



Respondents from Europe also referred to the nature of management and leadership (15 per cent), while those from the Americas also referred to the availability and quality of interesting work (eight per cent).

Barriers to law graduates practising

There are suggestions that students increasingly are treating a law degree as necessary for any future career, regardless of the profession.⁵⁹ We sought to further our understanding of this approach by asking respondents who had acquired a law degree why they never practised. Note, however, that we received only 112 responses in total – 91 from women and 23 from men. Further, most respondents were from Europe or the Americas. There were insufficient respondents from Africa, Asia, the Middle East and Oceania to include here. Given the low number of responses from both women and men, the following findings must be considered in that context. We include them for completeness.

Findings in brief:

- Why do women who have never practised study law in the first place?

The top reasons selected were:

- an interest in the law;
- good job opportunities;
- interest in social justice;
- skills for employment in other fields; and
- interest in international relations.

⁵⁹ See, eg, Renee Sylvestre-Williams, 'Nine Jobs You Can Do with a Law Degree' *Forbes* (online, 22 November) 2012 www.forbes.com/sites/reneesylvestrewilliams/2012/11/22/nine-jobs-you-can-do-with-a-law-degree/#3cbb937f784c accessed 5 December 2017.

- For a fifth of women, their law degree only met their expectations to a small extent or not at all. However, two-fifths of all women who did not go on to practise law still planned to at the point of completing their law degree.
- Why do women decide not to practise?

Factors typically driving this decision, to a great extent, included being offered another job opportunity and also perceptions of:

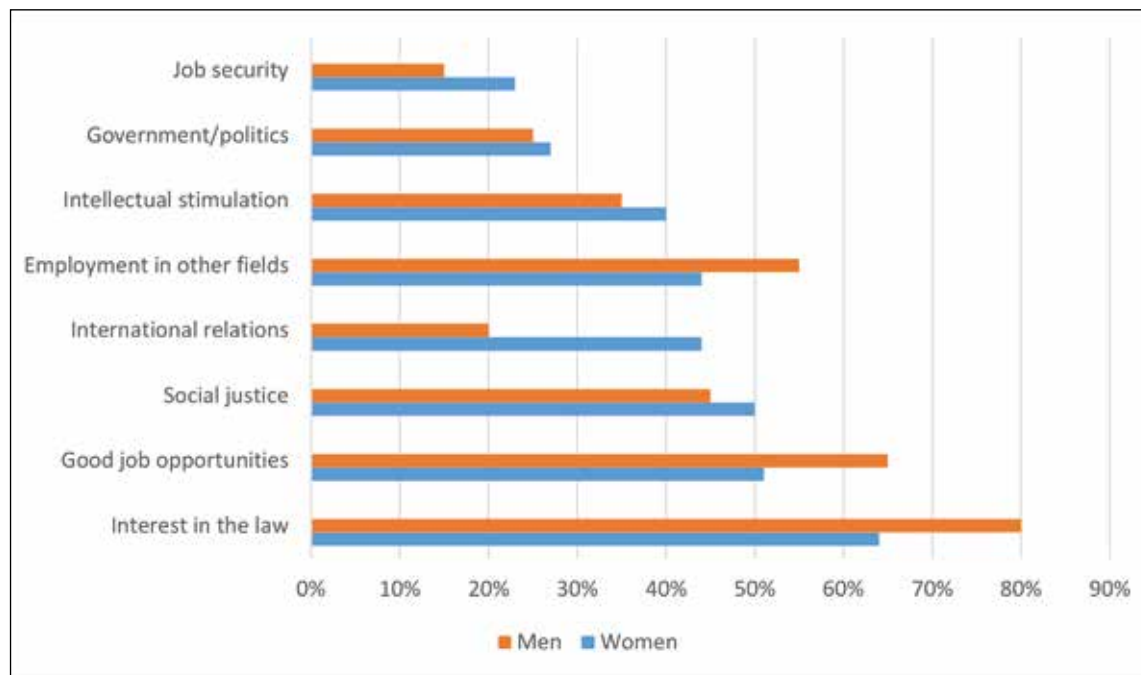
- less support for family commitments;
 - less support for personal life;
 - reduced stress elsewhere;
 - less scope for flexible working arrangements; and
 - shorter working hours elsewhere.
- A quarter of women were dissatisfied with their decision not to practise law.

Focus: We wanted to understand why some people acquire a law degree but never practise. As such, we asked the respondents the reason(s) why they studied law. The options available were:

- an interest in the law;
- an interest in social justice;
- an interest in government and/or politics;
- an interest in international relations;
- a law degree would provide good job opportunities;
- job security;
- seeking a broad skill base for employment in different fields;
- intellectual stimulation;
- enjoyed legal studies at school;
- had the marks to get into law school;
- good income;
- prestige/status;
- a career change;
- right aptitude for a law degree;
- wasn't good at maths or science;
- didn't know what else to do;
- parents/family wanted them to do law; and
- other.

FINDINGS: Broadly speaking, there was no significant difference regarding why women and men studied law. Both women and men were interested in the law, good job opportunities, intellectual stimulation, social justice and having a broad skill base for employment in different fields. Women were inclined to be more interested in international relations (39 per cent), and men in having a good income (35 per cent), and prestige and social status (35 per cent). Some of the respondents experienced pressure or expectations from family to study law (women 16 per cent and men ten per cent). Women also said that they studied law because they were not good at maths or science (16 per cent). **Figure AA** sets out the main reasons women respondents gave for studying law and men's equivalent responses.

Figure AA: Reasons for studying law

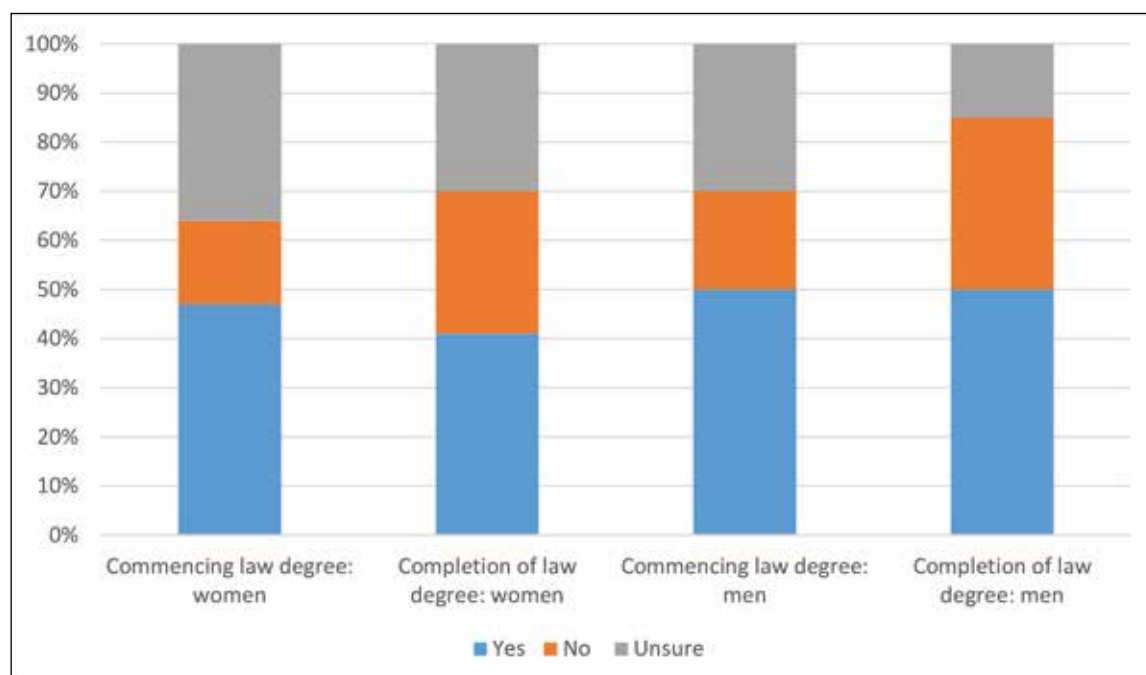


Focus: We then asked respondents if their law degree met their expectations, and did they plan to practise law.

FINDINGS: For both women and men, their law degree largely met their expectations, to a great extent (women 33 per cent and men 40 per cent) or to a moderate extent (women 42 per cent and men 55 per cent). Some 12 per cent of women respondents said that their degree did not meet their expectations at all. No men gave such a response. Expectations were more likely to be met if they studied law because they were interested in law, social justice or politics. Expectations were less likely to be met if they were less interested in law but studied it for other reasons, for example, their families pressured them to do so.

Less than half of female respondents planned to practise law upon graduation, while 50 per cent of men planned to do so. **Figure BB** sets out how many respondents planned to practise law when they commenced their degree and how many planned to do so upon completion.

Figure BB: Respondents planning to practise law, at commencement and completion of law degree



Focus: The survey then asked respondents what factors influenced their decision not to practise law, and whether they regretted that decision. Options available were:

- didn't like studying law;
- pursued a career related to another degree;
- couldn't find a job;
- couldn't find a job in the area of law of interest;
- offered another job opportunity;
- never intended to practise;
- more interesting or varied work elsewhere;
- better salary/remuneration elsewhere;
- better flexible working arrangements elsewhere;
- shorter working hours elsewhere;
- greater support for work-life balance elsewhere (family commitments/personal life);
- better job security elsewhere;
- better mentorship elsewhere;
- better learning and development opportunities elsewhere; and
- reduced stress elsewhere.

FINDINGS: Women respondents identified the following major reasons influencing their decision not to practise law:

- they were offered another job opportunity (42 per cent);
- they found greater support for family commitments elsewhere (37 per cent); and
- they found greater support for their personal life elsewhere (37 per cent).

Others said they could not find a job in the area of law in which they had an interest (26 per cent), they experienced bias and/or discrimination prior to admission (23 per cent) or they could not find a job practising law (21 per cent).

In terms of whether respondents were satisfied with their decision, women were more inclined than men to say that they were neither satisfied nor dissatisfied with their decision (women 29 per cent and men 20 per cent). Respondents were then either very satisfied (women 26 per cent and men 20 per cent) or satisfied (women 19 per cent and men 45 per cent) with their decision. Men were very satisfied with their current career path (55 per cent compared with women at 19 per cent) while women were satisfied with it (43 per cent compared with men at 25 per cent).

Acknowledgements

The IBA LPRU prepared this report and conducted the project that underpins it. The lead authors were Jane Ellis, Director and Ashleigh Buckett, Legal Advisor of the IBA LPRU. During the course of the project, they received invaluable input and support from Rob White, the then IBA LPRU Project Coordinator, as well as the IBA LPRU interns Dimple Bath, Alix Friedman, Andreas Sherborne, Kayal Munisami, Lewis Allan and Arinze Okiche. Finally, we thank all the IBA staff and members, in particular the IBA Law Firm Management Committee and the Women Lawyers Interest Group, for their huge support and enthusiasm for this project.

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