

LOCATING THE SKYLIGHT IN THE GLASS CEILING

*"It is not the strongest of the species
that survive, nor the most intelligent,
but the one most responsive to change."*

CHARLES DARWIN



Equitable career success and achieving equity partnership for female lawyers can be a tough nut to crack, and yet there are glimmers of hope on the horizon more women will be around the partnership table.

This article, part 1, explores key issues and challenges affecting female career success and part 2 in the Winter issue explores solutions and ideas to lessen the female talent drain from the profession.

The need for later retirement, the slowly shifting power base of quality women in law coming through the ranks, the demand for better work life balance & more meaning and purpose from the younger generation, and the impending introduction of the Legal Services Act means that change is unavoidable. It is time for the male designed model to be redesigned, or the costly drain of quality female talent will continue to haemorrhage the profession. The opportunity to create a competitive advantage from this thorny and knotty problem exists for those firms prepared to be courageous and grasp the nettle.

Before we explore the issues, let's look at the facts and figures about women in the law.

What the data shows

- **Partnerships at major city firms remain dominated by men.**
- **Only 33% of female lawyers aspire to partnership of their own firm compared with 58% of men. Source = Legal Week research**
- **Female promotions are higher in the regions; regional firms promoted 37% of female partners compared with 20% in the top city firms and 19% at magic circle firms. On average, just under 28% of promotions have been female. Source = Legal Week research**
- **59.9% of newly admitted solicitors are women and by 20 years PQE, only 4.5% of them are still in private practice.**
- **Half of all female solicitors believe they work too hard and that flexible working arrangements detrimentally affect career development. Female associates and assistants are particularly unhappy about their hours.**
- **42% identified joining the partnership as their main measure of career success, but one in three didn't believe there was a good chance to get ahead in their organisation.**
- **44% worked flexibly but they were less satisfied than their full time peers as they felt they had significantly fewer opportunities for promotion and more job insecurity.**

Source = Research by AWS and Kings College London March 2010 Gender issues.

Women make up 45% of the legal profession as a whole. A 'Future lawyers' report published by Badenock and Clark shows that a quarter of associates are planning to leave the profession by the end of 2011. 8% plan a career break, 16% want to quit the law completely. 10% cited personality and management issues and 34% poor work life balance as a major factor.

Why career success can be tough for female lawyers

Money, money, money – law firms are a 'money making machine' designed around logic not emotion; hours in, money out, so less hours in = less money out. Part time working and time out to have children is counter-productive within this male designed model which lacks flexibility.

Timing clash – there is a direct clash between the timing of women wanting to have children and when they are considered to be ripe and ready for partnership, at 7-8 years PQE. Time out to have children has the effect of loss of momentum.

Self-promotion – women are naturally reluctant to promote themselves. Women's psychological make-up is that they avoid competition, disliking rejection, seek to please and collaborate, promoting others, not behaviours that fit the individual 'out for myself' law firm culture.

Maternity leave – time out on maternity and the stresses of young children creates a disadvantage in the billable hours = success model of law firms. The model needs to change for women to be on a level playing field.

Different values – the position of Partner is on a pedestal as the holy grail of success, when actually different people want different things based on what's important to them. Women often value relationships and work life balance.

Bias – unconscious beliefs exist which affect success e.g. women are thought to be good at being organised and administration, and so are often given the less visible back room tasks on a deal, with men being given the higher profile client facing roles, which may affect perception of their contribution. Assumptions are made without discussion about what is appropriate for women, especially for working mothers e.g. 'she won't want to travel' when each person and case is individual.

"Until law firms acknowledge that not all their processes are meritocratic, it's difficult to provide the foundation on which real change can happen."

DR LOUISE ASHLEY, Research Fellow, Cass Business School who specialises in issues surrounding diversity and inclusion in the professional services sector.

Lack of flexibility – Firms don't need to be available 24/7 for clients, often it is the 'charging by the hour' formula that drives it. This goes against working mothers who cannot put in the hours.

Compensation structure – the compensation structure is centred around money brought into the firm and it is a huge commitment, sometimes at personal sacrifice, to deliver what it takes to be an equity partner.

Ethos of firms – individual success dominates so the strength of females with collaboration, engagement and teamwork are not valued. There is often no accountability with partners for the success of their direct reports' careers, retention, or team creation of work and cross selling. In a nutshell, law firms are designed for and run by primarily men and this needs to change, for the good of all. Women try harder, they have something to prove. They are better at building relationships and managing difficult relationships because of their empathy and intuition and have good multi tasking ability. Lawyers resist being managed so women's good management capability isn't valued as highly compared with fee earning ability, partly because it is hard to measure and its benefits more long term.

Work allocation – the way cases are allocated in firms is often subjective and informal, with informal networks from which women are excluded. Men worry about how they are perceived working with women, and women worry about what people might think spending too much time with the opposite sex and how it might be misconstrued. The powerbase of law firms is male and like attracts like. Until this changes, women's needs won't be fairly represented.

"If people knew how hard I worked to get my mastery, it wouldn't seem so wonderful after all."

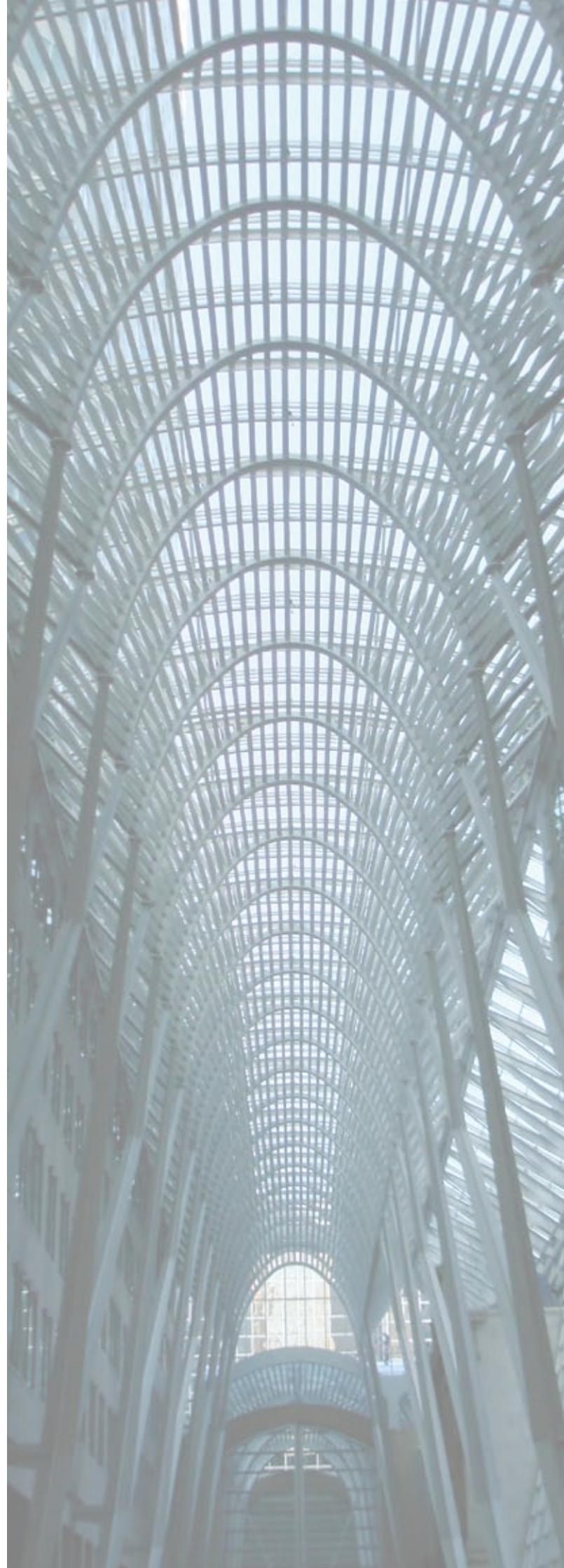
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The career path in law is being repaved

The law firm partnership is a pyramid in structure and the progression of good lawyers, male and female, can be blocked by partners staying on longer as they need to fund a longer retirement. Compare this with the 'want it yesterday' attitude of the younger generation, and talent drain may increase. This may not be such a bad thing, as change may not happen to the very structure of law firms until they feel the pain and loss of talent they want to keep, at £100-120,000 a time.

Speed of career progression appears to be a subjective process to some extent and the criteria include; commercial awareness, billable hours; the ability to bring in your own work – 'rainmaking', citizenship, i.e. contribution to aspects of the role beyond your practice group and cultural fit. Some firms have clearly defined competencies for what is needed at different levels, but many don't.

'Director' and 'professional support lawyer' are popular options for working mothers, with the latter involving drafting



documents, not being client facing, and without the pressures of fee earning, so more flexible and enabling home working.

Staying with the same law firm used to be the norm, whereas now careers are more mobile with firms poaching good lawyers as 'lateral hires' and lawyers choosing to move firms for a better cultural fit.

Lawyers tend to be cautious and risk averse, and with greater uncertainty likely for the foreseeable future, with the equity cake getting smaller, women may go hungry. The predicted growth of mergers with only survival of the fittest firms, is likely to make existing partners be more protective of their interests.

The younger generation have different aspirations for their careers, which affects law and all professions. They have seen their parents work hard for money, and suffered lack of attention as a result, so they seek better work life balance and more freedom, choice and variety. The time served to reach partnership status can feel like a prison sentence with no chance of parole, and other more modern and entrepreneurial professions may be more appealing to their free spirited nature, although the impact of graduate unemployment on student debt and aspirations remains to be seen, and may have dampened this enthusiasm. With more women entering the legal profession than men, and younger women often more assertive at expressing themselves than their predecessors, the need to reinvent the unquestioned rules of law firms has never been greater.

The changing landscape of the legal profession

The downturn has removed the complacency and inertia to change that has affected the profession for years. Redundancies have happened for the first time and there may be an unconscious bias against working mothers being perceived as being more unreliable, or indeed women being less resilient as they talk about how they feel more than men.

The Legal Services Act is rewriting the rules of the law, and presents a shake up which some law firms will embrace and others will resist at their peril. There are less partner places to go round, and so the situation is getting tougher.

In the short term, the downturn may have caused any inherent prejudice against women to be magnified with perceptions of them being lower cash generators, but growing disengagement of employees, mean that women's natural skills will be needed more in the future.

Law firms need to pull their socks up and improve the priority they put on engagement and motivation or lawyers will vote with their feet and jump ship, men and women.

"The people who get on in this world are the people who get up and look for the circumstances they want, and if they can't find them, make them."

GEORGE BERNARD SHAW

Food for thought questions

- If a law firm model were to be designed from scratch today, how could it be better designed?
- What's the financial cost of female legal talent drain?
- How can disengagement and its impact on productivity be measured and held to account?
- How could success and talent in law be redefined to better reflect the needs and desires of female lawyers?
- How can the issue of unconscious bias be explored without upsetting the applecart?

Conclusions

Women currently face challenges to achieve equity partnership and the downturn is likely to heighten this before it gets better, but there is light on the horizon.

Unless the flawed and outdated model on which law firms are designed is changed and the power base shifts, there are likely to be few female lawyers joining the top table in law firms. Ironically the very skills and qualities that women possess, different not better except as classified by law firms are what is needed to lift a tired and disillusioned workforce from whom more needs to be achieved with the huge changes being brought by the Legal Services Act from 2013.

The gradual move to value pricing and the impending drain of talent downturn as the lifts, will heighten the attention put on the issue as £120,000 investments walking out of the door, just as they start earning the firm money and giving payback. The one-dimensional definition of success in the law needs to be redefined. Any changes need to have buy-in from the top, so the more female managing partners there are, the more likely this is to happen.

In the next issue of Link, I will explore solutions and ideas that better meet the needs of women in the law, benefiting clients and helping firms to embrace much needed change.

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