

DEVELOPMENTS

Book Review – Jean McKenzie Leiper’s Bar Codes: Women in the Legal Profession

By Sara Gottlieb*

[Jean McKenzie Leiper, *Bar Codes: Women in the Legal Profession*, UBC Press, Toronto, 2006, ISBN 978-0-7748-1320-4, pp. 242, \$29.99]

Over the past thirty years, women have increasingly made up a large proportion of those choosing to enter the profession of law. Jean McKenzie Leiper’s *Bar Codes: Women in the Legal Profession* analyzes whether women’s gradually equal numerical representation in the profession has had a concomitant effect of altering the predominantly male legal culture. Leiper, a professor emerita at the Department of Sociology at King’s University College at the University of Western Ontario, also focuses in this work on the experiences of women lawyers trying to reconcile their professional obligations with their familial and personal lives. This take on the famous ‘work-life balance’ is echoed in numerous publications and debates in public and professional media today.¹

Leiper engages in a qualitative study, utilizing a research methodology that combines a synthesis of various economic, labor-force and feminist theories with first hand interviews and surveys of women lawyers. Leiper’s team interviewed 110 women throughout Ontario over an eight-year period. In addition, questionnaires were used to record changes in the interview subjects’ careers and familial arrangements over a four-year period.² This data was then subjected to a sociological software program that yielded additional information on the interviews and questionnaires. However, Leiper’s work relies more heavily on

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¹ See, e.g., IT’S HARDER IN HEELS: ESSAYS BY WOMEN LAWYERS ACHIEVING WORK-LIFE BALANCE (Jacquelyn Slotkin, and Samantha Slotkin Goodman eds., 2007); LINDSAY BLOHM & ASHLEY RIVEIRA, PRESUMED EQUAL: WHAT AMERICA’S TOP WOMEN LAWYERS REALLY THINK ABOUT THEIR FIRMS (2006); see also http://www.expertlaw.com/library/practice_management/work_balance.html; and <http://www.legalsanity.com/articles/worklife-balance/>.

² JEAN MCKENZIE LEIPER, BAR CODES: WOMEN IN THE LEGAL PROFESSION 15 (2006).

first-hand quotations to inform her discussion of various themes in women lawyer's lives, rather than on quantitative or computer-generated findings.³

Leiper approaches her subject with particular attention to formal and informal codes of conduct and cultural norms, which pervade the study and practice of law. She examines how these codes can be especially problematic for women, operating in subtle and detrimental ways to hinder women's professional advancement and cause considerable emotional stress. Two recurrent themes are the concept of the "donning of robes" and "time" in the life of women lawyers. The role of robes in establishing women as legitimate members of the legal profession is chiefly explored in Chapter Two, where Leiper utilizes an extended analogy to Portia, in Shakespeare's *The Merchant of Venice*. Leiper argues that just as Portia was required to disguise her feminine identity behind her lawyer's robes, so too must women lawyers today "perform" their profession in ways that disguise their personal identity as women, or face professional barriers.⁴ Specifically, women lawyers face pressures to conform to the masculine model of legal practice, which prioritizes one's professional identity over one's parenting identity.⁵ Chapter Three is devoted to women's experiences in law school, tracing their entrance into the profession and the evolution of admission procedures that has enabled a more diverse population of women to enter law school in increasing numbers. However, the interview quotations gathered show that male-oriented teaching methodology continues to alienate many women and provide raise to their enjoyment of the material.

The critical importance of "time" in a female lawyer's life appears again in Chapter 4. Leiper subjects her interviewees' responses to questions concerning their "time-crunch" or time-related stress and lack of time for friends and family to rigorous quantitative analysis.⁶ She finds that women who practice law are among the most stressed groups of individuals, and that women with young children experience the most extreme time crunch scores.⁷ One of her most interesting insights into these findings relates to her theme of the ingrained and perpetuated masculine norms in the profession. As she writes, "A nostalgic vision of this family ideal [of the male breadwinner and his homemaking wife] has persisted...law was seen as a two-

³ *Id.*

⁴ *Id.* at 18.

⁵ *Id.* at 28.

⁶ *Id.* at 79.

⁷ *Id.* at 102.

person career so these patterns laid the ground work for the “long hours culture” that came to define good legal practice. Most of the women in law [today] lack this kind of support.”⁸ Chapter Five continues to examine the complex relationship between “time” and women lawyers’ personal and professional experiences, particularly as time affects women’s access to what Leiper terms the “social capital” essential to a successful legal practice.⁹ While women’s prioritized family obligations limit their time, and hence social resources including time for networking, Leiper’s interview subjects also demonstrated creativity in balancing the time crunch and personal priorities, including job sharing and extended leave.¹⁰

Leiper’s final substantive chapter examines the continuum of legal career paths for women, drawing attention to the differences between the traditional linear “male” path and the more realistic paths for women that can provide the required flexibility to accommodate women’s pregnancy and familial obligations. It also focuses more directly on both the explicit and more insidious norms and practices within the profession, which operate to shape, often negatively, women lawyers’ career paths. This chapter’s use of women’s stories is perhaps the most valuable, giving rise, as Leiper states, to “effective way[s] of deconstructing career mythology” to highlight that women’s careers rarely follow the linear path.¹¹

When a work relies as heavily as *Bar Codes* does on extensive quotations from its interview subjects, the question arises about the generalizability of these first-hand statements. While drawing recognition to individual women’s experiences has been held up as an important feminist project,¹² the particular quotations Leiper draws on at times seem to represent the most extreme experiences or appalling examples of sexism. For example, in her chapter on women lawyer’s identity challenges, Leiper cites one woman, who after leaving the profession stated, “for weeks I wouldn’t go outside because I didn’t know who I was.”¹³ Another equally shocking quotation is provided by a woman who, being pregnant and engaged in litigation, asked the presiding male judge if she could wear a tunic underneath her robes, and the woman recalled “The message that came back was: ‘if you can’t

⁸ *Id.* at 10.

⁹ *Id.* at 141.

¹⁰ *Id.* at 142.

¹¹ *Id.* at 174.

¹² See, e.g., NANCY F. COTT, *THE GROUNDING OF MODERN FEMINISM* (1987).

¹³ LEIPER, *supra* note 2, at 29.

dress to come to court, don't come to court.'"¹⁴ This experience strikes the reader as fairly out of date with current treatment of pregnant women in the profession (particularly in light of Canada's Charter of Rights and Freedoms equality rights and our human rights codes,¹⁵ and questionable as to its usefulness in analyzing the experiences of women in the legal profession today. However, Leiper's assumption may have been that readers will understand the earlier timeline of these women's experiences, and will take the more extreme examples of the interviewee's negative professional and personal conflicts as demonstrative of the breadth of women's experiences in the law.

In addition, some issues arise from what is acknowledged to be a feminist analysis of women lawyer's experiences in the law. While Leiper states that she attempted to interview a "heterogeneous" group of women, it appears that the differences between these women lie mostly in their chosen legal career paths, be it in-house counsel, working for the government or a large law firm. Diversity in race, social class, sexual orientation, or disability, features of analysis in most feminist-informed works today, is not a predominant issue shaping women's experiences throughout the work.¹⁶ Leiper acknowledges this omission in her study, stating "my findings in these areas [of race and sexual orientation] are limited to some brief anecdotal material."¹⁷ However, the scarcity of the contribution of women from diverse backgrounds can also be explained by Leiper's interview subjects, largely the "first-wave" of women lawyers to enter the profession in increasing numbers since the late 1960's.¹⁸ Research about women's entrance into the realms of higher education has shown that white, middle-class women had the requisite resources to enter these arenas before other groups of women who were subject to multiple forms of oppression and prejudice restricting their early access. Consequently, Leiper's interview subjects were a more homogeneous group than today's average law-school class of women. In this context, Leiper provides recommendations for future research, including more broadly drawn random samples of females in law school and the profession.¹⁹ Hence, Leiper's in-depth

¹⁴ *Id.* at 37.

¹⁵ *Canada Act 1982* (U.K.) 1982, c. 11, enacted as Schedule B: Canadian Charter of Rights and Freedoms, sec.15 Equality Rights. Prohibits discrimination on the basis of sex, including pregnancy.

¹⁶ For examples of predominant issues shaping women's experiences in law, see PATRICIA HILL COLLINS, *BLACK FEMINIST THOUGHT: KNOWLEDGE, CONSCIOUSNESS AND THE POLITICS OF EMPOWERMENT* (1990).

¹⁷ LEIPER, *supra* note 2, at 77.

¹⁸ *Id.* at 177.

¹⁹ *Id.* at 77 and 188.

qualitative findings can provide a thorough research springboard for future exploration on the topic.

Ultimately, Leiper’s work highlights that women’s experiences in the legal profession continue to be shaped by a masculine-value system, functioning to discriminate against women and their career advancement and ill-suited to women’s differing personal and familial needs.²⁰ *Bar Codes* confirms and posits explanations for the quantitative findings that women continue to experience earnings and status-gap from that of men in the law. However, she concludes on a hopeful note, noting that the very entrance of women into the legal profession has begun to provoke change in the form of an increased awareness from law firms, the government, law societies and bar associations that women are differently positioned from men and are required to engage in the profession of law in a different manner.²¹ Leiper provides concrete suggestions for creating real gender equality in the profession, including legislation and contractual terms of employment mandating that all employees have equal opportunity for advancement, particularly if they have family obligations.²² As women currently make up more than half of those entering law school and the profession, it appears inevitable that traditional modes of practice will increasingly accommodate those differences, and works such as *Bar Codes* will provide a scholarly basis for underscoring the importance of those changes.

²⁰ See *supra* note 1.

²¹ LEIPER, *supra* note 2, at 177.

²² *Id.* at 179.

