

## NEWS FROM

# JUSTICE EDUCATION SOCIETY



By Nora Bergh and Kathryn McCready\*

### MAPPING HER PATH

#### Update: Gender Equity in the B.C. Justice System

Twenty-five years ago, the Law Society of British Columbia published a ground-breaking report, *Gender Equality in the Justice System*.<sup>1</sup> The report examined the challenges and issues facing women in the practice of law in B.C. and identified ways of eliminating gender biases.

The Justice Education Society of BC (“JES”) is completing a project called “Mapping Her Path” (“Mapping Her Path”). This three-year project, funded by Status of Women Canada, promotes the retention and advancement of female lawyers in B.C. As part of the project, we have had the opportunity to engage with hundreds of B.C. lawyers.

To our surprise, reactions to the project have been mixed. We have seen enthusiasm and engagement from many lawyers in the community who have generously given their time and support to the project. On the other hand, we have also heard comments that question the need or relevancy of a program aimed at resolving gender issues in the practice of law. This article responds to a number of these comments with current statistics and provides an update on developments occurring over the last 25 years, as well as some current realities for women practising law in B.C.

**Comment 1:** *Women lawyers used to have a hard time, but that was a long time ago. It's different now.*

This is true, in part. Ask any female lawyer who practised 20 years ago and chances are she can tell you a personal story of harassment or prejudice she endured in her work.

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In the past, many women left the profession because of gender-based hardships. Today, there remains a fourteen per cent difference in the retention rates of men and women.<sup>2</sup> Women leave private practice earlier and with greater frequency than their male counterparts. Of all women called to the bar in 2003, sixty-six per cent of women were practising in 2008, compared to eighty per cent of men.

In a 2015 survey of 400 female lawyers conducted through the Mapping Her Path project, one in three respondents reported that they had experienced gender-based or sexual harassment in the profession. Many women described not reporting anything out of fear of career repercussions. For the minority who did report inappropriate sexual behaviour, many explained that they did not feel their complaint was handled properly.

Of the women JES surveyed who had left private practice, sixty-one per cent said that the workplace environment contributed to their decision to leave. Given that one-third of women in practice have reported being victim to gender-based harassment, clearly there are still important gender issues to be addressed in B.C.'s legal profession.

**Comment 2:** *There may still be some gender issues, but we are making great progress.*

There is certainly an encouraging upward trend in gender ratios. More and more women are entering the profession. Women have been graduating Canadian law schools in equal or greater numbers as compared to men for the last decade. But currently, in B.C., women make up only thirty-nine per cent of practising lawyers.<sup>3</sup>

The proportion of female lawyers practising in B.C. has grown and so we do see more women advancing and reaching partnership. The Law Society of Upper Canada has been tracking the gender ratio of partners for the last eight years. In 2009 the gender ratio of partners at Ontario firms was eighty-one per cent male and nineteen per cent female. By 2016 the ratio had changed to seventy-six per cent male and twenty-four per cent female. The relative percentage of female partners is increasing, but at a slow pace of less than one per cent per year. If change continues at this pace, it would take until 2057 to achieve gender parity among partners at law firms. The legal profession has made and is still making progress, but having to wait 40 years for gender parity is disheartening.

**Comment 3:** *Women in practice have issues, but men face barriers too.*

Working in the legal profession can often be stressful and demanding. Most lawyers face challenges in striking a work-life balance, and all genders may

be subjected to sexual harassment. But efforts to advance or help one gender do not require denying another gender's concerns. Mapping Her Path is focused on women's retention and advancement because the numbers indicate a clear gender inequality. The legal profession is losing more women than men, while women remain underrepresented at the partnership level.

**Comment 4:** *There are many things being done and there is no need to do more.* There are a number of phenomenal initiatives and programs in place that support female lawyers. The Justicia project, first developed in Ontario, has been facilitated by the Law Society of British Columbia and undertaken by law firms since 2012.<sup>4</sup> It provides model policies on matters such as parental leave and flexible working arrangements, as well as best practice guides tailored to a female audience and relating to topics such as career advancement, business development and leadership skills development.<sup>5</sup>

The Women Lawyers Forum ("WLF") of the CBA has also addressed these issues with its very successful mentoring program for CBA members. In 2016 the CBA National Women Lawyers Forum ran a campaign called #WriteYourWrong, inviting lawyers to write in about their experiences with sexual harassment in law firms and, in 2017, the forum produced a podcast called "Not Just a Bystander" in response.<sup>6</sup>

But even with these comprehensive, coordinated, industry-wide efforts to improve gender diversity, issues remain outstanding. The challenges that women face in the legal profession continue to affect their career decisions and result in a loss of talent from the profession.

In the 2015 Mapping Her Path survey referred to above, female lawyers described their struggles to manage career transitions and to be taken seriously in their respective workplaces, as well as their aspirations for the profession. Most respondents provided detailed accounts of ways in which they had experienced gender-related discrimination in the form of negative treatment, harassment, limited options or untenable choices. Commonly cited issues included a lack of support for maternity leave, a lack of accommodation for parenting responsibilities, and a lack of professional opportunities and mentorship for career success and partnership.

In this context, Mapping Her Path is an important project that is helping the profession to work collaboratively, talk about the issues and guide the new wave of law school graduates to transform the profession.

Mapping Her Path draws upon the experience of female lawyers that have faced and overcome many gender barriers. It also draws upon the enthusiasm and concerns of early-career lawyers and law students. By

engaging with those starting out in this profession, Mapping Her Path hopes to educate and equip women with tools to assist them in their careers.

Mapping Her Path is piloting interactive workshops for law students, online videos for early-career lawyers and practical mentorship tools for the WLF's mentoring program and beyond. A video on sexual harassment in the legal profession is also in the works. This video will be promoted as a tool to start conversations within an office and to provide ideas for how persons of all genders can take steps to shift the culture of legal workplaces. Finally, Mapping Her Path is exploring how alternative business structures might create options for women to manage career pressures and make proactive, flexible choices.

As stated in the CBA's 1993 report *Touchstones for Change: Equality, Diversity and Accountability*, "Change will not occur all at once but incremental change is possible and necessary. Each step will build on the next."<sup>7</sup>

**ABOUT THE PROJECT:** Mapping Her Path is a three-year project (2015–2018) created to learn about, collaborate on and pilot initiatives that promote economic prosperity for female lawyers in B.C. Funded by Status of Women Canada, the project aims to explore barriers faced by women in the legal profession and consider policies and programs that can be implemented in B.C. to improve retention and advancement of women lawyers.

To learn more about Mapping Her Path and how the project is working to make a difference, or to participate on pilot initiatives, please visit: < [www.justiceeducation.ca/programs/Mapping-Her-Path](http://www.justiceeducation.ca/programs/Mapping-Her-Path) > or contact: < [Kathryn.McCready@JusticeEducation.ca](mailto:Kathryn.McCready@JusticeEducation.ca) >.

#### ENDNOTES

1. Law Society of British Columbia, *Gender Equality in the Justice System* (1992).
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3. Law Society of British Columbia, *2016 Report on Performance*, online: <[www.lawsociety.bc.ca/Website/media/Shared/docs/publications/ar/2016-AnnualReport.pdf](http://www.lawsociety.bc.ca/Website/media/Shared/docs/publications/ar/2016-AnnualReport.pdf)>.
4. Law Society of Upper Canada, "The Justicia Project", online: <[www.lsuc.on.ca/justicia\\_project/](http://www.lsuc.on.ca/justicia_project/)>; Law Society of British Columbia, "Backgrounder: Justicia Project" (19 November 2012), online: <[www.lawsociety.bc.ca/Website/media/Shared/docs/newsroom/Justicia-backgrounder.pdf](http://www.lawsociety.bc.ca/Website/media/Shared/docs/newsroom/Justicia-backgrounder.pdf)>.
5. Law Society of British Columbia, "Supporting Women Lawyers in BC", online: <[www.lawsociety.bc.ca/our-initiatives/equity-and-diversity/supporting-women-lawyers-in-bc/](http://www.lawsociety.bc.ca/our-initiatives/equity-and-diversity/supporting-women-lawyers-in-bc/)>.
6. Canadian Bar Association, "Not Just a Bystander Podcast" (8 February 2017), online: <[www.cba.org/News-Media/News/2017/January/Not-Just-a-Bystander-podcast](http://www.cba.org/News-Media/News/2017/January/Not-Just-a-Bystander-podcast)>.
7. Canadian Bar Association, *Touchstones for Change: Equality, Diversity and Accountability: Report of the Canadian Bar Association Task Force on Gender Equality in the Legal Profession* (Ottawa: Canadian Bar Association, 1993).