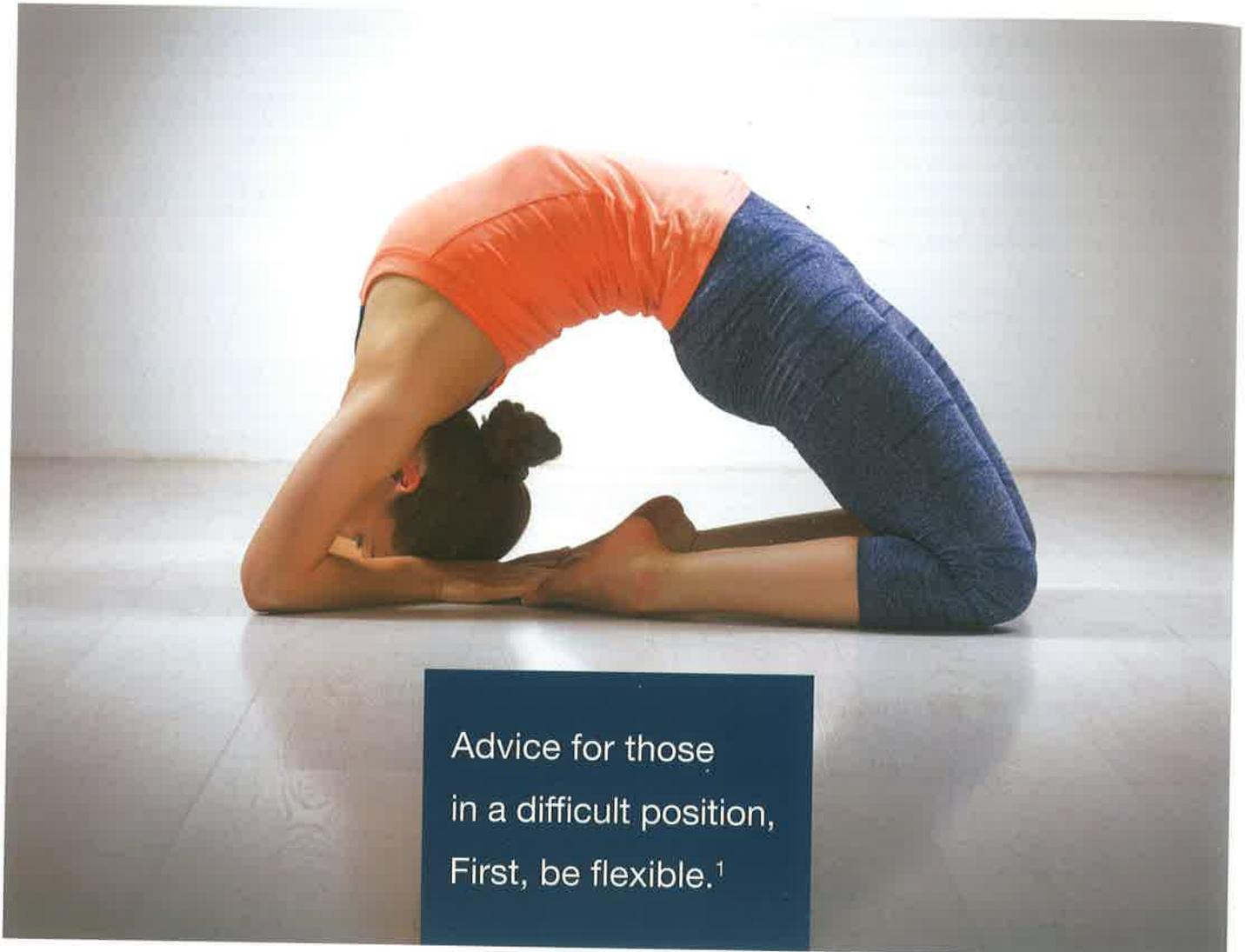


Women in the law – is the profession changing?



Advice for those
in a difficult position,
First, be flexible.¹

In September 1995, thousands of women representing both government and non-government organisations across the globe gathered in Beijing for the United Nations Conference on Women.

I was privileged to attend that conference, which concluded with agreements about the way forward for government and business to recognise and implement change in the future, and how those advancements in women's participation in government,

business and community would be reported at the next UN conference in 10 years' time.

Despite all the goodwill and outcomes of the Beijing conference, few of the advances or achievements have ever been further reported on, and there has never been another such world conference.

In November 1988, as then president of the Women Lawyers Association of Queensland, I wrote the cover article for *Proctor*, entitled 'Women in Law'.² In it, I provided an analysis of QLS figures for legal practitioners, showing that only 6% of all principals were women despite the fact that they comprised 15.56% of practitioners.

For the years 1986-87, only 74 women were admitted. It should be remembered that this was a much smaller profession – the total number of practitioners in 1988 was 2834 compared to 10,962 in 2015.

I thought that researching how things have changed in the Queensland legal profession would be one interesting measure of progression over the past 27 years. How has the profession changed? Have the questions I posed in 1988 been answered?

There are some significant changes in the judiciary – in 2015, Queensland appointed its first female Chief Justice. In 2015, according to the courts' website,

Twenty years after a ground-breaking world conference on the status of women, **Noela L'Estrange** asks whether progress has been made in the realisation of its proposed outcomes.



there are now 50 women members of the judiciary – seven Supreme Court, nine District Court and 34 magistrates.

This is an enormous improvement on 1988, when there were no female members of any court.³ The state's current Premier and Attorney-General are both women trained in the law. The Society has had three women presidents and currently has its second female CEO.

The Society now analyses and publishes very detailed data on both practitioners and, more particularly, the membership than it did in 1988. The QLS Annual Report 2014-15 states that of membership, males comprise 52.8% and females 47.2%, and the profession as a whole has grown to 10,962, an increase of 286.8% since 1988. This would surprise no-one in the profession, given the growth in law schools (from two to eight in Queensland) and admissions over that time.

However, that growth significantly outstrips both population and economic growth, which poses an important query: How many practising lawyers are needed for Queensland?

A larger profession ought to be one which carries greater weight in the policy and public statement arena – an area in which QLS has developed an excellent reputation. It ought not mean any diminution of professional courtesy – though there are frequent comments from senior practitioners that this appears to be the case.

For practitioners (as distinct from QLS members) in Queensland, males now comprise 51.6% and females 48.4%. One might reasonably expect a substantial growth in the percentage of women principals, but this figure is disappointing. From 6% in 1988, in 2014-15, women comprised 22% of principals, though they made up 57.85% of unrestricted employee and 62% of restricted employee solicitors. A shift from 6% to 22% in women principals over 27 years could fairly be described as 'glacial' change when the percentage of women in the profession has grown from 15.56% to 48.4%.

And what do the demographic changes in the profession indicate for the future? As might be expected, the Builders (1925-45) are decreasing in number, comprising only 1.7% of members, with males not surprisingly dominating at 93.2% and females 6.8%;

the Baby Boomers (1946-64) are still practising – but now comprise just 21% of the profession – 75.9% male and 24.1% female.

It is in the next two generations where real change is evident – Gen X (1965-79) is 31.9% of the profession, with 53.5% males and 46.5% females; and Gen Y (1980-94) forms 43% of the profession, with 36.9% males and 63.1% females. This means that 75% of the profession are Gen X and Y.

So, are the questions which were posed in 1988 still relevant? The issue of child care – and not just for female practitioners – remains important. Costs are still not tax deductible, despite years of pressure to make them so. Provision of adequate child care, particularly in the city and close environs was a key issue, and it is very pleasing that the Society has recently unveiled child-care provision as part of its member benefits.

The key issue for women in the profession remains the rate at which they progress, if they choose to stay in firms. The published membership data, not including restricted PCs, shows that women hold 57% of the employee PCs. If this does not translate into more representative access to principal positions in the near future, it may point to something other than merit-based assessment being applied to make partnership and principal decisions in firms. It might lead to the ugly conclusion that if a male simply remains in practice, he has a better percentage chance of becoming a principal than his female counterpart.

It is still important to ensure that firms do not covertly discriminate. For example, do firms review remuneration to ensure that there are not gender pay gaps, as was clearly demonstrated as fact for reporting companies in the Workplace Gender Equality Agency's annual pay review, in which a quarter of companies could not explain the discrepancies they found? While like work should attract like remuneration, other criteria, if used, must be clearly stated, and properly measured before they can be equitably applied as a basis for decisions.

Women are making some specific choices. There are significant numbers of women who have moved to work in corporate (55% female members) or government (65% female members) employment. But they are not establishing

their own sole practices, as only 29% of sole practitioner members are women.

Helen Conway, then director of the Workplace Gender Equality Agency, said at a Committee for Economic Development of Australia (CEDA) conference in 2013: "... until we take a fundamental review around how we should live and work in society, workplaces will continue to disadvantage women ... Until flexible work practices and flexible careers are mainstreamed and considered 'business as usual' for both men and women in Australian workplaces, you won't get gender equality."⁴

Whether the profession will undergo cultural change as it becomes more feminised is a question of time. But the current and future female practitioners will not be satisfied with having to move away from the private profession to establish a rewarding professional career in law.

The profession, even with an oversupply, cannot afford to waste the significant investment it makes in employees as they progress. It needs to achieve a return on that investment into the future. As the quotation highlighted at the start of this article states, the key to the profession's success in a highly competitive market for talent will depend on it implementing more flexible approaches to employment, retention and promotion for all its practitioners.

Noela L'Estrange was chief executive officer of the Queensland Law Society from 2009-2015 and is a founding member and former president of the Women Lawyers Association of Queensland.

Notes

¹ Kama Sutra, from *One Hundred Great Books in Haiku*, David Bader, Viking Books 2005, p70.

² Noela L'Estrange, 'Women in Law', *Proctor*, November 1988, p1-2.

³ 1988 Queensland Law Calendar, pp14-15, 29, 44-45, 53.

⁴ Helen Conway, 'Women in Leadership: Understanding the gender gap', 21 June 2013, *CEDA's Top 10 Speeches Women in Leadership 2010-2015*, CEDA 2015, p65.