

W & the LP legal rofession

Every year over 60% of new lawyers are female. At the same time, 98% of lawyers who have been in practice for 41 years or more are male. Women comprise almost 60% of employees in law firms yet only 26% are directors or partners. Among the 282 ever appointed King's and Queen's Counsel, 255 are men while 27 are women. What's more, only 29% of women make up the Judiciary. Supreme Court Judge Justice Susan Glazebrook said of the figures in her paper *It is just*



a matter of time and other myths: "Whichever way you look at them, these figures are woeful". New Zealand may have made great strides in terms of gender equality with the first all-woman bench at the Court of Appeal this year and three women Justice Ministers dating back to 2007 but the statistics, using the legal profession as a case example, suggest otherwise. Journalist **Sasha Borissenko** investigates.

The nuts and bolts: gender theory 101

With Kate Sheppard leading the “first wave” of feminism along with a quarter of New Zealand’s female population, women got the vote in 1893.

Who could then anticipate what would happen with the freedoms associated with the pill and compulsory secondary education for girls, in conjunction with the civil rights movement during the 1960s and 1970s? Prosperous times they were, with women regulating their own fertility, which allowed them to participate in the workforce on their own terms.

Few people expected that the fight for equality would come to a standstill in the 1990s and 2000s, says Victoria University teaching fellow Dr Ana Gilling, who explored gender in public life in her PhD thesis.

“We lost sight of the bigger fight,” Dr Gilling says.

“A lot of upper middle class white women did well out of second wave feminism, but we failed to attack the cultural side and underlying inequality of caring work – who does paid work and who does unpaid work.”

The fights of the 1960s and 1970s were relatively easy to gauge by comparison, she says.

“The gender pay gap seems grossly unfair on the face of it, but how do you legislate against unconscious bias, against gender norms, that men should do more housework, more parenting, for example? It’s simple, if you are responsible for children or elderly people it’s physically impossible to have the time to devote to your career – especially the legal profession. I don’t think we’ve really nussed that out.”

What’s more, the move to neoliberalism in the 1980s and 1990s meant analysis moved away from big structures to individual claims.

“People stopped thinking this is a problem for all of us. Now it’s an issue I have to face alone. Women now have to negotiate for their pay and navigate their own path to freedom.”

Dr Gilling points to Hillary Clinton and the United States politician’s stance around lack of transparency around starting salary, for example.

“How can you negotiate for more money if you don’t know how much more men are getting? It’s an impossible fight to have. [Furthermore], New Zealanders are generally reluctant to talk about money.

“An individual focus is good in theory, but it might only benefit a small portion of the female population. I couldn’t stand up in a lecture and suggest women want freedoms and equality without a portion of women saying they don’t identify and they don’t want to be represented in that way.

“We can no longer talk about all women as a group. If you can’t talk about women as a collective, how can you possibly approach legislators and call for changes?”

There is a divide and conquer aspect that comes with having an individual focus. You get any group of people that are fighting among themselves – of course they’re not going to be as strong, she says.

Myths such as females sabotaging females, cat fights etc – they simply feed gender norms that are ultimately unhelpful.

“It doesn’t help that there’s a natural tension, between second-wave feminists and fourth-wave feminists, for example. But we mustn’t forget that you don’t have to agree with every woman’s decision.

“ [Feminism] is about having power, choice and no barriers ... It’s about making decisions, and having the ability to make decisions based on what works for you and your family

Waves of Feminism

First wave feminism

- 19th Century and early 20th Century.
- Women’s suffrage.
- Right to vote for NZ women in 1893.

Second wave feminism

- Early 1960s.
- Focuses on equality, other than suffrage, such as ending discrimination.
- Feminists see cultural and political inequality as linked, and people’s personal lives reflecting sexist power structures.

Third wave feminism

- 1990s.
- Began in response to perceived failures of the second wave.
- Challenges ideas around female heterosexuality and celebrating sexuality as a means of female empowerment.
- Challenges definitions around “femininity” – which arguably highlights experiences of upper class white women.
- Contains internal debates between different feminists.

Fourth wave feminism

- Not acknowledged as a historical wave, but scholars advocate for its existence.
- Fourth wave feminists rely on social media technology for communicating/organising activism.
- Aims to respond to the failures of the third wave.

“[Feminism] is about having power, choice and no barriers. There’s the ‘ideal’ superwomen caricature but it’s not about that. It’s about making decisions, and having the ability to make decisions based on what works for you and your family.”

Argument myth: ‘just wait’

Dating back to the second wave of feminism, it was appropriate at the time to think things would improve in the future. But suggesting there’s an unstoppable trajectory and equality is on the horizon is incorrect, Dr Gilling says.

“The argument of virtuous cycle is a very powerful argument and it’s usually made by people who do well by the status quo. United Kingdom figures relating to the number of women in Britain’s Parliament suggest it will take 400 years for gender equality to come to fruition.

“So instead it’s assumed I should be happy with 30%.

“You walk into a workplace or a boardroom and there are seven men, three women and you don’t think about it. Say it’s the other way around, you’re naturally inclined to pick it up. I think women and men have settled for the model minority, 30%. It’s a big enough group that whatever company can’t be accused of sexism but it’s not big enough to challenge the status quo.”

Arguments that women are surpassing men and that they should be worried about reverse sexism don’t stand up under examination, she says.

When it’s a male claiming an ex-wife has taken everything in the Family Court, for example, it doesn’t take away the fact that there’s now a main caregiver who will lose a significant amount of potential income as a result.

The tide of sexism is strongly rooted in history. To suppose sexism between men and women is equal is ridiculous, Dr Gilling says.

Gender norms

“People have to be wary of gender norms – patterns of behaviour that people ascribe to particular genders. Women are very compassionate and caring, men are ambitious and meant to be leaders, women should do family law, men are more suited for the ‘hard stuff’ such as civil litigation, for example.”

2012 Human Rights Commission Women’s Participation figures suggest 70% of family lawyers and 63% of those in health law are women. By contrast, almost 70% of those who specialise in banking and finance law are men and men make up 65% of civil litigation, company and commercial law, for example.

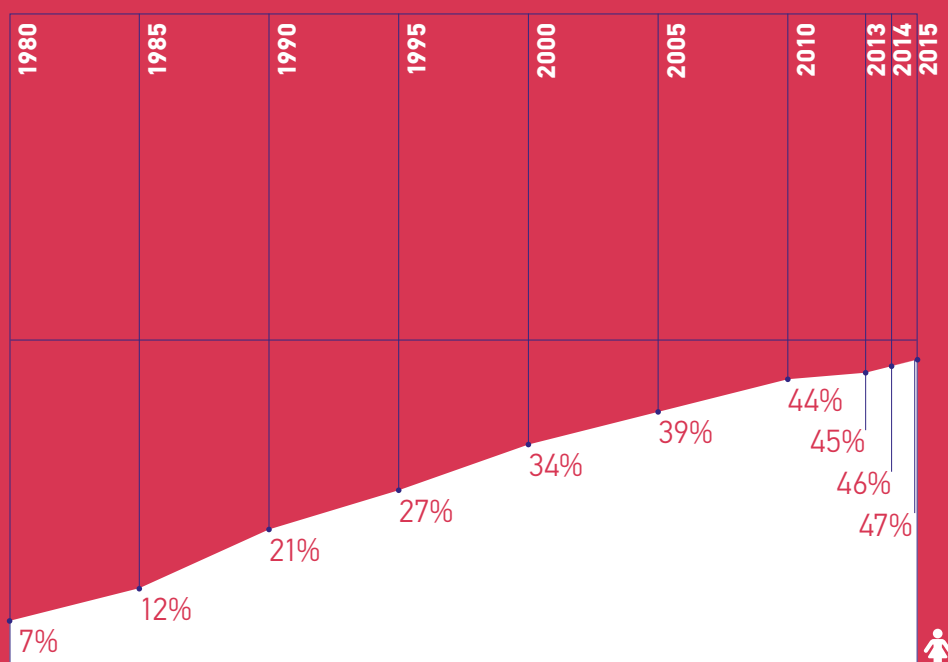
“Imagine a woman going through law school. Said girl will be surrounded by rhetoric that suggests females are better suited to family law. Say said girl gets a good grade in family law, she might be told ‘you’re really suited, you should do this’. The same could be said for men doing commercial property papers or contract, for example. Subtle policing of gender norms starts early. It’s a perpetual cycle.”

Juxtapose gender norms against propaganda that suggests “everyone is free and there’s freedom of choice” and there’s a serious conflict, Dr Gilling says.

The model is true if you look at the *Continued on page 11...*

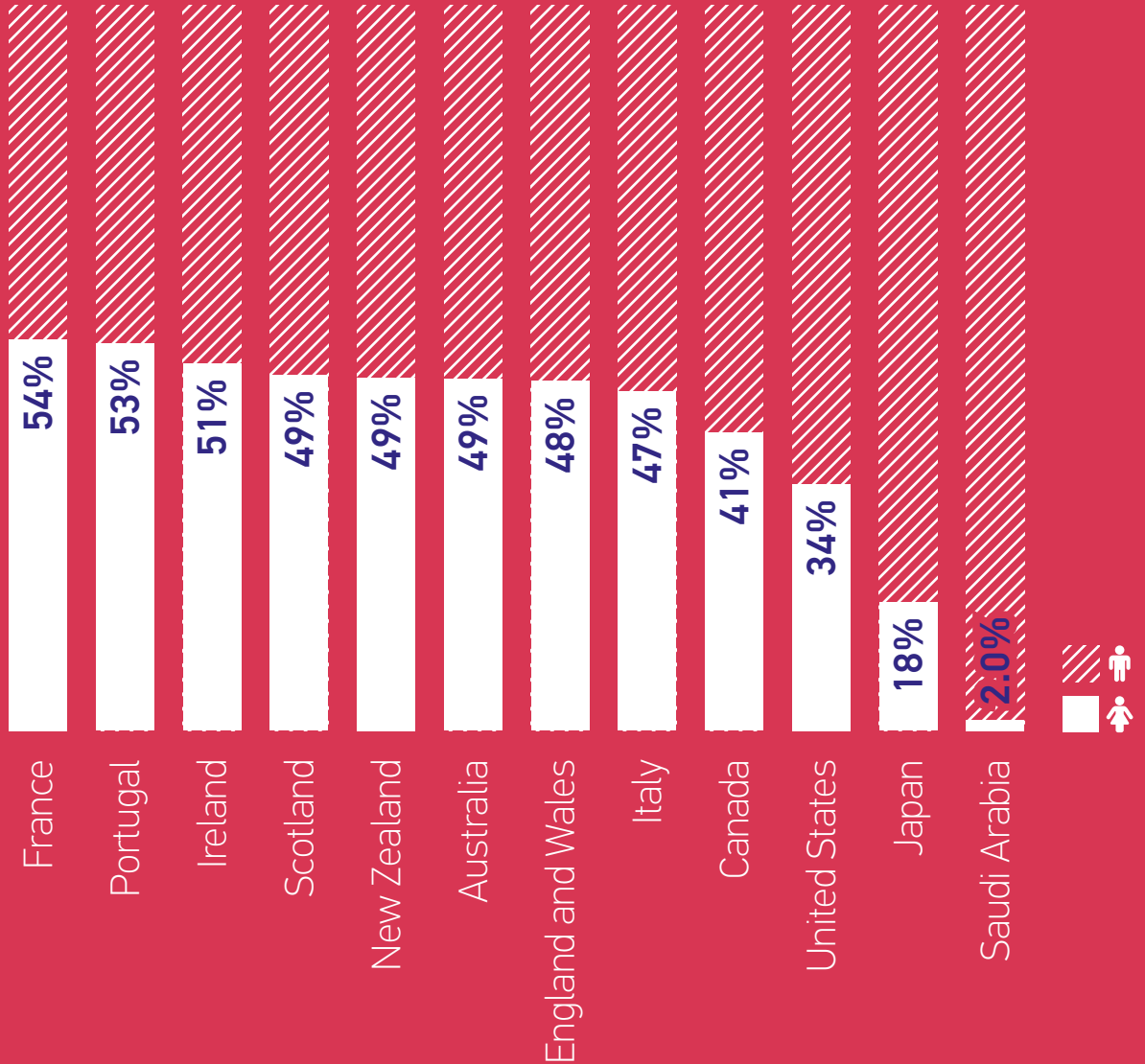
BY THE NUMBERS

PERCENTAGE OF FEMALE LAWYERS

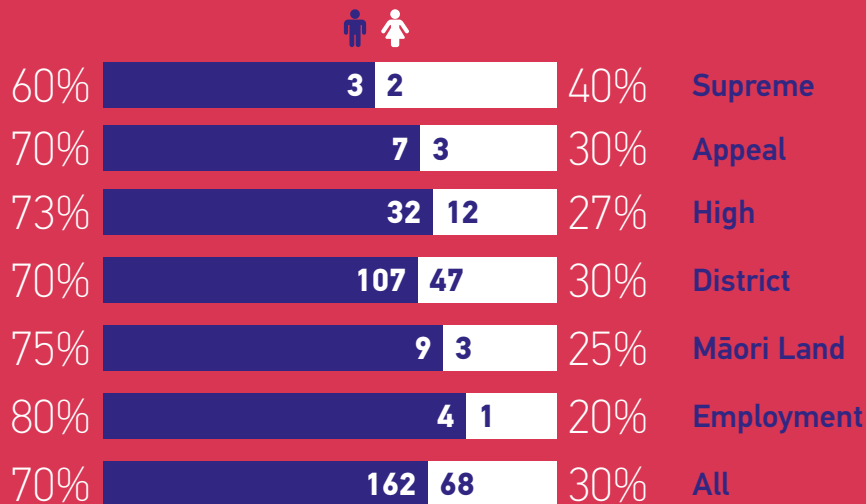


PRACTISING LAWYERS BY GENDER

Excludes barristers for the United Kingdom and Ireland, Australia and New Zealand.



THE JUDICIARY



norm of a perfect politician, which just so happens to be the perfect lawyer, she says.

“The perfect public figure is a male, white, middle class, middle-aged man of good pedigree. Everyone else is an alternative to that. Women don’t fare well, nor do young people, disabled people, non-white people, working class people or underprivileged people.”

It must be recognised that the archetypal lawyer doesn’t exist in a vacuum.

“The only way to work a successful 80-hour week as a high profile lawyer is if you have other people taking care of the remaining aspects of your life. They often happen to be female – whether that’s the wife looking after the kids and the housework, a secretary who runs your diary, an elder care worker who looks after your parents in a rest home.”

Equal opportunities exist for both sexes in their twenties, namely due to the fact there are fewer responsibilities – whether that be housework, caring for parents or children, or that they’re on starting salaries. It’s when people hit 30 and life paths start to diverge that the inequality comes to light, Dr Gilling says.

Suppose a child comes into the picture. Some may suggest men increasingly stay at home but the reality suggests otherwise.

“Say both parents are working full time. Imagine the child gets sick and needs to come home from school. A subtle gender norm would see that the woman is called to pick up the said child, for example.”

Household survey figures suggest male/female housework disparity occurs, irrespective of whether both parents work full time, where women going back to work have the same amount of housework, whereas if men return, housework is said to drop by 20-50%, Dr Gilling says.

Quotas and ‘merit’

Quotas can be very beneficial but, like the term “feminism”, quotas have controversial connotations, Dr Gilling says.

“People have an idea that to employ quotas it means, ‘we need a woman right now to do the job, okay you’ll do.’ You are just there because you have breasts, not because of merit.”

Merit is not a neutral term, it requires that a person has certain characteristics that are considered meritorious. Therefore people who have characteristics that fit the “ideal lawyer” model are more likely to be considered “meritorious”, Dr Gilling says.

“How do you be the perfect High Court judge, for example? Well it helps if you’re a man, you have a deep voice, you’ve done the hard yards in your career (preferably in the commercial/property field), for example. It’s pretty hard to fulfil the ‘merit’ definition if you have caring responsibilities.”

“The perfect public figure is a male, white, middle class, middle-aged man of good pedigree. Everyone else is an alternative

Argument myth: one success = all success

Winners of feminism are used to suggest no barriers nor gender bias still exists, she says.

“The rhetoric is nice in theory. The minority of women who take up influential positions are used to suggesting all of their success was because of their hard work alone. However, a lot of these people in high-ranking positions benefitted from the second wave of feminism and they had advantages such as free tertiary education. These don’t exist today, which is not to say that I’m trying to discount what was incredibly hard work. But the barriers and the discrimination is very much alive and the situations are incomparable.”

As to the future

Dr Gilling says society needs to take the lessons from the second wave of feminism forward.

“It’s about sisterhood and collectivity, because it’s overwhelmingly difficult to try and win battles on your own, especially if there’s the misconception that ‘you can be successful if you simply work harder’. What if that same person is exhausted.

“I think we need to rebuild a collective feminist movement. How we do this is starting by challenging what we’ve come to accept as normal. More women in New Zealand are more likely to die at the hands of a partner or ex-partner than a car accident. This shouldn’t be normal and we can’t accept that.”

Minister for Women Louise Upston says in this day and age feminism means different things to different people.

“I’m less interested in the labels and more interested in the issues that matter. This means working to ensure women have equal rights, equal choice, equal opportunities, equal expectations, and are valued equally.”

In her capacity as Minister for Women, Ms Upston hopes to support more women in education and training; to utilise women’s skills and to grow the economy; to encourage and develop women leaders; and to ensure women are free from violence.

“Women are gaining qualifications at a greater rate than men and women’s employment is at a record high rate. However, women’s skills are not always being translated into greater career opportunities and development in the workplace. The Ministry for Women will encourage more women and girls to train and work in occupations where high growth is projected and where women are under-represented (‘the leaking-talent pipeline’).

“I do not believe in quotas.

“For lasting and sustainable change, we require a change of culture, where women are promoted and paid based on merit, not gender. This means opening pathways,

“People have an idea that to employ quotas it means, ‘we need a woman right now to do the job, okay you’ll do’

providing opportunities through education and training, and fostering an environment that does not view people based on their gender, but their ability.”

There is compelling international evidence that gender balance in governance and leadership roles correlates with better decision-making, organisational resilience and performance, she says.

More companies are making the most of women’s leadership talent by focusing on:

- making flexible work normal for everyone – many men want a better work-life balance too, and want to be more hands-on parents;
- addressing unconscious bias – if we want the best people we need to select on skills not assumptions about gender; and
- supporting parents returning to work after breaks.

On 20 October, employers and unions, through the Council of Trade Unions, agreed to a government proposal to set up a *Joint Working Group* to develop principles for dealing with claims of pay equity under the Equal Pay Act.

With Ms Upston, as well as Minister of State Services Paula Bennett and Minister for Workplace Relations and Safety Michael Woodhouse behind the initiative, the group will recommend agreed principles on pay equity that could be applied in all sectors of the economy.

Green Party women spokesperson Jan Logie says part of progressing rights for women is about holding the government to account for actions that undermine human rights.

“As a lawmaker it’s about making sure you have a gender lens on all your decision-making. There’s supposed to be gender impact analysis, which is currently ineffective and often meaningless. We need to be taking on board relevant international law standards around discrimination – be it addressing stereotypes, the media, politics, pay and violence. The whole system needs to be looked at.

“I do recognise that for a lot of marginalised women, their experience of feminism may have been alienating and that needs improving. But so often we confuse what feminism really stands for – that being equality and fewer barriers.

“If women have significant power and they disassociate with feminism I think it’s really sad. It’s our primary vehicle to improve the status of human rights for women. I’m proud *Continued on page 16...*

PERSPECTIVES



Mai Chen

Chen Palmer Managing Partner, Auckland University Adjunct Professor, BNZ Director, NZ Asian Leaders Chair, NZ Global Women Inaugural Chair and Superdiversity Centre for Law, Policy and Business Chair Mai Chen says the problem is not limited to gender. Women of colour are more discriminated against.

“I have just finished writing the *Superdiversity Stocktake: Implications for Business, Government and New Zealand*, and the pay statistics show a hierarchy with white men earning the most followed by white women, then coloured men before coloured women, who earn the least, in general.

“I’ve personally found being Chinese more difficult than just being a woman. You fit the stereotype even less of what a successful lawyer should look like. There’s a presumption that if you look the part, then you are competent to do the job. Sometimes those who don’t look the part don’t benefit from that presumption.

“If you come from a different cultural context, it is harder to ‘tow the line’ if you don’t know what the line is, or be conventional when all you know is considered unconventional.”

Discrimination work

Ms Chen has always had an affinity for human rights and public law.

“Because of my background I’ve always had an instinctive feel for the legal issues that arise around discrimination. When you have experienced discrimination yourself, it helps you to understand how it might have happened, and what the impact of it is to fit into the legal tests. It’s hardly ever direct discrimination cases I work on nowadays, as most realise that’s wrong, but indirect discrimination cases.

“Those who have not experienced discrimination sometimes can’t see it. For example my husband also emigrated to New



“In future, we are likely to see more challenges against unlawful discrimination on the basis of a combination of prohibited grounds such as race and gender

Debbie Ericsson

Barrister sole Debbie Ericsson says in her experience as a criminal and family lawyer, a number of her female clients who have been subject to domestic violence have felt let down by the legal system.

“Broken bones and bruises are recognised but it’s only recently that psychological and emotional violence has been voiced and arguably it still isn’t.”

The problem stems from the fact psychological abuse is harder to prove – especially when you have a “he said, she said” situation.

In her view “the law as it stands has no teeth. Under section 3 of the Domestic Violence Act 1995, the definition of domestic violence goes beyond physical violence to include intimidation, harassment, threats, financial and economic abuse etc. All these things have been prescribed in legislation for some time but there are no penalties. Protection orders are seldom granted in these situations because it is so hard to prove.

“The Ministry of Justice’s recent measures aim to rectify these issues, which is important as you can mend broken bones but psychological

scars may take a lifetime to mend.”

Specifically, in August Justice Minister Amy Adams launched a review and discussion document that aims to revitalise the infrastructure around tackling domestic violence.

In 2014, more than 100,000 incidents were reported to Police – around one every five minutes. Nearly half of all homicides and reported violent crimes are family violence-related, for example.

Between 1 July 2014 and 31 March 2015 there were 51,641 family violence referrals made by the Police to Child Youth and Family – a 20% increase on the figures for the same period between 2013 and 2014, which was 42,974. The review aims to look at establishing:

- a set of standalone family violence offences;
- creating an additional and alternative pathway for victims, perpetrators and whānau who want help to stop violence other than going to court;
- overall improved accessibility and effectiveness of protection orders;
- sharing information more effectively between agencies and the courts;
- the possibility of requiring mandatory arrests for protection order breaches; and
- more prominence to victim safety in legislation.

Ms Ericsson also points to Feminist Judgments Project Aotearoa (FJPA), which aims to bring potential gender bias within the justice system to light. With the help of funding from the Law Foundation, FJPA is calling for contributors to write alternative judgments in a number of significant domestic cases across a broad range of legal issues.

The outcome of the project will be an edited collection of judgments, published as a book (or books) by the end of 2017, together with commentaries on each of the cases, and a chapter or two on methodological, conceptual and theoretical issues.

Zealand about the same age as me, but he’s not visually different as he is British. I have to explain discrimination to him when he is mystified as to what is going on.”

With regard to the sex discrimination case concerning midwives that is currently before the courts, Ms Chen says she is unable to comment other than saying it’s not the first case of this sort and it certainly will not be the last.

“In future, we are likely to see more challenges against unlawful discrimination on the basis of a combination of prohibited grounds such as race and gender, for example.”

Discrimination is bad for business

The *Superdiversity Stocktake* includes research that discrimination is bad for business, especially in a superdiverse New Zealand, where almost 50% of the population in Auckland are already Maori, Asian and Pacifica, and where Statistics New Zealand has projected New Zealand’s population in 2038 being 51% Maori, Asian and Pacifica, she says.

“Customers will increasingly be diverse and you need to recruit from the market to service that market.

“If there is currently discrimination against those who have the technical skills and competence, but do not have English as a first language or come from a different culture, then these are the very characteristics we should be discriminating for in New Zealand’s superdiverse future.

“There is plenty of research showing the diversity dividend of greater productivity and innovation, access to cultural networks and cultural intelligence and language skills. IQ and EQ may not be all that is needed to work with the increasing number of New Zealanders who are not like us and who were not born in this country.

“Currently, 44% of Auckland’s population and 25% of New Zealanders overall are not born in New Zealand.”



Fiona Mackenzie

Meanwhile, Tauranga lawyer Fiona Mackenzie, Mackenzie Elvin Barristers and Solicitors founding partner, has dedicated her life to juggling her family, her practice, her family law work and study, and is coming to the end of completing a PhD thesis that explores motherhood and contemporary family law in New Zealand.

"When the time came to consider children, there were no day care centres but at the same time, I never considered the need to give away my practising life through motherhood."

Ms Mackenzie became a sole practitioner and she moved the practice home – that is, one end of the villa where Mackenzie Elvin is situated today. That end was established as a small practice for her, while as an expanding family, they lived in the other.

"Flexibility and being very organised was key, as was a willingness to work hard. They were rich, rewarding years, covering the birth of our four children while maintaining my legal practice with strong, practical and loving support of our extended family.

"I returned to part-time academic study as the children grew older and I found myself wanting to explore further what I saw happening on the ground. We were operating with gender neutral parenting laws with respect to issues which were not gender neutral.

"It's about finding the best combination of mother/father that you can bring to a child's upbringing because they're not the same. I think the reality is that it is difficult to do everything well and your mothering years can be compromised by trying to do everything at the same time.

"I was challenged by my own experience of motherhood, which has been a very good one but one that I knew was unique and was not the same as fatherhood. I absolutely support fatherhood



but not to the extent that motherhood is compromised."

Ms Mackenzie fears family law developments have a focus on gender equality, which disregards the merits of particular genders.

"Liberal feminism as opposed to sociological feminism seeks to deny gender difference and nowhere is that more prevalent than motherhood. Current laws around parenting strives not to look at the gender of the parent in determining the welfare of the child.

"I don't agree. I think gender difference should be a consideration when determining welfare assessment. To deny characteristics of gender is to deny difference and the history behind gender – whether that's constructed or biological."

Judith Collins

At age 14, former Minister of Justice Judith Collins was at a function in rural Waikato when she told an older gentleman that she wanted to be a lawyer, to which he replied, "no dear, you're a very nice girl so you'll get married and have children".

Despite their \$5 wager, Ms Collins graduated with an LLB, LLM (Hons) and MTaxS from Auckland University. She worked as a solicitor for four different firms before becoming principal of her own firm Judith Collins & Associates. She was President of the Auckland District Law Society and Vice-President of the New Zealand Law Society. She served as chairperson of the Casino Control Authority, was a director of Housing New Zealand Limited and has served as a Member of Parliament since 2002.

"Seeing women lawyers on television while a teenager, I noticed they were strong and protected other women. I've always been one to stand up for others and myself so law was a natural fit. A lot of my career I've had people telling me I couldn't do things and I've responded with 'I can and I will'."

Women in the law is not as much a minority as it once was,

she says. In 1977 one sixth of Ms Collins' law class were female, for example, now they're at 60%. She recalls being asked whether she had any future plans to have children during job interviews and once the Human Rights Act came into force, the sexist climate dramatically changed.

Unlike politics, law is very enlightened, she says. "In my view lawyers are all trained to a very high standard and if there's a law that prescribes certain rights, lawyers will instinctively want to comply.

"Because the law is so special and wonderful I find lawyers are people who have ideals and are much more idealistic than other professions. It may certainly look like an old boys' club but look at the successes with women on the bench, and Attorney-General Chris Finlayson has been relentless in his efforts to appoint women Queen's Counsel."

Motherhood – 'make it work'

Despite having little interest in parenthood, at 31 Ms Collins' biological clock kicked in, she says.

"I decided to have my own law firm because I had an impression in my mind that I didn't ever want to be made to feel guilty if I wanted to have time off to be with my child or to take my baby to Plunket."

It's not easy combining the law with motherhood, she says, having relied heavily on the support of her family outside of work.

Whenever Ms Collins has been in a position of power she's employed a strategy that promotes mentoring, flexible hours and job sharing options among mothers with young children.

"My view is very influenced by my own experience. Had I not known having children and having a career could work I might not employ it with other people. I know my staff enjoy their working environment and I know they're treated well.

"You need to choose your working environment to be successful. What you consider success may be entirely different from the next person.

"I'm lucky that I have a family that loves me and supports me – during the best of times and particularly during the worst of times. My advice is to be nice to people because they're the ones you're going to see on the way down. I'm a positive little pixie.

"My key to survival – constant improvement. Constantly changing (and hopefully for the better) keeps me interested, excited and makes me thrive."

Who said it was fair?

Ms Collins says ultimately no one said the situation was ever going to be fair.

"An established legal and political career and children wasn't ever going to be easy and it's not for anybody – if it was, any fool could do it.

"You can't be too precious. In the media there are some young fogies who make cruel and sexist assumptions. I'm called a man, strong, bossy and other formidable nasty terms. It's a reflection of their ethics and their practice and you can't let it define you.

“ The problems faced by women advancing in the legal profession are a mixture of conscious and unconscious bias within what can ultimately be described as a male business model



Very few people take any notice of the media. Life's too short so get on with it and do the best you possibly can.

"Imagine you have a plan for your life and there's a road block. You have three options; you could turn around and quit, which is the easy option and in my view the wrong option. The right option is often the hard option. You could otherwise try and climb over the road block, which is exhausting and mightn't be achievable. Instead the smart option is to go around the block. Rather than banging your head against a wall you could complete a higher qualification part-time, for example, and all of a sudden you find yourself more qualified than the road block. All of a sudden you are more valuable and you have more opportunities.

"I'm pro women and I'm pro equality. The day I don't have to be a feminist is the day everyone is equal. I'm proud to be the mother who is committed to equality and I'm proud to have raised a son who views women as equals."

Ursula Cheer

Canterbury University's newly appointed Dean of Law, Professor Ursula Cheer says the problems faced by women advancing in the legal profession are a mixture of conscious and unconscious bias within what can ultimately be described as a male business model that fundamentally disadvantages women, and to a lesser extent, men.

The model lawyer, who is a "man with a wife at home minding hearth and children" and who is required to be available at all

times is a destructive, unhealthy, unsatisfying and unsustainable concept, she says.

Anecdotally, there's a period about 18 months into legal practice when young lawyers leave the field, for example. Irrespective of gender, those law firms losing young lawyers who flee practice lose the benefit of all the investment they have made training those new graduates, which is wasteful and inefficient, she says.

"So why can't law practices look at changing how they do things? Many very successful practices have their own buildings and even those which don't often supply gym membership to employees or make sure there is a gym in the building because they want healthy workers. However, no-one seems prepared to consider making sure child care facilities are nearby or on site, or are subsidised in some way. It's mad really, because firms will continue to lose very able women because of child care issues if things don't change.

"The thing is, the law itself is a fascinating area in which to study and work. It teaches communication, mediation and negotiation skills, how to develop logical thought and argument and the difference between right and wrong. It does, indeed, allow us to help people and contribute to making a better society. It is a genuinely useful profession.

"It is just that the practice of law can be very hard, stressful and also inequitable to women. Women need to keep studying law to make that better and to seek change. I don't want to put women (and men) off studying the law. I want to challenge them to do it differently."

Objectification and sexual harassment is a factor women face in business and in life, she says.

"You can see women are objectified in art, literature, and in everyday speech. Books by men talk about the hero having everything: 'money, fast cars, women, drugs' ... and women are just items on a list.

"Women are divided up into types – blondes, brunettes, red-heads etc, like brands to be purchased or pursued. Objectification means women are mostly valued for their appearance and sexual attractiveness. We are divided up into 'lookers' or not, or 'past it' or not.

"Media describe women by their appearance, fecundity and age, but men by their professional position.

"Advertising uses semi-clad women to sell everything. I find it offensive and limiting of both genders, but then I would because, according to my age, I am 'past it'. The cult of male stripping and now some advertising seems to be encouraging our young women to do the same with men, which I think is unfortunate. The aim should not be to do the same thing in reverse but to stop doing it!"

While Professor Cheer was completing her Masters in Law at Cambridge she recalls a time where she was sunbathing in a bikini in her backyard, when a man who lived with his family on the second floor opened his bathroom window and started wolf whistling and catcalling.

"When I politely asked him to mind his own business, he furiously abused me, then went and got his eight-year-old son and forced him to the window so he could claim I was leading his male children astray, and then took the trouble to get some eggs and hurl them at me in the garden below.

"I was forced inside but it did occur to me that it was a dreadful waste of eggs. That man displayed what I could only describe as hatred (and fear) of women." ■

to be a feminist.

"The reality is women are of course going to disagree and I think that's to be encouraged but we do need to guard against or at least recognise we are all swimming in a system that's toxic and it's easy to be influenced by that and to attack other women rather than the issue."

The Green Party employs a quota system whereby their list can't be split less than 60/40.

"You won't hear anyone here complaining that the quota impacts the quality of the team.

"I get really annoyed when I hear people saying people get ahead by way of 'merit'. It's a hugely socially constructed term. If you look at our current National government for example, where 27% of the caucus are women and 73% are men but they're there because of 'merit' – what does that say about their views about women?

"New Zealand celebrates that we have one of the lowest gender pay gaps in the world at 33%. It doesn't sit well with me. It's not something we should be celebrating. There is no country that has reached equality yet. It's complex, multi-faceted and ongoing."

Human Rights Commission chief legal advisor Janet Anderson-Bidois says the Commission can offer mediation services to help resolve complaints of discrimination. If complaints are not resolved at mediation then an individual can take their claim to the Human Rights Review Tribunal.

Free legal assistance can be requested at this stage from the Director of Human Rights Proceedings. The Director is required to operate independently from the Commission when pursuing claims before the Tribunal.

The Commission also has a specific statutory function under the Human Rights Act that permits it to apply to intervene in legal proceedings that have human rights implications. Recent examples of this include the Lecretia Seales case and the Commission's ongoing involvement in the equal pay claim taken by Kristine Bartlett and the Service and Food Workers Union against TerraNova Homes.

"Pay equity is an important principle. It is not just about men and women being remunerated at the same level for doing the same job. It is about women receiving the same pay for roles that require similar levels of skill and have similar levels of

responsibility to equivalent jobs that have predominantly male workforces.

“Our position is that there must be equal pay for work of equal value.

“The TerraNova case is still proceeding through the courts but the principles established so far are important. They support the view that the Equal Pay Act requires that equal pay for women in predominantly female occupations can be determined by reference to what men would be paid for doing work which requires comparable levels of skill, responsibility and qualifications.

“Any systemic undervaluation because of current, historical or structural gender discrimination can also be taken into account. Women are overly represented in poorly paid occupations and this issue needs to be addressed. Cases like TerraNova raise important human rights principles that can have wide application, far beyond the parties concerned.”

Equal Employment Opportunity commissioner Dr Jackie Blue says New Zealand’s gender pay gap is at a six-year high at 11.8% in 2015.

The Commission’s Tracking Equality at Work tool showed that in 2014 two-thirds of adult minimum wage earners, which is typically regarded as a starting wage for youth, were women. The hourly pay gap between a European male and a Pacific woman is \$7 per hour or a gap of almost 30%.

“Gender equality needs to be normalised so it becomes a reality for everyday New Zealanders. Unless women are intentionally included the system will unintentionally exclude them and special measures to promote women into leadership positions are needed. Special measures might be unconscious bias training, having targets or ensuring that recruitment panels are balanced.

“With all the emphasis of gender equality and diverse teams in business some men may fear that as women do better, they will do worse. The truth is that equality is good for men, too. If men want to make their work teams successful, one of the best steps they can take is to bring on more women.”

In the last five years the Commission has received 188 complaints which allege discrimination in the workplace about parental leave (male and female), and 23 complaints which allege pregnancy discrimination in the workplace over the same period, Dr Blue says.

The corporate law business model

Ministry of Justice civil law and human rights policy advisor Lucy Revill says it never occurred to her that law was a male dominated area because her father was a lawyer who knew many female lawyers.

It was while studying at both Auckland University and later Victoria University that Ms Revill noticed that the class was

“ **New Zealand’s gender pay gap is at a six-year high at 11.8% in 2015** ”

female-dominated.

“For example, when students were accepted into honours, there were something like 35 female honours students and 5 male. I thought this was quite strange. Generally there was about a 40/60 split of male to female in our classes.”

Before her time at the Ministry, Ms Revill worked at a prominent corporate law firm for four years.

“I thought the firm had a positive culture in relation to gender. Many of the partners at the firm were female, and they were often the ones making headlines (for the right reasons) on the news or asked to comment on an employment scandal in the paper.

“Sometimes I couldn’t participate when people discussed the football, but that was more about my general lack of knowledge about sport than gender!

“I learnt a great deal from this time in my life and it gave me an appreciation for the high standards lawyers are held to, no matter what their gender.”

Bell Gully marketing and communications manager Nikki Langford says the firm views gender equality as an important part of its diversity and inclusion programme.

“We value diversity regardless of age, culture, race, gender, sexual orientation, religion, political views or physical ability, and we are committed to providing an environment free from discrimination.

Their commitment is formalised in their policies – including generous parental leave and child care that is accessible for both men and women.

“With merit being the basis for recruitment, development and promotion in the firm, we provide ongoing education and awareness-raising programmes (such as inclusive leadership and unconscious bias training) to ensure that everyone has an opportunity to realise their full potential.

“We are pleased to be recognised for our initiatives with a White Camellia award in 2014 and again this year and, together with our recent YWCA Equal Pay award, this provides us with some encouragement that we’re on the right track.”

Meanwhile, Simpson Grierson human resources director Jo Copeland says gender equality is their core platform for their three-year diversity plan.

In addition to combating inequality through mentoring, running unconscious bias training, and presenting female candidates for roles, Simpson Grierson ensures men and women are paid the same, they support women into partnership roles, they support networking and they have male champions of change.

“We went for, and won the Equal Pay Award last year because we wanted our women to be assured that although there may not yet be enough of them at the top of the organisation, they are not being disadvantaged on their way up the ladder. It is something I personally manage

“ **In terms of a glass ceiling, I think the opportunities are there for the women to absolutely smash through them** ”

as I care deeply about it.

"In terms of a glass ceiling, I think the opportunities are there for the women to absolutely smash through them.

"The real question, do they want to make the trade-offs required to be a partner when they get there? It isn't easy being on-call 24 hours a day, working until 8 each night and attending three events a week with another hosting opportunity on the weekend. Partnership asks a lot of anyone, male or female.

"I am encouraged by the progress overseas with regard to gender equality. I've spoken to lots of Australian firms where they seem to have moved much more easily towards appointing part-time partners and making women up whilst on parental leave or pregnant.

"We still have some way to go in New Zealand. There is the odd exception and when one is appointed, there is a lot of publicity around it. I'll know we've succeeded when we can appoint people to roles without having to describe them as a 'female partner' or a 'part-time partner'."

New Women's Advisory Panel established

The Law Society recognises that the lack of retention of women in the legal profession and the underrepresentation of women in senior legal roles are real issues for the profession, NZLS law reform and sections general manager Fazleen Ismail says.

"We made the subject of the retention and advancement of women lawyers a key focus for 2014/15 and we will continue to focus on this issue in 2015/16."

As part of her role as general manager, Ms Ismail oversees the Law Society's "Women in the Law" initiative.

Various initiatives over the years with the aim of supporting women lawyers and retaining their talents in the profession have included consultative groups, provision



Fazleen Ismail, NZLS law reform and sections general manager, oversees the Law Society's "Women in the Law" initiative.

of information and statistical analysis as well as education and collegiality opportunities, she says.

Events showcasing pioneering women lawyers include:

- The annual tribute to a leading Wellington lawyer, Shirley Smith, in the form of the Shirley Smith lecture, which is organised by the NZLS Wellington branch Women in the Law committee, and was delivered this year by Dame Silvia Cartwright.
- The NZLS Southland branch hosts a Christine French annual lecture.
- The Otago Women Lawyers (OWLs) celebrates the first woman lawyer, Ethel Benjamin, with an annual lecture. Justice

Gender diversity within the Law Society

LAW REFORM SPECIALIST COMMITTEES

161 Committee members



57 Female committee members

16 National specialist committees



3 Female convenors

LAW REFORM COMMITTEE

1 Law Reform Committee



1 Female convenor

FAMILY LAW SECTION

11 Committee members



8 Female committee members

Helen Winkelmann delivered last year's lecture.

- Other events aimed at supporting women lawyers as well as providing training and information are held by women lawyer groups. These include regular Auckland and Wellington Women Lawyers' events and the recent Canterbury Women Lawyers conference which attracted leading women speakers.

"Many will comment that the issue has been around for a long time and ask what has been achieved. We have seen a steady increase in the number of women in the judiciary, but there is still some way to go given the numbers of women who have come into the profession. So what next? Recently our work has focused on raising awareness of the issues."

The Law Society has published articles and resources on the website, and a series of *LawTalk* articles aimed at encouraging applications from women in the QC round and to put themselves forward for other appointments as well as raising awareness of issues facing women in the law, Ms Ismail says.

NZLS CLE Ltd ran a successful full day conference in Auckland and Wellington in October 2014: *Women, the law and the corner office*, for example and the Law Society has been keeping abreast of developments overseas; for example through attendance at the May 2015 National Attrition and Re-engagement (NARs) meeting with Australian counterparts.

"But many of the problems facing women today, such as the availability of part-time work or other flexible working arrangements, are the same as those that existed a decade ago. While the Law Society's recent work has focused on raising awareness of the issues, the next challenge is how we can encourage the profession to take greater action to retain and advance women."

The Law Society is setting up a Women's Advisory Panel to generate fresh ideas and consider new initiatives that will make a real difference and improve the retention and advancement of women in the legal profession, Ms Ismail says.

The Women's Advisory Panel will be chaired by the

“ Many of the problems facing women today, such as the availability of part-time work or other flexible working arrangements, are the same as those that existed a decade ago

President of the Law Society, and panel members will shortly be announced.

The Board of the Law Society has asked the Women's Advisory Panel to consider issues and initiatives such as:

- embedding unconscious bias training in other training programmes;
- encouraging men in the legal profession to champion change;
- reducing the attrition of young female lawyers;
- gender audits; and
- equitable briefing policies.

The Panel will be looking at what initiatives have been tried in other areas and overseas and whether they would work for the legal profession in New Zealand.

Any new initiatives will sit alongside the Law Society's existing work to maintain our dedicated women in law webpage, as a forum that provides access to news, information, resources, events and organisations of interest to women lawyers and employers, Ms Ismail says.

"Building on the success of its first Women in Law conference in 2014, NZLS CLE Ltd will also be running a second conference: *Women in Law – Career by Design*. This full-day conference will run in Auckland on 11 April 2016 and Wellington on 12 April 2016. The conference will present a practical programme that helps women build upon their own personal strengths and resilience in order to be prepared, confident and pro-active in seeking leadership."

If you have any ideas, questions or comments that you think the Women's Advisory Panel should consider please contact womeninlaw@lawsociety.org.nz. ■

PROPERTY LAW SECTION

10 Committee members



5 Female committee members

ILANZ

11 Committee members



6 Female committee members

LAW SOCIETY COUNCIL

23 Members



8 Female members

LAW SOCIETY EXECUTIVE TEAM

8 Members



4 Female members

LAW SOCIETY BRANCH PRESIDENTS

13 Branch Presidents



4 Female branch Presidents

LAW SOCIETY BRANCH MANAGERS

12 Branch managers



10 Female branch managers